

CALIFORNIA'S COLLABORATIVE JUSTICE COURTS

BUILDING A PROBLEM-SOLVING JUDICIARY

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CALIFORNIA'S COLLABORATIVE JUSTICE COURTS: Building a Problem-Solving Judiciary

FOREWORD

We are pleased to present this report on the development of collaborative justice in the California court system. This project is the product of a unique collaboration between the California Administrative Office of the Courts and the Center for Court Innovation in New York. While highlighting the efforts of local courts and judicial leaders, this report also chronicles the efforts of our court system to respond, in part, to the joint resolutions of 2000 and 2004 by the Conference of Chief Justices and the Conference of State Court Administrators regarding problem-solving courts. The study reflects the commitment by courts in California and across the country to institutionalize problem-solving, or collaborative justice, courts.



RONALD M. GEORGE
Chief Justice of California and
Chair of the Judicial Council



WILLIAM C. VICKREY
Administrative Director
of the Courts

INTRODUCTION: INNOVATION IN CALIFORNIA

Judiciaries around the country are embracing a new way of business, one that emphasizes partnerships with stakeholders in and outside the courts, improved community access to the justice system, greater accountability for offenders and better community outcomes, such as increased safety and improved public confidence. This new way of doing business goes by various names. In many jurisdictions, it's called "problem solving." In California it goes by the name "collaborative justice."

Problem-solving courts (or collaborative justice courts) include specialized drug courts, domestic violence courts, community courts, family treatment courts, DUI courts, mental health courts, peer/youth courts and homeless courts. Their aim is to address challenging problems—like drug addiction, domestic violence and juvenile delinquency—that society brings to courthouses across the country every day. While each of these courts targets a different problem, they all seek to use the authority of courts to improve outcomes for victims, communities and defendants. These court programs strive to achieve tangible results like safer streets and stronger families; at the same time, they seek to maintain the fairness and legitimacy of the court process.



Judge Wendy Lindley, Superior Court of Orange County, congratulates participants in dual-diagnosis court serving non-violent drug offenders with mental health issues.



In California, collaborative justice is increasingly being viewed as a set of principles and practices that can be used in many types of cases both in and outside specialized, intensive court calendars. Collaborative justice also seeks to incorporate other innovative justice approaches, such as balanced and restorative justice, procedural fairness efforts, therapeutic jurisprudence and alternative dispute resolution.

This report attempts to capture the history of the California judiciary's involvement in collaborative justice courts, from their beginnings as isolated experiments to current efforts at statewide coordination. In recounting this story, the goal is to offer lessons to other states that are grappling with similar challenges.

California is a national leader in the field of problem solving or collaborative justice. *The New York Times* recently described California, along with New York, as “at the forefront” of this movement.¹ With over 265 collaborative justice courts by mid-2005, California has developed new models (for example, the nation's first homeless court and first dating violence court) and explored new ways to export the best practices of collaborative justice courts to traditional courtrooms.² Today, California has 158 drug treatment courts, 15 mental health courts, 17 peer courts, six homeless courts and four community courts, as well as other types of collaborative justice courts.³

Early experiments include domestic violence court and peer court

But it's not just the size of the effort that is impressive. It's also the impact. One study, begun in 1998 and still ongoing, found that the nine drug courts that participated in this study so far have saved the state approximately \$9 million in avoided criminal justice costs for every year a new set of participants enters these programs.⁴ With 90 adult drug courts operating statewide, and drug court caseloads conservatively estimated at 100 participants per year, the annual statewide cost savings for adult drug courts suggested by the study was \$90 million a year.

Even more important is the impact on the lives of participants and society at large. One study of drug courts in California found that arrest rates for drug court participants—many of whom are chronic offenders—declined by 85 percent in the first two years after admission to drug court compared to the two years prior to entry. The same study also found that 70 percent of participants were employed upon completion of drug court compared to an employment rate of only 38 percent at entry.⁵

1980s

California's early collaborative justice courts arose independently, shaped by local needs. But the courts' growth and potential impact were so vast that the Judicial Council of California gradually assumed greater and greater statewide leadership in this area. In 1996, Chief Justice Ronald M. George appointed a Drug Court Task Force to facilitate the establishment and funding of drug courts. In January 2000, the Judicial Council established the Collaborative Justice Courts Advisory Committee to assess the effectiveness of problem-solving courts and nurture best practices, secure funding and promote ongoing innovation.

Today, court planners are addressing a new challenge: how to institutionalize the lessons learned from problem solving. This effort is reflected in efforts to modify collaborative justice models in order to serve large case-loads, such as all non-violent drug offenders, as well as efforts to export successful collaborative justice practices to conventional courtrooms.

ORIGINS: WHERE DID COLLABORATIVE JUSTICE COME FROM?

What gave rise to collaborative justice? As with any complex innovation, a number of factors came into play, and these factors have varied from court type to court type and jurisdiction to jurisdiction. Among the most important influences were: the deinstitutionalization of the mentally ill in the 1970s and 1980s that helped generate an increase in the number of mentally ill offenders in the criminal justice system; the crack-cocaine epidemic and rise in drug-related crime; California's burgeoning population; changes in the criminal justice system's response to domestic violence; new theories about crime and law enforcement (such as the "broken windows" theory⁶); and growth in the number of homeless people.

In Placer County, for example, a "peer" court—in which teenagers themselves adjudicate cases involving other teens—was developed in 1991 as an alternative to the traditional approach to juvenile delinquency: incarcerating youth in juvenile hall. Judge J. Richard Couzens, along with the chief probation officer and a group of attorneys, felt that as one of the fastest growing communities in California, Placer County needed a more flexible strategy, one that emphasized both rehabilitation and prevention. "They asked themselves whether they wanted to continue to go the way of juvenile hall or was a more rehabilitative philosophy the way they wanted to go?" said Karen H. Green, the peer court coordinator.



Homeless court also represented a break with the past. Rather than wait for homeless individuals with outstanding cases to re-enter the justice system randomly—and then either impose fines they couldn't pay or send them to jail—homeless court (first created in San Diego in 1989) actively reached out to the homeless, linked them to services, and, in exchange for meeting goals set by a social service agency, helped them clean up their criminal records.

As the homeless court example makes clear, collaborative justice courts require cooperation and collaboration among a diverse array of partners. Judges in collaborative justice courts work closely with prosecutors, defense attorneys, probation officers, treatment providers and other stakeholders—all the while striving to maintain judicial impartiality and independence. Except in domestic violence courts, the environment in a collaborative justice court tends to be less adversarial than in a traditional court. The key, practitioners say, is that all stakeholders must preserve and respect appropriate roles while, at the same time, sharing a common goal, such as the successful treatment of a drug-abusing offender. Participants must also work together to address ethical issues (such as confidentiality within a context of open court proceedings) in order to build a program that incorporates rigorous monitoring of participants, information sharing and better coordination among partners.

First homeless court established (San Diego)

In the nation: Dade County, Florida, becomes the site of the country's first drug court

For some California communities, the collaboration among a team of disparate partners required by collaborative court models was a natural fit. In Butte County, for example, the court and the community in 1992 developed a coordinated response to graffiti that required the cooperation of the judiciary, the sheriff's office, police, city government and the downtown merchants association. Everyone had a role to play: the court sentenced a graffiti offender to a cleanup crew; a sheriff's team of retired senior citizens supervised the crews; the city provided a place to store a van and paint; the business association provided funding; and the police provided a dedicated phone number that the public could call to report the location of graffiti. "The goal was to eradicate the graffiti within 24 hours of cropping up," said Judge Darrell Stevens, who helped launch the initiative. In the years that followed, this early cooperative effort would serve as a foundation for collaborative justice courts in Butte County.

Interestingly, however, not all collaborative justice courts emphasize the same level of cooperation. For instance, domestic violence courts maintain the tradition of the adversarial process between prosecutor and defender. And yet domestic violence courts also recognize the importance of a coordinated community response to family violence and therefore seek to involve

1989

community partners—like victim services agencies and batterers programs—in the development of meaningful responses to the problem.

The bottom line is that different types of collaborative justice courts emphasize different principles and practices. For instance, drug courts and mental health courts emphasize therapeutic jurisprudence by promoting treatment and rehabilitation. Community courts and peer courts may emphasize balanced and restorative justice. Criminal domestic violence courts emphasize victim safety and court monitoring of offender compliance.

What follows is a closer look at specific types of collaborative justice courts.

HOMELESS COURT

The nation's first homeless court started in San Diego in 1989, born out of a frustration with the way traditional courts process homeless defendants. According to Deputy Public Defender Steve Binder, who helped launch and still coordinates the San Diego court after 16 years, judges in traditional court either issue a fine—which homeless individuals normally can't pay—or place offenders in custody, but do little to help them find a permanent home or link them to services that might help them improve their lives. Meanwhile, homeless offenders accrue criminal records and warrants that make it difficult for them to make a fresh start down the road.

Binder was inspired by the veterans' stand-down movement, which started in 1988 in San Diego and brought services and support to homeless veterans in the parks and public areas where they lived. A stand-down event typically lasted several days and offered veterans everything from dental care and donated clothes to counseling and help with benefits. What the event didn't offer, however, was a chance to resolve outstanding criminal cases. Binder proposed establishing a temporary court complete with judge at these events to offer those veterans who actively participated in services a chance to clear their records.

The social service programs, rather than the court, set requirements for graduation and monitor clients' progress. In addition, clients appear in court only at the end of the process rather than throughout. Still, homeless courts, like drug courts, require a high degree of collaboration among multiple partners. They also seek outcomes beyond a simple determination of guilt or innocence; rather, by seeking to improve participants' lives, they are looking for solutions that are good for both defendants and the larger community.



Approximately 80 to 90 percent of cases before the court result in dismissal of charges.⁷ Of those remaining, most involve a case that has already been adjudicated (and therefore cannot be dismissed); in the vast majority of these situations, however, the participant is able to satisfy the sentence by meeting the social service provider's goals.

In 2004, the San Diego Homeless Court was honored by Harvard University and the Council for Excellence in Government, which named the court a finalist in its annual Innovations in American Government competition.

PEER COURT

Among the earliest of the state's collaborative justice courts are peer courts, in which students determine the consequences to be imposed on other young people for low-level criminal conduct. Peer courts emerged in Odessa, Texas, in the early 1980s and eventually migrated to California's Humboldt and Contra Costa Counties in the mid- to late-1980s.

Like drug courts, peer courts offer an alternative to business as usual. Rather than send low-level cases involving first-time offenders through the traditional juvenile court, offenders go before a true jury of their peers—other juveniles who have been trained to assume various roles, including those of attorneys, court staff, judges and, most important of all, jurors who determine what should happen to a peer who has violated the law.

Placer County Peer Court, which started in 1991, handles about 550 cases a year, or about 40 percent of the county's juvenile cases. "It frees up juvenile probation officers to better manage those cases that need more of their time," said coordinator Karen Green. "We're saving the county about \$500,000 a year. Despite the fact that we're the fastest-growing county in California, juvenile crime is down."

The Placer County Peer Court hears cases as serious as burglaries and assaults—"basically anything is eligible except murder and molest cases," Green said. About 60 attorneys and judges volunteer to train and mentor youth participants. While an adult serves as a judge, the teenage jury members have the final say in sentencing. "There are no adults in the jury room," Green said. "In 3,000 cases, we've never changed a jury sentence." Sentences always involve community service, and often also include repaying a victim, suspension of driving privileges and anger-management classes. Defendants are also required to participate in future peer court juries.

First drug court in state established (Oakland)

1991

Peer courts not only educate participants about the law, but also combat juvenile delinquency at its earliest stages. “Taking a first offense seriously hopefully prevents crime down the line,” Green said. Peer courts also exploit the power of peer pressure to get young peoples’ lives back on track.

Placer County Peer Court... “frees up juvenile probation officers to better manage those cases that need more of their time.”

– Peer Court Coordinator Karen Green

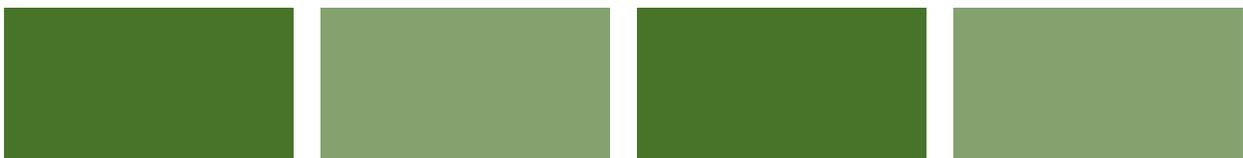
Like other collaborative justice courts, peer courts rely on partnerships. In Placer County, the probation department, court system, local schools, faith community and attorneys all work together to support the peer court. And while the peer court doesn’t monitor defendants by bringing them back to court on a frequent basis (defendants appear before the judge only once), peer court staff (many of whom are high school and college students) try to call each defendant at least once a week for the minimum of six months that cases are open.

The Peer Court adds another ingredient to the collaborative justice philosophy as well: prevention. In Placer County, all high school freshmen are required to participate in a two-week curriculum that educates students about the juvenile justice system and about tools they need to avoid unlawful behavior. “We feel it’s critical to have that education piece in place,” Green said.

DRUG COURT

The most often-cited reason behind the development of drug courts is the so-called revolving door, whereby the same drug-addicted offenders cycle in and out of the criminal justice system on a regular basis.

“I started seeing people that I had sent to prison back again, charged with the same offense, and then I started seeing children of the people I have seen in the criminal justice system or the dependency system back again, and I reached a conclusion that the system wasn’t working. I decided we needed to change things,” said Judge Stephen Manley, a supervising judge of the Superior Court of Santa Clara County and founder of that county’s first adult drug court.



DRUG COURTS: NATIONAL PERSPECTIVE

- *The first drug court was founded in Miami in 1989*
- *More than 70,000 drug court clients are being served at any given time throughout the United States and its territories*
- *There were 1,624 drug courts in the U.S. by Dec. 2004*
- *8 percent of drug courts are located in California*

Source: Bureau of Justice Assistance, May 2005 ⁸

National conference on domestic violence held in San Francisco, sponsored by National Council of Juvenile and Family Court Judges

In the nation: Midtown Manhattan becomes the site of the country's first community court

Manley, and a number of other judges around the state, were also influenced by the example of the Miami-Dade Drug Court, the first court experiment of its kind to link defendants to drug treatment and use strict judicial supervision to monitor compliance. Judge Stephen A. Marcus of the Superior Court of Los Angeles County visited the Miami-Dade experiment in 1992 after learning about it at a conference in Oakland. “They didn’t have to do a big sell on the fact that we were not succeeding with our drug cases. We had plenty of stats that showed we would see the same defendants again and again,” Marcus said.

Another early proponent of drug courts, Superior Court Judge Patrick J. Morris of San Bernardino, traveled to Miami with a group of judges and representatives of other branches of the criminal justice system. The group was so impressed, Morris said, that they made a pact: “All of us agreed that this was an idea whose time had come and that we’d all return to our respective jurisdictions and advocate for this modality of drug court.”

The state’s earliest drug courts reflected an eclectic array of thinking and resources. Most were, initially at least, pre-plea (allowing offenders to enter the court without a plea) but at least some were post-plea (requiring participants to plead guilty to a charge that, upon successful completion of the program, was dismissed or reduced). Some used pre-existing drug treatment facilities and others created their own programs. In Los Angeles, for example, Judge Marcus lobbied fellow judges, court administrators, legislators and treatment providers, who cooperated in the establishment of a drug treatment center in an empty court building about four blocks from the

1993

courthouse. After 18 months of planning—including a five-month delay precipitated by the Northridge earthquake—the Los Angeles County Municipal Drug Court opened in January 1994.

But it wasn't always an easy sell. Judge Jean Pfeiffer Leonard recalled that her initial pitch to launch a drug court in Riverside County ten years ago was not well received, but once the successes were documented, drug courts were initiated throughout the county.

“All of us agreed that this was an idea whose time had come and that we'd all return to our respective jurisdictions and advocate for this modality of drug court.”

— Judge Patrick J. Morris

One of the biggest achievements of these early courts was the bridge built between the judiciary and treatment providers. “The treatment providers and court system historically had never worked together at all,” Morris said. “In fact, the idea that you couldn't force an addict into treatment still prevailed. We had to convince them that we could do this, that we could force behavioral modification and use the power of the court to effect change.”

In addition, treatment providers expressed concerns about confidentiality and the court's ability to determine the appropriate level of care, said Del Sayles-Owen, deputy director in the statewide Department of Alcohol and Drug Programs, which regulates treatment facilities. “The treatment providers have assessment tools that they use to determine the appropriate level of care, but the judges have a lot of discretion. There's tension sometimes if a judge disagrees [with the treatment provider] and decides to do something different,” she said. Overall, the treatment community has been an enthusiastic partner. “We definitely believe drug courts are positive steps. The Department of Alcohol and Drug Programs has done what it can to support the Administrative Office of the Courts and the development of drug courts and smooth out the working relationships between treatment providers and the judiciary,” Sayles-Owen said.

It didn't take long for the drug court idea to draw the interest of Chief Justice Ronald M. George and Administrative Director of the Courts William C. Vickrey. Two California judges—Patrick Morris of San Bernardino and Jeffrey Tauber of Oakland—were among the small group who founded the



National Association of Drug Court Professionals (NADCP) in 1994. Chief Justice Ronald George welcomed participants to the NADCP's third annual drug court conference when it drew more than 3,300 attendees to San Francisco in 1996. That same year, Judge Morris was named president of the NADCP board.

By the mid- and late 1990s, California judges were exploring new forms of drug court. In 1995, Tulare County opened the state's first juvenile drug courts and in 1998 San Diego launched one of the state's first dependency drug courts, which link drug-abusing parents in the child welfare system to treatment. Judge James Milliken started the San Diego program after learning that about 80 percent of parents in dependency court had a substance-abuse problem and yet many never sought treatment, even when a judge ordered them to do so. In the San Diego court, the judge rigorously monitors treatment and punishes non-compliance with sanctions, including jail. From April 1998 to June 2003, more than 4,000 parents participated in the San Diego court, and 55 percent of participants were reunited with their children.⁹ Also, the time for processing cases was cut from an average of about 38 months to 19 months, meaning that children were spending less time in foster care.¹⁰ One study looking at a sample of 50 cases from before the court opened and 50 cases from after found that the county saved about \$1.5 million in foster care costs.¹¹

Two California judges—Patrick Morris of San Bernardino and Jeffrey Tauber of Oakland—are among a small group who found the National Association of Drug Court Professionals

California Administrative Office of the Courts sponsors statewide conference on domestic violence

In the nation: Federal anti-crime bill includes money for drug courts

Riverside County established a variation on the dependency drug court: a family law or domestic relations substance abuse court. The court, founded by Judge Elisabeth Sichel (a commissioner at the time) and Judge Jean Leonard, applied the techniques of drug court to participants in divorce proceedings. "We run it like a regular drug court but the carrot is that if you go through drug court, it will result in a favorable recommendation regarding custody and visitation. Because they're not sober, most of these people aren't seeing their kids," Leonard said.

The state's first DUI court—launched in 1996 in Butte County by Judge Darrell Stevens—brought some new partners to the table, including a drug company, which donated a medication to block cravings for alcohol, and a local hospital, which distributed the medication to court participants. "The local hospital really jumped on to it," Stevens said. "Their staff would observe the person ingesting the medication. Later, we were able to enlist the aid of every pharmacy in the county. They also agreed to supervise the ingestion of the medication."

1994

By the mid-1990s, California was considered a leader in the creation of drug courts. Its courts began to serve as national models and, through the NADCP, many of its practitioners assumed prominent roles in the rapidly growing movement. California judges, for example, were among those who successfully lobbied Congress for the inclusion of drug court money in the 1994 Anti-Crime Bill. That eventually resulted in tens of millions of dollars distributed to drug courts around the country, including about \$3.5 million through the Edward Byrne Memorial State and Local Law Enforcement Formula Assistance Program to 25 California drug courts from 1996 to 2000.

Around the same time, Chief Justice George appointed the California Drug Court Task Force, chaired by Judge Morris, that was charged with facilitating the establishment and funding of drug courts and educating state leaders about their function. All members of the drug court team were represented on the task force, including judges, prosecutors, defense attorneys, probation staff and treatment providers.

DRUG COURT OVERSIGHT COMMITTEE

The task force eventually morphed into something called the Drug Court Oversight Committee. The Oversight Committee made recommendations regarding funding through grants (usually between \$20,000 and \$30,000 a year) to help drug courts around the state pay for things like case coordination and services. In 1998, the Legislature passed and the Governor signed the Drug Court Partnership Act, which provided \$7.6 million annually and continues to this day, under its third Governor, with competitive funding for

Nine drug courts have saved \$9 million in avoided criminal justice costs every year. With 90 adult drug courts operating statewide, and drug court caseloads conservatively estimated at 100 participants per year, the annual statewide cost savings for adult drug courts suggested by the study was \$90 million a year.

about 34 adult, post-plea drug courts. The act's emphasis on post-plea courts led many drug courts to shift from a pre- to post-plea structure. The act also reinforced the collaborative nature of the enterprise by requiring the Judicial Council and the state Department of Alcohol and Drug Programs to establish



a joint steering committee to distribute the funds. Around the same time, the Legislature provided \$1 million to fund California Drug Court Projects in five designated drug courts; in 2000, the Legislature amended the law, allowing the Administrative Office of the Courts to distribute the money to drug court projects statewide.

In 1999, the Legislature and Governor went even further, enacting the Comprehensive Drug Court Implementation Act, which provided funding to a much broader array of drug courts than the Partnership Act. The approximately \$10 million a year available through the Comprehensive Drug Court Implementation Act offered money to counties through a population-based formula for both pre- and post-plea models as well as almost any variation on the drug-court model a county might invent, including dependency drug courts, juvenile drug courts and courts for offenders charged with driving under the influence.

“The Comprehensive Drug Court Implementation Act was written in response to the idea that you should encourage innovation and spread this concept way beyond [the adult, criminal, post-plea model],” Judge Manley said. “The fact was that drug courts [under the Partnership Act] addressed only one population, and yet California is known for innovation, and the executive steering committee was seeing a growing frustration with federal guidelines that placed limits on past criminal behavior and a movement toward taking on new populations.”

With the financial backing of both federal grants and the state Legislature, California by 2000 had 153 drug courts, more than any state in the nation.

Drug courts are the most common problem-solving court model and their effectiveness has been documented by a substantial and growing body of research. Through a federally endorsed list of ten “key components,” drug courts have come in many ways to define the parameters of collaborative justice courts. The ten components include the integration of drug treatment with case processing, a non-adversarial approach, rapid placement of defendants into treatment, frequent testing to monitor abstinence, ongoing judicial interaction with each participant, and the development of partnerships among the court and other agencies to generate local support and enhance drug court effectiveness. In 2001, the Judicial Council’s Collaborative Justice Courts Advisory Committee adopted an 11th “essential component” of collaborative justice courts in California: emphasizing team and individual commitment to cultural competency. For a list of California’s key components, see *Figure 1*.

First juvenile drug court
established
(Tulare County)

1995

Figure 1: GUIDING PRINCIPLES OF COLLABORATIVE JUSTICE COURTS

The Collaborative Justice Courts Advisory Committee identified 11 components, recognizing that they apply differently in different types of courts. For instance, non-adversarial approaches will not be appropriate in some case types, such as domestic violence.

1. Integrate services with justice system processing;
2. Achieve the desired goals without the use of the traditional adversarial process;
3. Intervene early, and promptly place participants in the collaborative justice court program;
4. Provide access to a continuum of services, including treatment and rehabilitation services;
5. Use a coordinated strategy that governs the court's responses to participants' compliance, using a system of sanctions and incentives to foster compliance;
6. Use ongoing judicial interaction with each collaborative justice court participant;
7. Use monitoring and evaluation to measure the achievement of program goals and gauge effectiveness;
8. Ensure continuing interdisciplinary education;
9. Forge partnerships among collaborative justice courts, public agencies and community-based organizations to increase the availability of services;
10. Enhance the program's effectiveness and generate local support; and
11. Emphasize team and individual commitments to cultural competency.



DOMESTIC VIOLENCE COURT

The first domestic violence court was launched in Quincy, Massachusetts, in 1987. Eighteen years later, more than 300 such courts are estimated to exist nationally. However, different states and jurisdictions emphasize different models.¹² In California, many specialized procedures have been developed in both criminal and civil courts in response to domestic violence, and the Judicial Council is working to create model guidelines for domestic violence courts and specialty calendars.

Court-community collaboration in response to domestic violence became nationally recognized when the National Council of Juvenile and Family Court Judges sponsored a national conference in San Francisco in 1993 that was attended by teams from each state. At the conference, the team from California adopted as a goal the development of domestic violence councils in each county. The following year, the Administrative Office of the Courts held a statewide conference at which local jurisdictions identified the value of domestic violence coordinating councils as a central goal. Around the same time, the Judicial Council's Advisory Committee on Gender Bias and the Courts also recommended creation of domestic violence councils in each county. Those councils brought together major stakeholders at the local level to brainstorm a more coordinated response to family violence. Some of these responses included specialized court calendars and procedures.

Chief Justice Ronald M. George appoints Drug Court Task Force

NADCP holds its third annual drug court conference in San Francisco. More than 3,300 attend. Chief Justice George is keynote speaker.

First DUI court established (Butte County)

Domestic violence courts in criminal cases are guided by twin goals: improving victim safety and holding batterers accountable for their actions. In family law courts, the focus continues to be on victim safety, but is also on child custody and visitation or financial issues. Juvenile courts and “integrated” courts offer yet another model. “This is an emerging field that has yet to yield one particular best-practices model and instead encompasses... myriad processes and procedures employed by the courts to respond to the fundamental concerns of safety and accountability,” according to a report by the Judicial Council of California.¹³ In California, 25 projects now identify themselves as domestic violence courts.

One important distinction that has been noted between domestic violence courts and drug treatment courts is that domestic violence courts address violent criminal activity. Moreover, domestic violence cases involve a targeted victim. Many criminal domestic violence courts focus on regular monitoring of defendants to ensure that they comply with court orders, including the requirement that they complete a batterer intervention program. In civil

1996

domestic violence courts, courts are often involved with linking restraining order petitioners to services appropriate to their situation, such as victim-advocacy programs or assistance with finding safe housing.

Numerous varieties have emerged in recent years, including courts that combine civil and criminal cases, as well as calendars with a narrow focus, such as child custody or juvenile dating violence. For instance, the Juvenile Domestic and Family Violence Court was started in 1999 in Santa Clara, California, and operates much like an adult criminal domestic violence court. The project includes a 26-week batterers program, with access to substance abuse programs, mental health services and other counseling as needed.

New directions in all types of domestic violence cases include consideration of co-occurring problems, such as substance abuse, homelessness or mental illness. For instance, an exploratory study on domestic violence and substance abuse developed by staff in the Administrative Office of the Courts' Collaborative Justice Unit and the Center for Families, Children & the Courts' featured roundtable discussions by judges from drug courts and domestic violence courts about addressing domestic violence cases involving substance abuse.¹⁴

MENTAL HEALTH COURT

Like other collaborative justice courts in California, mental health courts emerged in response to a problem—specifically, the high percentage of offenders who were mentally ill.

“What a mental health court does is actually decriminalize the mentally ill by setting up probation terms and mental health treatment, including medication compliance, that will help them succeed in being on probation and not picking up a new criminal offense and then getting out of the system.”

—Judge Becky L. Dugan

A 1999 Department of Justice survey found that 16 percent of the inmates in United States prisons and jails reported having a mental condition or mental health hospitalization. That translated to about a quarter-of-a-million inmates with mental illness.¹⁵



Unfortunately, jails and prisons were not only unable to provide adequate treatment, they also proved costly. In 1998, for example, the San Bernardino County jail's medication budget for mentally ill inmates came close to \$1 million, according to Superior Court of San Bernardino County's Judge Patrick J. Morris, who has presided over mental health court since 1999.

Mental health courts provide an alternative approach. By steering offenders from jail into judicially supervised treatment, they reduce both jail overcrowding and hopefully, by getting mentally ill defendants the help they need, recidivism.

"Before the advent of mental health courts, that group would have simply gone to jail or state prison, and then come back again because we furnished them no treatment or chance of success," said Judge Becky L. Dugan of the Riverside Mental Health Court, established in 2001. "What a mental health court does is actually decriminalize the mentally ill by setting up probation terms and mental health treatment, including medication compliance, that will help them succeed in being on probation and not picking up a new criminal offense and then getting out of the system."

From the outset, the Riverside Court accepted a broad range of participants. "We took everybody, even people that were initially screened as just drug addicts, because sometimes once you get past the drug addiction, you see the mental illness," Dugan said.

Other courts, like the adult mental health court in Los Angeles, accept only misdemeanors, including quality-of-life crimes such as possessing a shopping cart. In the Los Angeles court, compliance is monitored by the provider rather than through regular court appearances. If all goes well, the only time the participant shows up in court is when, after a year of being compliant and not committing a new offense, his or her case is dismissed. If the provider reports that a participant is non-compliant, however, the judge may order the defendant incarcerated.

Los Angeles County also has a mental health court for juveniles. The court addresses the alarmingly high rate of mental illness among juvenile offenders—as high as 40 percent, according to the county Probation Department.¹⁶ "It is one thing to talk about guilt or innocence," said Deputy Public Defender Nancy Ramseyer. "In the Juvenile Mental Health Court we are looking at why a kid got involved in the system and how we can prevent it from happening again."

The Legislature passes the Lockyer-Isenberg Trial Court Funding Act, which provides for trial court funding at state rather than county level.

1997

Although similar in many ways to drug courts, mental health courts tend to emphasize rewards rather than sanctions. “The need to use sanctions is rare,” said Judge Manley, who presides over the Santa Clara County Mental Health Court, which opened in 1999. Manley said participants do not respond as well to sanctions as they do to positive reinforcement. “We continue to encourage them to participate, keep trying to win them over. This is a very different concept from trying to punish them for refusing treatment.”

COMMUNITY COURT

Community courts, which have been established in downtown San Diego and the Van Nuys section of Los Angeles, focus on problems that traditional courts have been too overwhelmed to address effectively, specifically low-level crime, such as prostitution, shoplifting, vandalism and graffiti.

The courts, which serve neighborhoods disproportionately affected by low-level crime, incorporate many of the principles of other collaborative justice courts. They link offenders to treatment and other social services, such as job training programs and GED classes. And they depend on partnerships among multiple stakeholders, including prosecutors, defense attorneys, police, probation departments and community-based groups.

But community courts don't just offer help; they also seek to hold offenders accountable by requiring participants to perform community service. The idea is to repay the neighborhood for the damage caused by their offending. Offenders sentenced by the Downtown San Diego Community Court, for instance, have performed over 1,400 hours of community service in the downtown area since the court opened in October 2002, according to Stewart Payne, executive director of the Downtown Property and Business Improvement District. Community service activities include picking up trash, cleaning parks and painting over graffiti.

Community courts also focus on citizens as important partners. The Van Nuys Community Court, for example, has an advisory panel that includes members of the public who meet regularly with the judge to discuss community conditions and sentencing options. And the planning process for a new community court in Santa Ana, in central Orange County, included interviews with nearly 100 stakeholders, including community residents.

The Santa Ana Community Court will be housed in a former department store and bring together several of the county's collaborative justice courts,



including a drug court, mental health court and homeless court, in a single location. “The great advantage of the new community court will be having all the social services under one roof and available interactively with the court,” said Alan Slater, executive officer of the Orange County Superior Court. “Right now, services are scattered all over.” Judge Wendy Lindley will preside over the new court, Slater said. She has been a drug court judge for ten years and currently presides over a homeless court and circuit court for at-risk Hispanic youth.

JUVENILE JUSTICE COLLABORATIVE COURTS

In addition to peer courts, California has courts for youth that focus on drug abuse, mental health and dating violence. Approximately 70 of the state’s estimated 265 collaborative justice courts serve youthful offenders.

One of the most numerous types of juvenile collaborative justice courts are juvenile drug courts. Juvenile drug courts are not mirror images of their adult counterparts. “In the juvenile arena, the adult model doesn’t work. These kids don’t respond to it,” said Judge Jean Pfeiffer Leonard, Chair of the Judicial Council’s Collaborative Justice Courts Advisory Committee. Thomas Alexander, manager of juvenile substance abuse programs for the County of San Diego Probation Department, also noted, “We don’t have issues of kids hitting bottom,” referring to the concept applied to adults whose lives have been so destroyed by drug abuse that they have nowhere else to go but up.

Recognizing the special needs of young people, juvenile courts have developed new approaches. For instance, courts in Los Angeles and San Francisco worked closely with school districts to establish school programs as part of the juvenile drug court.

One of California’s most replicated models is the San Diego Juvenile Delinquency Drug Court, which was launched in 1998 by Judge James Milliken, who has since retired. Judge Milliken brought a diverse array of partners to the table to launch the experiment.¹⁷ “He went to the head of Health and Human Services to get buy-in for treatment services. Then he went to the sheriff, then probation, the public defender and prosecution,” said Thomas Alexander, the court’s substance abuse manager. “He sold it by saying that we would be addressing a population that was responsible for higher recidivism and a lot of the juvenile felony filings. He said we’d be saving time and money and turning some young people around who would otherwise end up graduating to the adult system.”

First juvenile dependency (family) drug courts established (San Diego and Santa Clara)

California enacts the Drug Court Partnership Act, which provides \$7.6 million to fund 34 drug courts

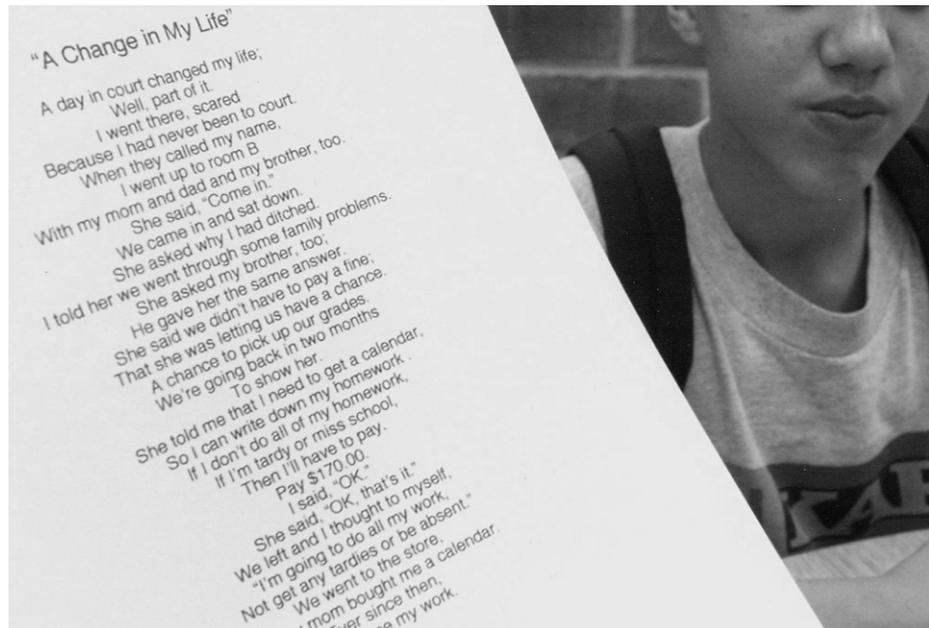
California voters approve Proposition 220, which allows judges in each county the option of unifying their municipal and superior courts into a single trial level.

1998

Interest in the project was fueled by studies that showed that about 85 percent of kids who commit crimes in San Diego County also abuse drugs and alcohol, and that nearly 60 percent of kids who commit serious crimes are actually high on drugs when they're booked in Juvenile Hall.¹⁸ The Juvenile Drug Court was part of a wholesale shift in the county's approach to juveniles who abuse drugs. In 1998, the county supervisors tripled the number of field officers and partnered with community-based groups to provide caseworkers. There was also a concerted effort to increase the county's drug-treatment capacity for juveniles from 600 slots in 1997 to more than 3,500 by 2001.

In other areas of innovation, California was the first state in the country to create courts for youth that focus on dating violence and on mental health. In developing these models, jurisdictions sought to address difficult problems. Research indicates that 15 to 20 percent of juveniles in the justice system nationwide suffer from a severe biologically based mental illness and at least one out five juvenile offenders has serious mental health problems.¹⁹ Recognizing this, U.C.L.A.'s Neuropsychiatric Institute joined the treatment team of Los Angeles' juvenile mental health court to provide assessment and treatment for the court's most severely afflicted participants.

In Santa Clara County, the Court for the Individualized Treatment of Adolescents, so named as to avoid the "mental health" label, was launched



"A Change in My Life," a poem written by a participant in a teen court program.



in February 2001 and works with young people suffering from serious mental illness, such as bipolar disorder, attention deficit and hyperactivity disorder, major depression, psychosis and mental retardation. Among other things, the court seeks to improve screening and assessment, and provide better links to community services, such as probation and aftercare providers. A major goal of this program is to avoid removal of the youth from their families.

The dating violence court, officially known as the Juvenile Domestic and Family Violence Court, was started in 1999 by Superior Court Judge Eugene Hyman, who sought to address the problem of youth who were committing acts of domestic violence. According to the Santa Clara County Domestic Violence Council’s Death Review Committee, 12 to 42 percent of deaths in the county linked to domestic violence occurred in relationships that started when the victim was underage.²⁰ “Clearly,” Hyman and co-authors wrote in an article describing the court in 2002, “domestic violence among teens can have very serious outcomes.”²¹

The Santa Clara court operates much like an adult domestic violence court. The court worked closely with a private agency to create a batterer intervention program. The program is supplemented by substance abuse programs, mental health services and other counseling as needed.

Consistent with the overarching theme of juvenile courts, the emphasis in all these specialized courts is the combination of services and programs designed to change behavior while holding juveniles accountable for their offenses. Like their counterparts that serve adults, these juvenile courts combine judicial supervision with social services in a team approach.

There are signs that this approach is spreading. Judge Leonard P. Edwards, former member of the California Judicial Council and the first juvenile court judge in the country to receive the National Center for State Courts’ prestigious William H. Rehnquist Award for Judicial Excellence, noted the 1989 adoption, by the Judicial Council, of Standard of Judicial Administration 24. Standard 24 encourages juvenile court judges, among other things, to take an active leadership role to encourage the development of new programs to meet the needs of at-risk children, to foster “interagency cooperation and coordination” among the court and public and private agencies that work with children and their families, and to take an active part “in the formation of a community-wide network” to better address issues that affect court participants.

First mental health courts established (San Bernardino and Santa Clara Counties)

First dating violence court established (Santa Clara County)

First domestic relations (family law) drug court established (Riverside County)

The Comprehensive Drug Court Implementation Act increases funding for a wide range of drug courts, such as juvenile and family drug courts

The “restorative justice” model for juvenile justice was one of the primary recommendations from the 1996 report entitled, “California Task Force to Review Juvenile Crime and the Juvenile Justice Response.” Restorative justice is a philosophy that, like collaborative justice and problem-solving courts, encourages active collaborative communication among all parties involved in an offense or conflict. Since 2002, the Collaborative Justice Courts Advisory Committee has been working closely with the Administrative Office of the Courts’ Center for Families, Children & the Courts to develop the California Community Justice Project to promote community justice principles and facilitate the development of innovative, restorative practices.

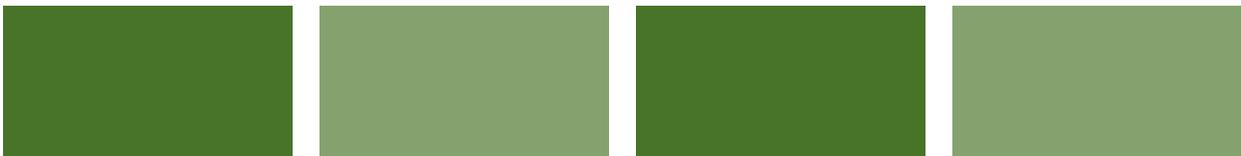
The Collaborative Justice Courts Advisory Committee staff served on the planning committee convened by the Administrative Office of the Courts’ Center for Families, Children & the Courts for the Juvenile Court Centennial Conference held in 2003 and coordinated a track at the conference about collaborative justice in the juvenile system.

The Administrative Office of the Courts was able to enhance funding for collaborative justice initiatives in juvenile settings under the Juvenile Accountability Block Grant Program, and in 2004 established a pilot program funded by the Office of Traffic Safety for prevention of DUI for high-risk juvenile offenders through peer courts and juvenile drug court projects.

COLLABORATIVE JUSTICE PICKS UP SPEED

At the end of 1999, the Drug Court Oversight Committee was slated to sunset, but the Judicial Council concluded that not only the state’s drug courts but its ever growing number of other problem-solving courts could benefit from continued state-level coordination, and the Collaborative Justice Courts Advisory Committee was established.

The committee was considered temporary at first. “It was sort of touch and go in the beginning,” said Judge Darrell Stevens, the committee’s first chairman. “We were on trial for the first year and then reported to the Judicial Council and they took off the sunset clause.... My understanding was that not everybody back then was really that big a believer in drug court. Many people saw them as boutique courts and there was a lot of debate on the council as to whether the committee should even be formed. We were very fortunate that Chief Justice George and Administrative Director Vickrey felt strongly about this innovation.”



Over the last few years, the committee has effectively helped institutionalize collaborative justice courts on the state level. It has been involved in virtually all key areas from funding, evaluation and the establishment of key components to education and responding to changes in the political landscape, like the passage of the statewide referendum Proposition 36. The committee has also helped shape thinking about collaborative justice courts, emphasizing not only their potential to improve outcomes for victims and offenders, but also their ability to save money for state and local jurisdictions in the long term and to enhance access to justice.

Judicial Council establishes Collaborative Justice Courts Advisory Committee

Voters approve Proposition 36, which includes \$120 million in annual funding for drug treatment; a statewide work group is established by the Administrative Office of the Courts to implement Proposition 36 in the courts

In the nation: In a joint resolution passed at their annual meeting, the Conference of Chief Justices and the Conference of State Court Administrators agree to promote the widespread integration of problem-solving courts into state court systems

STUDYING COST SAVINGS

The financial benefits have probably proved to be the most persuasive argument for sustaining drug court funding during the state's ongoing financial crisis. Although drug court funding has repeatedly been on the chopping block the last few years, drug court advocates have argued successfully that money saved in incarceration costs makes the state's investment worthwhile. This has led the Legislature in recent years to continue to fund drug courts—but with the caveat that drug courts, whether funded by the Partnership Act or the Comprehensive Drug Court Implementation Act—should focus on generating savings for the state through strategies such as serving felons with prison exposure.

Remarkably, drug courts have seen their state funding grow even with the state facing a \$6 billion plus deficit.

Drug court advocates have also used financial arguments to create a state funding stream for dependency drug courts, arguing that by more speedily reuniting families torn apart by drugs, the state not only saves money in foster care and related social service costs but also avoids federal penalties by ensuring compliance with federally mandated guidelines for speedy permanency planning. In 2004, the Legislature and Governor approved \$1.8 million for dependency drug courts, an amount distributed to nine courts. In 2005, the Legislature appropriated funds for the Department of Social Services to evaluate the costs and benefits of dependency drug courts.

A significant tool in the funding debate is a study sponsored by the California Administrative Office of the Courts. Called "California Drug Courts: A Methodology for Determining Costs and Avoided Costs," the three-phase study made cost savings tangible.²² Eight of the nine drug courts in

COSTS SAVED BY DRUG COURTS

Investment Costs

- *Investment in drug court is similar to that in traditional court processing, ranging from about \$5,000 to \$19,000 per participant*

Outcomes

- *Most of the benefits of drug court come from less costly outcomes for participants due to higher retention rates and reduced recidivism*
- *Retention rates for drug courts in the study averaged 52 percent and nearly half the courts had retention rates greater than 65 percent*
- *Recidivism rates averaged 17 percent for graduates, 29 percent for all drug court participants and 41 percent for a comparison group of offenders*

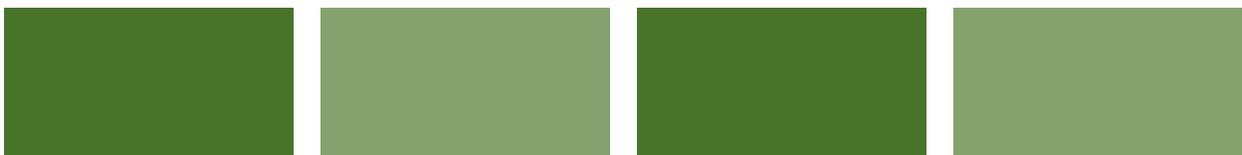
Outcome Costs

- *Outcome benefits ranged from about \$3,200 to over \$20,000 saved per participant*

Source: "California Drug Courts: A Methodology for Determining Costs and Benefits; Phase II: Testing the Methodology" (October 2004)

this study produced net benefits over a four-year period. For a group of 900 participants who entered these drug courts, the state realized a combined net benefit of \$9,032,626, and similar benefits could be expected in the future, the study said. However, the study found that savings varied among sites—from about \$3,200 to over \$20,000 per participant.

The Collaborative Justice Courts Advisory Committee has also advised the Judicial Council regarding implementation of Proposition 36, which diverts non-violent drug offenders into treatment and adds \$120 million



annually for treatment programs statewide. When the measure passed with 61 percent of the statewide vote, the Administrative Office of the Courts established a work group that created implementation models based on drug court protocols. In areas such as promoting early intervention and creating links between courts and treatment agencies, “the drug court model is being used by the many courts to implement Proposition 36,” said Judge Manley, a member of the work group on Proposition 36. In addition, many courts created a mechanism for those who failed out of Proposition 36 courts to go directly into drug court.

To educate practitioners about the implementation standards, the Administrative Office of the Courts sponsored statewide symposia for judges funded by the California Endowment and the University of California at San Diego. It also co-sponsored conferences with the Department of Alcohol and Drug Programs and developed an on-line course for those involved in Proposition 36 courts. Proposition 36 has succeeded in linking thousands of additional offenders to drug treatment. It has also helped increase public awareness about the costs of incarceration and the efficacy of drug treatment.

“The Judicial Council and the Administrative Office of the Courts have been effective partners with the Department of Alcohol and Drug Programs in helping implement Proposition 36, and in developing the drug court system in California. This is an example of collaboration between the branches of government that works.” said Kathryn P. Jett, Director, California Department of Alcohol and Drug Programs.

Some drug courts have changed their eligibility requirements to include new populations since the advent of Proposition 36. Drug courts can do this because they have more flexibility than Proposition 36 courts in determining eligibility. For instance, “drug courts can target drug-abusers who’ve been charged with burglary or other crimes and not necessarily a drug crime,” said Del Sayles-Owen, deputy director in the Department of Alcohol and Drug Program’s Office of Criminal Justice Collaboration.

Proposition 36 funding sunsets in 2006, at which time the Legislature may consider proposals to renew the law. While the story of Proposition 36 is still being written, it has already demonstrated the political popularity of the collaborative justice approach and the flexibility of California’s drug courts, which have modified their practice and expanded their capacity in response to the new law.

First community court established (Van Nuys)

First juvenile mental health courts established (Santa Clara County and Los Angeles County)

The Administrative Office of the Courts uses a distance learning broadcast to train teams planning mental health courts

Figure 2: SELECTED FINDINGS OF THE DRUG COURT PARTNERSHIP EVALUATION (2002)²⁴

Seventy percent of participants had used drugs five or more years, with an average of two arrests (one conviction and incarceration) per participant in the two years prior to drug court.

Reduction in Recidivism

- *Participant arrest rate 85 percent lower in the two years after entering drug court than in the two years prior to entering drug court*

Cost Savings

- *\$43 million in estimated jail and prison costs averted through the \$14 million Drug Court Partnership program*

Social Outcomes

- *95 percent of babies born to participants during drug court were drug free*
- * *70 percent of participants were employed when completing drug court; 38 percent were employed at time of entry into drug court*

IDENTIFYING BEST PRACTICES

The search for best practices has been another area of focus of the Collaborative Justice Courts Advisory Committee. In 2001, the committee contracted with the National Center for State Courts and the Justice Management Institute to identify national trends in problem-solving courts, with particular attention to the most promising practices. Based on the National Center's research and inspired by the federally endorsed "Key



Components,” the committee established 11 guiding principles of collaborative justice courts. (See *Figure 1.*)

The Justice Management Institute helped committee staff develop a survey to assist local courts in identifying promising practices. In the end, the National Center and the Justice Management Institute studies identified several practices common to collaborative justice courts in California:

- Team approach
- Proactive role of the judge
- Immediacy of response
- Community involvement
- Participant accountability
- Coordination of related cases

Two studies demonstrating that drug courts save money are published (“California Drug Courts: A Methodology for Determining Costs and Avoided Costs” and “Drug Court Partnership: Final Report”)

California Drug Courts win National Association of Drug Court Professionals Award

The Legislature passes the Trial Court Facilities Act, co-sponsored by the Judicial Council and the California State Association of Counties, shifting ownership of court facilities from local governments to the state

Although the National Center found few differences between practices in California and around the country, the ones they did find were noteworthy. It found, for instance, California’s effort to identify promising practices across the full range of collaborative justice courts to be unusual, as was the state’s attempt to coordinate and support development of these varied courts through an integrated court system program.

Another important research effort was mandated by the Drug Court Partnership Act of 1998. That study, conducted from the spring of 1999 to the winter of 2001, measured reductions in crime, cost savings and social outcomes.²³ (See *Figure 2.*)

The advisory committee is currently looking at ways to ensure that courts around the state are updated on an ongoing basis about promising practices, and has already made efforts in that direction. In 2001, the Collaborative Justice Program Unit redesigned and expanded its Web site and experimented with distance learning by broadcasting a training module via satellite to approximately 450 practitioners in 29 teams planning mental health courts. Further, it partners with the California Association of Drug Court Professionals to sponsor its annual conferences, supports quarterly drug court coordinator network meetings and has worked with the Center for Judicial Education and Research at the Administrative Office of the Courts to develop a course on substance abuse for its Continuing Judicial Studies Program. In addition, the unit participates in educational projects sponsored by the Center for Families, Children & the Courts, such as their statewide symposium for peer courts in 2001.

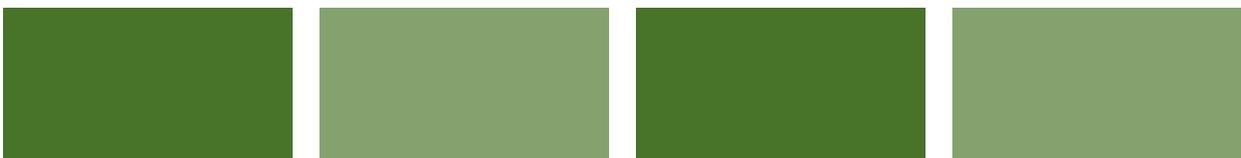
The committee has also collaborated with the Center for Judicial Education and Research to recommend minimum educational standards for practitioners in collaborative justice courts. An early product of this collaboration was an online course for judicial officers in Proposition 36 courts. Included in the training package were copies of a Proposition 36 self-study course on CD-ROM, materials prepared by several California judicial officers and a script for judicial officers to use when taking a defendant's plea. During the first six to nine months that the course was available, approximately 200 judicial officers reviewed the material and completed the course. Currently, the committee is partnering with the Center for Judicial Education and Research to develop judicial education curricula in collaborative justice through a grant from the State Justice Institute. A two-day course focusing on broad application of collaborative justice in the court system will be presented in 2005 at a weeklong Statewide Judicial Branch Conference, which will bring together the Judicial Council and the State Bar and the California Judges Association annual meetings.

To continue expanding outreach to the full range of collaborative justice courts, the committee sponsors networking meetings for each type of collaborative court on an intermittent basis, as well as grant management trainings, co-sponsored with the Administrative Office of the Courts' grants program.

The growth of California's collaborative justice courts is happening in the context of significant change within the judicial branch's infrastructure. As part of the system-wide unification process, the state assumed control of trial court funding, which had previously been bifurcated between the counties and the state. In 1998, voters passed a constitutional amendment that provided for voluntary unification of superior and municipal courts in each county into a single countywide trial court system. And legislative acts in 2001 and 2002 mandated the transfer of 21,000 court workers and 450 court facilities from county to state supervision. All of these changes have given the state court system more resources and more policy-making authority.

THE FUTURE: WHAT'S NEXT FOR COLLABORATIVE JUSTICE IN CALIFORNIA?

Advocates of collaborative justice within the California courts say they are constantly on the lookout for ways to increase support for innovation. For instance, they see in the voter-approved Proposition 63, which is expected to allocate \$500 to \$700 million a year for mental health services, an



TRANSFERRING PRINCIPLES AND PRACTICES TO GENERAL CALENDARS

Judges interviewed in focus groups considered the following principles and practices more potentially transferable from collaborative justice courts to general calendars (listed in approximate order of consensus concerning their transferability):

1. Proactive, problem-solving orientation of the judge;
2. Interaction with the defendant/litigant;
3. Ongoing judicial supervision/return court appearances;
4. Integration of social services (although considerable qualifications were expressed concerning the ability to do this as effectively outside a specialized court setting);
5. Team-based, non-adversarial approach (although not appropriate in all situations and partly dependent on the attorneys); and
6. Sanctions and rewards (although approximately as many judges felt these practices were not transferable).

Source: "Collaborative Justice in Conventional Courts: Opportunities and Barriers," Center for Court Innovation and Judicial Council of California, 2004

California funds collaborative justice dependency drug courts with \$1.8 million

"Collaborative Justice in Conventional Courts: Opportunities and Barriers" is published

In the nation: In a joint resolution passed at their annual meeting, the Conference of Chief Justices and the Conference of State Court Administrators reaffirm their commitment to advance the study, evaluation and integration of problem-solving techniques into the administration of justice

opportunity to partner with the mental health system to expand mental health courts and other court-related mental health programs.

They are also seeking ways to institutionalize successful practices, although how to achieve that goal—or even what “institutionalization” means—remains an open question. Clearly, there are many different approaches. One proposed strategy involves disseminating promising practices from collaborative justice courts to traditional courts, a subject

studied in a report commissioned by the Collaborative Justice Courts Advisory Committee. The report—the first ever to assess the potential for transferring best practices from problem-solving courts to mainstream courts—was issued in 2004 by a team of researchers from the Center for Court Innovation and the Administrative Office of the Courts' Office of Court Research, who conducted focus groups with dozens of judges in both California and New York. The study found several elements—including links to treatment, direct interaction with litigants and judicial monitoring of offender compliance with alternative sanctions—that could be replicated outside of the specialized court setting at little or no cost.²⁵

Some judges in California have already begun to do this. Judge Marcus in Los Angeles, for example, has been applying problem-solving principles to cases involving welfare fraud. Traditionally, those convicted were placed on probation and ordered to perform community service and re-pay the money. “They’d get five years’ probation and be given a date four years and eight months later, and invariably none of them had done what they were supposed to so they’d be sentenced to 180 days in jail. That’s ineffective because you haven’t gotten restitution and community service, and you’re wasting a jail bed on a non-violent population,” Marcus said. In contrast, Marcus has a much higher compliance rate through more rigorous monitoring and the application of interim sanctions. He might order an offender to perform 80 hours of a 200-hour community service sentence within four months and schedule a return appearance shortly after the four-month deadline to check on compliance. “If they haven’t done it, I might raise their bail and send them to jail for a couple of days,” Marcus said. This kind of “shock incarceration”—borrowed from the drug court playbook—has proven far more effective than the traditional approach, Marcus said.

Another approach involves adapting and streamlining problem-solving techniques to accommodate a much larger population than that handled currently by full-scale collaborative justice courts. In Santa Clara County, for example, eight judges handle all of the county’s 7,000 to 9,000 narcotics cases a year. The judges, who handle both Proposition 36 and traditional drug court cases, are located in a special courthouse with many drug-treatment and other social services on site and additional services across the street. The judges are able to accommodate such a high volume caseload by “taking the best of the drug court model,” including judicial monitoring, drug testing and sanctions and rewards, and eliminating other ingredients, like elaborate teamwork, Judge Manley said. Cases involving mentally ill offenders are also now being handled in the same courthouse.



This approach has helped the county dramatically reduce its trial calendar from about 1,700 a year to about 400. “If you want treatment, you stay in that building; if you want to fight and go to trial, you are then sent to another court, which is adversarial,” Manley said. “When you create a whole courthouse around treatment and alternatives to incarceration, I think it creates an atmosphere where you’re more likely to settle even more serious cases, just as you’re more likely to have success with the mentally ill when you put them all together because the successes of those they observe give them hope and make them more likely to want to participate in a court like that.”

Orange County is considering a similar approach with its new Santa Ana Community Court, which would house all of the county’s collaborative justice courts under a single roof. Under the proposal, the courthouse would contain a drug court, a dual diagnosis court and a homeless court, plus a new caseload of mental health–related matters existing in the criminal caseload that are not currently addressed by other collaborative efforts (this new caseload is a result of the passage of Proposition 63, which will provide more funding for people with serious mental illness).

Dependency drug court systems that serve large caseloads have also been developed. Jurisdictions implementing these models include San Diego, Sacramento and Santa Clara. These projects are currently the subject of an evaluation by the California Department of Social Services.

According to William C. Vickrey, Administrative Director of the Courts, “The long-term goal of these institutionalization efforts is to make collaborative justice courts available to all cases for which they might be appropriate.”

This commitment to implementing problem-solving principles is why California is considered a national leader in the movement to develop courts that offer greater public access to the justice system, emphasize partnerships with stakeholders and seek to improve public confidence in justice. With its hundreds of collaborative justice courts and its commitment to continue to study and support them, California, along with other court systems across the country, continues to move forward in expanding the scope of problem-solving principles and practices.



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Judicial Council of California

The 27-member Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial and accessible administration of justice. The Administrative Office of the Courts serves as the council's staff agency.

This publication was developed as a project of the Judicial Council's Collaborative Justice Courts Advisory Committee, which makes recommendations to the Judicial Council for improving and evaluating collaborative justice courts throughout the state.

For more information, visit
www.courtinfo.ca.gov

Center for Court Innovation

The winner of an Innovations in American Government Award from the Ford Foundation and Harvard's John F. Kennedy School of Government, the Center for Court Innovation is a unique public-private partnership that promotes new thinking about how courts and criminal justice agencies can aid victims, change the behavior of offenders and strengthen communities.

In New York, the Center functions as the state court system's independent research and development arm, creating demonstration projects that test new approaches to problems that have resisted conventional solutions. The Center's problem-solving courts include the Red Hook Community Justice Center and the Midtown Community Court as well as drug courts, domestic violence courts, youth courts and mental health courts.

The Center disseminates the lessons learned from its experiments in New York to both national and international audiences. The Center's technical assistance team has, among other things, played a key role in helping three dozen jurisdictions (including England and Wales) replicate the community court model. The Center's help takes numerous forms: writing research reports, hosting site visits to its demonstration projects, helping create community outreach and needs assessment plans, leading brainstorming sessions, designing evaluation schemes and providing ongoing training.

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