

Minnesota Felony Driving While Impaired 2024 Legislative Report



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TABLE OF CONTENTS

Executive Summary.....	1
Introduction	3
Data and Methods	4
Commitments to Prison	5
County of Commitment	6
Demographics	8
Criminal History	8
Sentences.....	9
Substance Use Disorder Treatment in Prison	10
Releases and Reincarcerations	12
Challenge Incarceration Program	13
Per Diem.....	15
Conclusion.....	16
References	17

TABLES

Table 1. Prison Admissions by Fiscal Year and Admission Type	5
Table 2. Prison Admissions by Committing County Location	6
Table 3. Prison Admissions by Committing County	7
Table 4. Demographic Characteristics at Prison Admission	8
Table 5. Criminal Histories at Prison Admission	8
Table 6. Sentence Length by Admission Type	9
Table 7. Probation Revocation Reasons	10
Table 8. Substance Use Disorder Treatment Status	10
Table 9. Substance Use Disorder Primary Treatment Outcome.....	11
Table 10. Supervision Status at Release	12
Table 11. Status of Those Admitted to CIP	13
Table 12. CIP Failure Reasons	13
Table 13. CIP Failure Rate by Phase.....	14
Table 14. Average Adult Operational Per Diem by Fiscal Year	15

FIGURES

Figure 1. Prison Admissions by Fiscal Year and Admission Type	6
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EXECUTIVE SUMMARY

This is the 16th legislatively mandated report (Minnesota Statute 2009, Section 244.085) on felony driving while impaired (DWI) individuals committed to the Commissioner of Corrections. In 2009, the legislature amended the statute, narrowing the scope of the report from all persons convicted of a felony DWI to only those persons with felony DWIs admitted to prison.

Incidence and County Characteristics

- Between September 1, 2002, and June 30, 2024, a total of 4,018 people were admitted to prison 5,074 times for a felony DWI offense as either a new court commitment or a probation violator.
- Admissions increased sharply in the early years after the law went into effect, peaking in fiscal year 2008 with 323. Annual admissions have declined in recent years; 217 admissions occurred in fiscal year 2024.
- An average of 146 people were admitted each year as a new court commitment compared to an average of 84 people admitted each year as a probation violator.
- The state's two most populous counties, Hennepin and Ramsey, together account for 27.2 percent of the people admitted to prison for a felony DWI offense, which is slightly less than the percentage of the population (32.2 percent) residing in those counties.
- Counties from outside of the metropolitan area accounted for 60 percent of the people admitted to prison for a felony DWI, yet 45 percent of the state's population reside in these counties.

Demographic Characteristics

- Ninety percent of felony DWI admissions are male; nearly two-thirds (62.3 percent) are white.
- The average age at admission is 40 years.
- Felony DWI individuals have been convicted of an average of 12.2 non-felony DWI offenses prior to prison admission. Most have not had a prior felony DWI conviction. Many of these individuals have received convictions for other criminal behavior that does not involve drinking and driving. On average, felony DWI individuals have been convicted of a total of 3.7 non-felony offenses and 0.5 felony offenses prior to admission.

Sentencing Characteristics

- On average, new court commitments received a sentence of 51.8 months while probation violators received a sentence of 45.6 months.
- Over half (54.8 percent) of the people given an executed sentence and committed to prison as a new court commitment received a sentence of 49 months or more compared to 18.5 percent of those given an executed sentence upon revocation of probation.

- Individuals 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 (56.6 percent) of the probation violators, and use of drugs was cited for 24.9 percent. Commission of a new offense was cited for 42.9 percent of the cases. Refusing substance use disorder treatment or failing to complete substance use disorder treatment was cited as a revocation reason for 28.3 percent of the cases.

Prison-Based Treatment and Post-Release Supervision

- The majority (85.6 percent) of felony DWI admissions have entered a primary substance use disorder treatment program. An additional 3.6 percent have been assessed as chemically dependent or abusive of one or more substances and are awaiting treatment.
 - Of the 4,343 admissions who have entered a primary substance use disorder treatment program in prison, 228 people entered a primary treatment program three or more times, and 730 entered a primary treatment program twice.
 - In total, 72.5 percent of primary treatment episodes were completed.
- A total of 4,737 (93.3 percent) of the 5,074 felony DWI individuals admitted to prison during the time frame examined were released from prison. In total, 27.3 percent were released to the Challenge Incarceration Program (CIP) Phase II community supervision, and 1.8 percent 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, 36.8 percent were returned to prison for violating one or more conditions of their release. In addition, 12.5 percent were returned to prison for a new felony sentence.
- A total of 1,552 felony DWI admissions entered the CIP. This is 30.6 percent of all felony DWI prison admissions.
 - As of June 30, 2024, 118 of these people were in one of the three phases of the program, 940 had completed the program, and 494 had failed.
 - The failure rate was somewhat higher in Phase I than in Phase II or Phase III. Failure rates for Phase II and Phase III were each about 11 percent, compared to 14.2 percent for Phase I.

INTRODUCTION

In June 2001, the Minnesota Legislature amended the state's DWI laws by creating a felony-level offense. 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 10 years, a previous conviction for a felony DWI, or a previous conviction for criminal vehicular homicide or injury under M.S. 609.21 (people 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 people 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. People 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 people 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 supervision, long-term alcohol monitoring, and any substance use disorder treatment recommended. The court may order the stayed sentence to be executed if any conditions are violated; if so, the person is committed to the Commissioner of Corrections and incarcerated in prison.

This is the 16th report on felony DWI individuals committed to the Commissioner of Corrections. Between fiscal years 2003 and 2007, the DOC published annual reports on all individuals 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 those 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 individual was admitted to prison in September 2002. A total of 4,018 individuals were admitted to prison 5,074 times as either a new court commitment or a probation violator between September 1, 2002, and June 30, 2024. An additional 1,742 admissions of release violators occurred during this time; these people 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 people 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 person 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 those with a felony DWI as their governing offense.¹ Figure 1 displays the Table 1 data graphically. 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 in the following few years, but more slowly, peaking at 323 in Fiscal Year 2008. In Fiscal Year 2024 there were 217 total admissions.

Probation violator admissions peaked in Fiscal Year 2008, with 141. The years since have shown a generally downward trend in annual probation violator admissions. New court commitments reached their high in Fiscal Year 2013, with 192, before declining in subsequent fiscal years.

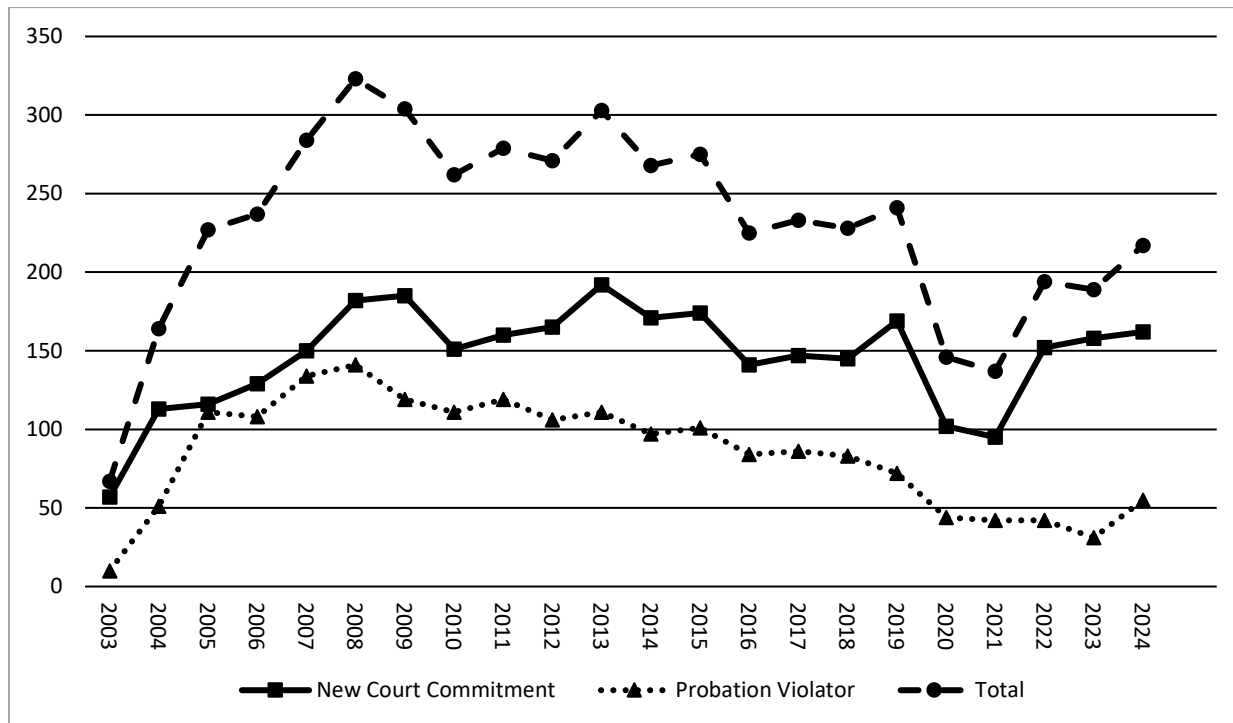
Table 1 also shows that, on average, the department admitted to prison 231 felony DWI individuals per year, over the last 22 fiscal years. Sixty-three percent of these admissions were new court commitments.

Table 1. Prison Admissions by Fiscal Year and Admission Type

Fiscal Year	New Court Commitment		Probation Violator		Total	
	Number	Percent	Number	Percent	Number	Percent
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
2013	192	63.4	111	36.6	303	100.0
2014	171	63.8	97	36.2	268	100.0
2015	174	63.3	101	36.7	275	100.0
2016	141	62.7	84	37.3	225	100.0
2017	147	63.1	86	36.9	233	100.0
2018	145	63.6	83	36.4	228	100.0
2019	169	70.1	72	29.9	241	100.0
2020	102	69.9	44	30.1	146	100.0
2021	95	69.3	42	30.7	137	100.0
2022	152	78.4	42	21.6	194	100.0
2023	158	83.6	31	16.4	189	100.0
2024	162	74.7	55	25.3	217	100.0
Total	3,216	63.4	1,858	36.6	5,074	100.0
Average	146	--	84	--	231	--

¹ Individuals 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 Fiscal Year and Admission Type



COUNTY OF COMMITMENT

Prison admissions for felony DWI disproportionately originate in non-metropolitan counties (Table 2). Just 40 percent of the those 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 55 percent of the state’s population reside in one of these seven counties. Counties from outside of the metropolitan area accounted for 60 percent of the people admitted to prison for a felony DWI, yet 45 percent of the state’s population reside in these counties.

Table 2. Prison Admissions by Committing County Location

County	Number	Percent	Percent of Population
Metro Counties	2,008	39.6	55.4
Non-Metro Counties	3,066	60.4	44.6
Total	5,074	100.0	100.0

Population Percentage Source: U.S. Census Bureau (2020)

Additional analysis, not shown here, which separated prison admissions into new court commitments and probation violators, showed almost no difference between metropolitan and non-metropolitan counties. New court commitments accounted for approximately 63 percent

of those committed by metropolitan and 64 percent of those committed by non-metropolitan counties.

Table 3 shows the counties accounting for the greatest proportion of the felony DWI prison admissions as well as the percentage of the state's population residing in each county. Hennepin and Ramsey counties, the state's two most populous counties, together are responsible for 27.2 percent of those admitted to prison for a felony DWI offense. This figure is slightly less than the percentage of the population (32.2 percent) residing in those counties. Many of the counties in the table are the most populous counties in the state, and four of them (Hennepin, Ramsey, Dakota, and Anoka) are within the seven-county metropolitan area.

Table 3. Prison Admissions by Committing County

County	<i>Number</i>	<i>Percent</i>	<i>Percent of Population</i>
Hennepin	959	18.9	22.5
Ramsey	421	8.3	9.7
St. Louis	233	4.6	3.5
Dakota	225	4.4	7.7
Anoka	179	3.5	6.4
Clay	176	3.5	1.1
Polk	159	3.1	0.5
Beltrami	146	2.9	0.8
Olmsted	135	2.7	2.9
Stearns	127	2.5	2.8
Remaining Counties	2,314	45.6	42.1
Total	5,074	100.0	100.0

Population Percentage Source: U.S. Census Bureau (2020)

DEMOGRAPHICS

Table 4 shows the demographic characteristics of all felony DWI prison admissions between September 1, 2002, and June 30, 2024. Ninety percent of the admissions were male. Sixty-two percent were white. The average age at admission is 40 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	4,569	90.0	White	3,160	62.3	Under 25	115	2.3
Female	505	10.0	Black	898	17.7	25 – 29	634	12.5
			American Indian	698	13.8	30 – 34	994	19.6
			Hispanic	257	5.1	35 – 39	976	19.2
			Asian	58	1.1	40 – 44	835	16.5
			Unknown	3	0.1	45 – 49	685	13.5
						50 and over	835	16.5
Total	5,074	100.0		5,074	100.0		5,074	100.0

CRIMINAL HISTORY

Data on prior criminal offenses were obtained through COMS. Prior offense information was obtained for all but 20 (0.4 percent) of the felony DWI admissions through June 2024. Table 5 shows that individuals had been convicted of an average of about 12.2 non-felony (i.e., misdemeanor or gross misdemeanor) offenses and 3.1 felony offenses prior to admission to prison for a felony DWI. The average number of prior non-felony impaired driving convictions was 3.7, and the average number of prior felony impaired driving convictions was less than one (0.5). Most of the admissions (68.7 percent) were not preceded by a prior felony DWI conviction. Only convictions for DWI or refusal to submit to testing which resulted in a conviction for DWI 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	88	23	8	4
Average	12.2	3.1	3.7	0.5

The data shows 31.3 percent of the 4,018 distinct people 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, 2,107 prior commitments to the commissioner were identified in COMS for these people. The most prevalent offense categories for these previous commitments were drug, assault, and burglary offenses.

SENTENCES

Table 6 shows the pronounced sentence length of the 5,074 felony DWI prison admissions by admission type. The data reveal that sentence lengths for those given an executed prison sentence typically were longer than those who initially received a stay of imposition or stay of execution. Over half (54.8 percent) of those given an executed sentence and committed to prison as a new court commitment received a sentence of 49 months or more, compared to 18.5 percent of those given an executed sentence upon revocation of probation. On average, new court commitments received a sentence of 51.8 months while probation violators received a sentence of 45.6 months.

Table 6. Sentence Length by Admission Type

Sentence Length	New Court Commitment		Probation Violator		Total	
	Number	Percent	Number	Percent	Number	Percent
Average	51.8 months		45.6 months		49.5 months	
24 months or less	23	0.7	7	0.4	30	0.6
25 to 36 months	375	11.7	427	23.0	802	15.8
37 to 48 months	1,057	32.9	1081	58.2	2138	42.1
49 to 60 months	1,137	35.4	193	10.4	1330	26.2
61 months or more	624	19.4	150	8.1	774	15.3
Total	3,216	100.0	1,858	100.0	5,074	100.0

Table 7 shows the reasons cited for the 1,852 individuals who were admitted to prison following revocation of a probation sentence. Individuals 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 56.6 percent of the cases; use of drugs was cited for 24.9 percent of the cases.² Failing general probation rules was cited for 46.9 percent of the cases, and failing repeat DWI probation rules was cited for 18.0 percent. Commission of a new offense was noted for 42.9 percent of the cases. Combined, refusing to enter or failing to complete substance use disorder treatment was cited as a revocation reason for over one-fourth (28.3 percent) of the cases. The average number of revocation reasons cited per revocation was slightly over two (2.32).

² One respondent noted their information system simply has “use of alcohol/drugs” as a violation type; they reported these violations in the “use of alcohol” category. Similarly, they noted their information system combines “treatment failure” and “treatment refusal” as one violation type; they reported these violations in the “failed CD treatment” category.

Table 7. Probation Revocation Reasons

<i>Reason</i>	<i>Number</i>	<i>Percent of Total Probation Revocations</i>
Use of alcohol	1,049	56.6
Failed general probation rules	868	46.9
New offense	795	42.9
Use of drugs	460	24.9
Failed CD treatment	396	21.4
Failed repeat DWI probation rules	332	18.0
Refused CD treatment	128	6.9
Other	247	13.4
Unknown	12	0.6

Note: Because a person can have their probation revoked for multiple reasons, a total of 4,292 reasons were identified for the 1,852 probation revocations. The percentages presented in this table are based on the total number of probation revocations (N=1,852).

SUBSTANCE USE DISORDER TREATMENT IN PRISON

Table 8 summarizes treatment and assessment data for the 5,074 admissions and classifies each according to the highest level achieved in the assessment and treatment continuum. In most cases (85.6 percent), felony DWI individuals admitted to prison entered a primary substance use disorder (SUD) treatment program while in prison. Approximately four percent were assessed as dependent on, or abusive of, one or more substances and presently are awaiting treatment. Nearly 11 percent had not been assessed as of June 30, 2024, or were assessed as chemically dependent or abusive but not entering primary treatment. Many of these people were probation violators who were not incarcerated long enough to complete treatment or were repeat felony DWI individuals who had completed treatment during a recent incarceration. A small number were determined to be unamenable to treatment.³ Some felony DWI individuals have entered primary SUD treatment more than once. Two hundred twenty-eight have entered primary treatment three or more times, and 730 have entered primary treatment twice.

Table 8. Substance Use Disorder Treatment Status

<i>Treatment Status</i>	<i>Number</i>	<i>Percent</i>
Entered primary treatment	4,343	85.6
Awaiting treatment, assessed dependent or abusive	183	3.6
Not assessed/not entering primary treatment	541	10.7
Assessed in remission	7	0.1
Total	5,074	100.0

³ In the last 22 years, only eight felony DWI individuals 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 9 summarizes the outcomes of all treatment episodes for the felony DWI individuals who entered primary substance use disorder treatment and for whom the outcome of this treatment was known as of June 30, 2024. Findings show that nearly three-fourths (72.5 percent) of primary treatment episodes were completed or the person participated in treatment until he or she was released. About 12 percent of participants were terminated from the program by program staff, and 7.5 percent of participants quit.

Table 9. Substance Use Disorder Primary Treatment Outcome

<i>Treatment Outcome</i>	<i>Number</i>	<i>Percent</i>
Completed	3,417	72.5
Participated until released	80	1.8
Terminated	558	11.8
Participant quit	353	7.5
Discharged by administration ⁴	301	6.4
Total	4,710	100.0

⁴ Individuals 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 those who are terminated from treatment or those who quit, these individuals do not receive a sanction for leaving treatment.

RELEASES AND REINCARCERATIONS

A total of 4,737 (93.3 percent) of the 5,074 felony DWI prison admissions through Fiscal Year 2024 were released from prison as of June 30, 2024. As shown in Table 10, 27.3 percent were released to the CIP community supervision. Only 83 of the 5,074, accounting for fewer than 2 percent of those released, were placed on ISR. The majority of people (69.8 percent) were released to other community supervision, primarily supervised release or work release. 40 (0.8 percent) people were discharged (generally by the court or an executive order) and therefore were not placed on community supervision. In total, 14 individuals died while incarcerated.

Of the 4,737 releases to community supervision,⁵ 1,742 (36.8 percent) returned to prison on revocations for technical violations as of June 30, 2024. In addition, 591 people (12.5 percent) were revoked after being resentenced for a new felony-level offense.

Table 10. Supervision Status at Release

<i>Supervision Status</i>	<i>Number</i>	<i>Percent</i>
Challenge Incarceration Program (CIP) community supervision	1,295	27.3
Intensive supervised release (ISR)	83	1.8
Other community supervision	3,305	69.8
Discharged	40	0.8
Deceased	14	0.3
Total	4,737	100.0

⁵ Those discharged as well as those who died while incarcerated were excluded from this analysis.

CHALLENGE INCARCERATION PROGRAM

Table 11 shows that as of June 30, 2024, there were 1,552 CIP admissions of people serving a felony DWI sentence. About 31 percent of all felony DWI prison admissions enter the CIP.⁶ As of June 30, 2024, 118 of these CIP admissions were in one of the three phases of the program. In total, 41 of these were in Phase I, the portion of the program which takes place while the person is incarcerated; the remaining 77 were in Phases II or III, the portions which take place in the community. A total of 940 CIP admissions completed CIP and were placed on supervised release. A total of 494 failed to complete the CIP.

Table 11. Status of Those Admitted to CIP

	<i>Number</i>
In CIP	
Phase I	41
Phase II	44
Phase III	33
Completed CIP	940
Failed CIP	494
Total	1552

Table 12 shows the reasons individuals failed to complete the CIP by the phase in which they failed.⁷ 100 (46.3 percent) of the 216 who failed in Phase I committed a program violation, were removed from the program, and returned to the general prison population. In total, 55 quit, and 34 were removed from the program administratively. Some of the latter were found to have an outstanding warrant, the presence of which was not known by DOC staff at the time program eligibility was determined. In total, 27 had mental or physical issues that precluded their continued participation in Phase I. All but three of the 161 who failed in Phase II committed a program violation while under community supervision and were returned to prison. Finally, all but one of the 117 who failed while on Phase III committed program violations while under community supervision and were returned to prison.

Table 12. CIP Failure Reasons

Reasons	Phase I		Phase II		Phase III		Total	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Participant quit	55	25.5	1	0.6	0	0.0	56	11.3
Mental/physical issue	27	12.5	1	0.6	1	0.9	29	5.9
Administrative decision	34	15.7	1	0.6	0	0.0	35	7.1
Revoked and returned	100	46.3	158	98.2	116	99.1	374	75.7
Total	216	100.0	161	100.0	117	100.0	494	100.0

⁶ This percentage reflects the fact that occasionally an incarcerated person is admitted to the CIP more than once during an incarceration term.

⁷ Violation data are not available as only those violations which result in program failure are recorded in COMS.

Failure rates for each phase of the program are reported in Table 13. For each phase, only those participants who entered the phase before January 1, 2024 are included.⁸ The failure rate was highest in Phase I (14.2 percent), and somewhat lower in Phases II and III. All who failed were removed from the program and returned to prison to serve their remaining sentence as determined by state statute.

Table 13. CIP Failure Rate by Phase

<i>Phase</i>	<i>Failures</i>	<i>Participants</i>	<i>Failure Rate</i>
Phase I	214	1,509	14.2
Phase II	144	1,261	11.4
Phase III	113	1,031	10.9

⁸ Since each CIP phase lasts approximately six months, those who entered a phase on or after January 1, 2024, would not have enough time to complete the phase by June 30, 2024, the end of the time period covered by this report.

PER DIEM

The legislation governing this report requests information on the costs associated with the incarceration and treatment of felony DWI individuals committed to the Commissioner of Corrections. Per diem information, however, is available only on incarcerated adults in general and is not disaggregated by offense type. In the 22 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 \$143.95 (Table 14).

Table 14. Average Adult Operational Per Diem by Fiscal Year

<i>Fiscal Year</i>	<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
2013	\$86.27
2014	\$86.47
2015	\$91.56
2016	\$92.14
2017	\$98.84
2018	\$100.79
2019	\$104.96
2020	\$111.07
2021	\$136.35
2022	\$141.22
2023	\$134.06
2024	\$143.95

CONCLUSION

A total of 5,074 prison admissions of felony DWI individuals occurred between September 1, 2002, and June 30, 2024. Admissions increased sharply at first; annual admissions peaked in fiscal year 2008 with 323. There were 217 admissions in Fiscal Year 2024. Sixty percent of all admissions come from counties outside of the metropolitan area, although these counties average sentence for those admitted as a new court commitment is 51.8 months compared to 45.6 months among probation violators.

Most (89.2 percent) of the felony DWI individuals admitted to prison enter substance use disorder treatment while incarcerated or are currently incarcerated and awaiting treatment. Among those who enter a primary treatment program, 74.3 percent successfully complete it or participate until their release.

Of those who have been released from prison, 1,295 people (27.3 percent) were released to CIP community supervision. Eighty-three (1.8 percent) were placed on intensive supervised release. Almost 37 percent of people released to community supervision were returned to prison for a technical violation, and an additional 12.5 percent were returned for a new offense.

REFERENCES

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