

Maine Adult Drug Treatment Court

EVALUATION REPORT Executive Summary

December 2020

Acknowledgments

Public Consulting Group, Inc. (PCG) would like to acknowledge, with great appreciation, the following organizations and their staff members, without whom this report would not have been possible:

- Maine Pretrial Services, Inc.
- Maine Judicial Branch: Administrative Office of the Courts
- Maine Office of Behavioral Health
- Maine Department of Corrections
- Maine Office of the Attorney General
- Maine Office of the Chief Medical Examiner

We would also like to thank all the members of each Treatment Court team, and particularly the case managers, for their willingness to collect data, provide information, and grant access to their meetings.

- York Adult Drug Treatment Court
- Cumberland Adult Drug Treatment Court
- Androscoggin Adult Drug Treatment Court
- Penobscot Adult Drug Treatment Court
- Hancock Adult Drug Treatment Court
- Washington Adult Drug Treatment Court
- Co-Occurring Disorders and Veterans Treatment Courts (Kennebec County)

Particular thanks go to Elizabeth Simoni, David Mitchell, Anne Jordan, Richard Gordon and Darcy Wilcox for providing abundant information, support and for reviewing report drafts. Finally, we thank all the Treatment Court participants, both past and present, who have taken the time to speak with us and provide their candid perspectives about the program and its impact on their lives.

Evaluation Staff: Public Consulting Group

Helaine Hornby, M.A., *Principal Investigator*

Travis Robinson, M.P.A., *Project Manager*

Christopher Newhard, Ph.D., *Data Analyst*

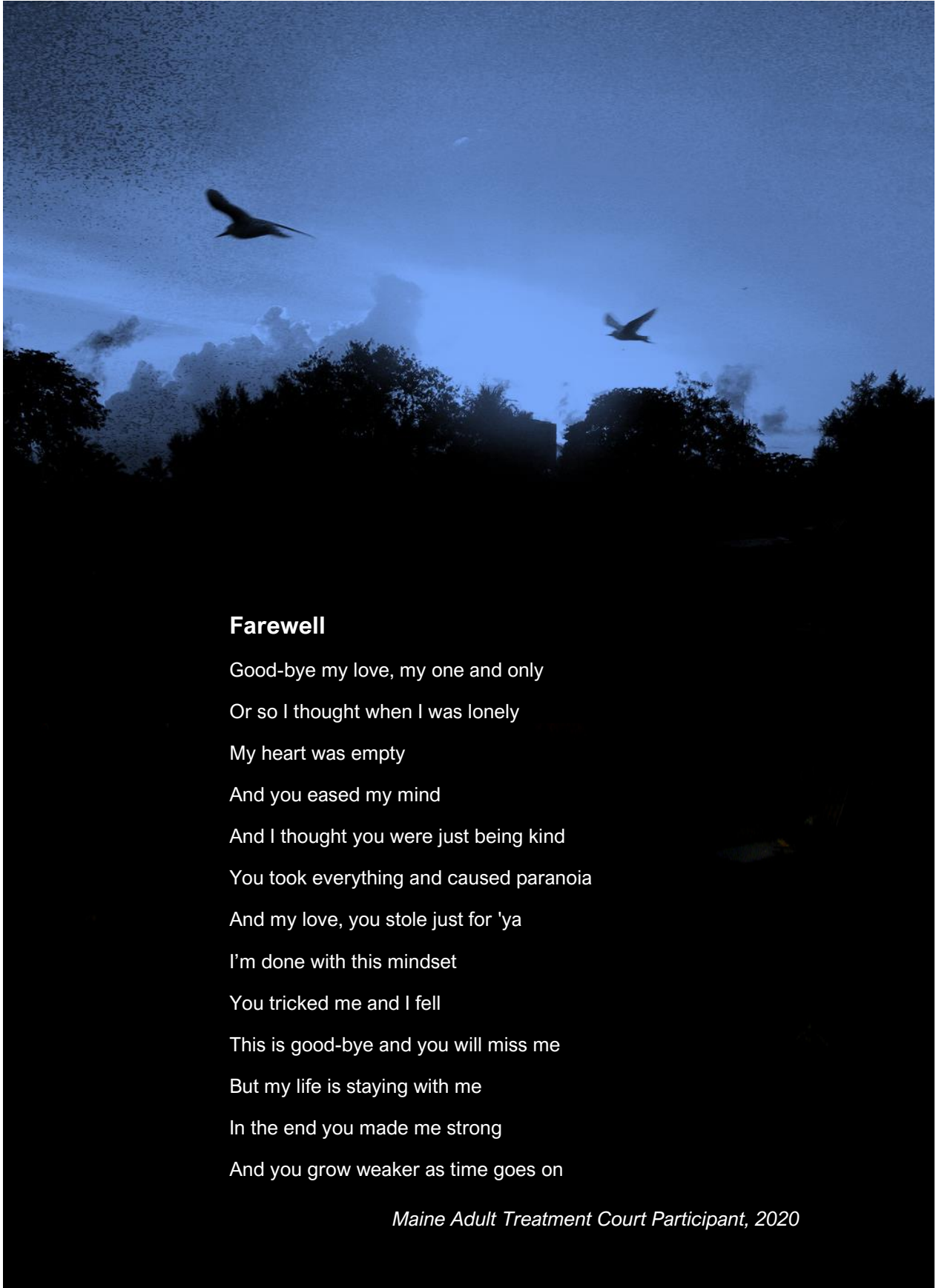
Kacie Schlegel, M.P.A., *Research Analyst*

Tina Marie Williams, M.Ed., M.P.A., *Research Analyst*

James Payne, J.D., *Subject Matter Expert*

For further information or a copy of the full report contact: Travis Robinson, Project Manager
trobenson@pcgus.com (317) 829-6560

This report was made possible with support from Maine Pretrial Services, Inc. and the Maine Office of Behavioral Health, Maine Department of Health and Human Services. It represents a joint effort of Maine Pretrial Services, the Judicial Branch and the Office of Behavioral Health. Published December 31, 2020.



Farewell

Good-bye my love, my one and only
Or so I thought when I was lonely
My heart was empty
And you eased my mind
And I thought you were just being kind
You took everything and caused paranoia
And my love, you stole just for 'ya
I'm done with this mindset
You tricked me and I fell
This is good-bye and you will miss me
But my life is staying with me
In the end you made me strong
And you grow weaker as time goes on

Maine Adult Treatment Court Participant, 2020

Executive Summary



Some people have never gone into a courtroom [before] where they left *not* in handcuffs.



Treatment Court Participant

This quote embodies recognition among treatment court participants that there is something different about treatment courts. Scholars explain it as “the judicial adoption of the disease model for explaining drug using behavior.”¹ The disease model profoundly shapes the adjudication process and particularly how judges view and treat participants. Public Consulting Group, Inc. (PCG), who has been contracted to conduct this independent evaluation, has found this to be exemplified by treatment courts in Maine.

The **Maine Adult Drug Treatment Court Evaluation**, the first in five years, provides much for Maine’s treatment court system to celebrate. Most notably, Maine can demonstrate significant reductions in post-treatment criminal recidivism, savings in costs, and most importantly, the rescue of lives. To speak to people who have completed treatment court or who are still in the process is an inspiration and a privilege.

Working in this field is extremely difficult. Judges, case managers and the entire team on the front line in Maine experience both the joy and rewards as well as pains and frustration.

Yet to hear how participants’ lives literally are being rescued provides the succor for them to continue.

More than once PCG heard, “I gave up on myself, but they [the treatment team] did not give up on me.”

Treating substance use disorders alone is challenging but doing so in the context of criminal charges and, often times, a history of failure, is more so. As stated by the federal Substance Abuse and Mental Health Services Administration (SAMHSA),² “while many similarities exist between substance abuse treatment for those in the criminal justice system and for those in the general population, people in the criminal justice system have added stressors ... and characteristics that affect treatment ... criminal thinking and criminal values along with the more typical resistance and denial ... found in other substance abuse treatment populations.”

SAMHSA references the multiple unsuccessful attempts at abstinence that “reinforce a negative self-image.” Maine treatment courts now have a new tool to help with that, Medication Assisted Treatment (MAT), allowing participants to treat their withdrawal symptoms to opioids. “MAT

¹ Nolan Jr, J. L. (2002). Drug treatment courts and the disease paradigm. *Substance use & misuse*, 37(12–13), 1723–1750.

² Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration. (2005). Substance abuse treatment for adults in the criminal justice system. (Treatment Improvement Protocol (TIP) Series, No. 44.)

medications relieve the withdrawal symptoms and psychological cravings that cause chemical imbalances in the body. Medications used for MAT are evidence-based treatment options and do not just substitute one drug for another.”³

In PCG’s most recent round of treatment court interviews, the toll of the COVID-19 pandemic is becoming evident, not only on treatment court participants, due largely to isolation and the interruption of activities, but also on staff. Both judges and case managers report increased concern and observation of relapse and regression, including overdosing and people absconding. While these are factors which are already anticipated in the treatment and recovery process, it appears worse now and is creating “secondary trauma” among the staff; they report they are struggling and experiencing sleepless nights worrying about their clients. While this report addresses the current situation, the analyses encompass information dating back to 2015 since the last statewide evaluation was completed and provides a more comprehensive perspective.

Not everyone in treatment court succeeds, but Maine’s graduation rate now exceeds 50 percent and is consistent with national averages. The evaluation demonstrates, however, that graduation is not the only benchmark for success. Treatment court participants have lower recidivism rates than those in matched comparison groups. Even people who do not complete the program are engaged for an average of 12.6 months compared to 17.8 months for those who graduate. They have been afforded the ability to receive positive coping skills and recovery tools provided by the treatment courts, even without formal completion of the program. They too demonstrate far lower recidivism than those without treatment.

Adult Drug Treatment Courts (ADTCs) were initiated in the United States thirty years ago and were authorized by legislation in Maine nineteen years ago in 2001 through “An Act to Provide for the Establishment of Alcohol and Drug Treatment Programs in Maine Courts” (4 M.R.S.A. Sections 421–423).⁴ They serve individuals with serious substance use and Co-Occurring disorders who are involved with the criminal justice system who are high risk for recidivism and have high needs for treatment and services. Individuals who already have been convicted and sentenced can obtain mitigated charges and reduced sentences if they agree to treatment and follow the program to completion.

This final report emanates from a one-year study initiated on January 1, 2020, conducted by PCG. The evaluation is generally divided into three components: a **process study** which analyzes the courts’ operations adherence to best practice standards; an **outcome study** which compares what treatment court participants have achieved to similarly situated offenders in Maine who have not had access to the program; and a **cost benefit analysis**. It concludes with recommendations. The following courts are included:

- Washington County Adult Drug Treatment Court (Machias and Calais)
- Penobscot County Adult Drug Treatment Court (Bangor)
- Androscoggin County Adult Drug Treatment Court (Auburn)
- York County Adult Drug Treatment Court (Alfred)
- Hancock County Adult Drug Treatment Court (Ellsworth)

³ More information is available at <https://www.samhsa.gov/medication-assisted-treatment>.

⁴ Cumberland County operated a drug court from 1996 to 1998 before authorizing legislation.

- Cumberland County Adult Drug Treatment Court and Veterans Treatment Track (Portland)
- Maine Co-Occurring Disorders Court and Veterans Treatment Court [Kennebec County (Augusta)]

During calendar year 2019 these courts served 295 people, an increase of 11.3 percent over the previous year, with about 180 active participants at one time.⁵ The census is currently down, from 166 active participants in June to 138 in November 2020. The pandemic has stymied intake, in part due to reduced scheduled court admissions, jail use and access.

Findings: Court Practices

Excellent judicial demeanor and participant engagement: A critical and unique element of treatment courts is the relationship of the participant to the judge. Through observation and interviews PCG found all the judges to be fair, engaging, sympathetic and consistent. They attend all treatment team meetings, where the progress of participants is discussed in addition to the court procedures. A tangible measure of engagement is the amount of time spent with each participant; with the benchmark being three minutes per person, per session, Maine’s average is 5.5 minutes.⁶

Dedicated and highly supportive case management: Case management is provided by Maine Pretrial Services (MPS) and, for a period on a limited basis, Catholic Charities under contract with the Office of Behavioral Health (OBH). Case managers obtain high praise from all who interact with them, but particularly participants. They assess tangible needs such as housing, transportation, jobs and social support, leaving the therapeutic assessment to treatment providers. They also monitor participants and oversee drug testing. While turnover has been an issue for some treatment teams, MPS is constantly assessing how to resolve this, including employment contracts and retention bonuses. Their starting salaries are consistent with comparable positions in Maine.

Skilled treatment providers, yet questions about mental health/co-occurring capacity: Four agencies in Maine have contracts with the Office of Behavioral Health to provide therapies for substance misuse and mental health concerns: *Blue Willow*, *Wellspring*, *Catholic Charities* and *Aroostook Mental Health Services*. Maine consistently uses Intensive Outpatient Program (IOP) and Moral Reconciliation Therapy (MRT), both of which are evidence-based practices for substance use disorder treatment. Treatment providers are active participants on the treatment team. Several courts report concern about the lack of mental health services for those who need it, which national estimates put at 63 percent for this population.⁷ Each of the providers’ contracts has a provision for offering mental health treatment and a stipulation that the agency be co-occurring capable. This report recommends further examination by the parties at the court level, including an OBH representative, of mental health capacity, fidelity and remedies.

⁵ State of Maine Judicial Branch. (2020). 2019 Annual Report on Maine’s Adult Drug Treatment Courts.

⁶ This study uses standards developed by the National Association of Drug Court Professionals, available at <https://www.nadcp.org/standards/adult-drug-court-best-practice-standards/>.

⁷ National Association of Drug Court Professionals. (2018). Adult Drug Court Best Practice Standards Vol. II Text Revision, p. 18. Alexandria, VA: NADCP. Available at <https://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-2-Text-Revision-December-2018.pdf>.

Adherence to high risk and high need criteria but excessive “suitability” discussions:

Treatment courts and treatment providers consistently use evidence-based assessment tools to identify people with high risks for criminal recidivism and high need for treatment or therapeutic responses. PCG has documented, for example, 75 percent of those admitted had a felony charge (A, B or C) associated with the current admission. Those with misdemeanors may have had other factors, such as criminal history, to make them high risk. Interviews with participants have revealed each person had a long history of abusing alcohol and/or drugs, often with failed attempts at treatment. Concerns rest with the subjective suitability discussions which may take place in the treatment teams when referrals are being considered, contrary to best practice standards. Potential participants were called into question for the very factors which made them high-risk, and some were rejected. Yet the data show that former behavior, such as trafficking in drugs, does not prohibit a person from succeeding in treatment courts. The impulse to exclude people who otherwise fit within the high risk/high need guidelines should be suppressed.

Reduced referral to admission time, but many courts still exceed 30-day standard: Referral to admission time has decreased in several courts due to awareness of the issue and the institution of new practices, including enlisting the help of court clerks and providing dedicated case managers to the referral and assessment process. Courts who exceed 45 days on average are asked to review their processes to see what more could be done to streamline these efforts.

Prosecutorial time constraints and defense counsel availability limiting treatment court expansion: Some members of the treatment team, most notably the judge, case manager and treatment provider are paid to participate as part of their jobs. There is limited funding for defense counsel and no dedicated funding for prosecutors [district attorneys (DAs), assistant district attorneys (ADAs) or assistant attorneys general (AAGs)] to participate.⁸ Thus, even if case management staff are added, there are limits on the time these other critical parties can devote to treatment court and thus to the ability to expand. Ideally the legislature would provide funding to the Attorney General’s office to expand ADA or AAG time devoted to treatment court; alternatively, existing staff can be reassigned, as has been done in Penobscot, to carve out dedicated time for prosecutors to participate.

Adequate rewards and sanctions with room for creativity: Maine meets the ratio of rewards to sanctions recommended in the practice standards, which is 4 to 1. Praise and applause lead the list of rewards, while there is no plurality in sanctions. The ratio of positive to negative behaviors addressed in court is 5 to 1 and rewards to sanctions is 4 to 1, which is precisely the standard. Participants value rewards which mitigate drug court requirements and represent a freedom or easing of restrictions, such as moving to the front of the drug testing line, fewer court appearances, or reduced curfew. Especially since all of these are free, the treatment teams should more actively consider them as options. Courts have had to come up with more inventive sanctions due to COVID-19, with jail, and even community service, discouraged. Instead, they are using increased supervision (e.g., more check-ins) as well as additional therapeutic responses. Judges think these are working well and should be considered in all the courts.

Presence of racial disparities: White individuals are over-represented in treatment courts; comparing Black individuals to their numbers in the adjudicated population from which candidates are drawn, they are under-represented. The treatment teams report they are not getting referrals,

⁸ The distinction between ADAs and AAGs is based upon local jurisdictional organization and policies for each County providing Treatment Court services.

spurring the recommendation here that more be done to educate defense counsel as well as probation officers who are typical referral sources about the success of the program for all groups and the under-representation of people of color in Maine’s treatment courts. In addition, after the pandemic, perhaps more could be done by defense attorneys and MPS to alert jail officers and stir interest in jails for people of color to apply.

Need for additional recovery and peer supports: Based on interviews with treatment court participants and graduates, PCG has been persuaded of the need to enhance recovery and peer supports throughout the system. PCG was referred to the works of William White,⁹ who identifies three aspects of recovery capital: personal, family/social and community capital. While Maine’s ADTC program itself is constructed to address personal and family/social capital, the community element needs supplementation. This has already begun in some of the courts and more infrastructure is being developed in communities to support recovery. For example, a recovery representative began attending the Kennebec CODC in November 2020. PCG suggests the treatment team itself be supplemented with a recovery representative.

Veterans responding positively to treatment court: Veterans treatment tracks have been expanding across the state in the belief that serving veterans separately will honor the culture of veterans and produce better results. In fact, Veterans Treatment Court participants in Kennebec County have a higher graduation rate than others; however, their enrollment numbers are smaller, so the results are not statistically significant.

While they appear to be represented consistently with their numbers in the adjudicated population, more veterans could be identified through the expanded use of the Veterans Re-Entry Search Services (VRSS) system; the VRSS identifies people in jail who are veterans. Among the courts where expansion is being considered, Penobscot County should activate its VRSS account and York County should establish one. The Cumberland County Jail System appears to be the most active user of VRSS and can be used as a reference for how it is working.

Impact of COVID-19 pandemic: Almost all participants reportedly have struggled with isolation and lack of contact, which has contributed to a deterioration in their mental health. In addition, during the beginning of the pandemic, caseworkers experienced difficulty with adequate drug testing and meeting directly with clients. As a result, many participants reportedly have reverted into a mindset of criminal thinking, for example making excuses to try to get away with negative behaviors. In particular, team members noted a substantial number of participants would tamper with at-home drug tests and sweat patches or would lie about having symptoms mimicking COVID-19 so they would not have to make an in-person check-in. Most disconcerting is that multiple treatment court participants have experienced drug overdoses during the pandemic, a trend which has been documented nationally. The US CDC reports 81



⁹ White, W. & Cloud, W. (2008). Recovery capital: A primer for addictions professionals. *Counselor*, 9(5), 22–27.

thousand such deaths in the 12 months ending in May 2020, the highest number ever recorded in a 12-month period and “an acceleration of overdose deaths during the pandemic.”¹⁰

Findings: Structural and Management

Broad-based leadership managed through a statewide Steering Committee: Treatment courts are managed by a broad representative body, referred to as the Steering Committee, which has been meeting monthly since the start of the pandemic, as opposed to quarterly before. The chairman is a treatment court judge. All the disciplines on the treatment team are represented along with the OBH and other community leaders. This body provides the leadership and oversight structure of the system and is staffed by the Judicial Branch. The presence of such a steering committee is consistent with National Association of Drug Court Professionals (NADCP) best practices of guidance from a multidisciplinary group.

Need to acquire a new case management system: DTxC was decommissioned 18 months ago (from the start of this evaluation), being replaced by a module within the state’s Enterprise Information System, which is incomplete and insufficient to manage case information, and unable to generate standard reports. OBH has agreed to replace it and MPS has identified excellent, cost-effective systems used elsewhere. However, a replacement has not yet been made. As a result, there has been a significant loss in the ability to monitor and manage the entire system beyond a single court. Even within courts, case managers report a diminished ability to share information among team members.

Structural difficulties in ability to make changes: The organizational and management structure of Maine’s treatment courts is unusual in that the management falls under the jurisdiction of the Judicial Branch whereas the bulk of the financial resources required for case management and treatment itself comes from the Executive Branch, specifically the Department of Health and Human Services. In addition, significant decisions on who is referred and admitted come from the bar, namely defense counsel and prosecutors. The Judicial Branch itself does not have control over the human capital reflected in the diverse roles of the treatment team or the financial resources to move an agenda for change forward. Because the treatment courts have only one staff person, who is responsible for all the specialty courts including Family Recovery Courts, there is inadequate staffing for some maintenance functions such as updating the Policy and Procedures Manual which is now well underway, in addition to new initiatives. COVID-19 has put a strain on MPS, to respond to new forms of testing, monitoring and case management. Because it is difficult to add state staff through the legislature, this study recommends OBH fund a Special Project Manager at MPS who can work on an annual agenda developed by the Judicial Branch, OBH, and MPS in conjunction with the chair of the Steering Committee and the Specialty Docket and Grants Coordinator, to guide initiatives.

Need for uniform core training: When members join a treatment team from any of the disciplines other than case management, they are not required to engage in training. Yet there are basic online programs available that can orient any team member to the tenets of treatment court. One is **Essential Elements of Adult Drug Courts** produced by the National Drug Court Institute.¹¹

¹⁰ Centers for Disease Control and Prevention. (2020). *Overdose Deaths Accelerating During COVID-19*. Full press release available at: <https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>.

¹¹ National Drug Court Institute. (2020). *Essential Elements of Adult Drug Courts*. Available at <https://www.ndci.org/resources/online-course-essential-elements-adult-drug-courts/>.

Another source is the Center for Court Innovation. All team members should start with a common understanding of treatment court principles and practices.

Two Regions lacking treatment courts: There are two judicial regions with no ADTC, Veterans Treatment or Co-Occurring Disorders Courts. In concurrence with the Governor’s Office of Opioid Response recommendations, treatment courts should be expanded, logically in the regions where none exist now, by adding courts in Regions VI and VIII (described in detail in the body of the report).

Findings: Community Relations

Treatment courts need enhanced public awareness: The public is largely uninformed about the presence of treatment courts and even the recovery community could benefit from increased knowledge and positive stories about what treatment courts achieve. Sometimes it is easier to see the people who have fallen down than those who have risen up. A concerted effort should be made to use the findings of this report and the testimony of those who experienced treatment court, perhaps forming a small speaker’s bureau, to address community groups about the program and to tout its accomplishments. A side element could be to raise money for an emergency fund that case managers could access to help with participant needs which cannot be met through other sources.

Findings: Treatment Court Outcomes

Maine’s Adult Drug Treatment Courts enhance public safety and improve lives at no additional cost to taxpayers. That is the conclusion from our analyses, including a comparison of treatment court participants to a matched group of non-participants. This section and the following one on cost-benefit demonstrate that participants in treatment court have lower post-program arrest and recidivism rates at a statistically significant level. Slightly more than 50 percent, on average, graduate from treatment court; however, even those who do not have far lower recidivism rates, again including both arrests and convictions, than the comparison group. Those who withdraw or are expelled spend an average of 12.6 months in treatment court compared to an average of 17.8 months for those who graduate. Thus, the non-graduates have a strong dose, more than a year of treatment, and succeed far better than those with no treatment at all. Further, there is a lower mortality rate resulting from alcohol and drugs in the treatment court group than the comparison group although the difference is not statistically significant. In addition, the cost of participating in treatment court is favorable. Treatment court generates a cost savings of 12 percent (over \$5,000) for each person who enters, rising to a savings of 28 percent (over \$16,000) at 18 months when lower recidivism rates are taken into account.

Admission Rates

- About half the people who are formally referred to treatment courts are ultimately admitted. However, nearly half of those who are not admitted are the result of the person ultimately declining to participate.
- Males and females are proportionally equally represented in admissions.
- There is a very wide variation in admission rates among courts, from 83 percent in Cumberland County to 36 percent in Penobscot and Androscoggin.

Graduation Rates

- The statewide average graduation rate is 52 percent, consistent with other states. Veterans Treatment Court is slightly higher at 60 percent and Co-Occurring Disorders Courts slightly lower at 46 percent, with ADTC at 53 percent. The differences are not statistically significant.
- Females graduate at a higher rate, 57 percent, than males, 51 percent; however, the difference is not statistically significant.
- Graduation rates vary from 42 percent in Androscoggin to 57 percent in Penobscot, exceeded by Veterans Treatment Court in Kennebec at 60 percent.

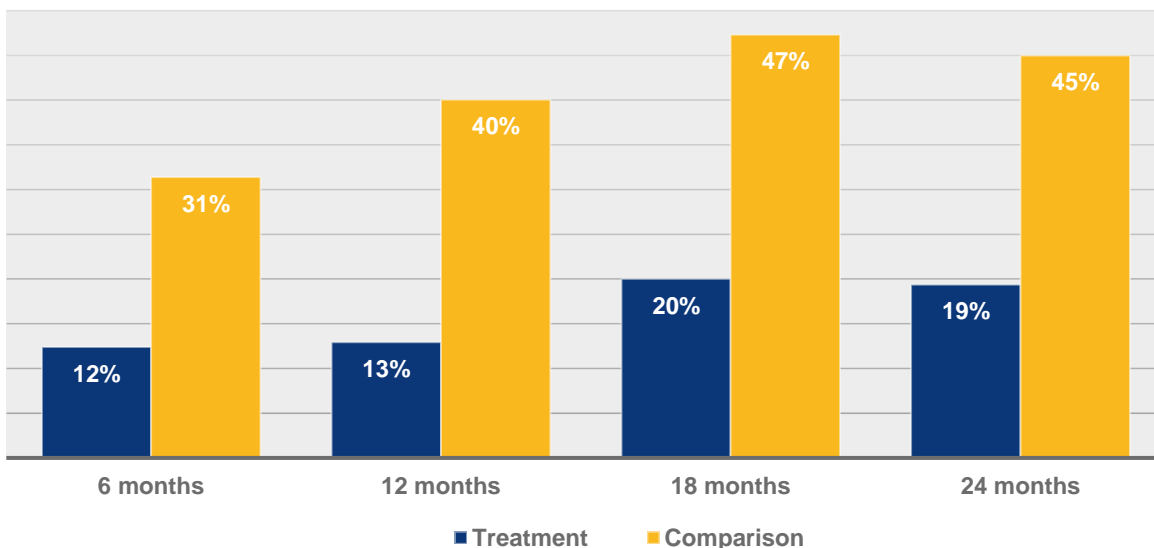
Relation between Admission and Graduation Rates

- There is a moderate positive correlation between admission rates and graduation rates. That is, high admission rates are slightly correlated with high graduation rates, but not at a significant level. Being more discriminating about who to admit generally does not increase graduation rates.

Arrest Recidivism

- After discharge or sentence completion, arrest recidivism is 12 percent at six months for the treatment court participants and 31 percent for the comparison group, a 258 percent difference.
- At 24 months, there is a 237 percent difference, with the comparison group having many more arrests.
- Arrest rates of treatment court participants are lower at a statistically significant level, meaning the differences would not have been derived from chance.

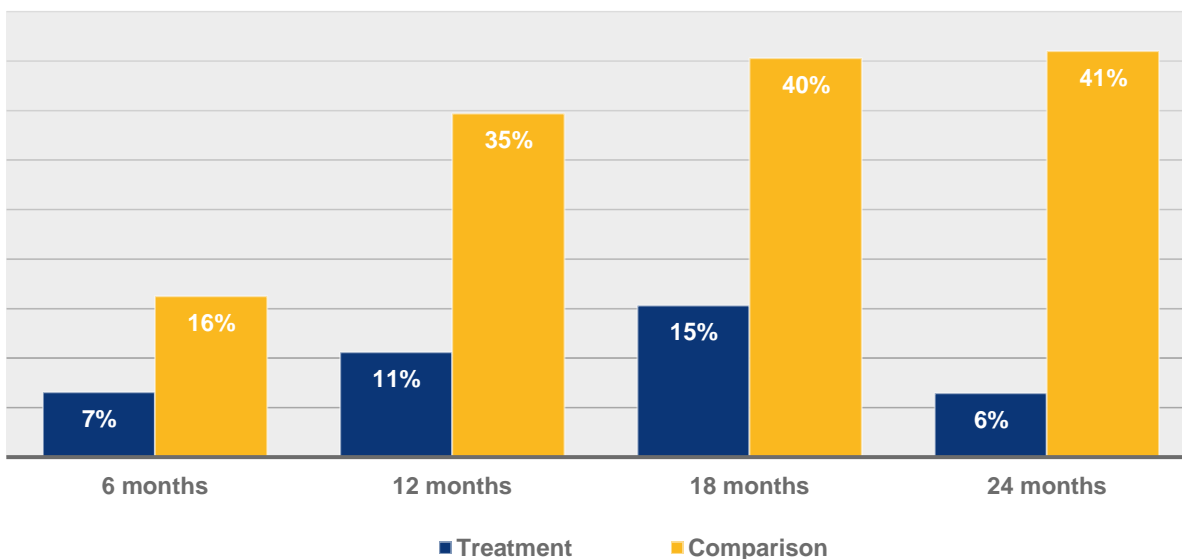
Arrest Recidivism Rates of Treatment and Comparison Groups



Conviction Recidivism

- After discharge or sentence completion, conviction recidivism is seven percent at six months for the treatment court participants and 16 percent for the comparison group, more than twice as high.
- The difference between treatment and comparison group conviction recidivism grows as time goes on, reaching 683 percent at 24 months, greatly magnifying the positive effect of treatment court.
- Convictions rates of the treatment court participants are lower at a statistically significant level, meaning the differences would not have been derived from chance.

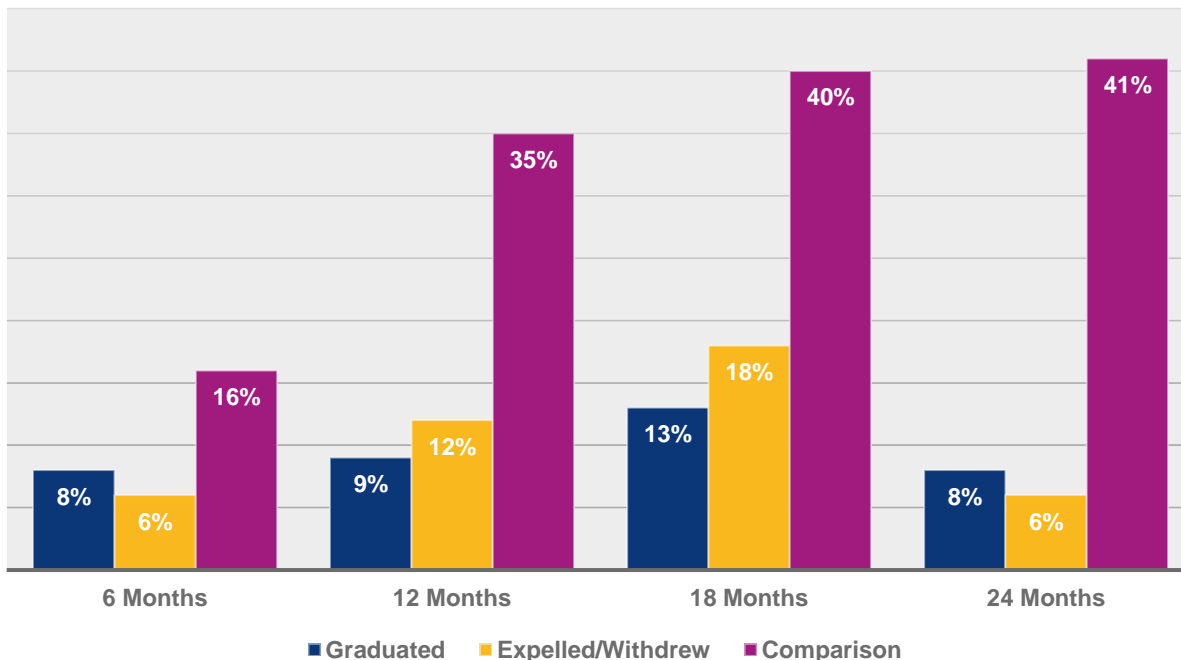
Conviction Recidivism Rates of Treatment and Comparison Groups



Conviction Recidivism by Treatment Court Graduation

- Average participation time for those who withdraw or are expelled before graduation is 12.6 months compared to 17.8 months for graduates.
- Those who do not graduate also have far lower conviction recidivism rates than the comparison group, showing participation has a large impact even absent graduation.

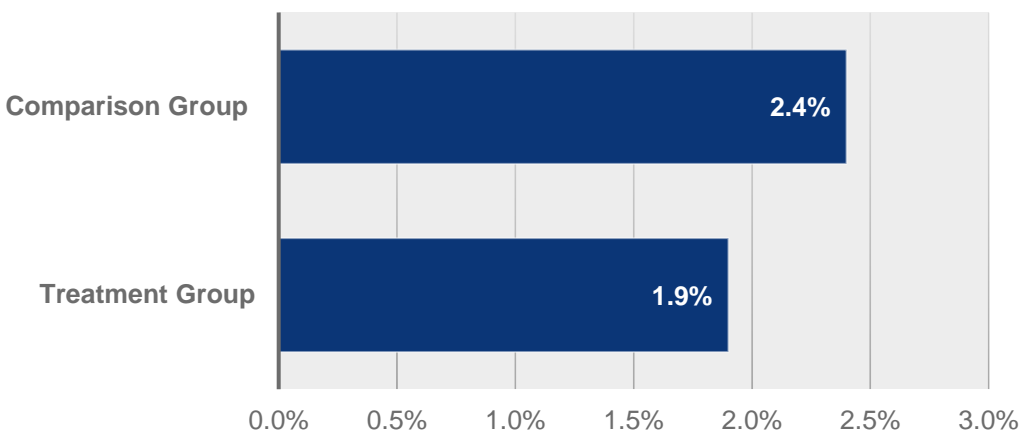
Conviction Recidivism Rates of Treatment and Comparison Groups, Separating Graduates from Non-Graduates



Mortality

- Over four years, 1.9 percent of the treatment court group and 2.4 percent of the comparison group died of a drug overdose.
- These rates suggest that over four years, two out of one hundred people will die for a reason related to overdose.
- While mortality rates are higher for the comparison group, the differences are not statistically significant (chi squared tests, $p < 0.05$ level).

Rates of Death Due to Drug Overdose over Four Years, Treatment and Comparison Groups



Treatment Court Costs and Benefits

- Average case management and treatment costs for each person enrolled in a treatment court is \$8,488 per year, or a total of \$10,964 for 15.5 months, which is the average duration of treatment court, counting both those who complete and those who do not.
- Average probation and incarceration costs for each person enrolled in treatment court is \$27,229 per person from entry to discharge, again counting both those who complete and those who do not, including prison, jail and probation costs.
- Average comparison group costs from entry to discharge is \$43,461 counting prison, jail and probation costs.
- Treatment court generates a cost savings of 12 percent for each person who enters, rising to a savings of 28 percent at 18 months when lower recidivism rates and costs are taken into account.

Treatment Court Savings from Exit to 18 Months

Time	Treatment Group Cost Per Person	Comparison Group Cost Per Person	Treatment Group Savings Percent Per Person	Treatment Group Savings Dollars Per Person
Exit	\$ 38,193	\$ 43,461	12%	\$ 5,268
6 months	\$ 41,235	\$ 50,414	18%	\$ 9,179
12 months	\$ 42,974	\$ 58,672	27%	\$ 15,699
18 months	\$ 44,712	\$ 60,845	28%	\$ 16,133

Maine's costs and benefits are consistent with those of other states.

Recommendations

The recommendations are organized by the following categories: structural and management; judicial proceedings and treatment team; and, community relations. The group that would lead implementation of each recommendation is shown in parentheses.

Structural and Management

1. **Acquire a new case management system to replace DTxC and the current EIS system. (Office of Behavioral Health)**

MPS has reviewed several systems which are functioning in treatment court settings in other states and has provided recommendations to OBH for their suitability to Maine. These are not expensive but are sorely needed to fill the management information gap which is now 18 months long.

2. **Fund a Special Projects Manager at MPS to implement joint initiatives. (Office of Behavioral Health)**

Since OBH cannot fund another state agency (such as the Administrative Office of the Courts [AOC]), it should consider supporting a Special Projects Manager at MPS to work with the Judicial Branch on activities requiring extra staffing. If followed through, an annual agenda should be set by the Judicial Branch, OBH, and MPS, in conjunction with the chair of the Steering Committee, to guide initiatives inclusive of implementing priority activities in this report.

3. **In revising the Policy and Procedure Manual, currently in progress, address issues identified in the field and update the Participant Handbook accordingly. (Steering Committee, Judicial Branch)**

- a. provide guidance on when certain offenses (*e.g.*, drug trafficking, violent offenses) should result in exclusion from admission to treatment courts;
- b. provide guidance on when a jail sanction should precipitate a separate hearing and the acceptable timeframe, if required;
- c. provide guidance on when participants should be terminated, and any procedural due process required;
- d. reinforce that Maine policy does not permit “up front jail time” as part of the sentence; and
- e. reinforce that negotiated sentences cannot be stiffer for participants entering treatment court and failing than not entering at all.

4. **Require core training for all new treatment team members and revive training plans as soon as feasible focusing on co-occurring disorders as an expectation; role specific training; treatment and recovery; and use of community supports. (Steering Committee, Judicial Branch)**

All new members of treatment teams should be required to take the online **Essential Elements of Adult Drug Courts**¹² within three months of joining the team. Current members with little or no treatment court training should do so as well. Training is needed on the relationship between substance use disorder and mental health treatment. While they are distinct conditions, almost two-thirds of those with a substance use disorder have a co-occurring mental health diagnosis. Treatment providers are required in their contracts to deliver co-occurring services and the treatment team should understand that as an expectation including during the process of deciding who to admit. In addition, while ongoing training plans have been stymied in the pandemic, there is a continued call in the field for role specific training to avoid “role bleeding” as well as treatment and recovery training and enhanced use of peer and community supports. These should be delivered as soon as feasible, including the use of online options.

5. Create new ADTCs in judicial Regions VI and VIII. (Judicial Branch)

There are two judicial regions with no ADTC, Veterans Treatment, or Co-Occurring Disorders Courts. In concurrence with the Governor’s Office of Opioid Response recommendations, treatment courts should be expanded, logically, in the regions where none exist now: Regions VI and VIII. As part of the expansion, the Judicial Branch should consider experimenting with the pre-plea model in the new jurisdictions to expand referrals and reduce referral times. In addition, MPS may wish to continue tracking out of county referrals as a measurement of counties that are not served but warrant future treatment court expansion.

As part of the expansion, consider experimenting with pre-plea model in the expanded jurisdictions to expand referrals and reduce referral times. In addition, MPS may wish to consider continuing its tracking of out of county referrals as a measurement of counties who are not served but have the greatest need, for treatment court expansion.

6. Institute activities to support case managers in light of the pandemic. (Maine Pretrial Services)

Treatment team members report experiencing extreme stress and secondary trauma during the pandemic due to their concerns about participants. Treatment team members have reported that during the pandemic there have been increases in client overdoses, and more clients are absconding, as well. MPS should develop support activities for treatment team members to address and alleviate pandemic-related stress.

7. Allocate funds for transportation to treatment court if Medicaid cannot pay. (Office of Behavioral Health)

Participants report that their transportation can be paid to treatment but not to court itself; this is due to Medicaid reimbursement policy. Many walk from treatment to court. OBH should consider supplying funds from other sources or vouchers to cover the cost of transportation to treatment court for those who need it.

¹² National Drug Court Institute. (2020). Essential Elements of Adult Drug Courts. Available at <https://www.ndci.org/resources/online-course-essential-elements-adult-drug-courts/>.

Judicial Proceedings and Treatment Team

8. In courts which exceed 45 days to admission, develop a streamlined referral process; ameliorate “suitability discussions” to be consistent with best practice standards. (Judicial Branch)

At a Steering Committee meeting, courts with shorter referral times should share their business processes for others to consider.

Examples:

- a. Support staff, such as clerks, should be engaged in the treatment court process and be trained on the benefits of treatment courts. Penobscot has a 72-hour screening after referral policy (goal is 30 days) which was facilitated by assigning a clerk to the treatment court who moves the process and supports the treatment team.
- b. Treatment teams could use their additional case managers, if applicable, to handle screening and referrals to help support the timeliness between admission and referral.
- c. Case managers could interview people in jail to promote early referrals.

People who meet high risk and high need criteria without disqualifying offenses should be admitted to treatment court.

9. Enhance the availability of prosecutorial or Assistant District Attorney time. (Office of the Attorney General)

Either adopt Penobscot’s model of moving prosecutorial resources to create a part-time post, focused exclusively on treatment court, or find other resources to attain a part-time prosecutor who will work under the auspices of the elected District Attorney.

10. Diversify rewards and sanctions. (Judicial Branch)

Most rewards given are verbal praise and applause; when participants request passes (e.g., for travel or extended curfew) they are generally provided but rarely initiated by the court. Participants value rewards which mitigate drug court requirements and represent a freedom, or easing of restrictions, such as fewer court appearances or a reduced curfew. Courts have had to develop more inventive sanctions due to COVID-19, with jail and even community service discouraged. Instead, they tend to be using increased supervision (e.g., more check-ins) as well as additional therapeutic responses. Judges think these are working well and have vocalized reconsidering the use of punitive sanctions and instead taking more therapeutic approaches.

One tool which is available to enhance supervision, which has been utilized in Kennebec County, is **ReConnect**. It helps keep track of participants’ whereabouts by tagging participants’ locations and faces during morning check-ins. While taking supervision to another level of intrusiveness, **ReConnect** can be particularly useful in the pandemic when face to face contact is constrained. Every court has access to the application.

11. Enhance mental health capacity both on the treatment team and in the provision of services; require mental health representation on Treatment Team. (Office of Behavioral Health, Judicial Branch)

Some courts are satisfied with available mental health treatment but at least half are not. If courts are not satisfied with mental health treatment the judge, case manager and other treatment team members should meet with OBH and the treatment provider under OBH contract for their court to discuss the adequacy of mental health assessment and treatment options, the way the provider is adhering to its OBH contract requirements (*below*), and steps needed to improve consistent access to mental health treatment, including how to expedite mental health screenings:

- a. Ensure the following counseling is provided to all participants, when included in the Individualized Treatment Plan:
 - i. Individual Counseling based on an individual need or the integrated individualized treatment plan;
 - ii. Family Counseling;
 - iii. Group Counseling which shall consist of Intensive Outpatient Services, substance use disorder group, or Dialectical Behavioral Therapy (DBT) depending on the level of care required of the Comprehensive Assessment; and
 - iv. Aftercare Services, if clinically appropriate.

In addition, due to the prevalence of mental health disorders within the population with substance use disorders, courts should have mental health overtly represented on the treatment team. If the current representative is dually licensed, he or she could fulfill the role. Otherwise, a person with mental health credentials should be added.

12. Add a peer representative (recovery coach) to the treatment team. (Steering Committee, Judicial Branch)

To emphasize the importance of peer support in recovery and to balance the oversight and supervision functions with the support functions, many are advocating for a peer voice on the treatment team. This person should help serve as a link to the recovery community for each person who wants it, which is most participants. Many peers are in recovery themselves and some have “lived experience” in the justice system, including imprisonment. Maine has 800 trained peer recovery coaches and more are planned through the Maine Alliance for Addiction Recovery and other organizations. There are programs to certify peers and groups such as Healthy Acadia¹³ do not require people to be in recovery to be certified, creating choice among models. The Steering Committee should support uniform implementation of peer recovery representatives for consistency across treatment courts. It could work with the peer recovery program to identify and enlist the help of properly trained recovery coaches.

¹³ Healthy Acadia in Hancock County offers free 30-hour Recovery Coach Academy training through an Office of Behavioral Health grant.

13. Expand use of VRSS to identify veteran candidates for treatment court. (Judicial Branch)

VRSS is a free application which identifies people in jail who are veterans. Among the courts where expansion is being considered, Penobscot should activate its VRSS account and York should establish one. The Cumberland County Jail appears to be the most active user now and can be used as a reference for how it is working.

Community Relations

14. Address racial disparity in treatment courts particularly among Black individuals who are under-represented. (Maine Pretrial Services Special Projects Manager)

Maine, as elsewhere in the US, has fewer Black participants in treatment court proportionally than in the adjudicated population from which candidates are drawn. Some say the problem is lack of referrals, which derive largely from defense counsel. This recommendation is classified under *community relations* because PCG accepts the reasoning for the problem and believes both defense attorneys, jail and probation officers, and other community members should be engaged in resolving it since they are primary referral sources. This starts with education about the issue and the benefits of treatment court, and then working together to create strategies for addressing it. Team members want to see training, public service announcements, and marketing to legal defenders, law enforcement, jail and probation across the state to raise awareness of treatment courts including their effectiveness and how they are an underutilized tool for fostering racial justice. One element of the training and public relations is treatment courts are underutilized yet effective with people of color.

15. Strengthen relations with the recovery community. (Maine Pretrial Services Special Projects Manager)

The recovery community provides mutual aid and has a unique culture; when people leave treatment court, they generally need the support of the community to sustain gains. There are burgeoning groups and supports for recovery in the community; examples are Portland Recovery Community Center, Healthy Acadia and the Maine Prisoner Re-Entry Network (MPRN) which recently received an OBH grant to foster relationships of trained people in recovery with those in in jails and treatment court, initially in Kennebec. Some courts have stronger connections to recovery and support groups in the community than others; some work primarily with AA and NA while others have more expansive relations. All courts are encouraged to expand their relations both to foster formal peer supports and to enhance informal community supports. For some participants these relations are critical to successful aftercare.

16. Foster positive perceptions of specialty courts in the community. (Maine Pretrial Services Special Projects Manager)

Maine needs increased community awareness treatment courts exist and are effective. The findings of this report can be one tool to illustrate effectiveness. Others are the testimony of people who have succeeded in these programs, at least one of whom has exemplified herself at the national level. A speaker's bureau of graduates could be organized to address local groups. The

community can provide tangible support by providing jobs, gift cards, recreational activities and friendship as well as referrals. The coordinator should work with the Court Communication division to design and launch a public information program.

17. Explore creating an emergency fund to support participants with basic needs such as cell phones, car insurance, gas, transportation and housing. (Maine Pretrial Services Special Projects Manager)

There are new resources to support participants such as the Eastern Maine Development Corporation (EMDC) grants to assist with employment, training and housing. Case managers should make the most of these resources. However, funds may be needed for other supports such as cell phones and car insurance. Working with community foundations, rotary clubs, chambers of commerce, a GoFundMe page, a small emergency fund could be created to assist treatment court participants with recovery and community integration.

Next Steps

The Steering Committee should develop a process for considering the recommendations and a plan for moving the most salient ones forward. PCG can assist with the process in the second year of its evaluation contract. This includes working with the Court Communication Division to prepare a draft press release and public presentation of the outcomes.