

# Process Evaluation of the South St. Louis County DWI Court Program

by

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## *EXECUTIVE SUMMARY*

This executive summary offers a synopsis of the major findings from a process evaluation of the South St. Louis County DWI Court for the first 27 months of its operation. Most of the findings are based on analyses of the 57 individuals who made at least one appearance in the DWI Court during the 27-month period from its inception in February 2008, through April 2010. This report addresses fundamental issues pertaining to the Court's caseload and operation, including:

- A profile of DWI Court participants – in terms of their socio-demographic characteristics, substance problems, criminal history and risk;
- The court's efficacy in linking participants with treatment and its level of supervision of participants;
- Whether participants are screened into the court in a timely fashion, and progress through the three phases of the program in accordance with the DWI Court's protocol; and
- DWI Court participants' attitudes toward the court, based on survey findings.

At the outset of this report, it is important to emphasize that the South St. Louis County DWI Court is too new to address outcome-related questions (e.g., Are DWI Court graduates continuing to abstain from substance use and avoiding contact with the criminal justice system?). While passage of time is necessary to determine whether the court has lasting effects on its participants, the findings presented herein could serve as the foundation for an eventual outcome evaluation in the future.

We now turn to a discussion of the major findings from this research. We present the findings by posing and answering key research questions. Where applicable, we make recommendations that are informed by the research findings.

### *What are the characteristics of DWI Court participants, in terms of demographic factors, their criminal history and risk, and their substance-related issues?*

- The typical DWI Court participant was a 34-year-old white male with at least a high school diploma. One in five participants was female. One-third of participants had a clinical mental health diagnosis, and 17.5% were military veterans.

- Regarding criminal history, participants averaged 8.7 prior adult convictions, and 94% of the sample had been incarcerated in the past. The typical participant was classified as a moderate risk, based on his LSI-R score (mean = 27.6).
- Regarding substance use issues, all participants were assessed to be substance dependent. Based on information from participants' chemical assessments, aside from alcohol, marijuana was the most commonly used substance (28.1% of participants had used it in the preceding year) followed by methamphetamine (14.0%).

***What type of treatment do DWI Court participants receive?***

- The vast majority of participants (96.5%) were referred to treatment. While the median number of days in outpatient drug treatment was 43, the median time in residential treatment was 60 days.
- All participants attended meetings of support groups such as Alcoholics Anonymous.
- About half (49.1%) of participants completed the Driving with Care program. DWC was discontinued as a requirement upon the determination that its primary focus – preventing driving while impaired – was a poor fit with the court's goal of abstinence.
- While one-third of participants were assessed to have a clinical mental health diagnosis, available court records indicate that only 17.5% of participants received any type of counseling above and beyond their substance treatment.
- **We recommend that the DWI Court program strive to increase the number of referrals to appropriate mental health programming.**

***What level of supervision (i.e., substance tests, court appearances and probation contacts) do DWI Court participants receive?***

- By and large, the observed frequency of substance tests met or exceeded the frequencies stipulated in the court's protocol. While the observed mean number of random tests (7.3/month) in Phase 2 was slightly below the prescribed number (8.0/month), the observed mean number of tests for Phases 1 and 3 well exceeded the numbers specified in the protocol.
- Participants were attending court reviews at frequencies consistent with the protocol (e.g., weekly during Phase 1). However, observed probation contacts in Phases 1 and 2 were lower than prescribed in the protocol.

- **We recommend that steps be taken to increase the frequency of probation contacts in the earlier phases of the court. This could be facilitated by the court staffing 1.5 probation officer positions, in accordance with its protocol. Alternatively, if there is consensus among the DWI Court team that the observed frequencies of probation officer contacts are adequate, then the court’s protocol should be revised accordingly.**

*Are participants progressing through the DWI Court according to court protocol?*

- All indications are that participants are completing each of the court’s three phases, and graduating, in a manner that is consistent with the court’s protocol.

*What proportion of the caseload is active, graduated, terminated?*

- As of the end of this research’s observation period (April 2010), 52.5% (31) of the sample was active (currently in one of the court’s three phases), 23 (39.0%) had graduated, and 8.5% (5) had been terminated. Of the five participants who were terminated, only two were terminated because of program noncompliance. Of the eight participants who were “presumptive prison commits” under Minnesota Sentencing Guidelines, two had graduated and six were active.

*What are DWI Court participants’ attitudes toward the court and its key actors, including judges and probation officers?*

- Overall, respondents had positive perceptions of the DWI Court and its personnel, including its judge and probation officer.
- Participants indicated that judicial reviews/accountability to the judge, threat of jail and receiving treatment were among the court’s most helpful features.
- In responses to open-ended survey items, participants expressed appreciation for the support and respect they received from the DWI Court team. They also expressed their gratitude for the opportunity to participate in the program. One program graduate put it this way: “It was a good experience and I hope more people in my situation get the opportunity.”
- **Given such perceptions, and the fact that most repeat DWI offenders have significant substance problems, it would seem that even second-time DWI offenders would benefit from the DWI Court program. Ideally then, the DWI Court program could be expanded to accept repeat DWI offenders with fewer prior DWI’s (i.e., one or two priors instead of at least three).**



## ***INTRODUCTION***

This report presents findings from a process evaluation of the South St. Louis County DWI Court for the first 27 months of its operation, from February 2008, through April 2010. It is based on data gathered by researchers at the University of Minnesota Duluth, with the assistance of DWI Court staff. It addresses whether the court is operating as intended. The presentation and discussion of findings are divided into four sections, each of which addresses fundamental questions pertaining to the Court's operation. The first section offers a profile of DWI Court participants – in terms of their substance problems, charge that led to their DWI Court referral, criminal history and risk – and addresses the degree to which participants' characteristics fit the target-population criteria set forth by the court's planners. The second section answers questions pertaining to participants' experience with the court, including: its efficacy in linking participants with treatment and other supportive services, observed level of supervision (i.e., contacts, court appearances and substance tests), and the court's use of rewards and sanctions. The third section addresses caseload volume, and whether participants are screened into the court and progress through the first three phases of the program in accordance with the DWI Court's protocol. Finally, the fourth section of this report presents findings from a survey administered to DWI Court participants to learn their attitudes regarding the court.

### ***The South St. Louis County DWI Court***

The South St. Louis County DWI Court is a criminal justice program located in Duluth, Minnesota, serving adult offenders. Its geographic catchment area is Southern St. Louis County, including the service areas of Duluth court operations. The overarching purpose of the court is to reduce drunk driving among repeat DWI offenders, thereby enhancing public safety by making roads safer. The court functions to divert repeat DWI offenders into a judicial setting that combines social control with treatment. It has a \$108,000 annual budget, with funding via a grant from the federal National Highway Traffic Safety Administration (NHTSA); it receives in-kind financial support from many different local, county and state service providers and criminal justice entities. It is a collaborative effort of Minnesota's Sixth Judicial District, the offices of the St. Louis

County Attorney and St. Louis County Public Defender, Arrowhead Regional Corrections, local treatment professionals and area law enforcement agencies.

As of this writing, the South St. Louis County DWI Court is one of four operational specialty courts in St. Louis County, and one of nine DWI courts in Minnesota, in addition to seven hybrid drug-DWI courts.<sup>1</sup> Planning for the court began in spring of 2007 and court proceedings began in February 2008. The stated mission of the South St. Louis County DWI Court program, according to the manual of the DWI Court, *South St. Louis County DWI Court Program* (hereafter referred to as “protocol”), is: “[T]o provide a comprehensive, multi-disciplinary response to the repeat DWI offender that breaks the cycles of addiction and crime through accountability and improved access to services. This will lead to increased public safety, reduced recidivism, lowered costs and strengthened families in our communities.” As is the case with DWI and drug courts in general, the primary goal of the South St. Louis County DWI Court is to divert from the traditional criminal justice system offenders who are abusing or chemically dependent into treatment, so that they stop committing crimes and can live sober and productive lives. This treatment, whether outpatient or residential, is provided by private vendors.

Each participant in the DWI Court is monitored by the DWI Court team, which consists of a judge, a program coordinator, a probation officer, prosecuting and defense attorneys, treatment staff and law enforcement officers. The DWI Court team meets every Friday before that week’s court session to review cases in order to make recommendations to the judge. The DWI Court’s protocol stipulates that the target population for the program is individuals aged 18 and older who are residents of South St. Louis County and who have been arrested for a felony DWI (i.e., a fourth DWI offense in a ten-year span), or who are facing a violation of probation on a 2<sup>nd</sup> Degree DWI that could result in revocation of their stay of execution.

Initial screening for acceptance into the program is conducted by the program’s dedicated probation officer, typically at the pre-plea stage of court proceedings. Factors that disqualify one from participation in the program include committing a DWI resulting in a death, lack of mental competence or being medically incapable of complying with the rules of the DWI Court, being currently on intensive supervision for a prior offense, certain

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<sup>1</sup> Information on statewide prevalence of courts was retrieved from the Web site of the National Center for DWI Courts (<http://www.dwicourts.org/ncdc-home/>) on March 1, 2011.

sex offense/domestic assault/weapons convictions, and having a prior conviction for a violent offense.<sup>2</sup> Moreover, individuals who would be considered presumptive prison commits according to Minnesota Sentencing Guidelines criteria<sup>3</sup> are ineligible for acceptance into the court unless the DWI Court team believes there are “substantial and compelling” grounds for departure. Individuals who pass the initial screening are then interviewed to ascertain whether they have a chemical assessment of substance abuse or dependence. Those who the assessor determines meets the criteria for “chemical dependency” or “chemical abuse” are eligible to be admitted into the South St. Louis County DWI Court program.

The South St. Louis County DWI Court employs a pre-plea model. That is, most of its participants are screened and accepted into the program before they enter a plea. However, in a minority of cases where an individual refuses entry into the program at the time of their arraignment, he can be mandatorily placed in the program upon entering their plea or a determination of guilt. Participants are required to plead guilty to the charge that led to their referral to DWI Court. Their participation in the DWI Court results in their prison or jail sentence being suspended. More specifically all participants receive a stay of execution, whereby a “sentence is pronounced, but the execution... is delayed to some future date, provided that until that date the offender comply with conditions established by the court. If the offender does comply with those conditions, the case is discharged, but the offender continues to have a record of a... conviction.”<sup>4</sup>

The DWI Court program consists of four phases, where restrictions, monitoring, judicial reviews, and substance testing become less frequent from Phase 1 to Phase 3, and even less frequent still in Phase 4 (post-graduation). For example, whereas in Phase 1 participants are required to appear in court to be reviewed every week, in Phase 2 the reviews are biweekly, and in Phase 3 they are monthly. The DWI Court program requires a minimum of 10 months of continuous documented sobriety, as well as successful

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<sup>2</sup> For a more detailed description of the DWI Court program, including a complete list of disqualifying factors, refer to the document, *South St. Louis County DWI Court Program*.

<sup>3</sup> Individuals considered by the DWI Court team for admission to the court are presumptive commits most commonly because of criminal history points resulting from a prior felony DWI offense.

<sup>4</sup> In DWI Court, the conviction in question is usually a felony, although in a few cases it is a gross misdemeanor. Information pertaining to this discussion was retrieved March 20, 2009, from the Web site of the Minnesota Sentencing Guidelines Commission: <http://www.msgc.state.mn.us/msgc5/faqs.htm>

completion of all phase and program requirements – including chemical dependency treatment and cognitive programming – in order for a participant to graduate. Upon successful completion of Phase 3 (graduation from the program), participants remain on probation (in Phase 4) for the balance of the time to which they were sentenced – typically one to two years. Participants can be terminated from the program for reasons including: failure to comply with program requirements within a reasonable period of time, incurring a new DWI charge, or any conduct deemed inappropriate for continued DWI Court participation as determined by the DWI Court team. In cases of termination, a participant’s suspended prison sentence is executed.

### ***This Research***

Most of the findings presented herein were based on analyses of the 57 individuals who made at least one appearance in the DWI Court during the 27-month period from its first session in February 2008, through April 2010. This research uses several sources of data, including information from the Court Services Tracking System (CSTS) database, weekly DWI Court team meeting agendas, participants’ Level of Supervision Inventory-Revised (LSI-R, an interview-based risk assessment instrument) scores, and findings from a survey of DWI Court participants.

At the outset of this report, it is important to emphasize that the South St. Louis County DWI Court is too new to delve deeply into outcome-related issues (e.g., Are DWI Court graduates continuing to abstain from substance use and avoiding contact with the criminal justice system?). While passage of time is necessary to determine whether the court has lasting effects on its participants, the findings presented herein could serve as the foundation for an eventual outcome evaluation in the future.

## ***DWI COURT PARTICIPANT CHARACTERISTICS***

This report first addresses whether DWI Court participants fit the target-population criteria set forth by the court’s planners. It delineates participants’ demographic characteristics, their criminal history and risk, and substance-related issues.

### ***Demographic Characteristics***

Table 1 indicate that the typical DWI Court participant was male (80.7% of cases), white (87.7% of cases), and in his middle 30’s (median age at first appearance = 34.4 years). Regarding education, although 8.8% did not have a high school diploma, 63.2% did have a high school or GED degree, and 28.0% were educated beyond high school. Regarding employment, upon entry into the court 40.4% of the sample were employed full time, 24.6% were employed part-time, and 35.1% were unemployed. Nineteen of the participants (33.3%) had a clinical mental health diagnosis, and ten (17.5%) were veterans.

**Table 1. Demographic Characteristics of Participants**

<u>Variable</u>	<u>Category</u>	<u>N</u>	<u>% or Median</u>
Age		57	34.4
Sex	Female	11	19.3%
	Male	46	80.7%
Race	White	50	87.7%
	Native American	6	10.5%
	African American	1	1.8%
Education	No high school diploma	5	8.8%
	H.S. diploma / GED	22	63.2%
	Post high school	15	28.0%
Employment	Employed full-time	23	40.4%
	Employed part-time	14	24.6%
	Unemployed	13	35.1%
Clinical mental health diagnosis		19	33.3%
Veteran status		10	17.5%

### ***Criminal History & Risk***

According to the DWI Court’s protocol, the court’s target population is individuals aged “18 and older who are residents of South St. Louis County and have been arrested for a Felony DWI or who are facing a violation of probation on a 2<sup>nd</sup> Degree DWI that could result in revocation of their stay of execution.” According to the best available data, 27 of the 57 (47.4%) observed participants fall in the former category, while the other 30 (52.6%) entered the court as the result of a violation of probation.

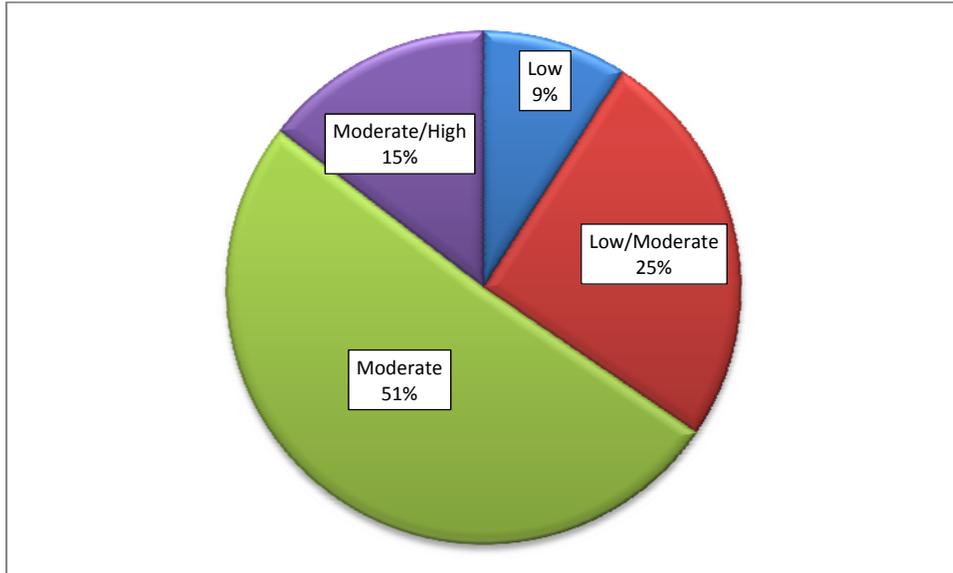
Regarding criminal history, Table 2 shows that participants averaged 8.7 prior adult convictions, with a range of zero to 46 prior convictions, and the most common number of convictions (10 individuals) being six. The vast majority (94.0%) of the sample had been incarcerated in the past.

**Table 2. Criminal History & Risk of Participants**

<b><u>Variable</u></b>	<b><u>N</u></b>	<b><u>% or Mean (Median)</u></b>
LSI-R total score	50	27.6 (28.5)
Number prior adult convictions	43	8.7 (6.0)
Prior incarceration	47	94.0%

In regard to risk, Figure 1 shows the distribution of participants’ risk classification, based on Level of Service Inventory-Revised (LSI-R) risk classification tool. One can see that two-thirds of participants (66%) fell into the Moderate or Moderate/High risk category, while the other third (34%) were categorized as Low/Moderate or Low risk. The mean LSI-R total score for this sample was 27.6, with scores ranging from 4 to 40.

**Figure 1. LSI-R Risk Classification of DWI Court Participants**



***Substance Problems***

To determine the nature of participants' substance involvement, we relied on two indicators, including information from participants' LSI-R's and their chemical health assessments prior to admission. A criterion for entry into the program is a determination of substance dependence or abuse, based on a chemical health assessment. As Table 3 shows, all participants in the court were assessed as being substance dependent. The sample's mean score for the LSI-R instrument's nine-point substance problem score was 6.62, with a range of 3-9.

**Table 3. Substance Problems of Participants**

<u>Variable</u>	<u>Category</u>	<u>N</u>	<u>% or Mean</u>
Chemical assessment classification	Dependent	57	100.0%
Substance use in past year <sup>a</sup>	Cocaine / crack	4	7.0%
	Methamphetamine	8	14.0%
	Marijuana	16	28.1%
	Heroin	1	1.8%
	Prescription drugs	3	5.3%
	Inhalants	1	1.8%
Mean number of the above 6 categories used			0.58
LSI-R substance score		47	6.62
“Current” drug problem (LSI-R)	Cocaine / crack	2	3.5%
	Marijuana	11	19.3%
	Amphetamine	1	1.8%
	None listed	36	63.2%
	Missing	7	12.3%

<sup>a</sup> Based on participants’ chemical health assessments. No participants reported using over-the-counter drugs.

Aside from alcohol, the drug participants most often used was marijuana; 28.1% of participants reported using it within the year prior to their substance assessment, and it was indicated as a “current” drug problem in the LSI-R’s of 19.3% of participants. Methamphetamine was used by 14.0% of respondents, followed by cocaine/crack (7.0% of respondents; 3.5% of respondents had a “current” problem with cocaine/crack).

***DWI COURT PROCESS: TREATMENT, SUPERVISION, REWARDS & SANCTIONS***

***Substance Treatment & Other Supportive Services***

DWI Courts’ function of linking substance abusing and substance dependent offenders to treatment in lieu of incarceration is at the core of their mission. Through successful treatment, an individual’s criminal behavior can be reduced to the extent that her criminal acts are motivated or otherwise influenced by her substance problems. The court’s treatment protocol states that it “will match the participant with the appropriate level of treatment intervention, utilizing the least restrictive environment that will address the presenting problems.” The prescribed continuum of treatment includes a variety of options from detox, to referral to appropriate treatment resources (residential and outpatient), to continuing care and support group meetings. Analyses show that the South St. Louis County DWI Court – via its community partners, including private treatment providers – has had qualified success in providing ready access to a continuum of substance abuse treatment and other related treatment and rehabilitation services.

According to available information, 55 of the 57 individuals who were admitted to the DWI Court (96.5%) were referred to treatment at one (or more) of seven different providers. Approximately two thirds of these referrals (67.3%) were to the Center for Alcohol and Drug Treatment; 12.7% received treatment at the Northeast Regional Correctional Center and 7.3% received treatment at Duluth Bethel.

**Table 4. DWI Court Treatment Information**

<b><u>Type of Treatment<sup>a</sup></u></b>	<b><u>N</u></b>	<b><u>Mean or %</u></b>	<b><u>Median</u></b>	<b><u>Std.Dev.</u></b>	<b><u>Range</u></b>
<b>Referred to treatment</b>	55	96.5%			
<b>Days in residential drug treatment</b>	12	86.9	60.0	82.0	20 - 309
<b>Days in outpatient drug treatment</b>	33	73.8	43.0	80.2	20 - 379
<b>Driving with Care completed</b>	28	49.1%			
<b>Received ancillary treatment</b>	10	17.5%			

<sup>a</sup>The two individuals that records show received a combination of residential and outpatient treatment are each counted in both the second and third rows of this table.

Information regarding type (residential versus outpatient) and duration of treatment was available for 43 of the 55 individuals who were referred to treatment. Table 4 shows that for the 12 individuals known to have received residential treatment, the median treatment duration was 60 days, or about two months. For the 33 individuals known to have received outpatient treatment, the median treatment duration was 43 days, or about six weeks.

**Support Group Meetings.** Regarding support group meetings, it is apparent that, at a minimum, all participants attended meetings of Alcoholics Anonymous or similar groups (e.g., Tagwii, for Native Americans). A handful of referrals to other supportive services (e.g., SOAR Career Solutions, a career counseling service) were noted in court records.

**Driving with Care (DWC).** About half (28 of 57) of participants completed the Driving with Care curriculum. DWC is described in the court’s protocol as being tailored to repeat DWI offenders; its curriculum uses “a cognitive-behavioral and educational change focus, with recidivism prevention at its core”. At the court’s inception, participation in DWC was a standard component of the court’s protocol. However, DWC eventually was determined to be a poor fit with the mission of the DWI Court. DWC’s primary focus is on stemming driving while impaired, which conflicts with the court’s mission of abstinence. There was also early negative feedback from participants about DWC; the applicability of the program to their circumstances was limited, given that all participants had cancelled or suspended drivers licenses. Thus, DWC fell out of favor about a year into the court’s operation – a phenomenon that is reflected in the court’s operational data. Among individuals whose first appearance in the DWI Court occurred from the beginning of court operations (February 2008) through February 6, 2009, all but three of the 23 participants who were not terminated (87.0%) completed DWC. By contrast, DWC was completed by only seven of the 30 individuals (23.3%) whose first appearance was after February 6, 2009.

**Ancillary Treatment.** The court’s protocol states that “[p]articipants with co-occurring disorders will be matched to appropriate programming and ancillary resources. Referrals will be made as required and included in case planning.” Given that 19 of the DWI Court’s 57 clients (33%) were assessed to have a clinical mental health diagnosis (refer to Table 1), it is perhaps noteworthy that available court records indicate only ten

participants (17.5%) received any type of counseling over and above their substance treatment. Among these ten, four attended domestic violence classes (e.g., at Domestic Abuse Intervention Programs), one attended an anger management program at the Human Development Center, one took part in grief counseling, and four received what was recorded as “mental health counseling”. If these court records are indeed accurate, we recommend that the program redouble its efforts to link all participants with clinical mental health diagnoses to appropriate treatment when at all possible.

### ***Level of Supervision: Contacts, Court Appearances & Substance Tests***

The degree to which DWI Court team members, including the court’s coordinator, probation officer and judge, maintain an active role in monitoring participants is addressed by examining information printed off from the Court Services Tracking System (CSTS) database. We also relied on printed CSTS records to determine frequency of substance testing.<sup>5</sup> Before presenting findings based on analysis of available data (i.e., on probation officer contacts), it is important to stress that contacts with other members of the team, such as treatment providers and the court’s coordinator, were not formally recorded. Since these non-probation contacts were not tracked, the numbers presented in this section are, of course, lower than they otherwise would be.

***Probation Officer Contacts.*** First, we compare the number of probation officer contacts that are prescribed in the court’s protocol to the number of observed probation-client contacts for each phase. Table 5 illustrates that for Phase 1 the DWI Court protocol is, at the discretion of the DWI Court team, at least three probation officer contacts per week. Based on the best available information, the observed average number of contacts (1.32) is somewhat less than half of what was prescribed. That said, it is important to note that many participants are receiving treatment in Phase 1; whether the treatment is outpatient or residential, the number of probation contacts could be lower for the treatment’s duration. For Phase 2 the prescribed number of contacts per week is a

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<sup>5</sup> These analyses are based on available information for the individuals in any of the four DWI Court’s phases, whether or not they completed a given phase. More specifically, the statistics reported in this section are based on 52 participants in Phase 1 (including seven who were required to restart Phase 1 as a sanction), 40 participants in Phase 2 (including five who had to restart), 26 participants in Phase 3 (including two who were required to restart) and 14 participants in Phase 4.

minimum of two; Table 5 shows that the average number of observed contacts per week was 0.97. Regarding Phase 3, the court’s protocol specifies that there will be three contacts or more at the discretion of the DWI Court team per month. The data indicate that the average observed for this phase was 0.72 per week, or 3.14 per month.<sup>6</sup> Finally, for Phase 4, the protocol stipulates that contacts will be “as needed as determined by the DWI Court team”; for this phase, we observed 1.48 contacts per month.

**Table 5. Prescribed & Observed Number of Probation Contacts, by Phase<sup>a</sup>**

<b>Phase 1</b>	
<b><u>Protocol</u></b>	<b><u>Observed (N=52)</u></b>
Contact with a probation officer a minimum of 3 times/week.	Mean: 1.32 Range: 0-4 (per week)
<b>Phase 2</b>	
<b><u>Protocol</u></b>	<b><u>Observed (N=40)</u></b>
Contact with a DWI Court team member a minimum of 2 times/week.	Mean: 0.97 Range: 0-5 (per week)
<b>Phase 3</b>	
<b><u>Protocol</u></b>	<b><u>Observed (N=26)</u></b>
Contact with a probation officer a minimum of 3 times/month.	Mean: 3.14 (per month)
<b>Phase 4</b>	
<b><u>Protocol</u></b>	<b><u>Observed (N=14)</u></b>
Contact with a probation officer “as needed” – determined by DWI Court team.	Mean: 1.48 (per month)

<sup>a</sup> All ranges are across weeks and individuals.

**Phone Contacts.** Although probation officer-participant phone contacts are neither discussed in the DWI Court’s protocol nor recorded in CSTS records, the court’s dedicated probation officer estimated that he has contact with each participant via phone an average of two times a week. (A typical example of such a contact would be a call from a participant seeking permission to attend an Alcoholics Anonymous meeting that would

<sup>6</sup> Monthly averages – for both contacts and substance tests – were calculated as follows: The weekly mean was divided by seven (7) to get a daily average. To arrive at a monthly average, the daily average was then multiplied by 30.5 (the average number of days in a month).

cause them to be out past curfew.) However, the probation officer emphasized that there is great variation around this average, as some clients were in need of closer monitoring than others. Thus, whereas he would be in phone contact with some clients many times a week, other more “stable” participants would warrant much less frequent phone contacts. While phone contacts do not offer the same level of surveillance as a face-to-face contacts, and “hard” data on the frequency of phone contacts is unavailable, it seems reasonable to recognize phone contacts as an integral type of monitoring by the probation officer.

**Court Appearances.** It is worthy of mention that, by and large, monitoring by the judge (i.e., based on information from court rosters) occurred according to protocol: Participants in Phase 1 appeared weekly, those in Phase 2 appeared biweekly, and those in Phase 3 appeared every month. Of course, probation officers also attend the weekly court sessions. Were court appearances counted as probation officer contacts, the average number of contacts for Phases 1-3 would be, respectively, 2.32/week, 1.47/week and 3.39/month. It is recommended that steps be taken to increase slightly the frequency of probation contacts in Phases 1 and 2. Alternatively, if there is consensus among the DWI Court team that the observed frequencies of probation officer contacts are adequate (because treatment precludes contacts, in light of the high frequency of phone contacts or the undocumented contacts with other DWI Court team members, and/or because in-court judicial reviews could also be seen as probation officer contacts), then the court’s protocol should be revised accordingly.

**Substance Tests.** Next, we address whether participants were monitored for abstinence according to established protocols.

**Table 6. Prescribed & Observed Frequency of Substance Testing, by Phase**

<b>Phase 1</b>	
<u>Protocol</u>	<u>Observed (N=52)</u>
A minimum of 8 random urinalysis/breath tests monthly	Mean: 9.45
<b>Phase 2</b>	
<u>Protocol</u>	<u>Observed (N=40)</u>
A minimum of 8 random urinalysis/breath tests monthly	Mean: 7.32
<b>Phase 3</b>	
<u>Protocol</u>	<u>Observed (N=26)</u>
A minimum of 3 random urinalysis/breath tests monthly	Mean: 5.66
<b>Phase 4</b>	
<u>Protocol</u>	<u>Observed (N=14)</u>
Not specified	Mean: 2.35 (per month)

Table 6 shows that, with the exception of Phase 2, the number of substance tests recorded in the data exceeded the DWI Court’s protocols. For Phase 2, the observed mean number of substance tests per month (7.32) was slightly below the protocol of eight or more. By contrast, the observed frequency of testing in Phase 3 (5.66 tests per month) was almost double the number prescribed in the court’s protocol (3).

***Rewards & Sanctions***

The use of rewards for positive behaviors and sanctions for bad behaviors or actions is a key component of the DWI Court process. The court was created with the hope that every participant would comply with their court orders and treatment. However, the DWI Court team also recognized that there are often impediments and obstacles on the road to recovery. Since setbacks in treatment are common, the team instituted rewards or incentives to reinforce positive behavior and compliance, as well as sanctions to act as punishment for bad behaviors.

The types of rewards and punishments handed out are difficult to discern based on available documentation. Positive behaviors are not often distinguished in court documentation, except for phase advancements. Punishments and sanctions are also difficult to discern based on the materials supplied by the DWI Court. While relatively bad behaviors and harsher penalties are usually indicated, smaller incidents punishments are not typically recorded. This is presumably because the records that indicate problem behaviors and suggested sanctions (i.e., court rosters) are prepared *before* the DWI Court team meetings, during which the team will settle on an appropriate method of sanctioning. Yet, while precise information about the frequency and types of rewards and sanctions handed out is not available, based on observations of court sessions and team meetings, we are able to offer the following more general information on the court's use of rewards and sanctions. Addressed in this section are the behaviors that merit rewards and warrant sanctions, as well as examples of the types of rewards and sanctions employed.

**Rewards.** Rewards are infrequently given in DWI Court, but are dispensed for exemplary behaviors. Thresholds for receipt of rewards vary somewhat depending on the individual participant. There are several common types of rewards, such as the judge's praise during the court session, applause from court attendees, gift cards to local retailers, allowed overnight outings, and extended curfews. Rewards are also given with the advancement of phases. These rewards for achievement consist of a certificate of completion, court recognition, and extended curfew. After successfully completing the DWI Court program, the graduates receive a diploma, court recognition, a courtroom celebration with cake and an opportunity to address the court attendees.

**Sanctions.** There are a variety of behaviors that are commonly considered detrimental to the DWI Court program, including: positive substance tests, missing a substance test, missing an appointment with treatment staff or court official, committing a new crime, violating curfew, absconding, contacting a person from whom they were ordered to stay away, driving without a valid license, being uncooperative with treatment staff, and not contacting or not getting permission from the probation officer for an activity. These behaviors vary in their level of severity. They are discouraged and are handled swiftly, either on the day of the offense or at the next court session, depending on the severity of the infraction. At the disposal of the DWI Court team are several tools for

sanctions: execution of prison sentence, county jail time, STS (community service), restart sobriety date, phase penalties (returning to the beginning of their current phase or returning to Phase 1), treatment or halfway house, extend cognitive skills, attend extra court sessions, attend extra Alcoholics Anonymous meetings, earlier curfews, verbal reprimand in court, increased substance tests and probation home visits, and even writing a paper regarding a topic chosen by DWI Court team. These different methods are chosen according to the severity level of the behavior and according to precedent within the DWI Court.

## ***PARTICIPANTS' PROGRESS THROUGH THE PROGRAM & COURT CASELOAD VOLUME***

This section begins by addressing whether participants are screened into the DWI Court in a timely fashion. It then offers a “snapshot” profile of DWI Court participants’ status as of the last full week of this study’s observation period. It also reports the average length of time in each phase of the court, and compares observed duration in the program to times set forth in the court’s protocol. This section concludes with a discussion of the progress made by the participants who graduated from the program during the observation period of this research.

### ***Screening Participants into the Court***

To address whether participants were screened into the DWI Court program and began to receive treatment and services in a timely fashion and as prescribed by the court’s protocol, we utilized five pertinent dates: date of referral to the court, date of acceptance into the court, date of chemical assessment,<sup>7</sup> date of treatment admissions and first court appearance date.<sup>8</sup>

**Table 7. Average Length of Time to Screen Participants into DWI Court**

<b><u>Lag in Days between...</u></b>	<b><u>N</u></b>	<b><u>Mean</u></b>	<b><u>Median</u></b>	<b><u>Std. Dev.</u></b>	<b><u>Range</u></b>
Referral to DWI Court & acceptance in DWI Court	55	13.6	5.0	30.0	0-198
Acceptance into DWI Court & first appearance in DWI Court	56	9.2	2.5	21.3	0-135
Chemical assessment & treatment admission	55	25.3	18.0	22.5	1-110

<sup>7</sup> Perhaps not surprisingly, referral to treatment always occurred on the date of chemical assessment.

<sup>8</sup> One could argue it would be logical to focus on the time between date of arrest and date of first court services; to the extent that arrest is a moment of crisis in an individual’s life, the DWI offender might be more amenable to change if she is quickly placed in the DWI Court program. However, given that most DWI Court participants are facing a felony DWI charge – meaning they have committed four DWIs within a ten-year span – the time elapsed between arrest date and receipt of first DWI Court services is less relevant. This is because it is well established that most DWI offenders with even one prior DWI have confirmed substance abuse problems (see, for example, Shaffer et al. [2007]. “The Epidemiology of Psychiatric Disorders among Repeat DUI Offenders.” *Journal of Consulting and Clinical Psychology*, 75[5], 795–804). Statistics showing the increased likelihood of repeat DWI offenders dying in alcohol-related crashes, “coupled with the fact that repeat offenders perpetuate their behavior despite the negative consequences of past arrest, suggest that [they] represent a group that is distinct... possibly, from the majority of first-time... offenders” (p. 796). In light of such evidence, ideally, even second-time DWI offenders would be eligible for the DWI Court program.

Analyses reveal that, typically, there was a short lag between referral to DWI Court and acceptance in the court. The median lag was five days (Table 7), with 18.2% of cases accepted the same day they were referred, 63.6% accepted within seven days, and 81.8% accepted within 14 days of being referred. There was an even shorter lag between acceptance into the DWI Court and first appearance in court. The median lag was 2.5 days (Table 7), with 44.1% appearing on the day of they were accepted into court, and 89.8% making their first appearance within 14 days of being accepted into the DWI Court.

The DWI Court's protocol stipulates that "participants should enter a treatment program as soon as possible following the assessment". Table 7 shows that, in practice, "as soon as possible" typically has been approximately three weeks (mean = 25.3; median = 18.0). One week (seven days) after their referral (chemical assessment date), 14.5% of participants were admitted to treatment; this increased to 34.5% after 14 days, 60.0% after 21 days and 72.7% after 28 days.

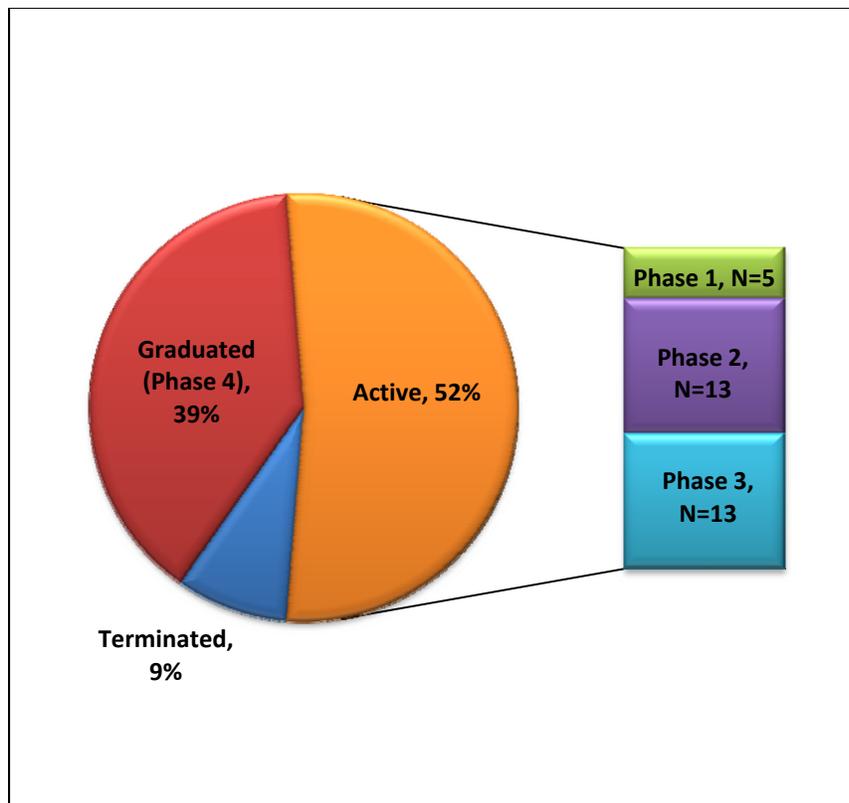
Regarding timing of treatment relative to the different phases of the DWI Court, the court's protocol explains that during the program's pre-admission phase (that is, before a participant begins Phase 1), participants will receive a chemical use assessment and "treatment should be started". However, only 16.1% of participants began treatment before making their first appearance in DWI Court (i.e., beginning Phase 1). On average, participants began treatment approximately two weeks after making their first appearance in court (mean = 10.8 days; median = 14 days), with 83.9% of participants beginning treatment within 28 days of their first appearance. It seems that this delay in treatment relative to date of first appearance is at least partially a function of the aforementioned short lags between referral and acceptance into the court, and acceptance and first appearance in the court.

### ***Court Caseload Volume***

The DWI Court's protocol states that the court should be limited to 60 participants. For the 27-month observation period of this study, including 22 graduates in Phase 4 of the program, the court's caseload of 57 approached this stated capacity. This averages to about 2.1 court first appearances per month; as many as six individuals started in a given month, while in two other months, no one made an initial appearance. In terms of yearly

breakdowns, in each of the court's first two full years of operation, the number of first appearances was very similar. For the first 12 months in which the court was in session (February 2008 – January 2009), 26 participants made their first appearance in the DWI Court. In the program's second full year (February 2009-January 2010), 28 participants began the program.<sup>9</sup> As of the end of this study's observation period (April 2010), 31 participants' status was active, while 23 had graduated and five others had been terminated from the program. Among the 31 participants with an active status, five were in Phase 1, 13 were in Phase 2 and 13 were in Phase 3 (Figure 2).<sup>10</sup>

**Figure 2. Status of DWI Court Participants as of April 2010**



<sup>9</sup> These annual totals include three individuals who were counted twice because they were mandated to start the program over after having graduated.

<sup>10</sup> Twenty-three unique individuals graduated from the DWI Court, including one individual who completed the program twice. As for the other two graduates who restarted the program, each was still active in the program – one in Phase 2 and the other in Phase 3 – at the end of this study's observation period.

In light of the size of the DWI Court’s caseload, it is important to point out that the court’s protocol stipulates that when its caseload surpasses 30 participants, it will be staffed with an additional “half-time probation officer or an equivalent community compliance officer”. Yet, throughout the observation period of this study, a single dedicated probation officer handled the DWI Court’s entire caseload – a circumstance that presented him with a very tall task, given the intensity at which participants are monitored. Thus, assuming that the court’s caseload remains at around 60, we recommend that the court staff 1.5 probation officers, in accordance with its protocol.

### ***Participants’ Progress through the Court***

The South St. Louis County DWI Court’s protocol states that the minimum length of time in which the program can be completed is twelve months. Thus, the bare minimum duration in the program (i.e., a tenure with no positive substance tests) is one year, or 365 days. The court’s protocol stipulates a few time-related benchmarks in relation to the phases: in Phase 1, 60 consecutive days of sobriety are required immediately prior to advancing to Phase 2; and in Phase 3, sobriety must be maintained for ten consecutive months before advancing to standard probation. In light of these benchmarks, Table 8a reports the summary statistics for length of time in each phase.<sup>11</sup>

The median time in Phase 1 was about four months (124 days); the mean duration (143.2) is higher as the result of some high outlying values, for example the 266-day duration at the top of the range.<sup>12</sup> Regarding length of time in Phase 2, the observed average duration is also approximately four months (e.g., median = 121 days). The same is true for Phase 3, for which the median duration was 124 days. Those who graduated from the program completed the three phases in just over one year’s time (median days = 371) – essentially according to what is prescribed in the court’s protocol.

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<sup>11</sup> Phase lengths for “presumptive prison commit” participants, who have longer prescribed phases, is discussed in detail later in this section.

<sup>12</sup> Regarding the minimum value for number of days in Phase 1 (56), this short duration could be explained by the court’s preadmission phase. As the protocol states: “[T]he DWI Court team reserves the right to start pre-admission participants at the 60-day mark of Phase I.”

**Table 8a. Average Number of Days in Each Phase of DWI Court<sup>a</sup>**

<u>Number of Days to ...<sup>b</sup></u>	<u>N</u>	<u>Mean</u>	<u>Median</u>	<u>Std. Dev.</u>	<u>Range</u>
Complete Phase 1	47	143.2	124.0	48.9	56-266
Complete Phase 2	36	127.0	121.0	16.3	112-189
Complete Phase 3	22	127.1	124.0	20.1	98-189
Graduate (from date of first appearance)	22	394.6	371.0	57.4	287-532
Be terminated (from date of first appearance)	5	316.4	308.0	91.0	91-574

<sup>a</sup>For non-presumptive prison commits only.

<sup>b</sup>Participants who did not complete a given phase by the end of the study observation period are excluded from these calculations.

Finally, Table 8a also shows the average number of days in the program for those five participants who were ultimately terminated. As the wide range of values indicates, some of the terminated participants made it beyond Phase 1 – two were in Phase 2 and one made it to Phase 3. Two of the five were terminated because their felony DWI charge was dropped, making them ineligible for participation in the court; a third voluntarily withdrew out of anger at the sanction that the court gave him for missing two treatment appointments and for driving after his license was canceled. This leaves two participants who were terminated for program noncompliance. Both were female, one was white and one was Native American; their median age was 26, more than eight years younger than for the whole sample. One was terminated while in Phase 2 (duration: 483 days), while the other was in Phase 3 (574 days). It appears that these participants were more troubled than the sample as a whole. Their long times in the program are a function of the inordinate number of relapses and setbacks each had. Based on pre-admission LSI-R, one as low/moderate risk and one as moderate/high risk. Both reported using drugs other than alcohol in the past year; one reported using multiple drugs. Finally, both were assessed as having a clinical mental health diagnosis (compared to 33.3% of the whole sample).

*Progress of “Presumptive Commits”.* Individuals who would be considered presumptive prison commits according to Minnesota Sentencing Guidelines criteria are ineligible for acceptance into the court unless the DWI Court team believes there are

“substantial and compelling” grounds for departure. A handful of these individuals (eight) have been accepted into the court. The DWI Court’s protocol stipulates that presumptive commits who are accepted into the program will face more stringent requirements, including completing a set amount of community services hours, paying higher court fees, completing six-month court phases, and serving 6-15 days in jail. In practice, regarding the longer phases, two of the eight presumptive commit cases in the observed sample were required to complete *eight*-month phases, instead of the prescribed six-month phases.

Table 8b provides information on length of phases among the four individuals with prescribed six-month phases who completed at least one phase. This table illustrates that the shortest duration of a phase for this small group was 175 days, or just under the 183 days that would constitute six months. It also shows that the two presumptive commits who graduated from the program were in the program for an average of 560.5 days, or approximately eighteen months. This duration is what we would predict, given the three six-month phases. Note that none of the eight presumptive commits was terminated from the program.

**Table 8b. Average Number of Days in Each Phase of DWI Court: Presumptive Commits (Six-Month Phases)<sup>a</sup>**

<u>Number of Days to ...</u>	<u>N</u>	<u>Mean</u>	<u>Median</u>	<u>Std. Dev.</u>	<u>Range</u>
Complete Phase 1	4	245.0	199.5	108.3	175-406
Complete Phase 2	2	182.0	---	---	182-182
Complete Phase 3	2	196.5	---	---	183-210
Graduate (from date of first appearance)	2	560.5	---	---	540-581

<sup>a</sup>During the observation period, no presumptive commits were terminated from the program.

At the conclusion of this study’s observation period, the two participants who were assigned eight-month phases had each completed the first phase. Eight months equates to approximately 244 days. Both of these two individuals took a bit longer to complete Phase 1; one required 287 days (about 9.5 months) and the other needed 305 days (about ten months).

Regarding the protocol’s stated requirement of 6-15 days served in jail by presumptive commits, available information shows that six-month phase presumptive commits served a median of 11.7 days in jail, while eight-month phase presumptive commits averaged 35 days. By comparison, the median length in jail for non-presumptive commit cases was 4.7 days.

***Intermediate Outcomes – Examination of DWI Court Graduates***

It is worthwhile to consider the intermediate outcomes of those who have graduated from the South St. Louis County DWI Court. This analysis can offer a preliminary glimpse at whether the DWI Court indeed reduces the risk of recidivism for successful participants (i.e. graduates).

One way to gauge success amongst the DWI Court graduates is to measure admission-to-graduation changes in LSI-R scores. Given the nature of the LSI-R, we can assess whether the graduates achieved a reduction not only in their total LSI-R score, but also examine the difference in the six-item drug and alcohol subscale.

**Table 9. Mean LSI-R Scores for DWI Court Graduates**

	<b>Total Score (N=17)</b>	<b>Drug &amp; Alcohol Score (N=16)</b>
DWI Court Entry	25.2	5.9
At DWI Court Exit	16.3	3.9
Difference in Mean Scores	8.9 <sup>a</sup>	2.0 <sup>a</sup>

<sup>a</sup>Statistically significant (p < .001).

Table 9 illustrates that the average total LSI-R score and LSI-R drug and alcohol score were markedly lower at graduation than when assessed upon entry. Whereas the mean total score at the time of entry into the program was 25.2 (which equates to a LSI-R classification of “moderate” risk), the mean total score declined to 16.3 (or a classification of “low/moderate” risk). The mean score for the drug and alcohol subscale – with a possible range of 0-9 – also declined, from 5.9 to 3.9. Paired-sample t-tests, appropriate for comparing mean scores of the same individuals at two points in time, show that each of these differences in mean scores was statistically significant (p < .001), meaning there is a

less than a one in 1,000 likelihood that the observed differences in means were due to chance.

While these findings are encouraging, it is important to recognize that they are, unavoidably, very preliminary. None of the sampled participants observed in this study had completed the program by the end of this study's observation period (April 2010); that is, even those who had graduated (successfully completed Phase 3) were still on probation (in Phase 4). Moreover, the LSI-R is only an assessment of risk, and therefore far from an "end-all-be-all" assessment of the court's efficacy. Only through a review of indicators of DWI Court graduates' behavior at a future date can the effect of the court (e.g., in terms of continued sobriety, no new criminal charges, prosocial behavior) be more resolutely determined.

### *DWI COURT PARTICIPANTS' ATTITUDES TOWARD THE COURT*

To learn DWI Court participants' perceptions about various features of the South St. Louis County DWI Court program and its key actors – including the judge, program coordinator, probation officer, treatment staff and the DWI Court team in general – survey data were collected. Prior to the onset of this research, court personnel administered a written survey to participants upon their graduation; the analyses discussed herein include information from the nine such surveys that were completed. In addition, a slightly modified written survey was administered to active court participants at two separate court sessions in July 2010 – July 16 and July 23;<sup>13</sup> 24 participants completed this survey. Each of the court's four phases is well represented by survey respondents: 12.1% were in Phase 1, 36.4% were in Phase 2, 18.2% were in Phase 3, and one third (33%) of surveyed participants were in Phase 4 (i.e., had graduated).

Overall, respondents had positive perceptions of the DWI Court. For example, the open-ended survey item, “Is there anything else you would like to say about your experience [in the DWI Court]?” most commonly elicited some sort of expression of gratitude for the program, for example:

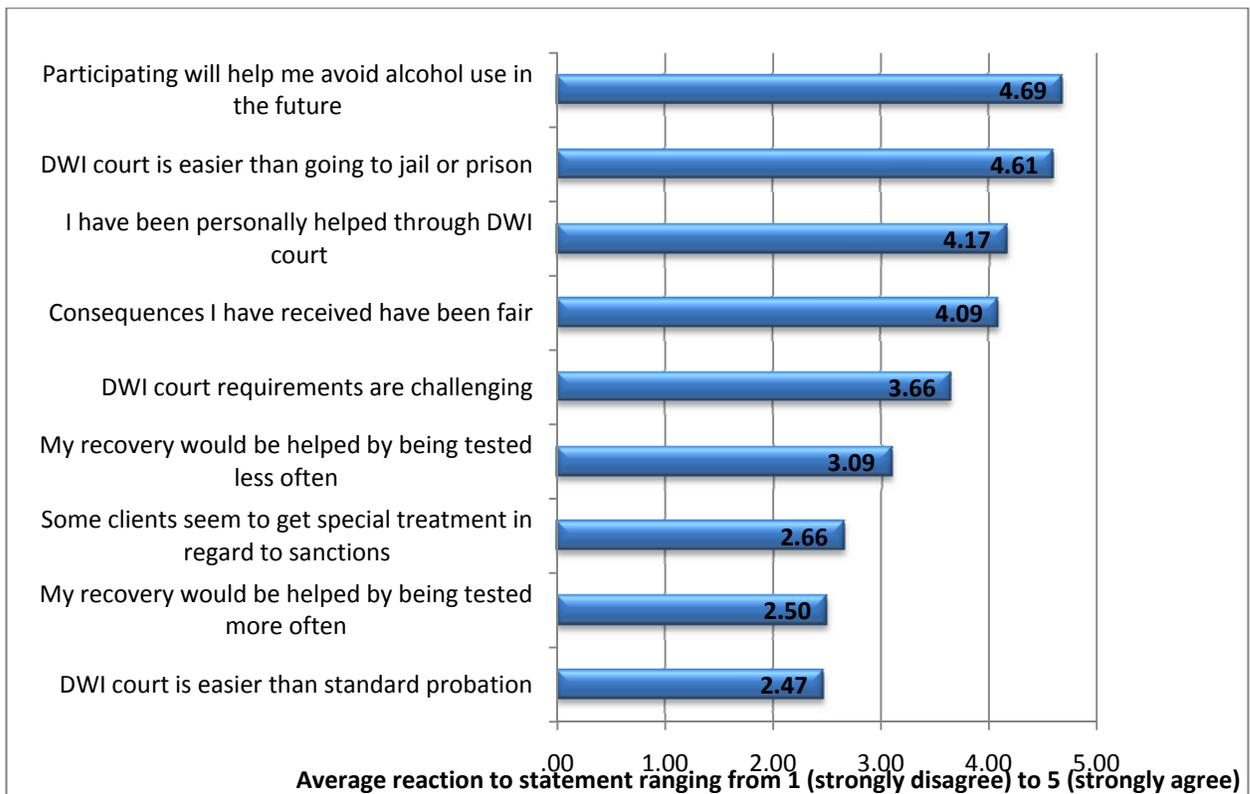
- “[I am] very grateful for the opportunity.” – *male in Phase 1*
- “Overall, I think it has been an excellent experience and I am thankful to participate.” – *female in Phase 3*
- “Grateful to be sober – could not have done it alone or in jail.” – *female in Phase 2*
- “I’m grateful for this program. It’s helped get me back on track with my sobriety.” – *male in Phase 2*
- “It was a good experience and I hope more people in my situation get the opportunity.” – *participant in Phase 4*

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<sup>13</sup> The response rate to the survey of active participants was very high: 23 out of 24 (95.8%) participants whom were administered the survey completed it. One additional survey was completed by a participant on August 13. Although the total number of individuals surveyed (active participants and graduates) was 33, the original survey to graduates did not ask questions about respondents' demographic characteristics or time involved in the court, thus the following percentages are based on a sample size of 24: 25% were females and 75% were males. Eighty-three percent identified as white, while 12.5% identified as Native American (one participant did not respond). The mean and median ages of those surveyed were 38 and 35 years, respectively. The mean and median numbers of months of DWI Court involvement was 10.7 and 10.0, respectively.

Responses to many of the survey's other items were indicative of positive attitudes about the court, its features and its personnel. As Figure 3 shows, analyses of responses to Likert-type items (with answers ranging from 1 [strongly disagree] to 5 [strongly agree]) revealed a mean of 4.69 in response to the statement "Participating in DWI Court will help me avoid alcohol use in the future" and a mean of 4.17 in response to the statement "I have been personally helped through DWI Court." On the other end of the spectrum, survey respondents were more likely to disagree (average = 2.47) with the statement "DWI Court is easier than standard probation."

**Figure 3. Respondents' Overall Perceptions of DWI Court**



Regarding respondents' perceptions of specific court actors, Figure 4 illustrates that all five categories of actors – the judge, the coordinator, the probation officer, the team in general and the treatment staff – scored highest in the realms of engendering feelings among participants that they are supported (4.69) and are treated with respect (average of these five categories = 4.68). Respondents also tended to strongly agree that all five categories of court actors are fair (five-category average = 4.62) and “helped me to stay clean” (five-category average = 4.56). In regard to perceptions about the judge, the probation officer and the DWI Court team as a whole, there was the least agreement among respondents with the statement “\_\_\_\_\_ does not expect too much from me” (3.75 average in regard to Judge Floerke, 3.78 in regard to the probation officer, and 3.84 in regard to the team in general).

**Figure 4. Respondents' Perceptions of DWI Court Actors**

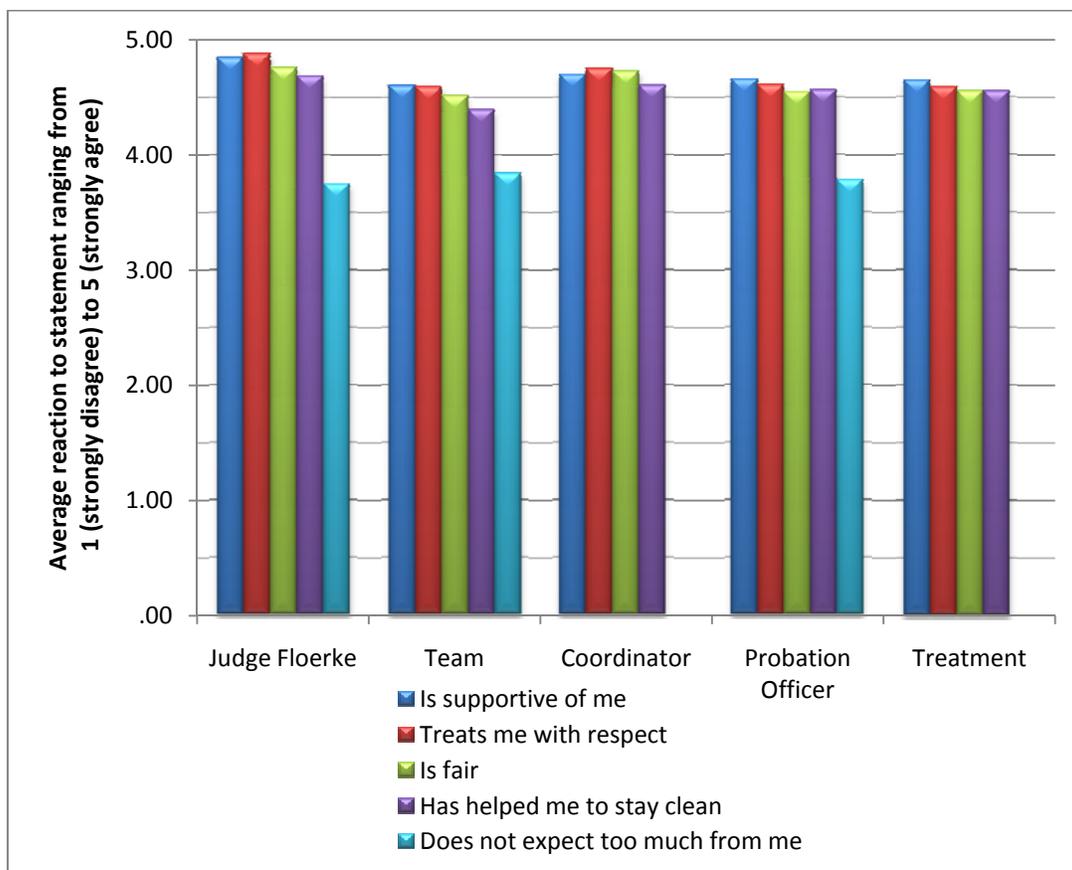
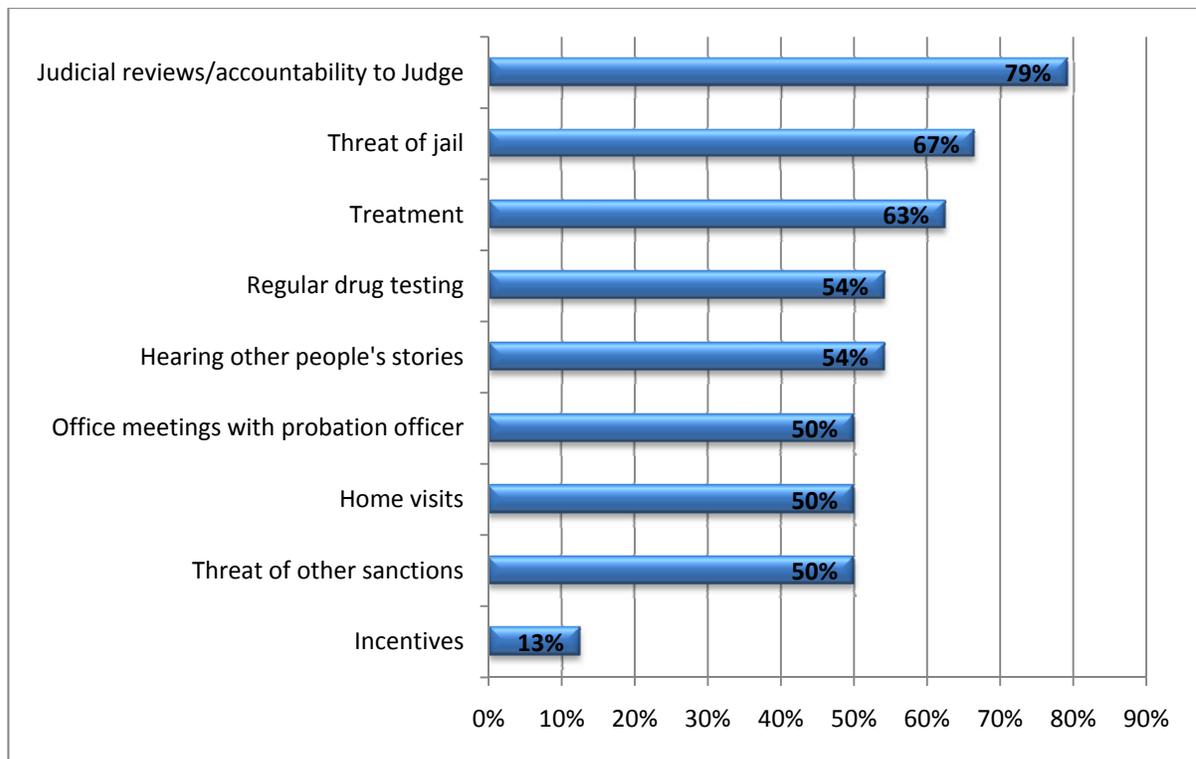


Figure 5 shows that, in regard to the helpfulness of various features of the court, more respondents (79%) reported that “judicial reviews/accountability to judge” was helpful to them than any other listed feature. By comparison, 67% of respondents indicated that “threat of jail” was helpful, and 54% of respondents reported that regular drug testing was helpful. At the other end of the spectrum, only 13% of respondents considered court incentives to be helpful. It is interesting to find that the “accountability” features of the court (e.g., accountability to the judge, the prospect of going to jail) were valued more by participants than a “helping” aspect (i.e., incentives).

**Figure 5. Percentage of Respondents Indicating a Feature of the Court was Helpful\***



\*As questions about helpfulness were not in the initial survey of graduates (N=9), the number responding to these items is 24.

### ***Responses to Open-Ended Items***

It is worthwhile to highlight briefly some of the themes in responses to open-ended survey items. First, 21 of 33 respondents offered a reply in regard to what they liked *least* about the court. The most common response offered to this item, volunteered by six respondents, was the inconvenience of attending court, especially on a weekly basis,

including the associated conflicts that it created with work and child care schedules. Regarding this issue, this response was typical: “I don’t like going every Friday because I have to find a ride, babysitter, and miss work.” Four respondents mentioned curfew as the aspect of the court that they disliked the most, while two respondents mentioned the Driving with Care program.<sup>14</sup>

By comparison, 24 of the 33 respondents took time to offer a response in regard to what they liked *most* about the court. First, consistent with findings presented in Figure 4 (above), it is apparent that many surveyed DWI Court participants appreciate the support that the court has given them, and the respect that its personnel has demonstrated toward them. Replies to the question “What do you like *MOST* about DWI Court?” include:

- “The help and support I’ve received in re-building my life.”
- “The support. Having people stand by me, care for me and how they are proud. I have been helped so much.”
- “The respect of the staff. They don’t look at you like a problem to society, but that your (*sic*) part of society with a problem and are willing to help you with it.”
- “It’s helping me to make right choices teaching me [I] don’t need to drink to have fun and really don’t have to hate the court system.”
- “The supportive atmosphere of the team. Treat you with respect and seem genuine in their support. The judge treats me with mutual respect because he sees we are trying to lead a better life.”

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<sup>14</sup> As discussed earlier in this report, Driving with Care is no longer a required component of the DWI Court program.