



# Opioids and the Courts News: Feb. 7, 2018

Chief Justice/State of the Judiciary

[Missouri/Chief Justice Zel M. Fischer](#)

## *Treatment Courts and the Opioid Crisis*

The second area where our work together can pay off is in the use of treatment courts to help break the cycle of crime, and to respond to the opioid crisis now plaguing Missouri and our entire nation.

Drug overdose is now the leading cause of accidental death in the United States, with the rate of overdose deaths involving opioids continuing to climb. Our state mirrors the national statistics, as opioid use disorder has taken an enormous toll on Missouri. Missouri lost 1,066 people in 2015 and 1,371 people in 2016 to a drug overdose. This is a staggering increase in deaths.

To grapple with this terrible epidemic, Missouri's treatment courts feature multidisciplinary teams offering a two-fold solution. First, they are addressing the crimes that often are due to substance use; and second, they are helping those who are addicted, and their families, improve their lives and break the cycle of addiction. We have already seen a steady increase in the number of participants entering our treatment courts who say their drug of choice is heroin or other opioids.

Like they have shown in other intersections of drugs and crime, we anticipate our treatment courts will be on the front lines of the opioid battle. By continuing to reduce drug use and keeping addicted offenders out of prison, those offenders can continue to work and provide for their families.

The success of our treatment courts has largely depended on the cooperation we have had from our partners in the legislature. If we are to break the cycle of drugs and crime, every Missourian in need should have a treatment court program within reach.

Research demonstrates treatment courts are more cost-effective than any other criminal justice strategy. But our treatment courts have been able to serve only a small percentage of individuals facing felony drug charges. Those numbers began to drop even more last July, when the 27 percent core reduction to existing programs took effect. Since then, admission into our various treatment court programs has dropped an average of 23 percent. And right now, there are 15 counties with no access to any type of treatment court. Individuals addicted to opioids and other substances in these areas are restrained by county lines they can't see.

We will work with you over the coming months to expand the reach of treatment courts



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in hopes of making this resource-saving, life-saving program available in every Missouri jurisdiction.

## New York/Chief Judge Janet DiFiore

### The Opioid Crisis

I think everyone assembled here would agree that justice must be tempered by compassion and a thoughtful approach to the societal problems reflected in our court dockets. This is especially true for the many New Yorkers who have fallen victim to the tragic and frightening consequences of the opioid epidemic. Here in New York State we are adjusting our court processes to reflect our belief that justice without compassion can be unacceptably cruel.

According to the latest numbers from the Centers for Disease Control and Prevention, over 64,000 people died from drug overdoses in the United States in 2016, more than the number of American lives lost during the entirety of the Vietnam War.

### A. BUFFALO OPIOID INTERVENTION COURT

In response, we have opened our first Opioid Intervention Court – the first of its kind in the nation – in the City of Buffalo, a City hit hard by this national public health crisis.

In this court, charged offenders identified as high risk for opioid overdose are immediately linked to intensive treatment. Within 24 hours of arrest, consenting participants represented by counsel are placed in a medication-assisted treatment program. That treatment regimen is followed by up to 90 days of daily court monitoring, with the legal process held in abeyance. What makes the Opioid Intervention Court so unique, in addition to its treatment protocol, is that the treatment plan is prioritized above prosecution, even more so than in other problem solving courts, with the legal process being flipped in order to save lives.

I want to publicly acknowledge the work and commitment of the Presiding Judge of the Buffalo Court, Craig Hannah, a remarkable individual, perfectly suited to lead this Court, the Erie County District Attorney, John Flynn, who agreed to suspend prosecution during treatment to achieve the end result we all hope for – a disposition that supports sobriety, public safety and the well being of our communities, and Project Director Jeff Smith, who took the lead role in developing the Opioid Court model and has worked tirelessly to foster its effectiveness.

Since opening last May 1st in a jurisdiction that experienced the overdose deaths of dozens of defendants over the course of several years, the Court has experienced just a single overdose death among its 204 participants. Extraordinary.



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While the Court's original mandate was to treat 225 people over a three-year period, it is now on track to triple its original goal, overseeing anywhere between 45 and 60 active participants at any given time.

Recognizing that this Court holds great promise for the rest of the State, we asked the New York State District Attorneys Association to reach out to the defense bar and the treatment community to formulate a Statewide Opioid Action Plan that incorporates the latest knowledge and best practices in this field to guide our courts, the broader justice system and the treatment community in fashioning more effective responses for defendants caught up in the deadly cycle of opioid abuse.

### B. BRONX CRIMINAL COURT OVERDOSE AVOIDANCE AND RECOVERY TRACK (OAR)

Inside New York City, in Bronx County, where 261 people died from opioid overdose in 2016 – with the final numbers likely to be higher for 2017 – District Attorney Darcel Clark, in partnership with Bronx County Criminal Court Supervising Judge George Grasso, Bronx Community Solutions, the defense bar, and treatment providers have adopted the Bronx version of an Opioid Treatment Court – a specialized case track called OAR – the Overdose Avoidance and Recovery Track – for misdemeanor offenders at high risk of opioid overdose.

District Attorney Clark, like District Attorney Flynn in Buffalo, has wisely determined to suspend prosecution of cases at arraignment for accused persons who enter treatment immediately and agree to waive speedy trial and motion practice. The protocol adopted in Bronx County highly incentivizes treatment as the District Attorney has agreed, where no new arrests occur while the case is pending, and upon completion of treatment, to dismiss the case and have the record sealed.

We look forward to expanding the OAR approach to the rest of New York City. I have asked Judge Grasso to coordinate this effort and to work with our Administrative Judges, District Attorneys, defense bar and the treatment community to institutionalize the OAR approach Citywide. Judge Grasso has already begun his work, and we look forward to reporting on our efforts to stem the rising tide of opioid cases.

### C. STATEWIDE NARCAN TRAINING FOR COURT OFFICERS

The final piece of our Opioid initiative rests on the shoulders of our well-trained, highly-skilled and compassionate New York State Court Officers who last year received the training required to administer “Narcan,” the critical antidote drug that miraculously -- and instantaneously -- reverses an opioid overdose.



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Our training investment has already paid off. In just a few months, Court Officers have saved the lives of four people overdosing on opioids in and around our courthouses. Thank you, Chief Michael Magliano, Chief Joseph Baccellieri, and all our uniformed Court Officers who do an outstanding job, day in and day out, serving and protecting the millions of people who enter our courthouses every year. You make us all proud, and we are grateful for the safe environment you provide.

I take great pride in leading a court system that is responding to the complex societal problems reflected in our caseloads through innovative approaches like the Buffalo and Bronx Opioid Courts. And I want to thank Judge Sherry Klein Heitler, our Chief of Policy and Planning, and her staff, for the work they are doing statewide to make sure we are a court system capable of meeting the unique needs of every class of litigant.

### **National**

[Detroit a model when it comes to solving the opioid epidemic](#)

The Hill

Specialty dockets are one innovative way to respond to the opioid challenge. These “problem-solving courts,” sometimes known as “drug courts” were pioneered by a trial judge in Hawaii to combat drug addiction and alcoholism among the defendants in his courtroom.

In a typical drug court, a local trial court devotes extra time and resources to a set of criminal defendants who have a specific need in common. They may, for example, be veterans, or they may struggle with alcoholism, drug addiction or mental health illness. This problem-solving court differs from a traditional court in some important ways. It is not as adversarial as a standard court proceeding, nor does it focus merely on assigning guilt; instead, it uses a team-based approach to resolve the underlying issues that contribute to the defendant’s criminality.

### **Indiana**

[State figures, staffing controversy show severe need for judicial resources in Howard Co.](#)

Kokomo Tribune

Much of the impetus behind Menges' request of an additional assistant court reporter, he said, is his court’s increasing caseload. Since 2012, Superior Court 1 has seen a 32 percent increase in new filings, a jump Menges blames on the opioid crisis.

Since 2006, when the current case-allocation system was enacted, placing drug cases with Menges, Superior Court 1 has seen an increase in case filings of 46 percent, not



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including petitions to revoke cases or “the impact of creating the problem-solving courts,” he said.

## Minnesota

[Minnesota Supreme Court justice talks issues in Duluth visit](#)

Duluth News Tribune

Q: What do you see as the biggest issues facing the judiciary right now?

A: We've got a continuing challenge in the drug and mental illness areas, and of very great importance to Northeastern Minnesota is the opioid crisis. We've got nationally recognized drug courts in St. Louis County, but opioids pose a tremendous challenge to the judicial system. We've really got to ratchet up our drug court effort around the state.

## New York

[Bronx Drug Court Aims To Help Opioid-Addicted Defendants](#)

Wall Street Journal

The court is the first in NYC that coordinates drug treatment for nonviolent misdemeanor offenders without requiring them to plead guilty, officials say

## Tennessee

[More news on Governor Haslam's Opioid Crisis Plan](#)

WGNS Radio

Chief Justice Bivins spoke on the crisis and plan during the announcement. "I think we have a united front. I hope that us being here today together shows you that all three branches of government are committed to this plan. But, we also recognize that this is not something we're going to solve overnight. This has to be a continued effort, and we have to be resolved in moving forward and fighting this. I am proud of our judiciary for what they have done already, taking roles not only within the state, but regionally and across this country."

Chief Justice Bivins also thanked Judge Duane Slone and Judge Seth Norman for their presence at the announcement. Both judges are leaders in the fight against the opioid epidemic -- Judge Slone is the chairperson of the Regional Judicial Opioid Initiative, comprised of eight states, and Judge Norman founded the Drug Court of Metropolitan Nashville & Davidson County. In addition, Deborah Taylor Tate, director of the Administrative Office of the Courts, is co-chair of the National Opioid Task Force created by the Conference of Chief Justices and Conference of State Court Administrators.



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## Texas

[Opioid epidemic touches local drug court](#)

KFDM-TV News

The use of prescription pills is a nationwide problem, but its also impacting a local drug court.

Judge Larry Gist presides over Jefferson County's drug impact court. It handled 800 cases last year, and more than 900 the year before.

Gist has seen many drugs rise and fall in popularity.

"The bigger, more modern problem is pharmaceutical drugs, opioids, things of that nature," says Gist.

## West Virginia

['Heroin\(e\)' documentary nominated for Oscar](#)

Herald-Dispatch (Huntington)

"Heroin(e)," the Netflix documentary that highlights Huntington's response to the opioid epidemic, has been nominated for an Academy Award in the Documentary Short Subject category.

The documentary follows the lives of three women - Huntington Fire Chief Jan Rader, Cabell County Family Court Judge Patricia Keller and Necia Freeman, a Realtor who organizes a ministry for sex workers - as they work to aid their community that has been forever altered by the opioid epidemic.