

**STATE OF MAINE
JUDICIAL BRANCH**



**ADMINISTRATIVE OFFICE OF THE COURTS
ADULT DRUG TREATMENT COURTS**

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**REPORT TO THE JOINT STANDING COMMITTEE ON THE JUDICIARY
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Executive Summary

Maine's Adult Drug Treatment Courts (ADTC) have operated in five counties across Maine during calendar year 2013 and have provided rigorous accountability for defendants and probationers who have either pled guilty or been found guilty of serious drug and alcohol-related criminal offenses. When operating with fidelity to best practices drug treatment courts have proven to be an effective state, national, and international response for a relatively small number of criminal defendants with drug and alcohol abuse or dependence. This is the twelfth consecutive report provided to the Committee and it describes the structure, processes, and outcomes associated with the operation of these dockets by the Judicial Branch and its Executive Branch, county, and private partners.

Structure

- Participation in these sentencing dockets is voluntary and provides defendants and probationers with a demanding community-based alternative to lengthy terms of incarceration. While in drug treatment court, participants are required to meet with the presiding judicial officer weekly or every other week to account for their progress as well as maintain regular contact with their case managers and probation officers, if on probation. They must have paid employment, attend an educational program, or engage in community service; pay all fines, restitution, and child support; maintain stable and

sober housing, undergo very frequent and random testing for drug and alcohol use; and participate satisfactorily in intensive treatment and self-help groups.

- Specialized treatment, funded by the Office of Substance Abuse and Mental Health Services (SAMHS) through contracts with local behavioral healthcare agencies, is provided to participants to support recovery from substance abuse, develop more pro-social behaviors, and address mental health and trauma issues.
- Since inception nearly thirteen years ago, 1,590 men and women have participated. In calendar year 2013, there were 155 participants throughout the course of the year. Due to graduations and expulsions, as of December 31, 2013, there were 81 active participants statewide.
- There has been a reduction in admissions to these dockets in 2013, in spite of continued high levels of substance abuse and related criminal conduct. This is due to a number of factors, including fewer referrals being approved by prosecutors and to the choice by some defendants to serve prison time rather than undergo a rigorous course of recovery and accountability.

Benefits

- In calendar year 2013, there were 155 participants of whom 41 individuals graduated while 33 were expelled for noncompliance with requirements and incarcerated to serve a previously agreed upon sentence. This is a graduation rate of 55%, which compares favorably with the average national rate of 48%.
- Adult drug treatment courts generate measurable cost avoidance to the criminal justice system through reduced recidivism and incarceration and to the health care system through recovery from addiction. For every \$1.00 spent on the adult drug treatment courts in Maine, approximately \$1.87 in savings to the state's criminal justice system has been generated. This calculation uses the conservative marginal daily rate for incarceration of state prison inmates of \$29.45 and for county jails of \$24. However, the average per diem rate for the state prisons is currently estimated at \$110.76 and \$125.59 for county jails. The cost savings are considerably higher using these figures. Additionally, the public health and social costs of continued substance abuse and criminal activity are not included.
- A comprehensive evaluation of these dockets published in 2006 indicated that the one-year post-discharge rate of recidivism (defined as rearrest) for graduates was 16.5% compared to a rate for traditionally adjudicated offenders of 33.1%. Using a more recent definition of recidivism as reconviction (which tends to be lower than rearrest), adult drug treatment courts continue to demonstrate that drug court graduates and participants in general recidivate at lower rates and commit less serious offenses than traditionally adjudicated offenders. The most recent evaluation of the adult drug courts published in 2013 for the time period 2007 to 2009 found a recidivism rate for graduates of 18.3% one year post-discharge.
- Since 2001, a total of 64 drug free births to mothers in Maine's adult drug treatment courts have occurred. National estimates of the cost of care for drug-addicted children approach or exceed \$1,000,000 per child through the age of 18 years old.

Resources

- Drug treatment courts remain labor and time intensive on the part of judicial officers and other drug treatment court practitioners. Judges, court clerks, judicial marshals, prosecutors, and probation officers continue to devote their time to these dockets without any additional funding from any source.
- Funding for treatment and case management provided to drug court participants has remained relatively flat for the past nine years. According to SAMHS, total contract costs for treatment and case management services for SFY2014 are \$1,167,538.86. Funding is provided to SAMHS from the General Fund, and the federal Substance Abuse Treatment and Prevention Block Grant. This does not include MaineCare expenditures for treatment of ADTC participants or training, certification, and SAMHS staff support dedicated to the ADTC and the criminal justice network of services. The Judicial Branch does not receive any dedicated funding for ADTC activities but uses a portion of its allocation of General Fund monies to support a full time statewide coordinator.
- The Judicial Branch has been the recipient of four multi-year grant awards from the Bureau of Justice Assistance of the Department of Justice since 2009. The goals of these grants have included upgrading the statewide drug court management information system maintained by SAMHS, completing an updated comprehensive process and outcome evaluation of the adult drug treatment courts during the period 2007 to 2010, and enhancing treatment and case management services in Cumberland and Washington Counties. All of this grant funding has been devoted to contracted services and not to the Judicial Branch. As of July 1, 2013, all of these grants have expired.
- Effective for fiscal year 2012 and succeeding years' awards, the Bureau of Justice Assistance considers jurisdictions requiring an initial period of incarceration prior to participation in a drug court to be ineligible for funding, unless the offense carries a mandatory jail or prison sentence. Grant applicants must demonstrate that those who were eligible promptly enter the drug court. It is common practice in Maine for serious offenses to result in what is considered "up front" time prior to entry; defendants must serve some time prior to entering the drug treatment courts. This renders the State of Maine ineligible to receive federal funding from this source.
- SAMHS was awarded a three-year grant from the Bureau of Justice Assistance effective October 1, 2011, totaling \$1.5 million to enhance statewide adult drug treatment court activities through training and technical assistance, treatment, research and evaluation, improved drug testing, and the development of sober, safe, and affordable housing. Activities funded by the grant have continued during 2013.
- Although the Penobscot County Adult Drug Treatment Court is no longer in operation, defendants residing in Penobscot County have the opportunity to join the Hancock County ADTC. During 2013, six Penobscot County residents participated in this docket.
- Emerging trends in designer drugs, such as synthetic cannabinoids like K-2 and synthetic stimulants like bath salts, have continued to challenge the drug treatment courts although the detection of their use through testing, while expensive, has dramatically improved. The abuse of prescription opioids and heroin remains a leading contributor to criminal

conduct and is the most common presenting problem for drug treatment court participants statewide.

What are Adult Drug Treatment Courts?

Adult Drug Treatment Courts are a type of specialty docket or problem solving court and are defined as follows:

A specially designed court calendar or docket, the purposes of which are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful habilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision and use of appropriate sanctions and other habilitation services.¹

ADTCs seek an increase in personal, familial, and societal accountability on the part of participants, the development of prosocial attitudes and behaviors, and the promotion of healthy and safe family relationships. These courts are intended to reduce unnecessary incarceration by promoting more effective collaboration and efficient use of resources among the courts and criminal justice and community agencies.

Maine's initial six Adult Drug Treatment Courts were created by statute in August 2000 and began accepting participants in April 2001.² These courts were located in Androscoggin, Cumberland, Oxford, Penobscot, Washington, and York Counties. The docket in Oxford County was discontinued due to low census in May 2004. The Penobscot County docket graduated its final participant in 2012. (Defendants from Penobscot County have been given the opportunity to join the Hancock County court.)

Program Structure

The structure of the five active Adult Drug Treatment Courts in 2013 is summarized below:

| County | Presiding judicial officers | Treatment provider agencies |
|---------------|------------------------------------|------------------------------------|
| Androscoggin | Hon. MaryGay Kennedy | Catholic Charities Maine |
| Cumberland | Hon. Jeffrey Moskowitz | Catholic Charities Maine |
| Hancock | Hon. Kevin Cuddy | Open Door Recovery Center |
| Washington | Hon. David J. Mitchell | Atlantic Mental Health Center |
| York | Hon. John O'Neil, Jr. | Counseling Services, Inc. |

¹ Bureau of Justice Assistance. *Competitive Grant Announcement: Adult Drug Treatment Court Implementation Grants*. Washington, D.C.: U.S. Department of Justice, 2003.

² An additional ADTC in Hancock County joined the state system following the provision of funding by the 123rd Legislature on July 1, 2008, after being established as a county deferred sentencing project in 2005.

The ADTC dockets are managed by the Coordinator of Specialty Dockets and Grants under the supervision of the Chief of Court Management of the Administrative Office of the Courts. Essential operational support is provided by court clerks and the Office of Judicial Marshals. Judges are assigned to preside over these dockets by the Chief Justice of the Superior Court or Chief Judge of the District Court. In addition, the Chief Justice of the Superior Court and Chief Judge of the District Court provide guidance and establish parameters for the operations of these specialty dockets.

The activities of the ADTCs continue to be overseen by a statewide steering committee consisting of representatives of SAMHS, treatment provider agencies, Maine Pretrial Services, the Co-Occurring Collaborative Serving Maine, the Office of the Attorney General, the Department of Corrections, the criminal defense bar, the Administrative Office of the Courts, a drug court graduate, and a researcher. This committee is chaired by the Hon. Roland Cole, Associate Justice of the Maine Superior Court.

When operated according to best practice standards, ADTCs are labor and time intensive activities for the Judicial Branch. It is estimated that, on average, judicial officers allocate 15% to 20% of their time in a week during which the court meets.

Those Courts meeting twice a month devote half this amount of time. As noted elsewhere in this report, no additional funding is provided to the Judicial Branch for drug treatment court operations. Any expansion of these dockets would divert Judicial Branch resources, including judges, clerks, and marshals from providing services for other types of dockets and case types.

Substance Abuse Treatment and Case Management Services

SAMHS has continued to contract with licensed behavioral healthcare treatment provider agencies in each county having an ADTC. These agencies are required to provide *Differential Substance Abuse Treatment* (DSAT), a manualized cognitive-behavioral treatment program, to all participants. Clinicians from the treatment provider agencies attend pre-court meetings to discuss participant progress as well as the status hearings. All case management services are provided by Maine Pretrial Services.

Most drug court participants engage in other forms of ancillary treatment due to disorders and symptoms beyond substance abuse alone. Research on the drug treatment courts in Maine and elsewhere has indicated that significant numbers of drug court participants have co-occurring mental health disorders and that they typically have poorer outcomes than their peers with only substance abuse disorders. Gender-specific trauma treatment is increasingly offered in recognition of the fact that most women participants and many men are victims of childhood sexual abuse and family violence. Interventions such as the National Institute of Corrections-endorsed *Thinking for a Change* curriculum to reduce criminal thinking and risk are also becoming more prevalent throughout the state. Attendance at 12-step recovery and self-help groups is strongly encouraged and has been shown to correlate positively with success after graduation from drug court.

Drug court participants are typically high risk/high needs individuals so many would benefit from the higher level of care afforded by an inpatient setting in order to be ultimately successful in community-based drug court treatment. However, access to this level of care is difficult to obtain and essentially unavailable in a timely way for individuals without MaineCare coverage.

Data and Evaluation

Data collection

The adult drug treatment courts have continued to utilize *DTxC*, a web-based data management information system for all of Maine's drug treatment courts implemented seven years ago. The Judicial Branch in partnership with SAMHS was awarded a two-year grant from the Bureau of Justice Assistance in August 2010 to upgrade this system to improve its ability to respond to the needs of drug court team members, administrators, and researchers. All funds awarded under this grant have been provided for software development and database management to Portland Webworks, a Maine company and the developers of both the earlier iteration and the current system for SAMHS. *DTxC 2.0* has been online with SAMHS since October 2012. A modern data management system is indispensable for the purposes of client record keeping, administrative reports, and quality assurance.

Data

In the past year, drug use trends in the State of Maine have continued to reflect the abuse of prescription narcotics and heroin, cocaine, alcohol, marijuana, benzodiazepines, and synthetic cannabinoids, known as K-2 and Spice, and bath salts.

A total of 6,966 drug and alcohol tests were administered to participants in 2013 with only the very small proportion of 4.6% yielding positive results indicative of illicit substance use. Per the strict drug testing protocol utilized by case managers the vast majority of these tests were administered in a random and observed manner. Given the near daily self-reported use of substances prior to admission, this is notable and positive.

While synthetic cannabinoids and bath salts are illegal, they continue to be widely used. It is now possible to test for the presence of the metabolites of these substances in urine and the drug treatment courts have been assertively doing so. The testing of samples must take place at a qualified laboratory and is expensive. However, the chemists responsible for the creation of bath salts are adept at slightly modifying the molecular composition of these substances in order to evade legal prohibitions while continuing to produce a mind-altering effect. These efforts also result in substances whose long-term impact on health is unknown. Additionally, drug-testing laboratories tend to lag behind the chemists in the development of tests to detect the modified bath salts making detection a challenge.

The abuse of prescription opioids remains a major concern in our state. In a report published by the Substance Abuse and Mental Health Services Administration in December 2010, during the time period of 1998 to 2008, Maine residents have sought treatment for the abuse of prescription opioids at a rate higher than any other state in the country. All indications are that

since 2008 the severity of this issue has only intensified. The drug court population includes a high proportion of individuals dependent on opioids. Numerous efforts are underway throughout the state to address this significant public health and criminal justice problem.

Due to the somewhat limited availability of prescription narcotics and the purity and low cost of heroin, opiate abusers and addicts are increasingly turning to heroin. One result has been an increase in overdose deaths.

Given the near daily use of substances by participants prior to admission to the adult drug court, the emphasis on and accountability for abstinence when in drug court have resulted in the birth of at least 64 drug-free babies since the inception of the ADTCs. National estimates have placed the medical and other costs associated with the care of these children to approach or exceed \$1,000,000 per child in the first 18 years of life.³

Collaboration

As noted above, the steering committee and the drug treatment court teams working at each site can be excellent examples of effective cross-disciplinary and interagency collaboration. However, it is evident that a renewed emphasis on collaboration could provide significant improvements and innovation in drug court practices.

Training and Education

Federal grant funds have required and supported the attendance of a small number of drug court practitioners at the annual training conference of the National Association of Drug Court Professionals. This past year's conference was held in National Harbor, Maryland. Practitioners and judges leading our courts also attended the New England Association of Drug Court Professionals training conference in Boston on September 27, 2013. All costs were borne by grants. A statewide training was conducted on May 2, 2013. This well-attended conference, with participants from drug court team members from all parts of the state and judges, heard national experts present on addiction, due process issues in drug treatment courts, and behavior management in court settings. Given Maine's small number of judges and large geographic scope, it is particularly challenging to excuse judges from their responsibilities in managing caseloads and hearing cases to attend training, particularly those involving out of state travel.⁴

Summary

During their twelfth year of continuous operation, Maine's Adult Drug Treatment Courts have continued to offer a successful evidence-based approach to the challenge of substance abuse and

³ Huddleston, C.W., Marlowe, D.B., & Casebolt, R. (2008) *Painting the Current Picture: A National Report Card on Drug treatment courts and Other Problem-Solving Court Programs in the United States*. National Drug Court Institute.

⁴ Judges were unable to attend the National Association of Drug Court Professionals Conference in Maryland.

crime in the State of Maine. Improvements continue to be made in these Courts in order to support recovery from drug and alcohol abuse, reduce criminal conduct, and enhance public safety.