



## FOURTH JUDICIAL DISTRICT

### **Fourth Judicial District DWI Court Pilot Project: Results After Three Years of Operation (2007-2009)**

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June 2010

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## ***DWI Court Pilot – End of Third 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 2<sup>nd</sup> and 3<sup>rd</sup> degree repeat 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.
- This report describes the measurements and outcomes 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 DWI Court participants are 1) individuals who were offered the opportunity to participate in DWI Court but opted for traditional sentencing instead and 2) a random sample of other Fourth Judicial District gross misdemeanor DWI offenders who are not in one of the other two groups, matched to the DWI Court group by location of offense.
- During the first three years of operation, 173 individuals entered DWI Court. Through the end of 2009, 65 participants had graduated from the minimum 18-month program (and an additional nine had graduated as of the end of May 2010). Graduates spent an average of 19.4 months in DWI Court.
- Of the 65 DWI Court graduates, one has been convicted of a new gross misdemeanor DWI, one has been charged with a new felony DWI but the charges were still pending as of the end of 2009, and one was charged with a felony DWI after the end of 2009.
- At the end of three years, 29 participants have been terminated from DWI Court, two are deceased, and one is considered active but with an “on-hold” status due to medical issues. Terminated participants spent an average of 11.4 months in the program, and nearly two-thirds of terminations occurred during the Phase One of the DWI Court program.
- The DWI Court group had lower rates of both new DWI charges and new DWI convictions than either comparison group. However, the DWI Court group was charged with new non-alcohol driving-related offenses at a higher rate than either comparison group, but convicted at the lowest rate. DWI Court dismissed handled many of these non-alcohol driving-related offenses as probation violations and dismissed the new charges or continued them for dismissal.
- On average, DWI Court participants had less than two positive alcohol/drug tests per person.
- During the first three years of DWI Court’s operation, 4% of all alcohol/drug tests given to DWI Court participants were positive. Terminated participants had the highest rates of positive tests and graduates had the lowest rates. Alcohol and marijuana were the two most common chemicals for which respondents tested positive.

## **Table of Contents**

	<b><i>Page Number</i></b>
Executive Summary	2
Introduction	4
DWI Court Model	6
Research Design	8
Demographic Data	9
Gender	9
Age	10
Race	11
Case Timing Statistics	12
Goals and Objectives	
Goal #1: Reduce Recidivism	13
Goal #2: Maintain Defendant Sobriety	17
Goal #3: Increase Compliance with Court Ordered Conditions	20
Conclusions	23
Appendix A. Full DWI Court Model	24
Appendix B. Disqualification and Termination Criteria for DWI Court	27

## **Introduction**

The Fourth Judicial District Adult DWI Court pilot project officially began accepting cases on January 19, 2007.<sup>1</sup> The mission of 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 and outcomes 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

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<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, and the subsequent analyses described in this report focus 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"> <li>1. Portable Breathalyzer Test (PBT) and Urinalysis (UA) results to detect alcohol and drug use</li> <li>2. Ignition interlock results (when appropriate)</li> <li>3. SCRAM/other alcohol monitoring company results (when appropriate)</li> </ol>
Increase compliance with court-ordered conditions	<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>

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

The Fourth Judicial District DWI Court is a voluntary, post-conviction/adjudication program for 2<sup>nd</sup> and 3<sup>rd</sup> Degree repeat 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 older.
3. The offender must have a chemical health assessment by a licensed chemical health professional, that indicates the offender is a substance abuser or chemically dependent.
4. The offender must be arrested and charged in Hennepin County.
5. The offender must complete an orientation and screening and voluntarily agree to participate in the program.

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

### ***DWI Court Evaluation Phase***

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

### ***DWI Court Phases***

The DWI Court program consists of three phases, with each phase approximately six months in length. During 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, required court appearances are reduced to bi-weekly reviews; participants must attend at least thirteen reviews before they are eligible to move to Phase Three. 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 from alcohol and drugs.

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<sup>2</sup> 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> Developed from federal grant guidelines and collaboration among DWI Court team members.

### ***DWI Court Participation and Termination***

Participation in DWI Court is voluntary. Prior to February 19<sup>th</sup>, 2009, defendants could request termination from the DWI Court program and have their sentences executed at any time. Typically, a participant who requested termination from the program was ordered to serve the “alternative jail sentence”, or mandatory minimum jail time ordered at sentencing. However, for participants admitted after February 19<sup>th</sup>, 2009, a request for termination from the program results in execution of the entire stayed jail sentence. Once a defendant voluntarily enters DWI Court, 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.

### ***Law Enforcement Home Visits***

During the first year of DWI Court, the primary difference in services provided between the pilot program participants arrested within the city of Minneapolis and those arrested in the suburbs was that the suburban cases did not receive home visits from a DWI Court law enforcement officer. Since that time, however, DWI Court has discontinued separation of the Minneapolis and suburban cases by court calendar and all participants are subject to random home visits by law enforcement. Law enforcement officers visit defendants’ homes at various, unannounced times and require them to take an alcohol breathalyzer test and/or provide a urinalysis sample to test for drug use. Results are reported to the participants’ probation officers, and to the judge for sanctioning if a test is positive for alcohol and /or drugs. The purpose of these home visits is to ensure that defendants maintain sobriety, as stated in Goal #2 (above).

### ***Curfew Requirements***

Since October 2008, all newly entering DWI Court participants are placed on a curfew 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. Participants may be sanctioned by the judge for noncompliance with the curfew order.

## **Research Design**

Because the Fourth Judicial District's 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 use a quasi-experimental design by creating two naturally-occurring comparison groups to measure outcomes against our DWI Court participants.

For measurements related to Goal 1, reducing recidivism, we use two comparison groups consisting of (1) individuals who had the opportunity to participate in DWI Court but chose not to take part (henceforth called "Opt Outs"), and (2) a random sample of all other individuals convicted of gross misdemeanor DWIs and sentenced during the same time period as the first three years of DWI Court's operation (January 19, 2007 – December 31, 2009), matched to the DWI Court group according to the location of their offense (henceforth called "Matched Sample").<sup>4</sup> The primary difference between the two comparison groups is that individuals in the Opt Out group could have participated in DWI Court but chose traditional sentencing instead, whereas those in the Matched Sample group were never given the opportunity to participate.<sup>5</sup>

Due to the nature of a pilot project, we were able to collect a wealth of data on participants in the DWI Court group which is unavailable 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.

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<sup>4</sup> The comparison groups are slightly different from what was proposed in the original research design because only defendants arrested and charged within the city of Minneapolis were eligible for DWI Court under the original grant. Because individuals arrested for 2<sup>nd</sup> and 3<sup>rd</sup> Degree DWIs anywhere in Hennepin County are now eligible for DWI Court, we stratify the matched sample to have equivalent percentages of defendants from each of the localities where the DWI Court participants were arrested. These locations break out as 40% Minneapolis, 22% State Patrol, and 38% everyone else.

<sup>5</sup> Typically because they were not aware it existed, and/or their attorneys did not recommend they participate.



### Demographic Data

During the first three years, 173 individuals entered the DWI Court program. The following data compares their demographic characteristics to those of the Opt Outs and the Matched Sample. In general, DWI offenders tend to be predominantly white, male, and middle-aged. Our three study groups generally fall in line with these parameters; exceptions are noted below.

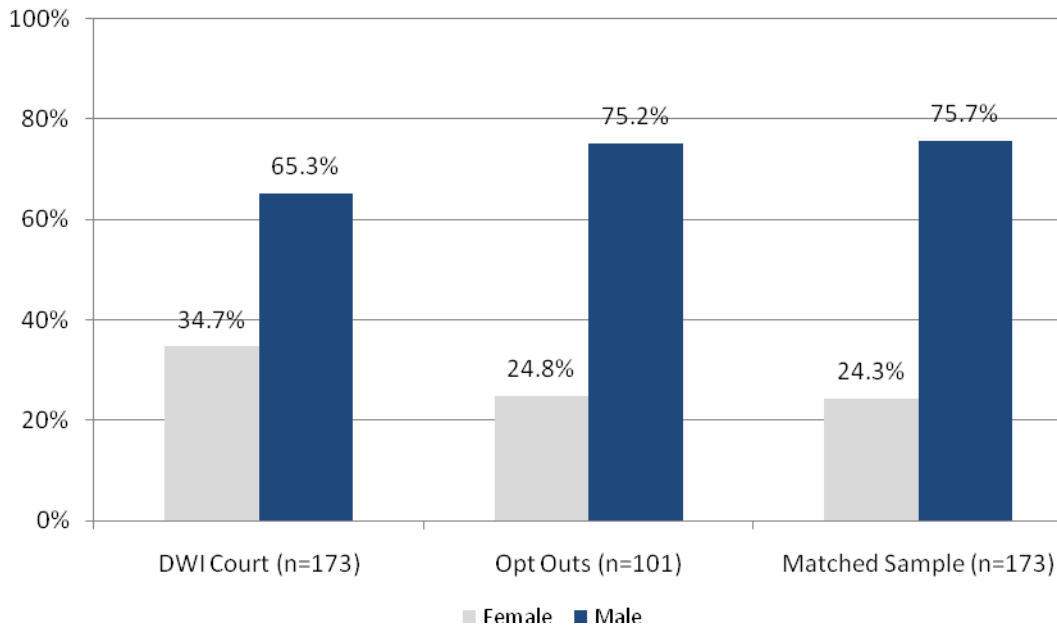
#### **Gender**

Table 1 compares DWI Court participants to the Opt Outs and Matched Sample according to gender. Nearly two-thirds of the DWI Court Group is male, while approximately three-fourths of both the Opt Out group and the Matched Sample are male.

**Table 1. Gender by Year Sentenced**

<b>Gender</b>	<b>DWI Court</b>				<b>Opt Outs</b>				<b>Matched Sample</b>			
	2007	2008	2009	<b>Total</b>	2007	2008	2009	<b>Total</b>	2007	2008	2009	<b>Total</b>
<b>Female</b>	Count 23	15	22	<b>60</b>	8	7	10	<b>25</b>	11	15	16	<b>42</b>
	Column % 29.9%	32.6%	44.0%	<b>34.7%</b>	30.8%	25.0%	21.3%	<b>24.8%</b>	18.0%	27.3%	28.1%	<b>24.3%</b>
<b>Male</b>	Count 54	31	28	<b>113</b>	18	21	37	<b>76</b>	50	40	41	<b>131</b>
	Column % 70.1%	67.4%	56.0%	<b>65.3%</b>	69.2%	75.0%	78.7%	<b>75.2%</b>	82.0%	72.7%	71.9%	<b>75.7%</b>
<b>Total</b>	Count 77	46	50	<b>173</b>	26	28	47	<b>101</b>	61	55	57	<b>173</b>
	Column % 100.0%	100.0%	100.0%	<b>100.0%</b>	100.0%	100.0%	100.0%	<b>100.0%</b>	100.0%	100.0%	100.0%	<b>100.0%</b>

**Figure 1. Gender by Year Sentenced, Total 2007-2009**



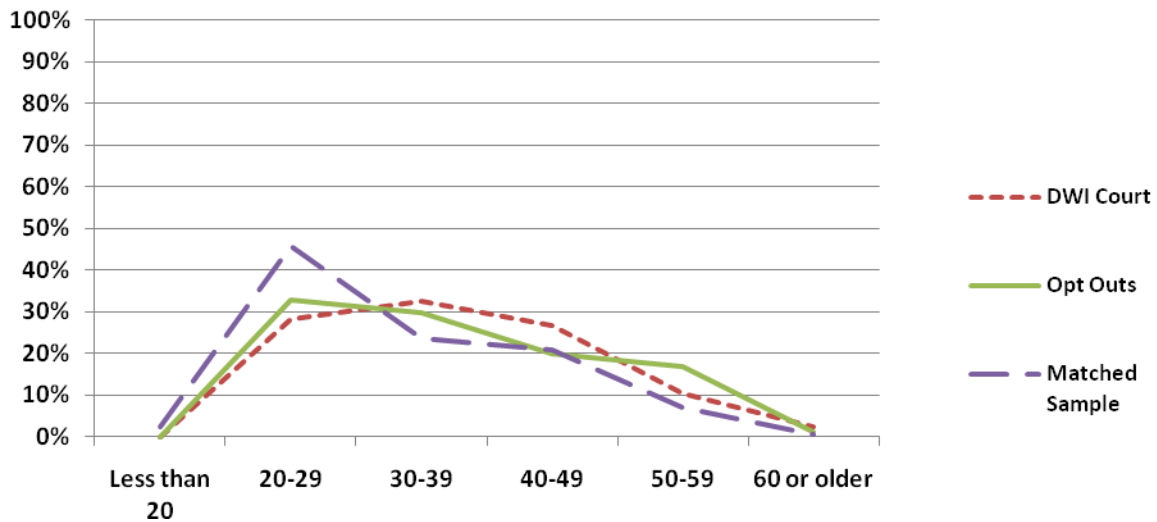
## Age

Table 2 compares DWI Court participants to the Opt Outs and Matched Sample according to age. At the time of sentencing, defendants in the Matched Sample were on average four years younger than those in either the DWI Court group or the Opt Out group.

**Table 2. Average Age at Sentencing**

	DWI Court				Opt Outs				Matched Sample			
	2007	2008	2009	Total	2007	2008	2009	Total	2007	2008	2009	Total
<b>Average Age at Sentencing</b>	36.9	36.2	39.0	<b>37.3</b>	37.4	38.5	35.3	<b>36.7</b>	33.2	33.9	32.9	<b>33.3</b>
<b>Number of Participants</b>	N=77	N=46	N=50	<b>N=173</b>	N=26	N=28	N=47	<b>N=101</b>	N=61	N=55	N=57	<b>N=173</b>

**Figure 2. Age at Sentencing, Total 2007-2009**

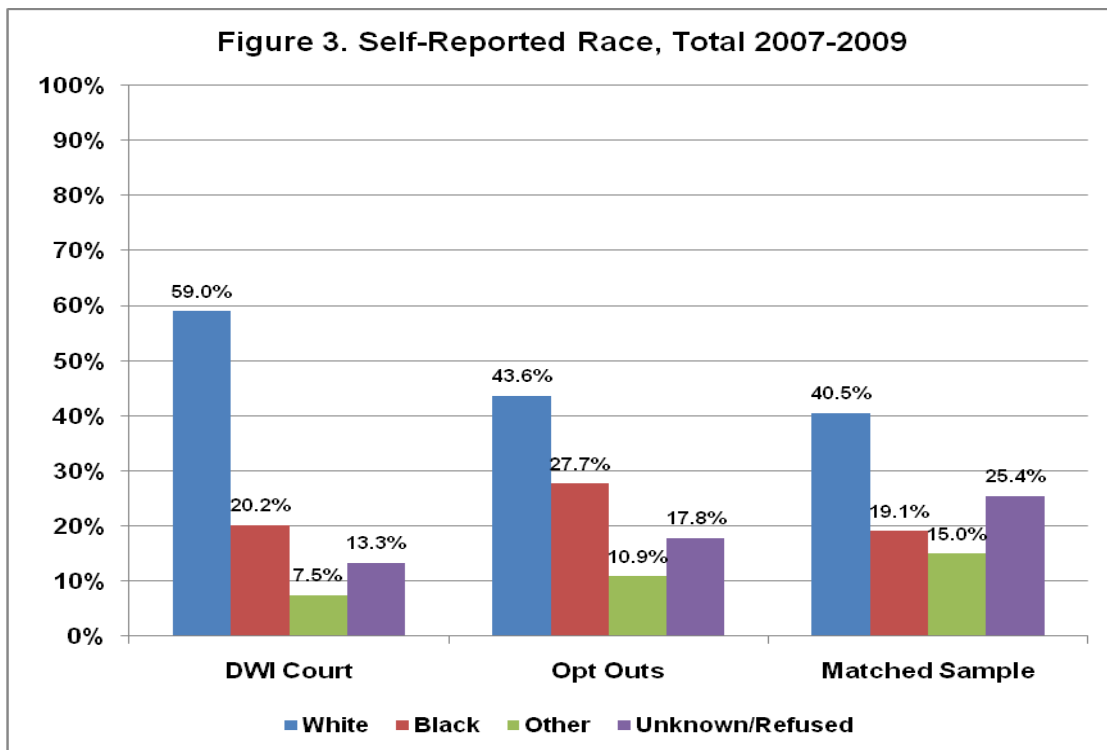


## Race

Table 3 compares DWI Court participants to the Opt Outs and Matched Sample according to race. Of the three groups, the DWI Court group has the highest percentage of white defendants, while the Opt Out group has the highest percentage of black defendants. A significant number of individuals are identified as unknown or refused in MNCIS, the court's information system, suggesting that self-reported race is not being collected as routinely as it should be when people come to court for their first appearance.

**Table 3. Self-Reported Race by Year Sentenced**

<b>Race</b>		<b>DWI Court</b>				<b>Opt Outs</b>				<b>Matched Sample</b>			
		<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
<b>White</b>	<i>Count</i> <i>Column %</i>	45 58.4%	26 56.5%	31 62.0%	<b>102</b> <b>59.0%</b>	14 53.9%	12 42.9%	18 38.3%	<b>44</b> <b>43.6%</b>	23 37.7%	21 38.2%	26 45.6%	<b>70</b> <b>40.5%</b>
<b>Black</b>	<i>Count</i> <i>Column %</i>	19 24.7%	8 17.4%	8 16.0%	<b>35</b> <b>20.2%</b>	7 26.9%	7 25.0%	14 29.8%	<b>28</b> <b>27.7%</b>	12 19.7%	10 18.2%	11 19.3%	<b>33</b> <b>19.1%</b>
<b>Other<sup>6</sup></b>	<i>Count</i> <i>Column %</i>	7 9.1%	2 4.4%	4 8.0%	<b>13</b> <b>7.5%</b>	3 11.5%	2 7.1%	6 12.8%	<b>11</b> <b>10.9%</b>	10 16.4%	9 16.3%	7 12.3%	<b>26</b> <b>15.0%</b>
<b>Unknown/Refused</b>	<i>Count</i> <i>Column %</i>	6 7.8%	10 21.7%	7 14.0%	<b>23</b> <b>13.3%</b>	2 7.7%	7 25.0%	9 19.1%	<b>18</b> <b>17.8%</b>	16 26.2%	15 27.3%	13 22.8%	<b>44</b> <b>25.4%</b>
<b>Total</b>	<i>Count</i> <i>Column %</i>	77 100.0%	46 100.0%	50 100.0%	<b>173</b> <b>100.0%</b>	26 100.0%	28 100.0%	47 100.0%	<b>101</b> <b>100.0%</b>	61 100.0%	55 100.0%	57 100.0%	<b>173</b> <b>100.0%</b>



<sup>6</sup> Includes those who self-reported being Asian, Hispanic, Native American, Multiracial, and 'Other'.

### Case Timing Statistics

When DWI Court began in January 2007, there was no provisional acceptance period – defendants pled and were sentenced before they entered the DWI Court program. In order to give the DWI Court team time to evaluate defendants in order to ensure they met DWI Court criteria<sup>7</sup>, and so that defendants had time to consider whether they were willing to abide by the rigorous demands of DWI Court<sup>8</sup>, a one-month pre-sentence evaluation period was instituted in August 2007. In January 2009, the DWI Court team further shortened the pre-sentence evaluation period to two weeks<sup>9</sup>. For this reason, the average number of days from plea to sentence for DWI Court participants was much longer during the one-month evaluation period (see Table 4).

**Table 4. Average Number of Days from Plea to Sentence for DWI Court Group**

<i>Length of Evaluation Period</i>	<i>Date Referred to DWI Court</i>	<i>Average Number of Days from Plea to Sentence (median)<sup>10</sup></i>
No evaluation period (n=40)	January 2007 – July 2007	<b>7</b>
Approximately one-month evaluation period (n=84)	August 2007 – December 2008	<b>45</b>
Two-week evaluation period (n=49)	January 2009 – December 2009	<b>15</b>

In addition, the average number of days from plea to sentencing for DWI Court participants is much longer than for the Opt Outs or the Matched Sample. As shown in Table 5, over the first three years of DWI Court’s operation, DWI Court defendants were sentenced approximately one month after plea, and two weeks after plea since inception of the shortened evaluation period in 2009. In comparison, those in the Opt Out group were sentenced an average of one week after plea, while the individuals in the Matched Sample generally pled and were sentenced on the same day.

**Table 5. Average (Median) Number of Days from Plea to Sentence**

<i>Year Sentenced</i>	<i>DWI Court</i>	<i>Opt Outs</i>	<i>Matched Sample</i>
2007	16 (n=77)	4 (n=26)	0 (n=61)
2008	50 (n=46)	7 (n=26*)	0 (n=55)
2009	15 (n=50)	7 (n=44*)	0 (n=57)
<b>Overall 2007-2009</b>	<b>28</b> <b>(n=173)</b>	<b>7</b> <b>(n=96*)</b>	<b>0</b> <b>(n=173)</b>

\*Two defendants in the Year 2 Opt Out group and three in the Year 3 Opt Out group have not yet been sentenced.

<sup>7</sup> A criminal history check, Pre-Sentence Investigation, and chemical health assessment are conducted to determine whether defendants meet DWI Court criteria (see p. 6 for list of criteria).

<sup>8</sup> Defendants attend an orientation, observe DWI Court, and take time to consider whether they are willing to abide by DWI Court conditions.

<sup>9</sup> Sentencing is set for two weeks after plea and at this time a defendant either accepts/is accepted by DWI Court or is sentenced to traditional probation.

<sup>10</sup> 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 more than the median, leading to an unrepresentative ‘average’ time.

## **Goal 1: Reduce Recidivism**

### **New DWI Charges and Convictions**

#### ***DWI Court Group***

As shown in Table 6, the DWI Court group had the lowest rate of both new DWI charges and convictions, compared to the Matched Sample and Opt Outs. Seven of the 173 DWI Court participants (4%) were charged with a new DWI between their acceptance date and the end of the study period (12/31/09). Of these seven individuals, five were subsequently convicted – two for felony DWI and three for gross misdemeanor DWI, resulting in a 3% recidivism rate.<sup>11</sup> Two individuals still had their charges pending at the end of Year 3.

*Of the five convicted individuals, three were active participants at the time they got the new DWI charge, one was a recent graduate of the program<sup>12</sup>, and two had previously been terminated from DWI Court. Both of the participants who reoffended while active in DWI Court were terminated as a result.*

#### ***Matched Sample and Opt Outs***

In contrast, fifteen individuals in the Matched Sample (9%) and twelve of the Opt Outs (12%) were charged with a new DWI after sentencing but before the end of the study period (see Table 7). Of the fifteen individuals in the Matched Sample charged with a new DWI, fourteen were subsequently convicted; of the twelve charged Opt Outs, eight were convicted. This resulted in a convicted recidivism rate of 8% for both groups.

One individual in the Matched Sample was charged with a new DWI but that charge was dismissed. For the Opt Outs, one person had his DWI charge dismissed and three still had their charges pending at the end of the study period.

**Table 6. New DWI Charges and Convictions**

<b><u>Study Group</u></b>		<b><i>New DWI Charges<sup>13</sup></i></b>	<b><i>New DWI Convictions<sup>14</sup></i></b>
DWI Court Group	<i>Count</i>	7	5
(n=173)	<i>% of Group</i>	4.0%	2.9%
Opt Outs	<i>Count</i>	12	8
(n=101)	<i>% of Group</i>	11.9%	7.9%
Matched Sample	<i>Count</i>	15	14
(n=173)	<i>% of Group</i>	8.7%	8.1%

<sup>11</sup> For this annual report, time to recidivism was not standardized. When at least 100 individuals have graduated or been terminated from DWI Court and have had at least 12 months of “street time”, a full recidivism study, with a standardized 12-month recidivism window, will be completed

<sup>12</sup> One additional graduate was charged with a new felony DWI, but that charge was still pending at the end of Year 3. A third graduate was charged with a felony DWI after the end of Year 3.

<sup>13</sup> These data represent new offenses that occurred after sentencing, whether or not they resulted in a conviction before the end of the study period (12/31/09).

<sup>14</sup> These data represent new offenses that occurred after sentencing and resulted in a conviction before the end of the study period (12/31/09).

## New Driving-Related Charges and Convictions

In addition to analyzing new DWI charges and convictions, we also examined new driving-related charges and convictions for the three study groups. The following driving-related offenses were included in the analysis: driving without a valid license (Driving After Withdrawal, Driving After Suspension, Driving After Revocation, and Driving After Cancellation), and violations of limited driver's license conditions.

### ***DWI Court Group***

As shown in Table 7, twenty-eight of the DWI Court participants (16%) received at least one driving-related charge between entering DWI Court and the end of the study period (12/31/09). Seven of these individuals were convicted as of the end of Year 3, resulting in a recidivism rate of 4%.<sup>15</sup> Eight people had not yet had their cases resolved at the end of the study period and thirteen had their cases either dismissed or continued for dismissal as long as they fulfilled their commitment to DWI Court.

More than two-thirds of the DWI Court participants charged with a driving-related offense had only one new charge; however, nine people had multiple violations, ranging from two to six driving-related charges. New driving-related offenses for individuals active in DWI Court were, for the most part, handled as part of the defendants' overall DWI Court participation - sanctioned as probation violations, but continued for dismissal or 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.

### ***Matched Sample***

Twenty-six people in the Matched Sample (15%) received at least one new driving-related charge between sentencing on the DWI that placed them in the sample group and the end of the study period. Ten of these individuals were convicted as of the end of the study period, resulting in a recidivism rate of 6% (see Table 7).<sup>16</sup> Twelve people had their charges dismissed/continued for dismissal and four had not yet had their cases resolved by the end of 2009. An additional three 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.

More than three-fourths (77%) of the individuals in the Matched Sample charged with a driving-related offense had only one new charge; however, six people had multiple violations, ranging from two to six driving-related charges.

### ***Opt Out Group***

Of the three sample groups, the Opt Out group had the lowest rate of new driving-related charges, but the highest rate of convictions (see Table 7). Fourteen individuals in the Opt Out group (14%) had at least one new driving-related charge between their sentencing date and the end of the study period. Eight of these individuals were convicted as of the end of the study period, resulting in a recidivism rate

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<sup>15</sup> For this annual report, time to recidivism was not standardized. When at least 100 individuals have graduated or been terminated from DWI Court and have had at least 12 months of "street time", a full recidivism study, with a standardized 12-month recidivism window, will be completed.

<sup>16</sup> Ibid.

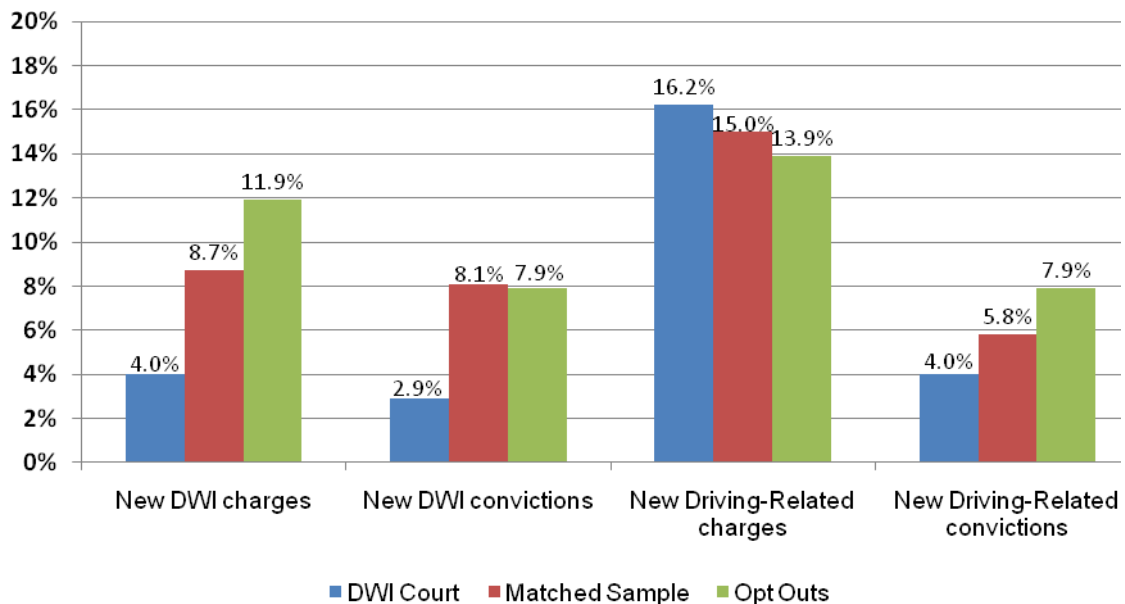
of 8%.<sup>17</sup> Three people had their charges dismissed and three had not yet had their cases resolved by the end of the study period.

Nearly three-fourths (71%) of the individuals in the Opt Out group charged with a driving-related offense had only one new charge; however four people had multiple violations, ranging from two to four new driving-related charges.

**Table 7. New Driving-Related Charges and Convictions<sup>18</sup>**

<b><i>Study Group</i></b>		<b><i>Individuals with New Driving- Related Charges</i></b>		<b><i>Individuals with New Driving- Related Convictions</i></b>	
DWI Court Group (n=173)	<i>Count</i>	28		7	
	<i>% of Group</i>	16.2%		4.0%	
Matched Sample (n=173)	<i>Count</i>	26		10	
	<i>% of Group</i>	15.0%		5.8%	
Opt Outs (n=101)	<i>Count</i>	14		8	
	<i>% of Group</i>	13.9%		7.9%	

**Figure 4. Recidivism: New DWI and Driving-Related Charges and Convictions, Total 2007-2009**



<sup>17</sup> For this annual report, time to recidivism was not standardized. When at least 100 individuals have graduated or been terminated from DWI Court and have had at least 12 months of “street time”, a full recidivism study, with a standardized 12-month recidivism window, will be completed.

<sup>18</sup> 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.

***In short, at the end of three 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, only two graduates have been charged with a new DWI offense, and through the first three years of DWI Court, only one graduate was convicted of a new DWI.***



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

For this piece of analysis, we report data solely on the DWI Court group. Because they receive law enforcement home visits, the DWI Court group is subject to much more intensive supervision and more frequent alcohol/drug testing. The Opt Outs and Matched Sample group are subject to traditional sentencing, which does not include law enforcement home visits. We collected information on defendant sobriety directly from the probation officers who work with the DWI Court 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 that can detect the presence of alcohol in urine for up to eighty hours after use.

During the first three years of DWI Court's operation, 4% of all tests given to the DWI Court Group as a whole were positive (see Table 8). Terminated participants had a much higher percentage of positive tests (11% of all tests taken) than graduates (3% of all tests) or participants active as of the end of Year 3 (4% of all tests).

**Table 8. Positive Alcohol and Drug Tests as a Percentage of Total Tests Taken, 2007-2009**

	<i>Active</i> (n=76)	<i>Graduates</i> (n=65)	<i>Terminations</i> (n=29)	<b><i>Total</i></b> <b>(n=170)<sup>19</sup></b>
Total Number of Tests Taken	3,644	2,282	690	<b>6,616</b>
Total Number of Positive Tests	144	76	73	<b>293</b>
Percentage of Tests that were Positive	4.0%	3.3%	10.6%	<b>4.4%</b>

Table 9 presents the average number of tests per DWI Court 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 another 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).

The DWI Court group received an average of 39.2 random alcohol and drug tests per person, with an average of 1.7 positive tests per person. Slightly more than half the participants (52%) never had a positive alcohol or drug test while participating in DWI Court. Examining the average number of tests broken out by graduates, terminations, and those still active at the end of Year 3, graduates had the lowest average number of positive tests per person (1.2), as well as the lowest percentage of participants with any positive tests (37%). Terminated participants had the highest average number of positive tests per person (2.5) as well as the highest percentage of participants with any positive tests (69%).

<sup>19</sup> Deceased participants (n=2) and Active-On Hold participants (n=1) were removed from this analysis.

**Table 9. Results of Random Alcohol and Drug Testing for DWI Court Group, 2007-2009**

<b>Group</b>	<b>Average Number of Tests Per Person</b>	<b>Average Number of Positive Tests Per Person</b>	<b>Participants with zero Positive Tests</b>	<b>Participants with at least one Positive Test</b>
<b>Overall (n=170)<sup>20</sup></b>	<b>39.2</b> <i>(Range: 1 - 146 tests)</i>	<b>1.7</b> <i>(Range: 0 – 20 positive tests)</i>	<b>88</b> <b>51.8%</b>	<b>82</b> <b>48.2%</b>
Graduates (n=65)	35.7 <i>(Range: 1 – 126 tests)</i>	1.2 <i>(Range: 0 – 12 positive tests)</i>	41 63.1%	24 36.9%
Terminations (n=29)	23.8 <i>(Range: 1 – 77 tests)</i>	2.5 <i>(Range: 0 – 7 positive tests)</i>	9 31.0%	20 69.0%
Active (n=76)	48.0 <i>(Range: 5 – 146 tests)</i>	1.9 <i>(Range: 0 – 20 positive tests)</i>	38 50.0%	38 50.0%

Overall, alcohol and marijuana (THC) were the two most common chemicals for which respondents tested positive (see Table 10). Of the 293 positive tests, alcohol was present in 126 (43%) and marijuana was present in 101 (35%). Terminated participants tested positive for alcohol and cocaine more often than graduates or participants still active at the end of Year 3. Graduates tested positive for marijuana more often than did terminations or those still active at the end of Year 3.

**Table 10. Positive Alcohol and Drug Tests - Type of Chemicals, 2007-2009**

<b><u>Chemical</u></b>	<b><u>Tests in Which Chemical Was Present<sup>21</sup></u></b>			
	<b>Active (n=76)</b>	<b>Graduates (n=65)</b>	<b>Terminations (n=29)</b>	<b>Total (n=170)<sup>22</sup></b>
	<b>-144 positive tests-</b>	<b>-76 positive tests-</b>	<b>-73 positive tests-</b>	<b>-293 positive tests-</b>
Alcohol	Count 61 % of positive tests 42.4%	Count 26 % of positive tests 34.2%	Count 39 % of positive tests 53.4%	Count 126 % of positive tests 43.0%
Marijuana (THC)	Count 43 % of positive tests 29.9%	Count 42 % of positive tests 55.3%	Count 16 % of positive tests 21.9%	Count 101 % of positive tests 34.5%
Cocaine	Count 19 % of positive tests 13.2%	Count 8 % of positive tests 10.5%	Count 17 % of positive tests 23.3%	Count 44 % of positive tests 15.0%
Other* <sup>23</sup>	Count 22 % of positive tests 15.3%	Count 1 % of positive tests 1.3%	Count 3 % of positive tests 4.1%	Count 26 % of positive tests 8.8%

\* Small numbers – interpret with caution

<sup>20</sup> Deceased participants (n=2) and Active-On Hold participants (n=1) were removed from this analysis.

<sup>21</sup> Column percentages add to greater than 100% due to some respondents testing positive for more than one chemical on a single test.

<sup>22</sup> Deceased participants (n=2) and Active-On Hold participants (n=1) were removed from this analysis.

<sup>23</sup> Other chemicals: PCP, opiates, methamphetamines, and benzodiazepines.

## ***Ignition Interlock***

Ignition Interlock is a device installed in an individual's car that permits him or her 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 exhale 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. In addition, the participant must pay all reinstatement fees/court fines and provide evidence of valid insurance on the vehicle.

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, the Minnesota Legislature enacted a law expanding the Ignition Interlock program statewide; this law took effect on July 1, 2009.

As shown in Table 11, through the third year of the DWI Court program, 55 participants (32%) had Ignition Interlock installed on their vehicles. Of these 55 participants with Ignition Interlock, nearly one-third (29%) were still active in DWI Court at the end of Year 3, almost half had graduated (48%), and a small number had been terminated from the program (7%).

Ignition Interlock results indicate that two individuals had alleged violations. 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 that 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.

**Table 11. Interlock Status at End of Year 3**

		<b>Status</b>			
<b><u>On Interlock?</u></b>		<b>Active</b>	<b>Graduated</b>	<b>Terminated</b>	<b>Total</b>
<b>Yes</b>	<i>Count</i>	22	31	2	<b>55</b>
	<i>Column %</i>	28.9%	47.7%	6.9%	<b>32.4%</b>
<b>No</b>	<i>Count</i>	54	34	27	<b>115</b>
	<i>Column %</i>	71.1%	52.3%	93.1%	<b>67.6%</b>
<b>Total</b>	<i>Count</i>	76	65	29	<b>170</b>
	<i>Column %</i>	100.0%	100.0%	100.0%	<b>100.0%</b>

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

**Retention Rates and Progression through DWI Court Phases**

One hundred seventy-three individuals entered the Fourth Judicial District’s DWI Court during the first three years of the program (2007-2009). As shown in Table 12, at the end of three years, 76 (44%) are currently active in DWI Court, 65 (38%) graduated<sup>24</sup>, 29 (17%) were terminated, and three (2%) are deceased or on suspended status while dealing with medical issues.

Table 13 depicts the number and percent of participants within each phase at the end of Year 3. Of the 76 individuals currently active in DWI Court at the end of Year 3, 43% were in Phase One, 42% in Phase Two, and 15% were in Phase Three.<sup>25</sup>

**Table 12. DWI Court Participant Status at End of Year 3**

<b>Status</b>		<b>DWI Court Group</b>
<b>Active</b>	<i>Count</i>	76
	<i>Column %</i>	43.9%
<b>Graduated</b>	<i>Count</i>	65
	<i>Column %</i>	37.6%
<b>Terminated</b>	<i>Count</i>	29
	<i>Column %</i>	16.8%
<b>Active-On Hold</b>	<i>Count</i>	1
	<i>Column %</i>	0.6%
<b>Deceased</b>	<i>Count</i>	2
	<i>Column %</i>	1.1%
<b>Total</b>	<i>Count</i>	173
	<i>Column %</i>	100.0%

**Table 13. DWI Court Phase for Participants Who Were Active at End of Year 3**

<b>Phase</b>		<b>DWI Court Group</b>
<b>Phase One</b>	<i>Count</i>	33
	<i>Column %</i>	43.4%
<b>Phase Two</b>	<i>Count</i>	32
	<i>Column %</i>	42.1%
<b>Phase Three</b>	<i>Count</i>	11
	<i>Column %</i>	14.5%
<b>Total</b>	<i>Count</i>	76
	<i>Column %</i>	100.0%

<sup>24</sup> An additional nine participants graduated as of May 31, 2010.

<sup>25</sup> See page 6 of this report for a description of the three phases of the DWI Court program.

### ***Average Program Length***

Graduates spent on average 19.4 months in DWI Court, while terminated participants spent on average 11.4 months in the program (see Table 14).

**Table 14. Average Number of Months in DWI Court**

	<b>DWI Court Group</b>
<b>Graduates</b>	19.4 months (n=65)
<b>Terminations</b>	11.4 months (n=29)

### ***Termination from DWI Court***

Nearly two-thirds (62%) of the terminated participants were in Phase One when they were terminated and most other terminated participants were in Phase Two (see Table 15). Termination from DWI Court only occurs if a defendant requests execution of his or her sentence or after the DWI Court team determines that all other options have been exhausted.

Appendix B lists the reasons that a defendant may be terminated from DWI Court. The most frequent reasons for termination from DWI Court included: repeatedly 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, and/or inability to abstain from drugs or alcohol. Most other defendants were terminated due to new felony convictions – three incurred new felony DWI convictions, two incurred new violent felony offense convictions, and two were sent to prison on non-violent felony convictions.

**Table 56. DWI Court Phase at Time of Termination**

		<b>DWI Court Group</b>
<b>Phase One</b>	<i>Count</i>	18
	<i>Column %</i>	62.1%
<b>Phase Two</b>	<i>Count</i>	9
	<i>Column %</i>	31.0%
<b>Phase Three</b>	<i>Count</i>	2
	<i>Column %</i>	6.9%
<b>Total</b>	<i>Count</i>	29
	<i>Column %</i>	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 16, all but three DWI Court participants did enter treatment. The three who failed to enter were terminated from DWI Court before they could begin treatment. Of the 170 participants who entered treatment, twelve failed to complete it due to non-compliance with DWI Court conditions and medical issues. All other DWI Court participants either completed treatment (82%) or were still actively engaged in treatment (9%) at the end of Year 3.

**Table 16. Chemical Dependency Treatment Status at End of Year 3**

		<b>Active/Active-On Hold</b>	<b>Graduated</b>	<b>Terminated/Deceased</b>	<b>Total</b>
<b>Completed</b>	<i>Count</i>	60	65	17	<b>142</b>
	<i>Column %</i>	77.9%	100.0%	54.8%	<b>82.1%</b>
<b>Active</b>	<i>Count</i>	16	0	0	<b>16</b>
	<i>Column %</i>	20.8%	0.0%	0.0%	<b>9.2%</b>
<b>Failed to complete</b>	<i>Count</i>	1	0	11	<b>12</b>
	<i>Column %</i>	1.3%	0.0%	35.5%	<b>6.9%</b>
<b>Did not enter</b>	<i>Count</i>	0	0	3	<b>3</b>
	<i>Column %</i>	0.0%	0.0%	9.7%	<b>1.7%</b>
<b>Total</b>	<i>Count</i>	77	65	31	<b>173</b>
	<i>Column %</i>	100.0%	100.0%	100.0%	<b>100.0%</b>

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

Due to an increase in participants missing judicial reviews, in November of 2008 the DWI Court team changed the criteria to advance to a new phase. The initial criteria of advancement occurring after “approximately six months in each phase” was changed to a require a specific number of judicial review appearances per phase: 26 weekly reviews in Phase One, 13 bi-weekly reviews in Phase Two, and 6 monthly reviews in Phase Three.

As shown in Table 17, during the first three years of DWI Court’s operation, nearly half (48%) of the DWI Court participants attended all scheduled judicial review hearings.<sup>26</sup> On average, participants missed less than two judicial reviews. 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.

**Table 17. Attendance at Judicial Review Hearings**

	<b>DWI Court Group (n=173)</b>
Average Number of Missed Judicial Reviews	1.9
Percent of Participants with Zero Missed Reviews	48.1%
Percent of Participants with at Least One Missed Review	51.9%

<sup>26</sup> Excused absences are not counted as a missed judicial review.

## Conclusions

At the end of three years of operation, results for the Fourth Judicial District's DWI Court pilot project are promising.

For the most part, defendants are complying with court-ordered conditions and maintaining sobriety. Less than 20% of DWI Court entrants have been terminated from the program. Nearly 40% of the 173 individuals who entered DWI Court since its inception graduated from the minimum eighteen-month program by the end of Year 3 and another nine graduated by the end of May 2010. Most others are still active in DWI Court.<sup>27</sup>

New DWI charges and convictions for DWI Court participants are lower than for the comparison groups. Four percent of the DWI Court group has been charged with a new DWI, compared to nine percent of the Matched Sample and twelve percent of the Opt Out group. Three percent of the DWI Court group has been convicted of a new DWI offense, compared with eight percent of both the Matched Sample and Opt Out groups. Of all graduates, only one was convicted of a new DWI offense and a second had been charged, but not yet convicted, as of the end of Year 3.

Many eligible DWI Court participants had Ignition Interlock installed on their vehicles, are insured, and are driving legally and sober.

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<sup>27</sup> Time in DWI Court has not been standardized in this annual report. For the full evaluation that will occur once at least 100 participants have graduated or been terminated, and have had at least 12 months post-program "street time", we will report on completion statistics using just this sample group.

## 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:**

Phase One requires an individualized and intensive treatment plan consisting of any combination of the following:

- Treatment/AA minimum 3 times weekly
- Sentence to Service (STS)
- Victim Impact Panel (VIP)
- Random alcohol and drug testing (mandatory)
- Intensive supervision
- Weekly court appearances (mandatory)
- Unannounced home visits by law enforcement and/or probation
- Curfew
- Study in Action Group
- Pursue driver's license reinstatement

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

- Petition for phase advancement
- 90 days sobriety
- Successful completion of treatment
- Seek employment or education
- Attend court weekly, a minimum of 26 court appearances
- Abide by all rules and regulations of the DWI Court program
- Payment of all fines and fees

#### **Phase Two:**

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

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



**Advancement Criteria:** These criteria must be completed to move to Phase Three:

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

**Phase Three:**

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

- Aftercare
- Seek employment and education
- License reinstatement plan
- Random alcohol and drug testing (mandatory)
- 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
- Increased UA/breath testing
- Increased supervision/court reporting
- Increased community support groups
- Mission Detox or House of Charity
- Monetary sanction
- Curfew changes
- EHM
- EtG
- STS
- Detox
- Jail sanctions
- Termination
- Phase regression
- Delay phase progression
- Community work service

### **Incentives:**

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

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

### Disqualification Criteria

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

1. The offender is a juvenile when sentenced.
2. The offender is mentally incompetent.
3. The offender is involved in a gang.
4. The offender is deemed violent by the DWI Court team. Examples of offenses deemed violent may include, but are not limited to:

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

## Termination Criteria

Termination from the program may result from the following situations:

1. Participant has been out of contact and/or absconded for a minimum of 30 days.
2. Participant incurs a new DWI conviction or violent offense conviction, as determined by the team.
3. Participant failed to comply with program requirements after 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 violated probation and the court revokes probation and executes the sentence.
6. Participant requests execution of their sentence.

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

1. Allow participant to continue in current phase and receive reprimand from the bench.
2. 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.
6. Require the participant to complete community service hours.