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**STATE OF MAINE
JUDICIAL BRANCH**



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

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**REPORT TO THE JOINT STANDING COMMITTEE ON THE JUDICIARY
125TH LEGISLATURE
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Executive Summary

Maine's Adult Drug Treatment Courts (ADTC) have operated in six counties across Maine during calendar year 2011 and have provided rigorous accountability for offenders who have either pled or been found guilty of serious drug and alcohol-related offenses. Drug courts have proven to be an effective state, national, and international response to substance abuse and crime and the profound costs associated with these crimes to individuals, the criminal justice system, and our communities at large.

- Participation in these courts is voluntary and provides defendants and probationers with a demanding alternative to typically lengthy terms of incarceration. While in drug court, participants are required to meet with the presiding judge weekly or every other week to account for their progress as well as maintain regular contact with their case managers and probation and parole officers, if on probation. They have to work, attend school, or engage in community service, meet all their financial responsibilities, maintain stable and sober housing, very frequently undergo 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 (OSA) 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.

- In calendar year 2011, there were 232 participants, 51 graduates and 52 expulsions. Since inception nearly eleven years ago, 1,185 men and women have participated. The overall graduation rate during that time has been 60%, which compares favorably with the average national rate of 48%. As of December 31, 2011, there were 103 active participants statewide.
- Adult Drug Treatment Courts continue to demonstrate that drug court participants are rearrested at significantly lower rates and for less serious offenses than traditionally adjudicated offenders. Maine's rate has historically been 17% one year post-discharge compared to 33% for traditionally adjudicated offenders.
- Since 2001, a total of 52 drug free births to mothers in drug court 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.
- Adult drug courts generate measurable cost avoidance to the criminal justice system through reduced recidivism and incarceration. For every \$1 spent on the adult drug courts in Maine, \$3.30 in savings to the state's criminal justice system is generated. Projections of savings in corrections costs alone since the inception of the drug courts in 2001 are very conservatively estimated at \$819,490. It is anticipated that there will have been an additional \$105,760 saved during 2011.
- Drug courts remain labor and time intensive on the part of judges and other drug court practitioners. Judges, court clerks, judicial marshals, prosecutors, and probation and parole 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 flat or been reduced for the past six years. According to OSA, total contract costs for FY2011 were \$1,022,933. An additional \$60,000 was utilized by the Judicial Branch for half the year for the position coordinating the adult drug courts and for associated statewide travel, drug court training, and supplies. Funding is provided to OSA from the *Fund for a Healthy Maine* (FHM), MaineCare, the General Fund, and the federal Substance Abuse Treatment and Prevention Block Grant. The drug court coordinator position and FHM funding attached to this position were eliminated in the biennial budget, which took effect on July 1, 2011. As requested by the Legislature, the Judicial Branch has continued to fund the coordinator position through savings accrued from unfilled vacancies.
- The Judicial Branch has been the recipient of four federal drug court grants, which remained active during 2011, totaling \$790,974. The goals of these grants have included upgrading the drug court management information system maintained by OSA, completing an updated comprehensive process and outcome evaluation of the adult drug courts since their initial implementation, and enhancing treatment and case management services in Cumberland and Washington Counties. All of this funding is devoted to contracted services and not to Judicial Branch infrastructure. Two grants will expire on February 1, 2012, with the other two due to end on June 30, 2012.
- OSA was recently the recipient of a three-year grant from the Bureau of Justice Assistance of the Department of Justice totaling \$1.5 million to enhance statewide drug court activities.

- Due to funding constraints and performance issues, the Penobscot County Adult Drug Treatment Court began a gradual process of dissolution in September 2011 leading to its closure in 2012 after all the current clients have been discharged
- Emerging trends in designer drugs, such as synthetic cannabinoids like K-2 and synthetic stimulants like bath salts, are challenging the drug courts to improve drug testing protocols. The abuse of prescription opioids and heroin remains a leading contributor to criminal conduct leading to drug court participation.

What are Adult Drug Treatment Courts?

Adult Drug Treatment Courts are a type of problem solving court or specialized docket 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

Drug courts 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 into service in April 2001. These courts were located in Washington County, Penobscot County, Androscoggin County, Cumberland County, and York County. The docket in Oxford County was discontinued due to low census. An additional ADTC in Hancock County joined the state system following the provision of funding by the 123rd Legislature on July 1, 2008. This docket had previously been administered as a deferred sentencing project by the county beginning in April 2005.

Program structure

The structure of the six active Adult Drug Treatment Courts is summarized below:

Site	Presiding justices and judges	Case management services	Treatment provider agencies
Washington	Hon. John V.	Maine Pretrial	Eastport Health Care

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

County	Romei	Services	
York County	Hon. Roland Cole	Maine Pretrial Services	Counseling Services, Inc.
Cumberland County	Hon. Jeffrey Moskowitz	Maine Pretrial Services	Catholic Charities Maine
Androscoggin County	Hon. MaryGay Kennedy	Maine Pretrial Services	Tri-County Mental Health Services
Penobscot County	Hon. William R. Anderson	Maine Pretrial Services	Wellspring
Hancock County	Hon. Kevin Cuddy	Maine Pretrial Services	Open Door Recovery Center

The ADTC dockets have been managed by the Diversion and Rehabilitation Coordinator under the supervision of the Director of Court Services from the Administrative Office of the Courts. Essential operational support has also been provided by court clerks and the Office of Judicial Marshals.

Drug courts are labor and time intensive activities for the Judicial Branch. The dockets in Washington County, Cumberland County, and York County meet every week while those in Hancock County, Penobscot County, and Androscoggin County meet every other week. For courts meeting weekly, the time devoted by courthouse personnel averages 4 hours per week or 16 hours per month for the presiding judge, 2 hours per week or 8 hours per month for a court clerk, and 1.5 hours per week or 6 hours per month for a deputy marshal. A courtroom is needed for 1.5 hours per week or 6 hours per month. 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 court operations. Any expansion of these dockets would have a direct impact on the availability of judges, clerks, and deputy marshals for other types of dockets by reducing the time that could be devoted to these other dockets.

The activities of the drug courts continue to be overseen by a statewide steering committee consisting of representatives of the Department of Corrections, the Office of Substance Abuse, treatment provider agencies, Maine Pretrial Services, the Co-Occurring Collaborative Serving Maine, the Office of the Attorney General, 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, Justice of the Maine Superior Court. Justice Cole also presides as the Adult Drug Treatment Court judge in York County.

Substance abuse treatment

The Office of Substance Abuse has continued to contract with licensed behavioral healthcare treatment provider agencies in each county having an Adult Drug Treatment Court. These agencies are required to provide *Differential Substance Abuse Treatment (DSAT)*, a manualized cognitive-behavioral treatment program. Clinicians from the treatment provider agencies attend pre-court meetings to discuss participant progress as well as the status hearings.

The source of treatment and case management contract monies is the *Fund for a Healthy Maine*, MaineCare for the participants covered by this program, self-pay on a sliding scale, the General Fund, and the Substance Abuse Treatment and Prevention Block Grant program. The proportions provided from each source have changed in the past six months due to reallocation of some of the FHM funds.

In strictly economic terms, treatment of substance abuse disorders generates clear and substantial cost savings. Data published by the Substance Abuse and Mental Health Services Administration and cited by OSA indicate that for every \$100 spent on treatment, \$700 in criminal justice costs is avoided.² Additionally, the State of Washington has found that substance abuse treatment reduces the likelihood of rearrest by 16% and of felony re-convictions by 34%.³

Most drug court participants participate in other forms of ancillary treatment due to disorders and symptoms beyond substance abuse alone. Research on the drug 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. The standard of care for these participants is integrated substance abuse and mental health treatment. This standard is increasingly being emphasized by the drug courts as the State of Maine generally attempts to treat those citizens needing services in a more holistic manner. 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 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.

A relatively small but increasing number of drug court participants diagnosed with opiate dependence is being prescribed Suboxone, a partial agonist medication used as a form of opiate replacement therapy. Although considered a valuable treatment for many, the criminal justice system is experiencing its increased diversion and illicit use and drug courts are wary about permitting its use. This is an expensive medication and is currently covered by MaineCare for those participants with this coverage.

Access to inpatient and residential substance abuse treatment settings in Maine has long been challenging with often extended waiting periods, even for those drug court participants with MaineCare. Given the recent reduction in treatment beds due to federal Medicaid regulations, access has become even more restricted. Drug court participants are typically high need individuals so many may require the higher level of care afforded by an inpatient setting in order to be ultimately successful in community-based drug court treatment.

² Center for Substance Abuse Treatment, SAMHSA (2009). *Cost Offset of Treatment Services*.

³ Drake, E.K., Aos, S., & Miller, M.G. (2009). *Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State*. Victims and Offenders, 4:170-196.

Treatment and case management enhancement grant awards have been made to the Judicial Branch by the Bureau of Justice Assistance of the Department of Justice for the drug courts in Cumberland County and Washington County. The former grant totaled \$197,747 for the period October 1, 2009, to September 30, 2011, with an extension to February 1, 2012. The latter grant totaled \$195,360 for the period July 1, 2010, to June 30, 2012. These enhancements seek to increase the menu of treatment offerings available to drug court participants. In Washington County, additional goals are to support employability as well as aftercare services.

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 six years ago. The Judicial Branch in partnership with the Office of Substance Abuse 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 the current system. This grant totals \$199,938 for the period July 1, 2010, to June 30, 2012. Software development is complete as of this writing and training for end users will begin in February 2012. A modern data management system is indispensable for the purposes of client record keeping, administrative reports, and quality assurance.

The majority of drug court participants are men and single. Opiates, including prescription narcotics and heroin, are the most commonly reported primary drug. Many participants are on probation but only 38% are employed at admission.

In the past year, there have been two notable changes to drug use trends in the State of Maine. The first has a variety of street names, including *K-2* and *Spice*. This substance is a synthetic cannabinoid designed to mimic the effects of marijuana. It has been sold legally in head shops and on the Internet and is reputed to deliver a profound high. It has been banned by the U.S. Drug Enforcement Administration and by the State of Maine during this past year. The other substance, street name *bath salts*, has had a dramatic and negative effect in many communities in Maine. The U.S. Drug Enforcement Administration has banned this substance for at least the next 12 months and the State of Maine has banned it outright (Title 17-A, Chapter 45). This is a powerful stimulant and has caused bizarre and out-of-control behavior in many instances leading to self-injurious behavior and criminal activity on the part of those under the influence. It is now possible to test for the presence of the metabolites of these substances in urine and the drug courts have been assertively doing so. The testing of samples must take place at a qualified laboratory and is expensive.

It is challenging to ban designer drugs because chemists can slightly alter the chemical composition of these substances thus placing them outside the list of ingredients detailed in a particular statute. However, drug courts are adept at responding quickly and firmly to illicit use of any substance.

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.

During 2011, a total of 8,327 drug and alcohol tests were performed. The relatively very small number of 145 were positive for illicit use. Given that the typical drug court participant has engaged in daily use of illicit substances for years, this result suggests that the structure and treatment of drug court are effective in reducing substance use.

A comprehensive Adult Drug Treatment Court evaluation was last published in August 2006, based on a data cut-off of November 30, 2004.⁴ Until 2009, a lack of funding has prevented the Judicial Branch and its partners from commissioning continued research of this scope and sophistication although internal audits have continued. The variables most affected by this deficit are recidivism outcomes and cost analyses due to the complexity of this type of research.

Historically, Maine's retention, graduation, and recidivism rates have been quite favorable compared to the national averages for Adult Drug Treatment Courts. Using the definition of recidivism as rearrest, only 17% of drug court participants recidivated during a 12-month post-program follow-up than a comparison group of adult offenders traditionally adjudicated of whom 33% were rearrested. Research performed by the federal Bureau of Justice Statistics has shown that 67.5% of state prison inmates were rearrested within three years after release.⁵ Adult drug court participants were less likely than the comparison group to be rearrested on felony charges and less likely to commit violent crimes.

Past evaluations in Maine have indicated that cost avoidance has been significant in terms of reduced prison and jail bed days and adjudication costs for new crimes. Rigorous cost/benefit studies elsewhere in the nation have demonstrated cost/benefit ratios as high as \$3.36 for every \$1.00 invested in drug court participants.⁶ Maine's outcomes have been at the upper end of this range at \$3.30. It is important to recognize that when offenders with substance abuse disorders relapse, they tend to commit crimes, which translates into profound and difficult to quantify additional costs to victims and their families.

In an analysis performed in March 2011, incarcerations costs avoided by the drug courts were conservatively estimated through 2010 at \$819,404 with an additional savings of \$105,760 projected for 2011. This used the marginal Department of Corrections daily inmate rate from

⁴ Ferguson, A., McCole, B., Raio, J. *A process and site-specific outcome evaluation of Maine's Adult Drug Treatment Court programs*, 2006.

⁵ Bureau of Justice Statistics (2002). *Recidivism of Prisoners Released in 1994*.
<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1134>

⁶ The Urban Institute. *To treat or not to treat: evidence on the prospects of expanding treatment for drug-involved offenders*, 2008.

2009 of \$28.84. A less conservative but revealing total based on the average DOC rate yielded savings of \$33,395,700 through 2010 with an additional amount of \$4,245,511 projected for 2011. By any calculation, the cost avoidance is significant.

Also not included in the cost savings generated by the Adult Drug Treatment Court are the high costs associated with drug-addicted babies. Given the near daily use of substances by participants prior to admission to the drug court, the emphasis on and accountability for abstinence when in drug court has resulted in the birth of at least 52 drug-free babies. 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.⁷

Effective October 1, 2009, the Judicial Branch was awarded a two-year federal grant totaling \$197,929 to evaluate process and outcome variables for all six drug courts. This research will cover the period since the inception of the Adult Drug Treatment Courts and provide an analysis of Maine's drug courts' fidelity to the national model guiding drug courts and outcome results, particularly recidivism and an updated cost-benefit estimate.

The process component of this research has been completed and demonstrates that, while improvements should be made at all sites, in general Maine's Adult Drug Treatment Courts practice with significant fidelity to best practices. The full report will be available in the near future.

Collaboration

As noted above, the steering committee and the drug treatment court teams working at each site are excellent examples of effective cross-disciplinary and interagency collaboration. Adult Community Corrections of the Department of Corrections are involved to varying degrees in the day-to-day operations of the drug courts: providing referrals, risk assessments; drug testing, and home checks. Other collaborators are intensive case managers from the Department of Health and Human Services, prosecutors from the district attorneys' offices and the Office of the Attorney General, law enforcement agencies, and representatives of the criminal defense bar. These attorneys submit vouchers to the Maine Commission on Indigent Legal Services for their time working with the drug courts.

On August 31, 2011, the decision was made by the Office of Substance Abuse in collaboration with the Judicial Branch, to not renew the treatment contract for the treatment provider in Penobscot County leading to its projected closure in the late winter or spring of 2012 when the remaining clients are discharged. As of this writing there are ten participants in this drug court and no new referrals are being accepted. Critical funding is needed to support another unique problem solving docket with superior outcomes, the Co-Occurring Disorders and Veterans Court. At present, the concept of a regional drug court is being explored, which will

⁷ Huddleston, C.W., Marlowe, D.B., & Casebolt, R. (2008) *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States*. National Drug Court Institute.

permit residents of Penobscot County with the willingness and capacity to join the existing adult drug court in Hancock County.

Training and education

Federal grant funds have required the attendance of a small number of drug court practitioners at the annual conference of the National Association of Drug Court Professionals. This past year's conference was held in Washington, D.C. All costs are borne by the grants. However, it is particularly challenging to excuse judges from the bench to attend training. For this reason, judicial drug court training has been limited. Grant funding was used to provide in state training to senior policy makers June 2 followed by a day-long statewide conference on June 3 for all drug court practitioners, including judges. National speakers were retained at no cost to the State of Maine through technical assistance provided by the Center for Court Innovation from New York City. Attendance was excellent and ratings by participants for both events were superior.

Summary

During their tenth 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. Although funding constraints have somewhat negatively impacted access to services, the support of the three branches of government have permitted the operation of these dockets during 2011 with minimal disruption.