

Statewide Efforts for Problem-Solving Courts

NATIONAL CENTER FOR STATE COURTS

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States across the country are undertaking the challenge of developing governing documents to provide oversight and accountability for operating problem-solving courts. These statewide efforts fall along a spectrum from goal setting guidance to enforceable rules with consequences for non-compliance. Some states have developed best practices, guidelines, recommendations, or standards that are intended to provide guidance to courts looking to implement a new problem-solving court or for existing courts to improve program outcomes for the participants and the community. Other states have developed certification checklists to demonstrate ongoing compliance or have established rules to govern the operations of the problem-solving court.

The Impetus and Goals for State Problem-Solving Court Efforts

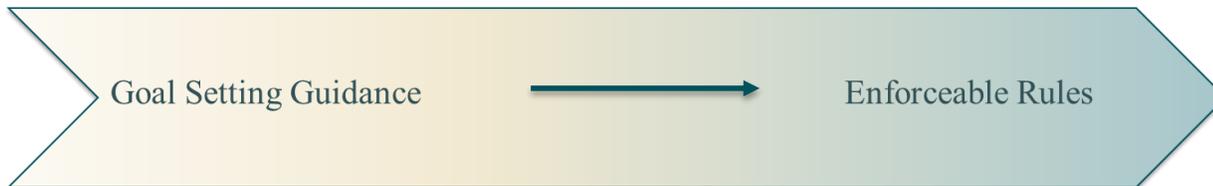
National policy priorities reflected by the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) for 2014 identified problem-solving courts as one of the top ten priority areas.¹ This priority recommends the support for increased funding for problem-solving courts and that legislative and executive branch agencies consider state court perspectives when developing calls for evaluation and financial sanctions on programs. Clearly, the impetus behind the national policy priorities and state-led reform efforts that call for guidance and structure to problem-solving courts is expectedly varied, but often these efforts are undertaken to:

- Provide assistance with planning and implementation of new problem-solving courts
- Establish a means of ensuring accountability (e.g., improving public confidence and providing justification for funding)
- Demonstrate courts' effectiveness at meeting its stated goals
- Provide courts with a framework for internal monitoring (e.g., performance measures)
- Institute structure to provide continuity for courts navigating transitions in judicial or administrative leadership
- Ensure that the courts adhere to a model based on research and evidence-based best practices.

¹ See Farley, Kay (2014). Washington Review. *Court Manager*, Volume 29, Issue 2, pages 49-50.

Challenges in Drafting Governing Documents for Problem-Solving Courts

States with documents governing how problem-solving courts are administered will face challenges in the development process. Two important challenges are: 1) creating documents that are appropriate within the context of court governing structure and 2) the decision-making process regarding the level of enforceability of the document.



States are represented at various points along a continuum (see above). For states that fall along the left side of the continuum, the governing documents essentially issue guidance to problem-solving courts operating within the state. These states have developed guidelines tailored to fit the culture of problem-solving courts operating within the state. For example, New York released “Recommended Practices” for adult drug courts, “Key Principles” for mental health courts, and “Effective Practices” for New York’s family treatment courts (see accompanying table). As another example, Wisconsin’s treatment courts are encouraged to follow the statewide standards “as best as practicable.” Wisconsin standards “seek to create a level of uniform practices” but also allow individual treatment courts to tailor programs to meet local needs.² Other states have adopted the 10 key components for adult drug courts (an older version of nationally released best practices) or the adult drug court national standards (volume 1 released by NADCP³ in 2014) in place of developing state-specific standards.

When problem-solving courts are not in compliance with state governing documents, the documents will often specify how the state will respond. Ohio, for example, has set minimum requirements for certification across all specialized dockets. However, Ohio also has accompanying “recommended practices” that courts are encouraged to follow. The overview specifically states that this document creates a minimum level of uniform practices, but allows local specialized dockets to innovate and tailor to respond to local needs and resources. Arizona convened a committee of key stakeholders to develop statewide standards for mental health courts. This committee formally recognized the unique circumstances in each jurisdiction and the diversity among the operating mental health court models. It developed 8 standards representing fundamental components of mental health courts, but relied upon specific language to convey variations in degree of required compliance (e.g., “must” is mandatory, “may” allows for discretion, and “should” is recommended and encouraged). This delineation in the language allowed for compromise among its committee members.

Some states have also established rules that require problem-solving courts to be certified and prescribe these courts to demonstrate regular compliance. For example, the Indiana Judicial

² See http://www.watcp.org/wp-content/uploads/2014/05/WATCP_Standards_April-2014.pdf, page 1.

³ NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS, ADULT DRUG COURT BEST PRACTICE STANDARDS VOLUME I (2013).

Center may take administrative action to ensure compliance with its rules, including suspension of court operations. Additionally, states have linked incentives to achieving compliance, such as state funding. For example, the standards in Georgia are tied to state funding and subject to review every three years. Accountability Courts, as they are called in Georgia, were among the first to issue standards for various problem-solving courts (e.g., DUI courts, juvenile, family, and adult drug courts, and mental health courts). Georgia has recently updated its standards to incorporate more recent evidence-based research. Wyoming has issued state statutes and state chapter rules that govern (funding and certification of) court supervised treatment court programs. While states with certification or funding-based requirements demand compliance, many courts also allow for an appeal or claim of hardship. Often these types of exemptions are due to a lack of local resources.

The funding source and court structure within each state dictates the governing body and the need for statewide policy over problem-solving courts. Several states, through administrative court orders or state statutes, have established statewide committees charged with developing governing documents. However, a challenge for some states with a strong local authority may translate to a less specific and less enforceable policy at the state level. Or as the case of Iowa, statewide leaders indicate that courts are managed at the county level, and therefore, efforts to regulate the problem-solving courts statewide are unlikely.

Several states have implemented data collection infrastructure and identified specific performance measures as a component of the standards, rules, or operating procedures. NCSC has worked with several states to develop and adopt a set of statewide performance measures that serve as a valuable component of the state's governing documents as they provide mechanisms for ongoing and sustainable performance management. The NCSC has recently worked collaboratively with:

- Wisconsin, New Mexico, Utah, and West Virginia to develop performance measures for adult drug courts,
- Arizona to develop statewide standards and performance measures for adult mental health courts, and
- Pennsylvania to develop performance measures for Veteran's courts.

Overall, there are a multitude of various statewide efforts in place to provide accountability and guidance to problem-solving courts. The challenge to state court leaders is to develop a governing document that encompasses consideration for the governing structure in place and a plan for its enforceability. Additionally, the leaders of the designated agency or committee members must reach agreement over the scope and content of the best practices, standards, or rules.

An Overview of Statewide Efforts by Problem-Solving Court Type

Accompanying this introduction is a reference table with accompanying links to statewide efforts to operate, manage, guide, and hold accountable its problem-solving courts. It is important to note the language used to describe the statewide efforts; it has implications for making true comparisons of the type of efforts underway in different states and implications, if any, that would result from not adhering to the governing document.

Please note, this is not an exhaustive list of all statewide efforts; the NCSC compiled this information in the fall of 2014 through inquiries with statewide problem-solving coordinators, web-site searches, and through work agreements with the NCSC. Also note, statewide efforts to develop performance measures are not noted on this list.

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