

**STATE OF MAINE
JUDICIAL BRANCH**



ADMINISTRATIVE OFFICE OF THE COURTS

**REPORT TO THE JOINT STANDING COMMITTEE ON THE JUDICIARY
127TH LEGISLATURE**

**2014 Annual Report on Maine's Adult Drug Treatment
Courts**

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I. Executive Summary

Pursuant to M.R.S.A., Title 4, Chapter 8, §423, this annual report on Maine's Adult Drug Treatment Courts (ADTC) is submitted to the Joint Standing Committee on the Judiciary. These dockets operated in five counties across Maine during calendar year 2014 and have provided rigorous accountability for defendants and probationers who have either pled guilty or been found guilty of serious drug and alcohol-related criminal offenses. When operating with fidelity to the best evidenced-based practices, drug treatment courts have proven to be an effective state response for a relatively small number of high risk and high need criminal defendants with drug and alcohol abuse or dependence.

This is the thirteenth 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.

Participation in these sentencing dockets is voluntary and provides defendants and probationers with a demanding community-based alternative to lengthy terms of incarceration. 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 probation officers, if on probation. They must 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.

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.

Since inception nearly fourteen years ago, 1,670 men and women have participated. In calendar year 2014, there were 159 participants throughout the course of the year; 58 were women and 101 were men. Due to graduations and expulsions, as of December 31, 2014, there were 80 active participants statewide; 36 are women and 44 are men. The rate of admissions remained relatively low in 2014 compared to the years prior to 2013. In general, these dockets are operating below capacity. Forty-two individuals graduated while thirty-seven were expelled for noncompliance with requirements and were ordered to serve a previously agreed upon sentence of incarceration. This is a completion rate of 53%, which compares favorably with the national rates particularly given that Maine's dockets predominantly admit high risk/high individuals.

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 rearrest compared to traditionally adjudicated offenders.

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.¹ National research has indicated that if all costs are combined, including those to potential victims, the average cost savings per drug court participant is \$12,218.²

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.*³

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

Maine's initial six Adult Drug Treatment Courts were created by statute in August 2000 and began accepting participants in April 2001.⁴ These courts were located in Androscoggin, Cumberland, Oxford, Penobscot, Washington, and York Counties. The docket in Oxford County was discontinued due to low census in May 2004. The Penobscot County docket graduated its final participant in 2012. (Defendants from Penobscot County were given the opportunity to join the Hancock County court.)

¹ Hornby Zeller Associates. (2013) *An Evaluation of Maine's Adult Drug Treatment Courts*.

² National Institute of Justice. <http://www.nij.gov/topics/courts/drug-courts/Pages/work.aspx>. Retrieved Jan. 15, 2015.

³ Bureau of Justice Assistance. *Competitive Grant Announcement: Adult Drug Treatment Court Implementation Grants*. Washington, D.C.: U.S. Department of Justice, 2003.

⁴ An additional ADTC in Hancock County joined the state system following the provision of funding by the 123rd Legislature on July 1, 2008, after being established as a county deferred sentencing project in 2005.

B. Program Structure

The structure of the five active Adult Drug Treatment Courts in 2014 is summarized below:

County	Presiding judicial officers	Treatment provider agencies
Androscoggin	Hon. MaryGay Kennedy	Catholic Charities Maine
Cumberland	Hon. Jeffrey Moskowitz	Catholic Charities Maine
Hancock	Hon. 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.

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

C. Substance Abuse Treatment and Case Management Services

The Office of Substance Abuse and Mental Health Services (SAMHS) has continued to contract with licensed behavioral healthcare treatment provider agencies in each county having an ADTC. These agencies are required to provide *Differential Substance Abuse Treatment* (DSAT), a 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 full time managers.

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. 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. 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.

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 a week during which the court meets. Similar, if not longer hours, are devoted each week by prosecutors and probation officers.

The Judicial Branch does not receive any state or federal grants or dedicated funding for ADTC activities but uses a portion of its allocation of General Fund monies to support a full time statewide coordinator.

SAMHS funding comes from the State General Fund, the Fund for a Healthy Maine, and the federal Substance Abuse Treatment and Prevention Block Grant.⁵ Funding for treatment and case management provided to drug court participants has remained relatively flat for the past nine years. The total contract costs for treatment and case management services for SFY2015 are \$1,167,538. These figures do not include MaineCare expenditures for treatment of ADTC participants or for training, certification, and SAMHS staff support dedicated to the ADTC and the criminal justice network of services.

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 have continued during 2014. This grant will expire on September 30, 2015.

The State of Maine is currently ineligible for Department of Justice grants to implement or enhance its drug courts due to Maine's sentencing practices requiring periods of up front incarceration time, which is at odds with the federal government's emphasis on early admission to treatment.⁶

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 modern data management system is indispensable for the purposes of client record keeping, administrative reports, and quality assurance.

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

⁶ Bureau of Justice Assistance. *Adult Drug Court Discretionary Grant Program FY 2013 Competitive Grant Announcement*. December 18, 2012.

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. There were 28 busts of methamphetamine labs in 2014. This compares with 16 in 2013 and is six times as many as three years ago.

A total of 6,649 drug and alcohol tests were administered to participants in 2014 with only the very small proportion of 3.3% yielding positive results indicative of illicit substance use. Per the strict drug testing protocol utilized by case managers the vast majority of these tests were administered in a random and observed manner. Given the near daily self-reported use of substances prior to admission, this is notable and positive.

While synthetic cannabinoids and bath salts are illegal, they continue to be widely used. It is now possible to test for the presence of the metabolites of these substances in urine and the drug treatment courts have been assertively doing so. The testing of samples must take place at a qualified laboratory and is expensive. However, the 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.

The abuse of prescription opioids remains a major concern in our state. In a report published by the federal 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.⁷ All indications are that since 2008 the severity of this issue has only intensified. Numerous efforts are underway throughout the state to address this significant public health and criminal justice problem. In 2012, the national percentage of admission for heroin and other opiates was 26.1% of all admissions. For Maine, the percentage was 48.2%. In 2013, the percentage rose to 49.6%; national data is not yet available for this year.⁸ The drug court population includes a high proportion of individuals dependent on opioids.

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.⁹ Figures for overdose deaths in 2014 are not yet available.

Given the near daily use of substances by participants prior to admission to the Adult Drug Treatment 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

⁷ Substance Abuse and Mental Health Services Administration, Treatment Episode Data Set. www.dasis.samhsa.gov/webt/newmapv1.htm. Retrieved January 16, 2015.

⁸ Ibid.

⁹ Portland Press Herald. <http://www.portlanddailysun.me/index.php/newsx/local-news/12230-report-drug-induced-deaths-in-maine-rise-in-2013>. Retrieved January 22, 2015.

to the Maine Department of Human Services, there were 779 drug-affected births in 2012, 927 in 2013, and 961 in 2014.¹⁰

The cost of initial medical care for drug affected babies after their births at Eastern Maine Medical Center has been estimated to be an average of \$32,016 per child.¹¹ The national average post-delivery cost for a newborn ranges from \$1,500 to \$4,000.¹² The 961 affected newborns could incur a cost to their families, insurers, or MaineCare of approximately \$30,767,376. There may be additional costs due to drug-related developmental delays. If even half of those children were instead drug free at birth, the costs avoided would total \$13,444,000.

A comprehensive evaluation of these dockets completed in 2006 indicated that the one-year post-discharge rate of recidivism (defined as rearrest) for graduates was 16.5% compared to a rate for traditionally adjudicated offenders of 33.1%. Using a more recent definition of recidivism as reconviction within one year (which tends to be lower than rearrest), adult drug treatment courts continue to demonstrate that drug court graduates and participants in general recidivate at lower rates and commit less serious offenses than traditionally adjudicated offenders. The most recent evaluation of the adult drug courts completed in 2013 for the time period 2007 to 2009 found a recidivism rate for graduates of 18.3% one year post-discharge. For ADTC graduates in 2013, 25.6% were rearrested within approximately one year of graduation. This compares with between 42% and 50% of traditionally adjudicated drug and property offenders.¹³

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.

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 to the evidence-based model and the numbers of defendants and probationers admitted to these dockets. Action plans were developed to address both issues.

¹⁰ The number of drug-affected babies born in Maine in 2014 totals the combined number of graduates in 2013 from following high schools: Bangor, Mount Desert, Bonny Eagle, Cony, Traip Academy, and Mountain Valley (totaling 953)

¹¹ Bangor Daily News, July 16, 2013.

¹² <http://children.costhelper.com/baby-delivery.html>

¹³ Bureau of Justice Statistics (2014). *Recidivism of Prisoners Released in 30 States: Patterns from 2005 to 2010*.

G. Training and Education

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.

Given Maine's small number of judges and large geographic scope, it is particularly challenging to excuse judges from their responsibilities in managing caseloads and hearing cases to attend training, particularly those involving out of state travel. Consequently, trainings were conducted with teams from all five dockets at each site in 2014. This training model minimized the demands on team members' time and permitted a focus on issues unique to each site. General topics included a review of the drug court model, best practices in adult drug courts, admissions processes, and behavior management. Additionally, a presentation was made to the Maine Prosecutors Association annual conference on October 21, 2014, to better familiarize prosecutors with the drug courts and with the goal of increasing admissions of appropriate drug court participants.

III. Future of the Adult Drug Treatment Courts

Given the ongoing challenges to the state budget, the status of ADTC funding is uncertain in spite of demonstrated cost avoidance and benefits. However, without funding for case management and treatment, ADTCs cannot be sustained. As noted elsewhere in this report, no additional funding is provided to the Judicial Branch for drug treatment court operations. Any expansion of these dockets would divert Judicial Branch resources, including judges, clerks, and marshals from providing services for other types of dockets and case types.

There has been a reduction in admissions to these dockets in 2014, in spite of continued high levels of substance abuse and related criminal conduct. This is due to a number of factors, including fewer referrals being approved by prosecutors and to the choice by some defendants to serve prison time rather than undergo a rigorous course of recovery and accountability. Of those individuals referred, 31% chose to refuse admission. 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.

IV. Summary

During their thirteenth 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 but are underutilized. 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.