



# Overview of Virginia Drug Treatment Courts

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# Virginia Drug Treatment Court History

- 1995: First drug treatment court established in 23<sup>rd</sup> Judicial Circuit (Roanoke area)
  - A total of 19 drug treatment courts were established between 1995 and 2003 using local funding and federal grants
  - No state funding was provided to drug treatment courts at this time
- 2004: General Assembly passed Drug Treatment Court Act
  - Placed oversight responsibilities with Supreme Court, as well as authority to distribute state funding
  - Established Drug Treatment Court Advisory Committee with authority to approve new drug treatment courts
  - Set requirements for jurisdictions seeking to establish drug treatment courts, as well as their authorities and responsibilities
  - Between 2004 and 2011, an additional 7 drug treatment courts established, bringing the total established to 26
  - \$2.9 million in state funding provided to 14 of the 26 drug treatment courts according to policy established by Drug Treatment Court Advisory Committee
- 2012: Appropriation Act Language
  - Allowed for the establishment of drug treatment court programs even if not requesting state funds, or specifically authorized in the *Code of Virginia*
  - No new state funding for drug treatment courts was added between FY 2012 and FY 2016
- Currently, there are 38 drug treatment courts in Virginia operating or authorized to operate
  - 30 are Adult Drug Treatment Courts operating as circuit court dockets
  - 8 are Juvenile Drug Treatment Courts operating as J&DR court dockets
  - In FY 2016, \$2.9 million in state funding was allocated to 14 drug treatment courts in accordance with allocation policy established by Drug Treatment Court Advisory Committee
  - All drug treatment courts receiving state funding were established before the 2004 Drug Treatment Court Act
  - The 2016 General Assembly provided additional funding of \$300,000 in FY 2017 and \$960,000 in FY 2018

# DRUG TREATMENT COURT FUNDING

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## Allocation of State Funding for Drug Treatment Courts

- \$2.9 million in state funding is allocated under policy adopted by the Drug Treatment Court Advisory Committee in May 2010
- To receive funding, programs must meet minimum caseload thresholds, provide a 25% local match, and comply with other Supreme Court requirements
- Advisory Committee recommended average funding per participant of \$5,000 for adult programs and \$12,500 for juvenile programs
  - In FY 2015, range was \$1,250 to \$4,100 per participant for adult courts
  - In FY 2015, range was \$7,800 to \$11,700 per participant for juvenile courts

# of Active <u>Adult</u> Participants	Maximum GF Grant Award
0 to 24	\$0
25 to 30	\$165,000
31 to 41	\$205,000
42+	\$250,000

# Active <u>Juvenile</u> Participants	Maximum GF Grant Award
0-9	\$0
10+	\$165,000

# Drug Treatment Courts State Funding Status, FY 2016

Adult, Funded (11 total, \$2.3 million GF)	Adult, Not Funded (19 total)	Juvenile, Funded (3 total, \$600,000 GF)	Juvenile, Not Funded (5 total)
<ul style="list-style-type: none"> <li>• Chesterfield/Colonial Heights</li> <li>• Henrico</li> <li>• Norfolk</li> <li>• Rappahannock Regional (Fredericksburg, Caroline, King George, Spotsylvania, Stafford)</li> <li>• Richmond City</li> <li>• 23<sup>rd</sup> Circuit (Roanoke City, Roanoke County, Salem)</li> <li>• Charlottesville/Albemarle</li> <li>• Newport News</li> <li>• Hampton</li> <li>• Portsmouth</li> <li>• Staunton</li> </ul>	<ul style="list-style-type: none"> <li>• 30<sup>th</sup> District (Lee, Scott, Wise)</li> <li>• Arlington</li> <li>• Bristol</li> <li>• Buchanan, Russell, Tazewell</li> <li>• Chesapeake</li> <li>• Dickenson</li> <li>• Floyd</li> <li>• Giles</li> <li>• Halifax</li> <li>• Hanover</li> <li>• Lynchburg</li> <li>• Montgomery</li> <li>• Prince George, Hopewell, Surry</li> <li>• Pulaski</li> <li>• Smyth</li> <li>• Suffolk</li> <li>• Virginia Beach</li> <li>• Washington County</li> <li>• Northwest Regional (Winchester, Clarke, Frederick)</li> </ul>	<ul style="list-style-type: none"> <li>• Chesterfield/Colonial Heights</li> <li>• Newport News</li> <li>• Rappahannock Regional (Fredericksburg, Caroline, King George, Spotsylvania, Stafford)</li> </ul>	<ul style="list-style-type: none"> <li>• 30<sup>th</sup> District (Lee, Scott, Wise)</li> <li>• Franklin</li> <li>• Hanover</li> <li>• Henrico</li> <li>• Montgomery</li> </ul>

# New State Funding for Drug Treatment Courts

- 2016 General Assembly provided additional funding of \$300,000 in FY 2017 and \$960,000 in FY 2018 for drug treatment courts
  - Total state funding for drug courts now \$3.2 million in FY 2017 and \$3.9 million in FY 2018
  - Intent of new funding was to provide support to existing programs experiencing high caseloads but not currently receiving state support
- In November, Drug Treatment Court Advisory Committee approved allocation of new FY 2017 funding to the following programs:
  - Chesapeake Adult - \$95,000
  - Prince George/Hopewell/Surry Adult - \$95,000
  - 30<sup>th</sup> Judicial Circuit Adult (Lee, Scott, Wise) - \$50,000
  - Dickenson Adult - \$45,000
  - 30<sup>th</sup> Judicial Circuit Juvenile (Lee, Scott, Wise) - \$15,000

# Allocation of New State Funding for Drug Treatment Courts

- According to Supreme Court staff, the following criteria were used to determine the allocation of new funding in FY 2017:
  - Program receives no state funding or federal grants
  - Program expresses need for state funding
  - Number of program participants at or near existing caseload requirements
  - Re-arrest rates were also considered, but were not a deciding factor
- Whether a locality receives federal grants being used as a factor for state funding allocation is a departure from existing funding policy
  - Federal grant status is not a factor for the 14 programs that already received state funding
- Chesapeake Adult and 30<sup>th</sup> Circuit Juvenile programs exceed minimum caseload requirements under current funding policy
  - Dickenson Adult, 30<sup>th</sup> Circuit Adult, and Prince George/Hopewell/Surry Adult programs did not meet minimum caseload requirements
- The allocation of \$960,000 in new state funding in FY 2018 has not been determined
  - According to the Supreme Court, a subcommittee of the Drug Treatment Court Advisory Committee will be established to recommend revisions to the criteria used to allocate all state funding for drug treatment courts

# Use of State Funds by Drug Treatment Courts

- Localities report that state funds are typically used for:
  - Salary and benefits for coordinators, state or local probation officers, CSB clinicians, and other office staff
  - Treatment provided by CSBs or contract providers
  - Overhead (rent, phones, supplies)
  - Drug testing supplies or services
- The use of state funds by localities varies according to the needs of particular drug treatment courts
- State funds may not be used to purchase food, conference, training or other events, association membership, or to purchase or lease vehicles

# Local Funding for Drug Treatment Courts

- As a condition of receiving state funding, programs must identify a local cash or in-kind match equal to at least 25% of state funding provided
  - For the 11 adult programs receiving state funding, reported local matches equal to 70% of state funding in FY 2016
  - For the three juvenile programs receiving state funding, reported local funding equal to 38% of state funding in FY 2016
- Localities report that local support for drug treatment courts is most often provided for:
  - Salaries and benefits for DTC coordinators, probation officers, CSB clinicians, and administrative assistants
  - Lease and utility costs, IT, telephones
  - Treatment services provided by CSBs or contractors
  - Drug testing supplies and services
- Variation in local support leaves programs with differing resources and capacities
  - For example, while larger programs have a full-time coordinator to administer and oversee programs, many programs have a part-time coordinator and other staff, limiting their capacity to enroll participants
- However, program budgets are not tracked or reported for all drug treatment courts, so no data is available for programs not receiving state funding

# Federal Grants for Drug Treatment Courts

- Several federal agencies have provided grants to the state or Virginia localities for drug treatment courts, including:
  - Bureau of Justice Assistance
  - Office of Juvenile Justice and Delinquency Programs
  - Substance Abuse and Mental Health Services Administration
- Federal grants are typically awarded in one of three categories:
  - Implementation grants – for jurisdictions that have completed most planning and are ready to implement an adult drug court
  - Enhancement grants – for jurisdictions operational for at least one year, used to improve program through additional services, evaluations, to meet special needs of population, etc.
  - Statewide grant – for state agencies to enhance or expand services statewide; can be used for training or technical assistance for drug court teams, tracking or dissemination drug court information, statewide evaluations, and other activities
- Federal grants are typically awarded for a 3-year period, and may be extended if not all funds are expended at end of the grant period
  - Grants require at least a 25% match from the locality or state

## Drug Treatment Courts Have Received \$4.7 million in Federal Grants Since 2012

Year	Court	Source	Amount
2012	Statewide (Supreme Court)	BJA – Statewide	\$1,500,000
2012	Tazewell, Buchanan, Russell	SAMHSA/CSAT	\$324,883
2012	Tazewell, Buchanan, Russell	BJA/CSAT	\$286,316
2013	Chesterfield Adult	BJA – Enhancement Grant	\$200,000
2013	Richmond Adult	BJA – Enhancement Grant	\$200,000
2013	Arlington Adult	BJA – Enhancement Grant	\$350,000
2013	Norfolk	SAMHSA/CSAT	\$324,876
2014	Bristol	SAMHSA/CSAT	\$295,956
2015	Tazewell, Buchanan, Russell	BJA – Enhancement	\$199,828
2015	Pulaski	BJA – Implementation	\$345,617
2015	Richmond Adult	SAMHSA/CSAT	\$300,000
2015	Tazewell, Buchanan, Russell	SAMHSA/CSAT	\$324,327
<b>Total</b>			<b>\$4.7 million</b>

# PROGRAM DESIGN AND PERFORMANCE

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# Drug Treatment Courts in Virginia

- Drug treatment courts are specialized programs established in circuit or juvenile and domestic relations courts
- As defined in the *Code of Virginia*, the goals of drug treatment courts are:
  - Providing substance abuse treatment, intensive supervision, and ancillary services
  - Reducing addiction and drug dependency among offenders, recidivism, and drug-related court workloads
  - Increasing personal, familial and societal accountability among offenders
  - Promoting effective planning and use of resources among the criminal justice system and community agencies
- In addition to meeting the goals outlined in the *Code of Virginia*, programs must comply with 12 standards adopted by the Drug Treatment Courts Advisory Committee
  - Standards are tailored to Virginia programs, but largely based upon National Association of Drug Court Practitioners “10 Key Components of Drug Courts”
  - Standards provide framework for activities such as planning, treatment services, eligibility criteria, and evaluation and monitoring of programs

# Drug Treatment Court Design

- The goals and standards for drug treatment court programs have created an alternative to incarceration for individuals with substance use disorders in the localities they operate in
  - Coordinated intensive judicial oversight and probation supervision involving judges, prosecutors and defense attorneys, local and state community corrections, CSB clinicians, and law enforcement
- Within the framework established by the *Code of Virginia* and drug court standards, drug treatment courts are designed to meet local needs and priorities
- Therefore, there is diversity among drug treatment courts in terms of:
  - Program capacity and number of active participants
  - Eligibility criteria, including when in court process potential participants are identified
  - Mix of treatment and ancillary services provided
  - Use of sanctions and incentives

# Selection of Drug Treatment Court Participants

- Potential drug treatment court participants are identified by defense or prosecuting attorneys, and state or local probation offices
- Participation is voluntary and individuals selected are non-violent offenders meeting the following criteria:
  - Demonstrated substance use disorders (clinical assessment and self-reported)
  - Some programs focus on probation violators (show cause order)
  - Typically required to have stable mental health other than substance use disorder
  - Typically required to live within region or locality of program due to CSB residency requirements
  - Identified as high-risk and high-need according to Risk and Needs Triage (RANT) screening
- Participants are placed into programs at different stages of judicial process depending upon design of program: post plea, probation violators
- Exclusion criteria most commonly cited for not allowing an individual to participate in program:
  - Sex offender status
  - Severe mental health issues
  - Drug trafficking convictions
  - Low-risk or low-need according to RANT screening

# Treatment and Supervision of Drug Court Participants

- Program treatment is arranged in phases, with more intensive treatment earlier in the program that lessens in intensity as individuals make progress. Treatment activities include:
  - Medication-assisted treatment and recovery if provided by CSB
  - Individual treatment sessions
  - Intensive outpatient counseling – group, individual, family/support, Moral Reconciliation Therapy, psychiatric assistance, narcotics anonymous attendance
- Supervision is also intensive and phased depending upon a participant's progress, and includes:
  - Drug testing one or more times per week, conducted by probation and parole officer, sheriff's deputy, clinician, or coordinator
  - Probation meetings one or more times per week depending upon participant's progress
  - Court appearances, ranging from weekly to monthly depending upon participant's progress
  - Curfew monitoring, including calls, home visits and community contacts one to two times per month
- Programs may also provide ancillary services such as anger management counseling, housing assistance, and transportation assistance

# Incentives and Sanctions for Participants

- Incentives and sanctions are used to reward or punish compliance and non-compliance with drug treatment court requirements
  - Examples include changes in reporting requirements, curfew, fines, drug testing obligations, community services requirements, or incarceration may also be used
  - Use varies across state, as programs establish their own incentives and sanctions within framework of drug court goals and standards
- Repeated non-compliance may result in program termination
  - Judge makes final determination based upon staff recommendations regarding individual's progress to date and the nature of their non-compliance
  - In most programs, automatic termination may result from certain actions such as a violent act, possessing a firearm, or arrest for a new felony offense
  - Program termination results in incarceration for either pending charges or serving remaining portion of suspended sentence
- Successful completion of drug treatment court programs requires participation for 12 to 18 months
  - Graduation occurs after meeting program benchmarks, include some period of clean drug test results
  - Some programs may also provide or require post-graduation check-ins to monitor progress

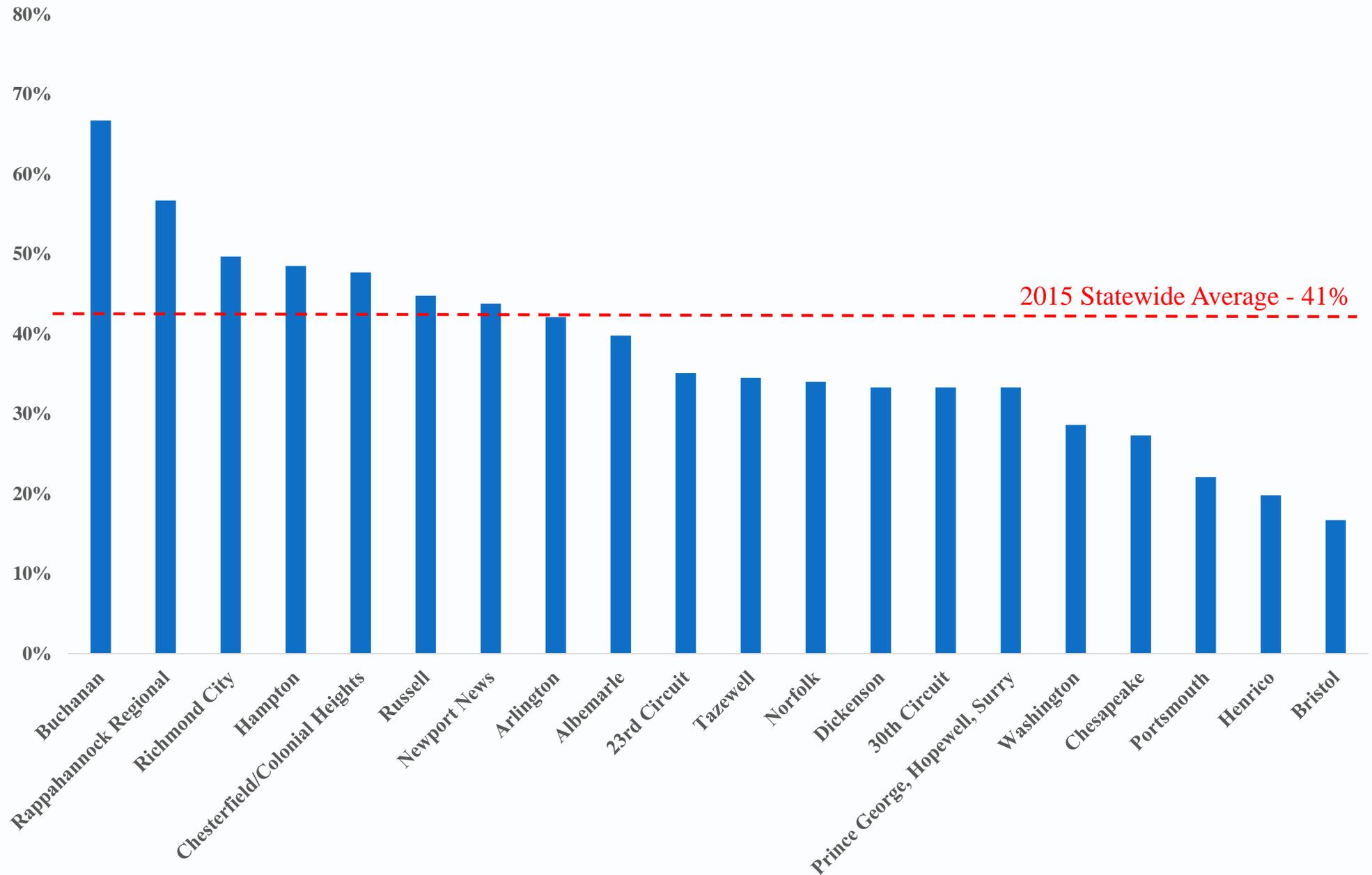
# State Oversight and Monitoring of Performance

- Department of Judicial Services within the Office of the Executive Secretary is responsible for allocating state funding, managing reporting, and oversight of drug treatment court performance
  - Three staff responsible for drug treatment courts: a statewide coordinator and two analysts
  - Provide staffing to Drug Treatment Court Advisory Committee
  - Oversee allocation of state funding to programs
  - Database administration and training for local departments
  - Conduct required state and federal reporting
  - Under proposed Rule of Court, would also staff Specialty Dockets Advisory Committee, which would oversee behavioral health and veterans dockets in addition to drug treatment courts
- Supreme Court tracks limited performance data in annual reports
  - Supreme Court annually reports on statewide drug treatment court graduation, termination, and re-arrest rates
  - Important outcome statistics, such as recidivism and employment rates, are not tracked systematically as data is maintained by other state agencies
- Ability of the Supreme Court to conduct ongoing oversight of drug treatment courts is limited
  - In addition to staff limitations, budget for third-party evaluation of drug treatment courts only allows periodic reviews of performance, with the last third-party review completed in 2012

# Drug Treatment Court Graduation Rates

- In FY 2015, 41% of Virginia drug treatment court participants graduated, while 59% had participation terminated
- In that same year, graduation rates at adult drug treatment courts ranged from 17% to 67%
- On the surface, variation in graduation rates does not appear to be related to:
  - Number of participants in the program
  - At what point in court process individuals are enrolled
  - Whether or not the program receives state funding or federal funding
- Possible explanations for variation might include:
  - Differences in program design, such as providing different mixes of services
  - Variation in use of sanctions and incentives
  - Differences in supervision intensity and thresholds for program termination
  - Some programs may enroll individuals with higher likelihood of graduating relative to other programs
- Explaining this variation in Virginia drug treatment court graduation rates would require a deeper dive into the programs themselves to identify the factors that are driving differences in performance
  - Identifying these factors will be necessary in order to find ways that courts can improve their graduation rates

# Graduation Rates Vary Across Adult Drug Court Programs



# Drug Court Participation Improves Employment Outcomes

- In 2008, JLARC study found that 18 months after leaving Virginia drug treatment court programs, graduates:
  - Were three times more likely to have earnings than non-participants, and
  - Had average incomes more than twice as high as non-participants
- In 2012, NCSC also studied Virginia drug treatment court participant employment outcomes as part of its impact study
  - NCSC found that 35.6% of drug court participants were employed at program entry, with 45.8% unemployed
  - Upon leaving the program, 64.7% of participants were employed, 11.3% were unemployed, with the remainder retired, disabled, actively enrolled in educational coursework, or otherwise outside of the workforce
- Supreme Court is not tracking employment outcomes of drug court participants
  - Staff may wish to consider communicating with Department of Taxation in order to gain access to information they would need to begin tracking employment outcomes

# Re-Arrest and Recidivism Rates for Drug Court Participants

## Re-Arrest Rates

- The Supreme Court tracks re-arrest rates for drug court programs
  - Re-arrest rates include arrests of program participants for any misdemeanor or felony offense within a given year
- In 2016, based upon local data the Supreme Court reported that 11% of participants were re-arrested
- 2012 NCSC study found lower long-term re-arrest rates for drug court participants than individuals handled through standard case processing
  - 52.2% of drug court participants were re-arrested within 3 years of program placement
  - 61.9% of non-participant comparison group were re-arrested within 3 years of previous sentencing event

## Recidivism Rates

- In 2012, NCSC found that for Virginia drug courts:
  - Graduates had 5.6% felony recidivism rate
  - Those terminated from participation had a 24.4% felony recidivism rate
  - A matched group of non-participants had a 26.1% felony recidivism rate
  - Drug court participants had substantially lower recidivism rates for all offense types (property, drug, public order, probation violations)
- Drug treatment court recidivism has not been regularly tracked by the Supreme Court
  - Supreme Court hired data analyst in August 2016 with the intent to begin tracking recidivism rates in future reports

# Cost-Benefit Analyses of Drug Treatment Courts

- National studies have found that drug treatment courts lower criminal justice and societal costs by between \$1,000 and \$15,000 per participant
- In 2012, NCSC conducted a cost-benefit analysis of drug courts in Virginia
  - Estimated total savings of \$19,000 per participant relative to similar individuals that went through traditional case processing
  - While court costs higher in short term, significant savings seen post-placement due to substantially lower incarceration costs for drug court participants
  - NCSC also found significantly lower victimization costs due to lower recidivism rate for drug court participants
  - NCSC findings re-affirmed similar findings of 2008 JLARC study of substance abuse services

# CONSIDERATIONS FOR DRUG TREATMENT COURTS

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# Considerations Regarding Drug Treatment Court Funding

- Allocation of state funding for drug courts bears reconsideration given increased funding and growing number of programs that receive no state funding
  - Current funding policy creates artificial cut-offs for state funding, creating haves and have-nots based upon caseload tiers with no clear tie to performance
- When considering revisions to the funding allocation policy for FY 2018, the Drug Treatment Court Advisory Committee may wish to consider:
  - Adopting a policy that affects the allocation of all state funding for drug courts, not just the additional funding added in the 2016 General Assembly Session
  - Requiring factors as graduation, employment, recidivism, or other performance metrics to be used in allocating funding
  - Using funding approach which could ensure all qualifying drug treatment court programs receive state funding, such as allocating funding on a per-participant basis

# Considerations for Drug Treatment Court Programs

- Resources needed to enhance oversight, monitoring, and reporting on drug treatment court performance should be identified by the Supreme Court
  - While oversight resources have grown modestly, number of operational drug treatment courts has nearly doubled since 2012
  - Proposed Rule of Court would increase responsibilities of existing staff, as it would require them to support oversight activities related to behavioral health and veterans dockets
- Lack of detailed program performance data limits ability of General Assembly to ensure state funds are being used effectively
  - In 2010, Supreme Court stated that “process, outcome, and cost/benefit analysis must be continual to demonstrate the efficacy of all Virginia programs”
- Systematic tracking of drug treatment court performance outcomes – such as recidivism – will enhance ability of Supreme Court to identify high and low performing programs, and identify possible improvements