



## FOURTH JUDICIAL DISTRICT

### **Fourth Judicial District DWI Court Pilot Project: Results of Evaluation after One Year**

***Prepared by:***

*Deborah A. Eckberg, Ph.D.  
Principal Research Associate  
612-348-2811*

[deborah.eckberg@courts.state.mn.us](mailto:deborah.eckberg@courts.state.mn.us)

May 2008

***Fourth Judicial District Research Division:***

Marcy R. Podkopacz, Ph.D., Research Director  
612-348-6812

[marcy.podkopacz@courts.state.mn.us](mailto:marcy.podkopacz@courts.state.mn.us)

Deborah A. Eckberg, Ph.D. - Principal Research Associate  
Anne Caron, MLS - Research Analyst II  
Gina Kubits - Research Analyst I

### *Acknowledgements*

The Research Division wishes to thank the following people for helping us to accomplish this study. We would primarily like to thank the DWI Court team for their commitment to this important issue. The Honorable Judge Holahan has been working diligently to enhance public safety by helping these defendants make positive and lasting changes in their lives, and in doing so has set the tone for the rest of those involved. All of the team members have become used to stepping outside their “traditional” roles to work as a member of a team, and each one deserves acknowledgement. The following list includes both the “regulars” who, at the time this report was written, have been attending Thursday and Friday court plus the Thursday staffing meetings, as well as their colleagues who fill in for them when they cannot be there, and all are listed in alphabetical order: Sergeant James Baer, The Honorable Gina Brandt, Emil Carlson-Clark, Derrick Carter, Mark Casagrande, Deputy Pat Chelmo, Megan Daly, Sharon Gehrman-Driscoll, Jodi Furness, Mary Ellen Heng, The Honorable John Holahan, Heidi Johnston, The Honorable Gary Larson, John Lucas, Eric Lundell, Don Mackey, Peter Martin, Dennis Miller, The Honorable Jack Nordby, Jim Reynolds, Robert Roeglin, Jessica Rugani, Deputy Art Saunders, Tom Turner, Officer Terri Wieland, Gary Williams, and Officer Patrick Windus. In addition, we would like to thank Judge Holahan’s judicial clerk and court reporter – Rachel Nelson and Carole Duckstad -- who always keep things running smoothly in the courtroom. And finally, we would like to give special credit to law clerk Shauna Kieffer, who collected data for this evaluation every Thursday and Friday in the courtroom for the first 15 months of the project.

## *Executive Summary*

- The Fourth Judicial District's DWI Court pilot project began on January 19, 2007 and is a post-adjudication court for 2<sup>nd</sup> and 3<sup>rd</sup> degree DWI offenders.
- DWI Court defendants whose offense was in Minneapolis appear in court for their judicial reviews on Friday; another group of defendants who were either (1) arrested outside of Minneapolis, or (2) have a violent offense in their criminal history, appear in court for their judicial reviews on Thursday.
- This report describes the measurements related to the first three goals of the DWI Court :
  - *Goal #1: Reduce recidivism*
  - *Goal #2: Maintain defendant sobriety*
  - *Goal #3: Increase compliance with court-ordered conditions*
- This report compares outcomes for the Thursday DWI Court Group, the Friday DWI Court Group, a separate group of individuals who were offered the opportunity to participate in DWI Court but opted out, and a sample of other Fourth Judicial District gross misdemeanor DWI offenders matched to the Thursday and Friday DWI Court Groups by location of offense.
- The four study groups had similar demographics with a couple of exceptions. Most notably, the Matched Sample was a younger group than the other three. Also, the individuals in the Thursday DWI Court Group were more likely to retain private attorneys.
- The length of time from plea to sentence for the DWI Court groups was longer than for the two comparison groups. This is mostly a function of the DWI Court provisionally accepting people into a "30-day evaluation period" prior to sentencing.
- At the end of year one, the DWI Court group had no new DWI convictions, as compared with a total of five new convictions for the two comparison groups combined. There were two new DWI charges for the DWI Court groups, but four for the two comparison groups combined.
- On average, DWI Court participants had only one positive drug/alcohol test. Overall, the Friday DWI Court Group as a whole had fewer positive tests (approximately 7%) as compared with 19% for the Thursday DWI Court Group. Participants in the Friday DWI Court Group were subject to many more alcohol/drug tests because they received unannounced home visits from law enforcement for the entire year, whereas the Thursday DWI Court Group only received home visits for the last month of the year. This is support for the idea that the threat of home visits may serve to keep DWI Court participants from using alcohol and/or drugs.
- At the end of the year, only four DWI Court participants have been terminated from the program. No one has graduated yet as the program is designed to last eighteen months.

## Table of Contents

	<i>Page Number</i>
<b>Acknowledgements</b>	<b>3</b>
<b>Executive Summary</b>	<b>4</b>
<b>Introduction</b>	<b>6</b>
<b>DWI Court Model</b>	<b>7</b>
<b>Research Design</b>	<b>8</b>
<b>Background Data</b>	<b>9</b>
	Gender 10
	Age 11
	Race 12
	Attorney Data 13
	Timing Statistics 15
<b>Goal 1: Reduce Recidivism</b>	<b>16</b>
<b>Goal 2: Maintain Defendant Sobriety</b>	<b>18</b>
<b>Goal 3: Increase Compliance with Court Ordered Conditions</b>	<b>20</b>
<b>Conclusions</b>	<b>21</b>
<b>Appendix A. Full DWI Court Model</b>	<b>22</b>
<b>Appendix B. Disqualification and Termination Criteria for DWI Court</b>	<b>26</b>

## Introduction

The Fourth Judicial District Adult DWI Court pilot began officially accepting cases on January 19, 2007.<sup>1</sup> The mission of the DWI Court is to increase public safety and reduce the number of alcohol related traffic deaths and injuries by effectively partnering the justice system and community resources to focus on the specific issues of repeat DWI offenders.

The goals of the DWI Court are as follows:

- ❖ *Goal #1: Reduce recidivism*
- ❖ *Goal #2: Maintain 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.*
- ❖ *Goal #5: Increase team players'/stakeholders' satisfaction with process.*
- ❖ *Goal #6: Adhere to DWI Court model.*

This report describes the first measurements related to Goals #1-3. To that end, we developed the following objectives related to these goals:

### **Goal 1: Reduce recidivism**

- Objectives:
1. Provide appropriate treatment services to all participants
  2. Target criminogenic risk factors with intensive supervision
  3. Provide judicial supervision throughout the 18 month program

### **Goal 2: Maintain defendant sobriety**

- Objectives:
1. Provide appropriate treatment services to all participants
  2. Order the offender to participate in both regular and random drug testing and alcohol monitoring

### **Goal 3: Increase compliance with court-ordered conditions**

- Objectives:
1. Improve offender accountability by ordering participant to make regular court appearances
  2. Use sanctions and incentives based on a science-based approach to changing behavior
  3. Utilize technology to enhance compliance with conditions
  4. Establish linkage with Minneapolis Police Department
  2. Provide participants with opportunities to build competencies and make positive changes in their lives
  3. DWI Court team members will interact with participants based on the principles of motivational interviewing

---

<sup>1</sup> The Fourth Judicial District DWI Court is funded by a grant from the Minnesota Department of Public Safety, with money from the National Highway Transit Safety Association. The initial grant ran from October 1, 2006 to September 30, 2007, and is renewable for three years thereafter.

In accordance with these goals and objectives, we created the following measurements.

<i>Goal</i>	<i>Measurements</i>
<i>Reduce recidivism</i>	New DWI arrests, charges, and convictions anywhere in the state
<i>Maintain defendant sobriety</i>	<ol style="list-style-type: none"> <li>1. Portable Breathalyzer Test and Urinalysis results to detect alcohol and drug use (taken at every contact with police or probation)</li> <li>2. Ignition interlock results (when appropriate)</li> <li>3. Other alcohol monitoring results (when appropriate)</li> </ol>
<i>Increase compliance with court-ordered conditions</i>	<ol style="list-style-type: none"> <li>1. Retention rates (terminations v. completions)</li> <li>2. Treatment and aftercare attendance</li> <li>3. Appearances at judicial reviews</li> <li>4. Attendance at probation appointments</li> <li>5. Attendance at self-help groups</li> </ol>

The analysis described in this report focuses on these measurements.

### **DWI Court Model<sup>2</sup>**

The Fourth Judicial District DWI Court is a post-adjudication court for 2<sup>nd</sup> and 3<sup>rd</sup> degree DWI offenders. In order to participate in the program, defendants must plead guilty to the DWI offense they are charged with, and must meet the following criteria:<sup>3</sup>

1. The offender must be a Hennepin County, Minnesota resident.
2. The offender must be 18 years of age or over.
3. The offender must be charged with a 2<sup>nd</sup> or 3<sup>rd</sup> degree DWI.
4. The offender must have a Rule 25 Chemical Dependency Assessment that indicates the offender is chemically dependent.
5. Offenders with alcohol concentration of .20 or more at the time of the offense are given priority.
6. The offender must be arrested and charged within the city of Minneapolis.<sup>4</sup>

<sup>2</sup> The full model, along with a complete description of the three phases of DWI Court, and a full list of possible sanctions and incentives can be found in Appendix A.

<sup>3</sup> Criteria were developed from both federal grant guidelines as well as collaboration among DWI Court team members.

There also exists a list of disqualification criteria, including having a violent offense history. (See Appendix B).

Defendants admitted into DWI Court must appear before the judge for a review hearing on a weekly basis for the first six months (Phase 1), bi-weekly for the next six months (Phase 2), and monthly for the last six months (Phase 3). Court meets on Friday for those accepted into the pilot program. DWI Court pilot participants also receive random home checks from the DWI Court police officers, wherein one of the police officers visits the defendant's home at various, unannounced times and asks the defendant to take a breathalyzer test. The purpose of these home visits is to ensure that defendants maintain sobriety, as stated in Goal #2 (above).

In addition, in order to make DWI Court accessible for as many individuals as possible and still comply with federal grant requirements, the DWI Court team also holds judicial reviews on Thursdays for those defendants who either (1) did not commit their most recent DWI offense in Minneapolis, or (2) have a violent history. Until recently, the primary difference between Thursday and Friday participants is that those who appear in court on Thursdays do not receive home visits from the DWI Court police officer. Beginning in December 2007, however, the Hennepin County Sheriff's Department has been providing home testing for the Thursday clients.

### **Research Design**

Because the DWI Court is voluntary, we could not execute an experimental design whereby we would use statistical randomization to assign half of the potential program participants to DWI Court and half to the standard DWI sentence (i.e., workhouse time plus standard probation). Instead, we used a quasi-experimental design, whereby we could use naturally occurring comparison groups to measure outcomes against our DWI Court participants.

For measurements related to the goal of reducing recidivism, we had two comparison groups. We compared the DWI Court defendants in both Thursday and Friday court (henceforth called "Thursday DWI Court Group" and "Friday DWI Court Group") with (1) individuals who had the opportunity to participate in DWI Court but opted out (henceforth called "Opt Outs"), and (2) a random sample of all other individuals convicted of gross misdemeanor DWI's and sentenced during the same time period as the pilot year of DWI Court, i.e., January 19, 2007 – January 18, 2008, matched according to the location of their offense (henceforth called "Matched Sample").<sup>5</sup> The primary difference between the two comparison groups is that individuals in the "Matched Sample" group were never given the opportunity to participate in DWI Court,<sup>6</sup> whereas the "Opt

---

<sup>4</sup> This applies to participation in the Friday DWI Court Group only. The DWI Court team formed a Thursday DWI Court Group to serve those offenders whose most recent arrest was not in Minneapolis.

<sup>5</sup> These comparison groups are slightly different than what was proposed in the original research design included in the Policies and Procedure Manual. At the time that we created the proposed research design, we had not yet created the Thursday version of DWI Court, adding in a population of suburban defendants. In doing so, and seeing the similarities between the Thursday and Friday DWI Court Groups, we decided it was more useful to compare the DWI Court Participants as a whole to a random sample of matched defendants, stratifying that matched sample so that we had equivalent percentages of defendants from each of the localities where the DWI Court Participants were arrested. These locations break out as 38% Minneapolis, 26% Golden Valley, and 36% everyone else.

<sup>6</sup> Typically because they were not aware it existed, and/or their attorneys did not recommend they participate.

Outs” could have participated and in some cases initiated participation but dropped out immediately.

Due to the nature of a pilot project, we collected a wealth of data on our DWI Court Participants, much of which we did not have available for either the “Opt Outs” or the “Matched Sample.” In short, all data related to Goals 2 and 3 were only available for the DWI Court Participants, and are thus descriptive in nature.

### **Background Data**

During the first year, 34 people were part of the Thursday DWI Court program, and 43 were part of the Friday DWI Court Group. The following data compares their descriptive data to those of the Opt Outs and the Matched Sample groups.

In general, DWI offenders tend to be predominantly white, predominantly male, and predominantly middle-aged (30’s and 40’s). Our study groups generally fall in line within these parameters, and were mostly similar in terms of demographics, with a couple of exceptions. The Matched Sample had a higher percentage of males than either of the two DWI Court groups or the Opt Outs (See Table 1 and Figure 1). When we analyzed the data for the matched sample according to offense location, we found that 90% of those arrested in Minneapolis were male, which is significantly different than any of the other groups, including the Friday DWI Court (who were also arrested in Minneapolis). This suggests that women may be more likely than men to choose DWI Court as an option over jail, whereas when faced with the choice, men may be more likely to want to just “do their time” rather than adhere to the conditions of DWI Court and intensive judicial supervision.

The matched sample was also somewhat younger than the other three groups (see Table/Figure 2), and there were more people in the matched sample whose race was “other” or “unknown,” suggesting that this piece of information is not being collected as routinely as it should be when people are booked into the jail or come to court (see Table/Figure 3).

Table 1. Gender

<i>Study Group</i>	<i>Female</i>	<i>Male</i>
Thursday DWI Court Group (N=34)	11 32.4%	23 67.6%
Friday DWI Court Group (N=43)	12 27.9%	31 72.1%
Opt Outs (N=26)	8 30.8%	18 69.2%
Matched Sample (N=81)	16 19.8%	65 80.2%

Figure 1. Gender

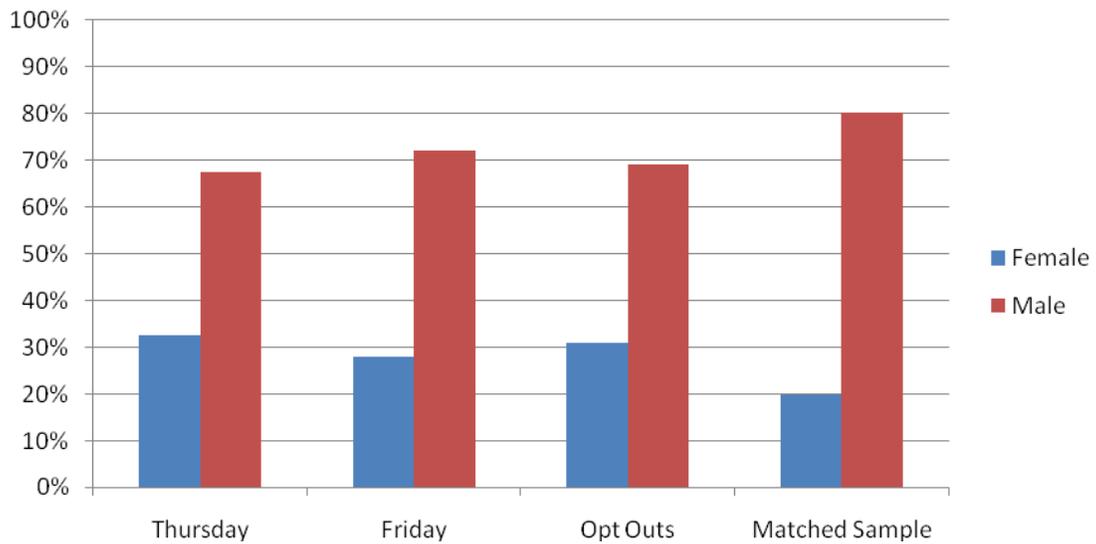


Table 2. Average Age at Sentencing

<i>Study Group</i>	<i>Average Age</i>
Thursday DWI Court Group (N=34)	36.6 years
Friday DWI Court Group (N=43)	37.1 years
Opt Outs (N=26)	37.4 years
Matched Sample (N=81)	33.7 years

Figure 2. Age at Sentencing

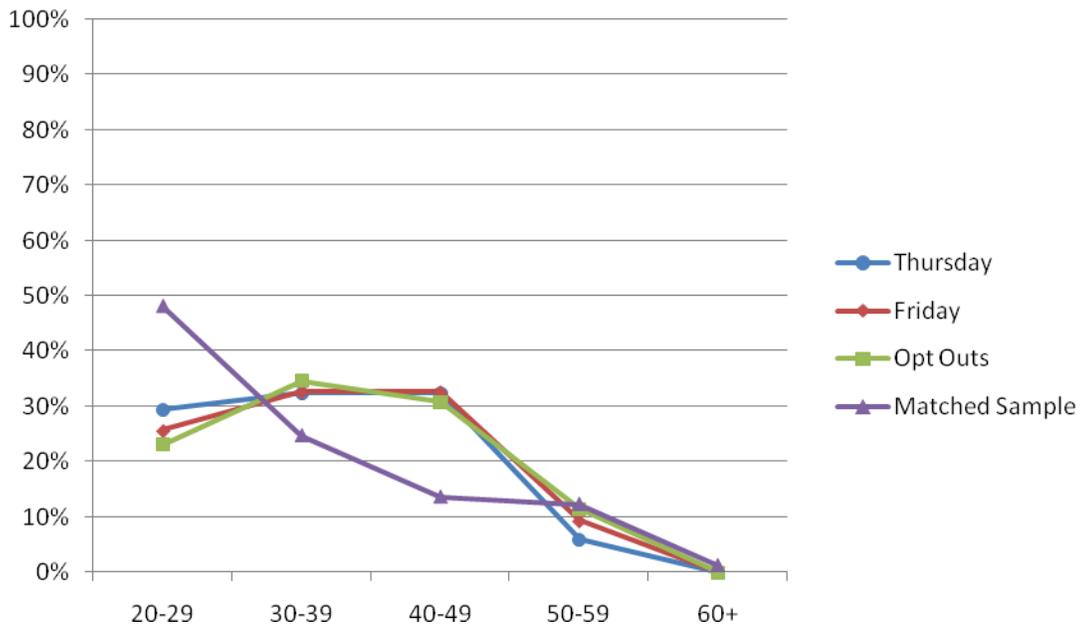
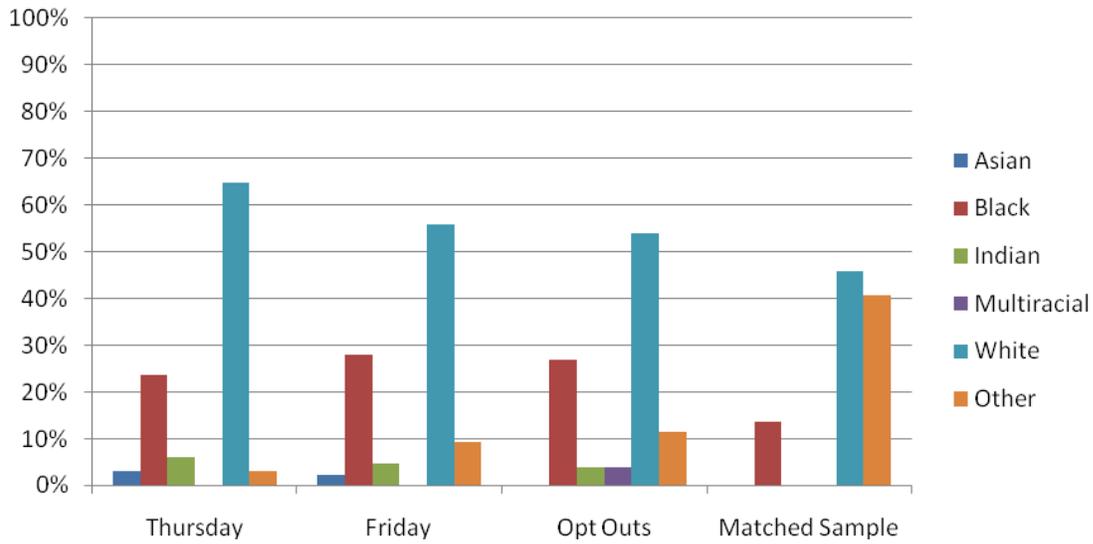


Table 3. Race

<i>Study Group</i>	<i>Asian</i>	<i>Black</i>	<i>Indian</i>	<i>Multiracial</i>	<i>White</i>	<i>Other/Unknown</i>
Thursday DWI Court Group (N=34)	1 2.9%	8 23.5%	2 5.9%	0 0%	22 64.7%	1 2.9%
Friday DWI Court Group (N=43)	1 2.3%	12 27.9%	2 4.7%	0 0%	24 55.8%	4 9.3%
Opt Outs (N=26)	0 0%	7 26.9%	1 3.9%	1 3.9%	14 53.8%	3 11.5%
Matched Sample (N=81)	0 0%	11 13.6%	0 0%	0 0%	37 45.7%	33 40.7%

Figure 3. Race



### Attorney Data

As would be expected, the Thursday DWI Court Group (which included suburban cases in which defendants are typically more affluent) had a higher percentage of private attorneys as compared with court provided public defenders. The “Opt Outs” were the only one of the four sample groups that had a higher percentage of public defenders as compared with private attorneys. The “Matched Sample” group was closest to the Friday DWI Court Group in terms of the type of attorney used. (See Table/Figure 4).

For DWI Court, a contract defense attorney who is a member of the DWI Court team typically represents both the Thursday and the Friday participants in court and in pre-court staffing meetings when the participants’ attorneys cannot be present. According to surveys of the DWI Court participants, most are happy with the representation they receive from this contract attorney.<sup>7</sup>

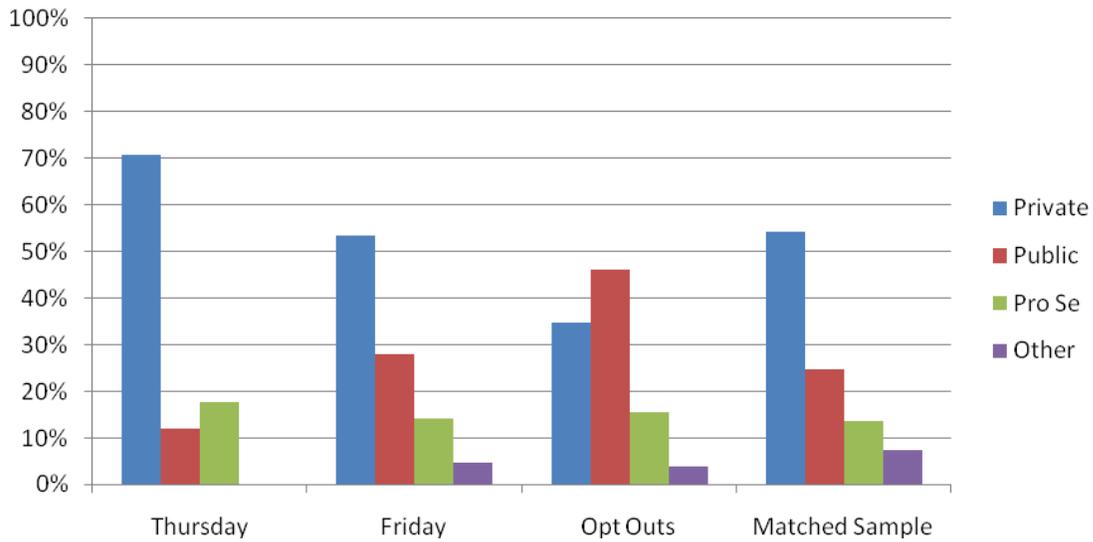
---

<sup>7</sup> [DWI Court Defendant Survey Report](http://www.mncourts.gov/district/4), October 2007. Fourth Judicial District Court Research Division.  
<http://www.mncourts.gov/district/4>.

Table 4. Attorney Data

<i>Study Group</i>	<i>Private Attorney</i>	<i>Public Defender</i>	<i>Pro Se/No Attorney</i>	<i>Other/Unknown</i>
Thursday DWI Court Group (N=34)	24 70.6%	4 11.8%	6 17.7%	0 0%
Friday DWI Court Group (N=43)	23 53.5%	12 27.9%	6 14.0%	2 4.7%
Opt Outs (N=26)	9 34.6%	12 46.2%	4 15.4%	1 3.9%
Matched Sample (N=81)	44 54.3%	20 24.7%	11 13.6%	6 7.4%

Figure 4. Attorney



## Timing Statistics

Beginning in fall 2007, the DWI Court team made the decision to begin “provisionally accepting” participants into both the Thursday and Friday program. What this means is that individuals are accepted into a “30-day evaluation period” before their actual sentencing (see Table 5), in order to ensure that they are willing to abide by the conditions of DWI Court. For this reason, the average number of days from plea to sentence is much longer than for the Matched Sample, as plea and sentencing for those individuals generally fell on the same day (see Table 6). For those DWI Court defendants who did the 30-day evaluation period, the average length of time between plea and sentencing was longer for the Thursday group than the Friday group. However, when we compared the length of time for those in the Thursday and Friday programs who did NOT do the 30-day evaluation, the average length of time between plea and sentencing was one week for both groups (see Table 7).

Table 5. Thirty-Day Trial Period

<i>Study Group</i>	<i>Did 30-day evaluation period</i>	<i>No evaluation period</i>
Thursday DWI Court (N=34)	21 61.8%	13 38.2%
Friday DWI Court (N=43)	13 30.2%	30 69.8%

Table 6. Average Number of Days from Plea to Sentence

<i>Study Group</i>	<i>Average Days (median)<sup>8</sup></i>
Thursday DWI Court Group (N=34)	36 days
Friday DWI Court Group (N=43)	14 days
Opt Outs (N=26)	4 days
Matched Sample (N=81)	0 days <sup>9</sup>

Table 7. Average Number of Days from Plea to Sentence for DWI Court Groups

<i>Study Group</i>	<i>Evaluation Period Defendant?</i>	<i>Average Days (median)</i>
Thursday DWI Court Group (N=34)	30-day evaluation (n=21)	51 days
	No 30-day evaluation (n=13)	35 days
Friday DWI Court Group (N=43)	30 day-evaluation (N=13)	7 days
	No 30-day evaluation (N=30)	7 days

<sup>8</sup> We used median rather than mean as it is more representative of the majority of each group. There are outliers in each group who had a lengthy time between plea and sentencing which skew the mean, but not the median.

<sup>9</sup> For the matched sample, nearly every sentence occurred on the same day as that defendant’s plea.

### Goal 1: Reduce Recidivism

#### New DWI Convictions

For the purposes of measuring outcomes related to Goal 1, we began with the narrowest view possible, viewing recidivism as new DWI offenses that resulted in convictions. We looked to see whether the defendants in each of our four sample groups had any subsequent convictions during the study period (1-19-07 to 1-18-08). We found that our DWI Court defendants had zero new convictions during the study period, as compared with two new convictions for the Opt Out group and three for the matched sample (see Table 8/Figure 5).

Table 8. Total New DWI Convictions During First Year of Program<sup>10</sup>

<i>Study Group</i>	<i>New Convictions</i>
Thursday DWI Court Group (N=34)	0 0%
Friday DWI Court Group (N=43)	0 0%
Opt Outs (N=26)	2 7.7%
Matched Sample (N=81)	3 3.7%

#### New DWI Charges and Other Driving Violations

There were two Friday DWI Court participants charged with a new DWI before the end of the first year; however, neither one of these individuals had been convicted during that time frame. One of them has since been convicted and subsequently terminated from the DWI Court program. The case for the other individual is still pending, and that person is still an active participant in DWI Court. For the “Opt Out” group, one individual had a new DWI in December 2007 (according to the Department of Vehicle Services), but had not yet been charged with a criminal case by the end of our study period. That case has since been charged in criminal court, and the defendant is currently on warrant status. For the “Matched Sample” group, there were no additional DWI charges besides the convictions noted in the previous section. (see Table 9/Figure 5).

Table 9. Total New DWI Charges or Arrests

	New Offenses
Thursday DWI Court Group (N=34)	0 0%
Friday DWI Court Group (N=43)	2 4.7%
Opt Outs (N=26)	3 11.5%
Matched Sample (N=81)	3 2.5%

<sup>10</sup> These data represent new offenses that occurred after sentencing, but resulted in a conviction before the end of the pilot period.

Four of the Friday DWI Court participants were charged with non-DWI driving related offenses during the study period. Two of those cases were dismissed, one (from another county) was convicted and the defendant is serving STS time as their sentence, and the other was continued for dismissal as long as the defendant continues to fulfill their commitment to DWI Court. One person in the Matched Sample group was charged in criminal court with driving without a valid license after their original DWI offense, and one additional person was arrested for driving after withdrawal during the study period, although that case has not yet been charged in criminal court. No one in the Opt Out group was charged with a non-DWI driving related offense during the study period (see Table 10/Figure 5).

It should be noted that new non-DWI driving related charges for DWI Court clients were, for the most part, handled as part of the defendants' overall DWI Court participation, sanctioned as probation violations, but dismissed as new charges. By doing this, the DWI Court team provided individuals with an opportunity to pay for their driving related offenses, but continue their progress in the program. Only two of the four new charges for the DWI Court participants were for DWI offenses, and those two offenses could not be handled internally, for obvious reasons. Still, neither was convicted at the one year mark.

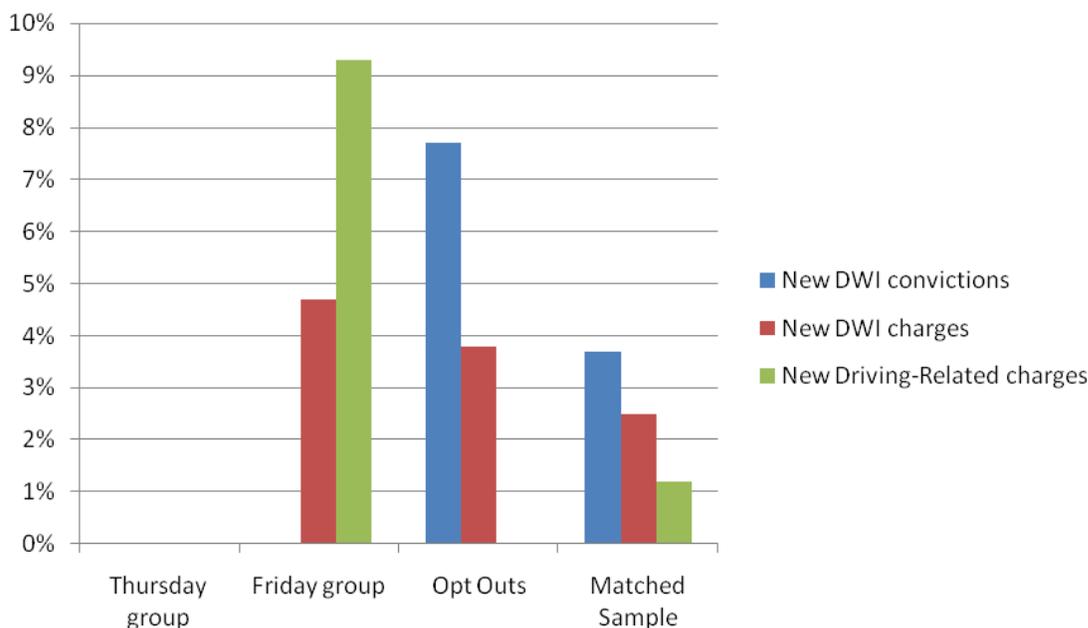
Table 9. Total Non-DWI Driving Related Offenses

	New Offenses
Thursday DWI Court Group (N=34)	0 0%
Friday DWI Court Group (N=43)	4 9.3%
Opt Outs (N=26)	0 0%
Matched Sample (N=81)	1 1.2%

**In short, at the end of year one, the DWI Court group had no new DWI convictions, as compared with a total of five new convictions for the two comparison groups combined. There were two new DWI charges for the DWI Court groups, as compared with six new DWI charges for the two comparison groups combined. This is the most promising result thus far.**

We also looked to see whether these results could be explained with incarceration data. We expected that the DWI Court groups would have done less time behind bars during the year as compared with the Opt Out and Matched Sample groups. The more time individuals are incarcerated, the less chance they have to commit a new offense. Four defendants in the Opt Out group did some straight time, making them physically unavailable to commit a new crime 13% of the time. Fifteen of the Matched Sample group did straight time during the study period, incapacitating them for 9% of the time. Similarly, however, four of the Friday DWI Court group, and one of the Thursday DWI Court group, did some straight time during the year, incapacitating them for 10% and 8% of the time respectively. In short, we cannot point to the incarceration data to explain the differences in the new driving related offenses, as it is very similar between the four groups.

### Figure 5. Recidivism



#### ***Goal 2: Maintain Defendant Sobriety***

For this piece of analysis, we only have data on the two DWI Court groups, as we can obtain these data directly from the probation officers who work with the DWI Court participants. The Opt Outs and Matched Sample group are subject to traditional sentencing, which does not include intensive supervision and thus does not provide us with the same type of record keeping we are privy to with the program participants.

At each home visit, each probation appointment, and occasionally on court days, DWI Court participants are subject to a Breathalyzer Test (to detect alcohol), a Urinalysis (to detect illegal drugs) or both. The data below show the average number of tests per program participants, and of those tests, the percentage of positive readings indicating alcohol or drug use. The number of tests administered for the Thursday DWI Court Group is significantly lower because we did not have the resources to conduct random home visits until December, meaning that the only time the Thursday DWI Court Group participants were tested was when they came in for court or probation appointments. Since December, we have contracted with the Hennepin County Sheriff's department to conduct random home visits, much the same as the Minneapolis police conduct random home visits for the Friday DWI Court Group.

As seen in Tables 10 and 11, the Friday DWI Court Group has a lower percentage of positive tests than the Thursday DWI Court Group, suggesting less use of alcohol and drugs. For people who had at least one test, 14.5% of the Thursday DWI Court Group, as compared with 9% of the Friday

DWI Court Group, reported at least one positive alcohol/drug test. Looking at the total number of tests taken, 19% of the tests given to the Thursday DWI Court Group were positive, as compared with 6.9% of tests given to the Friday DWI Court Group. Fifteen (60%) of the Thursday group and 21 (51%) of the Friday group who were tested had zero positive tests. The maximum number of positive tests for one defendant was six for the Thursday group and seven for the Friday group.

This provides support for the value of random home visits, considering that these did not exist for the Thursday DWI Court Group until the last month of the study period (as explained above). In short, it may be that the fear of having law enforcement stop by to conduct a test served to keep the Friday participants from using alcohol or drugs.

Table 10. Results of Alcohol/Drug Testing for DWI Court Participants, for those who had at least one test

<i>Study Group</i>	<i>Average Number of Tests Taken Per Person</i>	<i>Average Number of Positive Tests Per Person</i>
Thursday DWI Court Group (N=25)	5.36	1.00 14.5%
Friday DWI Court Group (N=41)	19.46	1.34 9%

Table 11. Total Number of Positive Tests, as Percentage of Total Tests Taken

<i>Study Group</i>	<i>Total Number of Tests Taken</i>	<i>Total Number of Positive Tests</i>	<i>Total Number of Defendants with Zero Positive Tests</i>
Thursday DWI Court Group (N=25)	134	25 19.0%	15 60.0%
Friday DWI Court Group (N=41)	798	55 6.9%	21 51.2%

### Ignition Interlock

We collected two other pieces of data related to defendant sobriety. First, some of the DWI Court participants qualified for early reinstatement of their drivers licenses with Ignition Interlock. Ignition Interlock is a device installed in an individual's car which permits them to start the car only after blowing into a breathalyzer device and having the results be zeroes (i.e., no alcohol detected). The device requires the driver to blow into the breathalyzer several times during the time that s/he is driving, in order to prevent the driver from having a spouse or friend start the vehicle for them.<sup>11</sup>

At this time, we have had only one alleged violation of the Ignition Interlock, which is currently under review. The defendant maintains that they did not use alcohol, but may have used mouthwash

<sup>11</sup> In addition, the technology will soon be such that a picture is taken of the person blowing into the machine, to further prevent abuse of the device.

which does in fact contain a small amount of alcohol which would be detected on the Interlock device.

### SCRAM

Another tool often used by probation officers to monitor alcohol use is called a Secure Continuous Remote Alcohol Monitoring (SCRAM) bracelet. The bracelet is typically worn on the defendant's ankle, and any alcohol detected through the skin provides data that is transmitted via modem to probation officers. In short, alcohol use can be detected around the clock, which is useful when random tests are not feasible, or in cases of extreme addiction that needs to be monitored more frequently. SCRAM is provided at a cost to the defendant (approximately \$11/day), which is cost prohibitive for some.

During the first year of DWI Court, four people were on the SCRAM bracelet, and only one of those had a positive reading, for which he received a sanction of a weekend in the county's workhouse.

### Self-Reports

The only other way the DWI Court team found out about alcohol or drug use was through self-report by defendants, which did happen occasionally. Six individuals self-reported that they had used drugs or alcohol during the course of the year. In each instance, the individual received a sanction, which typically involved community service through the county's Sentence to Service (STS) program. (See Appendix A for full list of sanctions).

### ***Goal 3: Increase Compliance with Court Ordered Conditions***

#### Retention Rate

Because the Fourth Judicial District DWI Court program is an 18-month program, we did not have any graduates during the first year. Four people from the Friday DWI Court Group were terminated, however, for failing to comply with program requirements, and in one case, because she was sent to prison on an out-of-county offense. Another of the four terminated individuals later appealed to the DWI Court team for reinstatement to the program, which he was eventually granted. This individual was serving workhouse time and was released on furlough to DWI Court and has since been complying with DWI Court conditions. Finally, one individual in the Friday program passed away during their involvement with DWI Court. In sum, of the seventy-seven total DWI Court participants, four were no longer part of the program at the end of year one.

#### Appearances at Judicial Reviews, Treatment, Probation and Self-Help Groups

Nineteen people in the combined DWI Court groups (6 from Thursday, 13 from Friday) failed to appear at least once at their DWI Court judicial review hearing. There were two "worst offenders," however, who failed to appear more than four times out of 30-40 hearings. Both of these individuals were eventually given workhouse time as a sanction, although both had other violations as well (e.g., not available for home visits, missing treatment or probation appointments, positive alcohol/drug test, etc.). The most common sanction for an unexcused absence in court is STS time, with number of days determined on a case by case basis according to other conditions violated and prior

sanctions. When defendants have been late to DWI Court, they are generally ordered to sit in the jury box for several hours after court has ended.

For the most part, the individuals who missed court were the same individuals prone to missing treatment, probation appointments, and self-help groups. Sanctions for these individuals were graduated (each miss adding to the severity of the sanction), beginning with one day of STS and culminating with straight time in the workhouse.

### **Conclusions**

At the end of year one, preliminary results for the Fourth Judicial DWI Court pilot are promising. New convictions are lower than for comparison groups, and for the most part, defendants are complying with court ordered conditions and maintaining sobriety. Because the DWI Court program is designed to graduate successful participants after eighteen months, future analysis will be need to be conducted to assess long-term outcomes following successful program completion.

## Appendix A. Full DWI Court Model

# Operation of DWI Court

### *Phases/Termination & Graduation Criteria*

**P**hases are the steps identified by the DWI Court Team through which clients must progress in order to complete the program. The anticipated length of the program is 18 months with each phase approximately six months in length.

Termination criteria are the guidelines used to release offenders from the program.

Graduation criteria are the guidelines used to identify how offenders can successfully complete the program.

#### **Phase 1 (Treatment Phase):**

*Description:* The Treatment Phase is an individualized, intensive treatment plan consisting of any combination of the following:

- Treatment
- Jail for sanction purposes
- Random drug testing
- SCRAM—Secured Continuous Remote Alcohol Monitor system: (30 days)
- PBT—Preliminary Breath Test: minimum twice weekly
- Enhanced supervision
- Weekly court appearances (mandatory)

*Graduation Criteria:* These criteria must be completed to move to Phase 2:

- Total abstinence for 90 days
- Complete treatment
- Maintain employment
- Attend all court appearances
- No new criminal offenses
- Abide by all rules and regulations of the DWI court program

*Termination Criteria:* Committing any one of these violations will result in an offender being terminated from the program:

- New conviction- alcohol and/or drug related
- Violent offense conviction
- Abscond from the jurisdiction of the Court
- Drinking and driving
- Failure to follow and comply with rules and regulations of the DWI court program
- Undermining the integrity of the program

## **Phase 2 (Skills Phase):**

*Description:* The Skills Phase consists of an individualized case plan, developed by you and the Team, requiring participation in any combination of the following:

- Continuing care
- Jail for sanction purposes
- Education/GED
- Pursue driver's license reinstatement
- Employment
- Random urinalysis (mandatory)
- PBT—Preliminary Breath Test: minimum twice weekly
- Bi-weekly court appearances (mandatory)
- Health maintenance/medical compliance
- Enhanced supervision
- Support network meetings
- Begin fee payment
- Comply with ancillary service programming

*Graduation Criteria:* These criteria must be completed to move to Phase 3 (Maintenance & Transition Phase):

- Total abstinence for 180 days
- Complete individualized case plan
- Attend all court appearances
- Abide by all rules and regulations of the DWI court program

*Termination Criteria:* Committing any one of these offenses will result in an offender being terminated from the program:

- New conviction- alcohol and/or drug related
- Violent offense conviction
- Abscond from the jurisdiction of the Court
- Drinking and driving
- Failure to follow and comply with rules and regulations of the DWI court program
- Undermining the integrity of the program

## **Phase 3 (Maintenance & Transition Phase):**

*Description:* The Maintenance & Transition Phase consists of maintaining the individualized case plan and a healthy lifestyle. This requires the offender to participate in any combination of the following:

- Aftercare
- Maintain employment
- Jail for sanction purposes
- License reinstatement plan

Random Urinalysis (mandatory)  
PBT—Preliminary Breath Test: at least once per month on a random basis (mandatory)  
Monthly Court Appearance (mandatory)  
Enhanced supervision support network meetings  
Comply with ancillary service programming

*Graduation Criteria:* Graduation from Fourth Judicial District Adult DWI Court requires these criteria:

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

*Termination Criteria:* Committing any one of these will result in an offender being terminated from the program:

New conviction- alcohol and/or drug related  
Violent offense conviction  
Abscond from the jurisdiction of the Court  
Drinking and driving  
Failure to follow and comply with rules and regulations of the DWI court program  
Undermining the integrity of the program

### ***Sanctions and Incentives***

**S**anctions 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  
Essay for court  
Journaling  
Completion of reading list  
Peer review  
Round table with team  
Self imposed sanctions  
Penalty box (jump seat)  
Restricted travel  
House arrest  
Curfew/check-in time  
Extra UA/breath testing  
Increased supervision/court reporting  
Increased community support groups

#### **Incentives:**

Praise, compliments from the Judge  
Court: All-Star list, early call  
Fishbowl drawings/gift certificates  
Bus passes  
Movie passes  
Restaurant/retail/grocery gift card  
Video rental gift card  
Applause/special recognition  
Lunch with Judge  
Lunch with Team Member of choice/bus card  
Applause/tuition help  
Birthday cards  
Medical/dental assistance  
Medallions  
Books/coffee cups/key chains

Increased time in phase or track	Social parties (bowling, mini golf, etc.)
Demotion to earlier program phase	Candy/other treats
Volunteer at Detox	Staggered sentencing
Emergency Room visit	Reduction in sentence
Clean jail	Decreased frequency of court appearances
Victim/Offender Panel	Decreased supervision/drug testing
EHM	Lift curfew
SCRAM (Secured Continuous Remote Alcohol Monitor)	Leave court early/more free time/decreased restrictions/requirements
STS	Fine reduction
Detox	Phase acceleration
Short-term jail sentence	Graduation certificate
Weekend jail	Graduation treats
Termination	Graduation/early graduation
Phase regression	Phase I completion-bronze token
Delay phase progression	Phase 2 completion – silver token
Community work service	Phase 3 completion – gold token
Custody	Plaque for graduation

## Appendix B. Disqualification and Termination Criteria for DWI Court

### *Disqualification Criteria*

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

1. The offender is a juvenile.
2. The offender is a violent offender.
3. The offender has a DWI offense combined with fleeing a police officer offense.
4. The offender has a 1<sup>st</sup> Degree DWI offense.
5. The offender is not mentally competent.
6. The offender is involved in a gang.
7. The offender is unamenable to probation.
8. The offender is violent pursuant to the federal statute definition indicating a prior record of conviction for an offense listed below (following federal guidelines).

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	Terrorist Threats
609.855	Crimes involving transit; shooting at transit vehicle
9. Certain sex offenses/domestic assaults/weapons/mental-medical conditions; all decided on a case by case basis.

## *Termination*

**T**ermination 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
3. Participant has failed to comply with program requirements after all attempts have been made to improve attendance and motivation without success
4. Participant engages in any conduct deemed inappropriate for DWI Court participants as determined by the DWI Court Team

Short of termination, the judge may take the following actions:

1. Allow participant to continue in current phase and receive reprimand from the bench
2. Schedule more frequent court appearances
3. Schedule a termination hearing in several weeks with specific tasks to perform to avoid termination
4. Sentence to incarceration
5. Allow participant to voluntarily withdraw