



NCDC

National Center for DWI Courts

Making your community a safer place

A Publication by the

Special Points of Interest on DWI Courts.

At the end of December 2007, there were 396 DWI Courts—110 designated courts, and 286 hybrid courts.

At last count, on June 30, 2008, there are now 445 DWI Courts—138 designated courts, and 307 hybrid courts.

DWI Academy Courts—Leading the Way

In 2007, the National Association of Drug Court Professionals (NADCP) decided that an additional way to educate and support DWI courts was needed. Working with the National Highway Traffic Safety Administration (NHTSA), NADCP established the DWI Academy Court Network. The vision of the Academy Court Network was to have it be a national network of DWI courts recognized for their leadership, guidance, standards, and best practices as a model for how courts can effectively meet the needs of the substance-abusing offender.

To become an academy court, there was a rigorous

application process which went through a multi-phase evaluation and scoring process and a peer review of all documents by three (3) different expert DWI court professionals. Some of the criteria included:

- The DWI court can demonstrate a thorough DWI court planning process.
- The DWI court has been in operation for at least two years.
- The DWI court has been designed and operates in accordance with *Defining Drug courts: The Ten Key Components and the Ten Guiding Principles of a DWI court.*
- Representatives of the DWI court are willing to host individual and/or visiting jurisdictions as well as formal training programs, and cooperate with the NHTSA, National Drug Court Institute (NDCI) and National



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Treating the Female DWI Offender

By: Maya Hennessey

DWI offenses are the largest category of alcohol related crimes bringing women into the criminal justice system. The number of females arrested and re-arrested for driving under the influence of alcohol and other drugs has increased in the past two decades. Fatal

crashes for females has increased, and at lower levels of intoxication than



males. Until now these findings about female DWI offenders have remained obscured in a sea of male DWI offenders.

In the late 70s when I began advocating for more gender sensitive substance abuse services for women

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Judge Sarah Day Smith Recognized at NADCP Conference

The big event for DWI Court professionals at the NADCP Annual Training Conference in June was the recognition of **Judge Sarah Day Smith** with the first ever **DWI Court Leadership Award**. This award is given to those persons that demonstrate significant personal leadership and exemplary performance in the advancement of DWI Courts either in a local or regional jurisdiction or beyond at the state and national level. Judge Smith, from Tulsa, Oklahoma, personified that expectation. As noted in one nomination letter: *“Judge Smith is dynamic, caring, and dedicated to her defendants.” She cheers each person’s success and anguishes over the failures. These are the qualities and her dedication day after day in the courtroom that make her worthy of recognition.”* Judge Smith started the first DWI court in Oklahoma in 2001, and has been a tireless advocate in her community and her state since that time.



Left to right: West Huddleston, CEO, NADCP, Judge Sarah Day Smith, and Chuck Simmons, Chairman of the Board, NADCP.

Bill Revising Drivers’ License Suspensions Passes Congress

A bill that has been watched by many in the DWI court field has passed Congress. For DWI courts, an issue for a second or subsequent offender has always been the ability to get to and from court, or work, or treatment since the Federal SAFETEA-LU Act required that their license be suspended for a minimum of 1 year. States could impose higher requirements, for second or subsequent, but that was the bare minimum according to SAFETEA-LU.

In the current Congress, House Resolution 1195 was submitted which was the “SAFETEA-LU Technical Corrections Act of 2008.” It has passed congress and been signed by the president. One of the changes incorporated by H.R. 1195 was the following:

To amend the federal highway law to revise the term "repeat intoxicated driver law" to mean a state law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving

while intoxicated or driving under the influence after a previous conviction for that offense shall, among other things, receive: (1) a driver's license suspension for not less than one year (as under current law); or (2) a combination of suspension of all driving privileges



for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program, if an ignition interlock device is installed on the motor vehicles the individual owns and/or operates.

This means that states can now have as a driver’s license sanction a 45 day suspension for a repeat offender **as long as** there is an ignition interlock device and the license is a limited one for the purpose of getting to and from work, school, or an alcohol treatment program.

Editor’s Note: *Do not forget that this does not rewrite the law in each of the states—it just provides for the option to change what the law currently requires.*

It is also important to note that this law did not provide an exception to drive to court ordered activities, such as reporting to probation, or appearing in court—especially on a DWI charge.

Finally, current studies on ignition interlocks demonstrate that they are effective in reducing DWI recidivism while installed. However, once the device is removed, DWI recidivism rates return to comparable levels for those that did not have a device installed. NCDC is striving to ensure ignition interlocks are used, but without long term treatment and ongoing judicial oversight, such as what happens in DWI courts, the outcomes are questionable.

DWI Academy Courts—Leading the Way

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Center for DWI Courts (NCDC) Programs to further strengthen the development and quality of DWI courts nationwide.

After that thorough review, four DWI courts were chosen to be Academy DWI court sites, they are:

- Newport Beach, California, Honorable Carlton Biggs presiding;
- Athens, Georgia, Honorable Kent Lawrence presiding;
- Traverse City, Michigan, Honorable Michael Haley presiding; and
- Springfield, Missouri, Honorable Peggy Davis presiding.

These four sites are positioned throughout the country, specifically serving the DWI court field in two ways. First, Academy Court sites provide education through example for local jurisdictions or individuals interested in seeing a DWI court in action. Second, the Academy Court Network is the primary location for NHTSA /NCDC and BJA/NDCI DWI court planning workshops, allowing for an experienced practitioner-rich learning environment for planning jurisdictions.

The NDCI and NCDC Academy Network mission includes a strategy to (1) prepare each Academy Court to be a stellar visiting/training site that will

provide standardization throughout the DWI Court system; (2) better equip Academy Courts through the provision of publications and other resources to be disseminated to Academy Court visitors; (3) broaden the awareness of this nation’s criminal court system and the impact of the Academy Court Network by promoting the network; and (4)

capitalize on and highlight the uniqueness and expertise of Academy Courts by sponsoring topic-specific training to DWI court practitioners at specific Academy Court sites as well as holding “Best Practices” events at NADCP Annual Training Conferences.

Academy Court Commitment

Academy Courts are committed to improve the court process of new and existing DWI courts throughout the nation. In doing so, they agreed to work with visiting jurisdictions to review processes, establish goals and work toward the creation or enhancement of local DWI court operations. Academy Court teams are committed to participate and act as faculty in meetings and workshops as well as to disseminate information concerning DWI courts during site visits and host meetings. Finally, Academy Court team members agreed to work with NHTSA/NDCI/NCDC to evaluate and implement ongoing best practices and other DWI court program reforms.

These four courts will be DWI Academy Courts for a period of three years, and then new courts will be considered after another thorough search.

The vision of the Academy Court Network is to have it be a national network of DWI courts recognized for their leadership, guidance, standards, and best practices as a model for how courts can effectively meet the needs of the substance-abusing offender.

The Goals of DWI Academy Courts

Goal 1: The Academy Court Network provides the development of a collaborative and coordinated system, which integrates the functions of participating partners that support the development of local and regional leadership in the DWI court field.

Goal 2: The Academy Court Network provides innovative and cost effective approaches to the development of DWI courts that rely on locally or regionally centered education and mentoring.

Goal 3: The Academy Court Network provides a referral system for developing DWI courts that link training and educational resources to requests for assistance from jurisdictions planning or enhancing their DWI court systems.

Goal 4: The Academy Court Network represents formal training sites where practitioners have demonstrated expertise, teaching skills and a willingness to mentor those in need.



DWI Courts on target for leadership and training.

DWI Fatalities Down Nationwide and in 32 States

New national figures released August 28th, show a significant decline in the number of drunk driving-related fatalities occurring nationally and in 32 individual states, U.S. Secretary of Transportation Mary Peters announced. However, the Secretary noted that the number of alcohol related fatalities among motorcyclists is climbing in half of the states.

“More drivers are getting the message that if you drink and drive, you will be caught, you will be arrested and you will go to jail,” said Secretary Peters. “But as good as this progress is, in this day and age there is simply no excuse for someone to drink and then drive.”

Secretary Peters noted that last year an estimated 12,998 people were killed in crashes where a vehicle operator had a blood alcohol concentration (BAC) of .08 or higher. She said that represented a 3.7 percent decline from the 13,491 fatalities in 2006. However, figures showing that 25 states experienced an increase in the number of drunk motorcycle riders involved in fatal crashes was disappointing, the Secretary said.

The Secretary added that the Department was working with law enforcement agencies across the nation to launch stepped-up drunk driving enforcement efforts during the Labor Day holiday period. She added that the Department also was investing \$13 million in advertising during the holiday weekend to deliver the message:

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A Defense Attorney's View on DWI Courts

By: Mark Risk

One reason I became an attorney was that I wanted to make a difference and I felt there was no better way to do this than by

protecting people's rights. During the intervening years, I enjoyed what I was doing. I felt good about it. But I began to see that what I could do was pretty restricted. There were a lot of repeat clients. The issues were often more about lifestyles and behavior than the crime itself, since many of these clients had alcohol or substance abuse problems.

My role seemed to be more to put a band-aid on the existing problem. It became increasingly obvious that this was not enough. I was doing what I could, but I'm just an attorney. And while I am also a “counselor,” and I tried to give some advice on how to change the underlying behavior or substance problem, I didn't have the necessary skills and training to make it happen.

DWI Court Brings a Change

Then along came DWI court. This called for a pretty radical change in my traditional role as a defense attorney. However, from my defense perspective, the concept of DWI court made sense. For many reasons traditional courts appear to focus more on punishment. DWI court was going to focus on rehabilitation.



Attorney Mark Risk

I wanted to do more for my clients. I wanted the courts to do more. The client was in a unique place and point in time to address the underlying issues. The opportunity to make a serious change was present. So many times our clients would get their sentence, do the time, and before long be back doing the same thing that originally got them in trouble. DWI courts were going to attempt to change this cycle.

Having A Different Perspective

So, I got on board and learned a different way of looking at the client's problem. I felt the old traditional approach was myopic. It is like the old saying “catch a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.” In my old role as a defense attorney, I felt I was catching a lot of fish for my clients. Now the clients are learning how to fish.

I see many defense attorneys struggle more with their new role. It took some adjustment for me too. I just tried to go with the flow and see what I could learn about this new process, and now I am now very comfortable in my new role. I really like what I'm doing.

I see quite a few advantages for the defense attorney in representing the client's interest in DWI court over traditional court. But first, the client has to be

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I get to see clients transform their lives. I see them take control again. They rebuild their lives and relationships.

Why I Believe in DWI Court—A Defense Attorney's View

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appropriate for the DWI court. The client needs to have the type of problem the DWI court can address. For the court I work with, the client needs to have a minimum of two DWI convictions and needs to be clinically assessed as alcohol dependent.

If a client does not meet these criteria, then I represent them in the traditional adversarial manner, outside of DWI court. But if a client does meet the criteria, my role changes, I no longer just represent the client. I have an additional duty to the DWI court and its team. The client needs to be very clear about this. If the client wants their own individual attorney, they are welcomed to have one.

When a client comes into DWI court, I treat them in the same manner as I did in the adversarial system. I try to provide the same representation as I did before. I still ensure the client's rights are protected. It's just that now I'm also part of a team.

Having a Greater Impact

I think I actually do a more effective job for the client. One advantage is in

credibility. The DWI court team knows I'm coming from a defense perspective. But they also know I'm a part of the team. When I advocate an issue, they know I'm not saying it just because I'm required to do so. I'm saying what I honestly believe is the best thing for the client.

I have greater access to the people who affect my client. I have weekly access to the judge, the probation officer, the prosecutor and the treatment providers. I see this as remarkable opportunity to advocate for my client. I follow my client and the issues faced, not just at arraignment, plea and sentencing, but through the entire length of probation.

I also have an opportunity to meet with my client on an ongoing and regular basis. I can ask how things are going. I'm available to discuss and counsel on any issues that face the client. The clients really appreciate this. They are gratified that someone cares enough about their situation to regularly check in with them.

It's a Team Effort

Throughout this process I get to work with a team of professionals with a common goal: to assure the client will be successful on probation and in life. I get to see clients

transform their lives. I see them take control again. They rebuild their lives and relationships. They regain healthy relationships with their

spouses, children, siblings, parents and friends. They become agents of change in their own families. They become employed and productive members of society.

Why do I believe in DWI court? Because it works! DWI court

takes an innovative approach to rehabilitation. The results are long lasting. Recidivism is cut drastically and there are cost savings to the county. Our clients get the help they truly need. They are not just shuffled through the system and warehoused until they will be released.

I believe in DWI courts because I want to make a difference. In my 28 years as a practicing attorney I have found no better, more satisfying place to do just that than in DWI court.

Editor's Note: Attorney Mark Risk has practiced criminal defense since his law school graduation in 1980. In 2003, he joined the DWI Court team in Traverse City, Michigan. This particular DWI court is one of four DWI Academy Courts in the country.



Treating the Female DWI Offender

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there was little research to back up my assertions that women needed different approaches. Today, science has opened the doors to reveal that besides reproductive organs and hormones, the brains, eyes and ears of males and females are constructed different, resulting in divergent world views, values, beliefs, motivation, problem solving processes, and dissimilar pathways into and out of addiction.

And, we now have at our disposal evidence-based approaches and models for better outcomes with addicted females. When trained in collaboration prosecutors, judges, probation, police officers applying gender competent approaches across the DWI legal spectrum coerce female DWI offenders into gender sensitive treatment, where addictive patterns are interrupted and public safety best served.

Gender Differences

In one study baby boys and girls were videotaped and their eye movements analyzed by researchers who didn't know the sex of the baby. The babies were lying in cribs watching mobile toys floating overhead, until a face appears over the crib. The baby boys stayed focused on the mobile; the girls locked onto the face. At this tender age of 6 weeks old girls reveal an inherent life-long tendency towards relationships.

A study observed boys and girls playing in the school yard. When an

argument broke out between the boys they stopped, establish the rule and resumed the game. When girls in the school yard disagreed they abandoned the game to preserve the friendships.

Studies of alcoholic men show relationships taking a back seat to the object of their addiction in the early stages of addictions. Women cling to their relationships to the bitter end. It comes then as no surprise that the highest success rates in women's treatment programs are in gender competent residential programs where women and their children live together.

The Female DWI Offender

Although there are an increasing number of female DWI arrests, few women are referred to treatment, where women can form vital supportive "relationships" with other women in recovery who gently empower her to leave behind the toxic culture of addiction, while more deeply embracing a life of recovery.

HER CHILDREN—A high percentage of addicted females have sole responsibility for the care of their children. She clings to her children while riddled with guilt that she self-medicates with more drinking and drugs. A probation study showed 13% of women pregnant at the time of their arrest, and nearly 100% of female DWI offenders are of child bearing age, putting the children at risk for Fetal Alcohol Syndrome, a



totally preventable form of mental retardation caused by excessive use of alcohol.

HISTORIES OF VIOLENCE—Nearly 90% of addicted women receiving services in publicly funded treatment, criminal justice and child welfare systems have histories of physical & sexual abuse. Addicted women with histories of violence have more severe medical problems, malnutrition, and higher mortality rates; cognitive impairment from trauma, including debilitating anxiety and depression, both of which impede her ability to respond to traditional treatment.

TOXIC DEPENDENCIES—As a woman's addictions progresses, more systems become involved such as criminal justice, child welfare, domestic violence, public aid. She fears and resents these systems and individuals, yet due to the trauma and cognitive impairment from alcohol abuse, she's unable to break away from these toxic dependencies without external interventions.

GENETIC PREDISPOSITION—The majority of addicted women come from addicted families. This genetic predisposition results in greater euphoria and quickening of addictive patterns as well as familial role models

We now have at our disposal evidence-based approaches and models for better outcomes with addicted females.

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Treating the Female DWI Offender

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for using alcohol and other drugs as an acceptable means of coping.

UNSTABLE LIVING

SITUATIONS—Addicted women running from abusive males, move a lot, with her children living in different places. One child may be living with the father, another with an aunt, another child in foster care in the child welfare system.

LIVING IN POVERTY—Women in the criminal justice system often live in poverty or are financially dependent upon a man who is abusive, addicted, who sabotages her attempts at recovery.

Accountability is the cornerstone of recovery. But, accountability looks quite different in each stage of change.

Recommendations

There needs to be gender competent and stage appropriate interventions. Accountability is the cornerstone of recovery. But, accountability looks quite different in each stage of change. If we

break a leg there are stages of effective healing. First we're carried to the ER, x-rayed (i.e. assessed) and put in a cast. In the first stage of change we acknowledge the cognitive impairment, and recognize that yelling and threatening only re-traumatizes a woman, increasing her compulsion for relief through alcohol and other drugs. As it would be futile to force a guy with a broken leg to walk on it before it was assessed and set securely in a cast. In stage one, prosecutors and judges are the glue holds her in treatment while healing of body and mind can begin.

Skilled addictions counselors identify barriers to recovery (internal and external), gather information about her strengths, weaknesses, motivators and use stage appropriate interventions to interrupt addictive patterns.

Gender competent interventions are easy to learn and can be as rewarding for judges and prosecutors as it's been for probation officers and child welfare case workers who share stories of woman's in recovery who return to say "Thank you for saving my life, the lives of my children, and pushing me towards recovery, where today I have a life of joy beyond my wildest dreams."

Editor's Note: *Maya Hennessey is a consultant, trainer and technical assistance specialist on women and addictions for federal, state and county government.*

The complete article and references on female DWI offenders titled Evaluating, Treating and Monitoring the Female DWI Offender, authored by Maya Hennessey and William L. White, can be downloaded at www.mayahennessey.com.

Alcohol Becoming Equal Opportunity Destroyer

Alcohol dependence was once much more common among men than women in the U.S., but the gender gap is closing, Reuters reported May 5.

Researchers Richard A. Grucza of Washington University School of Medicine in St. Louis and colleagues said that alcohol consumption and dependence have been rising among white and Hispanic women since the end of World War II, with women born between 1954 and 1963 much more apt to drink and have drinking problems than those born between 1944 and 1953.

"This is particularly disturbing because women with alcohol problems face more severe health-related consequences and possibly more years of life lost than their male counterparts," the study noted.

"We found that for women born after World War II, there are lower levels of abstaining from alcohol and higher levels of alcohol dependence, even when looking only at women who drank," Grucza said.

A changing cultural environment that saw more women going to college, entering the workforce, gaining purchasing power and defying gender stereotypes has played a role in alcohol-related trends among women, Grucza added. "They were freer to engage in a range of behaviors that were culturally or practically off-limits, and these behaviors probably would have included excessive drinking and alcohol problems," he said.

The research appears in the May 2008 issue of the journal *Alcoholism: Clinical & Experimental Research*.

Editor's Note: *This story published on Join Together, May 6, 2008.*





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Making your community a safer place

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DWI Fatalities Down Nationwide and in 32 States

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"Drunk Driving. Over the Limit. Under Arrest."

A National Highway Traffic Safety Administration (NHTSA) advertising campaign this year will include media outlets and information sources that are most likely to reach high risk demographic groups. The agency is using more web-based outreach, teaming up with alternative media partners. The new ads are being seen on message banners on well-known social media sites, internet TV programming, mobile devices and even PC-based video games.

Secretary Peters also reminded drivers – and motorcycle riders – attending holiday gatherings that if they plan to drink, that they make arrangements for a ride home with a sober driver.

NHTSA's new statistical report on 2007 alcohol-related fatalities is drawn from the agency's Fatality Analysis Reporting System (FARS) and can be viewed at:

www.nrd.nhtsa.dot.gov/Pubs/811016.PDF

NCDC Director Receives MADD Michigan Award

On August 15, 2008 on Mackinac Island, Michigan, MADD Michigan recognized the National Center for DWI Courts (NCDC) director, **David Wallace**, for his work as a traffic safety resource prosecutor (TSRP). Before becoming the NCDC director, Mr. Wallace was one of the leading TSRPs in the country. MADD awarded Mr. Wallace with the **MADD William Van Regenmorter Award**. This award is given to those few individuals that made a significant impact in public service while promoting the ideals of MADD.

As partially stated in the nomination:

"In short, David created a traffic safety program at the Prosecuting Attorneys Association of Michigan (PAAM) that has served as a model for the country. When he started in this position in 2000, only 3 other states had TSRPs.

Using the programs David developed as the template, there are now TSRPs in nearly 40 states. Moreover, the importance of having a TSRP like David Wallace in every state, has been recognized by Congress in the SAFETEA-LU bill. Having a TSRP meets one of the SAFETEA-LU requirements for federal highway funding."

In receiving the award, Mr. Wallace stated: "It is truly an honor to be recognized by such an outstanding organization as MADD for the work I did. MADD has been at the forefront in the fight against impaired driving, and if I was able to move that fight forward or save anyone from being killed by an intoxicated driver, it was worth the



Left to right: Charles Koop, President, PAAM; Homer Smith, Executive Director, MADD Michigan; Kristin Bakker, MADD Lifesaver Award Recipient; David Wallace, MADD William Van Regenmorter Award Recipient; Mike Prince, Director, OHSP.

effort. I am truly fortunate." The award was presented at the Michigan prosecutors' annual conference. It is sponsored by MADD Michigan and the Michigan Office of Highway Safety Planning with support from PAAM