



The State of New Hampshire  
Superior Court

Tina L. Nadeau  
Chief Justice

January 4, 2021

NH Judicial Branch  
Administrative Offices  
Superior Court Center  
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Michael W. Kane  
Office of Legislative Budget Assistant  
107 North Main Street  
State House, Room 102  
Concord NH 03301-4906

Re: 2020 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 2020 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, reading "Tina L. Nadeau". The signature is written in a cursive style with a large, stylized initial "T".

Tina L. Nadeau  
Chief Justice

**2020 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 2019 annual report is the third 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 two reports.

Ten of the eleven county locations now fully operate a felony drug court program. The only county not operating a drug court is Sullivan County.

**II. What is Drug Court?**

Superior Court Felony Drug Courts work to reduce crime, save money and return offenders to the community as contributing members. Studies show that 60% or more of offenders 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 offenders 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 offenders who fail drug court and are sent to jail or prison reoffend at a rate of 40%.

Drug court is not appropriate for dangerous offenders, or drug profiteers who deal in high quantities of drugs and are engaged in drug trafficking as a business enterprise, regardless of whether they are also addicted.

**Target Group**

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

**Risk** refers to the likelihood offenders will reoffend or violate the terms of probation because of their criminal thinking and poor social insight. Offenders 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 offenders 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 offender'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 offender 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 offenders 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 offenders 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 offender is identified as a potential drug court participant (usually at or shortly after arrest), the offender 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 offender to determine if he/she fits the appropriate drug court target population. If the offender qualified, the team discusses the application at the weekly meeting and determines as a group whether to accept the offender into the program.

The offender 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 offenders who enter drug court also suffer from some type of mental illness like anxiety, depression or 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 an offender has relapsed and was honest about the use, then the team will generally adjust treatment to address the relapse. If an offender 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 court room 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 offenders 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 offenders who have relapsed and need a treatment adjustment.

## Termination

Because drug court is designed to address the high risk/high need offender, 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 an offender 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 offenders may self-terminate if they feel they cannot complete the program requirements. Most offenders 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, an offender comes before the drug court team and the judge, who has overseen the offender'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 offender and the team, become true advocates of the vital role it can play in our judicial system.

### **III. Covid-19 Pandemic and Drug Court**

In March of 2020 the world was overtaken by a global pandemic. With state and country wide shutdowns, social distancing, and little initial information; Drug Courts across the country and New Hampshire needed direction. Within the first week the State Coordinator established virtual meetings with the local program coordinators every Monday, Wednesday and Friday mornings. These meetings in the first few months of the pandemic were critical for information sharing, exchanging of ideas, and direction from the statewide office.

During the first few weeks of the pandemic Drug Court teams were instructed to begin virtual: treatment sessions, case management, peer supports, court, and staffing. Most of these virtual sessions were in place within first three weeks for each program and the Drug Courts resumed operating fully virtual. The exceptions were drug testing and community visits by probation parole and law enforcement. Modifications in operations were performed to keep with social distancing guidelines and testing location shut downs.

Sanctions and Incentives were modified and enhanced to decrease the amount of community exposure while adhering to best practices. Drug Courts were forced to think more outside the box than ever before with contingency management options by creating more sanctions that did not include jail or community service, incentives were adapted as well.

As the state began to lift stay at home orders treatment agencies put in place guidelines to ensure social distancing during treatment sessions, offered masks hand sanitizer for in person meetings. Staffing, court, pleas, and graduations remain virtual. Due to a decrease in arrests and other pandemic related issues referrals decreased for some time. Referrals are back to the similar levels prior to the pandemic. As the world looks towards the vaccine and returning to normal operations the statewide office has encouraged programs to still offer telehealth options for participants that would benefit from those interventions.

During the pandemic all training events, meetings, peer reviews, and projects have been virtual.

### **IV. Participant Success**

Attached are two testimonials from drug court graduates describing their progress through the program and their successful transition back to the community. Below is a link to an article about the journey of a Nashua drug court graduate.

[Nashua Graduate Story](#)

**V. Drug Court Programs FY 21 Budgets**

<b>Jurisdiction</b>	<b>Approx. # of participants as of 12/2020</b>	<b>FY21 Budget</b>	<b>Start Date</b>	<b>State Funding Start Date</b>
<b>Belknap County Superior</b>	24	\$299,978.20	January 2013	September 2017
<b>Carroll County Superior</b>	8	\$199,694.95	February 2018	November 2017
<b>Cheshire County Superior</b>	18	\$300,000.00	June 2013	July 2017
<b>Coos County Superior</b>	3	\$199,849.77	February 2018	November 2017
<b>Grafton County Superior</b>	10	\$300,000.00	May 2007	January 2017
<b>Hillsborough North Superior</b>	54	\$483,214.82	November 2016	November 2016
<b>Hillsborough South Superior</b>	55	\$488,830.12	August 2014	October 2017
<b>Merrimack Superior</b>	37	\$490,000.00	October 2017	September 2017
<b>Rockingham Superior</b>	35	\$479,261.20	March 2011	July 2016
<b>Strafford Superior</b>	66	\$480,575.14	November 2004	July 2016

**VI. Statewide Office of Drug Offender Program**

A detailed description of the Statewide Office of Drug Offender Program is contained in the prior reports. In 2020, the following state-side trainings were provided:

- January 2020: The State Coordinator and Chief Justice conducted Drug Court 101 training for new team members. This orientation covered Incentives and Sanctions, Phases and Court Requirements, Key Components of a DC, Target Population, and others.
- February 2020: The State Coordinator and a review team held a 2 day peer review of the Hillsborough North Drug Court program.
- February 2020: The State Coordinator and a review team held a 2 day peer review of the Grafton County Drug Court program.

- April & May 2020: The NHJB partnered with ATTC to host a series of virtual Motivational Interviewing trainings. This was held in six half day sessions over two months.
- May 2020: The National Association of Drug Court Professionals held a four day virtual conference with break-out and plenary sessions held each day. Many team members attended the training.
- August & Sep 2020: The NHJB and State Coordinator hired NPC Research and a Drug Court expert for a virtual multi day training on Incentives, Sanctions, and Therapeutic adjustments.
- September 2020: The State Coordinator and Chief Justice conducted a virtual Drug Court 101 training for new team members. This orientation covered Incentives and Sanctions, Phases and Court Requirements, Key Components of a DC, Target Population, and others.
- Oct 2020: The NHJB and NHADACA hosted a virtual training: Seeking Safety.
- Nov 2020: The New England Association of Recovery Court Professionals held a two day virtual conference with break-out and plenary sessions held each day. Many team members attended the training.
- Dec 2020: The State Coordinator and a review team held a 2 day peer review of the Rockingham Drug Court program.
- Dec 2020: The NHJB and NHADACA hosted a virtual training: Brain injury and the Justice System.

The following trainings are already scheduled to take place in 2020:

- Quarterly trainings each year
- New team member orientation – March 12, 2021
- EMDR Part 1 – April 28-30, 2021
- National Association of Drug Court Professionals Conference - May 12-15, 2021
- EMDR Part 2- July 14-16, 2021
- State Conference – Sep 29-30, 2021
- NEARCP – TBD – Fall 2021
- Peer review two courts before the end of the year – Date TBD

## **VII. Peer Review**

The peer review process has been developed to help programs align with the National Treatment Court 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 will help ensure that programs provide access to treatment and other needed services, reduce recidivism, and remain cost effective.



The peer review process is intended to create a learning community in New Hampshire among treatment court teams. The idea is for peers to help each other identify ideas for program improvements and share successes and challenges. This will allow New Hampshire's treatment court community access to information and support at a low administrative cost while building relationships between programs. It will also provide important information to the Judicial Branch about areas of needed technical assistance and training, and how to focus those resources most effectively.

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

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 ones 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 NH Attorney Generals office was awarded a BJA Statewide Drug Court Grant. The grant award helps with database migration, training, self-assessment surveys, a recidivism study, and an equity and inclusion study. These projects have been prioritized; beginning in July of 2020 the state coordinator began meeting with the sub grantees on a weekly basis to oversee the projects.

#### **IX. Next Steps**

##### Community Housing, Family Drug Court, and Mental Health Court

Initiatives during fiscal year 2021/22 will include increasing access to safe housing; including emergency housing, recovery housing, other housing options in safe locations. We are also working with the Circuit Court to implement a family drug treatment court in Sullivan County for abuse and

neglect cases. The NHJB has been working with The Mental Health Courts in NH, legislators and stakeholders to produce a Mental Health Court commission report. There is also pending legislation calling for Mental Health Court state standards. We will also request funding to continue the statewide drug court data base established in 2018, and funding to conduct a comprehensive recidivism study. Finally, we hope to request increased funding to support the ongoing expansion of the drug court programs in each county.

**X. Strategic plan:**

The NHJB collaborated with the Center for Court Innovation, NPC 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 Aug of 2020 The State coordinator began collaborating with Center for Court Innovation to on an updated strategic plan. The plan is in the development process and will include the Adult Drug Courts, Mental Health Courts, Family Drug Courts, and Community Housing program.

**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.