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**STATE OF MAINE  
JUDICIAL BRANCH**



**ADMINISTRATIVE OFFICE OF THE COURTS**

**REPORT TO THE JOINT STANDING COMMITTEE ON THE JUDICIARY  
127<sup>TH</sup> LEGISLATURE**

**2015 Annual Report on Maine's Adult Drug Treatment  
Courts**

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## **I. Executive Summary**

Pursuant to the provisions of 4 M.R.S. § 423, this annual report on Maine's Adult Drug Treatment Courts (ADTC) is submitted to the Joint Standing Committee on the Judiciary. Maine's Adult Drug Treatment Courts (ADTC) operated in five counties, York, Cumberland, Androscoggin, Washington and Hancock, during calendar year 2015. Hancock County currently also accepts clients from Penobscot County. Additionally a joint Co-Occurring Disorders and Veterans Court operates in Kennebec County. Each of the Adult Drug Treatment Courts has a maximum capacity of thirty individuals at a time.

All provide rigorous accountability for defendants and probationers who have either pled guilty or been found guilty of serious criminal offenses that were drug or alcohol related. When operating with fidelity to the best evidenced-based practices, drug treatment courts have proven to be an effective state response for high risk and high need criminal defendants with drug and alcohol abuse or dependence.

This is the fourteenth consecutive report provided to the Committee. 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. Additionally it provides statistics as to participation, recidivism rates and challenges facing these Courts.

Participation in these sentencing dockets is voluntary and provides defendants and probationers with a demanding community-based alternative to lengthy terms of incarceration. Unlike some drug courts in other states where the drug courts operate a deferral-from-prosecution model for low-level offenders, Maine's drug courts require a defendant to enter a plea of guilty to the serious criminal charge pending against him or her. If the defendant successfully completes the program, the sentence imposed is substantially less than the sentence typically imposed for similar charges.

Prior to admission to the court, an extensive evaluation of each applicant is conducted by Maine Pretrial Services (MPTS) in order to ensure that each applicant meets the eligibility criteria. The evaluation includes the following steps:

- Referral to the program by an attorney, probation officer, or community member
- Defendant application and interview
- Independent verification of information gathered in interview
- Risk assessment (LSR-I)<sup>1</sup>

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<sup>1</sup> The Level of Service Inventory – Revised (LSI-R) is used to assess the level of risk of recidivism of an offender and has been used by MDOC since 2004. The LSI-R score is comprised of 10 categories or domains: Criminal History, Education/ Employment, Finances, Family/Marital, Accommodations, Leisure/Recreation, Companions, Alcohol/Drug, Emotional/Personal, and Attitude/Orientation. The total LSI-R score can range from 0 to 54, with lower numbers indicating less likelihood of recidivating than higher numbers. The predictive validity of the LSI-R had been demonstrated within several different correctional settings (Andrews, 1982; Andrews & Robinson, 1984; Bonta & Andrews, 1993; Bonta & Motiuk, 1985; Gendreau, Goggin, & Smith, 2002), and has predictive validity for various subgroups of the offender population such as female offenders, and African-American offenders (Coulson, Ilacqua, Nutbrown, Giulekas, & Cudjoe, 1996; Lowenkamp, Holsinger, & Latessa, 2001; Lowenkamp & Latessa, 2002). Many LSI-R domains address dynamic risk factors (can be changed) and are important for case planning and case management, as probation officers and treatment providers work with a probationer to effect positive behavior changes. Others, such as Criminal History, are static and cannot be changed. Quoted from, Rubin, *Maine Adult Recidivism Report* (2013) at pages 1 and 6.

- Substance abuse, mental health, and trauma screening
- Review of demographic information (jail or DHHS file)
- Defendant screening
- Document review of defendant's court paperwork
- Records request and review for substance abuse, mental health services and treatment
- Coordination with defense counsel, prosecutor, and probation officer (if on probation)
- Creation, review, and execution of informed releases of information
- Report to the Drug Court team

Once admitted to the drug treatment court, participants are required to meet with the presiding judicial officer weekly or every other week to report on and account for their progress as well as maintain regular contact with their case managers and, if on probation, with their probation officers. They must actively seek out and/or maintain paid employment, attend an educational program, or engage in community service; pay all fines, restitution, child support, and taxes; 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. Failure to abide by these conditions can result in the imposition of sanctions by the court.

Specialized treatment provided through state contracts with local behavioral healthcare agencies supports recovery from substance abuse, the development of more pro-social behaviors, and addresses mental health and trauma issues. Furthermore, case management services provide direct and frequent supervision of participants, random drug testing at least twice per week and assistance to participants in developing personalized plans of action to achieve their goals.

In calendar year 2015, there were a total of 223 active participants. Due to graduations and expulsions, as of December 31, 2015, there were 134 active participants statewide. The number of participants increased dramatically over the previous year's count of 80 active participants at year's end in 2014.

Five of the six dockets (York, Androscoggin, Cumberland, Hancock and the Co-Occurring Disorders and Veterans Court) are operating at or near full capacity. Androscoggin's court has a long list of persons waiting to be admitted as soon as a slot is open. Washington County has increased the docket's enrollment from a low of three individuals to a current census of nine participants. Forty-nine people graduated and 40 others were expelled for noncompliance with requirements and were ordered to serve a previously agreed upon sentence of incarceration.

Adult drug treatment courts generate measurable cost avoidance to the criminal justice system through reduced recidivism and incarceration. ADTC services also result in reduced health care costs through participant recovery from addiction. Conservatively estimated, 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.<sup>2</sup> National research has indicated that if all costs are compiled, including those to potential victims, the average cost savings per drug court participant are \$12,218.<sup>3</sup>

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<sup>2</sup> Hornby Zeller Associates. (2013) *An Evaluation of Maine's Adult Drug Treatment Courts*.

<sup>3</sup> National Institute of Justice. <http://www.nij.gov/topics/courts/drug-courts/Pages/work.aspx>. Retrieved Jan. 15, 2015.

A vital measure of a drug treatment court's operations is the recidivism of its participants compared to traditionally adjudicated defendants. Maine's dockets have continued to show significant reductions in re-arrest compared to traditionally adjudicated offenders. In the most recent independent evaluation conducted by Hornby Zeller Associates, it was determined that the recidivism rate, (defined in this study as a new criminal conviction 18 months post admission) for drug court graduates, was 16%. This compared to a recidivism rate of 32% for individuals who applied but were not admitted and 49% for those admitted, but later expelled from the program.<sup>4</sup> In comparison, according to a 2013 Maine Department of Corrections study, the most recent recidivism rate (defined in that study as a new arrest within 12 months) for persons on probation whose LSRI-R score was in the moderate to high-risk category (similar to those persons served by the Drug Courts) was between 39.6% and 47.1%.<sup>5</sup>

## **II. Overview**

### **A. 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.<sup>6</sup>*

ADTCs seek an increase in personal, familial, and societal accountability on the part of participants, the development of pro-social 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.<sup>7</sup> 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

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<sup>3</sup> Hornby Zeller Associates (2016) *Maine's Drug Treatment Courts, Final Evaluation Report 2011—2015*.

<sup>4</sup> Hornby Zeller Associates (2016) *Maine's Drug Treatment Courts, Final Evaluation Report 2011—2015*.

<sup>5</sup> Rubin, 2013 *Maine Adult Recidivism Report* at page 6.

<sup>6</sup> Bureau of Justice Assistance. *Competitive Grant Announcement Adult Drug Treatment Court Implementation Grants*. Washington, D.C.: U.S. Department of Justice, 2003.

<sup>7</sup> An additional ADTC in Hancock County joined the state system following the provision of funding by the 123<sup>rd</sup> Legislature on July 1, 2008, after being established as a county deferred sentencing project in 2005.

final participant in 2012. (Defendants from Penobscot County continue to be given the opportunity to join the Hancock County court.)

**B. Program Structure**

The structure of the five active Adult Drug Treatment Courts in 2015 is summarized below:

<b>County</b>	<b>Presiding judicial officers</b>	<b>Treatment provider agencies</b>
Androscoggin	Hon. MaryGay Kennedy	Catholic Charities Maine
Cumberland	Hon. Jeffrey Moskowitz	Catholic Charities Maine
Hancock	Hon. John Romei (Active Retired)	Open Door Recovery Center
Washington	Hon. David J. Mitchell	Atlantic Mental Health Center
York	Hon. John O’Neil, Jr.	Counseling Services, Inc.

Each of these courts serves residents who reside in that particular county. Hancock County accepts participants who live in Penobscot County so long as they are able to travel to Ellsworth for services.

The Honorable Nancy Mills is the presiding judicial officer for the Co-Occurring Disorders and Veterans Treatment Court (CODVC) in Augusta. In 2015, the U.S. Veterans Administration and various local mental health providers were the treatment provider agencies. Persons from across the state may participate in the CODVC so long as they are able to travel to Augusta multiple times per week.

The Coordinator of Specialty Dockets and Grants managed the ADTC dockets until his resignation in October 2015. An active recruitment search is underway. This position is under the supervision of the Manager of Criminal Process and Specialty Dockets and the Chief of Court Management of the Administrative Office of the Courts. Court clerks and the Office of Judicial Marshals provide essential operational support. 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 Supreme Judicial Court promulgated Maine Judicial Branch Administrative Order JB-16-1, which provides the standards for establishment and operation of these dockets.

**C. Substance Abuse Treatment and Case Management Services**

The Office of Substance Abuse and Mental Health Services (SAMHS), a division of the Department of Health and Human Services, has continued to contract with licensed behavioral healthcare treatment provider agencies in each county having an ADTC. These agencies are required by DHHS to provide *Differential Substance Abuse Treatment (DSAT)*, a professionally recognized 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 with each docket having one full time case manager with supervision provided by two additional regional managers.

In December 2015 SAMHS announced its plan to put out to RFP a request for bids to provide both case management services and treatment services. At the time of the submission of this report, that process had not yet been completed. Additionally it was reported that DHHS plans to switch the treatment program from DSAT to Moral Reconciliation Therapy (MRT), a nationally recognized and validated treatment model for substance abusers. MRT is listed on the US SAMHSA's National Registry of Evidenced-Based Programs and Practices<sup>8</sup>.

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. They typically have poorer outcomes than their peers with only substance abuse disorders.<sup>9</sup>

Gender-specific trauma treatment is also increasingly offered in recognition of the fact that most women participants and many men are victims of childhood sexual abuse and family violence. Studies have shown that gender responsive treatment in drug courts have led to longer retention in treatment and programs, higher levels of post treatment abstinence and more successful outcomes.<sup>10</sup> 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.<sup>11</sup>

#### **D. Funding and 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. It is estimated that, on average, judicial officers allocate 15% to 20% of their time in the week during which the court meets. Prosecutors and probation officers devote similar, if not longer hours, each week.

The Judicial Branch does not receive any state or federal grants or dedicated funding for ADTC activities, but the General Fund supports the full time statewide coordinator. In addition, in FY 2016, commencing July 1, 2015, two more judges, and court staff have been funded with the support of the Governor and the Legislature. It is anticipated that a substantial portion of this new judge-time will be allocated to the criminal docket and to drug courts.

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<sup>8</sup> Correctional Counseling, Inc. (2015). Moral Reconciliation Therapy. Retrieved December 23, 2015, from <http://www.moral-reconciliation-therapy.com/index.html>

<sup>9</sup> Kessler, et.al., (2005), Lifetime prevalence and age-of-on-set-distributions of DSM-IV disorders in the national comorbidity survey replication. *Achieves of General Psychiatry*.

<sup>10</sup> Messina, et.al., (2012), Gender Responsive Drug Court treatment, *Journal of Criminal Justice Behavior*

<sup>11</sup> White, (2009) *Peer based addiction recovery suport History, theory, practice and scientific evaluation*. Chicago:Great Lakes Addiction Technology Transfer Center, Copublished by the Philadelphia Department of Behavioral Health and Mental Retardation Services.

SAMHS funding comes from the State General Fund, the Fund for a Healthy Maine, and the federal Substance Abuse Treatment and Prevention Block Grant. Recognizing that Maine is facing an unprecedented opiate epidemic, the Legislature allocated additional monies for treatment and case management services for drug court participants in FY 2016. These allocations do not include MaineCare expenditures for treatment of ADTC participants.

SAMHS was awarded a multiyear 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 continued during 2015 until the grant expired on September 30, 2015.<sup>12</sup>

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<sup>12</sup> This grant also funded the independent drug court evaluation by Hornby Zellers Associates references in footnote #3.



## **E. Data and Evaluation**

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 eight years ago. This system is housed at SAMHS and shared with the Judicial Branch and contracted service providers with adequate privacy safeguards. This data management system is indispensable for the purposes of client record keeping, administrative reports, and quality assurance. SAMHS has announced it intends to replace this system with a more up to date and comprehensive system in late 2016 or early 2017. This replacement effort is in the RFP planning and drafting stages.

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. Methamphetamine use is becoming more prevalent as small-scale production in Maine appears to be increasing.

The Maine Drug Enforcement Agency (MDEA) reports there were 28 busts of methamphetamine labs in 2014. That number more than doubled in 2015 with a record setting 58 labs dismantled. This compares with 16 in 2013.<sup>13</sup> Heroin trafficking investigations by the Maine Drug Enforcement Administration skyrocketed from 50 in 2011 to over 400 in 2015. Heroin arrests by MDEA climbed from 127 in 2013 to 265 in 2015.<sup>14</sup> Statewide drug arrest statistics for 2015 from other local and county law enforcement agencies were not yet available but one only needs to pick up the local newspaper to read about the nearly daily arrests for drug trafficking across the state.

Over 6,700 drug and alcohol tests were administered to participants in 2015 with only the very small proportion (less than 4%) yielding positive results indicative of illicit substance use. Pursuant to 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.

Illegal synthetic cannabinoids and bath salts 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 aggressively doing so. The testing of samples must take place at a qualified laboratory and is expensive. However, the persons 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 manufacturers in the development of tests to identify the modified bath salts making detection a challenge.

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<sup>13</sup> Maine Drug Enforcement Agency Report-Roy McKinney, Director (January 2016).

<sup>14</sup> Maine Drug Enforcement Agency Report-Roy McKinney, Director (January 2016).

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 in combination with other synthetic narcotics, such as Fentanyl. One result has been a year-to-year increase in overdose deaths. There were 176 overdose deaths in Maine in 2013 due in large degree to the use of heroin and prescription opioids. This increased to 208 in 2014 and it is expected to be in the record range of 230-250 drug overdose deaths for 2015.<sup>15</sup>

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 66 drug-free babies since the inception of the ADTCs. According to the Maine Department of Human Services, there were 779 drug-affected births in Maine in CY 2012, 927 in CY 2013, and 961 in CY 2014.<sup>16</sup> For the first time ever, the number of babies born drug addicted or affected exceeded 1,000 in 2015 with a total of 1031 babies born in Maine drug affected.<sup>17</sup>

The cost of initial medical care after birth of drug-affected babies at Eastern Maine Medical Center has been estimated to be an average of \$32,016 per child.<sup>18</sup> The national average post-delivery cost for a newborn ranges from \$1,500 to \$4,000.<sup>19</sup> The 961 affected newborns could incur a cost to their families, insurers, or MaineCare of approximately \$30,767,376. If even half of those children were instead drug free at birth, the costs avoided would total \$13,444,000. There may be additional cost savings due to avoided drug-related developmental delays.

## **F. Collaboration**

The drug treatment court teams working at each site are excellent examples of effective cross-disciplinary and interagency collaboration. Teams consist of representatives of the primary community stakeholders working with criminal justice and substance abuse. This includes judges, prosecutors, defense attorneys, treatment providers, case managers, and probation officers. Due to turnover in team membership, training is emphasized to familiarize each member with this model of jurisprudence. The continued emphasis on collaboration will provide significant improvements and innovation in drug court practices.

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<sup>15</sup> Statement of Attorney General Janet Mills, Bangor Daily News, December 31, 2015. Retrieved January 22, 2016.

<sup>16</sup> The number of drug-affected babies born in Maine in 2014 equals the total number of graduates in 2013 from ALL of the following high schools: Bangor, Mount Desert, Boney Eagle, Cony, Traip and Mountain Valley.

<sup>17</sup> Telephone call with Commissioner Mary Meyhew's Office February 10, 2016. This number is nearly equal to the entire school population of Oxford Hills or Windham High Schools.

<sup>18</sup> Bangor Daily News, July 16, 2013.

<sup>19</sup> <http://children.costhelper.com/baby-delivery.html>

### **G. Training and Education**

A summit of the ADTC partners was convened on April 2, 2014, to discuss the current challenges to the dockets with a specific emphasis on increasing fidelity and the numbers of defendants and probationers admitted to these dockets. Action plans were developed to address both issues. Localized topic specific training was provided to the different teams throughout 2015. This training was generally limited to one or two hour sessions. In September 2015 the National Drug Court Institute came to Maine to provide treatment provider training.

The Hornby Zellers Evaluation Report (2016) did find however that due to turn over in staff and drug court team members, more intensive training is needed for all team members with an emphasis on evaluation of applicants, adherence to the National Best Practices and other evidence based standards. Typically, this type of in-depth training is one week long and involves travel to national sites. Currently, there are no funds available in the Judicial Branch budget to provide this type of intensive training and to provide for “back filling” coverage for judges and other staff members’ other dockets and responsibilities.

In the past, federal grant funds have required and supported the attendance of a very small number of drug court case managers and supervisors at the annual training conference of the National Association of Drug Court Professionals. An additional small group of case managers and one of the new judges newly assigned to overseeing an Adult Drug Treatment Court also attended the New England Association of Drug Court Professionals training conference in Marlboro, Massachusetts, on October 1 and 2, 2014. Unfortunately, no funds were available in 2015 for attendance at such trainings by judges, prosecutors, or other team members.

### **III. Future of the Adult Drug Treatment Courts**

As noted elsewhere in this report, no additional funding was provided to the Judicial Branch for drug treatment court operations in 2014. The Legislature recognized this problem, and the ever-increasing opiate epidemic, and provided additional funding for new judges and court support personnel. The judges were recently confirmed by the Legislature and, at the time of the writing of this report, are undergoing training.

While the goal of the SAMHS drug treatment court grant application in 2011 was to increase the number of persons enrolled in the Court to 300 at the end of 2015, the goal was not achieved due to a number of factors, including fewer referrals being approved by prosecutors and the choice by some defendants to serve prison time rather than undergo a rigorous course of recovery and accountability. Incentives must exist for drug-involved defendants to participate, such as significantly more lenient sentences for graduates. Prosecutors must also see the dockets as sufficiently rigorous to replace their historic

emphasis on incarceration. Defense counsel must be trained on the usefulness of the programs and the long term, life-changing benefits to their clients.<sup>20</sup>

#### **IV. Summary**

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

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<sup>20</sup> It must also be kept in mind that expanding the Drug Court capacity to 300 persons would require the addition of four more drug courts with significant increased costs associated with such an expansion.