



FOURTH JUDICIAL DISTRICT

Fourth Judicial District DWI Court: Results After Five Years of Operation

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***Fourth Judicial District DWI Court – Results After Five Years of Operation
Executive Summary***

- The Fourth Judicial District's DWI Court began in January 2007 as a voluntary, post-adjudication court for gross misdemeanor repeat DWI offenders. In 2011, the court expanded to admit felony DWI offenders with stayed prison sentences as well.
- Program goals include reducing DWI and other driving-related recidivism, facilitating participant sobriety, and increasing compliance with court ordered conditions. Components of the program include intensive supervision by probation, regular appearances before the DWI Court judge, mandatory chemical dependency treatment, regular attendance at self-help groups, and random alcohol and drug testing.
- The program consists of four phases, with participants appearing in court less often as they advance to a new phase. Completion of the first three phases takes approximately eighteen months if a participant has no major setbacks. Phase 4 consists of two years of administrative probation.
- During the first five years of operation, 300 individuals entered DWI Court. Most (95%) were gross misdemeanor offenders, with the remaining 5% being felony offenders. The demographics of this population show that nearly 70% are white, two-thirds are male, and the average age of an entering offender is 37.5 years.
- At the end of 2011, there were 103 active participants, 149 graduates, 44 participants who terminated, and 4 who have died.
- A matched comparison group of repeat DWI offenders not in DWI Court selected through a stratified random sample served to analyze recidivism. Those in the comparison group are matched by similar current offenses, sentence dates, race, gender, and age, but were sentenced in the traditional manner rather than entering DWI Court.
- **Success of Goal 1: Reduce recidivism**
 - **DWI Recidivism**
 - The DWI Court group is twice as successful as the comparison group. They are both charged and convicted at half the rate of the comparison group, a statistically significant difference.
 - Terminated defendants (part of the DWI Court group) reoffended at the highest rate; however, this difference was not statistically significantly different from the comparison group.
 - Controlling for the length of time to recidivate, the DWI Court group was statistically successful longer than the comparison group for the first and second year. By the third year, the differences were not significantly different.
 - The DWI Court group re-offense rate is lower than the state average, while the comparison group reoffended in line with state averages.
 - **Driving-Related Recidivism**
 - There are no significant differences between DWI Court defendants and those in the comparison group for non-DWI driving related offenses.

- **Success of Goal 2: Facilitate defendant sobriety**
 - On average, defendants who terminate from DWI Court are nearly three times as likely to test positive as graduates.

- **Success of Goal 3: Increase compliance with court-ordered conditions**
 - Graduates spend an average of 18.6 months in DWI Court, while those who terminate spend an average of 14.0 months in the program.
 - Graduates averaged 50 judicial review hearings, thereby meeting the goal of attending at least 45 judicial reviews. Terminated defendants nearly reached that goal as well, with an average of 42.
 - Reasons for termination from DWI Court were voluntary withdrawal (50%), non-compliance with conditions of probation (32%), and criminal activity (18%).
 - More than half of the DWI Court participants who terminated from the program did not successfully complete treatment.

- **Recommendations:**
 - Continue the Fourth Judicial District's DWI Court.
 - Revise DWI Court Phase 4 to continue the positive effects of the first two years following sentencing. Consider options that allow a more gradual step down in supervision from intensive probation to provide more support than is available with administrative probation.
 - Continue to evaluate DWI Court regularly to assess whether its goals are being met. Review and revise policies and procedures as needed if goals are not being met as intended.
 - Review and revise policies and procedures as needed if success of goals falls short, for example if recidivism rates do not remain significantly lower for the DWI Court group than for the matched comparison group.
 - Repeat the defendant surveys conducted in the first two years of DWI Court to determine participant satisfaction with the program and make modifications to the program if need is indicated.
 - Repeat the DWI Court team surveys conducted by the State Court Administrator's Office in 2008-2010 to determine team members'/stakeholders/ satisfaction with the program and make modifications to the program if need is indicated.
 - Consider adding goals of improving community functioning (education, training/employment, and housing) to the DWI Court goals and monitor participant progress on these goals in future evaluations.

Introduction

The Fourth Judicial District's Adult DWI Court began on January 19, 2007, as a voluntary post-adjudication court for gross misdemeanor DWI offenders in Hennepin County, Minnesota¹. In 2011, the court expanded to allow admission of felony DWI offenders with stayed prison sentences as well. Under Minnesota's sentencing guidelines grid, shown in Appendix A, felony DWI offenders with criminal history scores ranging from zero to two receive a presumptive stayed prison sentence ranging from 36 to 48 months and are placed on probation. They can be sent to prison for violating the conditions of probation.

There are four DWI Court calendars each week, at 8:00 and 9:00 on Thursday and Friday mornings. DWI Court Team members² meet briefly before court each morning to discuss any issues with participants on that day's calendars. In addition, the team meets on Thursday afternoons to discuss participant issues in detail. An advisory committee comprised of key personnel from various agencies³ meets monthly to discuss DWI Court policies and procedures, to resolve issues and conflict, and to provide community support and buy-in.

Overview of DWI Court

Mission and Goals

The mission of the Fourth Judicial District's DWI Court is to increase public safety and reduce the number of alcohol related traffic deaths and injuries by effectively partnering justice system and community resources to focus on the specific issues of repeat DWI offenders.

The goals of the program are as follows:

- Goal 1: Reduce recidivism
- Goal 2: Facilitate defendant sobriety
- Goal 3: Increase compliance with court-ordered conditions
- Goal 4: Increase defendant satisfaction with court process (procedural justice) and increase satisfaction with personal life.

¹ The Fourth Judicial District DWI Court is funded by a grant from the Minnesota Department of Public Safety, with money from the National Highway Traffic Safety Administration. The initial grant ran from October 1, 2006 to September 30, 2007, and was renewable for three years thereafter. Upon request for additional funding, the grant has been renewed annually and is currently funded through September 30, 2013.

² The **DWI Court Team** consists of the judge, a judicial clerk, the DWI Court coordinator, a prosecutor, a public defender, DWI Court probation officers, a treatment program representative, a chemical health assessor, a law enforcement representative, a research analyst, a victim advocate, and a community volunteer.

³ The **DWI Court Advisory Committee** consists of the personnel listed in footnote 2, as well as additional law enforcement representatives and the Fourth Judicial District's Criminal Division Manager.

- Goal 5: Increase team player/stakeholder satisfaction with process.
- Goal 6: Adhere to the DWI Court model.
- Goal 7: Continuously evaluate the program for purposes of improvement and periodically disseminate the information to stakeholders and the public.

This report describes the measurements and outcomes related to Goals 1 through 3. Goal 4 was measured through the administration of participant satisfaction surveys during the first two years of DWI Court⁴ and may be addressed again in the future. Goal 5 was measured for all Minnesota Drug and DWI Courts by the State Court Administrator's Office (SCAO) in 2008, 2009, and 2010⁵ and may be addressed again in future years.

Program Structure

DWI Court Evaluation Period

In August 2007, DWI Court implemented a one-month evaluation period before sentencing in order to ensure that defendants were willing to abide by the conditions of DWI Court. For the first six months of 2007, there was no evaluation period – defendants were sentenced to DWI Court prior to entering. Beginning in Year Three (late-January 2009), DWI Court shortened the evaluation period to two weeks, during which time potential participants receive a legal screening, Pre-Sentence Investigation (PSI), and chemical health assessment. In addition, participants observe DWI Court and attend an orientation about the program requirements. Defendants are accepted into DWI Court or denied admission based upon the results of the legal screening, PSI, and/or chemical health screening. If accepted, the defendant must voluntarily agree to participation.

DWI Court Phases⁶

Components of the DWI Court program include intensive supervision of participants by probation, regular appearances before the DWI Court judge, mandatory chemical dependency treatment, regular attendance at self-help groups, and random alcohol and drug testing. The DWI Court program consists of four phases. Each of the first three phases is approximately six months in length and includes all components listed above. Phase 4, in which participants are

⁴ See *DWI Court Defendant Survey Report, October 2007* and *DWI Court Defendant Second Survey Report, May 2008* at <http://www.mncourts.gov/district4/?page=891>.

⁵ See *Drug Court Team Member Surveys* at <http://www.mncourts.gov/?page=1884>.

⁶ A complete description of the DWI Court phases and a full list of possible sanctions and incentives is listed in Appendix A.

required to abide by probation conditions but no longer must appear for judicial reviews or probation appointments, lasts for the duration of a defendant's probationary period, generally for two years after completing Phase 3. Appendix B provides a complete description of the four phases as well as advancement criteria that participants must meet to advance to the next phase.

During Phase 1, defendants appear before the DWI Court judge for a review hearing at least twenty-six times, on a weekly basis. In Phase 2, required court appearances reduce to every other week; participants must attend at least thirteen reviews before they are eligible to move to Phase 3. Phase 3 requires that defendants appear monthly, at least six times. Before advancing to a new phase, participants must request advancement by providing written documentation to their probation officer of the goals they have achieved in their current phase and outline why they feel they are prepared to advance to the next phase. Defendants are eligible to advance to Phase 4 after a minimum of eighteen months of participation, at least 45 judicial review appearances, and at least 180 days of total abstinence from alcohol and drugs just prior to moving to Phase 4. In addition, participants must provide a written plan for continued sobriety once DWI Court monitoring has ended.

DWI Court Participation and Termination

Participation in DWI Court is voluntary. Prior to February 19th, 2009, defendants could request termination from the DWI Court program and have their sentences executed at any time. In the past, a participant who requested termination from the program was ordered to serve his or her "alternative jail sentence"; typically a mandatory minimum jail time ordered at sentencing. However, for participants admitted after February 19th, 2009, there is no opt-out provision; a request for termination from the program results in execution of the entire stayed jail sentence. In other words, once a defendant voluntarily enters DWI Court, the mandatory minimum sentence is no longer available as an option.

If a defendant is terminated from DWI Court as a result of a new DWI conviction, all stayed jail time is revoked and the defendant serves "straight time", meaning that absent unusual circumstances decided upon by the judge on a case-by-case basis, he or she will not be eligible for work release or electronic home monitoring.

Law Enforcement Home Visits

During the first year of DWI Court (2007), the primary difference in services provided between participants arrested within the city of Minneapolis and those arrested in the suburbs was that the suburban cases did not receive home visits from a DWI Court law enforcement officer. Since that time, however, DWI Court has discontinued separation of the Minneapolis and suburban cases by court calendar and all participants are subject to random home visits by law enforcement. Law enforcement officers visit defendants' homes at various, unannounced times and require them to take alcohol breathalyzer tests and/or provide urinalysis samples to test for drug or alcohol use. Reported results are sent to the participants' probation officers and to the judge, for sanctioning, if a test is positive for alcohol and/or drugs. The purpose of these home visits is to help ensure that defendants maintain sobriety.

Curfew Requirements

DWI Court participants have curfew requirements to ensure their availability for random home visits. During Phase 1, participants must be home between 10:00 pm and 6:00 am⁷. As a participant advances to each new phase, curfew hours are shortened if the defendant has been compliant with the curfew hours. Participants may experience sanctions by the judge for noncompliance with the curfew order; for example, the curfew hours may be increased, a defendant may be required to complete community work service, or a jail sentence may be ordered.

Eligibility Criteria

In order to participate in the program, defendants must plead guilty to the charged DWI offense and must meet the following additional criteria:⁸

1. The offender must be a Hennepin County, Minnesota resident.
2. The offender must be 18 years of age or older.
3. The offender must have a chemical health assessment by a licensed chemical health professional that indicates the offender is chemically dependent.
4. The offense must occur in Hennepin County.
5. The offender must complete an orientation and screening and voluntarily agree to participate in the program.

The DWI Court Team makes final decisions regarding eligibility.

⁷ These hours may be adjusted for those with work schedules that do not permit them to be home during these hours, but in all circumstances participants are required to be at home for a continuous 8-hour period each day.

⁸ Developed from federal grant guidelines and collaboration among DWI Court team members.

Disqualification Criteria

The guidelines that the Fourth Judicial District Adult DWI Court uses to identify that an offender is ineligible for the program are as follows:

1. The defendant is a juvenile when sentenced.
2. The defendant is mentally incompetent.
3. The defendant is involved in a gang.
4. The defendant is a violent offender (see Appendix C).
5. The defendant has prior criminal conviction(s) for any of the offenses listed in Appendix C. However, he or she may be admitted if ten years has elapsed since the defendant was discharged from prison or completed probation/parole.
6. Any team member may petition the DWI Court Team for exclusion of an offender based on the offender's criminal or mental health history.

An ineligible offender may petition the DWI Court team for reconsideration on a case-by-case basis.

Termination Criteria

Termination from the program may result from the following situations:

1. Participant has been out of contact and/or absconded for a minimum of 30 days.
2. Participant incurs a new DWI conviction or violent offense conviction, as determined by the team.
3. Participant failed to comply with program requirements after attempts to improve attendance and motivation have not had success.
4. Participant engages in any conduct deemed inappropriate for DWI Court participants as determined by the DWI Court Team.
5. Participant violated probation and the court revokes probation and executes the sentence.
6. Participant requests execution of sentence.

Short of termination, the judge may impose sanctions including, but not limited to, the following:

1. Allow participant to continue in current phase and receive reprimand from the bench.
2. The court can schedule more frequent court appearances to improve compliance.
3. Require the participant to complete community service hours.
4. Place the participant on a Secure Continuous Remote Alcohol Monitor (SCRAM) bracelet and/or other electronic alcohol testing or home monitoring devices.

5. Schedule a termination hearing in several weeks with specific tasks to perform to avoid termination.
6. Impose jail or workhouse time.

Research Design

DWI Court Group

Between January 2007 and December 2011, 300 defendants entered DWI Court. All of these defendants are chemically dependent (92%) or chemically abusive (8%). In addition, they are Hennepin County residents, the offense occurred in Hennepin County, they met eligibility criteria, and agreed to participate in the program.

All DWI defendants are assessed on Goal 1 (reduce DWI and driving-related recidivism), whether a defendant is still active in DWI Court (107), has graduated (149), or has terminated from the program (44). For Goals 2 (facilitate defendant sobriety) and 3 (increase compliance with court-ordered conditions) only those defendants who graduated or were terminated from DWI Court by the end of 2011 are assessed. Active participants are still receiving DWI Court services such as breath tests, urine analyses, and judicial reviews and their totals will increase until they complete the program; including them in assessment of these goals would not provide accurate results.

Comparison Group

A matched comparison sample of 300 repeat DWI offenders who did not participate in DWI Court was selected in order to analyze Goal 1 (reduce recidivism). For this evaluation, the DWI Court group was divided into subgroups based on year sentenced, level of offense, race, gender, and age group⁹. To create a matched comparison sample, all non-DWI Court offenders charged and sentenced with a DWI offense in the same sentencing years were divided into similar subgroups. Next, stratified random sampling selected a similar number of non-DWI Court defendants into distinct subpopulations, or strata. This allowed for a similar number of defendants with similar characteristics in each stratum between the DWI Court group and the comparison group.

⁹ Age groups were split into four quartiles based on age of the DWI Court participants on date of sentencing: less than 28 years old, 28-36 years, 37-45 years, and 46 years old or greater.

Two groups of defendants are not included in this comparison group: referred defendants who chose not to participate and ineligible defendants¹⁰. The defendants in the matched comparison sample were either not aware of the DWI Court option, were ineligible, or possibly their attorneys dissuaded their entry. In either case, referral to DWI Court never occurred. By matching on the key elements of both the charge and the defendants, the comparison becomes one of how sentencing under DWI Court compares to traditional sentencing.

Data Sources

The Fourth Judicial District's Drug Court Coordinator provided information on the total population of DWI Court participants during the assessment period (2007-2011), as well as those who graduated or terminated from DWI Court during this same time.

The matched comparison sample was drawn from the Minnesota Court Information System (MNCIS). Additional data for both groups includes demographic data, the type of offense, and recidivism data. Data sources include the MN Department of Motor Vehicles computer system and MNCIS.

DWI Court probation officers provided information on the total number of breathalyzer and urine analysis tests administered to each participant, the total number of positive tests, and the type of chemical(s) for which each participant tested positive.

Limitations

Because DWI Court is voluntary, an experimental design was not feasible. An experimental design would have allowed random assignment of potential program participants to either DWI Court or to the traditional sentence (i.e., workhouse time plus standard probation), thereby reducing any other differences that may exist between groups. Instead, a quasi-experimental design compares those who were eligible for and agreed to participate in DWI Court against those who were eligible for DWI Court according to their offense but were not aware of the program and therefore not referred to the problem-solving court. Using a matched comparison sample - where defendants are similar in age, gender, and race, charged with the same types of offenses, and sentenced during the same time periods - creates samples that are as comparable as possible without random assignment.

¹⁰ See Appendix B for a list of disqualification criteria.

Due to the nature of a pilot project, it was possible to collect data on participants in the DWI Court group that is unavailable for the comparison group. DWI Court probation officers kept thorough records of such data as treatment completion, breathalyzer tests, urine analysis results, and attendance at judicial reviews. In short, all data related to Goals 2 (facilitate defendant sobriety) and 3 (increased compliance with court-ordered conditions) are only available for the DWI Court participants, and are thus descriptive in nature.

Demographic Profile of DWI Court and Comparison Groups

In general, DWI offenders tend to be predominantly white, male, and middle-aged. Both the DWI Court and comparison groups generally fall in line with these parameters. Of the 300 defendants who entered DWI Court in the first five years, more than two-thirds (70%) are white and two-thirds (66%) are male. The average age of a defendant is 37.5 years; defendants range in age from 19 to 72 at time of sentencing (see Table 1).

Since the comparison group is matched through a stratified random sample to the DWI Court group by year sentenced, level of offense, race, gender, and average age at sentencing, it is also predominantly white (69%) and male (66%). The average age of a defendant in the comparison group is 37.5 years; defendants in this group range in age from 18 to 75 at time of sentencing.

Table 1. Demographic Comparison: DWI Court Group versus Comparison Group

Demographics	DWI Court Group (n=300)	Comparison Group (n=300)
SELF-REPORTED RACE		
White	<i>Count</i> 209 <i>Percent</i> 69.7%	<i>Count</i> 208 <i>Percent</i> 69.3%
Non-White	<i>Count</i> 91 <i>Percent</i> 30.3%	<i>Count</i> 92 <i>Percent</i> 30.7%
GENDER		
Female	<i>Count</i> 102 <i>Percent</i> 34.0%	<i>Count</i> 101 <i>Percent</i> 33.7%
Male	<i>Count</i> 198 <i>Percent</i> 66.0%	<i>Count</i> 199 <i>Percent</i> 66.3%
AGE		
Average Age at Sentencing	37.5 years	37.5 years
Age Range	19-72	18-75
LEVEL OF OFFENSE		
Felony	<i>Count</i> 15 <i>Percent</i> 5.0%	<i>Count</i> 15 <i>Percent</i> 5.0%
Gross Misdemeanor	<i>Count</i> 284 <i>Percent</i> 94.7%	<i>Count</i> 285 <i>Percent</i> 95.0%
Misdemeanor	<i>Count</i> 1 <i>Percent</i> 0.3%	<i>Count</i> 0 <i>Percent</i> 0.0%

Achievement of DWI Court Goals

As a reminder, assessment of Goal 1 compares all members of the DWI Court group juxtaposed against the comparison group explained above. In addition, recidivism differences between DWI Court graduates, those terminated from the program, and the comparison group are analyzed separately.

Performance on Goal 2 (facilitate defendant sobriety) and Goal 3 (increase compliance with court-ordered conditions) is only assessed for those defendants who either graduated or were terminated from DWI Court, as active defendants have been in the program for varied lengths of time and it is yet unknown whether they will successfully complete the program or not. In addition, data regarding these goals is not available for the comparison group.

Goal 1: Reduce DWI and Driving-Related Recidivism

New DWI Charges and Convictions

Overall, those in the comparison group - who did not receive intensive supervision and DWI Court services – are almost twice as likely to have new DWI offenses, both charged and convicted, as those in the DWI Court group and these differences are statistically significant (see Table 2). In addition, three members of the comparison group had more than one new DWI offense subsequent to their original conviction, while none of the DWI Court group had more than one subsequent DWI offense.

Of all DWI Court participants over the first five years of the program (2007 – 2011), 22 were charged with a new DWI offense at some point after sentencing but before June 30, 2012, for an overall recidivism charge rate of 7%. Sixteen individuals (5%) were convicted of the new DWI; nine (56%) are felony level, six (38%) are gross misdemeanors, and one (6%) was reduced to a misdemeanor DWI offense. The remaining six are still pending resolution, likely a result of Source Code issues increasing the time from charge to conviction.¹¹ As reference, in a typical year prior to the Source Code issues, more than 95% of all charged DWIs were convicted and the average time from offense to final case disposition was 63 days.

¹¹ Source Code issues revolve around an argument that the calibration of the breathalyzer machines is incorrect and produce inaccurate results. Cases that appealed fought to obtain the proprietary source code for the breathalyzer machines used in Minnesota. This has delayed a resolution for these cases. In the meantime, new cases had to revert to blood analysis, which takes a lot longer for results. The initial Source Code cases began in mid-2009 and an appellate decision came in late June 2012 but was stayed pending defense decision to move forward.

Of the comparison group, 39 were charged with a new DWI offense at some point after sentencing on the offense for which they are in the comparison group but before June 30, 2012, for an overall recidivism rate of 13%. Twenty-nine individuals (10%) had new DWI convictions; four (14%) are felony level, 24 (83%) are gross misdemeanors, and one (3%) was reduced to a misdemeanor DWI offense. The remaining ten are still pending resolution, again likely due to Source Code issues.

Table 2. Overall New DWI Charges and Convictions

Study Group		New DWI Charges*	New DWI Convictions*
DWI Court Group (n=300)	Count	22	16
	% of Group	7.3%	5.3%
Comparison Group (n=300)	Count	39	29
	% of Group	13.0%	9.7%

*Statistically significant at the .05 level (one-tailed).

Of the 22 DWI Court defendants charged with a new DWI, their status within the program at the time of the new DWI offense differed; six were active participants, four had terminated in the past, and thirteen had graduated. The six active participants were ultimately terminated from DWI Court; one was subsequently readmitted upon his request. In addition, three of the graduates who reoffended rejoined DWI Court.

Individuals terminated from DWI Court are more than twice as likely as graduates to incur new DWIs, and also do so at a higher rate than the comparison group, a statistically significant difference overall. As shown in Table 3, 18% of all terminated defendants have new DWI charges compared to 13% of the comparison group, 9% of all graduates, and 1% of all active defendants¹². The same pattern exists with DWI convictions; terminated defendants reoffend at a slightly higher rate than the comparison group and significantly more than graduates or defendants who were active at the end of 2011.

¹² This defendant received an executed sentence for the original DWI Court offense and was readmitted to DWI Court on the new conviction.

Table 3. New DWI Charges and Convictions by Status at End of 2011

Study Group			New DWI Charges**	New DWI Convictions**
DWI Court	Active Defendants	Count	1	1
	(n=102)	% of Group	1.0%	1.0%
	Graduated Defendants	Count	13	9
	(n=150)	% of Group	8.7%	6.0%
	Terminated Defendants	Count	8	6
	(n=44)	% of Group	18.2%	13.6%
Comparison Group		Count	39	29
(n=300)		% of Group	13.0%	9.7%

**Statistically significant at the .01 level (one-tailed).

Another way to review the recidivism between the DWI Court group and the comparison group is to standardize the time to reoffend. Table 4 shows that not only did the DWI Court group reoffend at a lower rate than the comparison group, a statistically significant difference, but also that a higher percentage of these defendants remained law abiding longer than the comparison group; this difference was only significant for the first two years, however. This supports the idea that the intensive programming provided by DWI Court did have an effect on the drinking and driving behavior of participants and suggests that perhaps additional services are needed to help keep defendants clean and sober while they are on administrative probation. Perhaps the drop off from intensive supervision to administrative probation is too steep for new graduates. The court should consider a more gradual method of moving defendants to be self-sustaining.

In addition, comparisons can be made of the DWI Court group to DWI offenders across the state, regardless of the sentencing options or judicial district. As part of its annual 'Minnesota Impaired Driving Facts' report, the MN Department of Public Safety reports the average re-offense rate for drivers similar to those in DWI Court. As shown in Table 4, DWI recidivism rates were lower for DWI Court participants than for repeat DWI offenders in Minnesota as a whole. On average, 5%-6% of all third-time DWI offenders will incur a fourth offense within one year, 10%-11% within two years, and 15%-16% within three years.¹³ The recidivism rates for the comparison group are in line with the averages for Minnesota as a whole.

¹³ Office of Traffic Safety, Minnesota Department of Public Safety, 2011, "Minnesota Impaired Driving Facts 2010," p. 33.

Table 4. New DWI Offenses at Standardized One-Year Intervals from Date of Sentencing

Study Group		Within one year*	Within two years*	Within three years**	Average Time to Re-offense**
DWI Court Group	<i>Count</i> 2	2	9	15	2.1 years
	<i>Total in Group</i> 235	235	173	118	
	<i>% of Group</i> 0.9%	0.9%	5.2%	12.7%	
Comparison Group	<i>Count</i> 10	10	18	19	1.7 years
	<i>Total in Group</i> 236	236	174	119	
	<i>% of Group</i> 4.2%	4.2%	10.3%	16.0%	
Statewide averages		5% - 6%	10% - 11%	15% - 16%	

* Statistically significant at .05 level (one-tailed).

**Differences between study groups not statistically significant.

New Driving –Related Charges and Convictions

In addition to new DWI charges and convictions, the recidivism analysis also includes information about new driving-related¹⁴ charges and convictions. Even though those in the DWI Court group had a slightly higher rate of new driving-related offenses than those in the comparison group, none of these differences are statistically significant. Both in the amount and frequency of the new driving-related offenses, the two groups look markedly similar.

As shown in Table 5, 17% of those in DWI Court had at least one new driving-related offense¹⁵ at some point after sentencing. These 51 participants averaged 1.6 driving-related offenses each. Two-thirds (67%) of the DWI Court participants charged with a driving-related offense had only one new charge; however, 17 participants (33%) had multiple violations, ranging from two to seven incidents. Of those charged with a driving-related offense, 29 were convicted, for an overall driving-related recidivism rate of 10%.

For the comparison group, 14% had at least one new driving-related offense at some point after sentencing. These 43 individuals averaged 1.7 driving-related offenses each. Sixty percent of those charged with a driving-related offense in the comparison group had only one new charge; however, 17 individuals (40%) had multiple violations, ranging from two to seven incidents. Twenty-three individuals had convictions, for an overall driving-related recidivism rate of 8%.

¹⁴ The following driving-related offenses were included in the analysis: driving without a valid license (Driving after Cancellation, Driving after Revocation, Driving after Suspension, and Driving after Withdrawal) and violations of limited driver's license conditions.

¹⁵ Only non-alcohol related driving offenses are included here. DWI-related offenses are not included, nor are any offenses that pled down from a DWI.

Table 5. Overall New Driving-Related Charges and Convictions

Study Group		Individuals with New Driving-Related Charges	Individuals with New Driving-Related Convictions
DWI Court Group (n=300)	Count	51	29
	% of Group	17.0%	9.6%
Comparison Group (n=300)	Count	43	23
	% of Group	14.3%	7.7%

**Differences between study groups not statistically significant.*

Those defendants who terminated from DWI Court had higher rates of driving-related offenses than active participants, graduates or the comparison group; this difference was statistically significant. As shown in Table 6, 36% of all terminated defendants had at least one driving-related charge compared to 14% of active participants, 13% of graduates, and 14% of the comparison group, while 30% of all terminated defendants had at least one new driving-related conviction compared to 6% of active participants, 7% of graduates, and 8% of the comparison group.

Table 6. New Driving-Related Charges and Convictions by Status at End of 2011

Study Group			Individuals with New Driving-Related Charges	Individuals with New Driving-Related Convictions
DWI Court	Active Defendants (n=102)	Count % of Group	14 13.7%	6 5.9%
	Graduates (n=150)	Count % of Group	20 13.3%	11 7.3%
	Terminated Defendants (n=44)	Count % of Group	16 36.4%	13 29.5%
Comparison Group (n=300)		Count % of Group	43 14.3%	23 7.7%

**Statistically significant at the .001 level (one-tailed).*

Controlling for the length of time to reoffend with new driving-related offenses, there are no significant differences in either charges or convictions between the DWI Court group and the comparison group, as shown in Tables 7 and 8.

Table 7. New Driving-Related Charges at Standardized One-Year Intervals from Date of Sentencing

Study Group		Within one year	Within two years	Within three years	Average Time to Re-offense
DWI Court Group	Count	23	24	24	1.2 years
	Total in Group	235	173	118	
	% of Group	9.8%	13.9%	20.3%	
Comparison Group	Count	18	22	23	1.2 years
	Total in Group	236	174	119	
	% of Group	7.6%	12.6%	19.3%	

**Differences between study groups not statistically significant*

Table 8. New Driving-Related Convictions at Standardized One-Year Intervals from Date of Sentencing

Study Group		Within one year	Within two years	Within three years	Average Time to Conviction
DWI Court Group	Count	7	9	11	2.1 years
	Total in Group	235	173	118	
	% of Group	3.0%	5.2%	9.3%	
Comparison Group	Count	7	8	8	1.7 years
	Total in Group	236	174	119	
	% of Group	3.0%	4.6%	6.7%	

**Differences between study groups not statistically significant*

As a reminder, the next two goals are only available for the DWI Court group, since the defendants' supervising agents manually collect these data.

Goal 2. Facilitate Participant Sobriety

Part of DWI Court is receiving law enforcement home visits at random times. This means that the DWI Court group is subject to more intensive supervision and more frequent alcohol and drug testing than someone who was sentenced in a more traditional manner for a DWI.

Sobriety information comes directly from DWI probation officers.

Alcohol and Drug Testing¹⁶

DWI Court participants are subject to tests to detect alcohol or drugs at each home visit, at the probation officer's discretion during probation appointments, and occasionally on days they are in court for a review hearing. In addition, probation officers may place participants on a 'color

¹⁶ These tests do not include those that participants are subject to at their treatment programs; tests at treatment centers are not captured in probations' database and are therefore unknown.

system' to schedule them for random urine analyses if they feel it is necessary.¹⁷ On the 'color system', an assigned color is given to the defendants who are required to call in daily to see if their color indicates a need for a drug test that day. If so, they must provide a urine specimen at the probation office. The color system provides a minimum of once a week testing, with the possibility of more frequent tests if the probation officer so chooses.

Table 9 summarizes the drug and alcohol test results for both graduates and terminated defendants. Terminated defendants had nearly three times the average number of positive tests as graduates. Graduates tested positive for drugs or alcohol an average of 1.3 times per person, while terminated participants tested positive an average of 3.8 times per person. In addition, significantly more graduates had no positive tests during their time in DWI Court than did defendants who terminated. Sixty percent of all graduates had no positive readings, while 25% of terminated participants had none.

Table 9. Results of Random Drug and Alcohol Tests for DWI Court Graduates and Terminated Defendants

	Graduates (n=149)	Terminated defendants (n=44)
Average Number of Positive Tests	1.3	3.8
Percent with No Positive Tests	60%	25%

As shown in Table 10, alcohol and marijuana were by far the most common chemicals for which graduates tested positive on breathalyzer tests and urine analyses. They tested positive for marijuana in 42% of all positive tests and for alcohol in 41% of positive tests. Terminated defendants most often tested positive for alcohol, at the same rate as the graduates (41%). For terminated defendants, however, cocaine and other drugs such as opiates and benzodiazepines were more common than marijuana. More than one-fourth (26%) of terminated defendants' positive tests were for other drugs and nearly one-fifth (18%) were for cocaine. Only ten percent of terminated defendants' positive drug tests were for marijuana.

¹⁷ For example, if a participant has a history of using illegal drugs or if they test positive for illegal drugs on a urine analysis.

Table 10. Positive Random Drug and Alcohol Tests for DWI Court Graduates and Terminated Defendants

Type of Chemical	Graduates (n=149)	Terminated defendants (n=44)
Alcohol	82 41.4%	68 41.2%
Marijuana	83 41.9%	16 9.7%
Cocaine	16 8.1%	30 18.2%
Other ¹⁸	17 8.6%	43 ¹⁹ 26.1%
Diluted Test ²⁰	0 0.0%	8 4.8%
Total Number of Positive Tests	198 100.0%	165 100.0%

Results of breathalyzer tests and urine analyses underscore the importance of testing DWI offenders regularly and randomly for illegal drugs in addition to alcohol. Many offenders may be poly-drug users, or perhaps some turn to drugs other than alcohol knowing that they are subject to regular home visits, which always include a breathalyzer test to detect alcohol use.

DWI Court graduates are placed on administrative probation²¹ for at least two years after completion of the program. During this time, they are required to comply with probation conditions, including no use of alcohol. Eleven graduates (7% of all graduates) were required to re-engage in DWI Court while on administrative probation due to alcohol-related violations or self-reported drinking. They took part in a modified DWI Court program, in which they came to court weekly for at least two months, then every other week for at least two months, and finally monthly for at least two months. In addition, they were required to attend community-based self-help groups and complete treatment, aftercare, or a relapse prevention program if recommended by an updated chemical health assessment.

Given the findings above that suggest once DWI defendants go on administrative probation they no longer have better results than the comparison group (Table 4 above), perhaps the court can initially step down the supervision from intensive to regular probation rather than dropping immediately down to administrative probation once the program components are complete.

This might maintain enough controls to reestablish the positive results seen in years one and

¹⁸ Other drugs for which defendants tested positive included benzodiazepines, opiates, PCP, methamphetamines, and amphetamines.

¹⁹ Of the 43 positive tests, 29 were for one individual. All 29 of these tests were positive for opiates.

²⁰ Unless an individual has a medical reason (e.g., diabetes) that a urine analysis may be diluted, a diluted test is considered positive. Participants are advised of this upon entering DWI Court and are aware that they are not to consume excessive amounts of water prior to providing a urine sample.

²¹ While on administrative probation, defendants must comply with conditions of probation, but are not required to attend judicial reviews or meet with their probation officer.

two. Another option might be to have the defendants continue to come to court as mentors to newly admitted defendants. This would keep them engaged in the DWI Court goals while allowing them to play a new part as a role model.

Goal 3. Increase Compliance with Court-Ordered Conditions

Retention Rates²²

Graduates spent an average of 18.6 months in DWI Court, while terminated participants spent an average of 14.0 months in the program (see Table 11). Nearly 60% of defendants who terminated from DWI Court spent at least one year in the program receiving treatment services, intensive supervision, and regular judicial reviews before termination.

Table 10. Number of Months in DWI Court

	Average Number of Months in DWI Court
Graduates	18.6 months (n=149)
Terminations	14.0 months (n=44)

As shown in Table 12, reasons for termination from DWI Court were voluntary withdrawal (50%), non-compliance with conditions of probation (32%), and criminal activity (18%).

Table 12. Reason for Termination from DWI Court

Termination Reason	Total
Voluntary Withdrawal	22 50.0%
Non-Compliance	14 31.8%
Criminal Activity	8 18.2%
Total	44 100.0%

Compliance with Treatment

All DWI Court defendants are required to complete chemical dependency treatment followed by aftercare in order to graduate from DWI Court. The chemical health assessment that is required for entry into DWI Court determines the type of treatment program. At the time of their

²² The four defendants who died during these five years are excluded from this analysis.

termination from DWI Court, more than half (52%) of terminated DWI Court participants had not successfully completed treatment (see Table 13).

Table 13. Treatment Completion for DWI Court Graduates and Terminated Defendants

Successfully completed treatment		Graduates (n=149)	Terminated defendants (n=44)
Yes	<i>Count</i> <i>% of Group</i>	149 100.0%	21 47.7%
No	<i>Count</i> <i>% of Group</i>	0 0.0%	23 52.3%

Appearances at Judicial Reviews

To graduate from DWI Court, participants are required to attend a minimum of 45 judicial reviews. As shown in Table 14, graduates achieved this goal; they attended an average of 50 judicial reviews. Terminated defendants attended an average of 42 judicial reviews.

Table 14. Number of Judicial Reviews Attended

	DWI Court Group
Graduates	49.5 (n=149)
Terminations	42.0 (n=44)

Summary and Recommendations

The Fourth Judicial District's DWI Court program was implemented in 2007 and is an intensive problem-solving court for repeat DWI offenders with chemical dependency issues. The program began as a voluntary, post-adjudication court for gross misdemeanor offenders; in 2011 it expanded to allow admission of felony DWI offenders with stayed prison sentences as well.

In an effort to facilitate participant sobriety, the program focuses on intensive supervision by probation, regular judicial reviews, mandatory chemical dependency treatment, regular attendance at self-help groups, and random alcohol and drug testing. During the first five years of DWI Court, 300 individuals joined this sentencing option; 95% were gross misdemeanor offenders and 5% were felony offenders. Nearly 70% were white, two-thirds were male, and the average age of an entering offender was 37.5 years.

Through the end of 2011, 149 participants had graduated from the minimum 18-month program, 44 had terminated, and 4 died. Graduates spent an average of 18.6 months in DWI Court, while

terminated participants spent an average of 14.0 months. More than half of terminations occurred after at least one year of DWI Court participation. Four graduates re-entered DWI Court due to a new DWI conviction and eleven were re-engaged for a minimum of six months due to self-admitted drinking or probation violations.

This evaluation used a quasi-experimental design of a matched comparison group selected randomly to meet the demographic and offense characteristics of the DWI Court participants. A matched comparison group of 300 repeat DWI offenders is similar to the DWI Court group in terms of current offense, date sentenced, race, gender, and age, but these individuals were sentenced in the traditional manner rather than entering DWI Court.

The DWI Court group as a whole committed new DWI offenses at half the rate of the comparison group, a statistically significant difference. Those reoffenders in the DWI Court group took longer to reoffend and did so at a lower rate than those in the comparison group for the first and second year after sentencing. These differences were statistically significant.

DWI Court participants did not differ on new driving-related offense rates when compared to the matched comparison group.

Graduates of the DWI Court do better than those defendants who end up terminating in a number of aspects; they have fewer positive drug tests, they complete treatment more often, and they meet the court criteria for the number of judicial review hearings. Terminated defendants had nearly three times the average number of positive tests as graduates. Significantly more terminated defendants had positive tests during their time in DWI Court.

Recommendations:

1. Continue the Fourth Judicial District's DWI Court.
2. Revise Phase 4 of the program to continue the positive effects of the first two years following sentencing. Consider options that allow a more gradual step down in supervision from intensive probation to provide more support than is available with administrative probation.
3. Continue to evaluate DWI Court regularly to assess whether its goals continue to be met.

4. Review and revise policies and procedures as needed if success of goals fall short, for example if recidivism rates do not remain significantly lower for the DWI Court group than for the matched comparison group.
5. Repeat the defendant surveys conducted in the first two years of DWI Court to determine participant satisfaction with the program and make modifications to the program if need is indicated (DWI Court Goal 4).
6. Repeat the DWI Court team surveys conducted by the State Court Administrator's Office in 2008-2010 to determine team members'/stakeholders/ satisfaction with the program and make modifications to the program if need is indicated (DWI Court Goal 5).
7. Consider adding goals of improving community functioning (education, training/employment, and housing) to the DWI Court goals and monitor participant progress on these goals in future evaluations.

Appendix A. MN Sentencing Guidelines Grid

Sentencing Guidelines Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	11	306 <i>261-367</i>	326 <i>278-391</i>	346 <i>295-415</i>	366 <i>312-439</i>	386 <i>329-463</i>	406 <i>346-480²</i>	426 <i>363-480²</i>
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	10	150 <i>128-180</i>	165 <i>141-198</i>	180 <i>153-216</i>	195 <i>166-234</i>	210 <i>179-252</i>	225 <i>192-270</i>	240 <i>204-288</i>
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime, 1st Degree</i>	9	86 <i>74-103</i>	98 <i>84-117</i>	110 <i>94-132</i>	122 <i>104-146</i>	134 <i>114-160</i>	146 <i>125-175</i>	158 <i>135-189</i>
<i>Aggravated Robbery, 1st Degree</i> <i>Controlled Substance Crime, 2nd Degree</i>	8	48 <i>41-57</i>	58 <i>50-69</i>	68 <i>58-81</i>	78 <i>67-93</i>	88 <i>75-105</i>	98 <i>84-117</i>	108 <i>92-129</i>
Felony DWI	7	36	42	48	54 <i>46-64</i>	60 <i>51-72</i>	66 <i>57-79</i>	72 <i>62-84²</i>
<i>Controlled Substance Crime, 3rd Degree</i>	6	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 <i>29-39</i>	38 <i>33-45</i>	43 <i>37-51</i>	48 <i>41-57</i>
<i>Nonresidential Burglary</i>	4	12 ¹	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Theft Crimes (Over \$5,000)</i>	3	12 ¹	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12 ¹	12 ¹	13	15	17	19	21 <i>18-25</i>
<i>Sale of Simulated Controlled Substance</i>	1	12 ¹	12 ¹	12 ¹	13	15	17	19 <i>17-22</i>

 Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See Guidelines section [2.E. Mandatory Sentences](#), for policies regarding those sentences controlled by law.

 Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. Guidelines sections [2.C. Presumptive Sentence](#) and [2.E. Mandatory Sentences](#).

¹ 12¹=One year and one day

² Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. Guidelines section 2.C.1-2. Presumptive Sentence.

Effective August 1, 2011

Appendix B. Full DWI Court Model

Phase Advancement Criteria

Phases are the steps identified by the DWI Court Team through which clients must progress in order to complete the program. The minimum length of intensive program participation is 18 months, with each of the first three phases lasting approximately six months. The fourth phase, which is less intensive, lasts for the remainder of the probationary term.

Advancement criteria are the guidelines used to identify how offenders successfully progress through the program.

Phase 1:

Phase 1 involves an individualized and intensive treatment and supervision plan consisting of any combination of the following:

- Attend treatment programming as directed
- Attend support groups as directed
- Sentence to Service (STS)
- Victim Impact Panel (VIP)
- Random urine analysis to screen for drug and alcohol use
- PBTs (breathalyzer tests to screen for alcohol use)
- Meet with probation as directed
- Weekly court appearances (mandatory)
- Unannounced home visits by law enforcement and/or probation
- Curfew
- Study in Action Group

Advancement Criteria: These criteria must be completed to move to Phase 2:

- Petition for phase advancement
- 90 days sobriety
- Satisfactory participation in or completion of treatment
- Seek employment or education
- Attend court weekly, a minimum of 26 court appearances
- Abide by all rules and regulations of the DWI Court program
- Payment of all fines and fees
- Completion of STS/community service requirement

Phase 2:

Phase 2 consists of an individualized case plan, developed by the offender and the team, requiring participation in any combination of the following:

- Continuing care in a therapeutic or community based setting
- Bi-weekly court appearances (mandatory)
- Driving with Care
- Employment and education
- Random urine analysis to screen for drug and alcohol use (mandatory)
- PBTs (breathalyzer tests to screen for alcohol use)
- Meet with probation as directed
- Attend support groups as directed

Advancement Criteria: These criteria must be completed to move to Phase 3:

- Petition for phase advancement
- Minimum of 90 days total abstinence
- Complete individualized case plan
- Attend court bi-weekly, a minimum of 13 court appearances
- Abide by all rules and regulations of the DWI Court program

Phase 3:

Phase 3 consists of maintaining the individualized case plan and a healthy lifestyle. This requires the offender to participate in any combination of the following:

- Aftercare
- Seek employment and education
- Random urine analysis to screen for drug and alcohol use (mandatory)
- PBTs (breathalyzer tests to screen for alcohol use)
- Monthly court appearances (mandatory)
- Attend outside support groups as directed
- Meet with probation as directed
- Obey all court and probation rules

Advancement Criteria: These criteria must be completed to move to Phase 4:

- Total abstinence for 180 days
- Maintain individualized case plan
- Attend a minimum of 45 court appearances
- Abide by all rules and regulations of the DWI Court program

Phase 4:

Phase 4 consists of less intensive involvement for a period of approximately two years. There is no direct reporting to the Court or probation while in Phase 4. No curfew is required of the participant in this phase. Phase 4 requires the offender to comply with all probation conditions.

Sanctions and Incentives

Sanctions are the imposition of a consequence, perceived as negative by the receiver, as a direct result of a prohibited activity, and may include any of the following listed below.

Incentives are responses to compliance, perceived as positive by the receiver, and may include any of the following listed below.

Sanctions:

Verbal or written warning
Verbal or written apology to judge and/or group
Journaling
Increased UA/breath testing
Increased community support groups
Mission Detox or House of Charity
Monetary sanction
Curfew changes
Electronic Home Monitoring (EHM)
EtG (urine test to screen for alcohol use)
Sentence To Service (STS)
Detox
Jail sanctions
Termination
Phase regression
Delay phase progression
Community work service

Incentives:

Praise, compliments from the Judge
Bus passes
Forgiveness of citations
Applause/special recognition
Tuition assistance
Scheduling flexibility
Medallions
Sobriety oriented books
Reduction in sentence
Decreased supervision/drug testing
Lift curfew
Fine reduction
Fishbowl incentives
Advancement certificate

Appendix C. Prior Offenses that may Result in Disqualification from DWI Court

Examples of offenses deemed violent may include, but are not limited to:

609.185	Murder in the First Degree
609.19	Murder in the Second Degree
609.196	Murder in the Third Degree
609.20	Manslaughter in the First Degree
609.205	Manslaughter in the Second Degree
609.21	Criminal Vehicular Homicide and Injury
609.221-609.2231	Assault: First through Fourth Degree
609.224	Felony Level Assault
609.2243	Felony Domestic Abuse
609.228	Great Bodily Harm cause by Distribution of Drugs
609.229	Crime Committed for the Benefit of a Gang
609.245	Aggravated Robbery
609.25	Kidnapping
609.2661-609.268	Murder, Manslaughter, Assault and Injury/Death of an Unborn Child
609.342-609.3451	Criminal Sexual Conduct – All Degrees
609.498	Witness Tampering
609.561	Arson in the First Degree
609.582	Burglary in the First Degree, Subd. 1(a)
609.66	Dangerous Weapons (firearms)
a.	Machine guns and short-barreled shotguns
609.668	Explosive or incendiary device without injury to others
609.712	Real and simulated weapons of mass destruction
a.	Crimes committed in furtherance of terrorism
609.713	Terroristic Threats
609.855	Crimes involving transit; shooting at transit vehicle