



FOURTH JUDICIAL DISTRICT

Fourth Judicial District DWI Court Pilot Project: Results After Two Years of Operation

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DWI Court Pilot – End of Second Year Executive Summary

- The Fourth Judicial District's DWI Court pilot project began on January 19, 2007 and is a voluntary, post-adjudication court for 2nd and 3rd degree DWI offenders. The program consists of three phases, with each phase approximately six months in length as long as participants comply with the conditions of DWI Court.
- Defendants who meet the DWI Court pilot project criteria¹ appear in court for their judicial reviews on Friday; those who do not meet the pilot project criteria appear 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*
- Comparison groups for the Thursday and Friday DWI Court Groups are individuals who were offered the opportunity to participate in DWI Court but opted out and a random sample of other Fourth Judicial District gross misdemeanor DWI offenders who are not in one of the other groups, matched to the Thursday and Friday DWI Court Groups by location of offense.
- At the end of two years, 123 individuals have entered the DWI Court program. Through the end of Year Two, fourteen participants have graduated from the minimum 18-month program; an additional eighteen have graduated as of May 8, 2009. Graduates spent an average of 18.1 months in DWI Court.
- No DWI Court graduate has reoffended.
- The two DWI Court Groups had lower rates of both new DWI charges and new DWI convictions than either comparison group. The DWI Court Groups were charged with new driving-related offenses at an equal or higher rate than that of the comparison groups; most of the DWI Court Groups' offenses were handled as probation violations and dismissed as new charges.
- On average, DWI Court participants had less than two positive drug/alcohol tests. During Year One, when the Thursday DWI Court Group did not receive home visits, they had more positive tests (19%) than the Friday Group (7%). During Year Two, when both groups received unannounced home visits from law enforcement, the percentage of positive tests was relatively equal for the two groups (5% for the Thursday Group and 4% for Friday). 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 two years, twenty-one participants have been terminated and four are deceased or on suspended status pending resolution of new non-alcohol, non-driving related felony charges. Terminated participants spent an average of 10.9 months in the program; nearly 60% of terminations occurred during the first phase of the program.

¹ See p. 6 of this report for the Fourth Judicial District's DWI Court pilot project criteria.

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Introduction

The Fourth Judicial District Adult DWI Court pilot project began officially accepting cases on January 19, 2007.² 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 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: 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.
- ❖ Goal #5: Increase team players'/stakeholders' satisfaction with process.
- ❖ Goal #6: Adhere to 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 related to Goals #1-3. To that end, we developed the following objectives related to these goals:

Goal 1: Reduce recidivism

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

Goal 2: Facilitate defendant sobriety

- Objectives:
1. Require appropriate treatment services by all participants
 2. Require offenders to participate in frequent, observed, and random drug testing and alcohol monitoring

Goal 3: Increase compliance with court-ordered conditions

- Objectives:
1. Improve offender accountability by requiring participants 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 local law enforcement

² 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; the analysis described in this report focuses on these measurements.

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

DWI Court Model³

The Fourth Judicial District DWI Court is a voluntary, post-adjudication program for repeat DWI offenders charged with 2nd or 3rd degree DWI offenses. 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:⁴

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 2nd or 3rd degree DWI.
4. The offender must have a chemical health assessment by a licensed chemical health professional, that indicates the offender is chemically dependent.
5. The offender must be arrested and charged within the city of Minneapolis.⁵

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

Prior to sentencing, defendants participate in a DWI Court evaluation period. For the first six months of the program, there was no evaluation period – defendants were sentenced to DWI Court prior to entering. In August 2007, an approximately one-month evaluation period before sentencing was implemented in order to ensure that defendants were willing to abide by the conditions of DWI Court. Beginning in Year Three (late-January 2009), the evaluation period was shortened to two weeks, during which time potential participants receive a legal screening, Pre-Sentence Investigation (PSI), and chemical health assessment. In addition, they observe DWI Court and participate in an orientation to the requirements of the program. Defendants will either be 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.

The DWI Court program consists of three phases, with each phase approximately six months in length. In Phase One defendants must appear before the DWI Court judge for a review hearing at least twenty-six times, on a weekly basis. In Phase Two they must appear bi-weekly, at least thirteen times. Phase Three requires that defendants appear monthly, at least six times. Defendants are eligible to graduate from DWI Court after a minimum of eighteen months of participation, 45 judicial review appearances, and at least 180 days of total abstinence.

Court meets on Friday mornings for those accepted into the pilot group. 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 Thursday mornings for defendants ineligible for the pilot project (for example, for defendants not arrested and charged in Minneapolis or for those with a violent offense in their history).

³ 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.

⁴ Criteria were developed from federal grant guidelines and collaboration among DWI Court team members.

⁵ 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.

Participants can request termination from the DWI Court program and have their sentences executed at any time. During the first two years of DWI Court's operation, a participant who requested termination from the program typically was ordered to serve the "alternative jail sentence", or mandatory minimum jail time, ordered at sentencing. This policy will continue on a case-by-case basis for participants who entered DWI Court prior to February 19, 2009. However, for participants admitted after that date, a request for termination from the program shall result in execution of the entire stayed jail sentence. Said another way, once a defendant has voluntarily entered the DWI Court program, the "alternative jail sentence", or 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 will be revoked and the defendant will serve "straight time", meaning that he or she will not be eligible for work release or electronic home monitoring.

Prior to December 2007, the primary difference in services provided between Thursday and Friday participants was that those appearing in court on Thursdays did not receive home visits from a DWI Court law enforcement officer. Since that time, however, the Hennepin County Sheriff's Department has been providing home testing for the Thursday DWI Court clients, so that all DWI Court participants now receive random home checks, wherein law enforcement officers visit defendants' homes at various, unannounced times and require them to take a breathalyzer test. The purpose of these home visits is to ensure that defendants maintain sobriety, as stated in Goal #2 (above).

Beginning in October 2008, a curfew requirement was instituted for all newly entering DWI Court participants in order to better ensure their availability for random home visits. During Phase One, participants must be home between 10:00 pm and 6:00 am (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 eight-hour period of time each day). Curfew hours are shortened as participants advance to each new phase as long as they have been compliant with the curfew hours during the previous phase. For those entering DWI Court prior to October 2008, curfew may be ordered as a sanction if a participant is repeatedly unavailable for home visits.

Research Design

Because Fourth Judicial District Adult 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 first two years of DWI Court's operation (January 19, 2007 – January 18, 2009), matched according

to the location of their offense (henceforth called “Matched Sample”)⁶. 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 Court⁷, whereas the Opt Outs could have participated but chose traditional sentencing instead.

Due to the nature of a pilot project, we collected a wealth of data on participants in both DWI Court Groups, 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 Group participants, and are thus descriptive in nature.

Background Data

During the first two years, 123 individuals participated in the DWI Court program - 56 in the Thursday Intensive Judicial Supervision (IJS) DWI Court Group, and 67 in the Friday DWI Court Pilot Group. The following data compares their descriptive information to those of the Opt Outs and the Matched Sample.

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. As shown in Table 1/Figure 1, the Thursday DWI Court Group had a lower percentage of males than the other three groups, although they still comprised nearly two-thirds of the group; in the Friday Court Group, Opt Outs, and Matched Sample approximately three-fourths of participants were male. The Matched Sample was somewhat younger than both of the DWI Court Groups as well the Opt Outs (see Table 2/Figure 2).

The Thursday DWI Court Group had a higher percentage of white defendants than the other three groups (see Table 3/Figure 3). There were significantly more people in the Matched Sample whose race was “unknown” or “refused”, 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. One participant in the Friday DWI Court Group self-reports being Hispanic, compared to one in the Opt Out group and two in the Matched Sample. This participant uses a Court interpreter to aid in understanding the Court proceedings.

⁶ 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 35% Minneapolis, 24% State Patrol-Golden Valley, and 41% everyone else.

⁷ Typically because they were not aware it existed, and/or their attorneys did not recommend they participate.

Table 1. Gender

	Thursday DWI Court			Friday DWI Court			Opt Outs			Matched Sample		
Gender	Year 1	Year 2	Total	Year 1	Year 2	Total	Year 1	Year 2	Total	Year 1	Year 2	Total
Female	Count 11	Count 10	Count 21	Count 12	Count 5	Count 17	Count 8	Count 7	Count 15	Count 16	Count 13	Count 29
	Column % 32.4%	Column % 45.5%	Column % 37.5%	Column % 27.9%	Column % 20.8%	Column % 25.4%	Column % 30.8%	Column % 25.0%	Column % 27.8%	Column % 19.8%	Column % 28.3%	Column % 22.8%
Male	Count 23	Count 12	Count 35	Count 31	Count 19	Count 50	Count 18	Count 21	Count 39	Count 65	Count 33	Count 98
	Column % 67.6%	Column % 54.5%	Column % 62.5%	Column % 72.1%	Column % 79.2%	Column % 74.6%	Column % 69.2%	Column % 75.0%	Column % 72.2%	Column % 80.2%	Column % 71.7%	Column % 77.2%
Total	Count 34	Count 22	Count 56	Count 43	Count 24	Count 67	Count 26	Count 28	Count 54	Count 81	Count 46	Count 127
	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%

Figure 1. Gender, Years 1 and 2 Combined

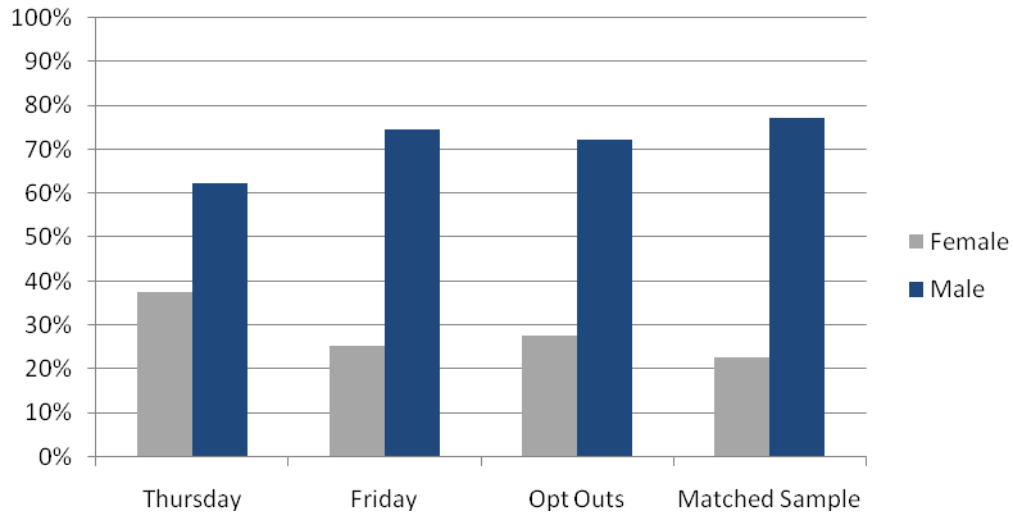


Table 2. Average Age at Sentencing

	Thursday DWI Court			Friday DWI Court			Opt Outs			Matched Sample		
	Year 1	Year 2	Total	Year 1	Year 2	Total	Year 1	Year 2	Total	Year 1	Year 2	Total
Average Age at Sentencing	36.6	37.1	36.8	37.1	35.3	36.5	37.4	38.5	37.9	33.7	35.7	34.4
Number of Participants	N=34	N=22	N=56	N=43	N=24	N=67	N=26	N=28	N=54	N=81	N=46	N=127

Figure 2. Age at Sentencing, Years 1 and 2 Combined

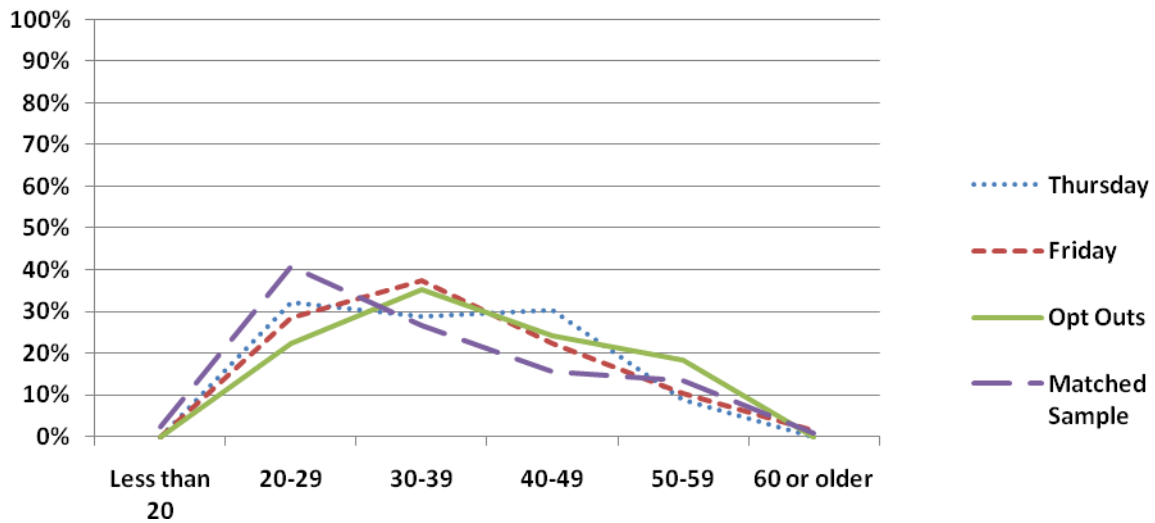
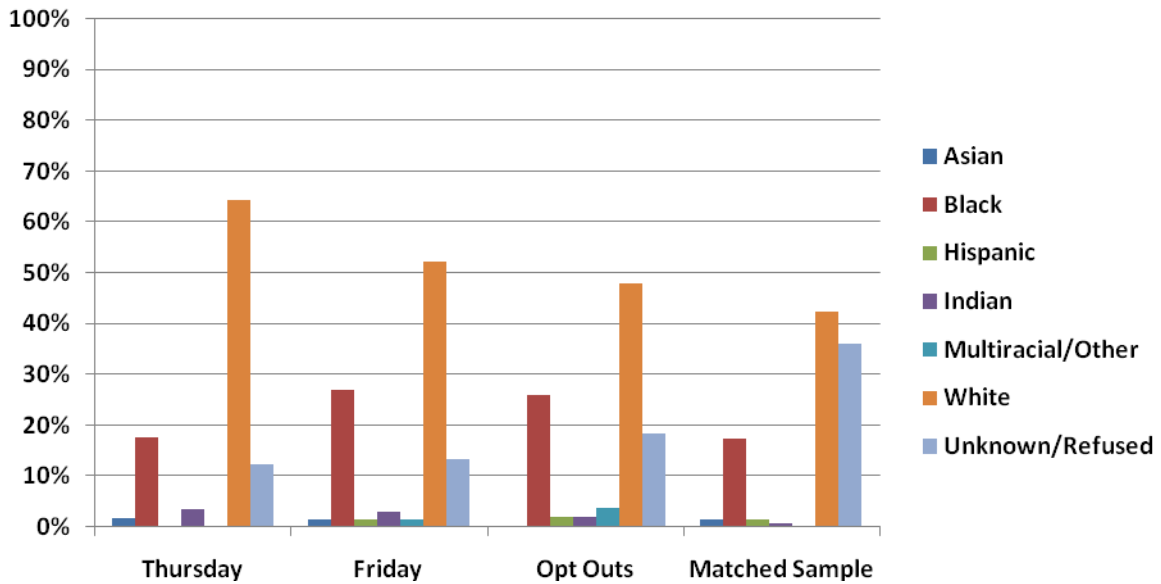


Table 3. Self-Reported Race

		Thursday DWI Court			Friday DWI Court			Opt Outs			Matched Sample		
Race		<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>
Asian	<i>Count</i>	1	0	1	1	0	1	0	0	0	0	2	2
	<i>Column %</i>	2.9%	0.0%	1.8%	2.3%	0.0%	1.5%	0.0%	0.0%	0.0%	0.0%	4.3%	1.6%
Black	<i>Count</i>	8	2	10	12	6	18	7	7	14	11	11	22
	<i>Column %</i>	23.5%	9.1%	17.8%	27.9%	25.0%	26.9%	26.9%	25.0%	25.9%	13.6%	23.9%	17.3%
Hispanic	<i>Count</i>	0	0	0	0	1	1	0	1	1	0	2	2
	<i>Column %</i>	0.0%	0.0%	0.0%	0.0%	4.2%	1.5%	0.0%	3.6%	1.9%	0.0%	4.3%	1.6%
Indian	<i>Count</i>	2	0	2	2	0	2	1	0	1	0	1	1
	<i>Column %</i>	5.9%	0.0%	3.6%	4.7%	0.0%	3.0%	3.9%	0.0%	1.9%	0.0%	2.2%	0.8%
Multiracial/ Other	<i>Count</i>	0	0	0	0	1	1	1	1	2	0	0	0
	<i>Column %</i>	0.0%	0.0%	0.0%	0.0%	4.2%	1.5%	3.9%	3.6%	3.7%	0.0%	0.0%	0.0%
White	<i>Count</i>	22	14	36	24	11	35	14	12	26	37	17	54
	<i>Column %</i>	64.7%	63.6%	64.3%	55.8%	45.8%	52.2%	53.8%	42.8%	48.1%	45.7%	37.0%	42.5%
Unknown/ Refused	<i>Count</i>	1	6	7	4	5	9	3	7	10	33	13	46
	<i>Column %</i>	2.9%	27.3%	12.5%	9.3%	20.8%	13.4%	11.5%	25.0%	18.5%	40.7%	28.3%	36.2%
Total	<i>Count</i>	34	22	56	43	24	67	26	28	54	81	46	127
	<i>Column %</i>	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Figure 3. Self-Reported Race, Years 1 and 2 Combined



Type of Attorney

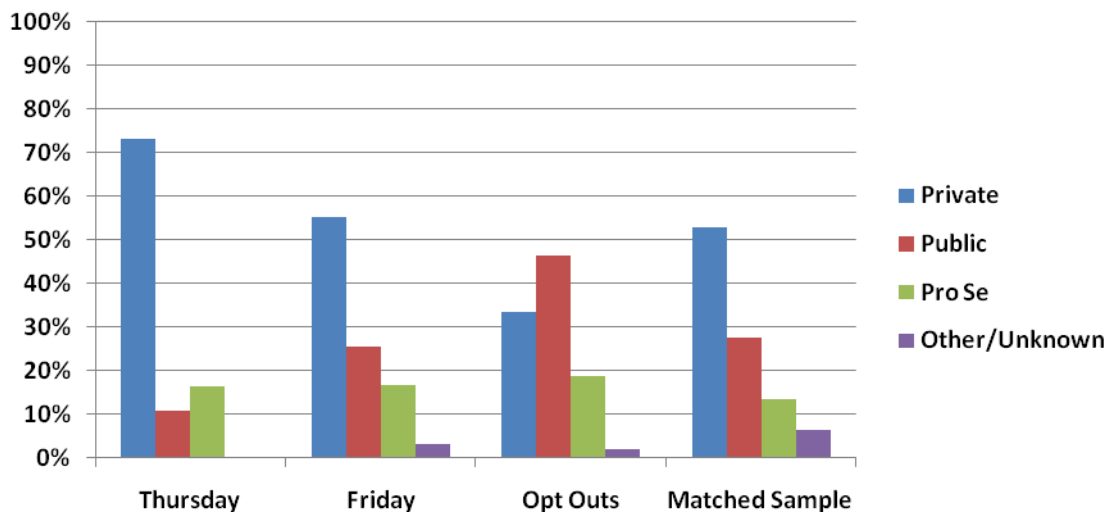
As would be expected, the Thursday DWI Court Group, which included suburban cases in which defendants are typically more affluent, had a higher percentage of private attorneys as compared with court provided public defenders. The Opt Outs were the only one of the four sample groups that had a higher 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 4/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-staffing meetings when the participants' attorneys cannot be present.

Table 4. Type of Attorney

<i>Type of Attorney</i>	Thursday DWI Court			Friday DWI Court			Opt Outs			Matched Sample		
	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Total</i>
Private Attorney	Count 24	Count 17	Count 41	Count 23	Count 14	Count 37	Count 9	Count 9	Count 18	Count 44	Count 23	Count 67
	Column % 70.6%	Column % 77.3%	Column % 73.2%	Column % 53.5%	Column % 58.3%	Column % 55.2%	Column % 34.6%	Column % 32.1%	Column % 33.3%	Column % 54.3%	Column % 50.0%	Column % 52.8%
Public Defender	Count 4	Count 2	Count 6	Count 12	Count 5	Count 17	Count 12	Count 13	Count 25	Count 20	Count 15	Count 35
	Column % 11.8%	Column % 9.1%	Column % 10.7%	Column % 27.9%	Column % 20.8%	Column % 25.4%	Column % 46.2%	Column % 46.4%	Column % 46.3%	Column % 24.7%	Column % 32.6%	Column % 27.5%
Pro Se/ No Attorney	Count 6	Count 3	Count 9	Count 6	Count 5	Count 11	Count 4	Count 6	Count 10	Count 11	Count 6	Count 17
	Column % 17.7%	Column % 13.6%	Column % 16.1%	Column % 14.0%	Column % 20.8%	Column % 16.4%	Column % 15.4%	Column % 21.4%	Column % 18.5%	Column % 13.6%	Column % 13.0%	Column % 13.4%
Other/ Unknown	Count 0	Count 0	Count 0	Count 2	Count 0	Count 2	Count 1	Count 0	Count 1	Count 6	Count 2	Count 8
	Column % 0.0%	Column % 0.0%	Column % 0.0%	Column % 4.7%	Column % 0.0%	Column % 3.0%	Column % 3.9%	Column % 0.0%	Column % 1.9%	Column % 7.4%	Column % 4.4%	Column % 6.3%
Total	Count 34	Count 22	Count 56	Count 43	Count 24	Count 67	Count 26	Count 28	Count 54	Count 81	Count 46	Count 127
	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%	Column % 100.0%

Figure 4. Type of Attorney, Years 1 and 2 Combined



Timing Statistics

Beginning in August 2007, after DWI Court had been in operation for six months, the DWI Court team made the decision to begin provisionally accepting participants into both the Thursday and Friday DWI Court programs. Under this new policy, rather than sentencing individuals prior to their entry into DWI Court, they participate in an approximately one-month evaluation period before sentencing in order to ensure that they are willing to abide by the conditions of DWI Court (see Table 5). For this reason, the average number of days from plea to sentence for DWI Court participants is much longer than for the Opt Outs or the Matched Sample. As shown in Table 6, the Opt Out group is sentenced an average of one week after plea, while the individuals in the Matched Sample generally plead and are sentenced on the same day.

For those DWI Court defendants who completed an evaluation period, the average length of time between plea and sentencing was seven days 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 complete an evaluation period, the average length of time between plea and sentencing was one week for both groups (see Table 7).

Table 5. DWI Court Evaluation Period

Study Group	Completed evaluation period (entered DWI Court August 2007 or after)	No evaluation period (entered DWI Court prior to August 2007)
Thursday DWI Court (n=56)	43 76.8%	13 23.2%
Friday DWI Court (n=67)	37 55.2%	30 44.8%

Table 6. Average Number of Days from Plea to Sentence

	Thursday DWI Court			Friday DWI Court			Opt Outs			Matched Sample		
	<i>Year 1</i>	<i>Year 2</i>	Total	<i>Year 1</i>	<i>Year 2</i>	Total	<i>Year 1</i>	<i>Year 2</i>	Total	<i>Year 1</i>	<i>Year 2</i>	Total
Average Number of Days Plea to Sentence⁸	42	51	47	14	50	29	4	7	7	0	0	0⁹
Number in Sample	n=34	n=22	n=56	n=43	n=24	n=67	n=26	n=26*	n=52*	n=81	n=46	n=127

*Two defendants in the Year 2 Opt Out group have not yet been sentenced.

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

Study Group	Evaluation Period Defendant?	Average Number of Days from Plea to Sentence (median)
Thursday DWI Court group (n=56)	No evaluation period (n=13)	7
	Completed evaluation period (n=43)	50
Friday DWI Court group (n=67)	No evaluation period (n=30)	7
	Completed evaluation period (n=37)	43

⁸ We used the median rather than the 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.

⁹ For the matched sample, nearly every sentence occurred on the same day as that defendant's plea.

Goal 1: Reduce Recidivism

New DWI Charges and Convictions

DWI Court participants had the lowest rates for both new DWI charges and convictions when compared to the Matched Sample and the Opt Outs (see Table 8/Figure 5). Two individuals - slightly less than 2% of all DWI Court participants - were charged with a new DWI between entering DWI Court and the end of the study period (1/18/09). Both were subsequently convicted of a felony DWI and terminated from the DWI Court program.

In contrast, 6% of the Matched Sample and 15% of the Opt Outs were charged with a new DWI after sentencing but before the end of the study period, while nearly 5% of the Matched Sample and 4% of the Opt Outs were convicted. One person charged with a new DWI in the Matched Sample Group was still pending disposition at the end of the study period; the remaining six were charged and subsequently convicted. In the Opt Out Group, six people charged with a new DWI were still pending disposition at the end of the study period while two had been convicted.

Table 8. New DWI Charges and Convictions

<u>Study Group</u>		<i>New DWI Charges¹⁰</i>	<i>New DWI Convictions¹¹</i>
DWI Court Groups (Thursday and Friday Combined) (n=123)	<i>Count</i>	2	2
	<i>% of Group</i>	1.6%	1.6%
Matched Sample (n=127)	<i>Count</i>	7	6
	<i>% of Group</i>	5.5%	4.7%
Opt Outs (n=54)	<i>Count</i>	8	2
	<i>% of Group</i>	14.8%	3.7%

New Driving-Related Charges and Convictions

For driving-related offenses, we included driving without a valid license (Driving After Suspension, Driving After Revocation, and Driving After Cancellation) and violations of limited driver's license conditions.

As shown in Table 9/Figure 5, sixteen DWI Court participants – 13% of participants in the Thursday and Friday Groups combined - were charged with at least one driving-related offense between entering DWI Court and the end of the study period (1/18/09). Most of those charged with a driving violation had only one new offense; however, three participants had two offenses each and one had three offenses. Five participants (4% of the DWI Court Groups) were convicted of at least one new driving-related offense, two had not yet had their cases resolved at the end of the study period, and nine participants had their cases either dismissed or continued for dismissal as long as they fulfilled their commitment to DWI

¹⁰ These data represent new offenses that occurred after sentencing, whether or not they resulted in a conviction before the end of the study period (1/18/09).

¹¹ These data represent new offenses that occurred after sentencing and resulted in a conviction before the end of the study period (1/18/09).

Court. The convicted individuals received jail time or Sentence to Service as a sanction for their offense. It should be noted that new driving-related offenses for those in the DWI Court Group 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 violations while continuing their progress in the program.

The Opt Out Group was charged with new driving-related offenses at the same rate as that of the DWI Court Groups (see Table 9/Figure 5). Seven individuals in the Opt Out Group (13%) were charged with at least one driving-related offense between their sentencing date and the end of the study period. Five of the seven individuals had only one new charged offense, one had two, and one had three. Four people in the Opt Out Group (7%) were convicted of at least one new driving-related offense and three had not yet had their cases resolved at the end of the study period.

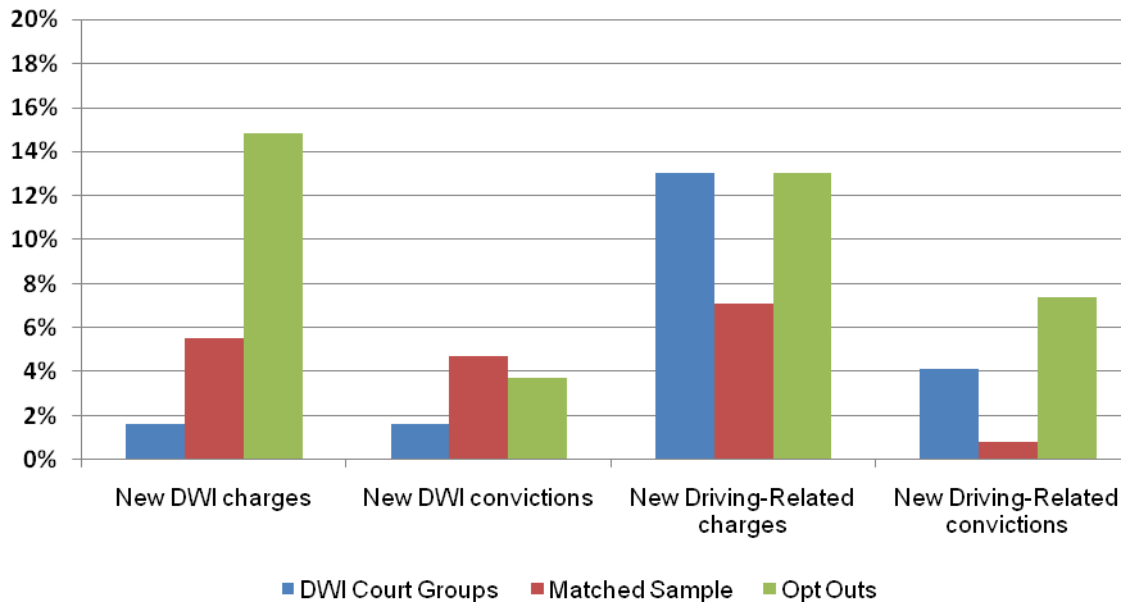
Nine people in the Matched Sample Group were charged with new driving-related offenses between sentencing on their DWI and the end of the study period. One individual had been convicted as of the end of the study period, two had their charges continued for dismissal, three were dismissed, and three had not yet had their cases resolved. An additional five people in the Matched Sample Group were arrested for driving after withdrawal during the study period, although those cases have not been charged in criminal court.

Table 9. New Driving-Related Charges and Convictions¹²

<i>Study Group</i>		<i>Individuals with New Driving- Related Charges</i>	<i>Individuals with New Driving- Related Convictions</i>
DWI Court Groups (Thursday and Friday combined) (n=123)	<i>Count</i>	16	5
	<i>% of Group</i>	13.0%	4.1%
Matched Sample (n=127)	<i>Count</i>	9	1
	<i>% of Group</i>	7.1%	0.8%
Opt Outs (n=54)	<i>Count</i>	7	4
	<i>% of Group</i>	13.0%	7.4%

¹² Only non-alcohol related driving charges and convictions (driving without a valid license and limited license violations) are included here. Driving-related charges and convictions do not include DWI-related offenses, nor any offenses that were pled down from a DWI.

Figure 5. Recidivism: New DWI and Driving-Related Charges and Convictions



In short, at the end of two years of operation the DWI Court Group had lower rates of both new DWI charges and new DWI convictions than either comparison group. *In addition, no graduate has reoffended.* These are the most promising results thus far.

Goal 2: Maintain Defendant Sobriety

For this piece of analysis, we only have data on the two DWI Court Groups, as we can obtain this information 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 DWI Court program participants.

Alcohol and Drug Testing

At each home visit, at the probation officer's discretion during probation appointments, 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. In addition, probation officers can require participants to submit to EtG (Ethyl Glucuronide) testing, which can detect the presence of alcohol in urine for up to eighty hours after use. The data below show the average number of tests per program participant, and of those tests, the percentage of positive readings indicating alcohol or drug use. Participants who test positive for drugs or alcohol are sanctioned by the DWI Court judge – sanctions typically involve being moved back a phase until achieving 90 days of sobriety, attending more frequent AA meetings, completing community service hours, and/or serving time in the Workhouse. (See Appendix A for the full list of possible sanctions).

As shown in Table 10, the average number of tests administered to the Thursday DWI Court Group was lower than that for the Friday Group. This is because we did not have the resources to conduct random home visits for the Thursday Group until December 2007, meaning that the only time those participants were able to be tested was when they came in for probation appointments or court appearances. Since December 2007, we have contracted with the Hennepin County Sheriff's Department to conduct random home visits for the Thursday DWI Court Group, just as the Minneapolis Police Department conducts home visits for the Friday DWI Court Group. The average number of positive tests per person was nearly the same for both groups – Thursday participants had an average of 1.2 positive tests per person, while the Friday participants had an average of 1.5 positive tests per person. Nearly two-thirds (62%) of the Thursday group and more than half (52%) of the Friday group who were tested had zero positive tests. The maximum number of positive tests for one defendant was nine for the Thursday DWI Court Group and seven for the Friday Group.

Table 10. Results of Alcohol and Drug Testing for DWI Court Participants with at Least One Test

Study Group	Average Number of Tests Per Person	Average Number of Positive Tests Per Person	Participants with zero Positive Tests	Participants with at least one Positive Test
Thursday DWI Court Group (n=53)	18.8 (Range: 1 - 84 tests)	1.2 (Range: 1 – 9 positive tests)	33 62.3%	20 37.7%
Friday DWI Court Group (n=65)	29.5 (Range: 1 – 80 tests)	1.5 (Range: 1 – 7 positive tests)	34 52.3%	31 47.7%

During the first two years of DWI Court’s operation, 6% of all tests given to the Thursday DWI Court Group and 5% of those given to the Friday DWI Court Group were positive (see Table 11). These percentages are very similar to those for just Year 2, as well as for Year 1 for the Friday DWI Court Group. However, they are much lower than the percentage for Year 1 for the Thursday Group, when 19% of the tests given were positive. 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 DWI Court’s first year of operation.

In short, it may be that the chance of having law enforcement stop by at any time to conduct a test serves as a deterrent to participants from using alcohol or drugs.

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

	Thursday DWI Court Group			Friday DWI Court Group		
	Year 1	Year 2	Total	Year 1	Year 2	Total
Total Number of Tests Taken	134	864	998	798	1120	1918
Total Number of Positive Tests	25	39	64	55	40	95
Percentage of Tests that were Positive	18.7%	4.5%	6.4%	6.9%	3.6%	5.0%

Alcohol and marijuana (THC) were the two most common chemicals for which respondents tested positive (see Table 12). Of the 159 positive tests, alcohol was present in 71 (45%) and marijuana was present in 66 (42%).

Table 12. Positive Alcohol and Drug Tests - Type of Chemicals

<u>Chemical</u>	<u>Tests in Which Chemical Was Present</u> ¹³
Alcohol <i>Count</i> <i>% of tests</i>	71 44.7%
Marijuana (THC) <i>Count</i> <i>% of tests</i>	66 41.5%
Cocaine <i>Count</i> <i>% of tests</i>	25 15.7%
Other ¹⁴ <i>Count</i> <i>% of tests</i>	3 1.9%

¹³ There were 159 positive tests through Year 2 of DWI Court. Percentages add to greater than 100% due to some respondents testing positive for more than one chemical on a test.

¹⁴ ‘Other’ chemicals: Methamphetamines (n=2), Opiates (n=1)

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. DWI Court participants are ordered by the Court to have Ignition Interlock installed on their vehicle for a minimum of one year. Participants are eligible for Ignition Interlock after a required period of abstinence and successful progress in or completion of a chemical dependency treatment program. The reinstatement fee and all court fines must be paid, and the participant must provide evidence of valid insurance on their vehicle.

Through the second year of the DWI Court program, 27 participants (22%) had Ignition Interlock installed on their vehicles – 15 in the Thursday DWI Court Group and 12 in the Friday Group. Of these, two individuals had alleged violations of the Ignition Interlock. The first individual maintained that they did not use alcohol, but may have used mouthwash which does in fact contain a small amount of alcohol which could be detected on the Interlock device; the second individual did not deny using alcohol. Both individuals were subsequently terminated from DWI Court, due to continued non-compliance with the conditions of the DWI Court program.

When the DWI Court pilot project first began in January 2007, no Ignition Interlock program existed. The 2007 Minnesota Legislature chose two counties, Hennepin and Beltrami, to pilot an Ignition Interlock program. The DWI Court Team worked with the Commissioner of Public Safety to develop acceptable standards and criteria for this pilot project and eligible DWI Court participants began having the device installed in their vehicles in July 2007. As a result of this two-year pilot program conducted in the Hennepin and Beltrami County DWI Courts, the Minnesota Legislature recently enacted a law expanding the Ignition Interlock program statewide; this law will take effect on July 1, 2009.

Goal 3: Increase Compliance with Court Ordered Conditions

Retention Rates and Progression Through DWI Court Phases

One hundred twenty-three individuals have entered the Fourth Judicial District's DWI Court since its inception – 56 in the Thursday DWI Court Group and 67 in the Friday Group. As shown in Table 13, at the end of two years, 84 remain active, 14 have graduated¹⁵, 21 have been terminated, and the remaining 4 are deceased or on suspended status while in jail pending resolution of new charges (non-alcohol, non-driving related).

Active participants are fairly evenly split among the three phases of DWI Court discussed earlier¹⁶ (see page 6 of this report) - 30% are in Phase Three, 40% in Phase Two, and 30% in Phase One or the Evaluation Period (see Table 14).

Table 13. DWI Court Participant Status at End of Year 2

Status		Thursday DWI Court Group	Friday DWI Court Group	DWI Court Groups Combined
Active	<i>Count</i>	44	40	84
	<i>Column %</i>	78.6%	59.7%	68.3%
Graduated	<i>Count</i>	4	10	14
	<i>Column %</i>	7.1%	14.9%	11.4%
Terminated	<i>Count</i>	6	15	21
	<i>Column %</i>	10.7%	22.4%	17.1%
Suspended	<i>Count</i>	2	0	2
	<i>Column %</i>	3.6%	0.0%	1.6%
Deceased	<i>Count</i>	0	2	2
	<i>Column %</i>	0.0%	3.0%	1.6%
Total	<i>Count</i>	56	67	123
	<i>Column %</i>	100.0%	100.0%	100.0%

Table 14. DWI Court Phase for Participants Who Were Active at End of Year 2

Phase		Thursday DWI Court Group	Friday DWI Court Group	DWI Court Groups Combined
Evaluation Period	<i>Count</i>	0	5	5
	<i>Column %</i>	0.0%	12.5%	6.0%
Phase One	<i>Count</i>	12	8	20
	<i>Column %</i>	27.3%	20.0%	23.8%
Phase Two	<i>Count</i>	18	16	34
	<i>Column %</i>	40.9%	40.0%	40.5%
Phase Three	<i>Count</i>	14	11	25
	<i>Column %</i>	31.8%	27.5%	29.8%
Total	<i>Count</i>	44	40	84
	<i>Column %</i>	100.0%	100.0%	100.0%

¹⁵ An additional eighteen participants have graduated as of May 8, 2009.

¹⁶ See page 6 of this report for a description of the three phases of the DWI Court program.

Graduates spent an average of 18.1 months in DWI Court, while terminated participants spent an average of 10.9 months in the program (see Table 15). Nearly 60% of the terminated participants were in Phase One and most others were in Phase Two; one participant was terminated while in Phase Three (see Table 16).

Appendix B lists the reasons for which a defendant may be terminated from DWI Court. Most frequently, defendants were terminated due to failing to comply with program requirements (e.g., failing to attend judicial reviews and/or probation appointments, absconding from court supervision for at least thirty days, failing to be available for home testing) - more than 70% of the terminations were for these reasons. Nearly all of the remaining defendants were terminated due to new felony convictions – two incurred new felony DWI convictions, two incurred new violent offense convictions, and a fifth was sent to prison on a non-violent felony conviction and requested to have his DWI Court sentence executed and served with that prison sentence. Finally, as a result of the DWI Court offense, one defendant was sent to prison on a probation violation in another county and served her Hennepin County DWI Court sentence concurrently.

Table 15. Average Number of Months in DWI Court

	Thursday DWI Court Group	Friday DWI Court Group	DWI Court Groups Combined
Graduates	18.0 months (n=4)	18.3 months (n=10)	18.1 months (n=14)
Terminations	11.3 months (n=6)	10.7 months (n=15)	10.9 months (n=21)

Table 16. DWI Court Phase at Time of Termination

		Thursday DWI Court Group	Friday DWI Court Group	DWI Court Groups Combined
Phase One	<i>Count</i>	4	8	12
	<i>Column %</i>	66.7%	53.3%	57.1%
Phase Two	<i>Count</i>	1	7	8
	<i>Column %</i>	16.7%	46.7%	38.1%
Phase Three	<i>Count</i>	1	0	1
	<i>Column %</i>	16.7%	0.0%	4.8%
Total	<i>Count</i>	6	15	21
	<i>Column %</i>	100.0%	100.0%	100.0%

Treatment and Aftercare Attendance

As a condition of DWI Court, all participants are required to complete chemical dependency treatment. As shown in Table 17, three participants did not enter treatment and nine entered, but failed to complete treatment – all were terminated from DWI Court for non-compliance with multiple DWI Court conditions. All other DWI Court participants either had completed treatment (81%) or were still actively engaged (9%) at the end of Year 2.

Table 17. Chemical Dependency Treatment Status at End of Year 2

		Thursday DWI Court Group	Friday DWI Court Group	DWI Court Groups Combined
Completed	<i>Count</i>	46	54	100
	<i>Column %</i>	82.1%	80.6%	81.3%
Active	<i>Count</i>	7	4	11
	<i>Column %</i>	12.5%	6.0%	8.9%
Failed to complete	<i>Count</i>	3	6	9
	<i>Column %</i>	5.4%	9.0%	7.3%
Did not enter	<i>Count</i>	0	3	3
	<i>Column %</i>	0.0%	4.5%	2.4%
Total	<i>Count</i>	56	67	123
	<i>Column %</i>	100.0%	100.0%	100.0%

Appearances at Judicial Reviews, Probation and Self-Help Groups

Nearly half (47%) of the participants in the combined DWI Court Groups attended all scheduled judicial review hearings (see Table 18). On average, participants missed less than two judicial reviews, with those in the Friday DWI Court being more likely to miss a scheduled review than those in the Thursday Group. Beginning in November 2008, due to an increase in participants missing judicial reviews without being excused by their probation officer, the criteria to advance to a new phase was changed from “approximately six months in each phase” to a specified number of judicial reviews per phase – 26 weekly reviews in Phase One, 13 bi-weekly reviews in Phase Two, and six monthly reviews in Phase Three. For the most part, the individuals who missed court more than once or twice 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.

Table 18. Attendance at Judicial Review Hearings

	Thursday DWI Court Group (n=56)	Friday DWI Court Group (n=67)	DWI Court Groups Combined (n=123)
Average Number of Missed Judicial Reviews	0.9	2.2	1.6
Percent of Participants with Zero Missed Reviews	64.3%	32.8%	47.2%
Percent of Participants with at Least One Missed Review	35.7%	67.2%	52.8%

Conclusions

At the end of two years of operations, preliminary results for the Fourth Judicial District's DWI Court pilot project are promising. More than ten percent of the 123 individuals who entered DWI Court since its inception have graduated from the minimum eighteen-month program, and none have reoffended. Another thirty percent are in the last of the three DWI Court phases and will graduate within the next six months if they continue to comply with court and probation conditions. New DWI charges and convictions are lower than for comparison groups. Many eligible defendants – nearly one-fourth of the DWI Court participants - have had Ignition Interlock installed on their vehicles, are insured, and are driving legally and sober. For the most part, defendants are complying with court-ordered conditions and maintaining sobriety.

Appendix A. Full DWI Court Model

Phase Advancement and Graduation 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 the program is 18 months, with each phase approximately six months in length.

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

Phase One:

- Treatment/AA minimum 3 times weekly
- Sentence to Service (STS)
- Victim Impact Panel (VIP)
- Random alcohol and drug testing
- Enhanced supervision
- Weekly court appearances (mandatory)
- Unannounced home visits by law enforcement and/or probation
- Curfew

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

- 90 days sobriety
- Successful involvement in and/or completion of chemical dependency treatment
- Employed, in school, or actively seeking employment
- Attend court weekly, a minimum of 26 court appearances
- Pay court fees
- Abide by all rules and regulations of the DWI Court program

Phase Two:

- Continuing care in a therapeutic or community based setting
- Bi-weekly court appearances (mandatory)
- Pursue driver's license reinstatement
- Employed, in school, or actively seeking employment
- Random alcohol and drug testing
- Health maintenance/medical compliance
- Enhanced supervision
- Support network meetings
- Comply with ancillary service programming

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

- 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 Three:

- Aftercare
- Employed, in school, or actively seeking employment
- License reinstatement plan
- Random alcohol and drug testing
- Monthly court appearances (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 a minimum of 45 court appearances
- Abide by all rules and regulations of the DWI Court program

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
- Peer review
- Self imposed sanctions
- House arrest
- Extra UA/breath testing
- Increased supervision/court reporting
- Increased community support groups
- Mission Detox or House of Charity
- Emergency Room visit
- Victim Panel
- EHM
- EtG
- SCRAM (Secured Continuous Remote Alcohol Monitor)
- STS
- Detox
- Jail sanctions
- Termination
- Phase regression
- Delay phase progression
- Community work service

Incentives:

- Praise, compliments from the Judge
- Court: All-Star list, early call
- Bus passes
- Gift cards
- Applause/special recognition
- Medallions
- Books/coffee cups/key chains
- Staggered sentencing
- Reduction in sentence
- Decreased supervision/drug testing
- Lift curfew
- Fine reduction
- Phase One completion – gift card
- Phase Two completion – gift card
- Phase Three completion – gift card
- Graduation certificate

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 has a DWI offense combined with fleeing a police officer offense.
3. The offender has a 1st Degree DWI offense.
4. The offender is not mentally competent.
5. The offender is involved in a gang.
6. 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	Terroristic Threats
609.855	Crimes involving transit; shooting at transit vehicle
7. Certain other offenses, such as sex offenses, domestic assaults, weapons, and mental-medical conditions; all decided on a case by case basis by the DWI Court Team.

Termination Criteria

Termination from the DWI Court program shall 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 federal definition
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
5. Participant has violated probation and the court revokes probation and executes the entire sentence

Termination from the program may result from the following situations:

1. Participant leaves the jurisdiction of the court for more than 24 hours without the team's knowledge and consent
2. Participant is repeatedly not available for home checks

If terminated from DWI Court, a participant's entire stayed jail sentence is executed.¹⁷

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. Place the participant on SCRAM and/or other electronic alcohol testing or home monitoring devices

¹⁷ If termination is due to a new DWI conviction, all stayed time will be revoked and served as straight-time; the offender will not be eligible for work release or electronic home monitoring (EHM).