

Minnesota Felony Driving While Impaired Report 2012

December 2012
Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, Minnesota 55108-5219
(651) 361-7200
TTY (800) 627-3529
www.doc.state.mn.us

This information will be made available in alternative format upon request.
Printed on recycled paper with at least 10 percent post-consumer waste.

The total cost of salaries, printing, and supplies incurred in the development and preparation of this report is \$3,420 (reported as required by M.S. 3.197).

TABLE OF CONTENTS

Executive Summary	1
Introduction.....	3
Data and Methods	3
Commitments to Prison.....	4
County of Commitment	6
Offender Demographics.....	7
Criminal History	7
Sentences.....	8
Chemical Dependency Treatment in Prison	9
Releases and Reincarcerations.....	10
Challenge Incarceration Program	11
Per Diem	13
Conclusion.....	13
References.....	14

TABLES

Table 1. Prison Admissions by Fiscal Year and Admission Type.....	4
Table 2. Prison Admissions by Committing County Location.....	6
Table 3. Prison Admissions by Committing County	7
Table 4. Demographic Characteristics at Prison Admission	7
Table 5. Criminal Histories at Prison Admission	8
Table 6. Sentence Length by Admission Type	8
Table 7. Probation Revocation Reasons	9
Table 8. Chemical Dependency Treatment Status.....	10
Table 9. Chemical Dependency Primary Treatment Outcome	10
Table 10. Supervision Status at Release	11
Table 11. Status of Offenders Admitted to CIP.....	11
Table 12. Reasons Offenders Failed CIP	12
Table 13. Failure Rates by Phase for Offenders Admitted to CIP.....	12
Table 14. Average Adult Operational Per Diem by Fiscal Year	13

FIGURES

Figure 1. Prison Admissions by Month	5
Figure 2. Prison Admissions by Month and Admission Type.....	6

EXECUTIVE SUMMARY

This is the fourth legislatively-mandated report (Minnesota Statute 2009, Section 244.085) on felony driving while impaired (DWI) offenders committed to the commissioner of corrections under M.S. 169A.24. In 2009, the legislature amended the statute, narrowing the scope of the report from all persons convicted of a felony DWI to only those felony DWI offenders admitted to prison.

Incidence and County Characteristics

- Between September 1, 2002, and June 30, 2012, a total of 2,184 offenders were admitted to prison 2,418 times for a felony DWI offense as either a new court commitment or a probation violator.
- Admissions increased sharply in the first few months after the law went into effect and then continued to increase gradually until early in fiscal year 2009. Admissions then appeared to level off and perhaps decline slightly, although with considerable month-to-month variations.
- An average of 141 offenders were admitted each year as a new court commitment compared to an average of 101 offenders admitted each year as a probation violator.
- The state's two most populous counties, Hennepin and Ramsey, together account for 27.5 percent of the offenders admitted to prison for a felony DWI offense, which is slightly less than the percentage of the population (31.3%) residing in those counties.
- Counties from outside of the metropolitan area accounted for over 59 percent of the offenders admitted to prison for a felony DWI, yet 46 percent of the state's population reside in these counties.

Offender Characteristics

- The typical felony DWI offender admitted to prison is a male who is in his thirties or early forties.
- Felony DWI offenders have been convicted of an average of four non-felony DWI offenses prior to prison admission. Most have not had a prior felony DWI conviction. Many of these offenders have received convictions for other criminal behavior that does not involve drinking and driving. On average, these offenders have been convicted of a total of roughly nine non-felony offenses and two felony offenses prior to admission.

Sentencing Characteristics

- On average, new court commitments received a sentence of 50.7 months while probation violators received a sentence of 44.8 months.
- Half (49.7%) of the offenders given an executed sentence and committed to prison as a new court commitment received a sentence of 49 months or more compared to 15.9 percent of those given an executed sentence upon revocation of probation.
- Offenders can have their probation revoked for multiple reasons and all revocation reasons were collected for those admitted as a probation violator. Alcohol use was cited for more than half (57.2%) of the probation violators, and use of drugs was cited for almost 20 percent (19.3%). Commission of a new offense was cited for 41.7 percent of the cases. Refusing chemical dependency treatment or failing to complete

chemical dependency treatment was cited as a revocation reason for 23.1 percent of the cases.

Prison-Based Treatment and Post-Release Supervision

- The majority (84.5%) of the felony DWI offenders admitted to prison have entered a primary chemical dependency treatment program. Many of the remaining offenders have been assessed as chemically dependent or abusive of one or more substances and are awaiting treatment.
 - Of the 2,044 offenders who have entered a primary chemical dependency treatment program in prison, 247 of these offenders (12.1%) entered a primary treatment program twice, and 39 (1.9%) entered a primary treatment program three or four times.
 - Roughly 66 percent of primary treatment episodes were completed.
- A total of 1,941 (80.3%) of the 2,418 felony DWI offenders admitted to prison during the time frame examined were released from prison. Approximately 19 percent (19.2%) were released to Challenge Incarceration Program (CIP) Phase II community supervision, and less than two percent (1.9%) were released to Intensive Supervised Release (ISR). Most were placed on supervised release or another form of community supervision, such as work release, at the time of release from prison.
 - Of those released to supervision, 25.3 percent were returned to prison for violating one or more conditions of their supervision.
 - Of those released to supervision, 4.7 percent were returned to prison for a new felony sentence.
- A total of 481 offenders, accounting for 19.9 percent of all felony DWI prison admissions, entered CIP.
 - As of June 30, 2012, 117 of these offenders were in one of the three phases of the program, 241 had completed the program, and 123 had failed.
 - The failure rate was slightly higher in Phase I than in Phase II or Phase III. Failure rates for Phase II and Phase III were 10.3 and 9.8 percent, respectively, compared to 13.1 percent for Phase I.

INTRODUCTION

In June 2001, the Minnesota Legislature amended the state's DWI laws by creating a felony-level offense (M.S. 169A.24). The felony offense applies to individuals who violate the state's DWI laws and have prior convictions for three or more DWIs within the last ten years, a previous conviction for a felony DWI, or a previous conviction for criminal vehicular homicide or injury under M.S. 609.21 (offenders convicted under 609.21 are often but not always found to be under the influence of alcohol or a controlled substance). The law stipulates a mandatory sentence that can be no less than three years but no greater than seven years, and the court may stay execution of the sentence but not imposition of the sentence.

Minnesota Sentencing Guidelines presume an executed sentence of imprisonment for offenders convicted of a felony DWI who have a criminal history score greater than two or those who have a previous felony DWI conviction, regardless of criminal history score. Offenders who receive an executed sentence also are placed on conditional release for an additional five years after their release from prison. Those who fail to comply with the conditions of their release may have their supervised release revoked and may be returned to prison. Sentencing guidelines presume a stayed sentence for offenders convicted of a felony DWI who have a criminal history score of two or less. For those who receive a stayed sentence, the court must apply the mandatory penalties for non-felony DWI offenses which may include a jail term, intensive supervised release, long-term alcohol monitoring, and any chemical dependency treatment recommended. The court may order the stayed sentence to be executed if any conditions are violated; if so, the offender is committed to the commissioner of corrections and incarcerated in prison.

This is the fourth report on felony DWI offenders committed to the commissioner of corrections. Between fiscal years 2003 and 2007, the DOC published annual reports on all offenders convicted of a felony DWI as required by Minnesota Statutes, Section 244.085. In 2009, the legislature amended that statute and narrowed the scope of the report. Specifically, the scope was reduced from all persons convicted of a felony DWI to those convicted of a felony DWI and sentenced to prison, which includes offenders given an executed sentence (new court commitments) and those whose stayed sentence was executed following a probation violation (probation violators).

DATA AND METHODS

The felony DWI law went into effect on August 1, 2002, and the first felony DWI offender was admitted to prison in September 2002. A total of 2,184 offenders were admitted to prison 2,418 times as either a new court commitment or a probation violator between September 1, 2002, and June 30, 2012. An additional 485 admissions of release violators occurred during this time; these offenders are not included in the primary analysis for this report but are included in the section addressing release violation rates. A portion of the data on offenders incarcerated prior to July 1, 2007, was obtained from the 2007 report submitted by the commissioner of corrections (Minnesota Department of Corrections, 2007) and the database created for that report. Reasons for probation revocation were collected from the counties in which the offender was convicted, and all other data were derived from the Department of Corrections' Correctional Operations Management System (COMS).

COMMITMENTS TO PRISON

Table 1 shows the number of new court commitment and probation violator admissions by fiscal year, of offenders with a felony DWI as their governing offense.¹ The table reveals a rapid increase in felony DWI admissions occurring in the first three fiscal years after the law went into effect. Total admissions continued to increase, but more slowly, peaking at 323 in fiscal year 2008. In years since, probation violator admissions in particular have decreased. In fiscal year 2012, probation violator admissions were at their lowest level since fiscal year 2004, with 106. New court commitments are also down from their peak, with 165 in fiscal year 2012.

Table 1 also shows that, on average, the department admitted to prison 242 felony DWI offenders per year, over the last ten fiscal years. Fifty-eight percent of these admissions were new court commitments.

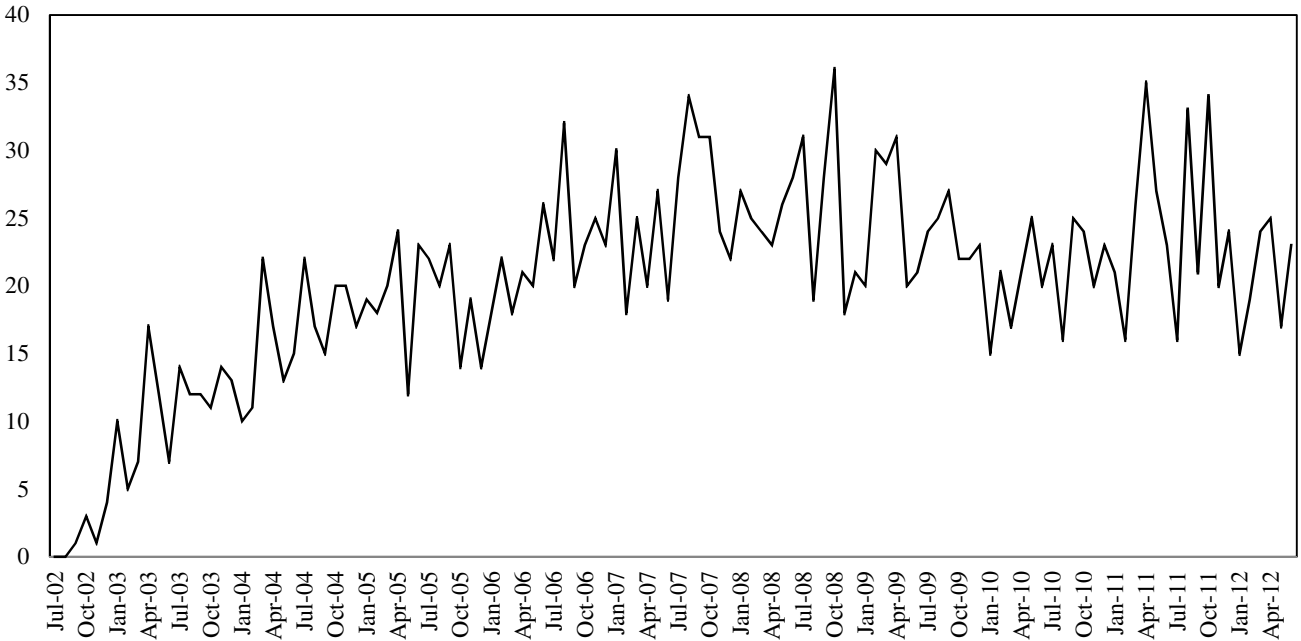
Table 1. Prison Admissions by Fiscal Year and Admission Type

Fiscal Year	New Court Commitment		Probation Violator		Total	
	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>
2003	57	85.1	10	14.9	67	100.0
2004	113	68.9	51	31.1	164	100.0
2005	116	51.1	111	48.9	227	100.0
2006	129	54.4	108	45.6	237	100.0
2007	150	52.8	134	47.2	284	100.0
2008	182	56.3	141	43.7	323	100.0
2009	185	60.9	119	39.1	304	100.0
2010	151	57.6	111	42.4	262	100.0
2011	160	57.3	119	42.7	279	100.0
2012	165	60.9	106	39.1	271	100.0
Total	1,408	58.2	1,010	41.8	2,418	100.0
Average	141	--	101	--	242	--

Figure 1 shows the total number of offenders admitted for a felony DWI offense as either a new court commitment or a probation violator by month of admission. The graph shows a gradual increase in total admissions between August 2002 (the month the law went into effect) through early in fiscal year 2009. Since that time, admissions have leveled off or declined slightly. During fiscal year 2012, monthly admissions ranged from a high of 34 in October 2011 to a low of 15 in January 2012. On average, the DOC has admitted 20 offenders per month for a felony DWI offense over the past ten years.

¹ Offenders returned to prison for violating their release conditions who initially were incarcerated for a felony DWI offense – release violators – are not included in this table but are included in a later section of this report.

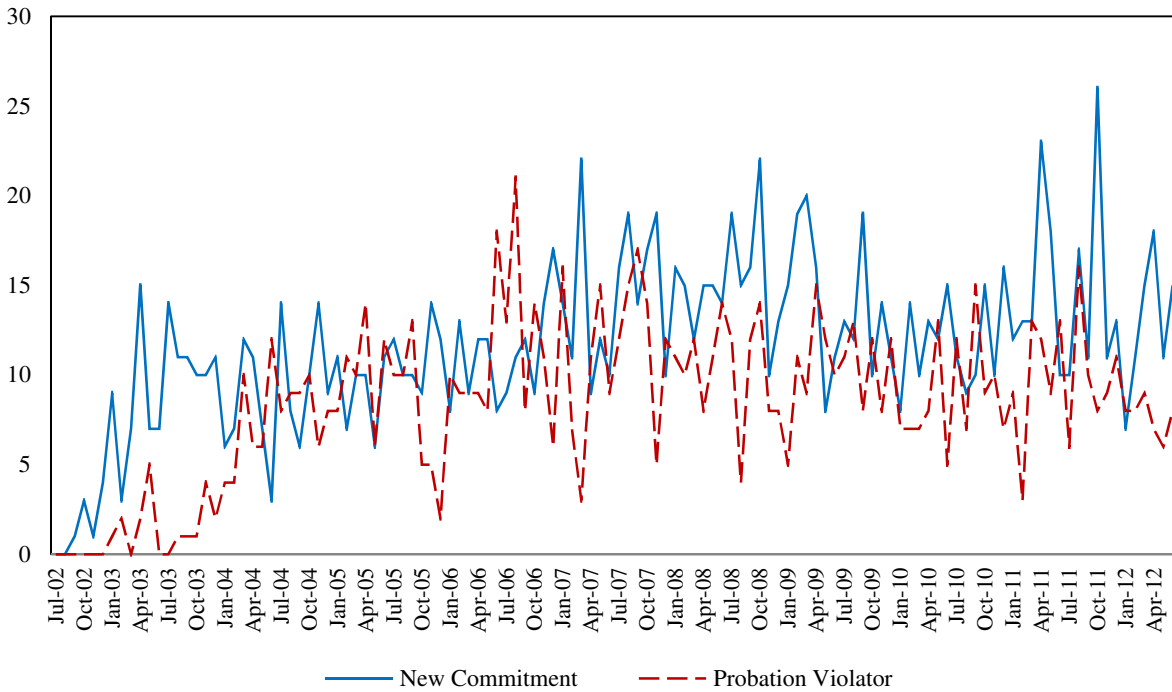
Figure 1. Prison Admissions by Month



Disaggregating total monthly admissions into new court commitments and probation violators reveal slightly different trends for these two admission types. As shown in Figure 2, new court commitments increased rapidly after the felony DWI law went into effect and then remained fairly stable until the end of fiscal year 2006. At that time, the number of new court commitments increased slightly again and then stayed at the new, higher level through fiscal year 2009. Since then, monthly new court commitment figures have been somewhat lower on average, although these numbers can fluctuate considerably from one month to another. In fact, October 2011 had the highest-ever monthly number of felony DWI new court commitments, at 26. Over the ten years of data shown in this chart, the average number of new court commitments is nearly 12 offenders per month.

As expected, the department initially received only a small number of offenders as probation violators. Admissions of probation violators began increasing in 2004, and monthly admissions of probation violators peaked at 21 in August of 2006. On average, the department admits about eight probation violators each month.

Figure 2. Prison Admissions by Month and Admission Type



COUNTY OF COMMITMENT

Prison admissions for felony DWI disproportionately originate in non-metropolitan counties (Table 2). Just 41 percent of the offenders admitted to prison for a felony DWI offense were committed by one of the seven counties comprising the metropolitan area – Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington – but nearly 54 percent of the state’s population reside in one of these seven counties. Counties from outside of the metropolitan area accounted for over 59 percent of the offenders admitted to prison for a felony DWI, yet 46 percent of the state’s population reside in these counties.

Table 2. Prison Admissions by Committing County Location

County	<i>Number</i>	<i>Percent</i>	<i>Percent of Population</i>
Metro Counties	986	40.8	53.6
Non-Metro Counties	1,432	59.2	46.4
Total	2,418	100.0	100.0

Source: U.S. Census Bureau (2010)

Additional analysis, not shown here, which separated prison admissions into new court commitments and probation violators showed little difference between metropolitan and non-metropolitan counties. Specifically, during fiscal year 2012 new court commitments accounted for about 60.7 percent of the felony DWI offenders admitted from metropolitan counties, and for non-metropolitan counties it was 61 percent.

Table 3 shows the counties accounting for the greatest proportion of the felony DWI prison admissions as well as the percent of the state’s population residing in each county. Hennepin and Ramsey counties, the state’s two most populous counties, together are responsible for 27.5 percent of the offenders admitted to prison for a felony DWI offense. This figure is slightly less than the percentage of the population (31.3%) residing in those counties. Many of the counties in the table are the most populous counties in the state, and five of them (Hennepin, Ramsey, Dakota, Anoka, and Washington) are within the metropolitan area.

Table 3. Prison Admissions by Committing County

County	<i>Number</i>	<i>Percent</i>	<i>Percent of Population</i>
Hennepin	425	17.6	21.7
Ramsey	240	9.9	9.6
Dakota	118	4.9	7.5
St. Louis	112	4.6	3.8
Anoka	102	4.2	6.2
Clay	86	3.6	1.1
Olmsted	81	3.3	2.7
Polk	66	2.7	0.6
Stearns	59	2.4	2.8
Becker	58	2.4	0.6
Washington	58	2.4	4.5
Remaining Counties	1,013	41.9	38.9
Total	2,418	100.0	100.0

Source: U.S. Census Bureau (2010)

OFFENDER DEMOGRAPHICS

Table 4 shows the demographic characteristics of all felony DWI offenders admitted to prison between September 1, 2002, and June 30, 2012. The typical DWI offender admitted to prison is a white male who is in his thirties or early forties. The average age of these offenders at admission is 39.1 years.

Table 4. Demographic Characteristics at Prison Admission

<i>Sex</i>	<i>Number</i>	<i>Percent</i>	<i>Race</i>	<i>Number</i>	<i>Percent</i>	<i>Age</i>	<i>Number</i>	<i>Percent</i>
Male	2,214	91.6	White	1,547	64.0	Under 25	77	3.2
Female	204	8.4	American Indian	359	14.8	25 – 29	371	15.3
			Black	359	14.8	30 – 34	453	18.7
			Hispanic	130	5.4	35 – 39	454	18.8
			Asian	23	1.0	40 – 44	420	17.4
						45 – 49	357	14.8
						50 and over	286	11.8
Total	2,418	100.0		2,418	100.0		2,418	100.0

CRIMINAL HISTORY

Data on offenders’ prior criminal offenses were obtained through COMS. Prior offense information was obtained for all but 12 (0.5%) of the 2,418 felony DWI admissions in this study.

Table 5 shows that offenders had been convicted of an average of roughly nine non-felony (i.e., misdemeanor or gross misdemeanor) offenses and two felony offenses prior to admission to prison for a felony DWI. The average number of prior non-felony impaired driving convictions was just over four, and the average number of prior felony impaired driving convictions was less than one. Most of the admissions (75%) were not preceded by a prior felony DWI conviction. Only convictions for driving while impaired or refusal to submit to testing which resulted in a conviction for driving while impaired were included when counting prior impaired driving offenses. Convictions for other offenses which often, but not always, involve impaired drivers (e.g., careless driving or criminal vehicular operation) were not included. Offenses that often occur after an impaired driving offense, including driving after license suspension or license revocation, also were not included.

Table 5. Criminal Histories at Prison Admission

	All Offenses		Impaired Driving Offenses	
	<i>Non-Felony</i>	<i>Felony</i>	<i>Non-Felony</i>	<i>Felony</i>
Maximum	40	22	19	8
Average	9.0	2.4	4.1	0.3

Nearly 30 percent of the 2,184 offenders admitted for a felony DWI offense had one or more commitments to the commissioner for other offenses, prior to their first felony DWI admission. In all, 985 prior commitments to the commissioner were identified in COMS for these felony DWI offenders. The most prevalent offense categories for these previous commitments were assault, drug, and burglary offenses.

SENTENCES

Table 6 shows the pronounced sentence length of the 2,418 felony DWI prison admissions, by admission type. The data reveal that sentence lengths for offenders given an executed prison sentence typically were longer than those who initially received a stay of imposition or stay of execution. Half (49.7%) of the offenders given an executed sentence and committed to prison as a new court commitment received a sentence of 49 months or more compared to 15.9 percent of those given an executed sentence upon revocation of probation. On average, new court commitments received a sentence of 50.7 months while probation violators received a sentence of 44.8 months.

Table 6. Sentence Length by Admission Type

Sentence Length	New Court Commitment		Probation Violator		Total	
	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>
Average	50.7 months		44.8 months		48.3 months	
24 months or less	12	0.9	6	0.6	18	0.7
25 to 36 months	200	14.2	242	24.0	442	18.3
37 to 48 months	496	35.2	601	59.5	1,097	45.4
49 to 60 months	475	33.7	107	10.6	582	24.1
61 months or more	225	16.0	54	5.3	279	11.5
Total	1,408	100.0	1,010	100.0	2,418	100.0

Table 7 shows the reasons cited for the 1,010 offenders who were admitted to prison following revocation of a probation sentence. Offenders can have their probation revoked for multiple reasons, and all reasons are included in the following table. Use of alcohol, the most common revocation reason, was cited for 57.2 percent of the cases; use of drugs was cited for 19.3 percent of the cases. Failing general probation rules was cited for 44.5 percent of the cases, and failing repeat DWI probation rules was cited for 15.4 percent. Commission of a new offense was noted for 41.7 percent of the cases. Combined, refusing to enter or failing to complete chemical dependency treatment was cited as a revocation reason for just under one-fourth (23.1%) of the cases. The average number of violations per offender was two.

Table 7. Probation Revocation Reasons

<i>Reason</i>	<i>Number</i>	<i>Percent of Total Probation Revocations</i>
Use of alcohol	578	57.2
Failed general probation rules	449	44.5
New offense	421	41.7
Use of drugs	195	19.3
Failed treatment	181	17.9
Failed repeat DWI probation rules	156	15.4
Refused treatment	53	5.2
Other	52	5.1
Unknown	10	1.0

Note: Because an offender can have his or her probation revoked for multiple reasons, a total of 2,095 reasons were identified for the 1,010 probation violators. The percentages presented in this table are based on the total number of probation revocations (N=1,010).

CHEMICAL DEPENDENCY TREATMENT IN PRISON

Table 8 summarizes treatment and assessment data for the 2,418 admissions and classifies each according to the highest level achieved in the assessment and treatment continuum. In most cases (84.5%), felony DWI offenders admitted to prison entered a primary chemical dependency (CD) treatment program while in prison. Approximately six percent were assessed as dependent on, or abusive of, one or more substances and presently are awaiting treatment. About nine percent (9.4%) had not been assessed as of June 30, 2012, or were assessed as chemically dependent or abusive but not entering primary treatment. Many of these offenders were probation violators who were not incarcerated long enough to complete treatment or were repeat felony DWI offenders who had completed treatment during a recent incarceration. A small number were determined to be unamenable to treatment.² Some felony DWI offenders have entered primary CD treatment more than once. Five offenders have had four primary treatment episodes, while 34 have entered primary treatment three times, and 247 have entered primary treatment twice.

² In the last nine years, only eight felony DWI offenders were assessed as chemically abusive or dependent and determined to be unamenable to treatment. Several entered pre-treatment programming and were removed for assaultive or other behavior requiring disciplinary action.

Table 8. Chemical Dependency Treatment Status

<i>Treatment Status</i>	<i>Number</i>	<i>Percent</i>
Entered primary treatment	2,044	84.5
Awaiting treatment, assessed dependent or abusive	147	6.1
Not assessed/not entering primary treatment	227	9.4
Total	2,418	100.0

Table 9 summarizes the outcomes of all treatment episodes for the felony DWI offenders who entered primary chemical dependency treatment and for whom the outcome of this treatment was known as of June 30, 2012. Findings show that nearly two-thirds (66.1%) of primary treatment episodes were completed or the offender participated in treatment until he or she was released; this is slightly lower than the completion rate for all incarcerated offenders.³ Approximately 16 percent (15.8%) of offenders were terminated from the program by program staff, and 13.2 percent of offenders quit.

Table 9. Chemical Dependency Primary Treatment Outcome

<i>Treatment Outcome</i>	<i>Number</i>	<i>Percent</i>
Completed	1,302	63.9
Participated until released	44	2.2
Terminated	321	15.8
Offender quit	268	13.2
Discharged by administration ⁴	103	5.1
Total	2,038	100.0

RELEASES AND REINCARCERATIONS

A total of 1,941 (80.3%) of the 2,418 felony DWI prison admissions through fiscal year 2012 were released from prison as of June 30, 2012. As shown in Table 10, roughly 19 percent (19.2%) were released to Challenge Incarceration Program community supervision. Only 37 of the 1,941 offenders, accounting for less than two percent of those released, were placed on intensive supervised release. The majority of offenders (77.6%) were released to other community supervision, primarily supervised release or work release. Twenty (1.0%) of the offenders were discharged by the court or an executive order and therefore could not be placed on community supervision. Five offenders died while incarcerated.

Of the 1,916 releases to community supervision,⁵ 485 (25.3%) returned to prison on revocations for technical violations as of June 30, 2012. In addition, 90 offenders (4.7%) were revoked after being resentenced for a new felony-level offense.

³ Chemical dependency treatment completion rates for all adult inmates were 68 percent in FY09 and 70 percent in FY10.

⁴ Offenders who are discharged by administration are removed from treatment for a variety of non-disciplinary reasons by prison administration and are not considered treatment failures. Unlike offenders who are terminated from treatment or those who quit, these offenders do not receive a sanction for leaving treatment.

⁵ Offenders discharged by the court or executive order as well as those who died while incarcerated were excluded from this analysis.

Table 10. Supervision Status at Release

<i>Supervision Status</i>	<i>Number</i>	<i>Percent</i>
Challenge Incarceration Program (CIP) community supervision	372	19.2
Intensive supervised release	37	1.9
Other community supervision	1,507	77.6
Discharged by court/executive order	20	1.0
Deceased	5	0.3
Total	1,941	100.0

CHALLENGE INCARCERATION PROGRAM

Nearly one of every five felony DWI prison admissions enters Challenge Incarceration Program (CIP). Table 11 shows that as of June 30, 2012, there were 481 CIP admissions of offenders serving a felony DWI sentence. As of that date, 117 of these offenders were in one of the three phases of the program. Forty-three of these offenders were in Phase I, the portion of the program which takes place while the offender is incarcerated; the remaining 74 offenders were in Phases II or III, the portions which take place in the community. A total of 241 offenders completed CIP and were placed on supervised release. A total of 123 offenders failed to complete CIP.

Table 11. Status of Offenders Admitted to CIP

	<i>Number</i>
In CIP	
Phase I	43
Phase II	46
Phase III	28
Total	117
Completed CIP	241
Failed CIP	123
Total	481

Table 12 shows the reasons offenders failed to complete CIP by the phase in which they failed.⁶ Twenty-two (35.5%) of the 62 offenders who failed in Phase I committed a program violation, were removed from the program, and returned to the general prison population. Fifteen quit, and eighteen were removed from the program administratively. Some of the latter were found to have a warrant outstanding, the presence of which was not known by DOC staff at the time program eligibility was determined. Seven offenders had mental or physical issues that precluded their continued participation in Phase I. All but one of the 38 offenders who failed in Phase II committed a program violation while under community supervision and were returned to prison. Finally, all of the 23 offenders who failed while on Phase III committed program violations while under community supervision and were returned to prison.

⁶ Violation data are not available as only those violations which result in program failure are recorded in COMS.

Table 12. Reasons Offenders Failed CIP

Reasons	Phase I		Phase II		Phase III		Total	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Offender quit	15	24.2	0	0.0	0	0.0	15	12.2
Mental/physical issue	7	11.3	0	0.0	0	0.0	7	5.7
Administrative decision	18	29.0	1	2.6	0	0.0	19	15.4
Revoked and returned	22	35.5	37	97.4	23	100.0	82	66.7
Total	62	100.0	38	100.0	23	100.0	123	100.0

Failure rates were calculated for each phase of the program and reported in Table 13. To compute failure rates by program phase, one must determine how many offenders had the opportunity to complete (and thus are “eligible to fail”) each phase. Because each phase in CIP lasts approximately six months, offenders were included in the failure rate calculations for each phase only if they had enough time in the program to complete a phase.

For example, an offender who began Phase I after January 1, 2012, would still be in this phase by the end of time period covered in this report (June 30, 2012, the end of fiscal year 2012), since each phase takes a minimum of six months to complete. Including this offender, if he or she failed, would artificially increase Phase I failure rates since his or her successful counterpart who began at the same time is not included. Similarly, an offender who entered Phase II or Phase III after January 1, 2012, would not have had time to complete that phase by the end of FY 2012. A total of seven offenders known to have failed as of June 30, 2012, are excluded from the failure rate analysis on this basis: five of these offenders failed Phase I, one failed Phase II, and one failed Phase III.

To illustrate the failure rate calculation for Phase I, Table 11 showed that 481 offenders entered CIP. Of these offenders, 47 are excluded from the calculation because they entered Phase I on or after January 1, 2012, and thus did not have enough time to complete this phase by June 30, 2012. Therefore, of the 481 offenders who entered CIP, 434 had an opportunity to complete Phase I by June 30, 2012.

As shown in Table 13, failure rates were similar in Phases II and III but somewhat higher in Phase I. The failure rate was 13.1 percent for Phase I, compared to 10.3 percent for Phase II and 9.8 percent for Phase III. All offenders who failed were removed from the program and returned to prison to serve their remaining sentence as determined by state statute.

Table 13. Failure Rates by Phase for Offenders Admitted to CIP

Phase	Number Failed	Number	
		“Eligible” to Fail	Failure Rate
Phase I	57	434	13.1
Phase II	34	330	10.3
Phase III	25	256	9.8

PER DIEM

The legislation governing this report requests information on the costs associated with the incarceration and treatment of felony DWI offenders committed to the commissioner of corrections. Per diem information, however, is available only on incarcerated adult offenders in general and is not disaggregated by offense type. In the ten fiscal years since the inception of the felony DWI law, the average adult operational per diem, which includes treatment costs, increased from \$80.52 to \$84.59 (Table 14).

Table 14. Average Adult Operational Per Diem by Fiscal Year

Fiscal Year	<i>Average Adult Operational Per Diem</i>
2003	\$80.52
2004	\$76.80
2005	\$76.43
2006	\$80.11
2007	\$86.14
2008	\$89.77
2009	\$89.24
2010	\$83.95
2011	\$85.52
2012	\$84.59

CONCLUSION

A total of 2,418 prison admissions of felony DWI offenders occurred between September 1, 2002, and June 30, 2012. Admissions increased sharply at first, and then continued to increase but at a slower pace until early in fiscal year 2009 when admissions appeared to level off. During fiscal year 2012, an average of nearly 14 offenders per month were admitted to prison as a new court commitment and nearly nine per month were admitted following revocation of probation. Nearly 60 percent of all admissions come from counties outside of the metropolitan area, although these counties account for just 46 percent of the state's population.

The typical felony DWI offender admitted to prison is a male who is in his thirties or early forties and has been convicted of a non-felony DWI four times prior to his incarceration. These offenders have committed other types of offenses as well, averaging a total of nine non-felony convictions and two felony convictions prior to admission. The average sentence for those admitted as a new court commitment is 50.7 months compared to 44.8 months among probation violators. Many (84.5%) of the felony DWI offenders admitted to prison enter chemical dependency treatment while incarcerated. Among those who enter a primary treatment program, 63.9 percent successfully complete it.

Of those who have been released from prison, 372 offenders (19.2%) were released to CIP community supervision. Thirty-seven offenders (1.9%) were placed on intensive supervised release. Over 25 percent (25.3%) of offenders released to community supervision were returned to prison for a technical violation, and 4.7 percent were returned for a new offense, before expiration of the original felony DWI sentence.

REFERENCES

United States Census Bureau (2010). *Census 2010*. Washington, D.C.

Minnesota Department of Corrections (2007). *Minnesota Felony Driving While Impaired Report, 2007*. St. Paul, Minnesota