

**HOUSE JUDICIARY COMMITTEE  
SUBCOMMITTEE ON CRIME AND CORRECTIONS  
WRITTEN SUBMISSION from ALBERT H. MASLAND, J.  
MONDAY, MARCH 31, 2014**

***It's "Opening Day"***

*"Baseball teaches us, or has taught most of us, how to deal with failure. We learn at a very young age that failure is the norm in baseball and, precisely because we have failed, we hold in high regard those who fail less often—those who hit safely in one out of three chances and become star players. I also find it fascinating that baseball, alone in sport, considers errors to be part of the game, part of its rigorous truth."*

Francis T. Vincent, Jr.,  
Former Commissioner of Baseball

**INTRODUCTION**

Thank you Chairmen Krieger and Bradford for taking the time to hear from a panel of drug/specialty court professionals regarding the current scourge of heroin use. Having served on the House Judiciary Committee in the 1990's, I appreciate the fact that your time is limited, no matter how worthy the topic may be. Also, I recognize that more often than not, it is the frank discussions between the Committee and the presenters that flesh out the issues better than any prepared remarks. And, given the expertise of

the panel, from whom I expect to learn a great deal, my supplemental observations may prove superfluous.

First, some brief comments on my use of the phrase “current scourge of heroin use.” Although the use of the term “scourge” or “epidemic” is apt, we must recognize that it is neither the first nor, perhaps, the last time that heroin or some other substance will ravage our society. To be sure, the intersection between prescription drugs and heroin has created a particularly pernicious set of circumstances, but there will be more chapters written in the annals of addiction.

Similarly it is important that we realize that the term “abuse” is not necessary when talking about heroin – the sheer *use* of the substance is inevitably abusive for all those who come in contact with it. Let us hope that the day never comes when the use of heroin is deemed to be a mere personal or private matter, with no societal or criminal repercussions. As you know, heroin use always has serious consequences.

## **FACTS**

You no doubt have a plethora of facts to wade through indicating that the upsurge in heroin use constitutes a pandemic. Therefore, I will add only a few facts from south central Pennsylvania, courtesy of Cumberland

County District Attorney David Freed and the Cumberland-Perry Drug & Alcohol Commission (Commission). Every judge in our county has sensed the magnitude of the problem that has been building over the past few years. According to our DA, possessions of heroin and heroin paraphernalia have overtaken even marijuana. The investigative perspective of our Drug Task Force is that heroin is the number one drug right now, with enterprising dealers switching from crack cocaine to heroin and dealers coming in from out of town to set up shop. We know it is happening here, but a few statistics help but a point on it.

Perhaps, the most striking number is this: the number of alcohol detoxes at the Cumberland County Prison in 2011 was 159 and rose to 236 in 2013. Over the same three years, opiate detoxes rose from 269 to 466 and now constitute 66.4% of all offenders receiving medical treatment. (Attachment A) Of course, that includes heroin and prescription drugs, but the number is amazing and telling. Outside of our prison, the Commission statistics indicate that almost 20% of all clients receiving treatment in somewhat-bustling Cumberland and bucolic Perry identify heroin or other opiates as their primary drug of choice. (Attachment B)

One final statistic needs to be shared and it deals with funding, the 500 pound gorilla. From 2004-2005 to 2012-2013, treatment funds from

DPW to the Commission was reduced by 26.6% from \$523,932 to \$384,574. (Attachment C)

## **THEORY/PRACTICE of DRUG COURTS**

I will not belabor the theory behind drug courts – that will surely be laid out in this hearing. Suffice it to say that intensive supervision and treatment of high risk/high need offenders is less costly and more successful than throwing everyone with a gram of anything into prison for a lengthy stay. I realize there are detractors and suggest you look closely at the arguments on both sides of the drug court debate.

I have also attached the “fast facts” of the Cumberland Count Treatment Court for your review. (Attachment D) As much as we would like to have a 0% recidivist rate for our graduates, 23% is a number on which we can build. Noteworthy is the fact that during the 18-24 months in the program, we do a good job of keeping them clean ((8.4% clean drug tests). More importantly, as the sociologist William Cameron noted decades ago, “not everything that can be counted counts, and not everything that counts can be counted.” Hopefully, that will be clear from the following vignettes.

## REAL LIFE

Let me share three brief stories (with the names changed) to illustrate the varying costs of relapse and the vagaries of heroin use:

### *A Graduate*

Although all of our graduates do not stay clean and sober, we have given them the tools to do so and we stand ready to help when they slip. One of our earliest graduates, Bob, had a DUI in 2013 that landed him, not by my design, before me. He had many forgery, theft, trespass offenses in the past, but this was a first offense DUI (a combination of *licit* drugs in his system resulted in a one-vehicle accident) and he was sentenced to probation. But, knowing that he had substance issues, I required him to attend AA/NA or comparable meetings during the first two months of his probation.

When Bob failed to turn in the meeting forms, and his wife called probation officer with concerns, we wasted no time and called him in. With the PO's keen sense, she realized in short order that Bob had turned to heroin. He had *never* used heroin before treatment court and had been clean for two years after graduation. Some injuries, some old habits and

pain killers seemingly led him inexorably to heroin. He is now in CCP cleaning up and on work release.

Here are a few excerpts from the letter Bob's wife wrote me last week:

*I want to begin by saying thank you. When I contacted [the PO] it was because I was hopeless and knew that my husband was closer to death than he realized. While this time has been difficult for our family, it has given us the space to heal, forgive and begin working on a plan to move forward. The man who successfully completed treatment court is slowly returning, and again for that I must say THANKYOU!*

I realize that in some circles this was a "loss" for our court. I prefer to think of it as a win. Bob is alive today because of his involvement with our court. *Not everything that counts can be counted.*

#### *A DAD*

Jimmy is a 30 year old heroin addict who recently began the final phase of our program. During the first three phases he lost three friends to overdoses and has had many other struggles. Last month, the mother of his son (who is also an addict) was arrested for robbing a convenience store with her new boyfriend ... also a user. Had Jimmy been in the midst of his addiction, his son would be living in a foster home. Instead, he is gainfully employed, progressing in his recovery and working with Children and Youth to pave a path of hope for his child as well.

I could say so much more about this young man, but knowing what he has before him and not wanting to overstate the case or invite temptations into his life, suffice it to say that *not everything that counts can be counted*.

### A DEATH

Morgan was a bright 22 year old heroin addict who came before me in late 2012 for a plea to a few thefts. She didn't have the big prior record so after spending several months in CCP, she received a time-served sentence. Like Bob, I required her to attend meetings, which she said she was doing anyway.

On January 13, 2013, she wrote on her meeting form with excitement "I am chairing this meeting in April." At another NA meeting on April 2<sup>nd</sup>, which was chaired by Jimmy, she wrote that she learned "it was ok to cry!" The last meeting she attended was on April 16<sup>th</sup> in Morgantown, West Virginia at the End of the Road Group House. Her final comment on the form was "relapse is not an option." It was an option, but not a good one. She overdosed on April 28<sup>th</sup>. She had been clean, but a visit from a couple "friends" at work led to the first and final dose of heroin. How do we count the loss to her family and her toddler daughter?

## Opening Day

In case you are wondering why my written remarks were prefaced by the quote from Fay Vincent, let me assure you that it was not simply because today is opening day for most of major league baseball. Instead, the decline of the great American past-time may shed some light on this crisis.

Let me suggest that the solution to our problem is not to smack down “Big- Pharma” (though their hands are far from clean) or any other “Big” we come up with. That is too facile a solution. And, that is our problem – looking for the easy solution. After all, how often have we heard or said “if we can send a man to the moon ...” Perhaps, the mantra we heard from our mothers and repeated to our children needs to be revised... we *can't* do anything!

Sadly, too many in our younger generations have *not* been taught how to deal with failure. Rather, they receive a trophy for coming in 8<sup>th</sup> place in a run-of-the mill competition – not even a championship contest. In short, we have failed to teach them the “rigorous truth” that errors are part of life. And, in part because of that, some escape into the mist of drugs, never to return.



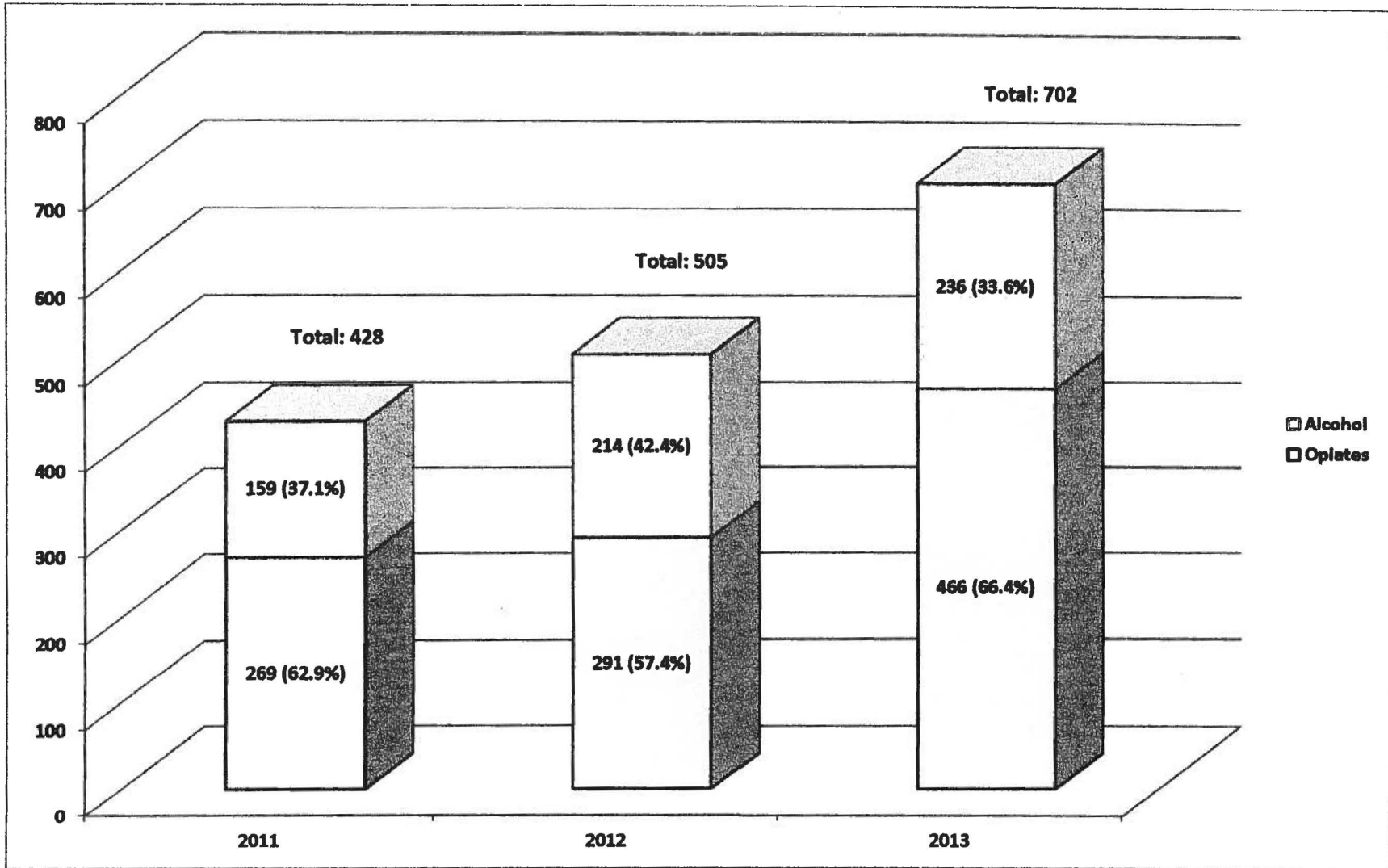
Specialty courts teach the “rigorous truth” of failure. We expect failures to occur. But, we know that as long as a relapse does not result in death, it is neither the end of the line nor the end of the battle. Our efforts are not done nor were the actions taken in the past necessarily in vain.

Thus, the hope of opening day ... a new day ... a new opportunity is a reality in drug courts. Indeed, every day can be opening day in drug courts - it is not the easy or inexpensive way out of this mess, but it may be the best way. In fact, it may be the only way. No, we can't do anything and we can't do everything, but we can and must do the next right thing.

# Cumberland County Prison

## Number of Offenders Receiving Medical Treatment for Substance Abuse Withdrawal by Year and Drug

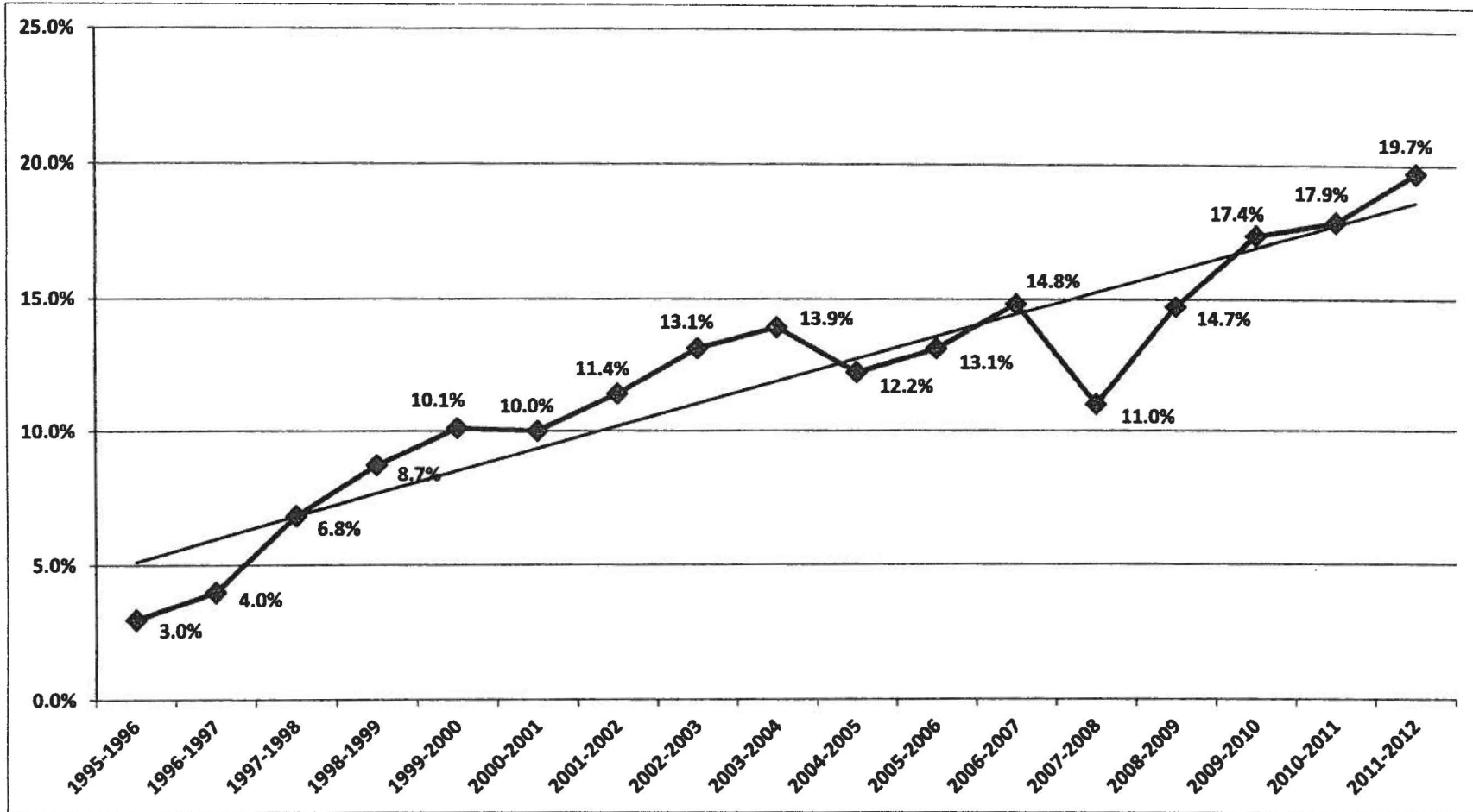
Attachment A





### Percentage of County-Funded Cumberland-Perry Substance Abuse Treatment Clients Who Identified Heroin or Other Opiates as their Primary Drug of Choice

Attachment B



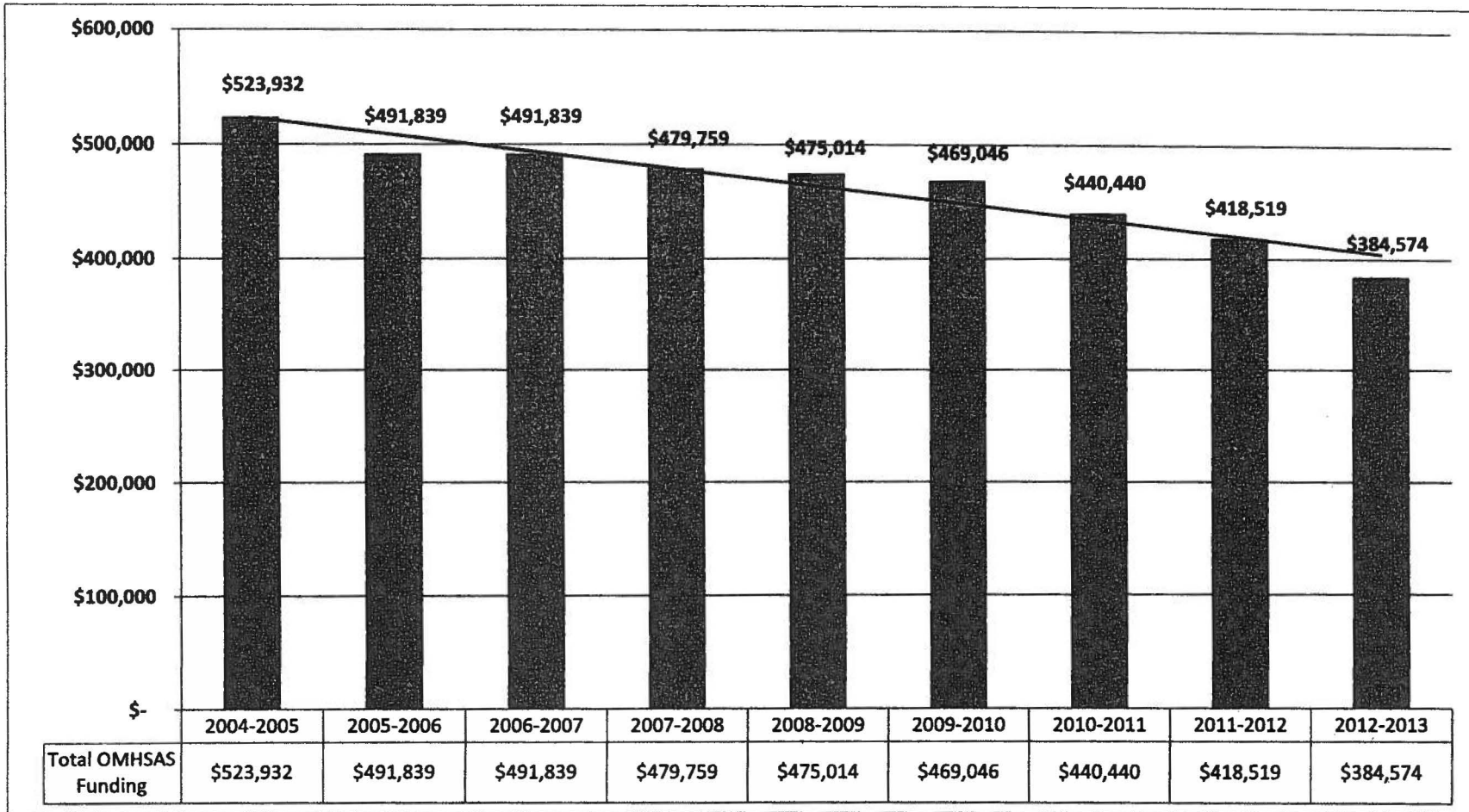
Source: This data is drawn from the PA Department of Health's Client Information System for county-funded substance abuse treatment.



## Total OMHSAS Substance Abuse Treatment Allocations for Cumberland and Perry Counties

2004-05 thru 2012-13

Attachment C



**Note:** The total reduction in OMHSAS Act 152 and BHSI treatment funding for Cumberland and Perry Counties across this nine-year period was \$33,945, which amounts to a 26.6% cut.

## CUMBERLAND COUNTY TREATMENT COURT

The Cumberland County Treatment Court provides a cost-effective alternative to incarceration through a long-term, judicially monitored regime of treatment for non-violent substance dependent offenders. The program returns clean and sober individuals to the community after equipping them to maintain their sobriety and improve the quality of their lives.

Treatment Court is a voluntary program for adult residents of Cumberland County who have been charged with non-violent criminal offenses. This provides participants an opportunity to pursue treatment for their addiction(s), while productively addressing associated legal problems. Once the participants are accepted they are required to complete a four phase program (minimum of 15 months) culminating with graduation. Participants are subject to weekly court appearances, frequent drug testing, intensive drug/alcohol treatment and immediate sanctions and incentives. Following graduation a participant may petition the court to have their charges dismissed. Those who fail to comply with the program rules can be terminated from Treatment Court and are returned to court for sentencing on the original charge(s).

### **FAST FACTS**

Program start date: November 7, 2006

Total number participants that entered the program since start date: 128

Total active participants: 24 (4 applications pending)

Number of graduates: 56 (re-arrested: 13)

Number of children with parents currently in treatment court: 16

Total drug-free babies born to parents in Treatment Court: 3

Total clients regaining custody of children: 3

Primary drugs of choice: #1 – Alcohol, #2 – Cocaine/Crack

GED or High School Diplomas earned while in the program: 2

Total active clients employed: 15

Total active clients attending college: 1

Hours of community service completed: 1510.50 plus

Participants who have remained crime free while in the program: 96%

Percent of clean alcohol and other drug tests: 98.4%

Current as of 3/31/2014

Attachment D