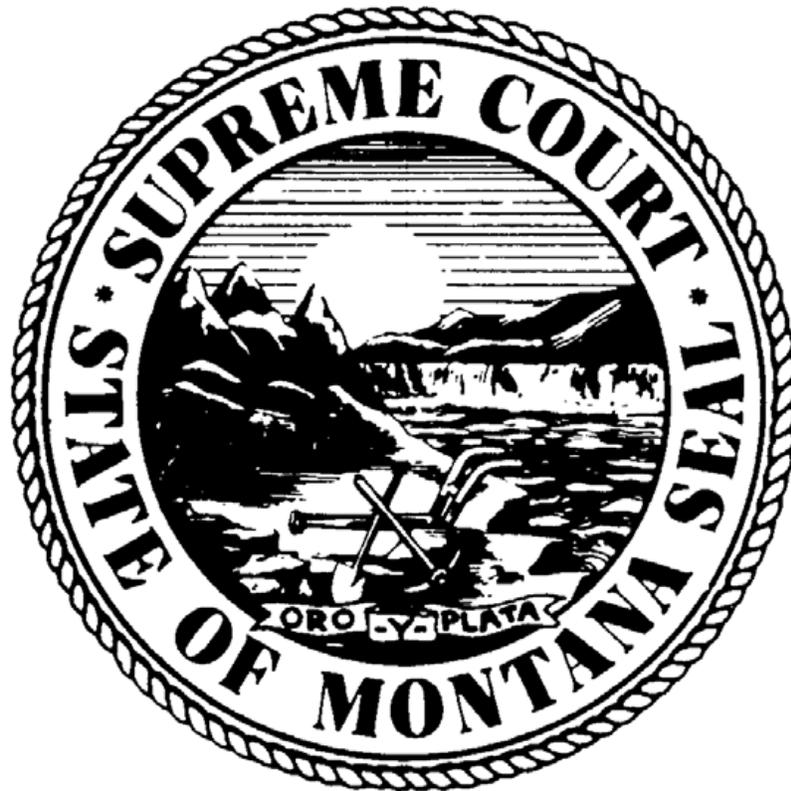


# **Montana Drug Courts: An Updated Snapshot of Success and Hope**



**Produced by Montana Supreme Court  
Office of Court Administrator**

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## **I. Report Highlights**

Drug courts in Montana are court dockets within a district court or court of limited jurisdiction (i.e., city, municipal, or justice's court) that specialize in criminal, child abuse and neglect, or juvenile cases involving people who are addicted to alcohol and/or other drugs. Drug courts give these individuals the tools they need to change their lives. These courts are developed to reduce recidivism and substance abuse among participants and to successfully habilitate them through substance use disorder treatment, mandatory and frequent drug testing, use of appropriate sanctions, incentives, and therapeutic responses and continuous judicial oversight.

### **Measuring Performance**

This report analyzes drug court data collected by the Office of Court Administrator (OCA) from May 2008 through October 2016, a 102-month period. However, the report generally focuses on the previous 48 months (November 1, 2012 – October 31, 2016). The data confirm that Montana drug courts continue to provide a strong investment in the recovery of alcohol and other drug dependent persons involved in criminal, child abuse and neglect, and juvenile cases. Additionally, it appears that as Montana drug courts mature, the participants who are admitted are increasingly a high-risk/high-need population (high-risk to reoffend and high-need for treatment services) while at the same time performing at an improved level.

Major findings include the following:

- During the 48-month data collection period (November 1, 2012 - October 31, 2016), 1,523 participants entered Montana drug courts: 1,420 adults (1,294 adult drug court participants and 126 family drug court participants) and 103 juveniles.
- As of October 31, 2016, 485 participants were active in Montana drug courts: 422 in adult drug courts, 47 in family drug courts and 16 in juvenile drug courts.
- In recent years, Missoula, Yellowstone, and Cascade Counties have implemented special drug court dockets to meet the needs of veterans. In the past 48 months, 114 of 173 individuals who have served in the military or nearly 65.9% of all veterans admitted to Montana drug courts have been admitted to the three Montana veterans court dockets. As these veteran specific dockets mature, the number of veterans served by these specialty courts will grow, and veterans will receive improved services.
- A total of 509 participants graduated from drug court during the 48-month reporting period for an overall graduation rate of 57.5%. The graduation rate was 59.8% for

adult drug court (447 graduates), 43.9% for family drug court (33 graduates), and 43.9% for juvenile drug court (29 graduates). Montana drug court graduation rates are as good as or better than rates found in comprehensive national studies.

- Retention rates drive the success of a drug court. Even participants who do not graduate benefit from time in the drug court. For the 1,038 participants (excluding active cases) for whom court disposition status was reported, 97.3% were still participating one month after entering a Montana drug court, 76.4% of the cases were still active at six months after admission and 52.6% were still active at one year after admission. These are impressive numbers for retention given the importance of providing an adequate dose of treatment to participants in drug court.
- A key measurement of recidivism for drug court participants is the conviction rate after admission to drug court. For this report, recidivism was defined as a new conviction for participants for three years after date of admission into drug court. Recidivism was calculated using all felonies and all misdemeanors except for hunting and fishing offenses, offenses related to commercial trucking, general traffic violations unless DUI related and low level offenses, e.g., loitering.

For the 697 individuals admitted to Montana adult drug courts during the three-year period (2010, 2011 and 2012), 202 participants (29.0%) were convicted of felonies and/or misdemeanors for the three years following their admissions. Conversely, 71.0% did not recidivate. Convictions included 52 felonies (7.5%) and 150 misdemeanors (21.5%).

Recidivism rates were lower for drug court participants who graduated compared to those who terminated early. Adult drug court graduates admitted in 2012 had fewer convictions than those who left the drug court early (neutrals/terminations). In 2012, 34 graduates (11.9%) were convicted during the three-year period (2.8% felonies and 8.7% misdemeanors) while 39 participants (13.6%) who left early were convicted (3.8% felonies and 9.8% misdemeanors).

**Overall conviction/recidivism rates for the three-year period following admission to Montana adult drug courts are low and the trend for the three years is encouraging. In 2010, the conviction rate was 37.6%. In 2011, the rate dropped to 26.2%. In 2012, the rate was lower yet, down to 25.5%.**

- Adult drug court graduates reported a 54% increase in full-time employment from admission to graduation (272 employed full-time at admission compared to 419 employed full-time at discharge). Unemployment fell from 394 participants to 219 for a 44% decrease in unemployment. Those participants who remained unemployed may

have been enrolled in an academic or educational/technical training program because graduates are required to be employed or in an educational program. For family drug court participants, 59 were unemployed at admission and only 33 were unemployed at discharge, a 44% decrease.

- For participants in Montana juvenile drug courts, a major emphasis along with remaining drug free is educational advancement. Among the 87 juveniles discharged from drug court in the past 48 months, only 4 participants had their high school diploma or GED at the time of admission; that number increased to 20 (400% increase) by the time of discharge from drug court.
- Among the 241 adult and family drug court graduates who did not have a driver's license at admission but who were eligible to receive one, 95 obtained a license by graduation, a 39.4% increase in those receiving a driver's license.
- The primary drug of choice for adult drug court participants continued to be alcohol (49%) followed by marijuana (22%) and methamphetamine (17.5%). For family drug court participants, the primary drug of choice was methamphetamine (47.1%) followed by alcohol (27.6%) and marijuana (12.2%). For juvenile drug court participants, the primary drug of choice was marijuana (80.6%) followed by alcohol (13.6%).
- Over half of those admitted to drug court (52.5%) indicated that they had received some alcohol or drug treatment in the 36 months before entering drug court. Having received previous treatment is an indicator of high risk for re-offense and high need for additional treatment of offenders in the criminal justice system.
- Attending self-help meetings is considered a long-term strategy for remaining clean and sober. Among graduates from adult and family drug courts, 428 of 461 were attending self-help meetings at discharge or 92.8%.
- For adult drug court cases reporting admission data (1,294), participants had a total of 9,974 felony and misdemeanor arrests before entering drug court for an average of 7.7 arrests per person. Of these cases, there were 2,154 felony arrests and 7,820 misdemeanor arrests prior to admission for an average of 1.7 felony arrests and nearly 6.0 misdemeanors arrests per person. This level of prior arrests is indicative of the high risk of participants admitted to Montana adult drug courts.
- For the period May, 2008 through October, 2016, 139 participants or their spouses or significant others were pregnant while in drug court. Among those babies born

during this period, 108 were born drug free (93.1%), and 8 (6.9%) were born drug affected. Babies who are born drug free avoid substantial and costly health problems.

- From October 1, 2010 through September 30, 2015, 19 out of 48 (39.6%) participants in family drug court had a new substantiated child abuse and neglect case (report) referral. **Over 60% of the cases in family drug courts did not have a new substantiated case during this five-year period.**

### **Legislative Performance Audit on Drug Courts**

In January 2015, the Montana Legislature's Legislative Audit Division issued a performance audit of the administration of Montana drug courts. The audit included recommendations to the Supreme Court regarding compliance with state law, adherence to best practices for drug courts, and system-wide planning and support. The Supreme Court took the following action in response to the audit's major recommendations:

- **Strategic Plan** – The Supreme Court, with support from Center for Court Innovation (a technical assistance contractor), commissioned a strategic planning initiative to build on the success of the Montana drug courts and secure a sustainable future for these courts. In November 2015, the *Drug Court Strategic Plan: Roadmap for the Future of Drug Treatment Courts in Montana* was published. The plan addressed several themes including funding for drug courts, implementing best practices, and implementing a statewide case management system. Measureable goals were identified for each theme, target dates were set, and tasks were defined and assigned to key participants.
- **Peer Reviews** – During 2015 and 2016, the OCA and Montana drug courts embarked upon a peer-review process to review consistency of each adult drug court with fidelity to the new Adult Drug Court Best Practice Standards, Volume I and II issued by the National Association of Drug Court Professionals in 2014. Seventeen peer reviewers from Montana were trained to apply these standards and issue a best practice table and associated report to each Montana drug court to ensure drug courts are maximizing their potential to help participants enter long-term recovery and significantly reduce re-offense. In 2017, peer reviews for family and juvenile drug courts will begin.
- **Advisory Committee** – In May 2016, the Supreme Court issued an order establishing the Drug Treatment Court Advisory Committee. The Committee is charged with providing ongoing review of drug court standards, assuring communication in operating drug courts, providing recommendations to the District Court Council and Supreme Court regarding statewide drug court

funding, budget, and policy issues, overseeing the strategic plan, and addressing future drug treatment court issues.

## II. Montana Driving Under the Influence (DUI) Courts

Each biennium this report features a drug court topic. The featured topic for this report is DUI courts. DUI courts specialize in working with defendants who commit multiple **driving under the influence** offenses. Montana has seven DUI courts. (See table on page \_\_\_ for a listing of DUI courts.)

Montana has one of the highest fatality rates in the nation for number of deaths caused by impaired drivers per vehicle mile traveled. Montana Department of Transportation data from 2015 indicates that 58% of all fatalities were the result of impaired driving. This number is up from 47% in 2014 and represents a 4.6% increase from the previous five-year average (2010-2014).

Among those individuals arrested for a DUI, 25% become repeat offenders (Warren-Kigenyi & Coleman, 2014). Almost half of repeat DUI offenders have a diagnosable substance use disorder and often a co-occurring psychiatric disorder, including bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), or generalized anxiety disorder (Lapham et al., 2006a; Shaffer et al., 2007).

Similar to adult drug courts, DUI courts require participants to attend frequent status court hearings, complete substance use treatment and other programs, and submit to random or continuous testing for alcohol or other drugs. Most DUI courts are post-adjudication or post-sentencing programs. Participants may be required to serve a portion of a jail sentence with the remainder of the sentence being suspended if the DUI court program is completed.

According to the National Drug Court Institute's comprehensive review of DUI court studies, 85% of the studies reported significantly better outcomes for DUI court participants compared to standard or intensive probation or adjudication as usual. On average, DUI courts reduced DUI recidivism and general criminal recidivism by an average of approximately 12% with the best DUI courts reducing recidivism by 50% to 60%.<sup>1</sup>

### Montana's 13<sup>th</sup> Judicial District Impaired Driving Court (STEER)

NPC Research of Portland, Oregon recently completed the first phase of a study examining the 13<sup>th</sup> Judicial District Impaired Driving Court in Yellowstone County

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<sup>1</sup> National Drug Court Institute, *Painting the Current Picture – A National Report on Drug Courts and Other Problem-Solving Courts in the United States*, Marlowe, Hardin and Fox, June, 2016, p. 17-19.

known as the STEER (Sobriety, Treatment, Education, Excellence and Rehabilitation) Court. The information provided below is taken from that study as well as from FullCourt, the case management system used by Montana courts.

In December 2016, FullCourt information on STEER Court participants was extracted from 2010 through August 8, 2013. This extraction provided three years of follow-up information from date of admission for drug court participants included in the study. Significantly, for all admissions (121) during this time period, there were only 7 felonies and 15 misdemeanors for a total of 22 convictions or re-offenses. (Misdemeanors for this purpose did not include hunting and fishing offenses, offenses related to commercial trucking, general traffic violations unless DUI related and low level offenses, e.g., loitering.) For the three-year follow up from date of admission, the conviction rate for all admissions was 18.18%, of which 5.78% were felonies and 12.39% were misdemeanors. For graduates, there were 4 felonies (3.30%) and 9 misdemeanors (7.43%) for a total conviction rate of 10.74% for the three-year follow up from date of admission. The race/ethnicity of STEER Court participants was approximately 75% White and 20% Native American. (Very few participants were African American or multiracial.) Approximately 97% of STEER Court participants were felons. Additionally, 15% of the participants had an 11<sup>th</sup> grade education or less at admission; at discharge, this number was reduced to 11%. At admission, 38% of STEER Court participants were unemployed. At discharge, the unemployment rate dropped to 18% with 66% of participants employed full-time.

### **Preliminary Comparisons with STEER, WATCH (Warm Springs Addiction Treatment and Change), and WATCH Eligible Participants**

In addition to the conviction data described above, the NPC report documented the following aggregate data available from the Montana Department of Corrections. The report summarized subsequent felony convictions in Montana for two groups in addition to the STEER Court graduates: (1) graduates of WATCH, a residential program begun in 2002 for adults with a felony DUI; and (2) statewide DUI offenders in Montana who were eligible for WATCH but did not attend the program. Note: These findings are preliminary and should be interpreted with caution.

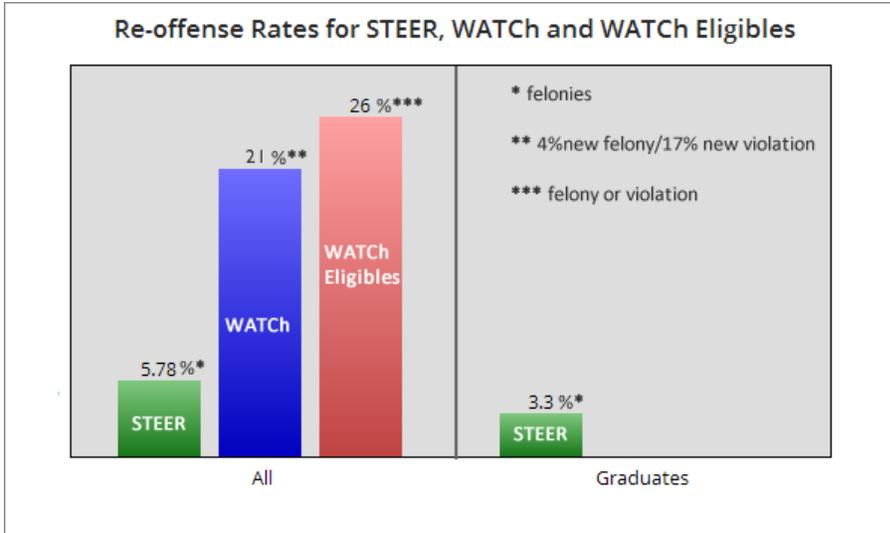
Data for the WATCH participants included information for 1,148 individuals who completed WATCH from January 1, 2011, to June 30, 2014. WATCH had a 92% completion rate.<sup>2</sup> Of these participants, 21% were convicted of a new felony or were returned for violations. More specifically, 49 participants who completed WATCH (4%) had a new felony, and 200 participants who completed WATCH (17%) were returned for

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<sup>2</sup> WATCH report, 2009

violations. In comparison, 3.30% of STEER Court graduates were convicted of a new felony offense.

Among those eligible for WATCH who did not attend the program, 84 individuals since January 1, 2011, had a DUI conviction resulting in at least a 13-month sentence. Of these individuals, 26% had a subsequent felony or violation. The rates of subsequent convictions are summarized in the table below:



### STEER Court Participant Costs

The following participant costs for the STEER Court were based on court expenditures for Fiscal Years 2014 through 2016 obtained from the Montana Office of Court Administrator (OCA). Participant statistics were obtained from FullCourt.

The average cost per day per STEER Court participant was:

- Fiscal Year 2014: **\$9.25** or \$3,570.50 per participant for the average length of stay in the program.
- Fiscal Year 2015: **\$6.33** or \$2,310.03 per participant for the average length of stay in the program.
- Fiscal Year 2016: **\$10.25** or \$3740.28 per participant for the average length of stay in the program.

These costs include services paid from the courts' budget and do not include services provided outside of the budget. It is anticipated that the second phase of the NPC study

will include an analysis of all costs as well as costs avoided due to the success of the STEER Court.

### **SCRAM Electronic Ankle Bracelets**

An important component of Montana DUI courts is the use of SCRAM electronic ankle bracelets, which monitor participants' alcohol use twice per hour, 24 hours a day. Reports on participants' alcohol use are available immediately to drug court team members. The OCA has purchased and maintained 76 SCRAM ankle bracelets and loans these units to local drug courts upon request. This process has allowed for a considerably lower cost for daily use.

From November 2, 2015 to November 2, 2016, Montana drug courts – mostly DUI courts – had 109 participants on SCRAM bracelets. This amounted to a total of 7,388 days of electronic monitoring with a 99% rating of sober days. Many drug courts and DUI courts in particular require a participant to wear a SCRAM bracelet for at least the first 90 days of the drug court program. During this period, the average number of days on electronic monitoring was 81 days.

From January 1, 2002 to November 2, 2016, Montana drug courts had 768 participants on SCRAM bracelets with 747 participants completing their use. This amounted to a total of 71,988 days of electronic monitoring with a 99% rating of sober days. During this period, the average number of days on electronic monitoring was 94 days.

SCRAM electronic monitoring has proven to be a very useful tool in Montana DUI and other drug courts by helping participants remain sober particularly during the initial phases of their drug court experience.

### **III. Drug Courts: A Better Approach to Drug-Related Issues**

In Montana, a drug court is a court docket within a district court or court of limited jurisdiction (i.e., city, municipal or justice's court) that specializes in adult criminal, DUI offenses, juvenile, veteran or civil child abuse and neglect cases involving persons who are alcohol or other drug dependent. Drug courts offer a therapeutic program designed to break the cycle of addiction and crime (or abuse and neglect in family drug courts) by addressing the underlying causes of drug dependency.

A drug court is a highly specialized team process that functions within the existing court structure to address drug-related cases. These courts are unique in the criminal justice environment because they build a close collaborative relationship between criminal justice and drug treatment professionals. The drug court judge manages a team of court staff, attorneys, probation officers, substance abuse counselors and child and family services social workers all focused on supporting and monitoring each participant's recovery.

Drug court participants undergo an intensive regimen of substance use disorder treatment, case management, drug testing, and probation supervision while reporting to regularly scheduled status hearings before the judge with specialized expertise in the drug court model. In addition, drug courts increase the probability of participants' success by providing a wide array of ancillary services such as mental health treatment, trauma and family therapy, job skills training, and many other life-skill enhancement services. Judicial supervision, coupled with the overarching threat of jail or prison facing those who fail drug court, produces much better treatment and recidivism outcomes than both standard prosecution/probation and earlier court-mandated treatment approaches.

Drug courts in Montana have transformed the lives of hundreds of drug-dependent offenders and caregivers by providing them with treatment, intensive supervision, and incentives to remake their lives. Importantly, drug courts have enhanced public safety in Montana. The data demonstrate that an offender who goes through drug court is far less likely to offend again than one who goes to prison. The Montana taxpayer also benefits by keeping offenders in the community rather than in jail or prison and by keeping families together.

## IV. Measuring Performance

The Montana Judicial Branch is committed to accountability and performance measurement. The state's drug court coordinators have developed a comprehensive set of performance indicators. This report discusses most of these indicators on a statewide basis.

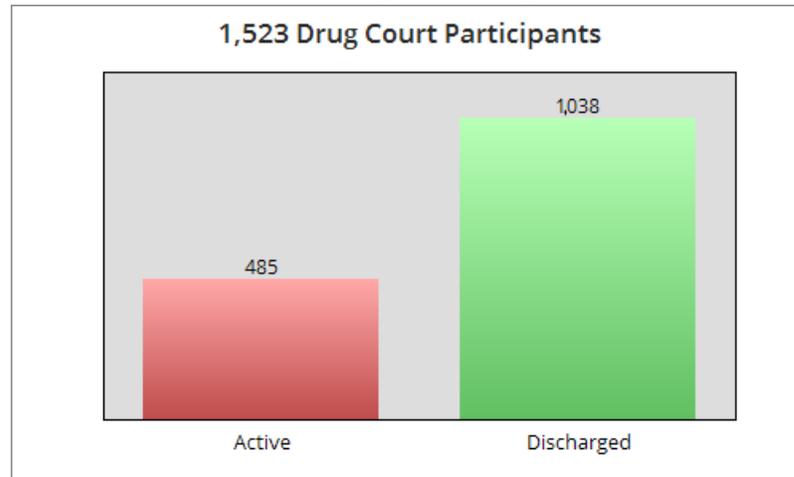
Management and local monitoring systems provide timely and accurate information about program operations to the drug court's managers enabling them to keep the program on course, identify emerging problems, and make appropriate procedural changes. Montana's courts began the process of centralizing data in response to an initial survey conducted by the Office of Court Administrator (OCA). Collecting specific quantitative measures for drug courts began in May 2008. Additionally, as national standards and updated research on evidence-based and best practices has occurred, the OCA has applied them in a new peer-review process initiated in 2015.

The performance measurement information in this report is based primarily on data from the statewide information system that collects data from admission to discharge. In measuring performance, the entire 102 months of data was analyzed in some cases (e.g., number of drug-free babies born in Montana drug courts compared to those born drug-affected). For most performance indicators, however, the most recent 48 months of data (2012-2016) is used as a snapshot of recent drug court performance. Additionally, to calculate recidivism or re-offense rate, convictions occurring for the three-year period following admission to drug court for 2010, 2011 and 2012 is used. (This method for calculating recidivism is consistent with several national and state analyses and with the recommendation of the Montana Drug Treatment Court Advisory Committee.)

During the most recent 48-month period of data collection (November 1, 2012 – October 31, 2016):

1. 1,523 individuals entered Montana drug courts: 1,420 adults (1,294 adult drug court participants and 126 family drug court participants) and 103 juveniles.
2. 485 participants were active in a drug court as of October 31, 2016: 422 in adult drug court, 56 in family drug court and 16 in juvenile drug court.
3. 1,038 participants were discharged allowing analysis of both intake and exit data. (See chart on next page.)

## 48-Month Drug Court Population



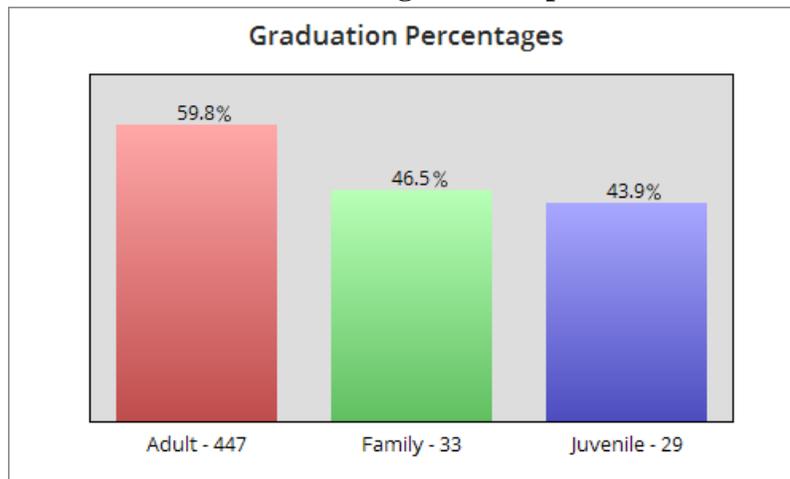
### **1. Program Completion**

1. The 1,038 discharged participants for which court disposition status is reported are categorized as follows:
  - a. 509 participants graduated from a drug court.
  - b. 376 participants did not graduate and were either terminated or absconded from the program.
  - c. 153 participants had a neutral disposition outcome including a transfer to another district, death, discharge for other reasons (e.g., medical), voluntary withdrawal from program or the court lost jurisdiction.
2. The overall graduation rate for the **48 months** is **57.5%** for all types of drug courts.

### **2. Graduation Rate by Court Type over 48 months (November 1, 2012-October 31, 2016)**

1. Adult drug courts have a graduation rate of 59.8 % (872 discharges with 447 graduates, 301 terminations and 124 “neutral” participants).
2. Family drug courts have a graduation rate of 46.5% (79 discharges with 33 graduates, 38 terminations and 8 “neutral” participants).
3. Juvenile drug courts have a graduation rate of 43.9% (87 discharges with 29 graduates, 37 terminations and 21 “neutral” participants). (See chart on next page.)

## 48-Month Drug Court Population



According to the National Drug Court Institute’s *Painting the Current Picture – A National Report on Drug Courts and Other Problem-Solving Courts in the United States*, June 2016, “[t]he average graduation rate in respondents’ drug courts was 59% in 2014, with most graduation rates ranging from 50% to 75%. Graduation rates in drug courts were approximately two-thirds higher than completion rates for probation, and were more than twice those of comparable programs for probationers with severe substance use disorders.”<sup>3</sup> In the *Adult Drug Court Biannual Grantee Feedback Report*, April-September, 2015 from the Bureau of Justice Assistance, U.S. Department of Justice, “[t]here was an overall graduation rate of 54.6%, which is 3.1 percentage points higher than the April to September 2014 reporting period rate of 51.5 percent.”<sup>4</sup> The graduation rate for rural adult drug courts was 53.1%.

Overall, Montana adult drug court graduation rates are somewhat higher than rates found in comprehensive national studies.

### **3. Length of Stay**

The longer a person stays in treatment, the better the outcome. According to the National Institute on Drug Abuse, “...one of the most reliable findings in treatment research is that lasting reductions in criminal activity and drug abuse are related to length of treatment. Generally, better outcomes are associated with treatment that lasts longer than 90 days, with the greatest reductions in drug abuse and criminal behavior accruing to those who

<sup>3</sup> National Drug Court Institute, *Painting the Current Picture – A National Report on Drug Courts and Other Problem-Solving Courts in the United States*, Marlowe, Hardin and Fox, June, 2016, p. 8.

<sup>4</sup> Bureau of Justice Assistance, U.S. Department of Justice, *Biannual Grantee Feedback Report, April-September 2015*, Vanessa Cunningham West, CSR, Incorporated.

complete treatment.” Thus, tracking the length of time drug court cases remain open is important.

For the 509 graduates and 376 early terminations who were discharged during the 48-month period (885 participants), the average length of stay in drug court across all courts in Montana is 378.7 days. This number varies significantly by graduation/early termination and by court type. Graduates have a significantly longer stay in drug court compared to those failing to graduate. For all drug courts, the 509 graduates were in drug court for an average of 482 days. Participants terminating early (376) had an average of 239 days in drug court.

Although participants terminating early average fewer days than those who graduate, the 239-day average is significant. According to the National Institute on Drug Abuse, “... research has shown unequivocally that good outcomes are contingent on adequate treatment length. Generally, for residential or outpatient treatment, participation for less than 90 days is of limited effectiveness and treatment lasting significantly longer is recommended for maintaining positive outcomes.”<sup>5</sup>

1. Adult drug court participants spent an average of 385 days in treatment. Adult drug court graduates’ average length of stay was 485 days while early terminations averaged 237 days. This validates that improved outcomes result with graduates who have longer stays in drug court.
2. Family drug court participants were in drug court for an average of 372 days. Graduates averaged 531 days while participants who terminated averaged 234 days in the program.
3. Juvenile drug court participants were in treatment for an average of 314 days. Graduates averaged 384 days while early terminations averaged 260 days.

#### **4. Retention Rate**

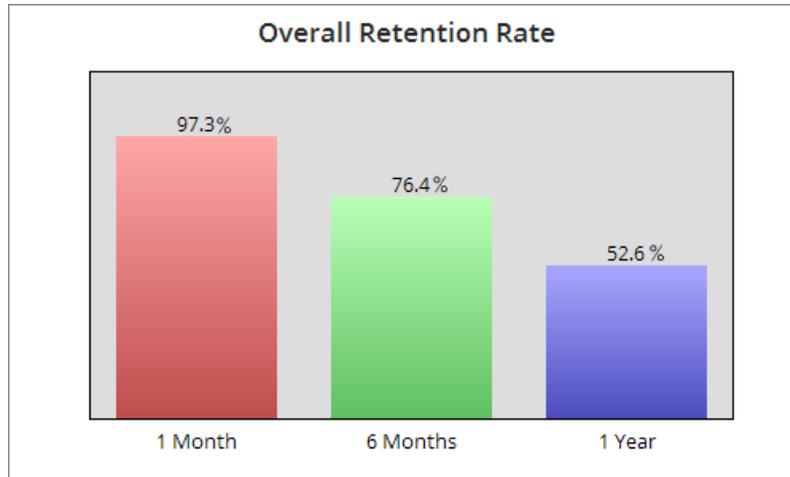
Retention rates drive the success of a drug court. Even participants who do not graduate benefit from time in the drug court. For the 1,038 participants (not including active cases) for whom court disposition status is reported, 97.3% were still participating one month (31 days) after entering a Montana drug court, 76.4% of the cases were still active at six months after admission (183 days or more) and 52.6% were still active at one year after admission (365 days). These are impressive numbers for retention given the importance

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<sup>5</sup> National Institute on Drug Abuse, *Principles of Drug Addiction Treatment – A Research-Based Guide*, Revised May, 2009.

of providing an adequate dose of treatment to participants in drug court for at least three months and preferably at least six months according to the National Institute on Drug Abuse.

### 48-Month Drug Court Population



## **5. Recidivism for Adult Drug Courts**

The term “recidivism” means a return to criminal activity (re-offense) by someone who has already been adjudicated guilty, delinquent or has an open child abuse and neglect case. Based on advice provided to the OCA by Dr. Doug Marlowe, Director of Research for the National Association of Drug Court Professionals, the Montana Drug Treatment Court Advisory Committee, and the *Adult Drug Court Best Practice Standards, Volume II*, this report looks at conviction rates defined as a new conviction for participants for three years from date of admission into drug court.

According to the *Adult Drug Court Best Practice Standards, Volume II, Chapter X, “Monitoring and Evaluation”*, “[b]ased on scientific considerations, evaluators should follow participants for at least three years, and ideally up to five years, from the date of the arrest or technical violation that made the individual eligible for Drug Court. The date of entry should be the latest start date for the evaluation because that is when the Drug Court becomes capable of influencing participant behavior directly.” In comparing whether arrest, conviction or incarceration ought to be the measure for recidivism, the report goes on to state that “...some individuals are arrested for crimes they did not commit. This fact may lead to an overestimation of the true level of criminal recidivism. Relying on conviction data rather than arrest data may provide greater assurances that the crimes did, in fact, occur.”

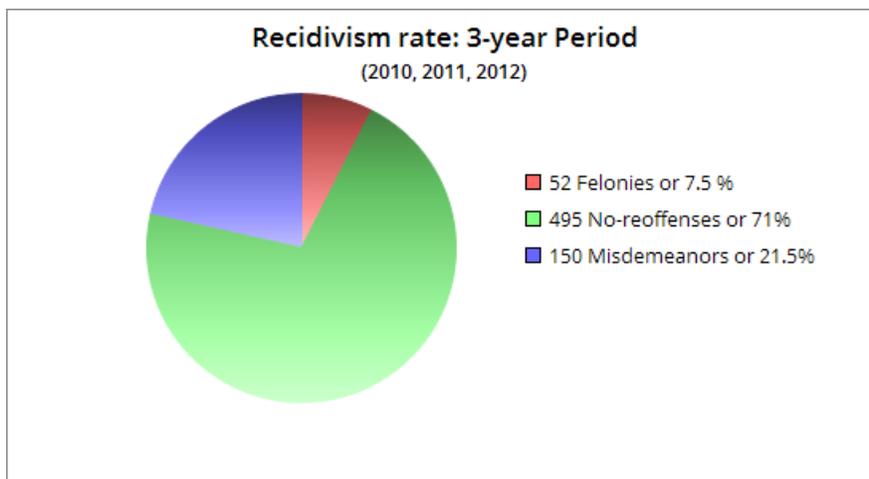
Additionally, as noted earlier, this report considers whether the re-offense (conviction) was a misdemeanor or a felony given that felonies are much more serious than misdemeanors. The rates of re-offense were determined through an interface between the drug court admission and discharge forms (InfoPath) and Montana’s court case management system (FullCourt) through SharePoint software.

Based on advice from the Montana Drug Treatment Court Advisory Committee, recidivism is calculated using all felonies and all misdemeanors except for hunting and fishing offenses, offenses related to commercial trucking, general traffic violations unless DUI related and low level offenses, e.g., loitering.

Below is recidivism information (conviction data) for drug court participants who were admitted to adult drug courts in 2010, 2011 and 2012 in order to have three years to follow participants after admission. Family drug court participants are not included; the performance criteria for family drug court participants relating to additional child abuse and neglect reports after discharge is discussed later in this report. Performance criteria for juveniles relating to recidivism are not included because a juvenile’s case is closed and inaccessible due to statute upon reaching his or her 18<sup>th</sup> birthday.

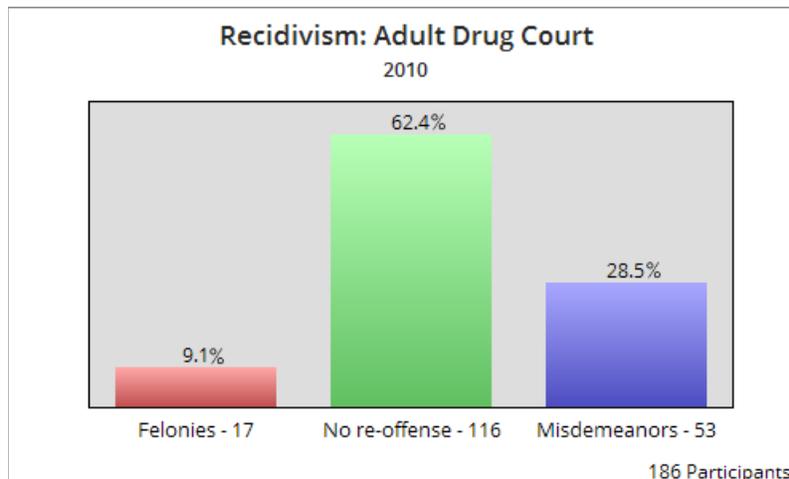
### **Recidivism Rates**

For the 697 individuals admitted to Montana adult drug courts during the three-year period (2010, 2011 and 2012), 202 participants or 29.0% were convicted of felonies and/or misdemeanors for the three years following their admissions. Conversely, 71.0% did not recidivate. Convictions included 52 felonies (7.5%) and 150 misdemeanors (21.5%).



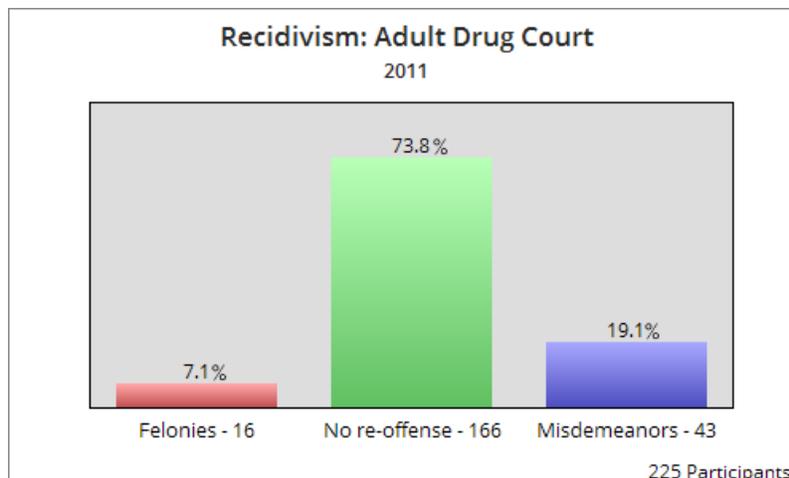
For adult drug court participants who were admitted in 2010, 70 of 186 (37.6%) reoffended and were convicted during the 36-month period after their admission.

Slightly over 62% (62.4%) did not recidivate. These numbers include participants who graduated as well as those who were discharged early. Seventeen of the 186 participants (9.1%) were convicted of felonies during the three-year period following admission. Fifty-three of the 186 participants (28.5%) were convicted of misdemeanors.



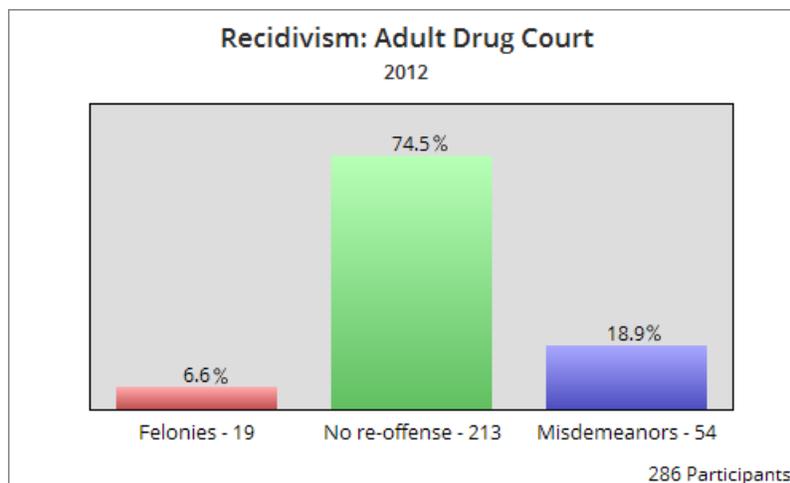
As would be expected, graduates of the adult drug court had considerably fewer convictions than those who left the drug court early (neutrals/terminations). In 2010, 22 graduates (11.8%) were convicted during the three-year period (1.6% felonies and 10.2% misdemeanors) while 48 participants (25.8%) who left early were convicted (7.5% felonies and 18.3% misdemeanors).

For adult drug court participants who were admitted in 2011, 59 of 225 (26.2%) reoffended and were convicted during the 36-month period after their admission. Nearly 73.8% did not recidivate. These numbers include participants who graduated as well as those who were discharged early. Sixteen of the 225 (7.1%) were convicted of felonies for all admissions during the following three-year period. Forty-three of the 225 (19.1%) were convicted of misdemeanors.



Again, adult drug court graduates had fewer convictions than those who left the drug court early (neutrals/terminations). In 2011, 23 graduates (10.2%) were convicted during the three-year period (3.5% felonies and 6.7% misdemeanors) while 36 participants who left the drug court early (16%) were convicted (3.5% felonies and 12.4% misdemeanors).

For adult drug court participants who were admitted in 2012, 73 of 286 (25.5%) reoffended and were convicted during the 36-month period after their admission while 74.5% did not recidivate. These numbers include those who graduated as well as those who were discharged early. Nineteen of the 286 (6.6%) were convicted of felonies for all admissions during the following three-year period. Fifty-four of the 286 (18.9%) were convicted of misdemeanors.



Adult drug court graduates again had fewer convictions than those who left the drug court early (neutrals/terminations). In 2012, 34 graduates (11.9%) were convicted during the three-year period (2.8% felonies and 8.7% misdemeanors) while 39 participants (13.6%) who left early were convicted (3.8% felonies and 9.8% misdemeanors).

**Overall conviction/recidivism rates for the three-year period following admission to Montana adult drug courts are low, and the trend for the three years is encouraging. In 2010, the conviction rate was 37.6%. In 2011, the rate dropped to 26.2%. In 2012, the rate was lower yet, down to 25.5%.**

These re-offense rates compare very favorably with traditional case processing re-offense rates for drug offenders of between 45-75% for the two to three-year period following adjudication (see Belenko's chart pp. 33-34 and related discussion and related discussion in *Research on Drug Courts: A Critical Review*, June 1998). The Montana data also appear to be consistent with Belenko's statement in the same publication: "As with

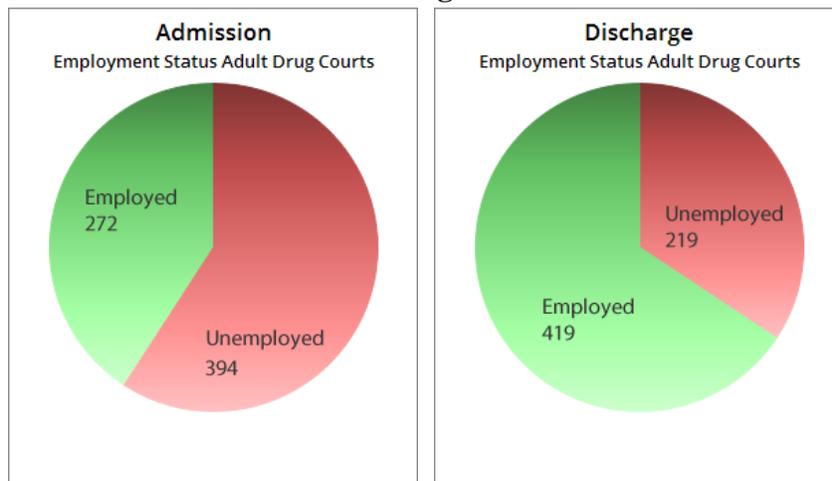
previous findings, a majority of the studies found lower recidivism rates for drug court participants....”

### **6. Employment Status: Admission to Discharge**

Adult drug courts place great value on improving employment for participants. Adult drug court participants generally see the greatest improvement in this area. Juvenile drug court participants often see the smallest improvement and are directed toward completing basic education, while family drug court participants show employment improvement but have a greater emphasis on parenting children.

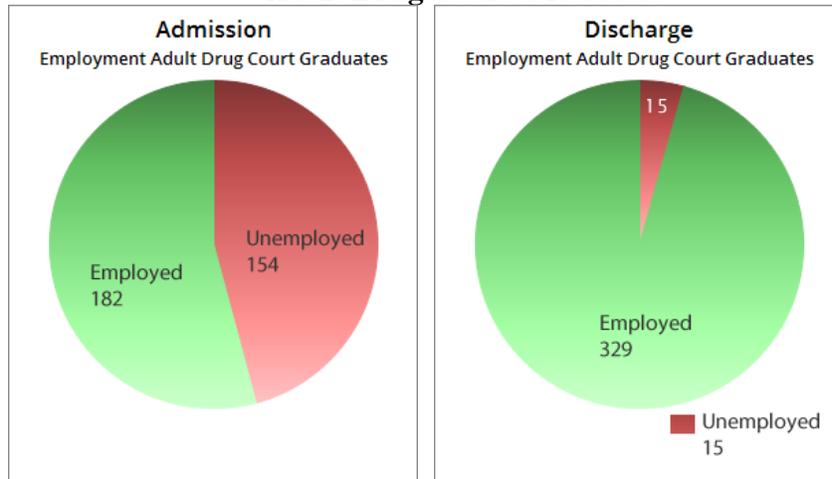
1. Adult drug court participants discharged during the latest four-year reporting period showed a 54% increase in full-time employment from admission to discharge (272 employed full-time at admission and 419 employed full-time at discharge). Unemployment fell from 394 participants at admission to 219 participants at discharge, a 44.0% decrease.

#### **Adult Drug Courts**



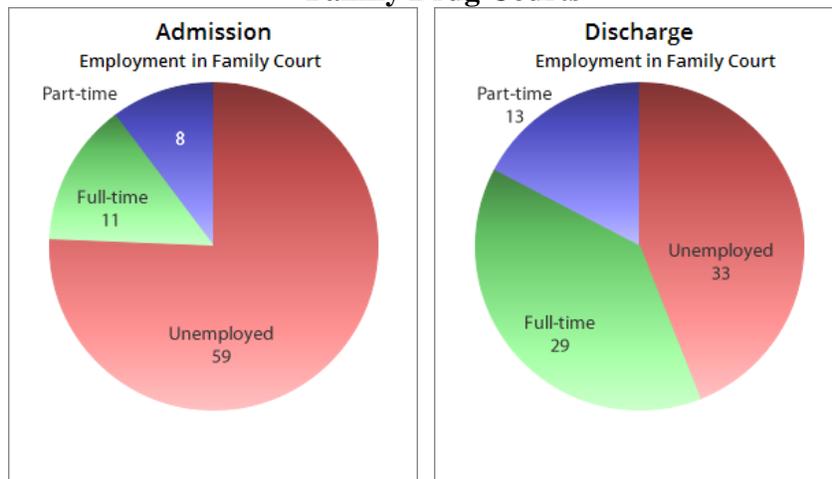
2. Adult drug court graduates reported an 80.7% increase in employment from admission to graduation (182 employed full-time at admission compared to 329 employed full-time at discharge). Unemployment fell from 154 participants to 15 or a 90.3% decrease in unemployment. Those participants who remained unemployed may have been in an academic or educational/technical training program because graduates are required to be employed or in an educational program. (See chart on next page.)

### Adult Drug Court Graduates



- Participants in family drug courts are responsible for at least one child and in some cases, several. For participants discharged from the courts during the 48-month period, 11 were employed full-time at admission, which increased to 29 at discharge, an increase of 164%. Additionally, 8 family drug court participants were employed part-time at admission, which increased to 13 at discharge or an increase of 62.5%. Fifty-nine were unemployed at admission, and only 33 were unemployed at discharge, a 44% decrease. For graduates of family drug courts, the results are even more impressive with 5 employed full-time at admission and 26 employed full-time at discharge (420% increase).

### Family Drug Courts

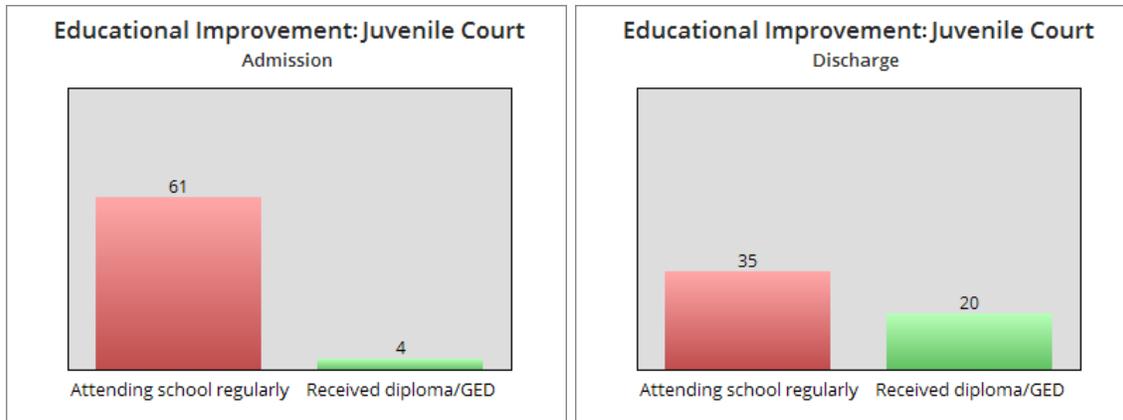


- Juveniles in a drug court should attend school regularly, and most are not in the workforce. (The emphasis on education will be covered in the next section.) However, gains still occurred in the employment area as well. For juveniles at admission, 20 were employed either full-time or part-time, whereas at discharge,

33 were employed either full-time or part-time for an increase of 65%. For graduates at admission, 10 were employed either full-time or part-time while at discharge, 23 were employed either full-time or part-time for an increase of 130%.

## **7. Education Status: Admission to Discharge**

1. For all drug court participants (adult, family and juvenile), excluding active cases, the number of high school graduates or those with a GED increased 12.4% from 233 participants at admission to 262 participants at discharge. Participants having some college went from 75 to 80, a 6.7% increase.
2. For adult drug court participants who were discharged, excluding active cases, 437 participants reported at admission that they had a high school diploma or GED. At discharge that number had risen to 460 or a 5.3% increase. For adult drug court graduates, however, 219 reported at admission that they had a high school diploma or GED. At discharge, that number had risen to 240 or a gain of 21, a 9.6% increase in adults getting their high school diploma or GED. This represents more than a 35% decrease in adults who did not have their GED or a high school diploma at time of admission. At the same time, participants at discharge showed an increase of some college from 72 to 75 and trade school from 9 to 10.
3. For family drug court participants who were discharged, excluding active cases, 36 participants reported at admission that they had a high school diploma or GED. At discharge, 38 participants reported having a high school diploma or GED. Those reporting some college rose from 8 participants at admission to 11 at discharge.
4. For juvenile drug court participants who were discharged, excluding active cases, 61 participants at admission were attending school regularly, 19 were listed as attending high school/elementary school, 4 had received a high school diploma or GED and one had some technical school. At discharge, 35 were attending school regularly, 24 were listed as attending high school/elementary school and 20 received a high school diploma/GED. The number of participants receiving a high school diploma/ GED went from 4 at admission to 20 at discharge or a 400% increase. (See chart on next page.)



## **8. Driver's License and State Identification Card Acquisition: Admission to Discharge**

At discharge, drug court programs document whether participants obtained a driver's license while in the program. (Juvenile participants are not included in this sample because many are too young to obtain a license.) Of the 951 adults at discharge, 666 adult participants – including family and adult drug court participants – did not have a driver's license at admission. Of these 666 participants, 127 were not eligible (primarily due to the DUI offense committed) leaving a total of 539 eligible for a license while in drug court. By time of discharge, 118 of the 539 had received a driver's license or a 21.9% reduction in those without a driver's license who were eligible to receive one. Among the 329 graduates who did not have a driver's license at admission, 74 were not eligible to receive a license, leaving 241 eligible. Ninety-five of the 241 eligible graduates received their license by time of discharge. This is a 39.4% increase in those receiving their driver's licenses that were eligible by time of discharge.

At discharge, drug court programs document whether participants received a state identification card while in the program. At discharge, 117 drug court participants had received their state identification card while in drug court. Of those, 92 were in adult drug courts, 23 were in family drug courts and 2 were in juvenile drug courts.

## **9. Gender and Ethnicity**

Among the 1,523 drug court participants, 1,000 (65.7%) were men and 34.3% (523) were women. This percentage represents a small increase in female participants compared to previous reports and continues the trend toward more females in Montana drug courts. (For the 53-month report, 69.6% of the court participants were male while 65.8% were male in 78-month report.) There continues to be a strong association between gender and court type.

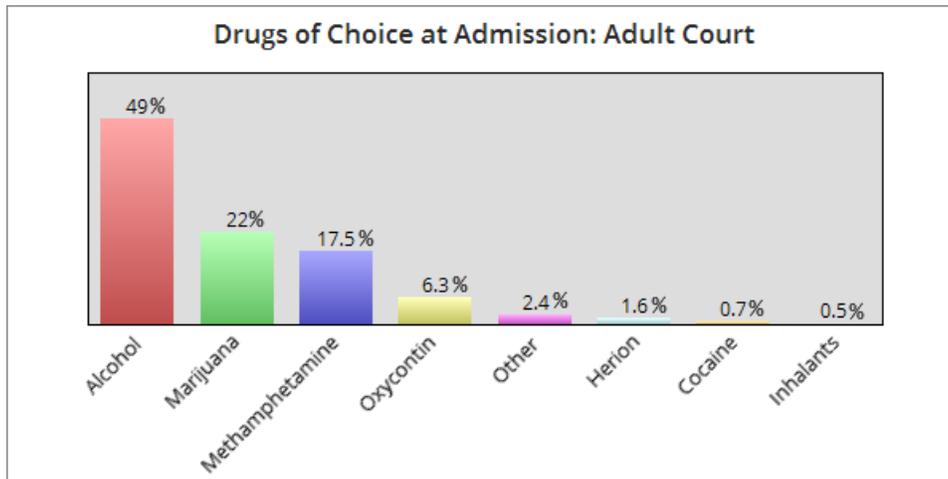
1. For the last four years, adult drug court participants (1,294) were 69.3% male (897) compared to 70.3% in the previous 78-month report. Additionally, 191 (14.8%) were Native American (105 males and 86 females), 17 (1.3%) were Black (13 males and 4 females), and 57 (4.4%) were Hispanic (44 males and 13 females). Montana adult drug courts have remained fairly stable in their gender percentages. However, the percentage of participants who are members of minority groups (20.7%) continues to increase.
2. As in past years, women were much more likely to be in family drug courts. For this reporting period, 91 of 126 family drug court participants (72.2%) were females compared with 73.0% in the 78-month report. In the family drug courts, 32 participants (25.3%) were Native American, 1 (.08%) was Black, and 4 (3.1%) were Hispanic. Minorities made up 29.6% of the total population served in family drug courts.
3. Males were more likely to be in a juvenile drug court. Of the 103 juvenile drug court participants, 68 (66%) were male compared to 64.7% in the previous 78-month report. Among total admissions, 15 participants (14.6%) were Native American, 3 (2.9%) were Black and 6 (5.8%) were Hispanic. Minorities made up 23.3% of the total population served in juvenile drug courts.

## **10. Drugs of Choice**

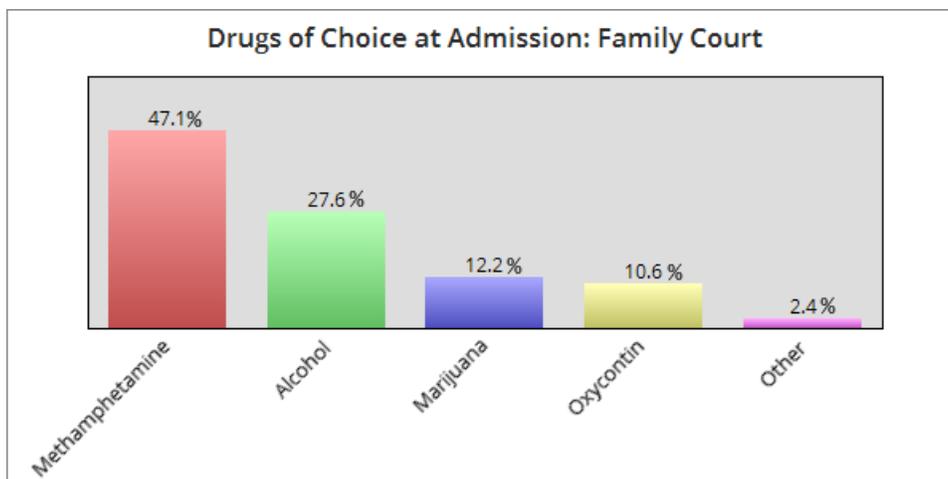
Drugs of choice differ depending on the type of drug court. When considering all drug courts for the last 48 months, the primary drugs of choice are as follows: alcohol (45.2%), methamphetamine (22%), marijuana (21.8%), OxyContin (6%), heroin (1.4%), powder cocaine (.5%), other amphetamines (.3%), inhalants (.2%), crack cocaine (.2%) and “other” (2.4%). The secondary drug of choice for all Montana drug court participants for the last 48 months is as follows: marijuana (29.7%), “none” (24.8%), alcohol (20.2%), methamphetamine (12.8%), OxyContin (5.6%), “other” (2.8%), powder cocaine (1.2%), other amphetamines (1.2%), crack cocaine (.7%), heroin (.6%), and inhalants, steroids, Ecstasy, ketamine and LSD (.4%). Some drug court participants also had a tertiary drug of choice as follows: “none” or “not selected” (68.4%), alcohol (9.4%), marijuana (7.2%), methamphetamine (5.7%), “other” (3.3%), OxyContin (3.1%), powder cocaine (.9%), crack cocaine (.85%), LSD, heroin, inhalants and Ecstasy (1.0%).

1. **Adult drug court participants indicated that the most common drug of choice was alcohol (49%),** followed by marijuana (22%), and methamphetamine (17.5%). Other categories of drugs including OxyContin (6.3%), “other” (2.4%), heroine (1.6%), and crack cocaine and powder cocaine (.7%). Inhalants and other amphetamines (.5%) were also documented. The secondary drug of choice for

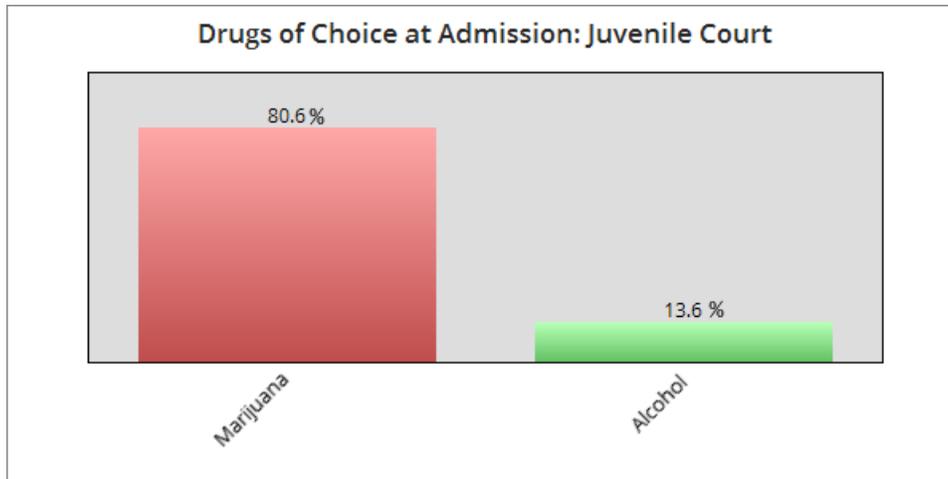
adults in adult drug courts was marijuana (29.1%) followed by alcohol (17.1%) and methamphetamine (12.8%); 29.8% indicated either “none” or “not selected”. Tertiary drugs of choice for adult drug court participants in the past 48 months included the following: alcohol (29.0%), marijuana (25.1%), methamphetamine (20%), OxyContin (8.4%), “other” (8.2%), powder and crack Cocaine (6.9%) and heroin, LSD and Ecstasy (2.3%).



- For family drug court participants, the primary drug of choice continued to be methamphetamine (47.1%)** followed by alcohol (27.6%), marijuana (12.2%), OxyContin (10.6%), and cocaine, heroin and other (2.4%). These percentages are very similar to the previous 78-month report. The secondary drug of choice for family drug court participants was marijuana (40.9%) followed by alcohol (19.0%), methamphetamine (17.1%), OxyContin (17.1%), and cocaine, heroin and other (5.7%). Some participants did not indicate a secondary drug of choice. Most family drug court participants did not have a tertiary drug of choice; for those who did, alcohol was first followed by marijuana and OxyContin.



3. For juvenile drug court participants, the primary drug of choice was marijuana by far (80.6%) followed by alcohol (13.6%). Only two participants reported methamphetamine and amphetamines. Marijuana as the primary drug of abuse increased from 74.6% to 80.6% in this reporting period. The secondary drug of choice was alcohol followed by marijuana, methamphetamine, OxyContin, powder cocaine, amphetamines, inhalants and LSD. Most juvenile drug court participants did not have a tertiary drug of choice; for those who did, alcohol was by far the drug of choice.



**11. Prior Treatment for Alcohol and Other Drugs**

As previously mentioned, completing treatment and completing drug court results in significantly reduced re-offense rates and a host of improvements in other bio-psycho-social areas.

Receiving treatment prior to entering drug court does not mean treatment completion. When participants were asked if they had received treatment in the 36 months before entering drug court, 746 (52.5%) of the 1,420 adult admissions (adult and family drug court participants) indicated “yes”. Having received previous treatment is an indicator of high risk for re-offense and high need for additional treatment of offenders in the criminal justice system. The individuals at admission indicated receiving the following services with some receiving more than one service:

- Detoxification .....122
- Inpatient .....297
- Intensive outpatient.....255
- Outpatient.....358
- Jail-based.....163

- Individual counseling.....352
- Co-occurring.....203
- Inpatient psychiatric.....137
- Outpatient psychiatric.....179

For over half of the population admitted to drug court, prior treatment has occurred. When considering prior arrest history, psychiatric history, and prior drug treatment, the extent of psycho/social problems being experienced by the population admitted to drug court is substantial and meets the criteria for high-risk/high-need.

For juvenile drug court participants, 43 of 103 (41.7%) indicated that they had received treatment before entering juvenile drug court. Prior treatment mentioned by juveniles included: detoxification (1), inpatient (17), intensive outpatient (19), outpatient (40), jail-based (8), individual counseling (43), co-occurring (21), inpatient psychiatric (7) and outpatient psychiatric (19). Again, this data represents a measure of severity of the clientele being admitted to juvenile drug courts.

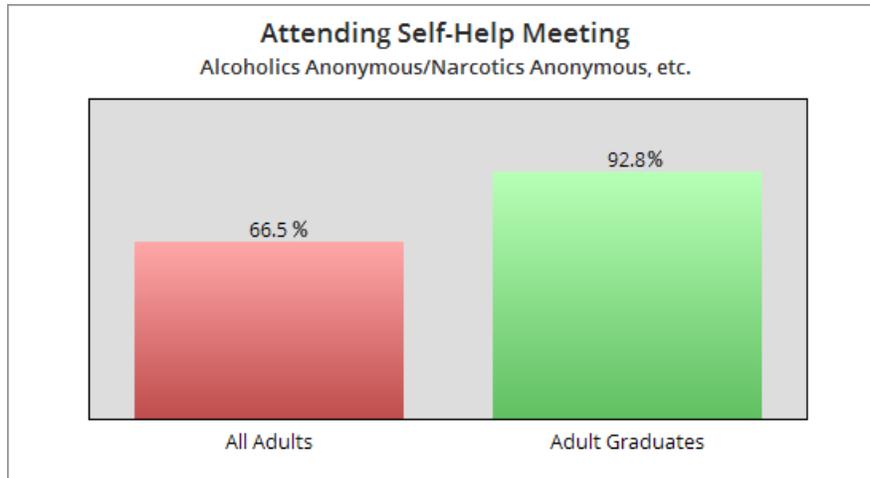
**12. Sobriety Measures**

In examining sobriety measures, the OCA collects information on drug use at discharge. Of the 1,038 discharged cases, there were 509 graduates. As would be expected, all graduates were identified as being drug free at graduation. Of the 485 graduates for which data were reported, the average number of clean days was 372.3 days or slightly over 12 months. For adult drug court graduates (410), the average number of clean days prior to graduation was 382.8 days. For family drug court graduates (33), participants averaged 545.9 clean days prior to graduation while juveniles (28) averaged 186.7 days clean.

Of the 431 adult participants who terminated early or were discharged as a neutral for which data were reported, 153 or 35.5% were not using alcohol or other drugs at time of discharge. Of the 68 juveniles who terminated early or were discharged as a neutral for which data were reported, 24 or 35.3% were not using alcohol or other drugs at time of discharge. This is an indication that even those who do not graduate receive benefit from participating in drug court.

Attending self-help meetings (usually 12-step meetings) is considered by many as an important long-term strategy for remaining clean and sober. Of the 965 discharged cases for which data were reported, 611 were attending self-help meetings or 63.3%. However, most juvenile drug courts do not require juveniles to attend self-help meetings because they do not relate well to the older drug dependent individuals who primarily attend. If juveniles are removed from the discharged cases, the percent attending self-help meetings

increases to 66.5% (590 of 887). When only adult graduates from the adult and family drug courts are considered, 428 of 461 were attending self-help at discharge or 92.8%.



The OCA also collected information on clean and positive urinalysis tests as a measure of sobriety as well. For those who were terminated early and did not graduate drug court, there were 31,072 clean urinalyses and 4,906 positive urinalyses for a rate of 13.6% positive. For drug court graduates, there were a total of 83,500 clean urinalyses and 2,043 positive urinalyses for a rate of 2.4% positive. As expected drug court graduates tested positive significantly less than those who failed to graduate.

Studies conducted in other parts of the country indicate that those in the criminal justice system on regular supervision (such as probation) test positive an average of 30% of the time whereas in drug courts, the average is around 10%.<sup>6</sup> Thus, drug court participants in Montana test positive considerably less than national studies indicate others do on regular supervision, and graduates of Montana drug courts test positive at an even lower rate (2.4%).

### **13. Psychiatric Disorders**

Co-occurrence of alcohol, drug abuse and mental health disorders is not uncommon. The most recent publication on best practices in drug courts (National Drug Court Institute, 2007) estimates that 10 to 15% of all offenders have mental disorders and that one-third of all drug court participants have co-occurring disorders.

For the 1,432 cases (1,523 minus 91 unknowns) in which data were available, 45.5% of drug court participants (651) reported receiving prescribed medications in the 12 months

<sup>6</sup> Cooper, C. 1998 *Drug Court Survey: Preliminary Findings*. Washington, D.C.: Drug Court Clearinghouse and Technical Assistance Project, American University.

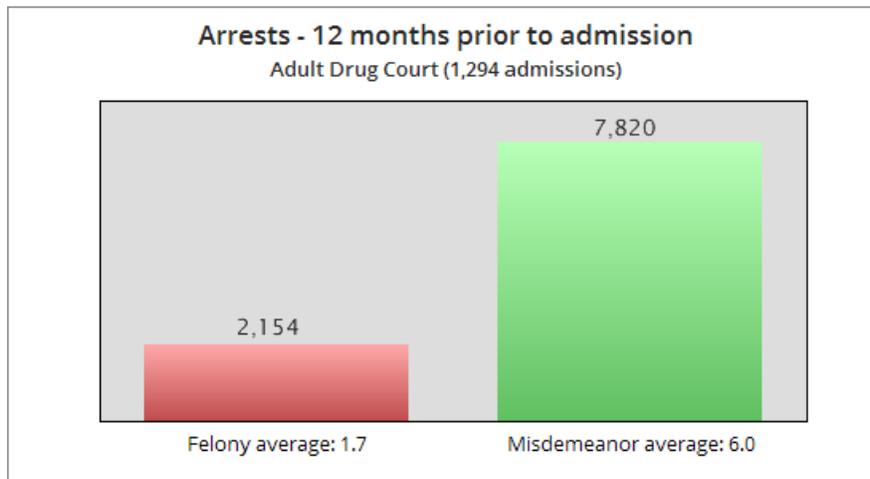
prior to entering drug court. Of those receiving prescribed medications, 64.8% (422) reported receiving psychiatric medications. These 422 individuals reported taking 720 different psychiatric medications or an average of nearly two prescriptions per person. Clearly drug courts are admitting high-need people with co-occurring disorders in their programs.

Participants were asked specifically if they had received services for a co-occurring psychiatric disorder prior to admission. The following responses were received for all drug court admissions:

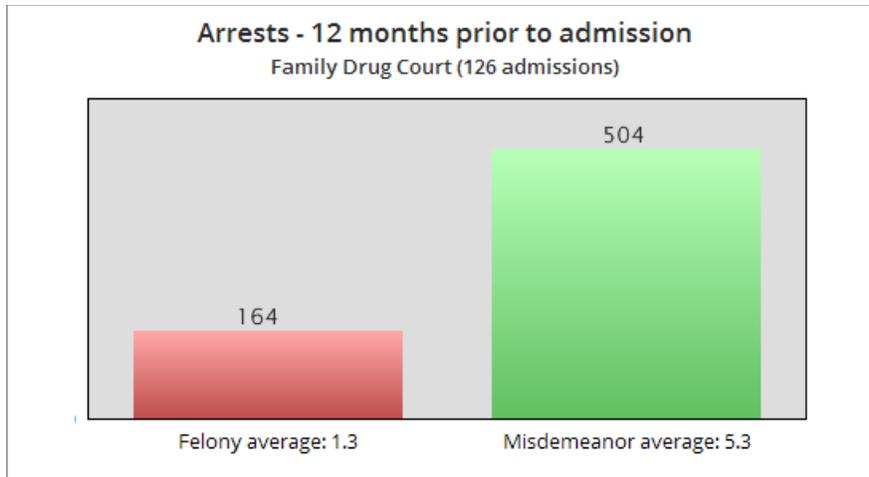
- Co-occurring treatment .....224 (15.4%)
- Inpatient psychiatric treatment.....78 (5.4%)
- Outpatient psychiatric treatment .....197 (13.6%)

#### **14. Prior Arrests and Convictions**

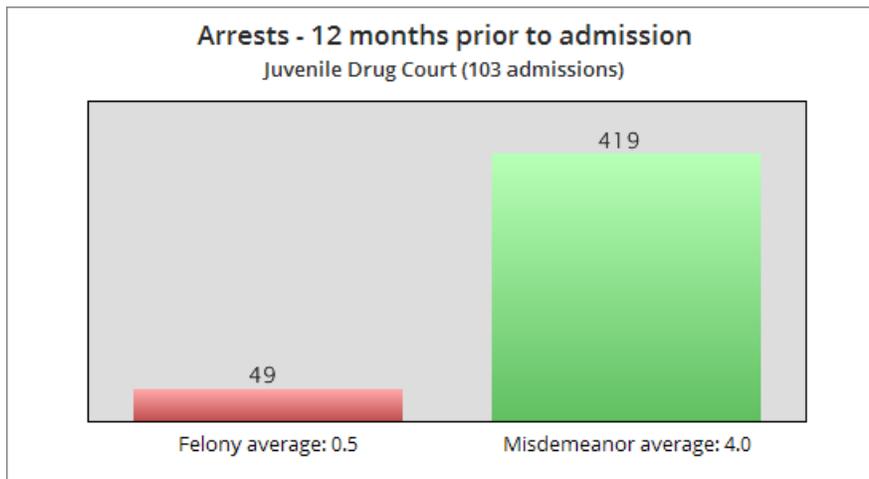
For adult drug court cases that reported data at admission (1,294), participants had a total of 9,974 arrests before entering drug court for an average of 7.7 arrests per person. Of these cases, 2,154 were arrests for felonies and 7,820 were arrests for misdemeanors for an average of 1.7 felony arrests and 6.0 misdemeanor arrests per admission. This level of prior arrests is an indication of the high risk of admissions to Montana adult drug courts.



For family drug court cases that reported data at admission (126), participants had 164 felony arrests and 504 misdemeanor arrests prior to entering drug court or an average of 5.3 arrests per person. Most family drug court cases had an additional substantiated child abuse and neglect case due to participants' drug dependency. (See chart on next page.)



For juvenile drug court cases that reported data at admission (103), participants had 468 arrests for felonies and misdemeanors prior to entering drug court for an average of 4.5 arrests per juvenile. Of these cases, there were 49 arrests for felonies or nearly 0.5 felony arrests per juvenile, and 419 arrests for misdemeanors or 4.0 misdemeanor arrests per juvenile.



These arrest figures are an indication of the high-risk profile of participants that Montana drug courts are admitting as they strive to take offenders with the highest risk to reoffend and highest need for treatment.

**15. Prior Charge Outcomes: Graduates vs. Non-graduates**

Graduating from drug court is associated with resolving all criminal justice charges. Among the 447 adult drug court graduates, the resolution of prior criminal charges did not apply to 133 graduates, most of whom were probably still under supervision after drug court completion. Resolution of prior criminal charges was unknown for 33

graduates. Of the remaining 281 graduates, 162 indicated that all criminal charges were resolved (57.6%) while 119 (42.3%) said outstanding criminal charges were not resolved.

For the 425 adults who were terminated and did not graduate from adult drug courts, the resolution of prior criminal charges did not apply to 98 adults; this information was unknown for an additional 29 adults. Only 19 participants (6.4%) indicated that all criminal charges were resolved while 298 participants (93.6%) indicated that criminal charges were not resolved.

For the 33 family drug court graduates, 8 (24.2%) indicated that their criminal charges were not resolved, and 15 (45.4%) indicated that their criminal charges were resolved. For 10 graduates, the resolution of prior criminal charges was not applicable.

For family drug court participants who terminated and did not graduate (46), 16 (34.8%) indicated that their criminal charges were not resolved and 16 (34.8%) indicated that their criminal charges were resolved. For 11 participants, the resolution of prior criminal charges was not applicable; the information was unknown for three participants.

For the 29 juvenile drug court graduates, 24 (82.7%) indicated that their criminal charges were resolved while 3 (10.3%) indicated that their charges were not resolved. The resolution of charges did not apply to two graduates.

For juvenile drug court participants who did not graduate (58), 52 (89.6%) indicated that their criminal charges were not resolved and 2 (3.4%) indicated that their criminal charges were resolved. Four reported that the resolution of charges was not applicable.

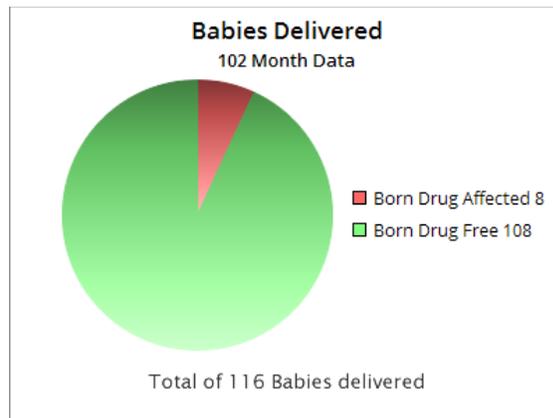
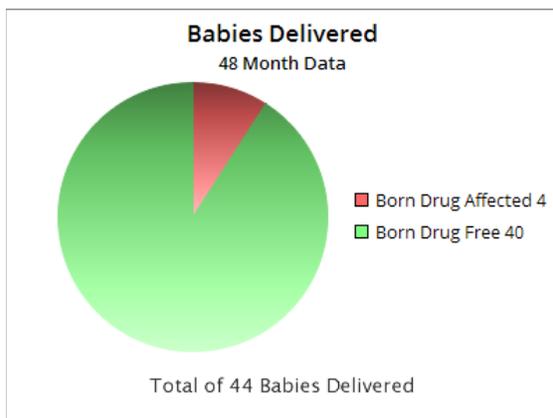
Clearly, graduating from drug court for all categories of drug court participants leads to greater success in resolving all criminal charges.

## **16. Pregnancy and Children**

The average cost to deliver a drug-dependent baby is approximately \$62,000 compared to \$4,700 to deliver a healthy infant (DuBois & Gonzales, 2014). For babies requiring pharmacological treatment for neonatal abstinence syndrome, increases in hospital costs typically exceed \$40,000 per infant per hospital stay (Roussos-Ross et al., 2015). Needless to say, the costs in human suffering are incalculable. Additional cost information is detailed below regarding drug-dependent babies.

For the period May, 2008 through October, 2016, 139 participants or their spouses or significant others (108 female participants and 31 male participants with spouses or significant others) were pregnant while in drug court or at discharge. Of these 139 pregnancies, 105 babies were born drug free, 6 were born drug affected, 6 pregnancies were terminated, 6 resulted in miscarriages, 2 were born premature drug affected, and 3 were born premature drug free. Eleven participants or participants' spouses or significant others were still pregnant at time of discharge. **Considering the 116 babies delivered while a parent was in drug court, 108 were born drug free (93.1%) and 8 (6.9%) were born drug affected.**

For the period November 1, 2012 through October 31, 2016, 62 participants or their spouses or significant others (39 female participants and 23 male participants with spouses or significant others) were pregnant while in drug court or at discharge. Of these 62 pregnancies, 38 babies were born drug free, 3 were born drug affected, 2 pregnancies were terminated, 3 resulted in miscarriages, 1 were born premature drug affected, and 2 were born premature drug free. Additionally, 13 were listed as unknown (5 neutrals, 1 graduate, and 7 terminated early). Of these 13 unknowns, 5 were males and 8 were females). **Considering the 44 babies delivered while a parent was in drug court during the most recent 48-month period, 40 were born drug free (90.9%) while 4 (9.0%) were born drug affected.**



An estimate of specific cost-savings resulting from the reduction of drug-affected births is beyond the scope of this report. However, previous studies have indicated that costs per drug-affected child from birth to age 18 are substantial. Additional medical costs associated with the delivery of a drug-addicted baby are estimated to range from approximately \$1,500 to \$25,000 per day (Cooper, 2004). Neonatal intensive care expenses can range from \$25,000 to \$35,000 for the care of low birth-weight newborns

and may reach \$250,000 over the course of the first year of life (Office of Justice Programs, 1997). Other costs might include detoxification for the exposed infants; foster care; special education; and costs relating to developmental deficiencies. Kalotra in his report on drug and/or alcohol exposed babies states, “[t]he following data reflects reported costs associated with caring for babies that were prenatally exposed to drugs or alcohol. Total lifetime costs for caring for those children that survive reportedly ranges from \$750,000 to \$1.4 million.”<sup>7</sup> The 2002 Kalotra study is now 14 years old, and medical and other costs have risen significantly since that time.

In the last four-year data cohort, methamphetamine, alcohol, marijuana, OxyContin, heroine and powdered cocaine were the most frequently reported primary drugs of abuse among pregnant participants at admission. Nineteen reported methamphetamine as their primary drug, 16 alcohol, 8 marijuana, 2 OxyContin, two heroin, 1 powdered cocaine and 1 unknown.

### **Children of Adult Participants in Montana Drug Courts**

When reviewing admission data for adult and family drug court participants for the previous four-year period, 1,420 participants reported that there were 1,581 children involved. This number included 546 children living with participants, 836 children living with a relative, 170 in foster care and 29 living in a residential center or group home. Clearly, when adults in drug court become clean and sober, they are not the only individuals positively impacted as each adult averages having at least one child as well.

### **17. Fines, Fees and Community Service Hours**

For the 1,420 adult cases that were discharged during the last 48-month period, the following minimum amounts were reported as collected from drug court participants:

- Fines.....\$155,238
- Fees.....\$555,575
- Restitution..... \$19,819

Additionally when 12,055 hours of community service are considered and multiplied by the minimum wage at \$8.05, the total value of community service hours is \$97,043.

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<sup>7</sup> Kalotra, C.J., (2002), *Estimated Costs Related to the Birth of a Drug and/or Alcohol Exposed Baby*, OJP Drug Court Clearinghouse and Technical Assistance Project.

## **18. Child Support**

During the previous 48 months of data collection, some adults admitted to drug court had orders to support minor children. At admission, 77 individuals (25.7%) were current, paying and compliant with child support orders while 222 individuals (74.2%) were either not paying or not current.

For all individuals admitted and discharged, 58 individuals (32.2%) were paying their child support, and 122 individuals (67.8%) were not paying or not current at discharge. Thus, from admission to discharge the percentage of participants paying child support increased from 25.7% to 32.2%.

The numbers paying and current with child support is impressive when considering graduates of drug court only. Among drug court graduates at admission, 38 individuals (44.7%) were current and 47 (55.3%) were either not current or not paying. At discharge, 40 individuals (61.5%) were paying child support and 25 individuals (38.5%) were not paying child support. Thus for graduates, those paying child support went from 44.7% to 61.5%. In other words, 47 graduates at admission were either not paying or not current on their child support compared to only 25 not paying at discharge.

## **19. Housing**

Permanent housing is an important variable for staying clean, sober and productive. Montana drug courts had a positive impact on permanent housing for participants. For adult drug court participants admitted and discharged during the previous 48-month period, the number of homeless went from 159 at admission to 108 at discharge or a 32% decrease. Participants owning their own home dropped from 113 to 94. Those renting decreased from 518 to 430, and those living with friends/relatives/significant others went from 481 to 206. Unfortunately, the number of participants who did not indicate their housing status dropped from 79 at admission to 539 at discharge. **However, the available data show significant positive improvement in the area of housing for drug court participants. For example, living in a hotel/motel went from 11 to 6 (45% decrease), living in transitional housing went from 79 to 37 (53% decrease) and those living with friends/relatives/significant others went from 481 to 206 (57.2% decrease).**

For family drug participants who were discharged, 15 participants were homeless at admission while 21 were homeless at discharge. Those living in a hotel/motel remained the same (1), owning their own home went from 5 to 8, renting went from 18 to 29, living in transitional housing went from 11 to 2 and living with friends/relatives/or significant

others went from 28 to 15. In nearly all cases, housing for participants showed some improvement. However, for graduates of family drug courts, the results are more impressive with 3 owning their own home at admission to 5 at discharge, renting went from 9 to 23, living in transitional housing reduced from 5 to 1 and living with friends/relatives /or significant others going from 13 to 4.

## **20. Services for Veterans: A New Area of Emphasis**

Within the last few years, nationally there has been a significant increase in veterans admitted to adult drug courts. Because the number of veterans has increased substantially and the issues facing them are unique, approximately 225 special drug court dockets for veterans have been established across the country. In Montana, special drug court dockets for veterans have been implemented in Missoula, Yellowstone and Cascade Counties in collaboration with representatives of the Federal Veterans Administration. As a result, the OCA is monitoring services to veterans. In the previous four years, 173 individuals who were previously in the military have been served in drug courts (171 in adult drug courts and 2 in family drug courts). Additionally, at admission, 125 individuals were receiving veterans' services in adult drug courts and 3 in family drug courts.

**In the past 48 months**, 114 of the 173 individuals who have served in the military or nearly **65.9% of all veterans admitted to Montana drug courts have been admitted to the three Montana veterans court dockets**. This percentage is up from approximately 40% in the previous report. As these veteran-specific dockets have matured, these numbers have continued to grow, and veterans in Montana drug courts are receiving improved services specific for veterans.

## **21. Family Courts: Additional Performance Indicators**

Approximately 50% to 80% of substantiated child abuse and neglect cases involve substance use on the part of a custodial parent or guardian (Child Welfare Information Gateway, 2014, Testa & Smith, 2009, Young et al. 2007). Drug use by a custodial parent is associated with longer out-of-home placements for dependent children, a greater likelihood of termination of parental rights (TPR), and higher rates of child revictimization (Brook & McDonald, 2009, Brook et al., 2010, Connell et al., 2007, Smith et al., 2007). Parents who complete substance use disorder treatment are significantly more likely to be reunified with their children, and their children spend considerably fewer days in out-of-home foster care (Green et al., 2007, Grella et al., 2009, Smith 2003). Unfortunately, more than 60% of parents in child abuse and neglect cases do not comply with conditions to attend substance use disorder treatment, and more

than 80% fail to complete treatment successfully (Oliveros & Kaufman, 2011, Rittner & Dozier, 2000, U.S. General Accounting Office, 1998).

Family drug courts were created to enhance retention in treatment and improve outcomes in child abuse and neglect cases for parents suffering from substance use disorders. A query was made of the Children and Family Services Division (CFSD) of the Montana Department of Public Health and Human Services to obtain data regarding those cases in family drug court compared to a comparable matched group. Unfortunately, this type of comparison was not possible for numerous reasons; however, CFSD was able to draw some comparisons with “regular track” cases. Recognizing that Montana family drug courts take only child abuse and neglect cases in which serious drug dependency is a driving issue and that over 43% of family drug court custodial parents suffer from methamphetamine dependency and nearly 30% from alcoholism, the following comparisons are made:

- From October 1, 2010 through September 30, 2013 (36 months), CFSD reported that family drug court cases involved 70 children who reached final disposition. Of these 70 children, 29 (41%) were involved in cases in which parental rights were terminated. Conversely, in nearly 60% of the drug-related child abuse and neglect cases, parental rights were not terminated. In comparison, for the 1,712 regular track cases, which include all cases within each county minus the family drug court cases, 689 (40%) of the 1,712 cases had a final disposition involving the termination of parental rights.
- From October 1, 2011 through September 30, 2014 (36 months), CFSD reported that family drug court cases involved 71 children who reached final disposition. Of these 71 children, 37 (52%) were involved in cases in which parental rights were terminated. For regular track cases, 694 (41%) of the 1,697 cases had a final disposition involving the termination of parental rights.
- From October 1, 2012 through September 30, 2015 (36 months), CFSD reported that family drug court cases involved 90 children who reached final disposition. Of these 90 children, 37 (41%), were involved in cases in which parental rights were terminated. For regular track cases, 634 (36%), of the 1,751 cases had a final disposition involving the termination of parental rights.
- From October 1, 2010 through September 30, 2015, 19 out of 48 (39.6%) participants in family drug court had a new substantiated child abuse and neglect case (report) referral. **Over 60% of the cases in family drug courts did not**

**have a new substantiated case during this five-year period.** CFSD was unable to develop a comparison group.

Family drug courts focus on the entire family. Each family is intensely assessed to determine services needed that will result in favorable outcomes for both adults and children. During the 48-month period covered by this report, the following services were provided to children of families in treatment courts: alcohol and drug abuse counseling (1), family counseling (23), mental health counseling (26), special education services (6), speech therapy (5), specialized medical care (5), occupational therapy (1), physical therapy (1), educational tutoring (3), and early childhood intervention services (41).

Also during this period, 57 children were reunited with their parents, 24 were placed in guardianship, 4 were placed in adoptive homes, 28 were placed with other non-drug court parents, none were placed in planned permanent living arrangements, and 28 remained in either foster care or residential care. In 120 cases, parental rights remained in place, in 7 cases parental rights were voluntarily relinquished and in only 14 cases where parental rights involuntarily terminated. Paternity was commenced and/or established in 10 cases.

## **22. Juvenile Courts: Additional Performance Indicators**

The 8<sup>th</sup> Judicial District Juvenile Drug Court reports 24 active participants in calendar years 2015 and 2016. Among drug court graduates/current participants, 83% (10 out of 12) successfully received a high school diploma and/or GED certification or remain enrolled in high school. All ten of these juvenile drug court graduates have demonstrated improved academic proficiency as demonstrated below:

- Two have received a high school diploma.
- Three have received a GED certification.
- Five remain enrolled in high school or GED program.
- One obtained a Certified Nursing Certification.
- Two graduates are attending or have attended college.

During this reporting period, 33% of early terminated participants (4 out of 12) have successfully received a high school diploma and/or GED certification or remained enrolled in high school.

Missoula Juvenile Drug Court reports the following school performance since beginning to collect data in May, 2008: 42 youth when admitted to drug court were in good standing in school with 46 not in good standing. At discharge, 75 were in good standing while 7 were not in good standing. Thus, youth admitted to drug court were able to

maintain their good standing while 29 additional youth achieved good standing in school while in drug court. Six youth are still active in juvenile drug court.

## V. Montana Drug Court Funding and Cost-Benefit Information

In Fiscal Year 2014, Montana drug courts expended \$971,988 in state general fund money. In Fiscal Year 2015, general fund expenditures were \$1,127,815 while \$1,234,136 was expended in Fiscal Year 2016. (Funding for the 13<sup>th</sup> Judicial District Veterans Court was added in Fiscal Year 2015, and funding for the 1<sup>st</sup> Judicial District Adult Drug Court was added in Fiscal Year 2016.) During this period, 747 individuals were admitted to these drug courts for an average cost of \$4,463 per admission. This is a slight increase over the cost per participant of \$4,412 during the period between Fiscal Year 2011 and Fiscal Year 2012.

Most of the money expended by drug courts was for staff support (i.e., drug court coordinators), treatment services, urinalysis and surveillance. In some cases, treatment services were provided by a not-for-profit treatment program with a state contract through the Montana Department of Public Health and Human Services (DPHHS) or through Medicaid. For family drug courts, some services may have been paid for by the Children and Family Services Division within DPHHS. In juvenile drug courts, some services also may have been funded through the Youth Court. Additional expenditures by other agencies are not included in the state general fund figure noted above.

This cost per participant of \$4,463 compares favorably with other correctional interventions and national costs per participant, even though funds from other agencies in Montana are not included in this figure. For example, NPC Research based out of Portland, Oregon analyzed investment costs in 47 adult drug courts. It found that “program cost range[d] from a low of \$3,842 to a high of \$33,005 per participant. The mean program cost [was] \$14,372 per participant. The large variation [was] generally due to treatment costs. Treatment providers charge a variety of different amounts for the same types of services, and different drug courts provide treatment that ranges from outpatient groups only to intensive outpatient and residential care as well as a variety of wraparound services.”

Cost-benefit information for Montana was provided in a detailed research project completed by the Cascade County/8<sup>th</sup> Judicial District Adult Drug Court. The 8<sup>th</sup> Judicial District report concluded that the adult drug court saved the taxpayer significant dollars by cost avoidance and taxes paid by participants. The report states that “[t]he average cost avoidance when only investment costs are taken into consideration [was] \$2,438 per participant or \$97,519 for 40 participants. These savings [were] due primarily to reduced Department of Correction’s sentences relative to the business-as-usual comparison group.”

When outcome costs were taken into consideration, the report concluded that society avoided an estimated \$11,070 per participant and \$442,800 for every 40 treatment court participants. This was due primarily to positive participant outcomes including fewer re-arrests, fewer court cases, less probation time, less jail time and less prison time relative to the comparison group.

Other less tangible but important cost avoidances that were not factored into the investment and outcome costs, but should be taken into consideration, include costs associated with an increase in the number of drug-free babies born, a decrease in victimization costs due to a decrease in re-offenses, a decrease in public assistance utilization, and an increase in restitution/court fee payment.

When investment, outcome and societal-impact (victimization) costs are combined, the total estimated annual cost avoidance for 40 participants in the 8<sup>th</sup> Judicial District Adult Drug Court was estimated to be \$81,879 per participant and \$3,275,186 for 40 participants.<sup>8</sup>

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<sup>8</sup> Corey Campbell, MS, November 2007, Cost Avoidance Report for the 8<sup>th</sup> Judicial District Treatment Court.

## **VI. Drug Court Activities in Montana**

Montana established its first drug court in Missoula in 1996. Currently, there are 28 drug courts operating in the state, including 2 tribal courts. These courts developed organically based on local needs, interest and resources. Most of them initially received funding from federal grants. Although all of the courts generally adhere to the federal drug court model, each reflects the circumstances and capabilities of its local community.

The 2007 Legislature appropriated the first state general fund money to drug courts. This 2009 biennium appropriation was used to provide grants to drug courts, employ a full-time statewide drug court administrator, and develop a statewide system for collecting, reporting and analyzing court performance data.

In January 2008, a statewide drug court coordinator was hired. One of the coordinator's first tasks was to complete site reviews for the drug courts that had received state funding. The site reviews included a general review of the drug courts based on adherence to the federal drug court model (10 Key Components) and suggestions for addressing potential problem areas. The site reviews also assisted in identifying statewide issues or concerns.

### **Statewide Drug Court Conferences and Workshops**

Since 2008, the Office of Court Administrator (OCA) has sponsored the following statewide drug court conferences and workshops:

- In August 2008, the state's first drug court conference was held. Several national experts presented on a wide range of topics including evidence-based motivational incentives, local drug court evaluation, relapse prevention strategies, and breaking intergenerational cycles of addiction. Over 150 people participated in this three-day event.
- In September 2010, the state's second drug court conference was held focusing on team action planning based on research from over 100 cost benefit research studies and the identification of drug court cost benefit strategies. Nearly 170 people attended the two-day event.
- In April 2012, the state's third drug court conference was held with a special emphasis on evidence-based practices and team action planning based on those

practices. Approximately 250 people attended the conference, and every team submitted an action plan.

- In 2013, a two-day operational tune-up entitled “Retooling Your Program for Adult Drug Courts” was held in Billings and Great Falls. These tune-ups included a review of current adult drug court research, a review of target populations based upon the current research literature, legal issues facing drugs courts, applied research approaches to treatment and development of a step-by-step approach to incorporating best practices.
- In April 2014, the state’s fourth drug court conference included operational tune-up tracks for family drug courts and juvenile drug courts as well as presentations for adult drug court teams. Presentations focused on a wide variety of evidence-based practices, which resulted in team action plans aimed at making a difference when teams returned home.
- In October 2016, the state’s fifth drug court conference was held in Billings with a special emphasis on the new adult drug court standards and the research behind them. Approximately 220 people attended this conference, and each drug court team developed an action plan incorporating what was learned at the conference.

### **Statewide Drug Court Evaluation**

In May 2008, the OCA contracted with the University of Montana (UM) for a comprehensive cross-court program evaluation. Statewide data collection began in January 2008 with data collected for all drug court participants active on or after July 1, 2007. This effort served to standardize the information emanating from existing courts, helped guide development of new courts, and provided ongoing data collection and program evaluation, which guided court improvement and reallocation of resources.

The UM research team and the OCA collaboratively refined data collection instruments and database specifications across all funded courts; these tools now meet national standards as set forth for data collection (U.S. Government Accountability Office, 2002). The OCA and UM researchers designed and created variables and specialized data collection instruments to fit Montana’s unique needs as a rural state and to enable ongoing evaluation and improvements. Drug court coordinators from across the state met and developed performance indicators. These indicators are used in this report and are consistent with indicators being collected by other states and at a national level.

## Legislative Performance Audit on Drug Courts

In January 2015, the Montana Legislature's Legislative Audit Division issued a performance audit of the administration of Montana drug courts. The audit included recommendations to the Supreme Court regarding compliance with state law, adherence to best practices for drug courts, and system-wide planning and support. The Supreme Court took the following action in response to the audit's major recommendations:

- **Strategic Plan** – The Supreme Court, with support from Center for Court Innovation (a technical assistance contractor), commissioned a strategic planning initiative to build on the success of the Montana drug courts and secure a sustainable future for these effective specialized courts. Participants met twice over several days to develop and complete a strategic plan. In November 2015, the *Drug Court Strategic Plan: Roadmap for the Future of Drug Treatment Courts in Montana* was published. Themes addressed in the strategic plan include funding for drug courts, implementing best practices, violent offender/participant eligibility, services for drug court participants, meeting the needs of special populations (e.g., Native Americans), implementing a statewide case management system, educating policy makers on the effectiveness of drug courts, and increasing community awareness about drug courts. Measureable goals were identified for each theme, target dates were set, and tasks were defined and assigned to key participants. Some of the goals relate directly to the performance audit, but others are based on new trends and needs in drug courts.
- **Peer Reviews** – During 2015 and 2016, the OCA and Montana drug courts embarked upon a peer-review process to review consistency of each adult drug court with fidelity to the new Adult Drug Court Best Practice Standards, Volume I and II issued by the National Association of Drug Court Professionals in 2014. These standards are based on “reliable and convincing evidence demonstrating that a practice significantly improves outcomes.” Seventeen peer reviewers from Montana were trained to apply these standards and issue a best practice table and associated report to each Montana drug court to ensure drug courts are maximizing their potential to help participants enter long-term recovery and significantly reduce re-offense. The Montana peer review process is the only peer review process that has been implemented applying both Volumes I and Volume II of the Adult Drug Court Best Practice Standards. In 2017, other categories of Montana drug courts (family and juvenile) will begin peer reviews. Each drug court receives a specific report along with a request for an action plan as to how and when any deficiencies will be resolved.

- **Advisory Committee** – In May 2016, the Supreme Court issued an order establishing the Drug Treatment Court Advisory Committee. The Committee is charged with: (1) providing ongoing review and revision to drug court standards; (2) assuring communication and continuity in the operation of Montana drug treatment courts; (3) providing ongoing review and recommendations to the District Court Council and Supreme Court regarding statewide drug court funding, budget policy issues; (4) overseeing and updating the strategic plan; and (5) addressing future drug treatment court issues as they arise. The Committee consists of seven judges appointed from different treatment court types who serve three-year terms.

## APPENDIX: MONTANA DRUG COURTS

<b>Adult Drug Courts</b>				
<b>Court Name</b>	<b>Location</b>	<b>Level</b>	<b>Primary Funding Source</b>	<b>Year began</b>
<b>1st Judicial District Treatment Court</b>	Lewis and Clark County	District	State General Fund	2011
<b>7th Judicial District Adult Drug Court</b>	Dawson, McCone, Prairie, Richland & Wibaux Counties	District	State General Fund	2007
<b>8th Judicial District Adult Drug Treatment Court</b>	Cascade County	District	State General Fund	2005
<b>9th Judicial District Drug Treatment Court</b>	Glacier, Toole, Teton, & Pondera Counties	District	State General Fund	2009
<b>13th Judicial District Adult Drug Court</b>	Yellowstone County	District	State General Fund	2011
<b>Gallatin County Treatment Court</b>	Gallatin County (18th Judicial District)	District	State General Fund/Gallatin Co.	1999
<b>Billings Adult Misdemeanor Court</b>	Billings	Municipal	State General Fund	2005
<b>Custer County Adult Treatment Court</b>	Custer County (16th Judicial District)	District	State General Fund	2004
<b>Hill County Adult Drug Court</b>	Hill County	Justice	Federal	

<b>Family Drug Courts</b>				
<b>Court Name</b>	<b>Location</b>	<b>Level</b>	<b>Primary Funding Source</b>	<b>Year began</b>
<b>Yellowstone County Family Drug Treatment Court</b>	Yellowstone County (13th Judicial District)	District	State General Fund	2001
<b>Butte-Silver Bow Family Drug Court</b>	Butte-Silver Bow County (2nd Judicial District)	District	State General Fund	2004
<b>Fort Peck Family Drug Court</b>	Poplar (Fort Peck Reservation)	Tribal	Tribe	2012
<b>Missoula County Family Treatment Court</b>	Missoula County (4th Judicial District)	District	State General Fund	2008

<b>Co-Occurring Courts</b>				
<b>Court Name</b>	<b>Location</b>	<b>Level</b>	<b>Primary Funding Source</b>	<b>Year began</b>
<b>Billings Co-Occurring Court</b>	Billings	Municipal	Federal	2012
<b>Missoula County Co-Occurring Court</b>	Missoula County	District/Municipal	State General Fund	2004

<b>Veterans Treatment Courts</b>				
<b>Court Name</b>	<b>Location</b>	<b>Level</b>	<b>Primary Funding Source</b>	<b>Year began</b>
<b>Missoula Veteran's Treatment Court</b>	Missoula County (4th Judicial District)	District	Federal	2011
<b>Yellowstone County Veteran's Treatment Court</b>	Yellowstone County (13 Judicial District)	District	State General Fund	2011
<b>8<sup>th</sup> Judicial District Veterans Court</b>	Cascade County	District	Federal	2013

<b>Juvenile Drug Courts</b>				
<b>Court Name</b>	<b>Location</b>	<b>Level</b>	<b>Primary Funding Source</b>	<b>Year began</b>
<b>4th Judicial District Youth Drug Court</b>	Missoula County	District	State General Fund	1996
<b>7th Judicial District Youth Treatment Court</b>	Dawson, McCone, Prairie, Richland & Wibaux Counties	District	State General Fund	2006
<b>8th Judicial District Juvenile Drug Treatment Court</b>	Cascade County	District	State General Fund	2006

<b>DUI Courts</b>				
<b>Court Name</b>	<b>Location</b>	<b>Level</b>	<b>Primary Funding Source</b>	<b>Year began</b>
<b>7th Judicial District DUI Court</b>	Dawson, McCone, Prairie, Richland & Wibaux Counties	District	MDT*	2010
<b>13th Judicial District DUI Court</b>	Yellowstone County	District	MDT*	2011
<b>Billings Municipal DUI Court</b>	Billings	Municipal	MDT*	2009
<b>Beaverhead County DUI Court</b>	Beaverhead County	District	Federal	2016
<b>Fort Peck Assiniboine and Sioux DUI Court</b>	Fork Peck Reservation (does not report data to OCA)	Tribal	MDT*	2010
<b>Butte-Silver Bow County DUI Court</b>	Butte-Silver Bow County	Justice	MDT*	2010
<b>Hill County Drug/DUI Court</b>	Hill County	Justice/Municipal	Federal (BJA)	2012

\* Montana Department of Transportation

For further information, contact Jeffrey N. Kushner, Statewide Drug Court Coordinator, P.O. Box 157, Victor, MT, [jkushner@mt.gov](mailto:jkushner@mt.gov), 406-202-5352.