

# PROBLEM-SOLVING COURTS

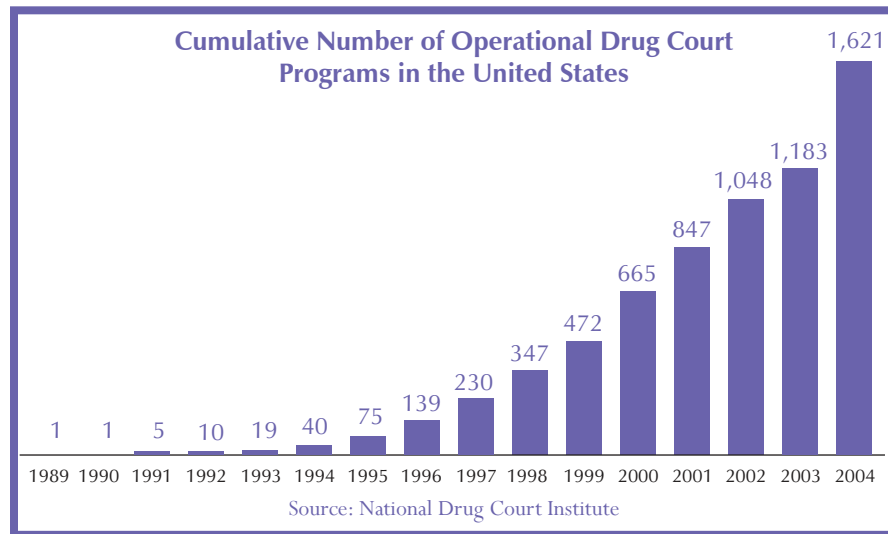
## Historical Basis

Problem-solving courts are designed to hold criminal defendants accountable while addressing the underlying issues that resulted in the criminal activity with which the defendants are charged.

One of the best-known types of problem-solving courts is the drug court. Drug courts began not as the therapeutic courts we know today, but as an efficiency measure in which courts would hear all drug cases, sometimes bundling all the defendant's cases together, on a single day of the week.

The more attention courts paid to these cases, the more it became clear that defendants required more than quick case processing. Treatment, sometimes difficult to obtain, and even more difficult to follow through with, was also in order. Courts used the drug dockets to solve a variety of related community problems. Thus, therapeutic drug courts provide an early example of a problem-solving court.

The therapeutic jurisprudence movement views courts as conduits by which defendants, and indeed society, can better themselves. Problem-solving courts spread to other areas—DUI, quality-of-life crimes, and mental health, among others.



Key elements of problem-solving courts have been identified:

- focus on outcomes
- system change
- judicial involvement
- collaboration
- nontraditional roles
- screening and assessment
- early identification of potential candidates

## Present Conditions

Long-term success and continued existence are two issues faced by problem-solving courts today.

Funding is an issue for many problem-solving courts. Early drug courts began with seed money from the federal government. After these funds lapsed, states and localities were forced to pick up the slack. The long-term survival of these courts depends on a creative and multifaceted approach to funding.

Measuring success is another hurdle faced by problem-solving courts. Problem-solving courts cannot be compared to traditional courts. The investment of judicial time, collaboration with entities such as probation and treatment providers, and holistic view of the issues prohibit problem-solving courts from being measured in the same way as other courts. The ability of problem-solving courts to get to the root of the matter means that recidivism and the long-term health of the defendant will be factors demonstrating success or failure. Short-term failures, such as “falling off the wagon,” are part of the process. This challenge will likely continue as courts struggle for funding.

## Probable Future

Problem-solving courts may well spread to other subjects. However, not all “specialty courts” are of a problem-solving nature.

One goal identified by those in the field is to integrate the principles of therapeutic jurisprudence into the court system as a whole. Thus, traditional courts would use the lessons learned from problem-solving courts.

The funding and performance measurement challenges discussed above will continue to present challenges to problem-solving courts. Best practices with regard to both issues should emerge in the future.

### Some Problem-Solving Courts

DWI Court

Family Dependency Treatment Court

Gambling Court

Gun Court

Homeless Court

Mental Health Court

Teen Court

Tribal Healing to Wellness Court

Truancy Court

### Drug Court

Adult Drug Court

Campus Drug Court

Juvenile Drug Court

Reentry Drug Court

Source: C. West Huddleston III et al. *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States*. Vol. 1, no. 2 (May 2005).

*"Courts are community problem-solvers. . . . Any group you can name has a stake in the strength and the integrity of the judiciary. The most difficult problems of our society are laid at the steps of the courthouse."*

*Paul J. De Muniz, Chief Justice of Oregon*

### Innovative Practices

The National Center for State Courts has created a database ([www.ncsconline.org/D\\_Research/ProbSC/](http://www.ncsconline.org/D_Research/ProbSC/)) by which one may search state-by-state for the following types of problem-solving courts:

- community
- domestic violence
- drug
- family
- mental health
- reentry
- other

Early in 2006, the first National Problem-Solving Courts Summit was held in Washington, D.C. The summit was hosted by the Problem-Solving Courts Committee of the Conference of Chief Justices and the Conference of State Court Administrators. The group identified areas for future study and development, including:

- institutionalization
- training and education
- advocacy
- research and evaluation

Another innovation in this area can be seen in law schools. Although they have traditionally aimed to produce adversarial lawyers, law schools are teaching and

fostering therapeutic jurisprudence. Students at the Marshall-Wythe Law School at the College of William & Mary (Virginia) formed the Therapeutic Jurisprudence (TJ) Society, which "seeks to further [therapeutic jurisprudence] goals and views through the promotion of academic study, scholarship, research, community involvement, and collaboration with other organizations." The infusion of therapeutic jurisprudence into law-school education will create a new generation of lawyers who think and work differently.

### RESOURCES

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