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The Adult Drug Courts of New Hampshire, Vermont, and Maine

An Analysis of Effectiveness and Barriers to Expansion

Presented to the New Hampshire Senate Judiciary Committee

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EXECUTIVE SUMMARY

In this report, we analyze the effectiveness of drug courts in New Hampshire, Vermont, and Maine. In order to measure effectiveness, we use four criteria: recidivism rates; cost-effectiveness; impact across race, gender, and age; and social consequences. We find that, for the most part, drug courts promote positive community trends, reduce recidivism rates, and are generally a less expensive alternative to prisons.

We also identify several best practices for drug courts, which include clear criteria for termination, effective use of sanctions and incentives, ongoing judicial interaction, targeted programs for specific demographics, and expeditious referral time. The most significant impediment to the expansion of drug courts into new counties is cost; counties that desire drug courts must individually seek out the necessary resources. Other barriers include a lack of necessary support from community officials, the perception of drug courts as being lax on crime, and political opposition.

1. INTRODUCTION

The first drug court was established in Miami-Dade County, Florida in 1989 in response to a rapid increase in drug use and the resultant overcrowding of prisons. Today, there are more than 2,600 drug courts recognized by the National Association of Drug Court Professionals (NADCP). Of the ten counties in New Hampshire, three have NADCP-approved drug courts (Rockingham, Strafford, and Grafton), two are in the process of developing drug courts (Cheshire and Hillsborough), and five counties do not have drug courts (Belknap, Carroll, Coos, Merrimack, and Sullivan). Of the fourteen counties in Vermont, three have drug courts (Rutland, Chittenden, and Bennington), and of the sixteen counties in Maine, five had drug courts in 2012 (Washington, Androscoggin, Cumberland, York, and Hancock). In this report, we compare the effectiveness of these drug courts, highlight best practices, and outline some of the barriers preventing the expansion of drug courts to more counties.

2. DRUG COURTS: OVERVIEW

2.1 What is a drug court?

The Bureau of Justice Assistance (BJA) publishes ten key criteria for drug courts. These criteria can be found in Appendix II and are briefly discussed below.

First, drug courts must adhere to a treatment and rehabilitation program, which is divided into three phases. The first includes detoxifications and an initial treatment assessment. The second is an intensive treatment phase that includes individual and group counseling. Finally, participants undergo a transition phase that emphasizes social reintegration,



employment, and housing opportunities.¹ The program generally lasts between 12 and 24 months and is followed by one year of probation.² Upon successful completion of the program and probation, a drug court participant is exempt from his or her prison sentence and the felony is expunged from his or her criminal record.

Another key criterion requires that participants undergo random testing for alcohol and other drugs. The BJA describes these tests as, “central to the drug court’s ability to monitor participant compliance.”³ Not only does testing help monitor participant progress in overcoming addiction, it also provides drug courts and drug court stakeholders with more data with which to evaluate individual programs.

Making drug courts a data-driven endeavor ensures that participants are receiving the best treatment possible. According to the BJA, “Fundamental to the effective operation of drug courts are coordinated management, monitoring, and evaluation systems. The goals of the program should be described concretely and in measurable terms to provide accountability to funding agencies and policymakers.”⁴

Finally, drug courts must strive to meet the diverse needs of their clients. Participants may be struggling with mental illnesses, medical problems, HIV and other sexually transmitted diseases, homelessness, educational deficits, unemployment, spouse and family troubles (including domestic violence), and the long-term effects of physical and sexual abuse, in addition to alcohol and other drug addictions.⁵ Drug courts work with other organizations in the community to meet the specific needs of their participants.

Generally, drug courts across the nation have lower recidivism rates than prisons and are less expensive. According to a Government Accountability Office (GAO) report on 32 drug court programs across the U.S., “the percentages of drug court program participants re-arrested were lower than for comparison group members by 6 to 26 percentage points. Drug court participants who completed their program had re-arrest rates 12 to 58 percentage points below those of the comparison group.” In terms of drug court costs compared to incarceration, the report also found, “the net benefit ranged from positive \$47,852 to negative \$7,108 per participant.”⁶

2.2 Eligibility

In order to qualify for admission to most drug courts, candidates must meet five criteria: they must have an extensive history of drug use, the crime they committed must be a nonviolent one, they must plead guilty to their offense (although there are some pre-plea drug courts), they must live in the county the drug court is located in, and they must have transportation to and from the drug court.⁷ The defense counsel then refers candidates that meet these criteria to the county drug court coordinator. From there, the drug court team meets once per week to discuss the progress of each participant. The drug court



team consists of representatives from various sectors of the criminal justice system in each county.

The goals of drug courts are three-fold: recovery, savings, and social benefits. First, drug courts seek to help addicts overcome their addictions and to ensure that they do not recidivate back into the criminal justice system. Second, by allowing participants to live in their homes instead of in prisons and by reducing recidivism rates, drug courts aim to save money. Finally, drug courts seek to create social benefits, such as reducing crime in the community and reuniting families. The effectiveness of a drug court in achieving these goals can be evaluated based on the criteria outlined below.

3. CRITERIA FOR EVALUATION

Drawn from a variety of evaluations and performance reviews, such as the BJA's "Defining Drug Courts: The Key Components" and the New Hampshire Center for Public Policy Studies' series of Performance Evaluations of Strafford County's Drug Treatment Court, the following four factors have emerged as useful measures of a drug court's effectiveness: (1) Recidivism rates, (2) Cost-effectiveness, (3) Impact across gender, race, and age, and (4) Social consequences. Given the relatively small number of drug court participants in these states to date, the ability to make generalizations about drug courts nationally is somewhat limited.

- **Recidivism rates:** A primary purpose of drug courts is to help clients overcome drug addictions and avoid repetition of drug-related crimes. The success of a drug court in achieving these goals can be gauged to a certain extent by the recidivism rate: the rate at which offenders are re-arrested. Comparing the recidivism rate of drug court graduates to comparable offenders who are sentenced to traditional methods of incarceration is a useful tool for assessing the impact of drug courts on deterring future crime. Analyzing the percentages of individuals that successfully graduate from drug courts also offers insight into clients' tendencies to recidivate or engage in drug use while still in the treatment program.
- **Cost-effectiveness:** Drug courts also aim to reduce costs by providing a more rehabilitative alternative to traditional incarceration and by reducing the social costs associated with drug-related recidivism. Comparing the day-to-day costs of holding individual offenders in correctional facilities as opposed to drug courts yields insight into the cost-effectiveness of drug courts. Given the startup costs of drug courts and the small population size of these programs, it is also relevant to consider how long it takes for a drug court to cover its startup and upkeep expenses.
- **Impact across gender, race, and age:** Because drug courts seek to establish proportional sentences and equitable treatment, it is relevant to consider the impact that they have on different genders, races, and age



groups. Comparing these groups on graduation rates and other statistical measures should reveal whether or not drug treatment programs affect participants with certain demographic characteristics differently.

- **Social Consequences:** Drug courts may also engender a variety of social consequences that are less easily quantified. Examples include the effects of drug courts on participants' families, employment opportunities, and the like.

One of the factors that limits our ability to evaluate these criteria is the relatively small sample size of drug court participants. For example, New Hampshire only has three drug courts that meet the BJA's ten criteria, and one of them was started at the end of 2010. Further, only about 150 people in total have graduated from these courts. This limited sample size restricts our ability to compare statistics like recidivism rates and cost savings across drug courts.

Another limitation is that some studies measure certain statistics differently from the way other studies measure the same statistic. For example, some studies calculate recidivism by analyzing how many drug court participants are rearrested, while others consider the number of graduates rearrested. Some studies also use reconviction as a measure of recidivism rather than re-arrest. To the extent possible, this report will attempt to specify the definition of recidivism used in each invocation.

4. DRUG COURTS IN NEW HAMPSHIRE

4.1 Strafford County

In 2003, almost 14 percent of all arrests in Strafford County were for drug-related offenses.⁸ In response, the Strafford County Superior Court and the County Commissioners obtained a grant from the U.S. Department of Justice to start an adult drug court program, which became operational in January 2006. Over the last six years, the drug court has maintained an average of 47 offenders enrolled in the program at one time and has successfully graduated 100 participants.⁹ Offenders who complete the 12-month program go through three phases of targeted treatment that afford them increasing levels of autonomy, culminating with graduation. Following a year of probation, graduates can petition the court to expunge their charges. In order to evaluate Strafford's drug court according to the criteria of this report, data was drawn largely from the New Hampshire Center of Public Policy Studies' performance evaluations. The comparatively larger amount of data available on Strafford's drug court allowed for more extensive analysis than possible for some other drug courts.



4.1.1 Recidivism Rates

Of Strafford's 100 graduates, the vast majority have not recidivated. Only ten graduates have committed a new felony or a misdemeanor level offense since exiting the program.¹⁰ During their time in drug court, 52 percent of participants tested positive for drug use at least once and 46 percent were terminated from the program (conversely, 54 percent graduated).¹¹ However, only nine of the offenders terminated (less than 10 percent) committed a new offense during the program. On the whole, the vast majority of participants did not recidivate during the program and the vast majority of graduates have not recidivated since. Compared to the national recidivism rate of 67.5 percent for traditionally incarcerated individuals (measured by the percentage of state prison inmates rearrested within three years of release), Strafford's drug court has made significant strides in reducing repetition of drug offenses by offenders within its purview.¹²

4.1.2 Cost-Effectiveness

Strafford's drug court also seems to be a cost-effective alternative to incarceration. The cost of supervising an individual in the Strafford County drug court is \$9 per day (this figure does not include the price of counseling), while the cost of incarcerating an individual in the Strafford House of Corrections is \$84 per day.¹³ Furthermore, judges would still be paid the same salaries irrespective of the existence of drug courts, possibly causing personnel costs for drug courts to be overestimated. Most importantly, the Strafford drug court helps curb one of the more costly phenomena in the criminal justice system: recidivism. With a post-graduation recidivism rate of ten percent, the Strafford drug court has undoubtedly preempted many \$84 per day stays in County Corrections.

4.1.3 Race, Gender, and Age

Some trends have emerged regarding the effectiveness of the Strafford drug court across genders and age groups. The Strafford drug court typically maintains a 60/40 male to female ratio, which may be because women often opt for alternatives that would place less strain on their time with family.¹⁴ In the first year of the Strafford drug court's operation, female participants appeared to be struggling due to a lack of gender-specific treatment groups.¹⁵ In response, the court began offering female-only treatment groups on a weekly basis. Grafton County Commissioner Michael Cryans attributed the unique challenges that women face in drug courts to caring for children or dealing with the trauma of past abuse. Despite these barriers, women in the program averaged three positive drug tests in six months, as opposed to five for men (although women were more likely to test positive earlier). The younger 50 percent of clients (under age 28) also proved to be 12 percent more likely to test positive than the older 50 percent. Younger clients who had positive tests averaged five positive results in a six-month period and had their first positive result around the 60-day mark. Older clients averaged three positive tests, with the first occurring on average at the 74-day mark.¹⁶ Given that 93 percent of



program participants are white, we do not have enough data to draw conclusions about whether or not the Strafford County drug court is more effective for certain races.¹⁷

On the whole, males, first-time offenders, clients entering with a drug charge, the older half of participants, and those more adherent to treatment had the highest graduation rates. The highest graduation rate (71 percent) was found among older, first-time drug offenders. These statistics suggest that women and younger participants continue to warrant special attention from the Strafford drug court team.

4.1.4 Social Benefits

By reducing recidivism and helping clients overcome drug abuse, the Strafford drug court has provided benefits to the community. As an ancillary benefit, the court also seems to be successfully encouraging participants to secure and retain employment. As participants move from Phase I to Phase II to Phase III, the percentage of clients sanctioned for failure to obtain employment moves from 19 percent to five percent to zero percent. Between the first and second years of the court's operation, the percentage of participants rewarded for employment-related activities (typically with applause, gift cards, or candy) increased from 16 percent to 30 percent.¹⁸

4.2 Grafton County

With the help of a \$20,000 grant from the U.S. Department of Justice, the Grafton County drug court was established in 2007. Since 2007, 27 participants have graduated.¹⁹ The Grafton County drug court has a lower recidivism rate for drug crimes (between 9 and 10 percent) than the national average (33 percent).²⁰ The anticipated budget for the 2012-2013 Fiscal Year is \$251,064.²¹ In terms of social benefits, Commissioner Cryans stated in a recent interview, "drug courts are really saving lives, especially for the young. It gives them a second chance and an opportunity to not let their addiction kill them."²²

4.3 Rockingham County

Established in 2010 with a \$350,000 grant awarded by the U.S. Department of Justice, the Rockingham County adult drug court is the newest of the three New Hampshire drug courts. It was created to allow non-violent offenders with a history of drug addiction and mental health problems the opportunity to participate in a 12 to 18 month drug treatment program and avoid incarceration.²³ Rockingham County Superior Court Judge Tina Nadeau directs the program with a planning and operations team, which includes representatives from law enforcement, the county attorney's office, local treatment providers, and other stakeholders.²⁴ An advisory committee of community leaders has also been created to guide the drug court team and to provide community outreach.²⁵



Because Rockingham's drug court has only been operating for a year, the sample size of participants is too small to draw conclusions about the court's effectiveness.

5. DRUG COURTS IN MAINE

5.1 Establishment

Maine's first six adult drug treatment courts (ADTC) were established in August 2000 and began accepting participants in April 2001. These courts were located in Washington County, Penobscot County, Androscoggin County, Cumberland County, and York County. Oxford County's drug court was discontinued in May 2004 due to under enrollment, and an additional ADTC was created in Hancock County in July 2008. Penobscot County's adult drug treatment court closed in November of 2012, primarily due to the high recidivism rates of program participants.

Since the inception of drug courts in Maine twelve years ago, 1,435 men and women have participated in the programs. As of December 31, 2012, there were 150 active participants statewide.²⁶ Drug courts in Maine use a formalized treatment curriculum called the Differential Substance Abuse Treatment (DSAT) program, and funding for the specialized treatment offered comes through the Office of Substance Abuse and Mental Health Services (SAMHS).²⁷ Maine's ADTCs are administered by drug court teams in each county, in cooperation with Adult Community Corrections of the Department of Corrections, as well as legal and law enforcement partners.²⁸ Information on Maine's ADTCs is centralized through the DTxC database, a web-based data management information system for all of Maine's drug treatment courts.²⁹ Most of the data presented below on recidivism rates, cost-savings, and court effectiveness have been culled from annual reports presented by the Maine Administrative Office of the Courts to the legislature's Joint Standing Committee on the Judiciary.

5.2 Sources of funding

The Office of Substance Abuse, a division of the Maine Department of Health and Human Services, provides the majority of funding for Maine's drug courts. The program was implemented over a decade ago with money from the *Fund for a Healthy Maine* organization, which was funded by the state's share of a settlement with the tobacco industry.³⁰ When the funding source for Maine's drug courts shifted to the General Fund a few years ago, the amount of money available was reduced. As a result, the drug court program for juveniles was eliminated. Maine's Judicial Branch has also been the recipient of four BJA grants. The majority of these grants were for enhancing information systems, outcome evaluation, and case management services. However, three of these grants expired at the end of 2012, and the remaining enhancement grant to Washington County will end on July 1, 2012.³¹



5.3 Outcome Findings

Because Maine's drug court system is relatively centralized, it is more conducive to statewide analysis than a county-by-county analysis. Participants in Maine's drug court programs generally enter with very serious substance abuse problems. In the University of Southern Maine's 2006 assessment of Maine's ADTCs, 81 percent of participants across the five counties received scores in the moderate to severe range on the Computerized Screening Assessment (CSA).³² In order to monitor participants as they complete the DSAT curriculum, participants generally receive one unscheduled home visit per month, with some variance across counties. Of the 1,435 program participants, 51 percent have graduated, which is higher than the national average of 48 percent. It is important to keep in mind what graduation rates can and cannot reveal about drug courts. Although a significantly higher graduation rate than other localities is generally a positive indicator, Maine drug court program director Harwell Dowling has pointed out that some courts terminate participants more quickly than others, which may simply reflect more careful monitoring. A high graduation rate could mean that the drug court is not closely monitoring progress (which would likely be indicated by the co-occurrence of a high recidivism rate).

According to the Report to the Joint Standing Committee delivered on January 14, 2013, participants in Maine's adult drug treatment courts are rearrested at significantly lower rates than are traditionally incarcerated offenders. Recidivism rates one year after discharge have historically been 17 percent for drug court participants -- in other words, 17 percent of all drug courts participants are reconvicted within one year of leaving the drug court system -- as compared to 33 percent for traditionally incarcerated offenders.³³ The Maine Judiciary Branch estimates that for every one dollar spent on adult drug courts in Maine, \$3.30 in savings to the state's criminal justice system are generated from reduced recidivism and costs associated with incarceration. This adds up to a projected savings in corrections costs of \$819,490 from the inception of drug courts in 2001 through 2011.³⁴ The drug court system may also generate long-term cost savings in the form of drug-free births: since 2001, there have been at least 60 drug-free births to drug court participants in Maine. The estimated total lifetime health care costs associated with a child prenatally exposed to drugs and alcohol ranges from \$750,000 to \$1.4 million.³⁵ Within the first eighteen years of life alone, the cost per child generally approaches or exceeds \$1,000,000.³⁶ In 2006, five years after the program was established, the University of Southern Maine estimated that Maine's drug courts had already produced a net savings of \$11,345,726. Their estimate was based on annualized cost comparisons between 269 adult offenders placed in the adult drug court program against the comparison group of 269 offenders who were traditionally incarcerated.³⁷



Table 1: Cost-Savings Estimate for Maine's Adult Drug Treatment Court Program

	<i>Comparison Group</i>	<i>Drug Court</i>	<i>Total</i>
Total Operational Costs (Drug Court)	0	\$462,494	(\$462,494)
Cost of New Criminal Activity	\$583,172	\$138,573	\$444,599
Incarceration Costs (New Crim. Conduct)	\$925,665	\$656,152	\$269,513
Jail Sanctions	0	\$138,540	(\$138,540)
Subtotal	\$1,508,837	\$1,395,759	\$113,078
Differed Incarceration Costs (Graduates)	0	\$11,232,648	\$11,232,648
Total Savings			\$11,345,726

Source: University of Southern Maine, Department of Sociology

5.4 Participant Statistics

Most individuals who enroll in Maine's drug courts are single white men. In 2006, 95 percent of participants were white, 64 percent were male, and 58 percent were single.³⁸ The demographic makeup of the program generally reflects larger state trends: 95.4 percent of Maine residents are white, and 48.9 percent are male.³⁹ It is notable that the scores of men in DSAT pre-post battery assessment were more likely to improve across the board than those of women, which were "more varied and situationally specific."⁴⁰

When necessary for the purpose of behavioral management, the most commonly used sanction in Maine's drug courts is incarceration (used in 38 percent of cases), which is overwhelmingly used in the case of drug use or new criminal conduct (75 percent).⁴¹ Less serious infractions such as missing a scheduled appointment generally incur consequences such as community service (34 percent) or written assignments (22 percent). The most frequently utilized incentive is advancement to the next phase (56 percent of cases)

Aside from the mandatory aspects of the DSAT curriculum, program participants are offered a variety of ancillary services. As of 2006, 57 percent of participants availed themselves of at least one of these services, including: batterer's intervention programs; crisis intervention; and mental health, residential, healthcare, employment, educations, and transportation services. However, since the majority of participants in Maine drug courts are already employed at the time of their admission (77 percent, with the exception of Washington County), the benefits of Maine's ancillary employment services are not as pronounced as in some other states.



5.5 Penobscot County

The drug court in Penobscot county closed in November 2012, due to performance issues and funding constraints.⁴² The 2006 report by the University of Southern Maine found that the Penobscot drug court ranked second to last in the state for successful outcomes (York County was last). At this time, the recidivism rate in Penobscot County was 28.6 percent, compared to the 25.7 percent of defendants who were sentenced to prison or jail terms.⁴³ In addition to high recidivism rates, other factors cited by Guy Cousins of the Office of Substance Abuse for the termination of Penobscot's drug court included the higher than average turnover of a treatment provider and the availability and support of other community programs and governmental resources in the county. According to Cousins, Penobscot and York counties were given suggestions on how to improve their outcomes. York implemented them and its outcome results improved; Penobscot did not implement the suggestions and its outcomes continued to lag.

Due to the closure of Penobscot's drug court, defendants in the county have been given the opportunity to attend drug court in neighboring Hancock County (provided that the district attorneys from both counties approve and defendants have reliable means of transportation). To date, three individuals have taken advantage of this opportunity. Approximately \$118, 600 previously used for substance abuse treatment and case manager salary has now been reallocated from Penobscot to the Co-occurring Disorders Court in Augusta, which was previously funded with federal grant money that is no longer available.⁴⁴

6. DRUG COURTS IN VERMONT

In 2007, Act 128 authorized the creation of pilot adult drug courts in Chittenden, Rutland, Washington, and Bennington counties. Several months later, Bennington's drug court was replaced by an integrated domestic violence docket, leaving Vermont with three NADCP-approved drug courts. As of 2011, 439 Vermont residents have enrolled in a drug court. Approximately half of participants and graduates are women, compared to 25 to 27 percent nationally.⁴⁵ The most data is available on the drug courts of Chittenden and Rutland counties, which will be the focus of analysis.

The drug court process is relatively consistent across all three Vermont drug courts. After pleading guilty, the defense counsel may refer defendants for non-violent crimes to drug court. The drug court team for the county then uses consensus decision-making to either approve or reject the participant. The drug court team includes the judge, the public defender, the state attorney, and treatment professionals (which includes clinicians and case managers). Case managers closely monitor the progress of each participant and present the participant's progress to the judge and drug court team once per week. Some teams may also have a probation or parole officer from the Department of Corrections.



Once enrolled in drug court, participants must complete three phases. In the first phase, participants undergo random drug testing three times per week. Given that several failed drug tests are expected for participants in the first phase, a failed drug test in this phase leads to a treatment-based sanction, which could include daily drug testing or counseling sessions. In the second and third phases, participants are randomly tested twice per week and once per week, respectively. In these phases, sanctions for failing a drug test may include several nights in jail. Sustained sobriety may be rewarded with a round of applause from the drug court team or a gift card. Although the program was designed to be completed in nine months, the average Vermont drug court participant takes approximately 18 months to graduate.⁴⁶

Drug court participants in Vermont tend to have similar demographic characteristics. Vermont drug courts average about 24 participants at any one time, who have an average graduation rate of approximately 46 percent.⁴⁷ The average participant is white and in his or her mid-twenties. Drug court participants also tend to be addicted to drugs other than alcohol. Superior Court Judge Patricia Zimmerman reports that there are very few alcoholics in drug court, simply because people with alcohol addictions generally do not need to commit crimes to get alcohol. If they are caught, they are typically caught drinking and driving. Drug courts in Vermont generally do not accept participants caught drinking and driving because the Department of Corrections already has a successful program in place for addressing this criminal offense.

6.1 Chittenden County

In March 2003, Vermont's first adult drug court opened in Chittenden County. As of May 2012, 624 participants have enrolled and 482 have graduated.⁴⁸ Half of all participants are female, the average age is between 24 and 26, and the majority of participants are white. There are two African Americans and one Native American currently enrolled.⁴⁹ Participants are drug tested and meet with a judge every other week. The average recidivism rate for all participants is between 36 and 40 percent and the recidivism rate for graduates is 14 percent.^{50,51} According to the Department of Corrections, 66 percent of inmates nationally are re-arrested within three years of being released.⁵² Thus, Chittenden's drug court significantly reduces recidivism. It is also less expensive than traditional court processing. According to Vermont Attorney General T.J. Donovan, drug court treatment costs about \$95 per day per participant, compared to \$180 per day per person incarcerated.⁵³

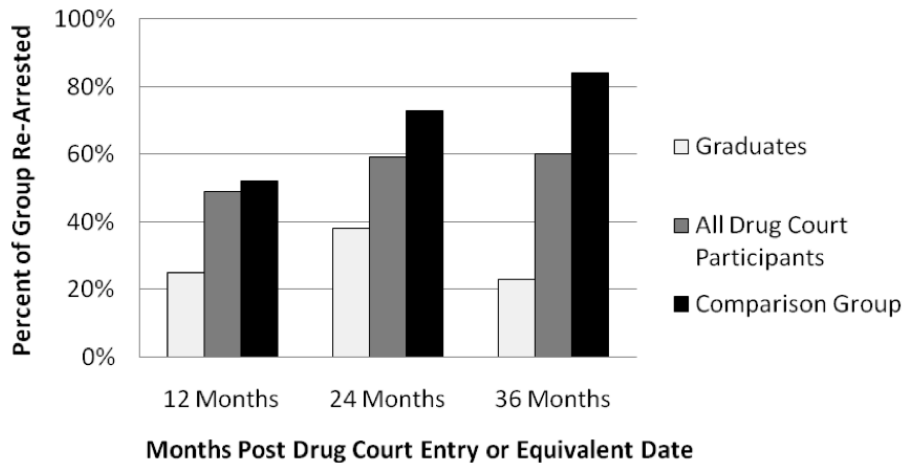
6.2 Rutland County

With the support of a federal BJA grant for drug court startup and implementation, the Rutland County adult drug court (RCADC) opened in January 2004. In 2008, NPC Research was commissioned to evaluate the effectiveness of the RCADC in reducing recidivism, reducing costs, and rehabilitating participants. The authors of the report



analyzed data for participants enrolled in the RCADC from January 1, 2004 through July 31, 2007. They also looked at data for a comparison group of offenders who qualified for drug court but who chose to receive traditional court processing instead.

Graph 1: Percent of Graduates, All Drug Court Participants, and Comparison Group Re-Arrested Over 36 Months in Rutland County



Source: “Vermont Drug Courts: Rutland County Adult Drug Court Process, Outcome, and Cost Evaluation Final Report.” NPC Research Jan. 2009: 31

As the graph above indicates, RCADC participants had lower recidivism rates than comparison group members. The report finds that 23 percent of RCADC graduates were rearrested within three years, compared to 84 percent of comparison group members. Lower recidivism rates among RCADC participants resulted in a savings of \$15,977 per participant over a three-year period, regardless of whether or not the participant graduated. Over ten years, the authors speculate that savings per participant will exceed \$53,000, resulting in a \$3 return on each dollar invested. In addition to reducing recidivism-related costs, the authors find that criminal justice system costs are \$5,809 less for the average drug court participant, compared to the average comparison group member. RCADC graduates also had significantly reduced drug use and had three times fewer drug charges in the three years following drug court enrollment.

The NPC Research report presented additional findings about participants. On average, it took RCADC graduates just over one year to complete the program. Seventy-one percent of participants were in the program for fewer than seven months. Thirty-six percent of RCADC participants graduate, which is 15 percent below the national average. The study also analyzes gender, age, race, and length of participation in the program. It finds that the only statistically significant relationship is length of participation in the program, which simply says that graduates stayed in the program significantly longer than non-graduates. Although the difference was not statistically significant, women were more likely to graduate than men, with graduation rates of 62 percent and 38 percent, respectively. Given that 98 percent of the Rutland population is white, this study is not a



particularly useful source of information about how the effectiveness of Rutland's drug court varies by race.

According to the report, the Rutland drug court is doing an exemplary job of implementing the BJA's ten key components. Strengths include: integrating alcohol and other drug treatment services effectively with justice system case processing, using a non-adversarial approach, providing a good continuum of treatment services, using frequent alcohol and other drug testing, using a reward and sanction structure for responding to participant compliance, fostering meaningful relationships between the judge and participants, training all team members in accordance with the national model, and developing partnerships with organizations in the community. Areas for improvement include: lengthening terms for the drug court judge, providing more explicit explanations of the reasoning behind giving sanctions to participants, increasing the frequency of drug tests, and raising the graduation rate by improving support systems for participants.

Kim Owens, Rutland County's treatment court coordinator, provided us with statistics published following the NPC report. At any one point in time, the RCADC averages between 21 and 25 participants. As of May 2008, 111 people had enrolled in the drug court. Of those 111, 32 graduated, 59 either withdrew or were terminated, and 20 were active participants. More than 95 percent were white. We were unable to obtain data on the average age of drug court participants in Rutland.

Following the release of the NPC report, RCADC made several changes.⁵⁴ For example, it applied for a grant that would enable it to better serve defendants with co-occurring disorders. An example of a participant with co-occurring disorders is someone with both a drug addiction and a mental illness. The \$888,000 enhancement grant was approved. This grant helped increase drug court enrollment by allowing RCADC to hire one full-time case manager, one part-time case manager, and one co-occurring clinician. Another change Rutland made in response to the NPC report was increasing the number of "paths to entry" available to participants. Whereas participants were previously required to enroll post-plea, one of the six current pathways to entry includes pre-plea. Now in the fourth year of the grant, RCADC has increased its retention rate by 57 percent.

As of June 2012, 54 percent of participants in the Rutland County drug court are female and all are white; the average age is 27. The majority of referrals come from the public defender's office. Going forward, Rutland is in the process of shifting from the RAND model for evaluating participants to the O.R.A.S. (Ohio Risk Assessment) model. Several focus points for Rutland are developing rapid, confidential screening; increasing the number of referrals it receives; and increasing its partnership with Rutland Probation and Parole.



7. COST-BENEFIT ANALYSIS

Counties deciding whether or not to develop a drug court will attempt to weigh future benefits against the costs of developing a drug court. A cost-benefit analysis is necessary to determine whether the reductions in recidivism associated with drug courts are large enough to warrant the additional cost of processing a case. We find that they are.

Cost-benefit ratios are often calculated to identify the savings associated with the drug court system compared to traditional incarceration per dollar invested in the program. While the exact methodology varies, this generally involves the following calculation:

$$\text{(Drug court costs-Traditional costs)} / \text{(Drug court costs)}.$$

Costs for drug courts and traditional court processing include recidivism costs and court processing. In other words, a cost-benefit analysis must account for the future costs of crime that would be prevented by drug court programs if their graduates are less likely to recidivate. Because judges, court clerks, judicial marshals, prosecutors, and probation and parole officers are used by both drug courts and traditional court processing, these resources are not usually included in drug-court cost benefit analyses.

Cost-benefit studies carried out throughout the nation generally suggest that drug-courts are cost effective, with cost-benefit ratios as high as \$3.36 of savings for every \$1 spent.⁵⁵ The Maine drug court system reports a cost-savings ratio close to this upper range: the 2012 Report to the Joint Standing Committee on the Maine Judiciary 126th Legislation indicates \$3.30 worth of savings for every dollar spent through reduced recidivism and incarceration.⁵⁶ A similar analysis carried out for the Rutland County Drug Court System in Vermont indicates savings of \$3 per dollar invested.⁵⁷ The methodologies employed at these two sites can be used as models for stakeholders looking to carry out similar analyses in other counties.

Another important consideration is the savings accrued over time as a function of the number of new drug court enrollees each year. The projected savings for a drug court with 25, 50, and 100 new enrollees each were modeled over a five-year period. An annual per participant savings of \$5,324.65 was used, based on the calculations and parameters used in the 2009 report on the Rutland County drug court in Vermont.⁵⁸ This value (\$5,324.65) was multiplied by the number of new participants (25, 50, or 100) to determine the cost-savings after year one of the drug court program. For each additional year, this value was multiplied by the number of years the drug court was in operation and added to the savings generated by each additional cohort.

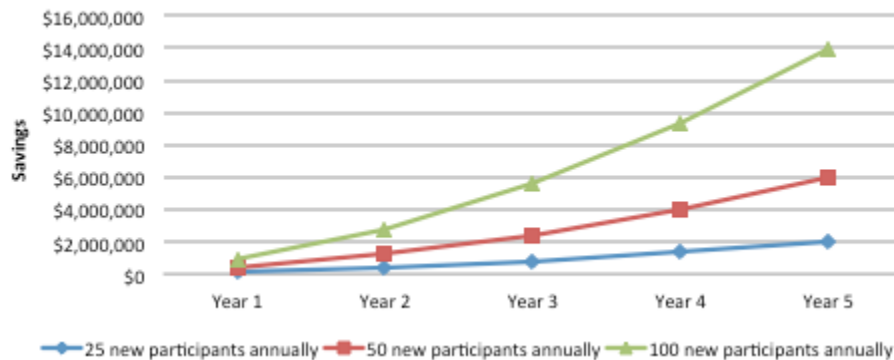


For example, savings accrued by the drug court system after year three in operation are estimated using the following formula:

$$\text{YR 3 Savings} = (\text{YR 1 Participants} * 3 \text{ years}) + (\text{YR 2 Participants} * 2 \text{ years}) + (\text{YR 3 Participants} * 1 \text{ year})$$

The results of this analysis are shown in Figure 1. After five years, the savings accrued by a drug court with 25, 50, and 100 new participants each year are expected to be just over \$2 million, \$6 million, and \$14 million, respectively.

Graph 2: Projected Drug Court Cost-Savings Over 5 Years as a Function of the Number of New Participants Per Year



There are some important limitations inherent in this analysis. First, the per participant savings are based on 2009 data from the Rutland County drug court system and may not accurately reflect conditions at other sites. Second, this model does not distinguish between drug court participants and graduates. The recidivism rate used is the rate averaged over all participants, which may either slightly under or over-estimate savings depending on the ratio of drug court graduates to dropouts at a given site. Third, this model assumes that recidivism rates for a given cohort stay constant over time. Additional data is needed to more accurately project cost savings. However, this rough analysis does emphasize the significant impact drug court enrollment rates have on savings accrued over time. Hopefully, stakeholders may use this rough estimate to weigh projected savings against the start-up costs for a drug court system to develop a rough timeline for their return on investment.

8. KEY TAKEAWAYS

Based on our study of drug courts in Vermont, New Hampshire, and Maine, drug courts appear to be a viable alternative to incarceration. Of the twelve drug courts we analyzed, only Penobscot County demonstrated a higher recidivism rate than local jails, and was subsequently closed. Aside from Penobscot's anomaly, drug courts in these three states reduce recidivism, often by significant amounts. Further, the drug court officials we spoke to had positive anecdotes to share with us about the social benefits of drug courts.



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We found several commonalities across drug courts in Vermont, New Hampshire, and Maine. Female participants graduate at lower rates on average. This suggests that even more gender-specific programming may be needed to improve retention rates among women. Drug court participants are also predominantly white. This is consistent with the racially homogenous populations of Vermont, New Hampshire, and Maine.

All three states relied on BJA grants as a primary source of startup funding. As cited earlier in this report, initiating a drug court program requires a large upfront capital investment. This funding usually comes in the form of a grant. The BJA Drug Court Discretionary Grant Program typically grants funding to countries that can demonstrate a thorough framework for the proposed drug court. The BJA also awards funding for enhancing pre-existing programs. Drug courts typically apply for enhancing grants after their startup grant expires. In 2012, BJA awarded over \$27 million to adult drug treatment courts across the nation.

Counties that make good candidates for establishing a drug court share similar characteristics: dedication to the success of drug court participants, public defenders who are willing to send their defendants to drug court, and judges and prosecutors who are willing to take on additional responsibilities.

We also found several differences across drug courts in New Hampshire, Vermont, and Maine. For example, drug courts in New Hampshire tend to emphasize active community participation, while drug courts in Vermont and Maine were more likely to be a more coordinated statewide effort. For example, when the Penobscot County treatment court was closed, its participants were allowed to register in Hancock County's treatment court. Although allowing people in counties without drug courts to enroll in drug courts in nearby counties may be an effective way to expand the reach of drug courts, there are several counter-arguments to this initiative. First, because drug court participants are responsible for arranging their own transportation, few potential participants in neighboring counties may prove able to attend a drug court outside their county. Second, states that value the community-centered nature of drug courts, such as New Hampshire, may oppose cross-county registration due to structural preference.

A second difference across the three states is the presence or lack of co-occurring dockets. For example, Rutland county drug court in Vermont is split into two dockets: one for drug addicts with mental health programs and one for drug addicts without mental health programs. Although we do not have enough data to draw conclusions about the effectiveness about co-occurring dockets, it is plausible that their effort to target specific resources toward specific demographics could lead to better results and possibly higher graduation rates among participants. A third difference we found was that the average



participant in Vermont was younger than the average participant in Maine and New Hampshire.

9. KEYS TO SUCCESS

Chairman of the Board of the Strafford County Commissioners George Maglaras, one of the pioneers of the Strafford County Drug Treatment Court, has emphasized the importance of looking outside of county lines to determine best practices for drug courts. In his words, “I am grateful that we took the time and energy to visit other jurisdictions and brought back the best practices to Strafford County.”⁵⁹ In our investigation of the drug courts of New Hampshire, Maine, and Vermont, several best practices for drug courts have emerged. As the oldest drug court in New Hampshire, the experiences of Strafford's drug court may have valuable lessons for other courts or counties considering the development of a drug court. Our findings for best practices include the following:

- **Clear termination criteria.** During Strafford's drug court's first year of operation, no written criteria existed for termination of a client. This lack of clear criteria reportedly caused some dissension within the drug court team as to whether certain cases should be terminated. This issue was resolved the next year by adding written termination requirements to the court's policies and procedures manual.⁶⁰
- **Effective use of sanctions and incentives.** A variety of sanctions and incentives have proven to be effective in encouraging desirable behaviors. First, sanctions must be fair and applied consistently in order to be perceived as credible by drug court participants. Also, if relatively severe sanctions such as jail time are imposed too early in the program, their impact may be blunted later on.⁶¹ Sanctions also have the potential to be counterproductive. In Strafford drug court's first two years, 88 percent of clients terminated were sent to jail as a sanction at some point, as opposed 44 percent who later graduated.⁶² Using treatment-related sanctions may prove more effective than jail time.
- **Ongoing judicial interaction.** Regularly speaking to a judge in a non-adversarial manner is essential for each client's success. Frequent communication helps develop a mentor-mentee relationship between the judge and participant.⁶³ According to the National Institute of Justice's special report entitled “Drug Courts: The Second Decade”:⁶⁴

Offenders report that interactions with the judge are one of the most important influences on the experience they have while in the program. They respond to the judge's interpersonal skills and ability to resolve legal problems expeditiously and provide ready access to services. Offenders who interact with a single drug court judge, rather than multiple judges, may be more likely to comply with program demands.



- **Rapid, confidential screening.** This increases referrals because rapid, confidential screening increases the information the defense counsel has when negotiating with the state over whether or not to send their defendant to drug court.⁶⁵
- **Targeted programs for specific demographics.** Specific programs aimed at younger and female clients can decrease termination rates among individuals with these demographic characteristics. Especially for women who enter drug court with family issues or a history of abuse, same-gender group sessions can have a powerful impact.⁶⁶
- **Expeditious referral time.** Drug courts are premised on the idea that drug offenders are most receptive to intervention right at the “crisis moment” of arrest.⁶⁷ As a result, drug courts are most effective when drug offenders are referred by Licensed Alcohol and Drug Counselors as quickly as possible.
- **Separation of participants according to risk.** Both Doug Marlowe, a leading figure in drug court research, and Hartwell Dowling noted the importance of keeping high- drug users and low- drug users separate throughout drug court proceedings, in an effort to ensure that high- drug users don’t influence low- users to become high-.
- **Co-occurring dockets for mentally ill participants.** Vermont has several courts that have increased enrollment by adding resources specifically for participants with mental illnesses.

10. BARRIERS TO EXPANSION

Given that drug courts generally reduce recidivism and are less expensive than prisons, the expansion of drug courts into other counties may be a desirable option for policymakers. Therefore, drug court stakeholders should be cognizant of several prominent barriers to the expansion of drug courts.

The primary deterrent to drug court expansion is a lack of funding. This was mentioned in every interview we conducted. In New Hampshire, although recent legislation has made it legal for all ten counties to develop drug courts, counties must seek out the funding on their own. With statewide and county budgets tighter than ever, many legislators are less inclined to appropriate funds for start-up programs like drug courts. Given that drug courts require large start-up costs, the state is even less inclined to foot the bill, because the state does not have the option of allocating the funds over a longer period of time. Consequently, drug courts usually require a grant of between \$300,000 and \$500,000 from outside sources (sometimes the Department of Justice) in order to purchase the necessary drug testing and treatment equipment, and to hire drug court staff treatment specialists.⁶⁸ When the funding period expires, the county must step in and cover the remaining costs. For example, according to Specialty Courts and Grant



Coordinator Hartwell Dowling, Penobscot County's drug court was closed (making it the only drug court in these three states to be closed) primarily for financial reasons.⁶⁹

Another factor blocking drug court expansion is the perception of drug courts as being lax toward criminals. However, director of the Strafford County drug court Alex Casale argues that jail is actually easier than being enrolled in a drug court for someone who is addicted to drugs.⁷⁰ In a drug court, the participant is forced to confront and combat his or her addiction, whereas criminals are simply removed from their drug of choice temporarily while living in a prison (where it is often possible to obtain drugs). Another misperception about drug courts is that participants continue leading their normal lives, relatively uninterrupted. In reality, however, participants are being monitored, tested, and counseled constantly.

A third barrier to drug court expansion is lack of political will. Although there is widespread consensus that prisons do not meet the needs of people with alcohol and other drug addictions, a widespread consensus has not been reached on how to reform the current system. Two vocal groups against drug courts, the Justice Policy Institute and the Drug Policy Alliance, argue that drug courts do not go far enough to meet the needs of alcoholics and other drug addicts. The Justice Policy Institute, which is a nonprofit that advocates for criminal justice reform, argues that drug addiction should be treated as a public health problem, not as a crime.⁷¹ The JPI thus advocates community corrections programs, in which addicts voluntarily enroll themselves in treatment programs based in the community. Both Merrimack and Strafford counties in New Hampshire have community corrections programs. Other advocates of prison reform, such as the Drug Policy Alliance, advocate the decriminalization of low-level drug possession, and cite Portugal as a decriminalization success story. A second source of political ambivalence results from the fact that drug courts require a lot more time and energy from members of the criminal justice system than prisons. As stated by Grafton County Commissioner Mike Cryans, the judge and prosecutor must be very passionate about and dedicated to the cause in order for a drug court to be effective.

A fourth barrier to expansion is the current under-enrollment of drug courts. This is currently an issue facing Vermont. As mentioned by Rutland's drug court coordinator Kim Owens, Rutland's drug court is currently operating at around 40 to 50 percent of total capacity. Under-enrollment delays return on investment, dampens the positive effects on society, and makes it more difficult to build momentum for the drug court movement.



11. CONCLUSION

After assessing the drug courts of New Hampshire, Maine, and Vermont by our five criteria for effectiveness, we find that drug courts are generally an effective alternative to incarceration. By providing critical rehabilitative support to drug addicts, drug courts create a system that promotes recovery, reduces recidivism, and saves money in the long run. In the short run, however, counties continue to search for the resources and political will to overcome the start-up costs associated with drug courts. To help surmount these initial obstacles, the governments of New Hampshire, Vermont, and Maine should consider providing additional financial support to counties looking to start drug courts. Such funding would be especially critical in the first few years after Department of Justice start-up grants have expired. In drug courts that are already established, counties should focus on tailoring programs to meet the needs of groups like women and younger participants, who are currently being terminated at relatively higher rates. Expansion of drug courts into new jurisdictions and the adoption of best practices in those that already exist will help create more equitable and effective treatment for drug offenders in the counties of New Hampshire, Vermont, and Maine.



APPENDIX I. LIST OF INTERVIEWS

In the preparation of this report, we interviewed the following drug court stakeholders:

- New Hampshire Representative Laurie Harding
- New Hampshire State Drug Court Coordinator, Strafford County Drug Court Director Alex Casale
- Grafton County Commissioner Mike Cryans
- Executive Director of Justice Policy Institute Tracy Velazquez
- New Hampshire Center for Policy Studies Economist Dennis Delay
- Director of the Grafton County Drug Court Bob Gasser
- Superior Chief Justice Tina Nadeau
- Maine Specialty Courts & Grant Coordinator Hartwell Dowling
- Rutland County Treatment Court Coordinator Kim Owens
- Chittenden County Drug Court Coordinator Jen Ruddy
- Vermont Treatment Court Coordinator Karen Gennette

APPENDIX II. THE NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONAL'S AND THE BUREAU OF JUSTICE ASSISTANCE'S TEN CRITERIA FOR A DRUG COURT

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
2. Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing
6. A coordinated strategy governs drug court responses to participants' compliance
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness

Source: "Defining Drug Courts: The Key Components." *The Bureau of Justice Assistance and The National Association of Drug Court Professionals* Oct. 2004



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