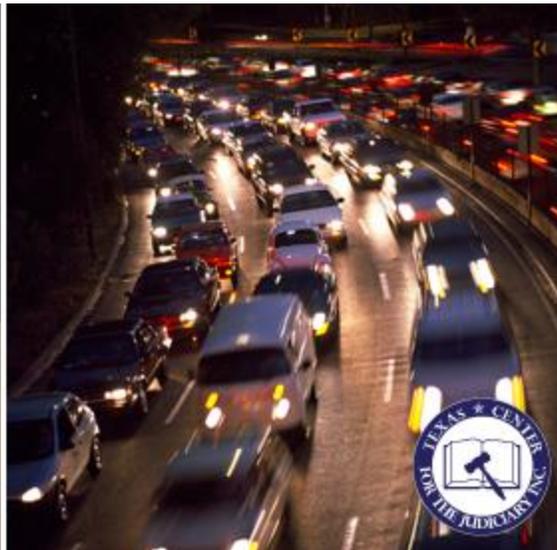


THE DWI NEWSLETTER

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THE TEXAS CENTER FOR
THE JUDICIARY *and*
THE TEXAS DEPARTMENT
OF TRANSPORTATION



Spring 2011 Newsletter

Table of Contents

- [Report from the Judicial Resource Liaison](#)
- [Williamson County Drug/DWI Court: the Innovative DWI Model Court in Action](#)
- [DWI Curriculum Committee Update](#)
- [Traffic Safety Grant Program at Work](#)
- [Impaired Driving Issues in the News](#)
- [Other News in other Newsletters](#)

REPORT FROM THE JUDICIAL RESOURCE LIAISON

by Judge Mark Atkinson

Among the priorities of both the [National Highway Traffic Safety Administration](#) and the [Texas Department of Transportation](#) is the establishment and sustaining of DWI Courts within the judicial system of Texas. With the ultimate goal being the reduction and prevention of fatalities caused by automobile crashes involving drivers impaired by alcohol or other drugs, judges are being encouraged to embrace the therapeutic, team approach to sentencing utilized in problem-solving courts, as opposed to imposing sanctions which do little or nothing to change behaviors.

With this priority of our Texas Department of Transportation grant in mind, I have attempted to become familiar with the practices of these courts across the state and, therefore be able to continue the work, in aiding the creation and sustaining of these courts, which my predecessor David Hodges began. Having now read much of the published research regarding DWI Courts, as well as Drug Courts, from the past two decades, including law review articles, state and federal government papers, and state and federal laws, I see that the scope and definition of these courts, as well as all problem-solving courts, continues to evolve. Following are some general observations and conclusions:

DWI Courts are a derivative of Drug Courts, which are themselves an outgrowth of a trend to sentencing practices of problem solving courts.

Problem solving courts date back to, at least, the 1930s, one of the first being a "Women's Court" in New York City. Those courts were something akin to a prostitution court.

Some courts in the nation began, in the 1980s, to sentence DWI offenders, particularly repeaters, to

intensively supervised probations. These probations included the important component of continued judicial contact with the offender through a significant portion of the sentence.

1. In the late 1980s, courts around the nation began experimenting with diversion-based, specialty courts, billed as Drug Courts.
2. In the mid-nineties, the federal government set out to put to paper ideal models of these courts. A Bureau of Justice Assistance document listed and discussed ten principles that generally characterized these courts' goals and practices.
3. Drug Courts sprang up across the country, some being diversion-based and some post-sentencing models.
4. DWI Courts followed.
5. According to the National Center for DWI Courts, a DWI Court is defined by its adherence to the ten principles of DWI Courts in conjunction with the ten principles of Drug Courts (these can be found at the NCDC and NADCP websites, respectively.)
6. Texas, in its Health and Safety Code, established another variant of ten principles. The same statute mandated that DWI Courts be established in all Texas counties with a population of 200,000 or more.
7. DWI Courts, by definition, involve post-sentencing supervision as opposed to diversion.
8. As of spring 2011, there were approximately 30 courts in Texas which are considered DWI Courts. Most are County Courts at Law, but several are District Courts.
9. Generally, DWI Courts in Texas are not specialty courts, handling only DWIs, but, rather, courts that regularly conduct special DWI Court dockets at certain dates and times.
10. Most of the judges of these courts have attended, along with court personnel considered to be part of their teams, training programs through the Texas Center for the Judiciary, as part its TxDOT Grant mission.
11. These courts are not all alike; they vary according to local needs and cultures.
12. The judges of DWI Courts look to practice their therapeutic, team-based form of sentencing within the principles of these courts, state and federal law, and the ethics of judges and other officers of the court.

Over the past few months, as part of my duties as Judicial Resource Liaison, I have had the fortunate opportunity to observe DWI Courts and visit with judges conducting these courts in several locations in the state. Aside from a variety of practices, as well as commonalities, one thing was consistently obvious: the judges conducting these courts are among the most conscientious, hard-working judges I have ever known. It takes a special kind of person to spend the time and effort to serve the public in the manner that they do.

While most counties with DWI Courts, contain either one such court, or two, including both a County Court at Law and a District Court, the judges of one county have taken a different approach. The Harris County Criminal Courts at Law have traditionally sought to make special sentencing practices available to all of their 15 courts, if the judges of those courts desired to employ them. And, as a result, there are approximately ten courts there, conducting regular DWI Court dockets.

With so many courts conducting these dockets, personnel responsible for implementing the sentences were finding it more and more difficult to keep up with the practices of ten different judges. There were differences and conflicts in the times sessions were conducted as well as difference in application of sanctions.

The courts invited me to facilitate a discussion involving the judges and their team members, including treatment providers; Community Supervision and Corrections Department (CSCD)

administrative and front-line personnel; Office of Court Management personnel; attorneys for the prosecution and defense; and researchers who are conducting recidivism studies for the courts to determine effectiveness.

Those assisting the courts, particularly CSCD personnel and treatment providers, had expressed a need to seek a degree of conformity of practices among the courts in administering the DWI Court practices. A two-hour meeting was held on a Friday afternoon, with approximately 40 in attendance. The judges, upon hearing and considering the expressed needs and desires of those charged with effectuating the courts' sentences, achieved consensus regarding same. All agreed to make their practices as similar as possible.

In these past few months, I have learned much about the state of Texas' DWI Courts. In the coming months, I will continue to travel to and observe as many courts as I can. This spring, we will conduct training for four more judges intent upon establishing or improving DWI Courts in their counties. And, this summer, we will hold our DWI Court College for judges and their team members. I hope that anyone seeking information or technical assistance regarding DWI Courts will not hesitate to contact us.

[Back To Top](#)

WILLIAMSON COUNTY DRUG/DWI COURT: THE INNOVATIVE DWI MODEL COURT IN ACTION

by Rebecca Pitts

As part of the Traffic Safety Grant Program at the Texas Center, I visited the Williamson County Drug/DWI Court throughout January, February and March. Judge Tim Wright and his Drug/DWI court team are the Texas Center's Innovative DWI Model Court and work with around 30 clients as they progress through the four phases of the program.

Phase 1 may last up to four months, depending on the compliance and participation of the client. The client must attend court once a week, have a probation office visit once a week, attend an intensive outpatient treatment three times a week, meet with a substance abuse counselor once a week, attend random urinalysis by calling into a color code phone line each day, attend in at least two Alcoholics Anonymous or Narcotics Anonymous meetings a week, and comply with a curfew from 10:00 p.m. to 6:00 a.m.

Throughout all phases of the program, clients must have either an ignition interlock device on their vehicle or a home deep lung device into which they exhale at set times. Clients are also required to pay on their probation fees in a timely manner, usually a set amount each week.

Phase 2 provides a bit more freedom to the client, but not much. Visits to probation and court alternate with at least two visits to either each month. The client continues to meet with a substance abuse counselor once a week and begins aftercare with a weekly class. The client also attends a cognitive education class once a week. Random urinalysis continues as do the AA and NA meetings. Curfew is extended to 11:00 p.m.

Phase 3 raises curfew and limits court visits to once a month. Probation office visits are reduced to twice monthly and meetings with a substance abuse counselor are on an as needed basis. The client still calls into the color code line for random urinalysis and attends AA or NA meetings twice a week. Any additional classes that the county requires must be viewed prior to graduation and all probation fees must be paid in full.

Visiting Judge Wright's court for the past three months has given me a new appreciation for the perseverance of the team and their clients. The continued presence of graduates from the Drug/DWI Court speaks volumes to its impact on the lives of those who make it through this intensive program.

[Back To Top](#)

DWI CURRICULUM COMMITTEE UPDATE

The DWI Curriculum Committee met again on Friday, March 4, to discuss the Fiscal Year 2012 Texas Department of Transportation Traffic Safety Grant proposal and to work on curriculum for the DWI Technology Conference, the DWI College for Trial Judges, the DWI Court Judges Conference, and the DWI College for DWI Court Team Members and Student Conduct Officers.

The [DWI Technology Conference](#) will precede the [Criminal Justice Conference](#) and will focus on those technological advances in alcohol monitoring and drug testing. Sessions will include Statutory Requirements: Technology and the Law; Validity of Blood Tests, Technology Cafeteria; Your Court and Beyond; Interpreting Test Results; and Back to Basics: Intoxilyzer. Make plans to attend!

The [DWI College for Trial Judges](#) provides judges who hear impaired driving cases an opportunity to get back to the basics of DWI law. Topics will include case law updates, occupational drivers license issues, a comparison of DWI forms from counties across the state, introduction to addiction, *voir dire*, SFST/DRE/HGN, sentencing, legislative updates, and Seventh Inning Stretch, a new take on Judicial Jeopardy. In partnership with the Texas Association of Counties, constitutional county judges will also attend. Two sessions of You Asked For It, You Got It topics will also be presented. Mark your calendars now!

The [DWI Court Judges Conference](#) will focus on the role of judges in specialty DWI courts. This half day conference for DWI Court judges only will provide an open forum for the discussion of judicial immunity and how DWI Courts have evolved and how the role of the judge has evolved with it.

The [DWI College for DWI Court Team Members and Student Conduct Officers](#) provides an opportunity for judges and their teams, new team members, and student conduct officers to learn more about addiction, pharmacology, cognitive education, screening and assessment, motivational interviewing, sustainability, incentives and sanctions, and what court teams wish their judges knew. Both DWI Court Team Members and Student Conduct Officers will have their own You Asked For It, You Got It sessions. Make plans to attend and bring your DWI Court Teams!

Special thanks to the members of the DWI Curriculum Committee: Judge Patrice McDonald, Montgomery County Court at Law #3, chair; Judge Robert Anchondo, Judge Donald Dowd, Judge Alex Hernandez, Judge Virgil Vahlenkamp, Jr., Judge Dibrell Waldrip, Judge Ray Wheless, Judge Tim Wright, Judge Mark Atkinson, Judge Diane Bull, Judge David Garcia, and Mr. Randall Sarosdy. Thank you for your service to the Texas Center for the Judiciary's Traffic Safety Grant Program![Back To Top](#)

TRAFFIC SAFETY GRANT PROGRAM AT WORK

by Rebecca Pitts

During the first few months of this year, Judge Mark Atkinson, Judicial Resource Liaison, and I have traveled across the state to learn more about how the Texas Department of Transportation Traffic Safety Grant Program can serve as a resource for Texas judges.

At each Winter Regional Conference, Judge Atkinson and I hosted a DWI table with a copy of our latest DWI Newsletter, a sign-up sheet, and a display of upcoming impaired driving conferences. Many judges spoke with Judge Atkinson about impaired driving cases in their courts and I answered some questions regarding our conference schedule.

Judge Atkinson sat by assignment on the benches of Harris County, Denton County, and Tarrant County, helping judges keep their dockets moving and keeping his judicial skills sharp.

At the Texas Department of Transportation's request, Judge Atkinson has reviewed many legislative bills related to impaired driving and traffic safety.

In January, I visited Judge Elisabeth Earle's Travis County Court at Law # 7 DWI Court along with Judge Tim Wright's Williamson County Court at Law # 2 Drug/DWI Court. Seeing the commitment of these DWI Court Teams that trained at the Texas Center is always inspiring.

In February, after the Winter Regional Conference in Dallas, I was able to visit Judge Ray Wheless' 366th Judicial District Drug Court. Judge Wheless and his team worked with several participants in their struggle for sobriety, celebrating one participant's graduation from the court program.

This March, Judge Atkinson and I traveled to Lubbock to observe the National Drug Court Institute's Judicial Training and to visit Judge Rusty Ladd's Lubbock County Court at Law # 1 DWI Court. We also traveled to the Lifesavers National Conference on Highway Safety Priorities in Phoenix, Arizona, and learned more about national highway safety trends and issues across the country. We look forward to another quarter working with Texas judges to reduce the number of alcohol-related traffic fatalities in our state.

[Back To Top](#)

IMPAIRED DRIVING ISSUES IN THE NEWS

Energy Drinks May Raise Risk For Alcohol Problems

<http://www.webmd.com/mental-health/news/20101115/energy-drinks-may-raise-risk-for-alcohol-problems>

State Senator Shapiro introduces bill to ban K2 statewide

http://www.mesquiteneews.com/articles/2011/02/07/mesquite_news/news/2134.txt

Another Texas City Moves to Ban K2

http://www.kbtx.com/state/headlines/Another_Texas_City_Moves_to_Ban_K2_115385259.html

DEA Moves to Emergency Control Synthetic Marijuana

<http://www.justice.gov/dea/pubs/pressrel/pr112410.html>

[Back To Top](#)

OTHER NEWS IN OTHER NEWSLETTERS

National Center for DWI Courts <http://www.dwicourts.org/resources/newsletter>

National Center for DWI Courts DWI Court Hotsheet <http://www.dwicourts.org>

American Bar Association and National Highway Traffic Safety Administration Highway to Justice
Newsletter <http://www.americanbar.org>

[Back To Top](#)