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JUDICIAL BRANCH**



**REPORT TO THE JOINT STANDING COMMITTEE  
ON JUDICIARY  
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SECOND REGULAR SESSION**

**2019 Annual Report on Maine's Drug Treatment Courts  
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Richard B. Gordon, Esq.  
Coordinator of Specialty Dockets and Grants  
Administrative Office of the Courts  
125 Presumpscot Street  
Portland, Maine 04112  
207-213-2858

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## **I. Executive Summary**

Pursuant to the provisions of 4 M.R.S. §423, the Maine Judicial Branch submits to the Joint Standing Committee on the Judiciary this annual report on the establishment and operation of substance use disorder treatment programs in the courts. The current types of treatment programs in Maine's courts are Adult Drug Treatment Courts (ADTC), Co-Occurring Disorders Court (CODC), Veterans Treatment Court (VTC), Veterans Treatment Track (VTT), and Family Recovery Courts (FRC). This is the eighteenth consecutive report provided to the Committee. It describes the structure, processes, and outcomes associated with the operation of these dockets by the Judicial Branch and its Executive Branch, county, and private partners. Additionally, it provides statistics as to participation, recidivism rates, and challenges facing these courts.

During the 2019 calendar year, there was a total of 295 active participants in the ADTCs, CODC, VTC, and VTT, an increase of 11.3% over the number of participants in the previous year, and the largest number of participants in any calendar year. There were 70 graduations from the programs, an increase of 7.6% over the previous year. The total number of terminations declined by 12.2%. There was a 97.2% increase in the number of pending referrals at the conclusion of the 2019 calendar year. These numbers show that the criminal treatment courts in Maine are increasing in capacity, effectiveness, and ability to work with a high-risk/high-need population.

During the 2019 calendar year, ADTCs operated in six counties: Androscoggin, Cumberland, Hancock, Penobscot, Washington, and York. In addition to the six ADTC's, there is a CODC and a VTC in Kennebec County. Justice Nancy Mills established the VTT within the Cumberland ADTC with the first veteran admitted to that program in January 2019. Each of these nine criminal treatment courts and/or tracks has a maximum capacity of twenty-five (25) participants at a time that receive case management services.

During the 2019 calendar year, there was a total of 68 active participants in the FRCs, an increase of 23.6% from the previous year. There was a corresponding 12.5% increase in graduations. There was also a 23% increase in terminations. FRCs are civil courts and lack the same enforcement and sanction capabilities of the ADTCs. The civil nature of the FRCs partially accounts for the increased terminations, as the FRCs do not have the same sanctioning ability as the ADTCs. While there has been an increase in referrals to the FRCs, they consistently remain under capacity. The FRCs have a capacity of 75 participants. On December 31, 2019 there were only 31 participants. Low participant and referral numbers are a recurring issue that appear to be partly based on high turnover rates of both OCFS case workers and FRC case managers.

During the 2019 calendar year, FRCs operated in three counties: Androscoggin, Kennebec, and Penobscot. Each of these three civil treatment courts has a maximum capacity of twenty-five (25) participants at a time that receive case management services.<sup>1</sup>

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<sup>1</sup> Enrollment numbers are established by the contracts between DHHS and the various treatment providers. Most treatment providers subcontract the case management services to Maine Pretrial Services. Several courts operate at or slightly over the maximum as case management services are not as intensive during the later phases of participation in a treatment court.

## **II. Overview of Maine's Treatment Courts**

Treatment courts that operate with fidelity to evidence-based best practices are proven to be an effective response for high-risk/high-need individuals who are struggling with substance use disorder<sup>2</sup> that are in the court system. This includes criminal defendants and parents in jeopardy of losing their children.

The ADTCs, CODC, VTC, and VTT provide rigorous accountability for the participants who have either pled guilty or have been found guilty of serious crimes. The underlying crime that brought the participant 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.

Participation in the criminal treatment 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 that operate on a deferral-from-prosecution model for low-level offenders, Maine's drug treatment courts target high-risk/high-need individuals and require the defendant to enter a plea of guilty to the serious criminal charge(s) pending against him or her. Upon successful completion of the treatment court program, the sentence imposed is typically substantially less severe than the sentence normally imposed for similar charges.

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

- Referral to the treatment court by counsel, probation officer, community member, court, or defendant.
- Defendant is interviewed and authorizes waivers for gathering of medical information.
- In-person interview of defendant by case manager and treatment provider to determine a level of care.
- Independent verification of the information gathered in the interview.
- Risk assessment completed using a qualified screener (LSI-R or LSI-SV)<sup>3</sup>.

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<sup>2</sup> 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*.

<sup>3</sup> 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,

- Review of demographic information (jail file) by case manager.
  - Document review of defendant’s court paperwork by assigned prosecutor and defense attorney.
  - Records request and review for substance use disorder diagnosis and prior treatment history.
  - Records request and review for mental health diagnosis and prior treatment history.
  - Coordination with defense counsel, prosecutor, and probation officer (if on probation).
  - Creation, review, and execution of informed releases of information.
- Needs assessments completed using qualified screening tools covering substance use disorders, mental health issues, and trauma screenings (AC-OK<sup>4</sup>, TCU Drug Screen 5 with Opiate Supplement<sup>5</sup>, and Mental Health Screening III<sup>6</sup>).
  - Report on screening and level of care evaluation to the treatment court team.

Once admitted to a criminal 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. Participants are also required to maintain regular weekly (or more often) contact with their case manager and, if on probation, their probation officer. In addition to 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 sober and stable housing; undergo frequent and random observed drug testing (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, up to and including

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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.

<sup>4</sup> The AC-OK Screen for Co-Occurring Disorders (Mental Health, Trauma Related Mental Health Issues & Substance Disorders) was designed to determine if a person who asks for help from either a mental health agency or a substance disorder treatment agency needs to be assessed for the possible co-occurring disorder of Mental Health, Trauma Related Mental Health Issues, and Substance Disorders. All agencies who are Maine Care contracted providers, including private practitioners, are required to screen. Also included are any programs having contracts with the Office of Child and Family Services. <https://www.maine.gov/dhhs/ocfs/cbhs/provider/ac-ok.shtml> (last visited Jan. 28, 2020).

<sup>5</sup> The TCU Drug Screen 5: Opioid Screening Tool. This is a new self-report screening tool from Texas Christian University (TCU) is available to help justice and health professionals quickly gather detailed information about opioid use, allowing for more rapid referral to treatment services when appropriate. It also collects important information about the potential risk of opioid drug overdose. Developed by researchers at the Institute of Behavioral Research at TCU, along with the Center for Health and Justice at the Treatment Alternatives for Safe Communities, the TCU Drug Screen 5-Opioid Supplement can help determine earlier in the screening process if there is an immediate need for services to address opioid use problems. Justice Center, The Council of State Governments, <https://csgjusticecenter.org/substance-abuse/publications/tcu-drug-screen-5/> (last visited Jan. 28, 2020).

<sup>6</sup> The Mental Health Screening Form-III (MHSF-III) was initially designed as a rough screening device for clients seeking admission to substance abuse treatment programs. Iowa Department of Public Health, [https://idph.iowa.gov/Portals/1/Files/SubstanceAbuse/jackson\\_mentalhealth\\_screeningtool.pdf](https://idph.iowa.gov/Portals/1/Files/SubstanceAbuse/jackson_mentalhealth_screeningtool.pdf) (last visited Jan. 28, 2020).

short term incarceration. 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 contracts between the Maine Department of Health and Human Services (DHHS) and local behavioral healthcare agencies support recovery from substance use disorder, address criminogenic thinking, provide parenting education, assist with the development of more pro-social behaviors, and address mental health and trauma related issues. Additionally, the case manager for each program provides direct and frequent supervision of participants. This supervision includes random alcohol and/or other drug testing (at least twice per week), assistance in developing individualized plans of action to achieve and maintain sobriety, guidance in refraining from criminal behavior, assistance in securing sober and stable housing, and other goals. Case management services are provided by the treatment agency contracted with each court.<sup>7</sup>

During the 2019 calendar year, there was a total of 295 active participants in an ADTC, CODC, VTC, or VTT. This is an increase of 30 participants, representing an 11.3% increase from 2018, and continuing the trend of increased participation since 2013.

COURT	SERVED	ACTIVE 12/31	GRADUATED	TERMINATED	PENDING 12/31
Androscoggin ADTC	41	28	6	7	23
Cumberland ADTC	52	28	14	10	13
Cumberland VTT	7	6	1	0	4
Hancock ADTC	33	18	12	3	5
Kennebec CODC	30	21	6	3	11
Kennebec VTC	24	15	7	2	6
Penobscot ADTC	45	25	9	11	4
Washington ADTC	22	13	6	3	0
York ADTC	41	28	9	4	5
Total	295	182	70	43	71
Change from 2018	+30 +11.3%	+10 +5.8%	+5 +7.6%	-6 -12.2%	+35 +97.2%

<sup>7</sup> 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.

ADTCs generate measurable cost avoidance to the criminal justice system through reduced recidivism and reduced incarceration.<sup>8</sup> 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 ADTCs in Maine, approximately \$1.87 is generated in savings to the state's criminal justice system.<sup>9</sup> National research on a mature drug court (more than ten years in operation) has concluded that when all costs are compiled, including those to potential future victims, the average savings over a five-year period from the initial hearing are \$12,218.00 per drug court participant.<sup>10</sup>

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 defendants. In the most recent independent evaluation, conducted by Hornby Zeller Associates (2016), it was determined that the recidivism rate (defined as a new criminal conviction within 18 months of admission) for drug court graduates was 16%. This compares to a recidivism rate of 32% for individuals who applied but were not admitted, and recidivism rate of 49% for those admitted and later expelled from a treatment court.<sup>11</sup> In comparison, according to a 2013 Maine Department of Corrections study, their most recent recidivism rate (defined as a new arrest within 12 months) for persons 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%.<sup>12</sup>

In late 2019, Maine Pretrial Services received funding from the Maine Substance Abuse and Mental Health Services Department of Maine's DHHS for a new independent evaluation of the criminal treatment courts. This evaluation will be completed by the Public Consulting Group, headed by Helaine Hornby, formerly of Hornby Zeller Associates. It is anticipated that this evaluation will be completed in the fall of 2020.

The Family Recovery Courts provide treatment and case management services for participants that have an open child protective case and are in jeopardy of having their child(ren) removed or their parental rights terminated due to an underlying substance use disorder. The FRC's in Maine provide rigorous accountability for their participants as they work toward reunification in the Child Protective action.

Participation in an FRC court is voluntary and provides parents with additional community-based 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 FRC, Children and Family Futures, the national organization tasked with training family

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<sup>8</sup> Rossman, S.B. et al, (2011) *The Multi-Site Adult Drug Court Evaluation: The Impact of Drug Courts Volume 4*. Retrieved from Urban Institute, Justice Policy Center website:

<https://www.urban.org/sites/default/files/publication/27381/412357-The-Multi-site-Adult-Drug-Court-Evaluation-The-Impact-of-Drug-Courts.PDF> (last visited Jan. 29, 2020)

<sup>9</sup> Hornby Zeller Associates (2013) *An Evaluation of Maine's Adult Drug Treatment Courts*.

<sup>10</sup> 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*. (last visited Jan. 29, 2020)

<sup>11</sup> Hornby Zeller Associates (2016) *Maine's Drug Treatment Courts, Final Evaluation Report 2011-2015*.

<sup>12</sup> Rubin, *2013 Maine Adult Recidivism Report*, at page 6.

treatment drug courts, reports that 50% of families who participate in a family treatment drug court achieve reunification.<sup>13</sup>

During the 2019 calendar year, there was a total of 68 active participants in an FRC. This is an increase of 13 participants, representing a 23.6% increase from 2018.

COURT	SERVED	ACTIVE 12/31	GRADUATED	TERMINATED	WITHDREW	PENDING 12/31
Androscoggin FRC	23	10	3	5	2	1
Kennebec FRC	23	13	5	3	2	5
Penobscot FRC	22	8	1	8	5	15
Total	68	31	9	16	9	26
Change from 2018	+13 +23.6%	+6 +24%	+1 +12.5%	+3 +23%	-1 -10%	+15 +136%

The documented benefits of an FRC include a greater likelihood to enter into and subsequently complete treatment, more frequent and negative drug tests, and once the child(ren) return to the home there is less likelihood of subsequent removal. Children of FRC participants spend less time in foster care.<sup>14,15</sup> Other benefits include improved parenting skills, improved access to basic needs, a decrease in reported serious domestic violence incidents, an improved community support network, and identification of mental health issues with referral for services.<sup>16</sup>

## **II. Adult Drug Treatment Courts**

### **A. What are Adult Drug Treatment Courts?**

Adult Drug Treatment Courts (ADTC) are a type of specialty docket known as a problem-solving court. They are defined as follows:

*[A] specially designed court calendar or docket with the purpose of reducing recidivism and SUD's among substance-using offenders and increase the likelihood of successful habilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, and use of appropriate sanctions and other habilitation services.<sup>17</sup>*

<sup>13</sup> Children and Family Futures, <https://www.cffutures.org/family-drug-courts-focus/> (last visited Jan. 29, 2020)

<sup>14</sup> 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.

<sup>15</sup> Hornby Zeller, Inc., *Evaluation of the Lewiston Family Treatment Drug Court, A Process and Intermediate Outcome Evaluation*, Hornby Zeller Associates, Inc., December 2007.

<sup>16</sup> Hornby Zeller, Inc., *Bangor Family Treatment Drug Court, A Process and Outcome Evaluation*, Hornby Zeller Associates, Inc., May 2014

<sup>17</sup> Substance Abuse and Mental Health Services Administration, <https://www.samhsa.gov/grants/grant-announcements/ti-19-002>. (Last visited Feb 3, 2020)



ADTCs result in 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. ADTCs reduce unnecessary incarceration by promoting more effective collaboration and efficient use of resources among the courts, criminal justice partners, and community agencies.

Maine's initial six ADTCs were created in August 2000 and began accepting participants in April 2001.<sup>18</sup> These courts were located in Androscoggin, Cumberland, Oxford, Penobscot, Washington, and York counties. The Oxford County ADTC was discontinued due to low census in May 2004. The original Penobscot County ADTC graduated its final participant in 2012. A new Penobscot County ADTC 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, the Department of Corrections, Maine Pretrial Services, and the Penobscot County District Attorney's Office.<sup>19</sup> In January 2019, under the direction of Justice Nancy Mills, Cumberland County initiated a Veterans Treatment Track (VTT) within the Cumberland ADTC.

Currently, Maine operates ADTCs in Androscoggin, Cumberland, Hancock, Penobscot, Washington, and York counties. These courts generally limit participation to residents of the county where the treatment court is located or the county where the crime occurred. There is interest in expanding the treatment courts in Maine, with the greatest need and support for an ADTC in the midcoast region.

In addition to the ADTCs, Maine has other specialty court dockets that are problem-solving courts. In 2005, Justice Nancy Mills initiated a Co-Occurring Disorders Court (CODC) in Kennebec County. The CODC was created to address the needs of participants that are involved in the criminal justice system due to a severe and persistent mental health disorder in addition to a substance use disorder. While located in Kennebec County, the CODC accepts cases from across the State of Maine.

In 2011, Justice Nancy Mills initiated a Veterans Treatment Court (VTC) in Kennebec County. The VTC was created to address the needs of veterans who become involved in the criminal justice system based on a substance use disorder and/or mental health disorder. While located in Kennebec County, the VTC accepts cases from across the State of Maine. This docket includes a team member from the United States Department of Veterans Affairs (VA), known as a Veterans Justice Outreach officer (VJO) who coordinates treatment services with Togus VA Hospital and access to other community benefits.

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<sup>18</sup> An Additional Adult Drug Treatment Court in Hancock County joined the state system following the provision of funding by the 123<sup>rd</sup> Legislature on July 1, 2008, after being established as a county deferred-sentencing project in 2005.

<sup>19</sup> 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.

In 2019, the Cumberland County ADTC initiated a Veterans Treatment Track (VTT), admitting seven veterans in its first year of operation. It is anticipated that the enrollment in the Cumberland VTT will be sufficient in the future for it to be designated as a stand-alone VTC. In October 2019, the Maine Department of Health and Human Services (DHHS), Office of Substance Abuse and Mental Health Services (SAMHS) supplemented the budget for Central Maine Family Counseling (dba Blue Willow) and Maine Pretrial Services, to facilitate expansion of the Cumberland VTT and implementation of VTTs in other operating ADTC's. These specialty dockets were developed along the lines of the drug court model and operate under similar processes.

**B. Program and Structure of the Adult Drug Treatment Courts, Co-Occurring Disorders Court, Veterans Treatment Court, and Veterans Treatment Track**

The location, type of docket, presiding judicial officer, treatment agency, and case management provider for the active criminal problem-solving courts in Maine in 2019 are summarized below:

COUNTY	TYPE OF COURT	PRESIDING JUDICIAL OFFICER	TREATMENT AGENCY	CASE MANAGEMENT SERVICES
Androscoggin	ADTC	Hon. John Martin	Catholic Charities	Catholic Charities
Cumberland	ADTC	Hon. MaryGay Kennedy	Blue Willow*	Maine Pretrial Services
Cumberland	VTT	Hon. MaryGay Kennedy	Blue Willow	Maine Pretrial Services
Hancock	ADTC	Hon. Patrick Larson	Aroostook Mental Health Services	Maine Pretrial Services
Kennebec	CODC	Hon. Matthew Tice	Blue Willow	Maine Pretrial Services
Kennebec	VTC	Hon. Matthew Tice	Blue Willow	Maine Pretrial Services
Penobscot	ADTC	Hon. Charles Budd	Wellspring, Inc.	Maine Pretrial Services
Washington	ADTC	Hon. David Mitchell	Aroostook Mental Health Services	Maine Pretrial Services
York	ADTC	Hon. Wayne Douglas	Blue Willow	Maine Pretrial Services

\*Central Maine Family Counseling operates as Blue Willow.

Judge John Romei completed his service as the judge of the Hancock County ADTC in October 2019 and Justice Nancy Mills retired in December 2019. As a result, there were several changes in the judicial assignments within the treatment courts. In Cumberland County, Justice MaryGay Kennedy replaced Justice Nancy Mills as the presiding judicial officer in the ADTC and the VTT. In Androscoggin County, Judge John Martin replaced Justice MaryGay Kennedy as the presiding judicial officer in the ADTC. In Kennebec County, Judge Matthew Tice replaced Justice

Nancy Mills as the presiding judicial officer in the CODC and the VTC. In Hancock County, Judge Patrick Larson replaced Judge John Romei as the presiding judicial officer in the ADTC.

Each of these courts generally serves the population that resides in that particular county with the exception of the CODC and the VTC in Kennebec County. Participants from across the State of Maine are eligible to be referred to the CODC or the VTC. A CODC or VTC participant from outside Kennebec County would need to relocate to Kennebec County or have adequate and reliable transportation to appear for all required court sessions, mandated treatment, and case management appointments.

Justice Nancy Mills<sup>20</sup> oversaw the administrative duties for the treatment courts as the Chair of the Adult Drug Treatment Court Steering Committee until October 2019. Judge David Mitchell, who presides over the Washington County ADTC, now chairs the ADTC Steering Committee and is responsible for administrative oversight of the treatment courts. The ADTC Steering Committee meets on a quarterly basis (January, April, July, and October) in either Augusta or Bangor and is responsible for ensuring that the treatment courts adhere to best practices and national standards. The ADTC Steering Committee is composed of the treatment court judges, representatives from the Administrative Office of the Courts, the District Attorneys, defense counsel, Office of the Maine Attorney General, Department of Corrections Probation Division, the Maine Co-Occurring Collaborative, Maine DHHS, treatment agencies, case management providers, and a community representative. *See Appendix A for a membership list.*

The position of Coordinator of Specialty Dockets and Grants is held by Richard Gordon, Esq. Mr. Gordon previously held the position of Director of Problem-Solving Courts for the Office of the Public Defender, 4<sup>th</sup> Judicial Circuit, Florida, where he oversaw three adult drug treatment courts, one juvenile drug treatment court, two mental health courts, and three veterans treatment courts. The position of Coordinator of Specialty Dockets and Grants is overseen by 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 (Justice Robert Mullen) or the Chief Judge of the District Court (Judge Susan Sparaco). 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 and the Chief Judge of the District Court 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 the establishment of any future specialty docket.

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<sup>20</sup> The New England Association of Drug Court Professionals (NEADCP) honored Justice Mills with the NEADCP Leadership Award at their annual training conference on November 20, 2019.

When a participant enters one of the criminal treatment courts they agree to abide by the Maine Treatment Court Handbook.<sup>21</sup> The handbook contains an overview of the treatment court program, the documents the participant must sign, and the rules that the participant must follow. The treatment court program is broken into five phases. The first phase serves as orientation, engagement, and stabilization. This phase lasts a minimum of thirty days and is designed to stabilize the participant in the community and introduce the participant to working with their treatment provider and case manager. The second phase focuses on sobriety and abstinence and lasts a minimum of ninety days. This phase focuses on working with the primary treatment provider to develop strategies to remain alcohol and drug free as well as working with their case manager to maintain a healthy living plan.

The third phase focuses on maintenance and relapse prevention and lasts a minimum of ninety days. This phase focuses on assisting the participant to look to the future and develop a relapse prevention plan. The fourth phase focuses on maintenance of sobriety and transitioning to community involvement and lasts a minimum of ninety days. This phase focuses on moving away from intensive supervision and having the participant demonstrate they are ready to rely on the tools they have learned and supports that have developed in the community. The fifth phase is considered early recovery and a transition to aftercare and lasts a minimum of ninety days. In this phase the participant demonstrates they are ready to transition away from court supervision and rejoin society as a productive citizen. As a participant moves through the phases, they must still provide a minimum of two random and observed urine specimens each week that are tested for the presence of alcohol and/or other drugs.

### **C. Substance Use Disorder Treatment and Case Management Services**

The Judicial Branch is responsible for allocating judge, clerk, and marshal time for the ADTCs, CODC, VTC, and VTT, but all treatment, case management, and additional resources are funded and managed through the Office of Substance Abuse and Mental Health Services, 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, are required to address criminogenic thinking through Moral Reconciliation 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. MRT's cognitive-behavioral approach combines elements from a variety of psychological traditions to progressively address ego, social, moral, and positive behavioral growth.<sup>22</sup>

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

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<sup>21</sup> [https://www.courts.maine.gov/fees\\_forms/forms/pdf\\_forms/cr/cr-249-mtc-handbook.pdf](https://www.courts.maine.gov/fees_forms/forms/pdf_forms/cr/cr-249-mtc-handbook.pdf) (last visited Jan. 29, 2020)

<sup>22</sup> Substance Abuse Mental Health Services Administration. [legacy.nreppadmin.net/ViewIntervention.aspx?id=34](http://legacy.nreppadmin.net/ViewIntervention.aspx?id=34) (Last visited February 3, 2020)

Androscoggin County, Catholic Charities, provides case management services. The other treatment agencies sub-contracted with Maine Pretrial Services for case management services.<sup>23</sup>

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.<sup>24</sup>

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.<sup>25</sup> 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.<sup>26</sup>

#### **D. Funding and Resources for Adult Drug Treatment Courts, Co-Occurring Disorders Court, Veterans Treatment Court, and Veterans Treatment Track**

The Maine Treatment Courts remain labor and time intensive on the part of judges and other treatment court practitioners. It is estimated that, on average, judges allocate 15% to 20% of their time each week that their assigned treatment court is in session. Prosecutors, defense counsel, case managers, treatment providers, 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 participants.

The Judicial Branch does not directly receive any state grants, federal grants, or dedicated funding for the Maine Treatment Court activities.<sup>27</sup> The State 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. The current contracts for treatment and case management services are based on RFP 201609177. The current contracts for treatment and case management services began on October 1, 2017, as a one-year contract with an automatic renewal for one year (unless terminated after review), followed by three one-year renewal periods. Each agency is in the first of the three one-year renewal periods.

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<sup>23</sup> DHHS has advised that case management services will be separated from the treatment agency contracts. It is expected that Maine Pretrial Services will take over case management services in Androscoggin County as of July 1, 2020.

<sup>24</sup> Kessler, et al., (2005), Lifetime prevalence and age-of-onset-distribution of DSM-IV disorders in national comorbidity survey replication. *Archives of General Psychiatry*.

<sup>25</sup> Messina, et al., (2012) Gender Responsive Drug Court Treatment, *Journal of Criminal Justice Behavior*.

<sup>26</sup> 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.

<sup>27</sup> Maine SAMHS receives and distributes federal funds for treatment and case management services.

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 funding for 2017, 2018, and 2019 increased to address the ongoing opioid crisis. However, the federal government, through the Bureau of Justice Assistance (BJA) puts restrictions on the grants which have been a barrier for the courts in Maine. Restrictions on BJA grants include a ban on persons convicted of violent crimes being allowed in the programs (with limited exceptions for Veterans Treatment Courts)<sup>28</sup> and a ban on funding programs that require up-front incarceration prior to entry into the treatment court.<sup>29</sup>

### **E. Data, Evaluation, and Substance Use Trends**

The ADTCs, CODC, VTC, and the VTT utilized DTxC, a web-based data management information system. The DTxC system was housed at SAMHS and shared with contracted service providers with attention to privacy safeguards. Data collection and review is indispensable for the purposes of participant record keeping, administrative reports, and quality assurance. In 2016 SAMHS announced that it intended to replace DTxC with a more up to date and comprehensive system. DTxC was implemented over ten years ago and is no longer supported by its developer. The plan to switch to EIS, a new data collection system, was delayed from late 2016 until the switch was implemented on July 1, 2019. The data in DTxC up to June 30, 2019, was warehoused and is accessible. Unfortunately, the data in the EIS system is not accessible at the present time and DHHS continues to work on this issue.<sup>30</sup>

In the past year, drug use trends in the State of Maine have continued to reflect the increased abuse of prescription and non-prescription opiates, heroin, and fentanyl. Individuals in the ADTCs, CODC, VTC, and VTT 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.<sup>31,32</sup>

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<sup>28</sup> 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.

<sup>29</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Adult Drug Court Discretionary Grant Program FY 2019 Competitive Grant Announcement*, <https://hja.ojp.gov/sites/g/files/xyckuh186/files/media/document/BJA-2019-15084.PDF> (last visited Feb. 4, 2020)

<sup>30</sup> The data regarding the number of active participants, graduations, terminations, voluntary withdrawals, and pending referrals referred to in this report are a combination of the 1/1/19-6/30/19 DTxC data and a review of treatment court agendas from 7/1/19-12/31/19.

<sup>31</sup> Shannon Moss, *Crystal Meth is on the rise in Maine*, News Center Maine (November 13, 2019), <https://www.newscentermaine.com/article/news/crime/crystal-meth-is-on-the-rise-in-maine/97-491784fe-4efe-46b6-8fc1-6502e2bb5c87> (last visited Feb. 3, 2020)

<sup>32</sup> Staff writer, *Crystal meth resurfaces as increasingly deadly threat in Maine*, Portland Press Herald (November 19, 2019), <https://www.pressherald.com/2019/11/17/as-meth-use-rises-statewide-portland-shelter-sees-increased-violence/> (last visited Feb. 3, 2020)

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 made by local law enforcement, county law enforcement, Maine Drug Enforcement Agency (MDEA), and the Maine State Police throughout the year in the State of Maine. Arrests include the Maine State Police and the Bangor Police Department seizing 99 grams of suspected heroin/fentanyl mixture reported on November 15, 2019.<sup>33</sup> The MDEA was also actively fighting the epidemic with an arrest centered on heroin in Jay reported on January 28, 2019,<sup>34</sup> a multi-agency bust seizing fentanyl, heroin, crack and cocaine base on May 3, 2019,<sup>35</sup> an arrest of a Blaine resident twice within five days seizing over \$70,000 worth of heroin reported on July 23, 2019,<sup>36</sup> an undercover operation resulting in four people charged with bringing fentanyl into Maine reported on August 2, 2019,<sup>37</sup> the seizing of 70 grams of cocaine and 40 grams of suspected fentanyl in Rumford reported on October 24, 2019,<sup>38</sup> and seizing 2.7 pounds of fentanyl in Aroostook County on December 18, 2019.<sup>39</sup> To put these weights into perspective, it is generally accepted that a single dose of heroin weighs approximately .037 grams.<sup>40</sup>

Federal agencies were also active in the fight against the opioid epidemic as the FBI charged 18 people in connection with multiple drug raids in Hancock and Washington counties with one person having 265 grams of fentanyl as reported on May 3, 2019,<sup>41</sup> and the New England field office of the federal Drug Enforcement Agency making 645 arrests throughout New England from November 11 to November 22, seizing 17.9 kilograms of fentanyl, 7,800 illicit fentanyl pills, 13.9 kilograms of cocaine, 3.1 kilograms of heroin, and 2.5 kilograms of methamphetamine.<sup>42</sup>

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<sup>33</sup> Department of Public Safety, Maine State Police. <https://www.maine.gov/dps/msp/taxonomy/term/37> (last visited Jan. 30, 2020)

<sup>34</sup> Ben Hanstein, *Two arrested on drug trafficking charges following search*, Daily Bulldog (Jan. 28, 2019), <http://www.dailybulldog.com/db/features/two-arrested-on-drug-trafficking-charges-following-search/> (last visited Jan. 30, 2020)

<sup>35</sup> Cyndi Wood, *Multi-agency drug bust yields two dozen arrests*, The Ellsworth American (May 3, 2019), <https://www.ellsworthamerican.com/featured/multi-agency-drug-bust-yields-two-dozen-arrests/> (last visited Jan. 30, 2020)

<sup>36</sup> Nina Mahaleris, *Maine DEA arrests Blaine resident twice in five days, seizing of \$70K worth of heroin*, The County (July 23, 2019), <https://thecounty.me/2019/07/23/news/maine-dea-arrests-blaine-resident-twice-in-five-days-seizing-over-70k-worth-of-heroin/> (last visited Jan. 30, 2020)

<sup>37</sup> Sofia Saric, *Two Mass. men among 4 arrested on drug trafficking charges in Maine*, The Boston Globe (August 2, 2019), <https://www.bostonglobe.com/metro/2019/08/02/two-mass-men-among-arrested-drug-trafficking-charges-maine/8jQW5Ts2IImjTfxe8k5YXI/story.html> (last visited Jan. 30, 2020)

<sup>38</sup> Associated Press, *Man arrested in Maine drug raid wanted for homicide in NY*, US News and World Report (October 24, 2019) <https://www.usnews.com/news/best-states/maine/articles/2019-10-24/man-arrested-in-maine-drug-raid-wanted-for-homicide-in-ny> (last visited Jan. 30, 2020)

<sup>39</sup> Bob Evans, *2.7 pounds of fentanyl seized and 3 arrested in Aroostook County*, News Center Maine (December 19, 2020) <https://www.newscentermaine.com/article/news/crime/27-pounds-of-fentanyl-seized-and-3-arrested-in-arostook-county/97-adcdd6d0-a9eb-4b3f-acb2-59308ea16d1c> (last visited Feb. 3, 2020)

<sup>40</sup> Conversation with AAG and Drug Prosecutor Katie Sibley, January 15, 2020.

<sup>41</sup> Bill Trotter, *25 people charged in wake of FBI drug arrests Down East*, Bangor Daily News (May 3, 2019) <https://bangordailynews.com/.../13-charged-in-fbi-drug-sweep-in-down-east/> (last visited Jan. 30, 2020)

<sup>42</sup> Marie Szanislo, *DEA seizes large haul of fentanyl, cocaine, guns and cash in six-state sweep*, The Boston Herald (December 10, 2019) <https://www.bostonherald.com/2019/12/10/dea-seizes-large-haul-of-fentanyl-cocaine-guns-and-cash-in-six-state-sweep/> (last visited Jan. 30, 2020)



In spite of the continuing arrests, some positive news was reported. On April 2, 2019, WABI-TV in Bangor aired a story on Veterans Treatment Courts, highlighting Justice Mills and the history of the implementation of treatment courts in Maine.<sup>43</sup> On June 27, 2019, WABI aired a story about an incoming Penobscot ADTC participant who had exposed her baby to methamphetamine through breast milk,<sup>44</sup> and then featured a follow-up on her success in a January 23, 2020 report.<sup>45</sup> The Bangor Daily News reported on July 11, 2019, on a Penobscot ADTC graduate who participated in drug court rather than going to prison.<sup>46</sup> On July 21, 2019, the Bangor Daily News also published an editorial on the value of ADTC's.<sup>47</sup>

Sadly, 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. The number of overdose deaths rose to 208 in 2014, 272 in 2015<sup>48</sup>, 378 in 2016<sup>49</sup>, 418 in 2017<sup>50</sup>, 354 in 2018<sup>51</sup>, and 277 in the first three quarters of 2019.<sup>52</sup>

The statewide overdose deaths in 2016, 2017, 2018, and the first three quarters of 2019, amount to more than one Mainer per day dying from a drug overdose. Maine remains in the grip of the opioid crisis as opioids were listed as a key factor in 84% of the overdose deaths.<sup>53</sup>

The number of drug-affected babies born in Maine continues to be a cause for concern. 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.<sup>54</sup> In 2017,

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<sup>43</sup> Emily Tadlock, *Maine Supreme Court Justice hosts workshop on program to help Veterans in trouble with the law*, WABI-TV (April 2, 2019) <https://www.wabi.tv/content/news/Maine-Supreme-Court-Justice-hosts-workshop-on-program-to-help-Veterans-in-trouble-with-the-law-508023571.html> (last visited Jan. 30, 2020)

<sup>44</sup> Emily Tadlock, *Bangor woman sentenced for exposing child to meth through breast milk*, WABI-TV (June 26, 2019) <https://www.wabi.tv/content/news/Bangor-woman-sentenced-for--511840042.html> (last visited Jan. 30, 2020)

<sup>45</sup> Emily Tadlock, *Bangor mother says getting arrested saved her life*, WABI-TV (January 23, 2020) <https://www.wabi.tv/content/news/Bangor-mother-says-getting-arrested-saved-her-life-567243371.html> (last visited January 30, 2020)

<sup>46</sup> Callie Ferguson, *She Could have gone to prison. Here's the path she took instead*, Bangor Daily News (July 11, 2019) <https://bangordailynews.com/.../she-could-have-gone-to-prison-heres-the-path-she-took-instead/> (last visited Jan. 30, 2020)

<sup>47</sup> The Editorial Board, *Drug courts remain a valued alternative to incarceration*, Bangor Daily News (July 11, 2019), <https://bangordailynews.com/2019/07/21/opinion/editorials/drug-courts-remain-a-valued-alternative-to-incarceration/> (last visited Jan. 30, 2020)

<sup>48</sup> Report of Attorney General Janet Mills, November 14, 2016.

<sup>49</sup> Report of Attorney General Janet Mills, February 2, 2017.

<sup>50</sup> Report of Attorney General Janet Mills, February 22, 2018.

<sup>51</sup> Report of Attorney General Aaron Frey, April 18, 2019.

<sup>52</sup> Scott Thistle, *Despite efforts to stem epidemic, Maine overdose deaths appear to be on the rise again after 1-year dip*, Portland Press Herald (January 23, 2020) <https://pressherald.com/2020/01/23/new-report-shows-maine-drug-overdose-deaths-increasing-in-2019/> (Last visited January 29, 2020)

<sup>53</sup> Marcella Sorg, *Maine Drug Death Report, January – September, 2019*, <http://www.maine.gov/tools/whatsnew/attach.php?id=2025575&an=1> (last visited Feb. 3, 2020)

<sup>54</sup> Maine Department of Health and Human Services. *Drug Affected Baby/Substance Exposed Newborn Referrals Received by County Calendar Year 2019*, DHHS, OCFS Maine Automated Child Welfare Information System, January 2020.



952 babies born in Maine were drug affected.<sup>55</sup> In 2018, 904 babies born in Maine were drug affected.<sup>56</sup> In 2019, 858 babies born in Maine were drug affected.<sup>57</sup> The Maine Courts have seen similar increases in Child Protective Filings, many of which are related to substance use disorder.

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.<sup>58</sup> Based upon this cost estimate, the total cost to the State of Maine for 858 drug affected babies is approximately \$57,228,600. Thus, if the estimated 858 drug affected newborns had instead been drug free at birth, the costs avoided would have been approximately \$54,225,600. There may be additional cost savings due to avoided drug-related developmental delays, special therapies, and educational needs.

Recidivism rates are one way to show the impact of an ADTC 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 ADTCs. Based upon the most recent independent evaluation of the ADTCs practices and outcomes, conducted by Hornby Zeller Associates in 2016<sup>59</sup>, 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 ADTCs 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 ADTCs, used a different definition of recidivism: re-arrest within 12 months of release. This study found that recidivism rates were between 28.2% and 47.1%.<sup>60</sup>

According to the National Drug Court Institute the impact on recidivism rates continues after the participant is no longer in an ADTC.<sup>61</sup> Two randomized experiments and one meta-

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<sup>55</sup> *More Maine babies are born exposed to opioids as hospitals struggle to treat them*, Bangor Daily News, December 4, 2018.

<sup>56</sup> The Annie E. Casey Foundation. <https://datacenter.kidscount.org/data/tables/9828-babies-born-exposed-affected-to-substances#detailed/2/any/false/1729,37,871,870,573,869,36,868/any/19127,19128> (last visited Jan. 28, 2020)

<sup>57</sup> Maine Department of Health and Human Services, Office of Child and Family Services.

<sup>58</sup> National Institute on Drug Abuse. <https://www.drugabuse.gov/related-topics/trends-statistics/infographics/dramatic-increases-in-maternal-opioid-use-neonatal-abstinence-syndrome> (last visited Jan. 30, 2020)

<sup>59</sup> Hornby Zeller Associates (2016) *Maine's Drug Treatment Courts, Final Evaluation Report 2011-2015*

<sup>60</sup> Rubin, 2013 *Maine Adult Recidivism Report*, at page 6. It should be noted that in more recent years, DOC changed their definition of recidivism to return to custody rates and include only those persons re-admitted to a DOC facility. This excludes individuals charged with misdemeanor crimes who, if convicted, only serve a sentence at a county jail, who only receive a fine or whose probation is only partially revoked and any sentence is served at a county jail. For a further explanation of their policy and rates see, *Return to Custody Report* at <https://www.maine.gov/corrections/quality-assurance/Return%20to%20Custody%20Summary%202010-2015.pdf> (last visited Feb. 4, 2020)

<sup>61</sup> National Drug Court Institute (2016) *Painting the Current Picture*, at page 15.

analysis determined that the effects of ADTC's lasted for at least three years<sup>62</sup> and in the most far-reaching study to date, up to fourteen years.<sup>63</sup>

## **F. Collaboration**

The ADTCs, CODC, VTC, and VTT teams working in each treatment court demonstrate effective cross-disciplinary and inter-agency collaboration. Treatment Court teams consist of representatives of the primary community stakeholders working within the fields of criminal justice and substance use. This includes the Governor's Office, judges, prosecutors, defense attorneys, treatment providers, case managers, probation officers, and members of law enforcement. The continued emphasis on collaboration with these partners will provide significant improvements and innovation in drug court practices. This collaboration also provides the treatment court teams with updated information concerning changing drug trends, arrests, and other innovative treatment programs that are being implemented across the state to address the drug crisis.

In March 2019, the Coordinator of Specialty Dockets, along with Doug Dunbar (a drug court graduate) now employed by the Eastern Maine Development Foundation, met with Joanna Russell, Executive Director, and members of the Northeastern Workforce Development Board, to provide an overview of the ADTCs. They discussed collaborating with ADTC case managers in Hancock, Penobscot, and Washington counties to assist ADTC participants in securing employment in their communities. This collaboration is ongoing and ADTC participants are now employed by some members of the business community.

Similarly, the Administrative Office of the Courts worked closely with Mr. Dunbar, and his agency, when they applied for a US Department of Labor grant to assist ADTC participants in obtaining job skill training and development. If awarded, this grant will provide a wide variety of additional services and programs to participants including education, training, transportation, and childcare, to help with the continuing recovery process.

While Maine does not have an independent association of drug court professionals,<sup>64</sup> the ADTC Steering Committee is also working on extending collaborative efforts with the New England Association of Drug Court Professionals. Treatment court team members attended the NEADCP annual training conference in Massachusetts in November 2019 and made many valuable contacts with treatment court professional in other states.

Chief Justice Saufley is a member of the Governor's Opioid Task Force where she regularly collaborates with the Commissioners of Public Safety, Health and Human Services, Labor, Corrections, Education, the Attorney General, and others on developing a coordinated

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<sup>62</sup> Ibid, citing Gottfredson et al., 2005; Mitchell et al., 2012, and Turner et al., 1999.

<sup>63</sup> Ibid, citing Finigan et al., 2007.

<sup>64</sup> Over thirty states have statewide associations of drug court professionals. See <https://www.matcp.org/national-resources.html> (last visited Feb 13, 2020). In New Hampshire, this association holds yearly statewide training sessions and conferences. In Florida, the Florida Association of Drug Court Professionals duties are set by statute, see Fla. Stat. §397.334(7) (2011). No General Fund dollars have been provided to the Maine Judicial Branch to formally establish or fund statewide training for ADTC team members.

statewide response to the drug epidemic. Gordon Smith, the Governor's Director of Opiate Response, has presented to a statewide judicial training on the Opioid Response Plan and attended sessions of the ADTCs, CODC, and ADTC Steering Committee. He was instrumental in providing funding for a statistical analysis of our criminal treatment courts that will take place in 2020. We believe this analysis will provide the treatment courts with detailed information that will assist the work of the courts and ways to improve our programming.

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

The most recent independent evaluation of the Maine ADTCs, 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 consumes an entire week and entails the entire team traveling to national training sites. At the present time, funding to send full 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. However, grant funds obtained from a Center for Court Innovation Veterans Treatment Court Strategic Planning Initiative grant in 2019 will allow significant portions of most ADTC teams to attend the National Association of Drug Court Professionals (NADCP) annual training conference in 2020. Judicial participation at this training will include 3 of the 10 treatment court judges.

Several training events took place with the ADTC, CODC, VTC, and VTT teams during 2019. These training were conducted by the National Drug Court Institute (NDCI), an arm of the NADCP, a national non-profit 501(c)(3) founded in 1994 to provide oversight and training for the drug courts nationwide, the Center for Court Innovation (CCI), the United States Department of Veterans Affairs (VA), and the State of Maine.

On April 3-5, 2019, NDCI presented a three-day on-site training for the Penobscot ADTC. To prepare for this training, the Penobscot ADTC team met afterhours on multiple occasions to watch webinars as a team on the implementation, best practices, and running of a drug treatment court. This training took place at the Probation and Parole office in Bangor. The on-site NDCI 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 NDCI. The Penobscot ADTC was eligible for this implementation grant training due to having been re-instated less than five years ago.

On June 10-12, 2019, CCI presented a three-day on-site training focusing on implementation, expansion, and successful operation of Veterans Treatment Courts and Veterans Treatment Tracks. This training took place at the Capital Judicial Center in Augusta. 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 CCI.

On July 15, 2019, several members of the treatment court teams attended the 1<sup>st</sup> Annual Governor's Opioid Response Summit. This summit took place at the Augusta Civic Center. This training was achieved at minimal cost to the Judicial Branch.

On July 18, 2019, several members of the treatment court teams attended the 9<sup>th</sup> Annual Maine Military & Community Network Conference. This conference took place at the Augusta Civic Center. In addition to team members, participants and mentors from the Veterans Treatment Court hosted an informational table at the conference and disseminated information about the VTC. This training was achieved at minimal cost to the Judicial Branch.

On October 15, 2019, the CODC, VTC, Cumberland ADTC, and Cumberland VTT teams participated in a tour of the Intensive Mental Health Unit (IMHU) at the Maine State Prison. The IMHU provides modern, comprehensive mental health and medical care to incarcerated prisoners most in need, in a setting separate from the general prison population.<sup>65</sup> This visit was done at minimal cost to the Judicial Branch and the State of Maine.

On September 11, 2019, several members of the treatment court teams attended the VA Mental Health Summit. This summit took place at the Togus VA Hospital located just outside of Augusta. This training was achieved at minimal cost to the Judicial Branch.

On October 25, 2019, NDCI presented a one-day training on the effective use of Incentives and Sanctions to the Androscoggin ADTC, Cumberland ADTC, Cumberland VTT, and York ADTC teams. This training was held at the Administrative Office of the Courts in Portland. This training was achieved at minimal 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 NDCI.

On November 20-21, 2019, sixty members of Maine's treatment court teams attended the New England Association of Drug Court Professionals (NEADCP) Annual Training Conference in Marlborough, Massachusetts. This conference allowed the team members to participate in training by nationally recognized experts with the most up to date research and training in the treatment court field. While this is the third year that the judges of the criminal treatment courts have been able to attend the NEADCP conference, this is the first year that more than a handful of treatment court team members were able to attend. The increased number of team members able to attend was facilitated by grant funds from CCI and additional funds from DHHS. Gordon Smith also attended and was a featured speaker on Maine's response to the opioid crisis.

Additional trainings from NDCI, Justice for Vets, and CCI are scheduled to occur in 2020. These trainings include a Veterans Treatment Court Implementation Training for the six operating ADTCs at the end of March in Augusta/Hallowell, a Veteran Mentor Bootcamp tentatively scheduled for the Spring, and the NADCP annual training conference in May. Further discipline-specific trainings will be held throughout the year. These trainings will be at minimal cost to the Judicial Branch and the State of Maine as they are funded by grants from CCI and NDCI.<sup>66</sup>

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<sup>65</sup> [https://www.safealternativestosegregation.org/promising\\_practice/intensive-mental-health-unit/](https://www.safealternativestosegregation.org/promising_practice/intensive-mental-health-unit/) (last visited January 30, 2020)

<sup>66</sup> Grant funding must be applied for each year and there is no guarantee of an award year-to-year.

## **H. Future of Maine’s Adult Drug Treatment Courts**

The ADTCs in Maine continue to improve and move in the right direction. The treatment courts have benefited from training and have adopted nationally recognized best practices. The State of Maine is receiving a greater return on its investment based on increased trainings that focus on nationally recognized best practices and standards. There is great interest and support for an integrated-services model for a treatment court on the midcoast and community support for VTCs in several locations.

## **III. Family Recovery Courts**

### **A. What are Family Recovery Courts?**

Family Recovery Courts (FRC), also known as Family Treatment Drug Courts (FTDC), 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.<sup>67</sup>*

FRCs seek to foster greater personal, familial, and societal accountability by the participants, development of pro-social attitudes and behaviors, and promotion of healthy and safe family relationships. These courts 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 FTDCs became operational in October 2002. Today, Maine has three operational FTDCs, now known as Family Recovery Courts<sup>68</sup>, with locations in Lewiston, Augusta, and Bangor.

According to the National Drug Court Resource Center, there are five family treatment courts operating in New England, three of which are in Maine, one in Rhode Island, and one in Massachusetts.<sup>69</sup> According to Children and Family Futures, Vermont and New Hampshire are in the planning stages for starting a family treatment court.

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<sup>67</sup> National Center on Substance Abuse and Child Welfare, [www.ncsacw.samhsa.gov/resources/resources-drug-courts.aspx](http://www.ncsacw.samhsa.gov/resources/resources-drug-courts.aspx) (last visited Jan. 30, 2020)

<sup>68</sup> 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.

<sup>69</sup> National Drug Court Resource Center, <https://ndcrc.org/database/> (last visited Jan. 29, 2020)

## **B. Program and Structure of the Family Recovery Courts**

The structure of the active FRCs in Maine in 2019 is summarized below:

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

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

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. The current contracts for treatment and case management services are based on RFP 201609177. The current contracts for treatment and case management services began on October 1, 2017, as a one-year contract with an automatic renewal for one year unless terminated after review, followed by three one-year renewal periods. Each agency is in the first renewal period. Funding is also provided by the Office of Children and Family Services (OFCS).

FRCs, much like CODCs and VTCs, were begun along the same practices and procedures as ADTCs. On a national level, it was recognized that the best practices for criminal treatment courts did not always meet the needs of FRCs that are civil in nature and usually include additional concerns not addressed in the criminal treatment courts. After many years of research and peer review, in September 2019, Children and Family Futures<sup>70</sup> along with the NADCP released the Family Treatment Court Best Practice Standards.<sup>71</sup>

In 2018, Maine's FRCs were brought under the purview of the ADTC Steering Committee. In 2020, the ADTC Steering Committee will undertake a review and revision of the 2011 Family Treatment Drug Court Policy and Procedures Manual and all associated forms and handbooks based on the newly released Family Treatment Court Best Practice Standards. The FRC judges and teams have already begun to implement changes based on these newly published standards.

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

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<sup>70</sup> Children and Family Futures is the organization tasked by the U.S. Department of Justice, Bureau of Justice Assistance to provide training and support to Family Treatment Drug Courts.

<sup>71</sup> [https://www.cffutures.org/files/OJJDP/FDCTTA/FTC\\_Standards.pdf](https://www.cffutures.org/files/OJJDP/FDCTTA/FTC_Standards.pdf) (last visited Jan. 30, 2020)

Court (Judge Susan Sparaco). 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 FRCs. DHHS is responsible for allocating case management and treatment services. DHHS contracts with licensed behavioral-healthcare treatment provider agencies in each county having an FRC. 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 County and Wellspring, Inc., in Penobscot County sub-contracted the case management services to Maine Pretrial Services. Catholic Charities, in Androscoggin County, 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 participants 13 to 25 years in age. Both MATRIX and MRT are open enrollment, which means that participants 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**

FRCs, 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 ADTCs, it is estimated that on average, FRC judges allocate 15% to 20% of their time each week that their assigned treatment court is in session to their FRC requirements. 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 grants, federal grants, or dedicated funds for the FRCs.<sup>72</sup> State 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 ADTCs, where all funding is handled by SAMHS, the FRC 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 the Office of Children and Family Services (OCFS), unless the participant is already covered by MaineCare.

OCFS directly pays the agency that provides services to the participants. Parents involved in a child protective case have the right to determine from which treatment agency they will receive services. For example, if a parent in the Kennebec FRC chooses to receive services from Kennebec Behavioral Health instead of Central Maine Family Counseling, the contracted provider for the Kennebec FRC, OCFS is required to fund the treatment at Kennebec Behavioral Health. The most common reason for a participant to choose a treatment provider other than the contracted provider would be an already established counseling relationship.

#### **E. Data and Evaluation for Family Recovery Courts**

The Family Recovery Courts utilized DTxC, a web-based data management information system. The DTxC system was housed at SAMHS and shared with contracted service providers with attention to privacy safeguards. Data collection and review is indispensable for the purposes of participant record keeping, administrative reports, and quality assurance. In 2016 SAHMS

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<sup>72</sup> Many Family Treatment court grant programs require participants to provide a “financial match”, often in the 25% range to access the funds and or extensive data collection and analysis. The Maine Judicial Branch does not have the staffing capacity to comply with the data requirements and has not applied for these funds. See for example <https://www.samhsa.gov/grants/grant-announcements/ti-19-001>.



announced that it intended to replace DTxC with a more up to date and comprehensive system. DTxC was implemented over ten years ago and is no longer supported by its developer. The plan to switch to EIS, a new data collection system, was delayed from late 2016 until the switch was implemented as of July 1, 2019. The data in DTxC up to June 30, 2019, was warehoused and is accessible. Unfortunately, the data in the EIS system is not accessible at the present time and DHHS continues to work on this issue.<sup>73</sup> DHHS also uses MACWIS (Maine Automated Child Welfare Information System) as a statewide data collection system which was used to identify the overall number of filings and reunifications for comparison and external evaluation purposes in 2019.

The work of the FRCs would benefit from an outside independent review of their practices, policies, and outcomes once the FRCs have had time to implement the new national best practices. The last evaluation was conducted by Hornby Zeller Associates utilizing 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. Once the new best practice standards have been implemented, funding for an outside independent review will be sought.

#### **F. Collaboration**

The FRC 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.

Due to the confidential nature of child protection cases, and statutory prohibitions on the release of information on any case in the child protective system, it is a bit more difficult to easily share information on our FRC participants with members of the community who are not directly providing services under a DHHS Child Protective Services contract. However, referrals of participants to programs like those in the ADTCs can, when handled within the confines of the law, occur.<sup>74</sup> Collaboration with the Attorney General's Office and DHHS will need to increase in order to fully utilize new community employment and training opportunities.

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

As with the ADTC, 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.

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<sup>73</sup> See footnote 30.

<sup>74</sup> One challenge the FRCs face is that there is a consistent high turnover rate in both the Office of Children and Family Services caseworker workforce and the FRC case managers employed under the FRC contract. The lack of knowledge gained through experience often leads to decreases in referrals to the FRCs. High quality, well trained caseworkers and case managers provide more referrals to the FRCs.

On November 20-21, 2019, the FRC judges attended the NEADCP 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 FRC judges were able to attend this conference. It is hoped that funding will be available to continue this type of training.

#### **H. Future of Maine's Family Recovery Courts**

The FRCs in Maine continue to move in the right direction. The number of referrals increased as did the number of participants and graduates. The FRC judges have been able to attend the regional training conference hosted by the NEADCP. Outreach to members of the bar and guardian ad litem is continuing. New materials for the FRC, such as handbooks, standardized forms, brochures, and informational posters will be addressed by the ADTC Steering Committee in 2020.

#### **IV. Summary**

During their eighteenth year of continuous operation, Maine's Adult Drug Treatment Courts have continued to offer a successful, evidence-based approach to the challenge of substance use and crime in the State of Maine. Improvements continue to be made in these dockets in order to support recovery from substance use disorder, reduce criminal conduct, and enhance public safety.

Since 2002, the Maine Family Recovery Courts have faced many challenges, but they continue to offer a successful, evidence-based approach to the challenge of substance use disorder and its impact on Maine's families. Improvements continue to be made in these dockets to support recovery from substance use disorder, ensure compliance with case plans, and enhance the likelihood of reunification.

Respectfully submitted,

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Richard Gordon, Esq.  
Coordinator of Specialty Dockets and Grants  
Administrative Office of the Courts  
125 Presumpscot Street  
Portland, ME 04103

## **Appendix A**

The Adult Drug Court Steering Committee is comprised of:

Judge David Mitchell (Chair and presiding judge for Washington County ADTC)  
Justice Nancy Mills (former Chair)  
Justice Wayne Douglas (York ADTC)  
Justice MaryGay Kennedy (Cumberland ADTC/VTT)  
Judge John Martin (Androscoggin ADTC)  
Judge Matt Tice (CODC/VTCourt)  
Judge Charles Budd (Penobscot ADTC)  
Judge Patrick Larson (Hancock ADTC)  
Judge Susan Oram (Androscoggin FRC)  
Judge Eric Walker (Kennebec FRC)  
Judge John Lucy (Penobscot FRC)  
DA Matt Foster (District 7-Washington and Hancock)  
Probation Officer Ashley Gaboury (Kennebec CODC/VTC)  
Anne Jordan (AOC-Criminal Process and Specialty Dockets Manager)  
Elizabeth Simoni (Maine Pretrial Services)  
Darcy Wilcox (Maine Pretrial Services)  
Carolee Lindsey (Catholic Charities)  
Catherine Chichester (Co-Occurring Collaborative)  
Donald Hornblower (Defense Attorney, Androscoggin ADTC)  
Dr. Richard Dimond (Community Representative, Hancock ADTC)  
John Risler (Assistant Attorney General)  
Katherine Coutu (DHHS)  
Jennifer Wood (Blue Willow Counseling)  
Richard Gordon (Coordinator of Specialty Dockets)