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# "I'll Just Do My Time": The Role of Motivation in the Rejection of the DWI Court Model

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## "I'll Just Do My Time": The Role of Motivation in the Rejection of the DWI Court Model

### **Abstract**

In the last decade, driving while intoxicated (DWI) courts based on the therapeutic court model have proliferated. Although the typical DWI court program allows offenders with multiple DWI offenses to avoid jail time and get their drivers' licenses back sooner, not all offenders who are offered the opportunity to participate in DWI court choose to take advantage of it. Others try but drop out of the program early on. We conducted qualitative interviews with twelve people who were offered the opportunity to participate in an urban DWI court in a Midwestern county between 2007 and 2010, but who either chose not to participate or who tried but did not succeed in the program. The authors point to the relationship between intrinsic and extrinsic motivation in order to explain the findings and ultimately inform practitioner methods for engaging potential DWI court clients and enhancing success rates.

### **Keywords**

Driving While Intoxicated (DWI)/Driving Under the Influence (DUI), Court, Motivation, Interviews

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## **“I’ll Just Do My Time”: The Role of Motivation in the Rejection of the DWI Court Model**

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*In the last decade, driving while intoxicated (DWI) courts based on the therapeutic court model have proliferated. Although the typical DWI court program allows offenders with multiple DWI offenses to avoid jail time and get their drivers’ licenses back sooner, not all offenders who are offered the opportunity to participate in DWI court choose to take advantage of it. Others try but drop out of the program early on. We conducted qualitative interviews with twelve people who were offered the opportunity to participate in an urban DWI court in a Midwestern county between 2007 and 2010, but who either chose not to participate or who tried but did not succeed in the program. The authors point to the relationship between intrinsic and extrinsic motivation in order to explain the findings and ultimately inform practitioner methods for engaging potential DWI court clients and enhancing success rates. Keywords: Driving While Intoxicated (DWI)/Driving Under the Influence (DUI), Court, Motivation, Interviews.*

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### **Background: The Therapeutic Jurisprudence Model**

Beginning in the late 1970’s, court systems across the United States funneled resources into the development of drug courts, as an alternative to the more punitive and less successful measures that had previously been used to curb drug offenses (Stinchcomb, 2010). In answer to criticisms of the “revolving door” of the criminal justice system for drug offenders who recidivated, the drug court approach was borne out of a therapeutic model, focusing on the need for treatment for drug offenders, and offering defendants treatment as an alternative to incarceration. The idea exploded, and as of the end of 2011, there were over 2,600 drug courts functioning throughout the United States (National Institute of Justice, 2012 <http://www.nij.gov/topics/courts/drug-courts/>). Empirical research provides evidence of their success, estimating somewhere between a 10 and 15 percent reduction in recidivism for drug offenses (Belenko, 2001; Deschenes, Peters, Goldkamp, & Belenko, 2003; Gottfredson, Najaka, & Kearly, 2003; Hora, Schma, & Rosenthal, 1999; Marlowe, 2010).

Based on the success of drug courts, other therapeutic court models have emerged over the last 10-15 years. Among these varieties is the driving while intoxicated (DWI) court, typically aimed at individuals who have three or more charges of driving while intoxicated within a 10 year period. Similar to the drug court model, DWI court is based on the “carrot and stick” approach to adjudication, whereby offenders with three, four, or more DWI’s can avoid jail time and have their drivers licenses reinstated sooner by participating in the DWI court program. As of the end of 2011, there were 192 designated DWI courts and an additional 406 DWI/drug hybrid courts throughout the United States (National Center for DWI Courts, 2012).

### **DWI Courts**

DWI courts proliferated because of the increase in automobile crashes and fatalities over the last several decades linked to driving while intoxicated. The criminal justice system

has employed educational public service campaigns, general deterrence policies, alcohol control policies (DeJong & Hingson, 1998), punishment (Bouffard & Bouffard, 2011) and other means to reduce drunk driving. Despite these efforts, intoxicated drivers continue to be a significant threat to public safety. According to the *National Highway and Transportation Safety Administration* (NHTSA), alcohol was involved in nearly a half a million accidents nationwide in 2005, affecting a quarter of a million people (NHTSA, 2006, as cited in Saum, Hiller, & Nolan, 2013). In 2009 alone, 11,000 people lost their lives as a result of a drunk driving incident, 70% of which involved drivers with multiple DWI offenses ([http://www.dwicourts.org/sites/default/files/ncdc/DWI\\_COURT\\_Brochure.pdf](http://www.dwicourts.org/sites/default/files/ncdc/DWI_COURT_Brochure.pdf)). The state in which the current study is located, Minnesota, is no different than the rest of the United States in imposing penalties for drivers with a blood alcohol concentration (BAC) of .08 or higher; yet even with these penalties in place, 9,878, or 31%, of the traffic fatalities in the United States in 2011 involved drivers whose blood-alcohol concentration (BAC) was .08 or higher (NHTSA, 2012). While the total number of fatalities involving drivers with a BAC of .08 or higher has decreased since 2002, the percentage in relation to total traffic fatalities has not (NHTSA, 2012; Saum, Hiller & Nolan, 2013).

In response to these alarming statistics, and along with the knowledge that the worst offenders tended to be DWI recidivists, DWI courts were created to help curb the incidence of DWI's and improve case management of these multiple DWI offenders (Bouffard & Bouffard, 2011). Part of a DWI court's purpose is to reduce recidivism of repeat offenders who have not responded to other methods (Tauber & Huddleston, 1999). Tactics such as enhanced enforcement (e.g., sobriety checkpoints and saturation patrols) and drinking age increases are most effective with social and underage drinkers (Bureau of Justice Statistics, 1998: as cited in Tauber & Huddleston, 1999), but there remain a population of adult recidivists who continue to drive drunk regardless of society's efforts to curb the problem (Tauber & Huddleston, 1999). For these multiple DWI offenders, DWI courts were created with the hope of stopping repeat offenses by increasing accountability and providing a mechanism for chemical dependency treatment (Narag, Maxwell, & Lee, 2013; Saum, Hiller & Nolan, 2013).

Modeled after drug courts, DWI courts focus on treatment, monitored abstinence, and a less adversarial approach, which may also include incentives for compliance (Freeman-Wilson & Huddleston, 1999). And as with drug courts, empirical evidence supports the premise of DWI courts (e.g., Fell, Tippetts, & Langston, 2011; Hill, Saum, & Taylor, 2010; Michigan Supreme Court, 2008). A study of DWI courts in Georgia found that those who participated in DWI court were 20% less likely to recidivate than those who did not, and that those who graduated from DWI court were 65% less likely to recidivate over a four year period (Fell, Tippetts, & Langston, 2011). A study of DWI courts in Waukesha, Wisconsin also found recidivism rates after two years for those who completed the program were 29% as compared with 45% for a comparison group. This was among a sample of 3<sup>rd</sup>-time DWI offenders, 94 percent of whom had been diagnosed as alcohol dependent (Hiller, Saum, & Taylor, 2010). And a study of three counties in Michigan found DWI court participants up to 19 times less likely to reoffend than those who did not participate, and also showed a significant cost reduction, based on less court resources being used, as compared with traditional court (Michigan Supreme Court, 2008).

One important consideration of DWI courts is whether or not they are truly therapeutic and voluntary, or merely what has been referred to as "strong-arm rehab" (Gowan & Whetstone, 2012). Critics of drug courts have claimed that court mandated rehabilitation justifies its own existence by placing recovery from addiction at the forefront of priorities, even at the expense of removing individual agency and free will (Hora, 2002; as cited in Gowan & Whetstone, 2012). This façade of voluntary participation is perhaps even more pronounced when one considers the consequences of struggling and/or failing under the therapeutic rubric.

As stated by Gowan and Whetstone (2012), “therapeutic circles and sentimental evocations of brotherhood are always overshadowed not only by the immediate sanctions held over individual clients, but by the backdrop of unabated arrests and incarceration...” (p. 73). The difference, however, may lie in the difference in demographics between drug court clients, to whom Gowan and Whetstone (2012) referred, and multiple DWI clients. Drug court clients tend to be poor and black, whereas DWI clients are often middle-class and white. Thus the concept of coercive welfare alleviating “anxieties of the white middle class about their own habits” (Gowan & Whetstone, 2012, p. 72) loses some strength when we consider the typical DWI court client, who in fact are the white middle class (see, for example, DeMichele & Lowe, 2011).

The current study focuses on a similarly successful DWI court in Hennepin County, Minnesota. This court began in January 2007, and was designed as a voluntary option for 2<sup>nd</sup> and 3<sup>rd</sup> degree repeat DWI offenders. The Hennepin County program, like many others, lasts for 18 months, with three phases of approximately 6 months each. The length of each phase varies depending on the offender’s level of compliance. The goals of the program are to reduce recidivism, maintain defendant sobriety, and increase compliance with the court. As of the end of 2011, the DWI court had served over 300 individuals with multiple DWI offenses, 149 of whom had successfully completed the program, 103 of whom were still active in the program, 44 of whom terminated their involvement (either by their own choice or by the decision of the DWI court judge), and four of whom had died. Of the 300 individuals served, only 22 (7%) had a new DWI charge and only 16 (5%) had a new DWI conviction by mid-2012 (Caron, 2012). This is significantly better than a comparison group of multiple DWI offenders during the same time frame, 39 (13%) of whom had a new charge and 29 (10%) of whom had a new conviction by mid-2012 (Caron, 2012).

Hennepin County’s DWI court is typical of others in that offender participation is voluntary, with attorneys generally offering the opportunity to clients who have been arrested and charged with 2<sup>nd</sup> or 3<sup>rd</sup> degree driving while intoxicated. The degree is related to the number of prior DWI’s, with most who are offered the opportunity being arrested for at least their third DWI. While it is possible for a 2<sup>nd</sup> time offender to be offered the opportunity, the typical jail sentence for a second timer is so short (0-30 days, according to a report from the Minnesota House of Representative (<http://www.house.leg.state.mn.us/hrd/pubs/jailtime.pdf>) that the 18 month program would not generally be seen as a good trade off and most would not choose to participate. To be accepted into the program, the offender must plead guilty to the offense. Once accepted, DWI court participants must appear in court every week initially for judicial reviews, meet weekly with their probation officers, attend treatment and/or participate in twelve step groups, submit to random alcohol and drug testing (both at the courthouse and during unannounced visits to their homes by law enforcement officers), observe a curfew, participate in a Victim Impact Panel, and complete other requirements as set by the court (Minnesota Judicial Branch, Fourth Judicial District DWI Court, 2010). In exchange for DWI court participation, the offender’s length of jail time is either significantly reduced or eliminated, and the waiting period for driver’s license reinstatement is significantly abbreviated.

While the therapeutic model offers a potentially appealing opportunity to multiple DWI offenders who might otherwise be facing a substantial jail or prison sentence, as well as a lengthy period of time before reinstatement of driving privileges, not all who are offered the opportunity agree to it. Some individuals state that they would rather just “do their time” than submit to an eighteen month program which demands complete sobriety and submission to what some consider to be intrusive program components (e.g., regular unplanned visits from law enforcement officers who breathalyze DWI court participants to ensure continued sobriety). Other individuals agree to participate in the DWI court program, but end up failing

out fairly early into the eighteen month period, or choose to execute the mandatory minimum jail sentence once they realize that the program requirements are more stringent than they expected. As of February 2009, the mandatory minimum jail sentence was no longer an option and individuals who chose to leave the program were required to serve their entire original jail sentence.

While those who opt out may have a variety of reasons for not trying the program, those who fail out have firsthand experience of the difficult nature of court-mandated sobriety. Research suggests that court-mandated treatment does work to reduce drunk driving and alcohol related accidents and can have a positive impact on long-term outcomes for participants (Narag et al., 2013; Saum et al., 2013; Wells-Parker & Williams, 2002). At the same time, court-mandated sobriety may in fact be what turns some potential DWI clients away from the opportunity. DWI clients who are eager to reduce the length of both their incarceration and the time to reinstate their driving privileges often underestimate the need for complete sobriety. While they may agree to not drink and drive anymore, some may not understand that this also means that they cannot drink anymore, which is arguably a much more stringent requirement. Not drinking and driving simply means obeying the law; not drinking at all means a permanent lifestyle change, which requires a different level of offender motivation.

### **Rational Decision Making, Chemical Dependency, and Drunk Driving**

The underlying purpose of DWI court is somewhat different than that of drug court. With a few exceptions in states that have recently legalized the recreational use of marijuana, using drugs is illegal, regardless of whether or not the individual drug user engages in other behaviors, such as driving, after using drugs. Drinking alcohol, on the other hand, is legal; the illegality of drinking is typically related to the behavior in which the drinker engages during or after drinking, including driving a motor vehicle while intoxicated. Although one statistic suggests that the average drunk driver has driven drunk over 80 times before their first arrest (Bergen, Shults, & Rudd, 2011), most individuals arrested for a first time DWI can attribute the arrest to having made a poor decision, and are unlikely to ever be arrested for DWI again.

On the other hand, one-third of individuals arrested for DWI in a given year are repeat offenders, some with several DWI convictions in their past (Fell, 1995; as cited by Mothers Against Drunk Driving at <http://www.madd.org/drunken-driving/about/drunken-driving-statistics.html>). These individuals are the ones for whom the sobriety rule of DWI court was implemented, as the widely accepted belief is that someone who is willing to risk drinking and driving multiple times, even after having been caught and experiencing the trauma associated with arrest, jail, and the court process, likely needs help to begin a life of sobriety. A classic rational choice approach (e.g., Clarke & Cornish, 1985, as cited in Mason & Monk-Turner, 2010) would suggest that, for most individuals, the pain of a first DWI arrest far outweighs the pleasure of drinking if one needs to drive, and thus most make the conscious choice not to repeat the behavior. Those who do not make this choice may in fact have a more deeply rooted problem with alcohol use, a problem which precludes the ability to make rational choices (Yu, Evans, & Clark, 2006).

Some studies have found repeat DWI offenders to have clinically problematic alcohol use (Saum, Hiller, & Nolan, 2013), which is what distinguishes them from the typical first timer. DWI courts rely on a diagnosis of alcoholism to mandate treatment for offender participants, yet there is some disagreement in the literature as to whether or not mandated treatment works. Some argue that offenders resist treatment if participation is mandatory (Saum, Hiller, & Nolan, 2013), while others report that court-ordered treatment clients have better outcomes regardless of their initial reluctance to participate (Knight, Hiller, Broome, &

Simpson, 2000). At the core of this discussion is the issue of motivation, and particularly the difference between intrinsic and extrinsic motivators and how they can affect behavior.

### **Intrinsic and Extrinsic Motivators and the Decision (Not) to Participate in DWI Court**

There are a number of potential reasons that individuals may seek treatment for alcohol or drug addiction, including physical or psychological problems, threats of sanctions from the criminal justice system, and/or potential loss of job or family relationships (Gerstein & Harwood, 1990). The most prominent motivators, according to Gerstein and Harwood (1990) are health crises, criminal justice system consequences, and psychological problems. Many admit seeking to regain self-respect (Gerstein & Harwood, 1990), and for some this intrinsic motivation may be more powerful than any potential informal or formal sanctions.

Psychological research on motivation shows that those who are intrinsically motivated to make a significant change in their life (e.g., becoming sober) may in fact become unmotivated in the face of extrinsic motivators such as rewards or punishment (Deci & Ryan, 2008). In other words, an entire body of literature suggests that we should not consider intrinsic and extrinsic motivators as independent of each other, but instead recognize that for individuals who are intrinsically motivated to change, feeling threatened, evaluated, or potentially punished – all extrinsic motivators – will detract from the intrinsically motivated individuals' sense of autonomy and ultimately decrease that motivation (see, for example, Deci & Cascio, 1972; Plant & Ryan, 1985, both as cited in Deci & Ryan, 2008). Likewise, extrinsic motivators that are designed to reward may also detract from intrinsic motivation, but there are some instances where positive performance feedback can enhance rather than undermine it (Deci et al., 1999; as cited in Deci & Ryan, 2008). The goal of DWI court is either to enhance intrinsic motivation with extrinsic motivators, for those who already desire sobriety, or to use extrinsic motivators to foster intrinsic motivation, for those who simply want to avoid jail time and reinstate their driving privileges. What DWI court practitioners have learned, however, is that the interplay between intrinsic and extrinsic motivation is a dynamic process that does not always function the way we might expect (Curry, Wagner, & Grothaus, 1990). In short, the carrot and stick approach of DWI court may work for some, but not for others, for a variety of reasons.

The authors sought to tease out some of the reasons for DWI court rejection or failure in this research. In this article, we present the results of in-person interviews with twelve multiple DWI offenders who either opted out or failed out of Hennepin County's DWI court program. Their insights demonstrate the need for understanding the relationship between intrinsic and extrinsic motivation, and how the carrot and stick approach to sobriety may not be useful with every potential participant.

The first author initiated this study based on her role as program evaluator of Hennepin County's DWI court from early 2007 (when the court began) to mid-2008 ([http://www.mncourts.gov/Documents/4/Public/Research/DWI\\_Court\\_Pilot\\_Project\\_-\\_Results\\_of\\_Evaluation\\_After\\_One\\_Year\\_%282008%29.pdf](http://www.mncourts.gov/Documents/4/Public/Research/DWI_Court_Pilot_Project_-_Results_of_Evaluation_After_One_Year_%282008%29.pdf)). During the year and a half spent with the DWI court team, attending weekly staffing meetings and court hearings, she noticed that there were some individuals for whom DWI court was not a panacea. She heard stories of individuals who were offered the opportunity but preferred to "do their time," and she witnessed individuals drop out of the program, either purposefully quitting or engaging in behaviors that were in violation of DWI court requirements. This prompted her to investigate what the reasons might be for rejection of the DWI court model. This question was also interesting to DWI staff (judge, probation, etc.), and they supported her efforts by providing contact information for those who opted out or dropped out of DWI court.

## Methodology

This research follows a phenomenological model, in that the first author identified what she thought to be a peculiar phenomenon – the rejection of a program which would keep individuals out of jail – and was genuinely curious as to why people would make such a choice. We chose to create questions broad enough to allow study participants to describe their unique experiences and reasons for rejecting the DWI court opportunity. Rather than begin data collection with preconceived hypotheses, we recognized the exploratory nature of the research, and allowed the participants' answers to our questions to shape the overall discussion.

## Sample

Probation staff provided the first author with contact information (names, addresses, and phone numbers) for 80 individuals who had either opted out or failed out of the DWI program between 2007 and the spring of 2010. We sent a letter to all of these individuals, three of which were returned because the addresses were no longer valid. After months of phone calls and messages left, we were able to find 12 individuals who agreed to be interviewed during the summer of 2010. Eleven individuals were not able to be reached because of a wrong number. Two individuals agreed to be interviewed but did not show up at the agreed upon time and place. A third misunderstood and sent his son, a juvenile, to meet with the interviewer. The rest of the list were individuals who either could not be reached after we left multiple messages, or declined to be interviewed. This study was unfunded, and thus the authors could not provide any financial incentive for participation, which may in part explain the low response rate.

The first author interviewed 10 out of the 12 subjects, and a volunteer research assistant interviewed the other two. Four out of the 12 opted out of DWI court, whereas the other eight tried and failed out early on. Four subjects were female and eight were male. We met the individuals at their homes, workplaces, or local coffee shops or restaurants. In several instances, interviewees chose to come to the office of the first author to be interviewed. One participant who was currently working out of state was interviewed by phone. Two of the subjects were incarcerated at the workhouse, which is where the first author arranged to interview them, in a private interview room. All interviews were tape recorded and transcribed. The authors then used Nvivo10 ([http://www.qsrinternational.com/products\\_nvivo.aspx](http://www.qsrinternational.com/products_nvivo.aspx)), a qualitative software package, to identify themes and organize the data.

After reviewing the consent form regarding confidentiality with the participants (see Appendix A), interviewers then asked participants a series of questions about their history of DWI's, experience with DWI court, and reasons they chose not to participate and/or failed out (see Appendix B). Interviews generally lasted between 30 and 45 minutes.

## Ethical Considerations

The Human Subjects Review Board of the authors' university approved this research project. All participants signed a consent form (see Appendix A). Participants were told about the nature of the research, and the interviewers emphasized the voluntary nature of the process. Participants were informed that they could choose not to answer any question, as well as end the interview at any time. Participants were also asked for their permission to tape record the interview, which everyone agreed to.



## Coding

All interviews were transcribed by the two authors as well as an undergraduate research assistant. Once transcribed, data were uploaded to the NVivo10 program for qualitative data analysis ([http://www.qsrinternational.com/products\\_nvivo.aspx](http://www.qsrinternational.com/products_nvivo.aspx)). The authors allowed NVivo to identify “nodes” or recurrent themes in the data, which they then used to shape their analysis. The themes identified by NVivo were: Alcoholism/addiction, Breathalyzer/home monitoring, children/family, failure, government/civil rights, hassle/difficulty, help/support needed, jail, job/employment, kill/hurt, money, motivation, police, probation, religion, sobriety, and treatment/AA. From these, the theme that emerged most frequently from respondents was jail; in other words, study participants made many references to the role of jail or the threat of jail time in making decisions surrounding DWI court participation. Independently, the authors reviewed the data from every interview, and made decisions about which of the previously identified themes emerged; they then discussed agreements and disagreements. The themes reported in this paper are those on which the authors agreed and which were most prevalent in the interview data.

## Results

### Interview Questions

The complete list of interview questions can be found in Appendix B. To summarize, respondents were asked to recall how they felt about participating in the DWI program from the beginning, what was most and least attractive to them about the program, and what eventually convinced them that the program was not right for them. The authors also asked respondents about their offending history. Some demographic questions were also asked. The following results are organized according to the most prominent themes that emerged from these interviews.

### Initial Motivation to Participate

**Avoiding jail.** We asked respondents what initially sounded most attractive to them about the DWI court concept. As was expected, many responses regarding initial thoughts about the DWI court program when it was offered focused on the desire to avoid jail time. The desire to avoid jail could be considered the primary extrinsic motivator for DWI court participants. For example, two subjects who ironically ended up incarcerated for fairly lengthy periods of time after failing to comply with DWI court requirements, initially had agreed to the program to stay out of jail.

I was trying to avoid jail time in the beginning...I was lookin' at like a hundred some days and like a hundred some days on house arrest. And I was thinkin' like I had never been locked up prior to that longer than two days or a day. So I'm like a hundred days in jail? Like I had to check the program out.

Then they gave me an option to go to DWI court or to go to jail. I mean I had either or, it was either go to jail or do this program...so I...chose to do it, do what they told me to do...

**Other incentives and the role of defense attorneys.** Others discussed other DWI court incentives, such as earlier license reinstatement or a temporary license which would enable

subjects to get to work more easily. A few of the respondents noted that it was their attorney who initially presented the idea of DWI court and suggested they take advantage of these benefits.

I was charged with a third DUI and I had hired me a lawyer to represent me, and he had offered me that, the DWI program, he told me about how I wouldn't do no time, but I would have to...go to court...twice a week to meet with the judge and then he also told me that I would be able to apply for my license...in six months, so that's pretty much what got my attention was for me to get my license back in six months.

It was my attorney that um brought it up and initially I thought it was a real good to, or at least check out. Yeah the...main thing I was targeted at was getting....temporary license to get to work and back. And I would've got it back...six months earlier than waiting the full period.

How I got involved was my family attorney...They said go talk to a public defender they're going to get you in the DWI program because you have no criminal record they will keep you out of jail.

**Structure and social support.** However, others mentioned the need for structure and social support, acknowledging that it might be a way to get sober. Responses told us that subjects were not simply focused on avoiding punishment, but rather, recognizing the need for change in their lives and seeing the DWI court program as an opportunity. For example, this subject highlighted his desire to avoid the often impersonal nature of typical court calendars, instead being part of a community of individuals who are striving to improve their lives.

I actually seriously considered it and it came down to, well first of all I thought it would be a good experience...if nothing else, get to know the people that were going to be overseeing ya know whatever corrections probation stuff that I had to do to be personally known to them. Because I think there's an advantage to that...Only to be established as a real human being involved in this and not some name on a docket.

Another subject also commented on the potential for support from others in the program, but in addition recognized the benefit of the DWI court model's structure, as structure may be something missing in the lives of those who struggle with addiction.

It just sounded...kind of like structure. I do like structure, I guess you could call it. I like the idea that the judge sees you, and you get to be around other people that are kind of like in the same boat...it helps, because when you find somebody that's really trying to do something with their life and change it around, and you are too, I mean that really does help so much to be around other people that are trying... cause I knew that I had to start getting sober.

**Sobriety.** While it may seem that the extrinsic motivators of avoiding jail and early license reinstatement would rank most important in factors contributing to the DWI decision, for these interview subjects, the intrinsic motivation to become sober was mentioned frequently, and seemingly was more important than the "carrots" offered by the program.

Yeah, just trying to stay sober. Cause I still had a lot of things that needed to be done and I couldn't stay that way, I couldn't get it if all I thought about was going out there ... pity party me, you know, get drunk and... all that good stuff, I thought it was really a wonderful program...

I was like hey I'm really serious about this change in life I will take on ya know a zero tolerance program because I'm not gonna be playin' any games.

### **Negative Responses to DWI Court**

Respondents were also asked to reflect on any negative reactions they had to the concept of DWI court when the idea was first presented to them, or as they got involved and became more aware of what the program entailed. Many mentioned the logistical inconveniences of getting to court frequently, while others also mentioned the stigma of having police come to their homes to test whether they had been drinking or not.

**Logistic inconvenience of court appearances.** Subjects recognized fairly quickly that the exchange for less jail time was more court appearances which, for some, may be more difficult logistically. For example, this subject noted what he referred to as "the hassle" of DWI court multiple times.

And um it came down to logistics. I figured it was gonna be more of a hassle to get there every, initially I think they said ya know it was by the time I had made all the appearances that I thought were going to be associated with ya know, the DWI court, initially it was maybe five times a week is what I guessed... Yeah I mean fortunately unfortunately whatever, it was simply down to ya know do I want to put up with the hassle of doing that versus taking care of my recovery and the probation the way I have to without a license and it boiled down to that simple choice.

**Impact on personal life.** Another subject implied that her attorney had not shared the full story with her when he presented the DWI court option. Ultimately, the requirements of DWI court became a hardship for this subject, and she chose to execute her jail time instead.

When he said I was able to get my license back in six months, I just you know, went for it, and then once I started going down there, to try out, then I really start seeing how it worked it, and it was like um, you meet with the judge twice a week and then, pretty much you um he tell you things you need to do like go to AA meetings and, and, report back to him and show proof and then also that um a state trooper can come anytime to test you to see if you been drinking and I tried that out for like two weeks which I didn't like cause my kids was seeing me being tested, you know what I mean, and then you also put on a curfew for eight hours... I go to work for eight hours, and then I come home and gotta be on house arrest for eight hours, which I didn't like, cause in case my kids get sick or anything, or my mother, I couldn't leave the house, it could be eleven or ten at night and I need to leave, and I can't call nobody to let them know I need to leave, so if I leave the house and they need to check on me, I'm not here, it's a violation...

**Cost and time.** The cost-benefit analysis done by one subject was apparent in his description of the expense of the ignition-interlock system, designed to help DWI court participants regain their drivers licenses sooner, as well as the time commitment required by the program. The time commitment of the program also seemed significant as compared to the time he would normally have to wait to get his license back.

Um the downside was once I got into the DWI program I would have had to have the internet-ignition interlock system, which was very expensive. But the main thing was I would have had to stay in that program for like two years I think it was? So, eighteen months? So it was it was looking at one versus the other. Do you want do you want to get a limited license for six months? And stay in this program for a year and a half? Or do you just want to um just go the full year without a license and try to hack it out?

**Police visits.** Perhaps the most difficult component of the DWI court program are the unannounced visits by law enforcement to the participants' home. The purpose of the visits is to test their blood alcohol content, and the reason they are unannounced is to ensure constant sobriety. However, many of our subjects noted the shock and humiliation of this piece of the program, as their family members, neighbors, and others might witness frequent police visits to their homes.

...it was kind of shocking to see the police, um, the only thing I didn't like, is the reason why is cause I was dirty... but otherwise, it was stuff I didn't really care about...

I was out of this living nightmare which is people showing up at your house your house and that's one thing they did they didn't tell you, oh we'll be popping by in full uniform into your...neighborhood with a frickin' cop car full uniform at three in the morning knocking on the door.

My mom was yelling about that. Do you think that I need cops showing up at my house at all time?

Another had perhaps a more cynical view, perceiving the police visits as a public relations gimmick.

The weekly check-ins. I mean there's no need for it. It's merely a bureaucratic sales pitch for the government to say hey here's what we're doing this is a program here's what we're doing.

**Diminishing motivation.** Consistent with the concept that a program which focuses on extrinsic motivators may actually diminish intrinsic motivation to become sober (Deci & Ryan, 2008), a few participants mentioned that the program that they originally thought would help them achieve sobriety was actually detracting from their goal of becoming sober.

I'm sure that vast majority of people in the program are addicted... ultimately for me it was about staying sober and recovering. And I felt that this program was getting in the way of that, so I said I'd rather go to jail.

It was simply down to ya know do I want to put up with the hassle of doing that versus taking care of my recovery and the probation the way I have to without a license and it boiled down to that simple choice.

### **The Role of the Criminal Justice System**

We also wanted to know about how subjects felt they were treated by criminal justice system players (probation, court personnel, etc.), whether they thought their sentences were fair, and what their assessment was of their overall experience in the criminal justice system. Especially for those who dropped out, rather than opted out initially, we wanted to know if those in the system might have had anything to do with the reason they did not succeed. In short, we sought to determine whether any negative extrinsic factors detracted from participants' initial motivation to participate. The concept of whether or not the DWI court was actually helping or not came up frequently in subjects' responses:

You know, and it's like if you messes up or come up dirty, then you setback. So that's another thing I didn't like, I mean they said we um, have an alcohol problem, then that's really not, you know, helping us get ourself together, that's more like a setup to me, you know, they tell you we [unintelligible], but then you gotta come and check in, but then you know there is no really help to help you stop drinking you know, it's like being in jail at your own house.

One subject was committed to the idea that the DWI court model should help people more than they should punish, and what she witnessed upset her significantly.

Um, the last resort was, um I seen a lady came in, I guess she'd been in the program for a...year, and she relapsed and she had kids you know, and they bring her in, you know, cause I guess she had to go to jail, you go to jail for like a week or so, then you come back and see the judge, which you get punished more for, and then she was a single mother too...and she just upset and cryin', she just relapsed, but I felt they could have helped her more, so that's when I just, you know, said no, I didn't want to join it.

Another subject was concerned that he was being treated worse than others who break the law, even though DWI's are more common among typically law abiding citizens.

Ya know, I was pissed off at the system and ya know, I-I was miserable...It affected me negatively...I might as well be a frickin' deadbeat alcoholic crack head because I'll get treated the same way. I mean I felt like we were getting treated worse than pedophiles, ya know...

Finally, some subjects had specific complaints about individual criminal justice practitioners.

Um, I didn't like my probation officer. He was a little Nazi. He put me in treatment, ok, made me lose my job, but I had to go to treatment so I did alcohol treatment, 21 day program and then he wouldn't let me go back home to go to work he stuffed me in a halfway house...

I thought that the (judge) knows a good AA guy and he's sober himself for years... but he, in my opinion, was is trying to dictate recovery and dictate sobriety and for me it didn't work.

### **Self-Awareness and Sobriety**

Ultimately, it seemed that the participants who were most successful long-term, regardless of their rejection of or failure in the DWI court program, had come to some sort of realization regarding their use of alcohol and their need to establish and maintain sobriety. One participant who was incarcerated at the time of the interview showed a great deal of self-awareness with regard to his problems with alcohol:

Reason why I I think, I know I need to be sober is cuz I can't afford another DUI. And cuz another DUI is gonna be even more time and...my family need me more than the liquor do. So I just look at it like my family need me and I need to be with them right now. I'm missin' a lot, I'm missin' a lot without my family and they missin' me. So the liquor ain't worth it. I've had thoughts in my head though like when I get (inaudible) like I'm gonna drink but I'm just gonna sit in the house like and drink. I think like I know once I get that liquor in my system then I'm gonna get behind the wheel like I could just make it over here and that's my problem any time.

And another incarcerated participant noted that being incarcerated (after being terminated from the program) is what ultimately helped her become sober:

It was a good thing that I came here. Ultimately yes, I needed to you know, I had a lot to think about, a lot of things to do, and I needed to get it out of my system a little bit, get it away from me, so I'm looking forward to getting out...I'm grateful, good things came out of it when I got here anyway, I got some of my sanity back, you know, I'm grounded, I know what I need, my kids are a little more proud of me, even though I had to come here to get a hold of myself and remind myself of what is real important, you need to stop doing what you're doing...Yeah, so all these are good things that are happening to me, so I'm really very thankful....

### **Discussion**

Our analysis shows support for the concept that when it comes to sobriety, intrinsic motivators are more powerful and effective than extrinsic motivators. Furthermore, extrinsic motivators which are often the foundation upon which therapeutic courts are built, can sometimes detract from intrinsic motivation, according to the subjects with whom we spoke. However, it is important to note that DWI courts have been successful with most of the multiple DWI offenders who are offered the opportunity to participate. This research simply sought to determine why it does not work for everyone.

What was perhaps the most surprising finding from the interviews is that many of the participants expressed a desire to begin a sober life. The authors recognize that the developers of DWI courts intended for individuals to participate out of a recognized need for and desire to obtain sobriety; however, the implementation of DWI court is such that the focus often shifts from this focus on sobriety to an emphasis on rewards for success and punishment for failure in the program.

While the incentive of avoiding jail and reinstating driving privileges sooner was initially attractive to most, many commented on their realization that they needed help to become sober. However, the threats of punishment from the court for drinking ultimately worked against some participants' goals to achieve and maintain sobriety. Some made a rational choice to "just do their time" to get it over with, as opposed to being subjected to participation in a lengthy program. Others realized that incarceration was perhaps the most efficient way to embark on a sober lifestyle. Ultimately it is important to recognize that different people respond differently to what is intended to be therapeutic. The word therapeutic implies valuable for most, but ultimately the tenets of the therapeutic court model may work more effectively for some than others.

The sample for this study is small, but the insights of the participants are extremely valuable. Their comments speak to the importance of intrinsic motivation, and the possible distraction of extrinsic motivators that are designed to help multiple DWI offenders improve their lives. More research with larger samples is necessary to more effectively tease out the differences between intrinsic and extrinsic motivation, in order to help DWI court teams increase success rates. At the very least, the results of this research suggest that DWI court personnel pay close attention to the different types of motivation among current and potential program participants, and perhaps consider adopting a more individualized approach based on participants' levels of intrinsic and/or extrinsic motivation to change. We suggest DWI court staff consider implementing a menu of rewards and punishments, based on individual assessments of DWI court participants. Such a menu might take a more holistic approach to individual DWI court participants, examining their levels of intrinsic and extrinsic motivation for participation. This would afford individuals who thrive on positive or negative extrinsic motivators to receive them as appropriate, while those with intrinsic motivation may be handled differently, perhaps with increased counseling, by court staff, probation, or mental health practitioners. While some may argue that such disparate treatment either conflicts with ideas of justice or at the very least complicates the management of the DWI program, we argue that this may ultimately be the best strategy to increase retention and ultimately save lives on the roads.

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## Appendix A

### Consent Form

#### “I’ll Just Do My Time”: Multiple DWI Offenders and the Rejection of DWI Court

You are invited to participate in a research study of individuals who were offered the opportunity to participate in Hennepin County’s DWI court, but chose not to. Please read this form and ask any questions you may have before agreeing to be in the study.

This study is being conducted by Deborah A. Eckberg, Ph.D. who is an Assistant Professor at Metropolitan State University.

#### **Purpose of Study:**

I am conducting a study of individuals who were offered the opportunity to participate in Hennepin County’s DWI court. You were selected as a possible participant because you were offered the opportunity, and your name was given to me by Hennepin County probation. I hope to learn what influences people to make a decision to either participate or not in DWI court.

#### **Procedures:**

If you agree to be in this study, I would ask you to do the following things:

Agree to be interviewed for approximately one hour. The interview will be tape recorded and eventually transcribed. You are assured complete confidentiality. No one besides me or my research assistant will have access to the tape recordings or any information that associates your name with the recording. No names of participants will be used in any reports written about this study.

### **Voluntary Nature of the Study:**

Participation in this study is voluntary. Your decision whether or not to participate will not affect your current or future relations with Metropolitan State University or Hennepin County probation. If you decide to participate, you are free to not answer any question or withdraw at any time without affecting those relationships. In addition, nothing you say will be reported back to Hennepin County probation or anyone involved in the DWI court in any way that links your name with the data.

#### ***(i) Risks and Benefits of Being in the Study***

The study has two risks: First, you may find yourself uncomfortable discussing some of your personal reasons for not participating in DWI court; second, you are submitting to a tape recording of our interview. However, as stated above, no one besides the researchers will have access to this recording.

The benefits to participation are: you will be assisting other individuals like yourself who may be offered the opportunity to participate in DWI court in the future.

### **Confidentiality:**

All records of this study will be kept private. I will not include any information that will make it possible to identify you in any paper or presentation I make based on this research. Research records will be stored securely and only me and my research assistant will have access to the records.

### **Contacts and Questions:**

You may ask any questions you have now. If you have questions later, you are encouraged to contact me at 651-999-5896 or [deborah.eckberg@metrostate.edu](mailto:deborah.eckberg@metrostate.edu). If you have any questions or concerns regarding this study and would like to talk to someone other than the researcher(s), you are encouraged to contact the Metropolitan State University's Human Subjects Review Board at 651-793-1920 or [hsrb@lists.metrostate.edu](mailto:hsrb@lists.metrostate.edu).

*You will be given a copy of this information to keep for your records.*

### **Statement of Consent:**

By signing this agreement, you indicate that you have read the above information and/or have had it explained to you. You have been given the opportunity to ask questions and have had them answered to your satisfaction. You agree to participate in the described research.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Investigator: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix B

### Interview Script for DWI Court Research Project

1. Think back to when you were offered the opportunity to participate in the DWI court program. If you can, please tell me what thoughts you had about the program and how you came to the decision to participate or not.
  - a. Did anything about the program sound attractive to you? If so, what? Why did it sound attractive?
  - b. Did anything about the program sound unattractive to you? If so, what? Why did it sound unattractive?
  - c. Was there anything about the program that you felt that there was no way you could do successfully? If so, what? What obstacles did you think would stand in your way?
  - d. Ultimately, what was it that convinced you that the DWI court program would not work for you?
2. Tell me a little bit about your history with the criminal justice system, prior to the offense that would have gotten you into DWI court.
  - a. How many DWI convictions do you have on your record?
    - i. Did you do jail time for them?
      1. If so, how long was each sentence?
  - b. Have you been convicted of any other types of offenses besides DWI's?
    - i. Did you do any other jail time?
      1. If so, how long was each sentence?
3. Can you tell me a little bit about your experience with jail, probation, and the criminal justice system in general?
  - a. Did you feel that your sentences were fair? If yes, why? If no, why not?
  - b. How have you been treated by the criminal justice system professionals you have interacted with?
4. Have you been diagnosed as having a chemical dependency problem?
  - a. If yes, when was the diagnosis?
  - b. Was treatment recommended?
  - c. Did you attend treatment? Did you complete treatment?
    - i. How long was the treatment program?
    - ii. Can you provide any details about it?
5. I have a few questions about your personal life, if you don't mind.
  - a. Are you married?
    - i. If no, never married, divorced, widowed, etc.? (Probe)
  - b. Are you employed?
    - i. Full-time, part-time, intermittent?
  - c. Are you currently in school?
    - i. Undergraduate, graduate, etc.
  - d. Do you have any children?
    - i. If yes, do those children live with you part-time or full time?
  - e. What effect did your family, job, school or other personal life issues have on your decision not to participate in DWI court, if any?

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