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**STATE OF MAINE
JUDICIAL BRANCH**



**REPORT TO THE JOINT STANDING COMMITTEE
ON JUDICIARY
129th LEGISLATURE**

**2018 Annual Report on Maine's Drug Treatment Courts
February 15, 2019**

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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) and Family Recovery Courts (FRC) is submitted to the Joint Standing Committee on Judiciary. This is the seventeenth consecutive report provided to the Committee. This report 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.

During the 2018 calendar year, Adult Drug Treatment Courts were in operation in six counties: Androscoggin, Cumberland, Hancock, Penobscot, Washington, and York. In addition to the six ADTC's, Kennebec County hosts a Co-Occurring Disorders Court (CODC) and a Veterans Treatment Court (VTC). Each of these eight criminal treatment courts have a maximum capacity of twenty-five (25) clients at a time.

During the 2018 calendar year, Family Recovery Courts (FRC) were in operation in three counties: Androscoggin, Kennebec, and Penobscot. Each of these three family treatment courts have a maximum capacity of twenty-five (25) clients at a time.

The Adult Drug Treatment Courts, Co-Occurring Disorders Court, and Veterans Treatment Courts provide rigorous accountability for the clients who have either pled guilty or have been found guilty of serious crimes. The underlying crime that brought the client into the criminal justice system must be drug and/or alcohol related, either as an element of the offense or as the underlying contributing factor to the commission of the offense.

The Family Recovery Courts provide the same rigorous accountability for clients that have an open child protective case and are in jeopardy of having their children removed or their parental rights terminated due to an underlying substance use disorder. Treatment courts that operate with fidelity to evidence-based best practices are proven to be an effective state response for high-risk and high-need criminal defendants and parents in jeopardy of losing their children, who are struggling with drug and/or alcohol use or dependence disorder.¹ Our Family Recovery Courts provide the same rigorous accountability for these clients as they work towards reunification in the Child Protective action.

Participation in the criminal specialty courts is voluntary and provides defendants or probationers with a demanding, community-based alternative to lengthy terms of incarceration. Unlike some drug courts in other states where drug courts operate a deferral-from-prosecution model for low-level offenders, Maine's current drug courts target high-risk, high-needs individuals and require the defendant to enter a plea of guilty to the serious criminal charges pending against

¹ Carey, S.M. et al, (2012). What Works? The Ten Key Components of Drug Court: Research-Based Best Practices. *Drug Court Review*, 8(1), 6-42. Marlowe, Douglas B., (2011). The Verdict on Drug Courts and Other Problem-Solving Courts. *Chapman Journal of Criminal Justice*, 2(1), 57-96. Shaffer, Deborah K., (2011). Looking Inside the Black Box of Drug Courts: A Meta-Analytic Review. *Justice Quarterly*, 28(3), 493-521. National Institute of Justice. <http://www.nij.gov/topics/courts/drug-courts/Pages/work.aspx>, citing Finigan et al (2007) *Impact of a Mature Drug Court Over 10 Years of Operation: Recidivism and Costs*.

him or her. Upon successful completion of the program, the sentence imposed can be substantially less severe than the sentence typically imposed for similar charges.

Participation in the family specialty courts is voluntary and provides parents with additional community services in addition to the mandated treatment services required to alleviate jeopardy. While there is no guarantee that reunification will take place as a result of the successful completion of the Family Recovery Court, the national organization tasked with training family drug courts, Children and Family Futures, reports that 50% of families who participate in a family drug court achieve reunification.²

Prior to admission to a criminal treatment court, an extensive evaluation of each applicant is conducted in order to ensure that each applicant meets the eligibility criteria. The evaluation includes the following steps:

- Referral to the treatment court by an attorney, probation officer, community member
- Defendant application and interview
- Independent verification of information gathered in interview
- Risk assessment (LSI-R or LSI-SV)³ by qualified screener
- Substance use disorder, mental health, and trauma screenings
- Review of demographic information (jail and/or DHHS file) by team member
- In person defendant screening by case manager and treatment provider
- Document review of defendant's court paperwork
- Records request and review for prior diagnosis of substance use disorder, 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 on screening and evaluations to the Drug Treatment Court team

Once admitted to the treatment court, participants are required to meet with the presiding judge weekly, or bi-weekly depending upon the frequency of court sessions, to report on and account for their progress as well as maintain regular weekly (or more often) contact with their case manager and, if on probation, their probation officer. In addition to the frequent court appearances, the participant must: actively seek and/or maintain paid employment, attend educational programs, or engage in community service; pay all fines, restitution, child support, and taxes; maintain stable and sober housing; undergo frequent and random observed drug testing

² Children and Family Futures, <https://www.cffutures.org/family-drug-courts-focus/>

³ The Level of Service Inventory – Revised (LSI-R) is used to assess the level of risk for 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 the lower numbers indicating less likelihood of recidivating. The predictive validity of the LSI-R has 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 sub-groups 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 (can be changed) risk factors 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.

(a minimum of twice per week) for the presence of alcohol and/or other drugs; 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, including short term incarceration (in the criminal specialty courts). Multiple, serious repeat violations, serious new criminal conduct, or failure to make progress toward attainable goals can result in sanctions, including termination from the program.

Specialized treatment provided through DHHS contracts with local behavioral healthcare agencies supports recovery from substance use disorder, addresses criminogenic thinking, provides parenting education, assists with the development of more pro-social behaviors, and addresses mental health and trauma related issues. Further, the case manager for each program provides direct and frequent supervision of participants, random alcohol and/or other drug testing at least twice per week, and assistance to participants in developing individualized plans of action to achieve and maintain sobriety, refrain from criminal behavior, secure stable and sober housing, employment, and other goals. Case management services are provided by the treatment agency contracted with each court.⁴

During the calendar year of 2018, there were a total of 265 active participants in the criminal treatment courts. This is an increase of 11 participants over 2017, continuing a trend of increased participation since 2013. During the calendar year of 2018, there were a total of 55 active participants in the family treatment courts, a decrease of 11 participants from 2017.

As of December 31, 2018, the Maine Treatment Courts (Adult Drug Treatment Courts, Veterans Treatment Court, Co-Occurring Disorders Court, and Family Recovery Courts) had 197 active participants, with another 51 pending referrals. The capacity of each of the Maine Treatment Courts was contractually modified during 2018 from 30 participants to 25 participants to allow case management to conform to national best practice standards. Of the eight criminal dockets, the Penobscot Adult Treatment Court (27 participants) is operating above capacity and has seven pending referrals; five of the remaining dockets are operating near capacity (Androscoggin – 24 participants, Cumberland – 22 participants, Hancock – 22 participants, York – 24 participants, Co-Occurring Disorders Court – 21 participants). The two remaining dockets, Washington and Veterans Treatment Court, each had 16 participants, with 3 and 6 pending referrals, respectively. Of the three family dockets, Androscoggin had 10 participants with 5 pending referrals, Kennebec had 9 participants with six pending referrals, and Penobscot had 6 participants with 4 pending referrals.

Adult Drug Treatment Courts generate measurable costs avoidance to the criminal justice system through reduced recidivism and reduced incarceration. ADTC services also result in reduced health care costs through participant recovery from substance use disorder. Conservatively estimated, for every \$1.00 spent in the adult drug treatment courts in Maine, approximately \$1.87 in savings to the state's criminal justice system has been generated.⁵ National research on a mature drug court (more than ten years in operation) has concluded that when all

⁴ Case management and treatment service contracts are administered by the Office of Substance Abuse and Mental Health Services with the Maine Department of Health and Human Services.

⁵ Hornby Zeller Associates (2013) *An Evaluation of Maine's Adult Drug Treatment Courts*.

costs are compiled, including those to potential future victims, the average cost savings over a five year period from the initial hearing are \$12,218 per drug court participant.⁶

A vital measure of a drug treatment court's operation 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 (2016), it was determined that the recidivism rate (defined in that 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 and later expelled from the program.⁷ In comparison, according to a 2013 Maine Department of Corrections study, their most recent recidivism rate (defined in that study as a new arrest within 12 months) for persons on probation whose LSI-R score was in the moderate to high-risk category (similar to persons served by the Maine Treatment Courts) was between 28.2% and 47.1%.⁸

The documented benefits of a Family Recovery Court include a greater likelihood to enter into and subsequently complete treatment, more frequent drug testing, more negative drug tests, and once the child(ren) return to the home, there is less likelihood of subsequent removal. Children of Family Recovery Court participants spend less time in foster care.^{9 10} Other benefits include a greater identification of, and provision of services for, mental health issues, improved parenting skills, improved access to basic needs, a decrease in reported serious domestic violence incidents, and greater support networks.¹¹

II. Adult Drug Treatment Courts

A. What are Adult Drug Treatment Courts?

Adult Drug Treatment Courts are a type of specialty docket known as a problem-solving court. They 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 high risk participants with substance use disorders and which will increase the offender's likelihood of successful habilitation through early, continuous, and intense judicially supervised interaction, mandatory treatment, mandatory periodic drug testing, community

⁶ National Institute of Justice. <http://www.nij.gov/topics/courts/drug-courts/Pages/work.aspx>, citing Finigan et al (2007) *Impact of a Mature Drug Court Over 10 Years of Operation: Recidivism and Costs*.

⁷ Hornby Zeller Associates (2016) *Maine's Drug Treatment Courts, Final Evaluation Report 2011-2015*.

⁸ Rubin, *2013 Maine Adult Recidivism Report*, at page 6.

⁹ Hornby Zeller, Inc., *Evaluation of Maine's Family Treatment Drug Courts, A Preliminary Analysis of Short and Long-term Outcomes*, Hornby Zeller Associates, Inc., January 2007.

¹⁰ Hornby Zeller, Inc., *Evaluation of the Lewiston Family Treatment Drug Court, A Process and Intermediate Outcome Evaluation*, Hornby Zeller Associates, Inc., December 2007.

¹¹ Hornby Zeller, Inc., *Bangor Family Treatment Drug Court, A Process and Outcome Evaluation*, Hornby Zeller Associates, Inc., May 2014

*supervision and use of appropriate sanctions and other community based habilitation and reintegration and recovery support services.*¹²

Adult Drug Treatment Courts seek an increase in personal, familial, and societal accountability on the part of the 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 in August 2000 and began accepting participants in April 2001.¹³ 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 original Penobscot County docket graduated its final participant in 2012. A new Penobscot County Adult Drug Treatment Court opened in the fall of 2016 following extensive planning, organization and development by a dedicated group of community mental and physical health specialists, local Legislators, the City of Bangor Department of Health, Penobscot County law enforcement, defense counsel, court personnel and employees of the Department of Corrections, Maine Pre-Trial Services, and the Penobscot County District Attorney's Office.¹⁴

Currently, Maine operates Adult Drug Treatment Courts in Androscoggin, Cumberland, Hancock, Penobscot, Washington, and York Counties. There is interest in expanding the treatment courts in Maine, with the greatest need and support in the Mid-coast region.

In addition to the Adult Drug Treatment Courts, Maine has two other specialty criminal dockets that are problem-solving courts, a Co-Occurring Disorders Court and a Veterans Treatment Court, both located in Kennebec County. The Co-Occurring Disorders Court addresses participants that have become involved in the criminal justice system due to a severe and persistent mental health disorder in addition to a substance use disorder. The Veterans Treatment Court addresses veterans who have become involved in the criminal justice system based on a substance use disorder or mental health disorder. These problem-solving courts were developed out of the drug court model and operate under similar processes. The Cumberland County ADTC has recently begun to identify and accept veterans into a Veterans Track. It accepted its first veteran on January 2, 2019. It is anticipated that in the future there will be sufficient active veteran participants in the Veterans Track to warrant a stand-alone Veterans Treatment Court in Cumberland County. Funding for services for an additional Veterans Treatment Court is not currently provided for.

¹² Bureau of Justice Assistance. *Competitive Grant Announcement: Adult Drug Treatment Court Implementation Grants*, Washington, D.C.: U.S. Department of Justice, January 2017.

¹³ An Additional Adult Drug Treatment Court 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.

¹⁴ On January 16, 2016, the Supreme Judicial Court issued Administrative Order JB-16-1, Establishment and Operation of Specialty Dockets, which specifies the requirements for the establishment, content requirements, and operations of all specialty dockets in Maine. This includes Adult Drug Treatment Courts.

B. Program and Structure of the Adult Drug Treatment Courts

The structure of the active Adult Drug Treatment Courts in Maine in 2018 is summarized below:

COUNTY	PRESIDING JUDICIAL OFFICER	TREATMENT AGENCY	CASE MANAGEMENT SERVICES
Androscoggin	Hon. MaryGay Kennedy	Catholic Charities	Catholic Charities
Cumberland	Hon. Nancy Mills	Central Maine Family Counseling, dba Blue Willow Counseling	Maine Pretrial Services
Hancock	Hon. John Romei (Active Retired)	Aroostook Mental Health Services	Maine Pretrial Services
Kennebec (CODC/VTC)	Hon. Nancy Mills	Central Maine Family Counseling, dba Blue Willow Counseling and the U.S. Veterans Administration	Maine Pretrial Services
Penobscot	Hon. Charles Budd	Wellspring, Inc.	Maine Pretrial Services
Washington	Hon. David J. Mitchell	Aroostook Mental Health Services	Maine Pretrial Services
York	Hon. Wayne Douglas	Central Maine Family Counseling	Maine Pretrial Services

Each of these courts serves the population that resides in that particular county, with the exception of CODC in Kennebec County and VTC in Kennebec and Cumberland Counties. The CODC and VTC accept participants from across the State of Maine as long as they either relocate to Kennebec County or have adequate transportation to appear for all required court sessions and case management/treatment appointments.

The treatment agencies for the courts operate under a contract from the Maine Department of Health and Human Services (DHHS), Office of Substance Abuse and Mental Health Services. This contract went into effect on October 1, 2017 for a one-year period with a renewal for a second year. All contract agencies had their contracts renewed for the second year.

The Honorable Nancy Mills remains the Justice overseeing the administration of the treatment courts in Maine. Justice Mills also chairs the Adult Drug Treatment Court Steering Committee. The ADTC Steering Committee meets on a quarterly basis to ensure that the treatment courts adhere to best practices and national standards. In 2018, the ADTC Steering Committee completed a comprehensive review, revision, and standardization of the client handbook and all of the forms used in the treatment courts.¹⁵

¹⁵ The Adult Drug Treatment Court Steering Committee was selected in 2018 to receive the Maine Judicial Branch’s Performance Council’s Special Services Award for the extensive work on this project.

In addition to her administrative duties with the treatment courts, Justice Mills also sits as the presiding Judicial Officer for the Co-Occurring Disorders Court in Kennebec County, the Veterans Treatment Court in Kennebec County, and the Adult Drug Treatment Court and Veterans Treatment Court in Cumberland County, taking over these duties from Judge Evert Fowle, who retired.

The position of Coordinator of Specialty Dockets and Grants to manage the Adult Drug Treatment Courts, which had been vacant during the periods of October 2015 to May 2016 and October 2016 to March 2017 remains filled by Richard Gordon. Mr. Gordon previously held the position of Director of the Problem-Solving Courts for the Office of the Public Defender, 4th Judicial Circuit, Florida, where he oversaw three adult drug treatment courts, one juvenile drug treatment court, two mental health treatment courts, and three veteran's treatment courts. The position of Coordinator of Specialty Dockets and Grants is overseen by the Anne Jordan, Esq., Manager of Criminal Process and Specialty Dockets.

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. These judicial assignments are in addition to each judge's regular docket assignments. As is best practice, the assignment of a judge to a treatment court is voluntary.

The Chief Justice of the Superior Court (Justice Roland Cole) and the Chief Judge of the District Court (Judge Susan Oram) also provide guidance and establish parameters for the operations of these specialty dockets. This guidance helps to ensure that the courts continue to operate in compliance with Maine Judicial Branch Administrative Order JB-16-1 which provides the standards for operation of the specialty dockets and standards for establishment of any future specialty docket.

C. Substance Use Disorder Treatment and Case Management Services

The Judicial Branch is responsible for allocating judge, clerk, and marshal time for the Adult Drug Treatment Courts, but all treatment, case management, and additional resources are funded and managed through the Office of Substance Abuse and Mental Health Services (SAMHS), a division of the Maine Department of Health and Human Services.

Under the current contract, the treatment agencies, in addition to substance use disorder treatment services, are required to address criminogenic thinking through Moral Reconnection Therapy (MRT). MRT is a nationally recognized, evidence-based, cognitive-behavioral program designed for substance use disorder clients within a criminogenic setting. MRT seeks to decrease recidivism by increasing moral reasoning through a systematic approach designed to enhance ego, social, moral, and positive behavioral growth. MRT training for the treatment court staff and treatment providers was completed with on-site training in October 2017, in Augusta.

With the implementation of the current contracts, each treatment agency was required to provide clinical case management. This was a new requirement, and as of October 1, 2017, each case manager had to meet additional licensing requirements. The treatment agency in

Androscoggin County, Catholic Charities, also provides case management services. The other treatment agencies in the current contracts sub-contracted with Maine Pretrial Services for case management services.

Most drug court participants engage in other forms of ancillary treatment due to disorders and symptoms beyond substance use 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. Participants that have co-occurring disorders typically have poorer outcomes than their peers with only substance use disorders.¹⁶

Gender-specific trauma treatment is also increasingly offered in recognition of the fact that most female participants, and many male participants, are victims of childhood sexual abuse and family violence. Studies have shown that gender responsive treatment in drug courts has led to longer retention in treatment and programs, higher levels of post-treatment abstinence and more successful outcomes.¹⁷ Voluntary 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.¹⁸

D. Funding and Resources for Adult Drug Treatment Courts

Drug treatment courts remain labor and time intensive on the part of judges and other drug treatment court practitioners. It is estimated that, on average, judges allocate 15% to 20% of their time in the week during which their court meets to their drug court assignment. Prosecutors, defense counsel, and probation officers devote similar, if not longer hours, each week. Team members are available after hours, nights, and weekends to address emergency needs of clients.

The Judicial Branch does not directly receive any state or federal grants or dedicated funding for the Adult Drug Treatment Court activities,¹⁹ but the General Fund supports the full time statewide coordinator. Treatment and case management services are funded through SAMHS.

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 did not include MaineCare expenditures for treatment of Adult Drug Treatment Court participants.

In 2016, the US Congress passed the CARA Act (Comprehensive Addiction Recovery Act). This act provided for \$110 million in federal monies to provide for additional treatment resources for those suffering from substance use disorder through grant offerings. The allocated

¹⁶ Kessler, et al., (2005), Lifetime prevalence and age-of-onset-distribution of DSM-IV disorders in national comorbidity survey replication. *Archives of General Psychiatry*.

¹⁷ Messina, et al., (2012) Gender Responsive Drug Court Treatment, *Journal of Criminal Justice Behavior*.

¹⁸ White, (2009) *Peer based addiction recovery support: History, theory, practice and scientific evaluation*. Chicago: Great Lakes Addiction Technology Transfer Center, co-published by the Philadelphia Department of Behavioral Health and Mental Retardation Services.

¹⁹ Maine SAMHS receives and distributes federal funds for treatment and case management services.

funding for 2017 and 2018 increased to address the ongoing opioid crisis. However, the federal government, through the Bureau of Justice Assistance and the Substance Abuse and Mental Health Services Administration, puts restrictions on the grants which have been a barrier for the courts in Maine. The restrictions include a ban on persons convicted of violent crimes being allowed in the programs (with limited exceptions for Veterans Treatment Courts)²⁰, and a ban on funding programs that require up-front incarceration prior to entry into the treatment court.²¹ These two restrictions still prevent Maine from seeking grant funding under CARA.

E. Data, Evaluation, and Substance Use Trends

The Adult Drug Treatment Courts have continued to utilize DTxC, a web-based data management information system for all of Maine’s Adult Drug Treatment Courts. DTxC was implemented ten years ago. This system is housed at SAMHS and shared with contracted service providers with attention to privacy safeguards. This data management system is indispensable for the purposes of client record keeping, administrative reports, and quality assurance. In 2016 SAMHS announced that it intends to replace DTxC with a more up to date and comprehensive system. The plan was to switch to a new system in late 2016 or early 2017, later the switch to a new system was moved to sometime in 2018. In late 2018, the decision was made to remain with DTxC.

In the past year, drug use trends in the State of Maine have continued to reflect the increased abuse of prescription opiates, heroin, and fentanyl. Individuals in the Adult Drug Treatment Courts, Co-Occurring Disorders Court, and Veterans Treatment Courts have followed this trend. They have also abused cocaine, alcohol, marijuana, benzodiazepines, synthetic cannabinoids (with brand names like K2 or Spice), and synthetic cathinones (known as bath salts). Methamphetamine use is becoming more prevalent as small-scale production has continuously grown.

Even as the amount of prescription opiates decreases based on prescription limits, opiates and synthetic opiates continue to flow into the State of Maine. This flow of opiates and synthetic opiates is demonstrated by the number of arrests throughout the year. In addition to arrests made by local and county law enforcement, in January of 2018 the Maine Drug Enforcement Agency made the first heroin trafficking arrest in Houlton in recent memory on January 10, 2018.²² On March 2, MDEA arrested five members of a family for trafficking fentanyl on the mid-coast.²³ On July 31, MDEA seized heroin and cocaine base in Gardiner in an incident described as having “all the earmarks of a major drug-trafficking operation.”²⁴ On November 5, 2018, MDEA seized

²⁰ The National Association of Drug Court Professionals has been lobbying the Bureau of Justice Assistance to remove the prohibition on violent crimes in treatment courts as studies have shown that there is a greater return on investment by including this cohort in treatment. The NADCP has indicated that there is reason to believe this restriction will be removed in the near future. Richard Gordon, Coordinator of Specialty Dockets and Grants is a member of the NADCP.

²¹ Substance Abuse and Mental Health Services Administration, *Grants to Expand Substance Abuse Treatment in Adult Treatment Drug Courts and Adult Tribal Healing to Wellness Courts*, Washington, DC: U.S. Department of Justice, December 22, 2017.

²² *Drug agents arrest two in Houlton in connection with heroin trafficking*, Thecounty.me, January 11, 2018.

²³ *Five family members charged with selling fentanyl on Mid Coast*, WMTW, March 7, 2018.

²⁴ *Two New Yorkers, two local residents arrested in Gardiner drug raid*, Kennebec Journal, August 1, 2018.

\$15,000 worth of heroin in Dexter.²⁵ On December 1, 2018, MDEA agents seized heroin and crack cocaine during a traffic stop near Newport.²⁶

Illegal synthetic cannabinoids and synthetic cathinones 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 these synthetic substances are adept at slightly modifying the molecular composition 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 of synthetics in developing tests to identify metabolites, which makes detection a challenge.

Due to the somewhat limited availability of prescription narcotics and the purity of low cost heroin, opiate users 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 part to the use of heroin and prescription opioids. This increased to 208 in 2014, 272 in 2015²⁷, 378 in 2016²⁸, 418 in 2017²⁹, and 282 in the first three quarters of 2018³⁰.

The statewide overdose deaths in 2016, 2017, and the first three quarters of 2018, amount to more than one Mainer per day dying from a drug overdose. According to then-Attorney General Janet Mills, this significant increase is due in large part to illicitly manufactured (non-pharmaceutical) fentanyl and fentanyl analogs, although the number of deaths due to other drugs is also increasing.³¹

Given the near daily use of substances by participants prior to admission to the Adult Drug Treatment Courts, the emphasis on, and accountability for, abstinence when in Adult Drug Treatment Court, have resulted in the birth of at least 73 drug-free babies since the inception of the Adult Drug Treatment Courts. The number of drug-affected babies born in Maine decreased in 2017 for the first time in more than a decade. In 2016, 1,024 or 8.2% (about 1 in 12) of babies born in Maine were born to mothers who had used illicit drugs, used alcohol, or were using medication-assisted treatment while pregnant.³² In 2017, 952 babies born in Maine were drug affected.³³ The numbers for 2018 is estimated to have dropped slight to approximately 900.³⁴

²⁵ *Maine drug agents seize \$15,000 in heroin in bust*, Bangor Daily News, November 7, 2018.

²⁶ *Officials seize drugs worth \$3,000 in Newport arrests*, Kennebec Journal, December 4, 2018.

²⁷ Report of Attorney General Janet Mills, November 14, 2016.

²⁸ Report of Attorney General Janet Mills, February 2, 2017.

²⁹ Report of Attorney General Janet Mills, February 22, 2018

³⁰ *Maine had fewer overdose deaths in 2018 but opioid epidemic remains a 'public health crisis'*, Portland Press Herald, February 9, 2019.

³¹ Attorney General Janet Mills Releases 2017 Maine State Drug Death Statistics, <https://www.maine.gov/ag/news/article.shtml?id=788298>

³² Maine Department of Health and Human Services.

³³ *More Maine babies are born exposed to opioids as hospitals struggle to treat them*, Bangor Daily News, December 4, 2018.

³⁴ *Ibid.*

According to the National Institute on Drug Abuse, hospital average costs for babies with opiate withdrawals were \$66,700, compared with \$3,500 for babies born healthy.³⁵ Based upon this cost estimate, the total cost to the State of Maine for 900 drug affected babies is approximately \$60,030,000. Thus, if the estimated 900 drug affected newborns had instead been drug free at birth, the costs avoided would have been approximately \$56,880,000. There may be additional cost savings due to avoided drug-related developmental delays, special therapies and educational needs.

Over 13,500 drug and alcohol tests were administered to participants with only the very small proportion (4.1%) 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 substance prior to admission, this is a notable and positive impact.

Recidivism rates are one way to show the impact of an Adult Drug Treatment Court on the community. This is difficult in Maine as the studies that track recidivism used different definitions of recidivism and do not necessarily track the same high-risk, high-need cohort served by Adult Drug Treatment Courts. Based upon the most recent independent evaluation of the Adult Drug Treatment Courts practices and outcomes, conducted by Hornby Zeller Associates in 2016³⁶, the positive effect on recidivism by the ADTC's is substantial. The recidivism rate, defined as a new criminal conviction within 18 months post admission to an ADTC, for the high-risk, high-need individuals served by the Adult Drug Treatment Courts was found to be:

ADTC Admitted and Graduated	16%
ADTC Applied and Not Admitted	32%
ADTC Admitted and Expelled	49%

The most recent comparable study from the Maine Department of Corrections that looked at the same high-risk, high-need population as served by the Adult Drug Treatment Courts, used a different definition of recidivism: re-arrest within 12 months of release.³⁷ This study found that recidivism rates were between 28.2% and 47.1%.

According to the National Drug Court Institute, an Adult Drug Treatment Court the impact on recidivism rates continues after the participant is no longer in the ADTC.³⁸ Two randomized experiments and one meta-analysis determined that the effects of ADTC's lasted for at least three years³⁹ and in the most far-reaching study to date, up to fourteen years.⁴⁰

³⁵ National Institute on Drug Abuse. <https://www.drugabuse.gov/related-topics/trends-statistics/infographics/dramatic-increases-in-maternal-opioid-use-neonatal-abstinence-syndrome>.

³⁶ Hornby Zeller Associates (2016) *Maine's Drug Treatment Courts, Final Evaluation Report 2011-2015*

³⁷ Rubin, *2013 Maine Adult Recidivism Report*, at page 6.

³⁸ National Drug Court Institute (2016) *Painting the Current Picture*, at page 15.

³⁹ Ibid, citing Gottfredson et al., 2005; Mitchell et al., 2012, and Turner et al., 1999.

⁴⁰ Ibid, citing Finigan et al., 2007.

F. Collaboration

The Adult Drug Treatment Court teams working at each site demonstrate effective cross-disciplinary and inter-agency collaboration. Teams consist of representatives of the primary community stakeholders working within the fields of criminal justice and substance use. This includes judges, prosecutors, defense attorneys, treatment providers, case managers, probation officers, and members of law enforcement. The continued emphasis on collaboration will provide significant improvements and innovation in drug court practices.

The Adult Drug Treatment Court Steering Committee is also working on extending collaborative efforts with the New England Association of Drug Court Professionals.

G. Training and Education

The most recent independent evaluation of the Maine Adult Drug Treatment Courts, the Hornby Zellers Evaluation Report done in 2016, found that due to turnover in staff and drug court team members, more intensive training was needed for all team members, with an emphasis on evaluation of applicants, adherence to the National Best Practice Standards, and other evidence based standards. Typically, this type of in-depth training is one week long and entails the entire team traveling to national training sites. At the present time, funding to send the teams to this type of training is not available within the Judicial Branch budget, nor is there funding to “back-fill” coverage for judges to cover non-treatment court assignments that would be left uncovered during a week of training.

Despite the lack of funding to send teams to intensive, week-long, out of state trainings⁴¹, several training events took place with the Adult Drug Court Treatment teams and/or Veterans Treatment Court during 2018. Most of these events took place with only minimal incidental cost to the Judicial Branch. These trainings were conducted by the National Association of Drug Court Professionals (NADCP), a national non-profit 501(c)(3) founded in 1994 to provide oversight and training for the drug courts nationwide, the National Drug Court Institute, an arm of the NADCP that provides on-site training and technical assistance for operational or soon-to-be operational drug courts, and Justice for Vets, an arm of the NADCP that provides on-site training and technical assistance for operational or soon-to-be operational veterans treatment courts.⁴²

On February 12, March 12, and April 9, the Veterans Treatment Court team met to attend webinars hosted by Justice for Vets in preparation for a Veterans Treatment Court Planning Initiative training to take place on-site in Augusta. The three-day on-site training took place August 22 to August 24.⁴³ Additionally, in October, nine members of the Veterans Treatment Court team attended a site visit to the Buffalo Veterans Treatment Court, one of the nationally

⁴¹ 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 NADCP training conference. In recent years, Maine has not been eligible to apply for Federal drug court grants, based on previously mentioned restrictions. As all of Maine’s Adult Drug Treatment Courts, Co-Occurring Disorders Court, and Veterans Treatment Court accept violent crimes (as is recommended by the NADCP) and up-front incarceration is still used, Maine has not been eligible to apply.

⁴² Similar training was also provided for our Family Recovery Court teams in 2018 by Children and Family Futures.

⁴³ By participating in the training, the State of Maine gets an automatic increase in points when applying for a BJA grant to sustain or expand Veterans Treatment Courts, if the previously mentioned restrictions are addressed.

recognized National Mentor Courts. This training was achieved at minimal incidental cost to the Judicial Branch and the State of Maine, as all housing, transportation, and professional speaking services were paid for by a grant from Justice for Vets.

On April 30, the National Drug Court Institute hosted a Medication Assisted Treatment (MAT) Protocol Training at the Capital Judicial Center in Augusta. This training brought together all of the treatment court judges along with key stakeholders and team members to ensure that the use of MAT was consistent across the treatment courts in Maine and true to best practices and national standards. All housing, transportation, and professional speaking services were paid for by a grant from the National Drug Court Institute.

On November 28-29, 2018, the Adult Drug Treatment Court judges attended the New England Association of Drug Court Professionals Annual Training Conference. This conference allowed the attending judges to participate in training by nationally recognized experts with the most up to date research and training in the treatment court field. This is the second year that the treatment court judges have been able to attend this conference, and based on this discipline-specific training, knowledge of and adherence to best practice standards is increasing. These costs were paid by the General Fund. In addition to the judges, several other team members also attended this training at their own expense.

Additional trainings from NADCP, NDCI, and Justice for Vets are scheduled to occur in 2019, including team specific trainings in Penobscot County from April 3 – April 5, and along the mid-coast from April 21 – May 1. These trainings will be at minimal cost to the Judicial Branch, and the State of Maine, as they are funded by a grant from the National Drug Court Institute.

H. Future of Maine's Adult Drug Treatment Courts

The Adult Drug Treatment Courts in Maine continue to improve and move in the right direction. The courts have benefited from training and have adopted nationally recognized best practices. Under the leadership of Justice Nancy Mills, future trainings are being organized, forms used by the treatment courts have been updated and standardized, and the State of Maine is receiving a greater return on its investment. There is great interest and support for an integrated-services model for a treatment court on the mid-coast and community support for Veterans Treatment Courts in several locations. The likelihood of opening a Veterans Treatment Court would be influenced by the presence of Veterans Administration resources within the community, and both the Bangor and Lewiston/Auburn areas have both an outpatient-based clinic and a Vet Center that could provide services.

III. Family Recovery Courts

A. What are Family Recovery Courts

Family Recovery Courts, also known as Family Treatment Drug Courts, are a type of specialty docket within the problem-solving court field. Specifically, a Family Recovery Court is defined as follows:

Family Treatment Drug Courts, alternatively known as dependency drug courts or family drug courts, use a multidisciplinary, collaborative approach to serve families who require substance use disorder treatment and who are involved with the child welfare system. Well-functioning FTDC's bring together substance use disorder treatment, child welfare services, mental health, and social service agencies in a non-adversarial approach. FTDC's seek to provide safe environments for children, intensive judicial monitoring, and interventions to treat parents' substance use disorders and other co-occurring risk factors.⁴⁴

Family Recovery Courts seek to foster greater personal, familial, and societal accountability by the participants, the development of pro-social attitudes and behaviors, and the promotion of healthy and safe family relationships. These courts are intended to promote recovery, streamline and enhance the likelihood of family reunification, and promote more effective collaboration and efficient use of resources among the courts, child welfare partners, and community agencies.

Maine's initial Family Treatment Drug Courts became operational in October 2002. Today, Maine has three operational Family Treatment Drug Courts, now known as Family Recovery Courts⁴⁵, with locations in Lewiston, Augusta, and Bangor.

According to the New England Association of Drug Court Professionals, there are four family treatment courts operating in New England, three of which are in Maine and one in Rhode Island. According to Children and Family Futures, Vermont and New Hampshire are in the planning stages for starting a family treatment court.

⁴⁴ National Center on Substance Abuse and Child Welfare, www.ncsacw.samhsa.gov/resources/resources-drug-courts.aspx

⁴⁵ In November of 2017, the Family Treatment Drug Courts were renamed the Family Recovery Courts. This name change follows the national trend in the substance use disorder treatment community to move the focus away from addiction nomenclature that tends to stigmatize an already vulnerable population and instead focus upon the hoped-for outcome: recovery.

B. Program and Structure of the Family Recovery Courts

The structure of the active Family Recovery Courts in Maine in 2018 is summarized below:

COUNTY	PRESIDING JUDICIAL OFFICER	TREATMENT AGENCY	CASE MANAGEMENT SERVICES
Androscoggin	Hon. Susan Oram	Catholic Charities	Catholic Charities
Kennebec	Hon. Eric Walker	Central Maine Family Counseling, dba Blue Willow Counseling	Maine Pretrial Services
Penobscot	Hon. John Lucy	Wellspring, Inc.	Maine Pretrial Services

Each of these courts serve the population that reside in that particular county. However, they are not limited to those counties. If a potential client has adequate transportation to appear for all required court sessions, case management appointments, and treatment sessions, the client is eligible to be admitted from outlying counties.

The treatment agencies for the courts operate under a contract from the Maine Department of Health and Human Services (DHHS), Office of Substance Abuse and Mental Health Services. This contract went into effect on October 1, 2017 for a one-year period with a renewal for a second year. All contract agencies had their contracts renewed for the second year.

Prior to 2018, there was no active Family Recovery Court Steering Committee. At the request of Chief Justice Saufley, the Adult Drug Court Steering Committee under Justice Nancy Mills assumed oversight over the Family Recovery Courts. The Adult Drug Treatment Court Steering Committee, having completed a state-wide revision of all criminal treatment court forms and client handbooks, will, in 2019, undertake a similar review and revision of the 2011 Family Treatment Drug Court Policy and Procedures Manual and all associated forms and handbooks.

Court clerks and the Office of Judicial Marshals also provide essential operational support to these courts. Judges are assigned to preside over these dockets by the Chief Judge of the District Court. These judicial assignments are in addition to each judge's regular docket assignments. As is best practice, the assignment of a judge to a family treatment court is voluntary.

The Chief Judge of the District Court also provides guidance and establish parameters for the operations of these specialty dockets. This guidance helps to ensure that the courts continue to operate in compliance with Maine Judicial Branch Administrative Order JB-16-1 which provides the standards for operation of the specialty dockets and standards for establishment of any future specialty docket.

C. Substance Use Disorder Treatment and Case Management Services

The Judicial Branch is responsible for allocating judge, clerk, and marshal time for the Family Recovery Courts. The Department of Health and Human Services (DHHS) is responsible for allocating case management and treatment services. DHHS contracts with licensed behavioral-

healthcare treatment provider agencies in each county having a Family Recovery Court. DHHS provides the necessary funding for services for these court participants as further described below.

With the implementation of the current contracts, each treatment agency was required to provide clinical case management. This was a new requirement, and as of October 1, 2017, each case manager had to meet additional licensing requirements. Central Maine Family Counseling in Kennebec and Wellspring, Inc. in Penobscot sub-contracted the case management services to Maine Pretrial Services. Catholic Charities in Androscoggin assumed the case management duties in addition to the treatment services.

In Androscoggin County, Catholic Charities utilizes Cognitive Behavioral Therapy (CBT) and Assertive Community Treatment (ACT). CBT is an evidence-based psycho-social intervention based on time-sensitive, structured, present-oriented psychotherapy directed toward solving current problems and teaching the participants skills to modify dysfunctional thinking and behavior. ACT is an evidenced-based practice that offers treatment, rehabilitation, and support services, using a person-centered, recovery-based approach, to individuals who have been diagnosed with a severe and persistent mental illness. Catholic Charities also offers Seeking Safety, an evidence-based practice focusing on trauma and substance use. Catholic Charities also provides group and/or individual sessions with the psychiatrist and/or counselor.

In Kennebec County, Central Maine Family Counseling, dba Blue Willow Counseling, offers evidence-based treatment programs. Among the programs available are CBT, Motivational Interviewing, Dialectical Behavior Therapy (DBT), Moral Reconciliation Therapy (MRT), and Seeking Safety. MRT is a systematic cognitive-behavioral treatment strategy designed to enhance self-image, promote a positive identity and facilitate development of higher stages of moral reasoning. Motivational Interviewing is a counseling method that helps people resolve ambivalent feelings and insecurities to find the internal motivation they need to change their behavior. DBT is a program designed to support individuals in decreasing interpersonal conflicts and increasing their capacity to better manage unwanted thoughts, feelings, emotions, and reactive behaviors.

In Penobscot County, Wellspring, Inc. offers evidence-based treatment programs as well. Wellspring offers MATRIX model and MRT for outpatient services. The MATRIX model is an evidence-based practice that combine CBT and MI for use with clients 13 to 25 years in age. Both MATRIX and MRT are open enrollment, which means that clients are not wait-listed, but enter counseling immediately upon referral. Wellspring also offers Positive Parenting Program (Triple-P), and evidence-based program for parents with children 0 to 5 years in age. For inpatient services, Wellspring offers Infinity House, a residential program with a capacity of 10 women and 6 children.

D. Funding and Resources for Family Recovery Courts

Family Recovery Courts, like other problem solving or treatment courts, are a time and labor-intensive process for the judges, multi-disciplinary team members, and participants. As with the Adult Drug Treatment Courts, it is estimated that a Family Recovery Court judges will allocate 15% to 20% of their time during a week in which their court meets to their Family Recovery Court assignments. Other members of the multi-disciplinary team devote similar, if not longer, hours

each week. Team members are available after hours, nights, and weekends to address emergency needs of the participants.

The Judicial Branch does not directly receive any state or federal grants or dedicated funding for the Family Recovery Courts. General Fund revenue supports the full-time statewide coordinator, the presiding judge, the court clerk, and the marshal service.

DHHS funds the case management and treatment services. Unlike the Adult Drug Treatment Courts where all funding is handled by SAMHS, the Family Recovery Court funding for case management services and treatment services are split between divisions of DHHS. Case management services are funded through SAMHS. Treatment services are funded through Office of Child and Family Services (OCFS), unless the participant is already covered by MaineCare.

OCFS pays directly to the agency where services are provided. Parents involved in a child protective case have the right to determine the treatment agency where they receive services. For example, if a parent in the Kennebec Family Recovery Court chooses to receive services from Kennebec Behavioral Health instead of Central Maine Family Counseling, the contracted provider for the Family Recovery Court, OCFS is required to fund the treatment at Kennebec Behavioral Health.

E. Data and Evaluation for Family Recovery Courts

The Family Recovery Courts continue to utilize DTxC, a web-based data management information system to track the FRC data. DTxC was implemented ten years ago. This system is housed at SAMHS and shared with 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. In 2016 SAMHS announced that it intends to replace DTxC with a more up to date and comprehensive system. The plan was to switch to a new system in late 2016 or early 2017, later the switch to a new system was moved to sometime in 2018. In late 2018, the decision was made to remain with DTxC. In addition to DTxC, DHHS also uses MACWIS (Maine Automated Child Welfare Information System) as a statewide data collection system that can be used to identify the overall number of filings and reunifications for comparison and external evaluation purposes.

The work of the Family Recovery Courts would be supported by an independent review of their practices, policies, and outcomes. In 2007, this evaluation was conducted by Hornby Zeller Associates with grant funding from the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration, the U.S. Department of Justice, Bureau of Justice Assistance. At the present time, no funds are available to pay for an independent review.

F. Collaboration

The Family Recovery Court teams demonstrate effective cross-disciplinary and inter-agency collaboration. Teams consist of representatives of the primary community stakeholders working within the fields of child protection services and substance abuse. This includes judges, family attorneys, guardian ad litem, treatment providers, case managers, and DHHS case workers.

The continued emphasis on collaboration will provide significant improvements and innovation in drug court practices.

The Adult Drug Treatment Court Steering Committee, now with oversight of the Family Recovery Courts, is working on extending collaborative efforts with the New England Association of Drug Court Professionals for Family Recovery Courts as well.

G. Training and Education

As with the Adult Drug Treatment Courts, in-depth, discipline specific training is required to keep the court operating at peak performance. Typically, this type of in-depth training is one week long and entails the entire team traveling to national training sites. At the present time, funding to send the teams to this type of training is not available within the Judicial Branch budget, nor is there funding to “back-fill” coverage for judges to cover non-treatment court assignments that would be left uncovered during a week of training.

Despite the lack of funding to send the Family Recovery Court teams to the National Association of Drug Court Professionals annual training conference, training specific to the Family Recovery Courts was brought to Maine at minimal incidental cost to the State of Maine. On May 3-4, 2018, a two-day comprehensive training for the Family Recovery Court teams was held at the Capital Judicial Center. This training was delivered by the Center for Children and Family Futures, the organization tasked by the U.S. Department of Justice, Bureau of Justice Assistance to provide no-cost training and technical assistance to Family Drug Courts across the United States. This was the first comprehensive training for the Family Recovery Courts in the State of Maine and had a major impact, particularly for the Penobscot Family Recovery Court, which saw a marked increase in referrals.

On November 28-29, 2018, the Family Recovery Court judges attended the New England Association of Drug Court Professionals Annual Training Conference. This conference allowed the attending judges to participate in training by nationally recognized experts with the most up to date research and training in the treatment court field. This is the first year that the Family Recovery Court judges were able to attend this conference.

While the Family Recovery Courts operate under the same model as the Adult Drug Treatment Courts, there has not been a nationally recognized set of best practices that focused solely on the Family Recovery Courts. The National Association of Drug Court Professionals and the Center for Children and Family Futures have developed a draft National Family Treatment Court Best Practice Standards that should be finalized and published in 2019. Once this National Family Treatment Court Best Practice Standards is released, trainings for the Family Recovery Courts will be scheduled. The Adult Drug Treatment Court Steering Committee, in its update of the client handbook and related court forms, will look to these standards for guidance and implementation.

