



The State of New Hampshire
Superior Court

Tina L. Nadeau
Chief Justice

December 30th, 2022

NH Judicial Branch
Administrative Offices
Superior Court Center
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Concord, NH 03301
Tel: (603) 271-2030

Michael W. Kane
Office of Legislative Budget Assistant
107 North Main Street
State House, Room 102
Concord NH 03301-4906

Re: 2022 Annual Report of the Drug Offender Program

Dear Mr. Kane,

On behalf of the New Hampshire Judicial Branch and in accordance with RSA 490-G:6, I respectfully submit the 2022 Annual Report of the Drug Offender Program.

I am proud to inform you that, as a state, we now have 10 adult drug courts operating in our superior courts. This means 10 counties have established programs that, in accordance with the New Hampshire Legislature's mandate for state funding, follow national standards and best practices. The creation and implementation of drug courts throughout our state occurred through the vision and support of all three branches of state government. As set forth in the legislation which created the statewide program, the overall goal of the drug court program is to "reduce the incidence of substance abuse and crimes resulting from it." See RSA 490-G:1. We now have a statewide program that works continually to create uniformity in how the programs are run and team members are trained. Our statewide drug offender program coordinator works with every drug court in establishing budgets, building drug court teams, ensuring appropriate training, and operating their respective programs. It is truly a statewide collaborative process that includes judges, county attorneys, defense counsel, correctional officials, local law enforcement and treatment providers. These individuals work with a specific population of criminal offenders who suffer from substance use disorder (many with mental illness) to create a highly structured plan that allows for intensive treatment and supervision for the individual while working to reduce recidivism.

As drug court programs expand and accept additional participants, we, as a state, must ensure the programs continue to adhere to the principles that have made them successful and receive the proper funding and support from the state to further their efforts.

If you or any member of the legislature would like more information about the Drug Offender Program or would like to visit a drug court program in any part of the state, please feel free to contact me and I will assist you.

Sincerely,

A handwritten signature in black ink that reads "Tina L. Nadeau". The signature is written in a cursive, flowing style.

Tina L. Nadeau
Chief Justice

**2022 ANNUAL REPORT OF
STATE OF NEW HAMPSHIRE'S
DRUG OFFENDER PROGRAM**

I. Introduction

Pursuant to RSA 490-G:6, the Office of Drug Court Offender Program Coordinator is required to provide an annual report to the Legislature regarding the operation of the Drug Court programs. The 2022 annual report is the sixth report and the history of the establishment of the office and drug court programs, and the specific county operations can be found in the prior reports.

Ten of the eleven county locations now fully operate a felony drug court program. The only county not operating an adult drug court is Sullivan County. The NHJB approached Sullivan County about funding and operating an adult drug court by contracting with a treatment provider the county, however, turned down the offer.

II. What is Drug Court?

Superior Court Felony Drug Courts work to reduce crime, save money and return justice involved individuals to the community as contributing members. Studies show that 60% or more of individuals serving time in jail or prison suffer from a substance use disorder and, that once released, from incarceration, those defendants reoffend at a rate of 65%. Studies also show that when high risk/high need individuals who would otherwise serve a high end house of corrections sentence or a low end state prison sentence complete drug court, those defendants reoffend at a rate of 25%. Even those participants who fail drug court and are sent to jail or prison reoffend at a rate of 40%.

Drug court is not appropriate for dangerous individuals, or drug profiteers who deal in high quantities of drugs and are engaged in drug trafficking as a business enterprise, regardless of whether they suffer from substance use disorder.

Target Group

The appropriate candidate for drug court is an individual who presents as high risk/high need.

Risk refers to the likelihood individuals will reoffend or violate the terms of probation because of their criminal thinking and poor social insight. Individuals who are high risk (not to be confused with dangerous) have a significant criminal record, usually related to drug use. The record can include theft, forgery, burglary, robbery, etc., in addition to possession and some low level sales to support their addiction. They also have served time in jail or prison. In contrast, low risk individuals may have a minimal or no criminal record, have a decent education, may be a first time offender, have some family support, etc., and have spent very little time, if any, in jail. They are less likely to reoffend and are not appropriate for drug court.

Need refers to individual's level of substance use disorder, as well as any psychosocial issues that contribute to their substance use, including mental health concerns. High need refers to an individual who suffers from moderate to severe substance use disorder and who has been using substances for a significant period of time. They may have tried treatment and failed on one or more occasions. Low need individuals suffer from more mild substance use disorder and have been suffering for a shorter period of time. They may be able to stop using on their own, or with low level interventions. They are not appropriate for drug court, and in fact the intensive programming of drug court has proven to make low need individuals worse.

Process for Acceptance into Drug Court

The drug court team consists of the judge, prosecutor, public defender, treatment provider, probation officer, case manager and law enforcement member. Several teams also include a recovery support provider. Each member has been specifically trained in National Best Practice Standards and must receive annual training to ensure compliance with best practice standards.

Once an individual is identified as a potential drug court participant (usually at or shortly after arrest), the individual submits an application, through his/her lawyer, to be assessed for drug court. The prosecutor team member then conducts a legal screen to determine whether the prosecutor should exercise a veto over the application. If approved by the prosecutor team member, then the treatment provider conducts an objective, evidence-based risk/need assessment of the individual to determine if he/she fits the appropriate drug court target population. If the individual qualified, the team discusses the application at the weekly meeting and determines as a group whether to accept the individual into the program.

The individual then enters a plea of guilty to the pending charges and receives a suspended State Prison sentence, or a suspended high end House of Corrections sentence, with four years of probation. A condition of the suspended sentence is the successful completion of drug court. Generally, drug court takes 18-24 months to complete, depending on the particular circumstances of the case. After completion of drug court, the defendant remains on probation with a specific aftercare plan.

Participant Obligations

There are generally five phases of drug court and varying levels of treatment in each phase. In the beginning phases, the participant is required to attend group treatment three hours per day three days per week, or attend residential treatment if the assessment indicates that level of care. In addition, the participant attends at least one individual session per week. The curriculum used by the treatment provider is targeted specifically for the criminal justice involved person with substance use disorder and includes treatment designed to address criminal thinking and anti-social behavior, in addition to substance misuse, relapse prevention and recovery support. At least 80% of individuals who enter drug court also suffer from some type of mental illness like anxiety, depression or Post Traumatic Stress Disorder (PTSD). Treatment is designed to address both substance use and mental health issues simultaneously.

The participant is also required to submit to at least two random drug tests per week, and may be required to submit to daily testing depending on the nature and extent of the substance use disorder. The participant also attends recovery support activities several times per week and is required to appear in court weekly to account for their behavior and progress. In later phases, the participant is required to obtain a GED or a job.

Court Sessions

Drug Court sessions are conducted weekly. First, the team meets to discuss the progress of each of the reporting participants. The participants are not present for these team meetings. At the meetings, the team discusses whether a participant should receive an incentive for complying with program requirements or a sanction for failing to comply. If a participant suffers a relapse and is honest about the use, then the team will generally adjust treatment to address the relapse. If a participant is dishonest about use and lies about a drug test, or tries to avoid the drug test, then the team recommends sanctions to address the behavior.

After the team meeting, the participants appear in the courtroom where the judge calls each one individually to the podium and talks to them about the successes and challenges of the prior week.

During the court session, the judge awards incentives for participants who have stayed sober, reported to treatment on time, attended self-help meetings, and made a payment toward drug court fees. Incentives can include applause, certificates, praise, gift cards, a reduction in fees, etc.

For participants who have been non-compliant by lying about drug tests, failing to report to probation or treatment, failing to show up for court, the judge issues sanctions. Sanctions can include writing an essay and reading it in court, sitting through regular court sessions, completing community service, or spending a day or two in jail. Studies show that jail is the least effective response to changing behavior, so it is used sparingly. In addition, jail is not used for participants who have relapsed and need a treatment adjustment.

Termination

Because drug court is designed to address the high risk/high need individual, some do not make it through the program and are terminated. Generally, if they are terminated, they will serve some, or all, of their suspended sentence. Terminations occur if a participant is caught selling drugs while in the program, commits a serious crime while in drug court, or threatens the safety of staff or other members. Other times participants may self-terminate if they feel they cannot complete the program requirements. Most participants say that completing drug court is more difficult than spending a year or two in jail or prison.

Overall Goal of the Program

Drug court is a difficult program but the strict structure of the program and focus on substance use disorder has proven successful throughout the country and in New Hampshire. At the successful completion of drug court, a participant comes before the drug court team and the judge,

who has overseen the participant’s case including the setbacks and successes, and congratulates him or her on their completion of the program. It is not unusual for members of the drug court team to commence their training as skeptics and, through working with the individual and the team, become true advocates of the vital role it can play in our judicial system.

III. Participant Success

Attached are testimonials from drug court graduates describing their progress through the program and their successful transition back to the community. Also attached below is a link to an article about the journey of a Carroll County drug court graduate and a commencement ceremony conducted in Hillsborough County, Southern District.

https://www.conwaydailysun.com/news/local/graduate-says-drug-court-saved-her-life/article_541aa980-7b0c-11ed-a016-e73cbaf0af89.html

<https://www.nashuatelegraph.com/news/local-news/2022/10/22/drug-court-graduates-have-varied-backgrounds-one-common-foe/>

IV. Drug Court Programs FY 23 Budgets

Jurisdiction	Approx. # of participants as of 12/2021	FY23 Budget	Start Date	State Funding Start Date
Belknap County Superior	17	\$299,989	January 2013	September 2017
Carroll County Superior	7	\$191,793	February 2018	November 2017
Cheshire County Superior	18	\$300,000	June 2013	July 2017
Coos County Superior	4	\$199,237	February 2018	November 2017
Grafton County Superior	23	\$300,000	May 2007	January 2017
Hillsborough North Superior	51	\$488,488	November 2016	November 2016
Hillsborough South Superior	49	\$489,250	August 2014	October 2017
Merrimack Superior	39	\$490,000	October 2017	September 2017

Rockingham Superior	30	\$469,583	March 2011	July 2016
Strafford Superior	71	\$489,753	November 2004	July 2016

V. Statewide Office of Drug Offender Program

A detailed description of the Statewide Office of Drug Offender Program is contained in the prior reports. In 2022, the following statewide trainings were provided:

- January 2022: The NHJB partnered with Addiction Treatment Transfer Center (ATTC) to host a series of ongoing virtual Motivational Interviewing coaching following the 2020 Motivational Interviewing training.
- January 2022: The State Coordinator and New Hampshire Alcohol & Drug Abuse Counselors Association (NHADACA) hosted a virtual Incentives, Sanctions, and Therapeutic adjustments training. This was a virtual two-day training. This included Evidence Based Practices for Incentives and Sanctions along with therapeutic adjustments.
- January 2022: On January 18th and 19th the State Coordinator and a review team held a two-day peer review of the Carroll County Drug Court program.
- January 2022: On January 23rd the state coordinator and Judge Nadeau hosted a new team member orientation training for all new team members in New Hampshire.
- February 2022: On February 3rd and 4th The National Association of Drug Court Professionals (NADCP) hosted a two-day virtual training to the Nashua Drug Court team on adding a multi-track to their program.
- February 2022: On February 9th NADCP held a virtual all day straining on Incentives and Sanctions.
- February 2022: On February 23rd NADCP selected and hosted a virtual Infrastructure Project for New Hampshire. A small team was selected to spearhead this project.
- March 2022: on March 23rd the state coordinator hosted a Mental Health Court Guidelines meeting with a selected group of judges, coordinators, prosecution, defense along with the Center for State Governments. Additional meetings were held on April 18th, May 11th, and May 20th.
- March 2022: On March 31st and April 1st ATTC and NHADACA hosted a Motivational Interviewing virtual training.
- April 2022: On April 14th and 15th ATTC and NHADACA hosted an intermediate Motivational Interviewing virtual training.

- April 2022: On April 28th and 20th ATTC and NHADACA hosted an Advanced Motivational Interviewing virtual training.
- May 2022: On May 18th the New Hampshire State Police held a meeting / training on Human Trafficking for the drug court coordinators.
- May 2022: On May 19th, 20th, May 27th, June 3rd, and June 10th ATTC and NHADACA hosted a virtual Motivational Interviewing training for group counseling.
- May 2022: On May 16th the state coordinator and Judge Nadeau hosted a new team member orientation training for all new team members in New Hampshire.
- June 2022: On June 23rd and 30th NHADACA hosted a training on Dialectical Behavioral Therapy (DBT) for the drug court counselors. DBT is an evidence-based treatment model that is particularly effective for justice-involved individuals with substance use disorder.
- June 2022 - August 2022: John Snow Institute (JSI) and the state coordinator hosted equity and inclusion meetings for each drug court team to discuss preliminary results of their Equity, Diversity and Inclusion data.
- July 2022: July 13th and 20th ATTC and NHADACA hosted Motivational Interviewing for Probation Supervision.
- July 2022: July 25th – 28th the NADCP held their annual four-day in-person conference with breakout and plenary sessions held each day. Nearly 7500 treatment court professionals from around the country attended. Many New Hampshire team members also attended the training. Chief Justice Nadeau, Alex Casale, who are both on the faculty of the NADCP, and Rachael Azotea presented at the National Conference. One of the presentations involved a description of New Hampshire's unique Community Housing Program, which provides bridge housing for drug court participants, and individuals leaving prison.
- August 2022: August 8th NADCP hosted a virtual Infrastructure Project for New Hampshire.
- August 2022: August 12th the Legal Action Center hosted a meeting for the Judicial Branch, Department of Health and Human Services (HHS), Department of Corrections (DOC), and NHCORR to discuss legal issues around recovery housing and the necessary use of Medically Assisted Treatment for those suffering from substance use disorder.
- September 2022: September 21st and 22nd JSI and NHADACA put on a statewide treatment court conference for all of the NH treatment courts. Over 150 treatment team members attended live and in person. This two-day conference covered Incentives and Sanctions, Phases and Court Requirements, Key Components of a DC, Target Population, and other emerging topics.

- October 2022: October 21st the state coordinator held an incentives camp for four drug court teams.
- November 2022: on November 16th-18th the New England Association of Recovery Court Professionals (NEARCP) hosted a three day in person conference that issues involving Harm Reduction, Recovery Support, Incentives and Sanctions, Phases and Court Requirements, Key Components of a DC, Target Population, and other emerging issues.
- November 2022: On November 21st and 22nd the state coordinator and DOC hosted an Ohio Risk Assessment (ORAS) risk assessment training.
- December 2022: On December 1st and 2nd NADCP trained a group of New Hampshire drug court professionals on techniques to enhance presenter skills as part of our infrastructure plan.

VI. Mentor Court

According to the NADCP there are over 4,000 treatment courts in the US, four territories and over twenty countries. In 2022 the NADCP designate our own drug court in Hillsborough County, Southern District as one of only ten mentor courts nationwide. As a mentor court, the Hillsborough County South drug court will help provide technical assistance to jurisdictions across the US that are interested in implementing a drug court program. The Nashua drug court will also help to develop, identify, and test national best practices.

<https://www.ndci.org/resource/training/visit-a-mentor-court/nashua-new-hampshire/>

VII. Peer Review

The Judicial Branch has developed a peer review process to ensure that drug court programs are aligned with the National Drug Court Best Practice Standards. These standards are research-based, organized on the foundation of the 10 Key Components of Drug Courts, and include guidelines for policies and practices that help ensure programs provide access to treatment and other needed services, reduce recidivism, and remain cost effective.

The peer review process creates a learning community in New Hampshire among treatment court teams. The idea is for peers to help each other identify areas for program improvement and to share successes and challenges. The peer review process allows New Hampshire's treatment court community to access information and to gain support at a low administrative cost while building relationships between programs. It also provides important information to the Judicial Branch about areas of needed technical assistance and training, and helps to target those resources most effectively.

Individual treatment court team members assess other treatment court programs and provide feedback about that program's alignment with the National Drug Court Best Practice Standards (NADCP 2013, 2015) and the 10 Key Components of Drug Courts. The peers have been trained in how to conduct the assessment, how to conduct an in-person visit to the other program, and how to compile the information into a simple report that includes suggestions for improvement and resource ideas. In turn, the peer will have the opportunity to learn about innovative and successful practices that have been implemented in other programs.

The main activities involved in the peer review process include:

- Online assessment on program characteristics, policies, and procedures completed by the program being reviewed.
- 2-day (or possibly 3-day) site visit where peers observe staffing and court hearings, interview team members and partner agency staff, talk with program participants, and review program documents.
- On-site debrief of assessment findings.
- Summary report of feedback, including a table of best practices and which practices the program is meeting, recommendations for program improvement, documentation of innovative/successful practices to share with other programs, and requests for future training or resources.
- Follow-up phone call with the program under review to discuss the report including additional findings, commendations, and recommendations that were not covered during the on-site debrief.

VIII. Statewide Drug Court Grant

In 2019 the New Hampshire Department of Justice (DOJ) was awarded a Bureau of Justice Assistance (BJA) Statewide Drug Court Grant. The grant award provided funding for database migration, training, self-assessment surveys, a recidivism study, and an equity and inclusion study. Beginning in July 2020 the state coordinator began meeting with the sub grantees on a weekly basis to oversee the projects. DOJ received a no cost extension through September 2023 to finish and transition the active projects.

In 2021 DOJ was awarded another BJA Statewide Drug Court Grant. In addition to finalizing the 2019 grant studies, this grant allows the NHJB to hire a grant manager/writer, contract for transportation services, partially fund the statewide treatment court conference, validate the ORAS risk assessment, and fund the statewide database.

IX. Next Steps

Community Housing

In support of this initiative to increase access to safe housing statewide, the NHJB Community Housing Program (CHP) was established to work in collaboration with the Department of Corrections (DOC), Health and Human Services (HHS), and Bureau of Drug and Alcohol Services (BDAS) to provide temporary rent support to qualified participants as they work to sustain housing independently. The types of safe housing options include: emergency housing (hotels and shelters), sober/transitional

living, and apartments. The program is funded through the Governor's Commission on Alcohol and other Drugs. Since the CHP launch in October 2020, the program has connected 411 participants with safe housing. Of these, 237 have successfully transitioned into stable housing of their own and an additional 116 are actively working with their prospective case manager's and PO's towards achieving that shared mission of self-sustainable and independent living.

Initiatives during fiscal year 2023 will include the expansion of resources for safe recovery housing that accommodates medically assisted treatment (MAT). In addition, the CHP will continue to expand the long-term sustainable housing options with statewide housing vendors. In fiscal year 2022 (FY22), the program extended support to the Family Treatment Court (FTC); This effort will continue to expand in the upcoming fiscal year (FY23). The NHJB CHP continues to work in collaboration with the Department of Corrections (DOC), Health and Human Services (HHS), and Bureau of Drug and Alcohol Services (BDAS) to provide temporary rent support to qualified participants as they work to sustain housing independently.

Housing Drug Court success story

https://www.laconiadailysun.com/news/courts_cops/belknaps-recovery-court-celebrates-two-graduates/collection_f21d7682-4040-11ed-b864-67cce3eafade.html

Family Drug Court

In 2020, the NHJB received funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice, to start a pilot Family Treatment Court (FTC) in Claremont and Newport Circuit Courts. Parents with abuse and neglect cases can enroll in FTC when substance use serves as a basis for a finding of abuse and/or neglect. FTC uses a supportive, team approach to increase the family's access to supports and services, accountability and recovery, and likelihood of reunification. It is a partnership between the court, the Division for Children, Youth and Families (DCYF), Court Appointed Special Advocates (CASA) of New Hampshire, parent attorneys, substance use treatment providers, mental health providers, and other community partners. The pilot has successfully been running for one year. Significant team collaboration has allowed families, including children, to better access services and decreased time it take parents to access treatment in this rural community. The FTC continues to collect data to share more anticipated positive outcomes with stakeholders as the team continues to work with families through the lifespan of their cases.

With the success of the pilot, the Circuit Court seeks to collaborate with stakeholders to expand the FTC model to other jurisdictions and integrate best practices learned in the pilot to abuse and neglect court cases and pre-court practices statewide. The FTC Oversight Team; which consists of leadership from the Judicial Branch, DCYF, CASA, Bureau of Drug and Alcohol Services, Office of Child Advocate, NH Judicial Council, and NH Charitable Foundation; will lead efforts of expansion and integration of best practices statewide.

Mental Health Court

The NHJB has been working with the mental health courts(MHC) in NH and a working group made up of lawyers, coordinators, and the Council of State Governments to help create statewide guidelines. These guidelines will give direction for the MHC's of NH.

X. Strategic plan:

The NHJB collaborated with the Center for Court Innovation, Northwest Professional Consortium, Inc. (NCP Research) and the Drug Offender Program Advisory Group in 2017 to create a strategic plan for the New Hampshire Drug Courts. The Strategic plan was finalized in Feb of 2018 and gradually implemented. In November of 2021 The NHJB finalized its new strategic plan after collaborating with Center for Court Innovation. The plan includes continued program development of the Adult Drug Courts, Mental Health Courts, Family Drug Courts, and Community Housing program.

Funding

The Legislature provided full funding for drug courts statewide in July 2016. Since their inception, however, the state's drug court programs have not received increased funding. Over the years, the agencies who contract with the judicial branch to provide needed treatment services have experienced increased costs due to inflation, cost of living expenses, and lack of qualified work force. Many agencies have experienced high turnover rates of licensed therapists, who leave for more stable pay in the private sector. This turnover has adverse effects on the population we serve and makes growing the drug court programs challenging. As a result, the NHJB has requested an increase in drug court funding to address substantial staff turnover and to add additional evidence based interventions and services to the drug court programs. Additional funding would allow programs to pay their therapists appropriately without having to cut other needed services from their budgets. Additionally, the increase would allow some programs to hire recovery support workers, integrate more SUD interventions, and compensate for other office expenses that have risen over the years.

XI. Conclusion

The New Hampshire Judicial Branch is proud of the drug court programs that, since July 2016, have been established, expanded, and/or reformed with the aid of state funds and statewide standards. The Office of Drug Court Offender Program now serves as an invaluable resource to these programs through training, technical assistance, and overall support.