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DUI Courts

In 2010, the National Highway Traffic Safety Administration (NHTSA) found that 31% of all fatal car crashes were alcohol related.¹ In other words, out of the 32,885 national driving-related fatalities in 2010, 10,228 were a result of alcohol impairment.² Although alcohol-related fatalities declined by over 500 from 2009, impaired driving remains an epidemic in the United States.³

All 50 states and the District of Columbia have state laws defining it as a crime to drive with a blood alcohol concentration (BAC) at or above a specified level, currently 0.08 percent (0.08 g alcohol per 100 ml blood).⁴ After a court has convicted an offender with driving under the influence (DUI),⁵ several alternatives to incarceration exist, including DUI courts and the use of internal ignition devices (IIDs). The use of IIDs and bike programs allows participants to maintain employment while engaging in rehabilitative DUI court programs.^{6,7}

A DUI court is a specialized docket court that couples alcohol addiction treatment with court supervision.⁸ The goal of DUI courts is to “make offenders accountable for their actions, bringing about a behavioral change that ends DUI recidivism, stops the abuse of alcohol, and

¹ National Highway Traffic Safety Administration, “Traffic Safety Facts: State Motor Vehicle Fatalities 2010,” United States Department of Transportation, last modified December 2011, accessed May 1, 2012, <http://www-nrd.nhtsa.dot.gov/Pubs/811554.pdf>, p. 2.

² National Highway Traffic Safety Administration, “Traffic Safety Facts: State Motor Vehicle Fatalities 2010.”

³ National Highway Traffic Safety Administration, “Traffic Safety Facts: State Motor Vehicle Fatalities 2010.”

⁴ Highway Lost Data Institute, “DUI/DWI Laws,” Insurance Institute for Highway Safety, last modified April 2012, accessed April 30, 2012, <http://www.iihs.org/laws/dui.aspx>.

⁵ For the purposes of convenience in this report, we will refer to all impaired driving regulations as DUI in place of DWI and OUI.

⁶ The Century Council, “Ignition Interlocks: What You Should Know,” last modified January 2009, accessed May 1, 2012, <http://www.centurycouncil.org/sites/default/files/files/ignitioninterlockfacts.pdf>, p. 1.

⁷ The Center for Rural Pennsylvania, “Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness,” accessed July 5, 2012, http://www.rural.palegislature.us/specialty_courts_2011.pdf.

⁸ National Center for DWI Courts, “About DWI Court,” accessed July 19, 2012, <http://www.dwicourts.org/learn/about-dwi-court>.

protects the public; to treat the victims of DUI offenders in a fair and just way; and to educate the public as to the benefits of DUI courts for the communities they serve.”⁹

Typically treatment is stressed as a way to help reduce recidivism (relapse of criminal behavior) in specialized courts, and to reduce future arrests. DUI courts emerged as an outgrowth of the drug court approach first instituted in the 1980s as prisons were overwhelmed by drug-related offenders.¹⁰ The drug court method aims at increasing successful rehabilitation of non-violent substance abuse offenders through “early, continuous, and intense judicially supervised treatment.”¹¹ As the success of drug courts became more apparent, other specialized docket courts have appeared such as community courts, mental health courts, domestic violence courts, and now DUI courts.¹²

Currently, there are no specialized DUI courts in any of the New England states. Without a specialized docket court, cases that deal with DUI charges are sent to the same judges, receive the same penalties, and go through the same procedures as other illegalities. Without a specialized docket, the court system is more prone to being backed up by excessive alcohol-related cases, rather than having them directed to a specific court for such cases.¹³

Various states offer alternative programs for offenders with driving records marred by impaired driving. DUI courts and ignition interlock devices (IIDs), for example, provide offenders with a means to regain driving privileges while addressing problems of alcohol addiction.¹⁴

DUI Courts

There are two types of DUI courts: designated DUI courts and hybrid courts. Designated DUI courts are DUI specific, while hybrid courts are courts that began as drug courts and later added DUI offender programs.¹⁵ DUI courts incorporate court administrators, law enforcement

⁹ Karen Freeman-Wilson, and C. West Huddleston, “DWI Drug Courts: Defining a National Strategy,” National Drug Court Institute (NDCI), last modified 1999 reprinted in 2004, accessed April 30, 2012,

http://www.ndci.org/sites/default/files/ndci/Mono1.DWI_.pdf, Subsection: The DUI/Drug Court Mission.

¹⁰ R.K. Jones, “Evaluation of the DUI Court Program in Maricopa County, Arizona,” Mid-America Research Institute, Winchester, MA, 2011.

¹¹ National Association of Drug Court Professionals (NADCP), “Types of Drug Courts,” accessed July 25, 2012, <http://nadcp.org/learn/what-are-drug-courts/models>.

¹² National Association of Drug Court Professionals (NADCP), “History: Justice Professionals Pursue a Vision,” accessed July 25, 2012, <http://nadcp.org/learn/what-are-drug-courts/drug-court-history>.

¹³ Vincent E. Flango, “DWI Courts: The Newest Problem-Solving Courts,” National Center for State Courts, http://www.ncsconline.org/WC/Publications/KIS_ProSol_Trends04-DWI.pdf, p. 1.

¹⁴ Vincent E. Flango, “DWI Courts: The Newest Problem-Solving Courts.”

¹⁵ Minnesota Judicial Branch, “Minnesota Statewide Adult Drug Court Evaluation,” Minnesota Judicial Branch, accessed July 10, 2012, http://www.mncourts.gov/Documents/0/Public/Drug_Court/2012%20Statewide%20Evaluation/MN_Statewide_Drug_Court_Evaluation_Report_-_Final_Public.pdf, p. 7.

officials, and alcohol treatment counselors.¹⁶ Table 1 shows the prevalence of DUI and hybrid courts per state.

Table 1: DUI and Hybrid Courts per State

States	Number of DUI Courts	States	Number of Hybrid Courts
Maryland	21	New York	82
Missouri	21	Oklahoma	55
Texas	21	Michigan	49
Georgia	17	Maryland	37
Pennsylvania	13	Missouri	37
Michigan	12	Mississippi	31
Colorado	11	Tennessee	23
California	9	New Mexico	16
Wisconsin	9	Indiana	13
Minnesota	8	West Virginia	12
New Mexico	8	Wyoming	11
Louisiana	6	Minnesota	8
Montana	6	Idaho	7
North Carolina	6	Iowa	7
Ohio	6	Arizona	6
Idaho	5	Montana	5
Tennessee	5	North Dakota	5
Washington	5	Massachusetts	4
Alaska	4	Nevada	4
Florida	4	Pennsylvania	4
Arizona	3	Alaska	2
Arkansas	3	Oregon	2
Oklahoma	2	Wisconsin	2
Oregon	2	Colorado	1
Virginia	2	Illinois	1
Illinois	1	Nebraska	1
Iowa	1	Utah	1
Nevada	1		
South Dakota	1		
Utah	1		
Wyoming	1		

Source: National Association of Drug Court Professionals (NADCP), "US Drug Court Map," National Association of Drug Court Professionals, December 2011, accessed on July 11, 2012, <http://www.nadcp.org/learn/find-drug-court>.

¹⁶ Eastern Judicial Circuit of Georgia, "State Court DUI Court Program," Eastern Judicial Circuit of Georgia, accessed on July 10, 2012, <http://www.chathamcourts.org/StateCourt/DUICourtProgram.aspx>.

As of December 2011, there were 192 designated DUI courts and 406 hybrid courts in operation.¹⁷ Vermont has neither a DUI nor a hybrid court. Massachusetts, with four hybrid courts, is the only New England state to have any DUI-related specialized docket court.¹⁸

DUI Court Method

DUI court procedure involves alcohol addiction treatment coupled with heavy court supervision. A typical procedure involves an initial screening, assessment, and clinical diagnosis of the potential participant's alcohol use. The Coconino County method is a typical example of DUI court procedure; it involves four treatment phases, which are overseen by a judge. The Coconino County phases involve varying degrees of treatment and continuous assessment: "Phase I (stabilization, orientation, and assessment), Phase II (intensive treatment and assessment), Phase III (phased treatment and assessment), and Phase IV (continued recovery and assessment)."¹⁹ The process, as described by a Northern Arizona University research team, includes certain requirements; "each phase requires clients to attend DUI/Drug Court, probation contacts, and intensive outpatient treatment. Clients are required to participate in random drug tests. The eligibility requirements laid out by the Coconino County hybrid court in Arizona are that the offense is drug or alcohol related and that the offender has no previous violent offenses."²⁰ They must also perform community service if not employed."²¹ Participation in a support group is also required.²²

A judge oversees the entire DUI court process, therefore participants' progress may vary as they are rewarded or sanctioned based on behavior and participation. An evaluation of several New York DUI courts states, "Incentives can include encouragement from the judge, advancement to the next treatment phase, and decreased frequency of court appearances."²³ Conversely, "sanctions can include admonishment from the judge, mandated essay-writing, increased frequency of court appearances and testing, increased participation in treatment, community service, demotion to an earlier phase of treatment, brief periods of incarceration, and formal probation violation with program termination and re-sentence to jail."²⁴ Jail

¹⁷ National Center for DWI Courts (NCDC), "What is a DUI Court?" accessed July 17, 2012

<http://www.dwicourts.org/learn/about-dwi-court/what-dwi-court>.

¹⁸ National Center for DWI Courts (NCDC), "What is a DUI Court?"

¹⁹ Social Research Laboratory, "Coconino County DUI/Drug Court Evaluation," Northern Arizona University, May 2003, accessed July 13, 2012, <http://www4.nau.edu/srl/projectreports/drug%20court%20ii%20%20final.pdf>, p. 4.

²⁰ Social Research Laboratory, "Coconino County DUI/Drug Court Evaluation."

²¹ Social Research Laboratory, "Coconino County DUI/Drug Court Evaluation."

²² Social Research Laboratory, "Coconino County DUI/Drug Court Evaluation."

²³ Amanda B. Cissner, "The Drug Court Model and Persistent DWI: An Evaluation of the Erie and Niagara DWI/Drug Courts," Center for Court Innovation, September 2009, accessed July 12, 2012, http://www.courtinnovation.org/sites/default/files/dwi_court_evaluation.pdf.

²⁴ Amanda B. Cissner, "The Drug Court Model and Persistent DWI: An Evaluation of the Erie and Niagara DWI/Drug Courts."

sentences are typically utilized as a last resort, following non-compliance with the court treatment plan.²⁵

Effectiveness of DUI Courts

Evaluations of DUI courts have produced inconsistent results.²⁶ In general, programs are successful when they are designed specifically to meet participants' needs. The National Center for DWI Courts (NCDC) created *Ten Guiding Principles for DWI Courts* to serve as a framework for evaluations.²⁷ These guidelines advocate thorough assessment of individual alcohol abuse and dependency among participants and the design of participant-specific treatment, supervision, and management plans. They also emphasize the construction of supportive participant-community relationships and evaluation procedures for court programs.²⁸

Researchers from the National Drug Court Institute evaluated the Waukesha DUI court in Wisconsin. They assessed the program's adherence to the *Principles* using a sample size of 118 third-time offenders and a 24-month follow-up to detect recidivism.²⁹ The study showed a lower recidivism rate for program followers (29%) compared to third-time offenders who served jail sentences before being admitted into the program (45%).³⁰

As DUI courts grow in number and are consequently evaluated, the importance of evaluating large groups of participants and non-participating offenders over long periods of time has become evident. In fact, some researchers call for a minimum two years experimental duration to detect recidivism.³¹ Short study periods and small sample sizes yield unreliable results because the data is only sufficient to highlight large effects. Marlowe *et al.* noted in the *Drug Court Review*, that the actual effects of some DUI courts might be moderate, yet still significant.³² Evaluations involving large groups of offenders over long periods of time are necessary to see the actual effects of DUI courts.³³

Hybrid courts have repeatedly produced poor evaluations, and some researchers see the combination of DUI and drug treatment as a design flaw. These programs lack "specialized

²⁵ Vincent E. Flango, "DWI Courts: The Newest Problem-Solving Courts," p. 2.

²⁶ Douglas B. Marlow, "The Facts on DUI Courts," accessed July 13, 2012, www.nccourts.org/dtc/dtconf/documents/factsdwi.doc.

²⁷ NCDC, "The Guiding Principles of DWI Courts" accessed July 17, 2012, <http://www.dwicourts.org/node/152>.

²⁸ NCDC, "The Guiding Principles of DWI Courts."

²⁹ Matthew L. Hiller and Barbara Samuelson (2008). "Waukesha County alcohol treatment court: An implementation evaluation," Philadelphia: Temple University, Department of Criminal Justice.

³⁰ Matthew L. Hiller and Barbara Samuelson (2008). "Waukesha County alcohol treatment court: An implementation evaluation."

³¹ Douglas B. Marlowe, "The Facts on DUI Courts."

³² D.B. Marlowe, D.S. Festinger, P.L. Arabia, J.R. Croft, N.S. Patapis and K.L. Dugosh, "A systematic review of DWI court program evaluations," *Drug Court Review*, 2009, 6, 1-52.

³³ Douglas B. Marlowe, "The Facts on DUI Courts."

programming designed to... match the services to [participants'] unique needs and clinical profiles."³⁴

Ignition Interlock Devices

Another method to prevent offenders from driving under the influence is the installation of ignition interlock devices (IIDs). IIDs are installed into the dashboard of a motor vehicle. The device measures the blood alcohol concentration of the driver and prevents the vehicle from being started if the BAC is above the pre-set limit (usually 0.02). IIDs may also be set for "running" retests, which require the driver to provide additional breath tests during driving. This measure ensures that drivers do not drink and drive, or ask a sober person to do the initial breath test. If the driver fails during a running retest, the IID will set off the vehicle's horn and lights to signal police and other drivers. IIDs can also record data about the use of the vehicle, including number of attempts to start vehicle, date and time of start, BAC readings, failures, and mileage driven. Probation officers, court officers, and judges then monitor compliance and evaluate the level of threat the offender would pose if the IID were removed from the offender's vehicle.³⁵

Each state has specific requirements for the installation of IIDs. Currently, 37 states require repeat offenders to install IIDs in their vehicles in order to drive with a restricted license during a license suspension.³⁶ Thirty-two states require first offenders with high BACs to install IIDs in order to drive during a license suspension. Of those 32 states, 17 require any first-time offender to install an IID. Many states require the devices for specified time periods before fully reinstating the licenses of offenders. In 16 states and four California counties, such a restriction is applied to all offenders, including first-time offenders. An additional 15 states apply the restriction to offenders with high BACs (usually 0.15 percent or higher) and repeat offenders, and six states apply the restriction only to repeat offenders. Though some states do not have mandatory IID laws, the court or Department of Motor Vehicles have the discretion to require them.³⁷

Research has shown that IIDs are an effective tool preventing drivers from driving under the influence and reducing the incidence of recidivism. The U.S. Center for Disease Control and Prevention (CDC) noted in 2009 that IIDs reduced the rate of recidivism by a median of 67%. Drivers who previously had their licenses revoked because of a DUI conviction had more alcohol-impaired crashes than drivers with interlocks. The CDC also suggests expanding the use of sobriety checkpoints, as their research has shown that checkpoints yield a median decrease in impaired driving crashes and deaths by 20%.³⁸

³⁴ Douglas B. Marlowe, "The Facts on DUI Courts," p. 3.

³⁵ The Century Council, "Ignition Interlocks: What You Should Know," p. 1.

³⁶ Insurance Institute for Highway Safety, "DUI/DWI Laws," last modified May 2012, accessed May 2, 2012, <http://www.iihs.org/laws/dui.aspx>.

³⁷ Highway Lost Data Institute, "DUI/DWI Laws."

³⁸ U.S. Centers for Disease Control and Prevention, "Injury Prevention & Control: Motor Vehicle Safety," 2011, accessed March 15, 2011, <http://www.cdc.gov/motorvehiclesafety/alcoholbrief/>.

Transportation

DUI courts established in rural areas confront transportation issues because participants have lost their licenses and may have to travel long distances for court appointments. While there appears to be no national or state standard for transportation to DUI courts in rural areas, some counties have devised their own transportation systems.³⁹

Georgia

The Georgia Department of Driver Services issues limited licenses on the basis of hardship including travelling to “DUI Drug or Alcohol Use Risk Reduction, or similar programs.”⁴⁰ The use of ignition interlock devices allows courts to issue limited licenses to DUI offenders while ensuring safe use of the vehicle.⁴¹

Pennsylvania

The Center for Rural Pennsylvania’s publication “Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness” describes a bicycle system established in Snyder and Union counties. “The police department donated unclaimed bicycles to the program, a local bicycle shop repaired and tuned the bicycles, and the local hospital donated ten bicycle helmets for DUI court participants. The bicycles were loaned to participants until other transportation solutions could be found and were returned to the program when no longer needed. This works well for local travel but not more distant travel needs.”⁴²

However, elsewhere in Pennsylvania transportation fell on the shoulders of participants: “in many cases, participants used their own scarce funds to pay for a taxi to get them to appointments,” or relied on family, friends, and other acquaintances for transportation assistance.⁴³ Transportation hardships, especially in rural areas, may affect wider issues of attendance and graduation from DUI court programs.⁴⁴

³⁹ The Center for Rural Pennsylvania, “Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness.”

⁴⁰ Georgia Department of Driver Services, “Rules and Regulations for Chapter 375-3-3,” 375-3-3-.10 Limited Driving Permits, last modified September 13, 2010, accessed July 10, 2012,

<http://www.dds.ga.gov/rules/rules.aspx?chap=375-3-3&rule=375-3-3-.10&head=375-3>.

⁴¹ The Century Council, “Ignition Interlocks: What You Should Know.”

⁴² The Center for Rural Pennsylvania, “Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness.”

⁴³ The Center for Rural Pennsylvania, “Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness.”

⁴⁴ The Center for Rural Pennsylvania, “Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness.”

Conclusion

DUI courts can be effective rehabilitative tools provided that the programs are specifically designed to serve the needs of their participants. Studies show that adherence to the *Ten Guiding Principles* may reduce recidivism and increase effectiveness.⁴⁵ Other experimental approaches, including the use of IIDs and bike programs, have been shown to be an effective means of helping participants maintain employment and engage in DUI court programs. Together, these methods of rehabilitating convicted drivers have been found to decrease the instances of drunk driving while alleviating the burden from the higher court dockets.⁴⁶

This report was originally drafted by Alexander Rosenblatt, Evan ‘Deal’ McDaniel, Michael Gibson, and Suzannah Balluffi-Fry and completed by Christine Labella, Suzannah Leiter, and Susannah Parsons on July 10, 2012 under the supervision of graduate student Kate Fournier and Professor Anthony Gierzynski in response to a request from John D. Rogers of the James F. Jeffords Center and Karen Gennette.

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Disclaimer: This report has been compiled by undergraduate students at the University of Vermont under the supervision of Professor Anthony Gierzynski. The material contained in the report does not reflect the official policy of the University of Vermont.

⁴⁵ Douglas B. Marlowe, “The Facts on DUI Courts.”

⁴⁶ Karen Freeman-Wilson, and C. West Huddleston, “DWI Drug Courts: Defining a National Strategy.”