



STUDY ON OUTCOMES OF PARTICIPANTS IN
SPECIALTY COURTS WHO HAVE A MENTAL
ILLNESS

As directed by SB 1326, 85th Legislature



Report in Compliance with SB 1326 (85th Legislature)
on
Participants in Specialty Courts with a Mental Illness

Office of Court Administration

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Contents

Acknowledgements.....	3
Introduction and Methodology	4
Quantitative Data.....	4
Qualitative Data	4
Report Limitations.....	5
Specialty Courts in Texas.....	5
Authority	7
Specialty Court Types and Essential Characteristics	7
Governance and Support	8
Office of the Governor, Criminal Justice Division	8
The Specialty Courts Advisory Council.....	9
The Texas Judicial Council and Office of Court Administration	9
Specialty Court Operations: Insights from OCA’s Statewide Survey	10
Funding and Resources	10
Capacity.....	10
Design.....	10
Mental Health Assessment and Resource Sufficiency	10
Timeliness of Program Entry and Treatment Onset	11
Services Provided	11
Training	11
Performance Monitoring and Evaluation	11
Observations	12
Descriptors and Demographics.....	12
Summary Program Outcomes.....	13
Outcomes by Type of Program Completion/Separation	13
Employment Status	14
Housing Status	15
Education Status	15
Recidivism	15
Conclusion.....	16

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Introduction and Methodology

SB 1326, passed by the 85th Legislature, directed the Office of Court Administration (OCA) to collect and report on information “regarding outcomes of participants in specialty courts who are persons with mental illness, including recidivism rates of those participants, and other relevant information as determined by the office.”

Reviewing the performance of criminal justice programs and the outcomes of individuals in them is essential to developing effective and accountable criminal justice policy. Specialty courts have grown in popularity in recent years and are a well-established and highly valued component of many communities’ justice systems. According to the National Drug Court Institute (NDCI), there was an increase of over 10% nationwide of all specialty court types, also known as problem solving courts, between 2009 and 2014, the latest year for which national data is available.¹ According to NDCI data, the increase in the number of these courts in Texas during the period was 43%.² Drug courts remain the most common variety and most deeply studied of these courts, though other court types have been established, both nationally and in Texas.

Quantitative Data

In gathering the information needed to respond to the request for this report, OCA obtained specialty court data from the Criminal Justice Division (CJD) of the Office of the Governor. CJD provided OCA with participant-level data for fiscal years 2016, 2017, and 2018 for programs funded by CJD.

CJD began collecting participant-level data from its specialty court programs in 2016 and does so as a condition of funding. CJD is essentially the state-level repository of specialty court data and the information collected by the office is essential to any review of specialty court activity. Slight changes have been made each year to the data collection process in order to continually improve the quality and utility of the information collected.

The CJD data set includes variables related to participant demographics; participant program type; participant program status and completion type; a mental health screening indicator; self-reported housing, employment, and education status; and other information. This information supports the generation of basic descriptive statistics about programs and participants, and the limited profiling of status changes in participants’ employment, housing, and education. In its current form, this information cannot be used to generate reliable information on participant recidivism.

Qualitative Data

OCA also conducted a survey of specialty courts known to be operating in the state. The purpose of the survey was to generate information about program practices and program needs that could

¹ See National Drug Court Institute, *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States* (2016) at <http://www.ndci.org/wp-content/uploads/2016/05/Paintingthe-Current-Picture-2016.pdf>, and National Drug Court Institute, *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States* (2011) at <https://www.ndci.org/wp-content/uploads/PCP%20Report%20FINAL.PDF>.

² Ibid.

complement the quantitative data. The survey was sent to 170 programs. Responses were received from 135 of them.³

Report Limitations

There are challenges associated with reporting on the activities of all specialty courts in Texas and with reporting on any subgroups of the populations they serve. These challenges relate generally to the manner in which the specialty court system in Texas is structured, and the quantity, quality, and purposes for which the data is collected. The impact of these limitations can be significant. For example:

- The request for a report contained in SB 1326 is focused on “persons with mental illness.” Only one variable exists in the CJD data which relates to a participant’s mental health. This variable indicates whether a court screened a participant for mental health needs and whether the participant had a mental health need. While this indicator can be used to identify a subset of the specialty court population, it does not indicate whether a mental health assessment was done on such an individual, and if one was done, what the outcome of the assessment was, what treatment was provided, or whether supervision protocols were required as a result.
- Specialty courts are not the only places where individuals with a mental health need engage with the courts. Some courts administer mental health dockets in which individuals with a mental health need receive specialized treatment and enhanced judicial oversight. These dockets may not, however, be built around the essential elements that characterize a well-designed specialty court program. The extent to which courts are using this approach to address the mental health needs of defendants in their jurisdictions is not known, and these dockets are not subject to common standards or statutes governing specialty court planning or administration.
- CJD only collects data for those programs it funds—about 55% of the state’s 195 known programs. Not all programs receive state funding each year. CJD began collecting participant-level data from its programs in 2016. Changes have been made each year to data collection processes to improve the quality and utility of the information collected, which means that year to year trends and comparisons have to be made with care.
- While participant level data is an essential element of conducting any outcome-related inquiry into the functioning of specialty courts, detail about program design and administration is also needed to be able to make determinations about which program features work best for which participants. This information is not currently available at the state level.

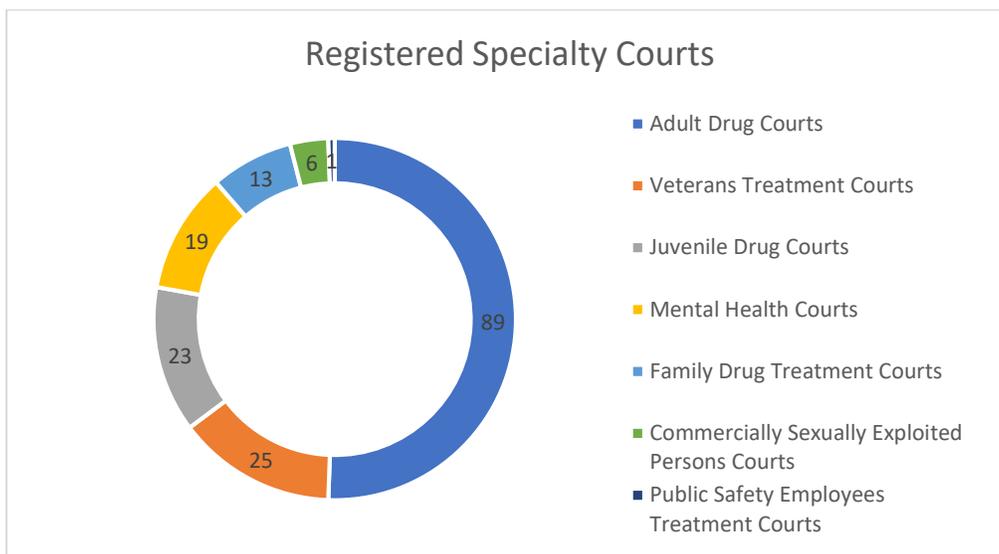
Specialty Courts in Texas

Specialty courts, also known as problem-solving or treatment courts, began to emerge across the country in the late 1980s and have grown significantly in the last several decades. According to the National Drug Court Institute, the number of adult drug courts alone almost doubled between 2004

³ The survey was designed to capture responses for each type of specialty court. There is more than one specialty court in some counties, and more than one response was received from counties with more than one court. Accordingly, counties with multiple courts may be overrepresented in the survey results.

and 2014. These courts are now an established component in the justice system in counties and cities around the country, and when designed properly and run well, they represent an efficient, effective, just, and accountable approach to dealing with individuals in the justice system with substance abuse or other treatment needs.⁴

Specialty courts have existed in Texas since 1990, and according to CJD now number 195 statewide.⁵ The majority (51%) of these are either adult or juvenile drug courts. See below.



Source: Criminal Justice Division, Office of the Governor, December 2016

Essential program planning, design, and practice components, or guidelines, have been developed for many specialty court types, including adult drug courts, DWI courts, mental health courts, veterans treatment courts, family treatment courts, and tribal courts.⁶ Performance measures have also been developed for some court types.⁷

⁴ See, e.g., research updates available from the National Drug Court Institute, at <https://www.ndci.org/resources/publications/need-to-know/>. See also Janine Zweig et al., *Drug Court Policies and Practices: How Program Implementation Affects Offender Substance Abuse and Criminal Behavior Outcomes*, Drug Court Review, Vol. VIII, 1, pp. 43-79, at http://npcresearch.com/wp-content/uploads/Best_practices_in_drug_courts_20122.pdf.

⁵ See Office of the Governor, Criminal Justice Division, *Texas Specialty Courts*, at https://gov.texas.gov/uploads/files/organization/criminal-justice/Specialty_Courts_By_County_December_2016.pdf.

⁶ See, e.g., https://www.ndci.org/wp-content/uploads/Key_Components.pdf (adult drug courts), <https://www.ojjdp.gov/pubs/250368.pdf> (juvenile drug courts), https://www.dwicourts.org/wp-content/uploads/Guiding_Principles_of_DWI_Court_0.pdf (DWI courts), https://www.bja.gov/publications/mhc_essential_elements.pdf (mental health courts), <https://justiceforvets.org/resource/ten-key-components-of-veterans-treatment-courts/> (veterans treatment courts), https://www.ndci.org/wp-content/uploads/2018/03/18803_NDCI_Planning_v7.pdf (family treatment courts), and <http://www.wellnesscourts.org/tribal-key-components/index.cfm> (tribal courts).

⁷ See, e.g., National Center for State Courts, *Performance Measurement of Drug Courts: The State of the Art*, at <https://cdm16501.contentdm.oclc.org/digital/collection/spcts/id/171> (July 2008). See also National Center for State Courts, *Mental Health Court Performance Measures Implementation and User's Guide*, at <https://cdm16501.contentdm.oclc.org/digital/collection/spcts/id/222> (October 2010)

Authority

Specialty courts in Texas are provided for in Chapters 121-126 and 129 of the Texas Government Code. These statutes define the different types of specialty courts that are authorized in the state and generally provide for their funding and oversight, and for certain court types, establish eligibility guidelines.

Section 121.002 of the Government Code prohibits a specialty court from operating until it has provided CJD with written notice of the program, any resolution or other official declaration under which the program was established, and a copy of the applicable strategic plan that incorporates duties related to supervision that will be required under the program. A program must receive written verification from CJD that all required information has been submitted before commencing operations. This section of the law also requires that a specialty court program report to CJD any information required by the office regarding the performance of the program.

Specialty Court Types and Essential Characteristics

The Texas Government Code provides for nine different types of specialty courts. These are as follows:

- Family Drug Courts (Gov't Code Ch. 122)
- Drug Courts (Gov't Code Ch 123)
- Veterans Treatment Courts (Gov't Code Ch. 124)
- Mental Health Courts (Gov't Code Ch. 125)
- Commercially Sexually Exploited Persons Courts (Gov't Code, Ch. 126)
- Public Safety Employee Treatment Courts (Gov't Code, Ch. 129)
- Driving While Intoxicated (DWI) Courts (Gov't Code Sec. 123.005)
- Hybrid Courts and Co-occurring Disorders Courts (Gov't Code Sec. 123.002(5))
- Tribal Courts (Gov't Code Sec. 123.001 and Sec. 123.005(5))

The Government Code requires that counties with a population over 200,000 establish a drug court and a commercially sexually exploited persons court. The Government Code also allows for the establishment of regional programs by two or more counties or cities for drug courts, veterans treatment courts, commercially sexually exploited persons courts, and public safety employee treatment courts.

Specialty courts may have different target populations and eligibility criteria, but they share many of the same essential features, most of which are provided for in statute. These features vary based on the design of the program and the population being served, but they generally involve the following:

- the integration of alcohol, mental health, substance abuse, and other treatment services;
- the use of a non-adversarial approach to promote public safety and to protect participants' due process rights;
- early identification and prompt placement of eligible participants;
- access to a continuum of alcohol, drug, and other treatment and rehabilitative services;
- monitoring of abstinence through weekly alcohol and other drug testing;
- a coordinated strategy governing program responses to participants' compliance;
- ongoing judicial interaction with program participants;

- monitoring and evaluation of program goals and effectiveness;
- continuing interdisciplinary education to promote effective program planning, implementation, and operations; and
- development of partnerships with public agencies and community organizations

Governance and Support

Office of the Governor, Criminal Justice Division

It is unlikely that there would be many specialty courts in Texas without the leadership and support provided by the Office of the Governor through its Criminal Justice Division. Most specialty courts in Texas received their implementation funding from CJD, and many specialty courts have continuously received operational funding from the office.

All specialty courts that have registered with CJD are eligible to apply for grant funding. Grants are awarded on an annual basis. Beginning in 2017 only those programs that received CJD funding in the year prior to the year for which they were seeking funding are eligible to apply.

CJD funds specialty courts with monies appropriated as general revenue from a dedicated drug court account and maintained in the Criminal Justice Planning Fund, as provided for in law.⁸ Most specialty court program types are authorized by law to assess a participant program fee to fund their operations.⁹ In FY 2018, CJD awarded \$8.6 million in funding to specialty courts. According to CJD, requests have exceeded awards and dedicated revenue for at least the last six years.¹⁰

CJD maintains a statewide registry of all registered programs in the state, and since 2016 the office has collected participant-level data from all of its funded programs. This data has been used principally to assist in the annual evaluation of grant proposals, and submitting it is a requirement of funding.

CJD has contracted with the Correctional Management Institute of Texas to operate the Specialty Court Resource Center, a joint project of the School of Criminal Justice at Sam Houston State University and the New York-based Center for Court Innovation.¹¹ The Resource Center serves as a clearinghouse of information for specialty courts and provides technical assistance on specialty court best practices. The Resource Center is also developing best practice guidelines for the several specialty court types. Specialty court judges and staff can also receive training and networking opportunities through the Texas Association of Specialty Courts.¹²

⁸ See CCP Art. 102.0178.

⁹ This authorization does not exist for mental health courts or family drug court programs.

¹⁰ Over half (52%) of this funding went to adult drug courts. The balance was awarded as follows: veterans treatment courts – 19%; family drug courts – 9%; commercially sexually exploited persons courts – 9%; juvenile drug courts – 6%; and mental health courts – 4%. See also Criminal Justice Division, Office of the Governor, *Specialty Court Programs*, prepared for the House Select Committee on Opioids and Substance Abuse, at <https://capitol.texas.gov/tlodocs/85R/handouts/C3942018080710001/a3576353-02b2-4cfb-8e30-d76abfdb34a4.PDF> (March 2018). For additional information about funding for specialty courts, see Legislative Budget Board, *Issue Brief: Specialty Courts* (2016) at http://www.lbb.state.tx.us/Documents/Publications/Issue_Briefs/3015_Specialty_Courts_0701.pdf.

¹¹ See www.txspecialtycourts.org.

¹² See <http://www.tasctx.org/index.html>.

The Specialty Courts Advisory Council

The Specialty Courts Advisory Council (SCAC) was created by the Legislature in 2011 to assist CJD in reviewing local program grant applications and making funding recommendations.¹³ The SCAC is comprised of judges who have experience as a specialty court judge and members of the public who either have experience practicing law in a specialty court or possess knowledge and expertise in a field relating to behavioral or mental health issues or to substance abuse treatment.

In 2013, the Legislature expanded the SCAC's role to include recommending best practices for specialty courts to the Texas Judicial Council. The new law also requires that all specialty court programs comply with these best practices. Adult drug court standards were recommended by the SCAC and approved by the Judicial Council in June 2016. Programs have until August 2019 to comply with them.¹⁴

The Texas Judicial Council and Office of Court Administration

The Texas Judicial Council is the policy-making body for the state's judiciary. The Chief Justice of the Supreme Court is its Chair. In June 2016, the Chief Justice charged the Council's Criminal Justice Committee with, among other things, reviewing ... "the need for assistance to the state's problem-solving courts and [to] recommend any necessary reforms to improve the courts."

The committee submitted its report to the Council in June 2018.¹⁵ In its report the committee noted that "centralized administration of specialty courts has increased to better advance quality assurance, training, funding, research and evaluation, technology, and advocacy goals" and that "[P]roviding the Texas Judicial Branch with increased oversight of specialty courts would move Texas closer to national practices and would equally tap into the judiciary's expertise in courts policy and court management issues."

The Committee's report included two recommendations. The first recommendation was for the Legislature to amend the law to provide the Judicial Branch with increased oversight of specialty courts.¹⁶ The second was for the Legislature to appropriate funds to OCA to be used for the development of a statewide specialty court case management system, something that has been requested by the specialty courts and supported by the SCAC.

Specialty court programs do not report any data to OCA, and OCA does not have a formal role in the funding, management, or oversight of specialty court programs. OCA does, however, maintain a Problem Solving Court Advisory Board to advise it on specialty court-related needs and issues. OCA staff were also actively involved in the development of tools to assist adult drug court programs in assessing their compliance with the best practices proposed by the SCAC and adopted by the Judicial Council.

¹³ See Gov't Code Sec. 772.0061.

¹⁴ See http://www.txcourts.gov/media/1383262/Texas-Judicial-Council-Update_31May2016.pdf, <http://www.txcourts.gov/media/1380464/Recommended-Adult-Drug-Court-Best-Practice-Standards.pdf>, and <https://www.nadcp.org/standards/>.

¹⁵ The report is available at <http://www.txcourts.gov/media/1441877/criminal-justice-committee-report.pdf>.

¹⁶ For information regarding the benefits of statewide coordination, see Center for Court Innovation, *Statewide Coordination of Problem Solving Courts: A Snapshot of Five States*, at https://www.bja.gov/Publications/CCI_ProblemSolvingCoord.pdf.

In addition, at the request of CJD and the SCAC, an OCA staff member serves in a Specialty Court Ombudsman capacity, able to receive calls and complaints from program staff or participants and resolve or refer them, as appropriate. This staff member also serves as one of the two Statewide Drug Court Coordinators for Texas (a CJD staff person is the other representative). Each of the states has at least one statewide drug court coordinator who serves as the state's point(s) of contact and who attends convenings of contacts from all of the states. These events provide state representatives with opportunities to learn about new research and evidence-based best practices, practice trends, and innovations. Throughout the year, the coordinators communicate via a listserv.

Specialty Court Operations: Insights from OCA's Statewide Survey

Funding and Resources

Slightly under one-half of programs responding to OCA's statewide survey reported that they currently receive funding from CJD. Regardless of whether this funding is received, most programs reported that they receive funding from other sources, including the following:

- federal funding
- other state funding
- funding resulting from revenue raised from participant fees
- funding from foundations
- county funding

Capacity

Most programs reported that their programs are not at capacity, while one-fourth reported they are at capacity with no waiting list. Few programs report to be at capacity with a waiting list.

Design

Approximately one-half of the programs reported that they accept participants both pre- and post-adjudication. Approximately one-fourth of programs reported that they serve participants pre-adjudication or post-adjudication only. Program size ranges from 10 to 250. Drug courts are reported to have the largest capacity.

Nearly all programs reported that they have eligibility criteria. These criteria vary by program type and target population. Risk level, criminal/social history, participant openness to treatment, and individual assessment results are among the variables that factor into the decision to admit a person into a program.

Most programs reported that they prohibit admission to the program based on certain factors. Barriers to admission are generally related to a person's criminal background, their current charge, and their individual treatment needs.

Mental Health Assessment and Resource Sufficiency

The vast majority of programs reported that they assess participants for mental illness, and the vast majority reported that they use a validated tool to do so.

About half of the programs reported that their programs have sufficient resources to address the mental health needs of their participants.

The following are reported by programs as among the highest-ranked needs related to addressing participant mental health:

- increased funding generally
- greater access to outpatient treatment
- greater access to inpatient treatment
- more community services

Timeliness of Program Entry and Treatment Onset

Nearly half of respondents reported that the time between when a participant is referred to a program and when they enter the program is between three to five weeks. Over one fourth of respondents reported that this time period is within one to two weeks, and several reported this time period is over six weeks. Over three-fourths of respondents reported that they feel the referral process is “timely” or “very timely.”

Suggestions regarding how to improve the timeliness of program entry include the following:

- the earlier identification, referral, and screening of program participants
- additional staff to conduct assessments
- educating the defense bar about program admission requirements

Nearly all respondents reported that the time between program entry and first contact with a treatment provider occurs within one week or within one to two weeks. Nearly all respondents reported that they feel that the time from program entry to onset of treatment is “timely” or “very timely.”

Services Provided

Respondents reported that their programs provide a range of services to participants. These include the following:

- Alcohol and drug abuse treatment
- Outpatient mental health treatment
- Employment support
- Public transportation support
- Housing assistance
- Parenting classes
- GED courses
- Inpatient mental health treatment
- Private transportation support
- Childcare
- College prep courses
- Other services (e.g., referrals to social service agencies, domestic violence classes, mentoring, support groups)

Training

The vast majority of programs reported that judges and specialty court program staff receive training or professional development.

Performance Monitoring and Evaluation

Recidivism

The vast majority of programs reported that they track in-program recidivism and violations of program rules, also known as “technical violations.” Many programs track post-program recidivism,

though the definition of what constitutes recidivism varies, as does the time period for which recidivism is tracked—from one year to five years.

Recidivism is reported to include such things as:

- Re-arrest
- Re-referral for Class B misdemeanor or above
- Alcohol or drug related re-arrest
- Any new drug, alcohol, or felony arrest within 5 years after graduation
- Felony only re-arrest
- New arrest after 3 years of completing the program
- New arrest and/or return to high risk behavior
- Adjudication on an equally severe or greater offense
- Reconviction of a “like” drug or alcohol offense
- Subsequent arrest for the same offense after successful completion of the program
- Adjudication or conviction of a new offense
- Relapse after graduation or repeated drug use
- Another incident/contact with the criminal justice system

Evaluation

One in three programs reported that their program has not had either a process or outcome evaluation conducted. One on five reported that they are unsure if one was conducted. An additional one in five programs reported that they have had both a process and outcome evaluation done.

Of those programs indicating that they have had an evaluation done, almost half reported that it was done in 2018. Nearly one in four reported that the evaluation was done in 2017 or 2016. The balance of the programs (one-fourth of all programs reporting) reported that their evaluation was done in 2015 or earlier. One respondent indicated that program outcomes are evaluated annually.

Observations

SB 1326 directed OCA to collect and report on information “regarding outcomes of participants in specialty courts who are persons with mental illness, including recidivism rates of those participants, and other relevant information as determined by the office.”

OCA used participant-level data for FY 2016, FY 2017, and FY 2018 provided by CJD to profile participants in CJD-funded specialty courts. Summary observations based on the data follow.

Descriptors and Demographics

The tables below contain information about participants in specialty courts that were included in the three-year data set provided to OCA.

General Information	FY 16	FY 17	FY 18
Total Records in Data Set	2,946	6,595	4,712
Records of Program Completers Reviewed	2,496	3,050	2,430

Courts Reporting by Court Type	FY 16	FY 17	FY 18	Average
Drug Court	34	41	32	36
Veterans Treatment Court	13	15	13	14
DWI Court	12	15	6	11
Mental Health Court	3	5	3	4
All Other Court Types Reporting	14	19	13	15

Participants by Court Type	FY 16	FY 17	FY 18	Average
Drug Court	50%	45%	52%	49%
Veterans Treatment Court	11%	12%	15%	13%
DWI Court	15%	20%	9%	15%
Mental Health Court	6%	6%	7%	6%
All Other Court Types Reporting	18%	17%	17%	17%

Demographics	FY 16	FY 17	FY 18
Average Age	35	36	35
Percent Male	67%	67%	65%
Percent Female	33%	33%	35%
White	40%	41%	44%
Hispanic or Latino	39%	41%	34%
Black or African American	19%	16%	21%
Asian	1%	1%	0%
American Indian or Native Alaskan	0%	0%	0%
Native Hawaiian or Pacific Islander	0%	0%	0%
Other	1%	1%	0%

Summary Program Outcomes

CJD-funded programs collect education, employment, and housing status information about their participants at program intake and then again at program completion. This information is self-reported by participants to local program staff and reported to CJD. OCA reviewed this information for participants who completed their programs in 2018 only, presented here by whether the participant successfully completed their program or not, and by whether the participant had a mental health need identified. Participants with a mental health need identified appeared in all specialty court types in records maintained by CJD.

Outcomes by Type of Program Completion/Separation

The majority of program participants successfully completed their programs and graduated, whether they had a mental health need identified or not.

Program Completion/Separation Category Total	FY 16	FY 17	FY 18	Average
Graduated	63%	62%	59%	62%
Technical violation	19%	18%	16%	18%
Transferred to another program	6%	7%	11%	8%
Absconded	5%	6%	5%	5%
Voluntarily withdrew	4%	3%	4%	4%
Arrested or charged with new offense	3%	3%	4%	3%
Died	0%	0%	0%	0%
Reason not listed	0%	0%	0%	0%
Deported or Extradited	0%	0%	1%	0%

Program Completion/Separation Category by Mental Health Need Identified	FY 16	FY 17	FY 18	Average
Graduated	61%	62%	59%	60%
Technical violation	17%	16%	14%	16%
Voluntarily withdrew	7%	5%	4%	5%
Absconded	6%	7%	6%	6%
Transferred to another program	5%	7%	12%	8%
Arrested or charged with new offense	3%	3%	4%	4%
Died	1%	0%	1%	1%
Reason not listed	0%	0%	0%	0%
Extradited	0%	0%	0%	0%

Employment Status

Overall, participants appear to increase attachment to employment during the course of their program. Nearly two-thirds of program participants were either unemployed or unemployed but adequately supported at program start, while over half of program participants were employed at program end.

Specifically, the data reveals the following:

- Participants who **successfully completed** their program were more likely to be employed and less likely to be unemployed at program end than at program start. These status changes were slightly higher for participants with a mental health need identified than they were for those without a mental health need identified.
- Participants who were **not successful in completing** their program also showed increases in employment and decreases in unemployment from program start to program end, though at lower rates. These status changes were likewise slightly higher for participants with a mental health need identified than they were for those without a mental health need identified.

Housing Status

The vast majority of program completers reported that they were in permanent housing both at the start and at the end of their program. Overall, this suggests some measure of stability in housing for the population reviewed.

Specifically, the data reveals the following:

- Participants who **successfully completed** their program were more likely to be in permanent housing and less likely to be homeless or in emergency or transitional housing at program end than at program start. These status changes were nearly the same for participants with a mental health need identified and those without a mental health need identified.
- Participants who were **not successful in completing** their program were slightly less likely to be in permanent housing at program end than at program start.
 - Participants who were **not successful in completing** their program with a mental health issue identified were less likely to have no housing or be homeless and more likely to be in emergency or transitional housing or a shelter at program end than at program start.
 - Participants who were **not successful in completing** their program without a mental health issue identified were more likely to have no housing or be homeless and less likely to be in emergency or transitional housing or a shelter at program end than at program start.

Education Status

Overall, participants appear to experience educational advancement while in the program. This is the case whether or not a mental health issue had been identified.

Specifically, the data reveals the following:

- Fewer participants reported a below high school level of education at program end than at program start.
- More participants reported having a bachelor's degree at program end than at program start.

Recidivism

CJD collects a State Identification Numbers from participants at program intake. This information is used by CJD, working with the Department of Public Safety, to obtain recidivism rates for program participants. CJD uses rearrest as its measure of recidivism.

Statewide analyzing of recidivism for the specialty court population on the basis of existing data is difficult. This is due to a variety of factors, which are generally related to difficulties in linking arrest (rearrest) records to the program population. Specifically, missing, incomplete, or erroneous identifying data for the program population limits the ability to associate arrest records with the population being studied. Further, the process used to determine recidivism does not allow for the association of recidivism rates with key recidivism-related variables, including mental health status; instant offense; type of program; length in program; type, duration and frequency of treatment and other services received; and other variables.

CJD is aware of these limitations and is working to ensure that the quality of the data being collected will allow for the regular collection of reliable recidivism statistics.

Conclusion

SB 1326 directed OCA to collect and report on information “regarding outcomes of participants in specialty courts who are persons with mental illness, including recidivism rates of those participants, and other relevant information as determined by the office.”

On the basis of a review of participant-level data collected and maintained by CJD and a statewide survey of all programs registered with CJD, OCA makes the following general observations:

There is a need for more data on specialty court populations and operations. Specialty courts are an important part of a local community’s justice system and when designed and run properly, their impact in terms of public safety and offender rehabilitation can be significant. These important programs are clearly deserving of support. Such support, however, needs to be continually informed by regular collection and strategic use of data about participants and programs.

There are 195 specialty programs registered with CJD serving hundreds of participants. Not all specialty court programs have a case management system, and those that do use different systems. CJD collects data from those courts it funds – approximately 55% of all programs registered with the office – using a structured protocol. The law requires that all specialty court programs register with CJD and that a specialty court program report any information required by CJD regarding the performance of the program.

Collecting standardized data from all specialty courts can help assess their impact, advance understanding of their potential, drive targeted investment in their operations, inform training, and serve an important quality assurance function by ensuring that programs are designed and operated according to recognized research-based practice.

There is a need to address the limitations associated with analyzing recidivism. Recidivism is an essential criminal justice performance measure. It is a common and important, albeit not the only, indicator of a program’s impact, and properly derived recidivism rates can help judges, program managers, and policymakers determine whether an intervention is effective in preventing relapse or a return to criminal behavior. Studying recidivism rates can also point to ways in which programs can be refined or redesigned to ensure optimal outcomes. Recidivism can, and should, be measured both in-program and post-program, for both the short- and long-term. Results should be able to be analyzed by key individual characteristics and program design elements. It should be measured according to standard definitions and in multiple ways, including rearrest, reconviction, and reincarceration.

Limitations exist on the extent to which information currently available can be used to assess the recidivism of specialty court participants. While the majority of programs responding to OCA’s statewide survey reported that they track recidivism, definitions vary across programs and are likely not suitable for comparison. A more comprehensive and reliable method for assessing recidivism of specialty courts is needed, including methods for analyzing recidivism of key subgroups of the

specialty court population as well as for participants in programs that have registered with, but are not receiving funding, from CJD.

There is a need for information to support the analysis of whether there are specific program practices that are related to positive outcomes. Such outcomes include not only recidivism, but changes in employment, housing, and education, all of which is information that funded programs are currently submitting to CJD. However, while the CJD data reviewed by OCA suggests that employment, housing, and education outcomes are trending in the right direction, there is a need for judges, program managers, and policymakers to know what specifically is responsible for these gains, and how to promote optimal levels of performance. More needs to be known about how programs are designed and operated before conclusions can be drawn about the extent to which program participation is responsible for the status changes that have been observed.

While efforts are underway by CJD to ensure that the specialty court programs they fund operate pursuant to practices supported by research to be associated with successful outcomes, there are no requirements in law or rule that require that such practices be observed, nor is information consistently collected or centrally available regarding detailed aspects of program design that can support the analysis of the impact of design and program practice on participant behavior. For example, research on adult drug courts has established that certain key practices are associated with reductions in recidivism¹⁷ and cost savings.¹⁸ Information on such practices should be systematically gathered and training and technical assistance provided to programs not observing them.

¹⁷ See Shannon Carey et al., *What Works? The Ten Key Components of Drug Court: Research-Based Best Practices*, Drug Court Review, Vol. VIII, 1, pp. 22-27, at http://npcresearch.com/wp-content/uploads/Best_practices_in_drug_courts_20122.pdf. **Recidivism reduction related practices** include whether the program had fewer than 125 participants; whether the program required at least at least 90 days of abstinence from drugs or alcohol prior to graduation; whether the drug court judge spent an average of three minutes or more per participant during court hearings; the frequency of communication between treatment providers and the court; whether a representative from the treatment provider attended drug court team meetings and court hearings; whether the internal review of program data and statistics led to program changes; whether the program allowed admission of participants with nondrug charges (as opposed to only charges for drug offenses); whether a representative from law enforcement attended drug court team meetings; and whether the program had undergone an external evaluation and used the results to make program modifications.

¹⁸ *Ibid.*, pp. 28-31. **Cost savings related practices** include whether a program's internal review of program data and statistics led to program changes; whether the program had undergone an external evaluation and used the results to make program modifications, whether sanctions for program noncompliance were imposed timely; whether the defense attorney attended drug court team meetings; whether the program required participants to have a job or be in school; whether a representative from the treatment provider attended court sessions; whether team members were given a copy of the guidelines for sanctions for participant noncompliance; whether drug test results were made timely available; whether drug testing occurred at least twice per week; and whether a representative from law enforcement attended drug court team meetings.