

# DWI Court Model Compliance Checklist



Research has indicated that a “good-quality” DWI Court significantly reduces recidivism. But what is a good-quality DWI Court? The answer is found in the 10 Guiding Principles for DWI Courts as set out by the National Center for DWI Courts (NCDC). Following these 10 Guiding Principles demonstrates integrity for the DWI Court and expresses fidelity to the model that has been shown to work.

The Checklist that follows allows a person to analyze a court that asserts itself to be a DWI Court and determine if it is remaining true to the model. Each Guiding Principle is stated with appropriate factors to be considered listed after it. A complete discussion of the 10 Guiding Principles can be found at [www.dwicourts.org](http://www.dwicourts.org).

There are no set number of factors that should be checked to be able to state the principle is being followed. This Checklist provides what factors are expected for each principle; it will still require a thorough deliberation. Some individual states will have additional requirements set by statute or policy; those will need to be incorporated into this checklist.

## Guiding Principle #1: Determine the Population

*Targeting is the process of identifying a subset of the DWI offender population for inclusion in the DWI Court program. This is a complex task given that DWI Courts, in comparison to traditional Drug Court programs, accept only one type of offender, the person who drives while under the influence of alcohol or drugs. The DWI Court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.*

- The DWI Court focuses on those offenders who are assessed by a substance abuse professional as being in significant need of treatment.
- The DWI Court team has established a broad based committee of community stakeholders, which shall, among other things, be consulted as to the types of offenders that should be accepted or excluded from the DWI Court.
- The DWI Court has a clearly stated target population.<sup>1</sup>
- The DWI Court has clearly written admission and exclusion criteria.
- The DWI Court delineates eligibility criteria for program participation using both offender characteristics and offense characteristics.
- The DWI Court matches the number of participants that are accepted with available resources.

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<sup>1</sup> DWI Courts are typically for repeat DWI offenders, not first-time DWI offenders, unless they have a BAC of .15 or higher. For more information on this, read [The Bottom Line: “DWI Court: First-Time DWI Offenders - In or Out?”](http://www.dwicourts.org/resources/publications) Available on-line at <http://www.dwicourts.org/resources/publications>.

## Guiding Principle #2 Perform a Clinical Assessment

*A clinically competent objective assessment of the impaired-driving offender must address a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan.*

- A thorough assessment of each impaired driver being considered for entry into the DWI Court is conducted, which addresses a number of bio-psychosocial domains including:
  - alcohol use severity/dependence
  - drug involvement
  - medical status
  - psychiatric status/mental health issues
  - employment and financial status
  - family and social relationships
  - alcohol triggers and cognitions
  - self-efficacy and motivation for change
  - recommended level of care placement
- Assessment(s) are conducted by individuals with specific training, relevant experience, and appropriate credentials. These individuals utilize validated, reliable assessment instruments.
- Appropriate collateral information is included in the assessment including police reports, prior offense history, previous or current probation information, and information from significant others whenever possible.
- Assessments are re-administered at appropriate intervals during the DWI Court participation period to determine progression in treatment, and any changes in treatment need and readiness.

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## Guiding Principle #3 Develop the Treatment Plan

*Substance dependence is a chronic, relapsing condition that can be effectively treated with the right type and length of treatment regimen. In addition to having a substance abuse problem, a significant proportion of the DWI population also suffers from a variety of co-occurring mental health disorders. Therefore, DWI Courts must carefully select and implement treatment practices demonstrated through research to be effective with the hard-core impaired driver to ensure long-term success.*

- The DWI Court incorporates treatment programs that are constructed with a variety of validated approaches and that are individualized based on identified clinical needs.
- Treatment services in the DWI Court may include:
  - Motivational enhancement therapies which assess the participant’s “stage of change” for alcohol and or other drug use and impaired driving issues and which match interventions to the assessed stage of change.
  - Cognitive-behavioral interventions
  - Evidence-based pharmacological treatments
  - Continuing care / aftercare
  - Relapse prevention training
  - Specified participant competencies to be achieved at each phase of treatment
  - An organized recovery support program (e.g., 12-step self help), accompanied by a “12-Step Facilitation Curriculum”, or other mutual aid approaches, allowing participant choice (NOTE: Courts should be aware of the mixed effectiveness findings of mandated 12-step attendance versus coerced or voluntary participation<sup>1</sup>)
- DWI Court team monitors treatment quality and adherence to agreed upon treatment approaches. Each team member understands the treatment elements being delivered to participants.
- Treatment includes effective use of drug and alcohol use testing results, whether obtained within the program or through other components of the DWI Court.
- Treatment adheres to the appropriate and legal requirements of individual confidentiality imposed by HIPAA and 42CFR, Part 2 Revised, including the use of written signed consents to permit sharing of information among team members.

<sup>1</sup> Coerced AA attendance has not demonstrated effectiveness. Most of the AA-related studies analyzed in the Mesa Grande Project (Miller, W. R., & Wilbourne, P. L. (2002). Mesa grande: A methodological analysis of clinical trials for alcohol use disorders. *Addiction*, 97(3), 265-277) included primarily individuals who were mandated to attend AA by court order. In these studies, the AA component was found to be ineffective. It is hypothesized that coercion may have robbed AA of its effectiveness. Effectiveness may have also been impeded by mandating alcohol abusers to attend AA, who are not appropriate for a fellowship designed for those who are alcohol dependent. DWI Courts are encouraged to review the evidence involving the ineffectiveness of mandating AA. Alternatives to mandating AA attendance may need to be adopted, such as providing incentives for participation in AA, as opposed to mandating it; determining which participants are most amenable to and/or suitable for AA (e.g. those with alcohol dependence); and offering choices that include other types of mutual support programming in addition to AA or other 12-step groups.

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### Guiding Principle #4: Supervise the Offender

*Driving while impaired presents a significant danger to the public. Increased supervision and monitoring by the court, probation department, and treatment provider must occur as part of a coordinated strategy to intervene with the repeat and high-risk DWI offenders and to protect against future impaired driving.*

- The requirements of the program, including sanctions, are clearly communicated to all offenders.
- The requirements of the program are presented in writing.
- Accommodations are made for offenders who do not speak English or have issues with literacy.
- The ban on use of illegal drugs and alcohol is clearly stated.
- Offenders have regular office visits with probation officers.
- Routine drug and alcohol testing are administered as part of appointments.
- Sanctions are applied for missing probation appointments or alcohol/drug testing.
- Offenders are regularly and randomly tested for drugs and alcohol.
- The technology used for testing may include:
  - urine testing
  - breath testing including the use of portable breath testing devices
  - transdermal testing
  - ignition interlock breath testing
  - other
- If the offender has an operator's license an ignition interlock device is mandatory.
- Supervision of offender includes visits to home or workplace.
- Information secured from home or workplace visits is shared with all team members.

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- Violations determined to have occurred result in immediate sanctions.
- Staffing sessions are held on a regular basis where information is shared with all team members.
- The judge sees the offender on a regular basis in open court sessions, initially at a minimum of every other week.
- Probation monitors offender’s participation in 12 step or other self help programs.
- Probation identifies and immediately reports pre-relapse behaviors, such as loss of job or associating with using friends, to the rest of DWI Court team.
- The judge orders that the offender avoid alcohol outlets, bars, casinos or other places where alcohol is the primary item sold.
- The DWI Court team provides positive and negative reinforcement of conduct as soon as practicable after it occurs. (Note: Negative reinforcement is NOT a sanction. It is the removing of an aversive stimulus to increase a participant’s desire to change. )
- The DWI Court judge, in consultation with the DWI Court team, provides evidence based incentives and sanctions from the bench to respond to participant conduct as soon as practicable after it occurs.

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### Guiding Principle #5: Forge Agency, Organization and Community Partnerships

*Partnerships are an essential component of the DWI Court model as they enhance credibility, bolster support, and broaden available resources. Because the DWI Court model is built on and dependent upon a strong team approach, both within the court and beyond, the court should solicit the cooperation of other agencies, as well as community organizations to form a partnership in support of the goals of the DWI Court program.*

- The DWI Court has created a DWI Court team including at minimum a judge, a prosecutor, a member of the defense bar, a DWI Court coordinator, a treatment provider, a probation officer, and a law enforcement officer.
- A written memorandum of understanding has been signed by all team members.
- The DWI Court has created a broad based, multi-agency partnership to enhance credibility and elicit support from the community.

- The community partnership reflects the unique characteristics of the jurisdiction and the needs of the target population.
- A written memorandum of understanding with the community partners establishes the roles and responsibilities of the partnership members.
- The court provides regular information to the community about the progress of the DWI Court.

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### Guiding Principle #6: Take a Judicial Leadership Role

*Judges are a vital part of the DWI Court team. As leader of the team, the judge's role is paramount to the success of the DWI Court program. The judge must also possess recognizable leadership skills as well as the capacity to motivate team members and elicit buy in from various stakeholders. The selection of the judge to lead the DWI Court team, therefore, is of utmost importance.*

- The DWI Court judge serves as leader of the DWI Court team to fully engage participants and draw upon the expertise of all team members.
- The DWI Court judge has extensive experience handling DWI cases and understands the nature of addictive disorders and attendant behaviors.
- The DWI Court judge exercises judicial authority in a manner that encourages and facilitates effective teamwork.
- The DWI Court judge ensures that all members of the DWI Court team, including the judge, receive adequate, ongoing training.
- The DWI Court judge demonstrates a genuine interest in the well being of the participants, as well as a willingness and ability to enforce all program requirements.
- The DWI Court judge, within the constraints of judicial standards, understands the available funding sources for the court and aids in the process of securing adequate funding for the continued operation of the DWI Court.
- The DWI Court judge strives to develop trusting, cooperative and supportive relationships with various community and victim's groups.
- The DWI Court judge conducts appropriate community outreach, information sharing and education about the DWI Court operations and outcomes.

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### Guiding Principle #7: Develop Case Management Strategies

*Case management, the series of inter-related functions that provides for coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI Court program.*

- A team member has been designated to serve as a primary case manager for each participant.
- All DWI Court team members collect and forward all participant case information, alcohol or drug test results, and treatment and supervision data to the primary case manager on a timely basis.
- The case manager provides participant case information, alcohol or drug test results, and treatment and supervision data to the rest of the DWI Court team.
- The case management process assures that participant assessment, service planning, resource allocation, and performance monitoring occur in a coordinated manner.
- The DWI Court team has developed a plan to assure that case management is coordinated and avoids duplication of efforts as well as conflicting directions to participants.

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**Guiding Principle # 8: Address Transportation Issues**

*Because nearly every state revokes or suspends a person’s driving license upon conviction for an impaired driving offense, the loss of driving privileges poses a significant issue for those individuals in DWI Court programs. In many cases, the participant solves the transportation problem created by the loss of their driver’s license by driving anyway and taking a chance that he or she will not be caught. With this knowledge, the court must caution the participants against taking such chances in the future and to alter their attitude about driving without a license.*

- The DWI Court clearly articulates the requirement that there be no driving in absence of a legal driver’s license.
- The DWI Court team members emphasize to participants that they must solve their own transportation problems.
- The DWI Court team actively monitors the requirements that participants not drive on a suspended or revoked license, or violate the terms of a restricted driver’s license.
- The DWI Court has developed plans to address transportation barriers within the available resources and constraints of the community.
- Limited or restricted driving privileges are granted to DWI Court participants only in compliance with existing statutes and regulations.

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**Guiding Principle #9: Evaluate the Program<sup>2</sup>**

*To convince stakeholders about the power and efficacy of DWI Court, program planners must design a DWI Court evaluation capable of documenting behavioral change and linking that change to the program’s existence. A credible evaluation is often the only mechanism for mapping the road to program success or failure. To prove whether a program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over the relevant variables that can systematically contribute to behavioral change, and a commitment from the DWI Court team to rigorously abide by the rules of the evaluation design.*

<sup>2</sup> For more information on evaluating a DWI Court program, read: Introductory Handbook for DWI Court Program Evaluations by Dr. Doug Marlowe, J.D., Ph.D. It can be found on-line at: <http://www.dwicourts.org/resources/publications>.



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- If possible, the evaluation randomly assigns DWI offenders to DWI Court or a suitable comparison condition, such as DWI probation.
- If randomization is not feasible, acceptable alternative comparison groups include DWI offenders who would have been eligible for the DWI Court but could not enter because: (a) there were no available slots (“wait-list”), (b) they were arrested in the same jurisdiction before the DWI Court was established, or (c) they were arrested in an adjacent community with comparable demographics that does not have a DWI Court.
- If a non-randomized group of DWI offenders is used for comparison, the evaluation identifies client characteristics that correlate significantly with outcomes, such as age, gender, criminal history and treatment history. If the DWI Court and comparison group differ on any of these variables, the evaluation statistically adjusts for the variables in the outcome analyses.
- The evaluation examines outcomes for all participants regardless of whether or not they graduated from the DWI Court.
- The evaluation reports both short term (during program)<sup>3</sup> and long term (post program)<sup>4</sup> outcomes.
- The evaluation reports what proportion of participants completed all or part of the standard regimen and graduated from the program.
- The evaluation reports how many sessions of each intervention (e.g., status hearings, treatment sessions, drug testing) the participants attended or received.
- The evaluation indicates how participants’ conduct was assessed in DWI Court and describes how consequences were imposed for compliance or non compliance.
- The evaluation reports on the fidelity with which negative sanctions were imposed for infractions and positive reinforcements were imposed for accomplishments.
- The evaluation reports on the type(s) and dosage of adjunctive services, if any, that were delivered (e.g., mental health or employment services).
- The evaluation reports the proportion of clients referred for pharmaceutical interventions who were determined by an assessment to be in need of medication.

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<sup>3</sup> Short term outcomes may include counseling attendance, attendance at court hearings, weekly urine drug screen and breathalyzer results, attainment of treatment plan goals, and program graduation.

<sup>4</sup> Long term outcomes may include DWI recidivism, other recidivism, alcohol relapse and realized cost savings from such sources as reduced jail sentences or more efficient administration of court dockets.

**Guiding Principle #10 Ensure a Sustainable Program**

*The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course, funding. Becoming an integral and proven approach to the DWI problem in the community however is the ultimate key to sustainability.*

- The DWI Court has a strategic plan which includes identifying potential resources and works to strengthen its partnerships with community stakeholders including: the legal community, law enforcement and corrections, advocates, treatment and other human services, business and elected officials.
- The DWI Court has written agreements with its key stakeholders which provide operational stability, clear agreements, and interagency commitments to the collaborative efforts.
- The DWI Court has clearly identified all program costs.
- The DWI Court has a diversified funding plan and regularly evaluates the effectiveness of this plan.
- For additional funding and community support, the DWI Court considered developing a nonprofit funding and resource development organization, such as a 501(c)(3) non-profit organization.
- The DWI Court attends to the needs of its team members to feel that their work is worthwhile and their contributions are valued.
- The DWI Court regularly communicates with the public about its work, its outcomes, and its cost-benefit through a variety of community education and information approaches.

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The National Center for DWI Courts (NCDC), a professional services division of the National Association of Drug Court Professionals (NADCP), is the only dedicated advocacy, policy, training and technical support organization for DWI Courts in the nation. For more information about the NCDC or DWI Courts go to [www.dwicourts.org](http://www.dwicourts.org).

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*This document was developed by the NCDC DWI Court Task Force which was made possible by a charitable donation from the Wine & Spirits Wholesalers of America.*

