Approved: March 12, 2008
Date

MINUTES OF THE SELECT COMMITTEE ON CORRECTIONS REFORM AND OVERSIGHT

The meeting was called to order by Chairman Thomas C. Owens at 11:45 A.M. on February 22, 2008 in Room 431-N of the Capitol.

All members were present.

Committee staff present:
- Athena Andaya, Kansas Legislative Research Department
- Jerry Donaldson, Kansas Legislative Research Department
- Jarod Waltner, Kansas Legislative Research Department
- Michael Steiner, Kansas Legislative Research Department
- Jill Wolters Revisor of Statutes Office
- Jason Thompson, Revisor of Statutes Office
- Cyndie Rexer, Committee Assistant

Conferees appearing before the committee:
- James J. Costello, PhD - Assistant Professor of Counselor Education and Rehabilitation Programs, Emporia State University
- Dalyn Schmitt, Executive Director/CEO Heartland Regional Alcohol & Drug Assessment Center

Others attending:
- See attached list.

Chairman Owens opened the floor for testimony on HB 2879. Dr. James Costello explained the assessment typically done on DUI offenders. Addiction demands effective, individualized, multidisciplinary and multi-system approaches to treatment, with long-term outcomes as the only acceptable goal. Dr. Costello points out there is no evidence that supports reduction in risk after incarceration. This bill does not address the illness of the individual and believes incarcerating and withdrawing the offender from the community makes little sense. (Attachment 1)

Dalyn Schmitt testified on the statistics resulting from the implementation of SB 67. She believes HB 2879 lacks consideration of individual differences and clinical interventions, such as whether the offender has co-occurring mental health issues, traumatic brain injury, or cognitive impairment. Mrs. Schmitt would suggest that consideration be given to begin intervening earlier with DUI offenders at perhaps the 2nd or 3rd offense. (Attachment 2 & 3)

A period of questions and answers followed.

Rep. Johnson moved to strike the provisions of SB 214 and insert the provisions of HB 2879 into SB214. Rep. Dahl seconded the motion. The motion passed unanimously.

The next meeting will be Monday, February 25, 2008 at 11:30 a.m. in Room 527-S.

The meeting was recessed at 1:15 p.m. to continue the hearing at a later meeting.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

HOUSE SELECT COMMITTEE ON
CORRECTIONS REFORM AND OVERSIGHT

GUEST LIST **DATE** February 22, 2008

Your Name	Representing
Callie Coco	Kearney + Associates Inc.
Roger Werholtz	KDOC
[illegible]	Little Govt Relations
Stuart Little	Ks Assoc. of Addiction Profs
[illegible] Schmidt	Self - Kansas citizen
Deb Stidham	SRS
[illegible]	Jud. Branch
Pete Bodyk	KDOT
Melissa Ness	St Francis Community Services

February 22, 2008

House Select committee on Corrections Reform

Testimony on House Bill 2879

Chairman Owens and Members of the Committee,

I appear today on behalf of the members of the Kansas Association of Addiction Professionals (KAAP). Currently, I am the President of this organization and hold membership as both an individual counselor and professional program administrator. I ask you to consider my testimony for the record as reflective of the association membership across the State of Kansas.

First, let me commend you on efforts to secure public safety by examining the serious issue of multiple offenses for Driving Under the Influence (DUI). It is our position that Drug and Alcohol treatment is effective with this population when provided with the individualized, severity-based, interventions. Please consider the following elements in your deliberation on House Bill 2879.

- The current system that includes referring the DUI offender for assessment typically results in:
  - 1st Offense - Referral to Alcohol and Drug Information School (ADIS)
  - 2nd Offense – Referral to Treatment
  - 3rd Offense – Referral to Treatment
  - 4th Offense – Involvement in current SB-67 services including an effective multidisciplinary model of care coordination involving KDOC, Treatment Providers, the Offender, and the Assigned Care Coordinator.

- This system, although linear, does not take into account the severity of the addiction noted at the initial referral. Therefore, the offender may not receive the appropriate intensity of treatment following their first offense, and there is no care coordination and multidisciplinary team meetings.

- Currently, most treatment in Kansas is "Calendar-based" rather than "Need-based." The current system is adjusting and is becoming need-based and will likely increase the positive outcomes from treatment for the chronic DUI offender. This system adjustment is appropriate to Kansas citizens who have an illness...alcoholism.

- A profile of the hard-core drinking driver is emerging from multiple studies comparing *DUI non-recidivists with DUI recidivists* (White & Syrcle, 2008). It is crucial to determine the probability of recidivism in the development of a system addressing the chronic DUI offender.

- Allowing effective screening of the severity of addiction as well as appropriate assignment to needs-based treatment is an alternative to incarceration for all that have been convicted of DUI offenses. Not all DUI offenses beyond the 4th offense require incarceration for 18 months.

- Addiction is a chronic, relapsing illness. Addiction demands effective, individualized, multidisciplinary and multi-system approaches to treatment, with long-term outcomes as the only acceptable goal.

- Response to House Bill 2879

    - HB-2879 is calendar-based (18 months) rather than severity of addiction-based. There is no evidence that supports reduction in risk for additional DUI offenses based on 18 months of incarceration.
    - This effort appears to address an illness with individual citizens by applying a broad-based, incarceration, and intensive treatment model. There is no evidence that this approach improves outcomes for alcohol addicted drivers.
    - We understand the desire to punish offenders in a way that is rationale and appropriate to the offense. However, targeting chronic alcohol addicted individuals by incarceration and withdrawing them from the community makes little sense.

It appears as though this legislation is approaching a moral solution to a medical issue. Perhaps, providing better, more comprehensive and effective treatment in all parts of the state is a reasonable and respectful approach to this problem. Targeting a group of citizens who are vulnerable due to an illness will only meet the needs of public safety for the sentenced 18 months.

If incarceration is the path this legislature chooses to address this problem, please consider the need for individualizing treatment rather than applying a "one-size-fits-all" model. It will be critical for long-term transitional aftercare to support community abstinence following incarceration. It is relatively easy to stay sober in prison while in prison-based treatment. The challenge is when the individual is released, needs to find work with a felony record, and perhaps may have the opportunity to mend wounded family relationships.

February 22, 2008

House Select Committee on Corrections Reform

Testimony on House Bill 2879

Chairman Owens and Members of the Committee:

Thank you for the opportunity to provide information and concerns regarding House Bill 2879. As a citizen of Kansas, a parent, a licensed professional, and educator I am concerned about whether the intent of this Bill will actually achieve the public safety all Kansans deserve.

House Bill 2879 lacks consideration on individual differences and clinical interventions, such as whether the offender has co-occurring mental health issues, traumatic brain injury, or cognitive impairment. Also, I am not aware of any supporting evidence that this very expensive approach is effective and results in long-term behavioral change. A number of studies have assessed the effectiveness of jail sentencing as a DUI countermeasure, and the results have predominately shown jail to be among the least effective of all DUI sanctions.

- Helander (2002) In California, "traditional DUI fines of sanctions and jails are shown to be among the least effective DUI countermeasures"
- Well-Parker (1995) "combination of modalities- in particular those including education, Psychotherapy/counseling, and follow-up contact/probation- were more effective than other evaluated modes for reducing drinking/driving"
- Tashima and Marelich (1989) found that jail was the least effective sanction to reduce DUI recidivism.

In addition, a growing body of research indicates that prison-based substance-abuse treatment needs to be followed by community based treatment in order to obtain optimal outcomes. Indeed some studies have found that the re-incarceration rates of prisoners who participate in only prison treatment are not much better than the rates of those who receive no treatment at all.

Current 4th time DUI offenders in Kansas Programming

As a result of SB67 which was passed in the 2001 legislative session, a multi-disciplinary treatment approach for 4th time DUI offenders in Kansas was implemented. It utilized a person centered strength based approach involving multiple systems.

This treatment approach was designed to provide a comprehensive multi-disciplinary delivery of services to meet the requirements of the law and to best protect the public safety while developing sustainable recovery from substance abuse by the offender.

Outcome Data January 2002 through December 2007

- Since January of 2002, a total of 2,539 4th time DUI offenders entered the system

- Currently 943 offenders are assessed and/or are receiving treatment services (approximately 90% are in outpatient services)
- 69.29% of offenders discharged from treatment services/post sentence release did so successfully
- 76.45% of offenders were employed at time of discharge.

Recidivism rates after implementation in 2001 of SB 67 which utilizes a nationally recognized multidisciplinary approach of care coordination:

- 94% of those discharged since 2002 did not return to treatment as a result of re-offending
- 6% of those discharged since 2002 incurred another DUI offense

This outcome data demonstrates that Senate Bill 67 meets the requirements of the law and helps to protect public safety assisting the offender in developing sustainable substance abuse recovery. In other words, it helps answer the question, 'are we using the right hammer for the problem?'.

In closing, I would suggest that consideration be given to begin intervening earlier with DUI offenders. Bringing a multidisciplinary approach to the table at a person's 2nd or 3rd offense would allow for earlier intervention and accountability. The outcome data from the Senate Bill 67, 4th DUI programming, clearly shows that these offenders are being held accountable for their actions while getting the clinical service needed to develop sustainable substance abuse recovery skills within the community.

Public safety is the issue at the forefront of this debate and utilizing this team based approach allows these individuals a greater opportunity to make better choices.
While "putting drunk drivers in prison" sounds like a good way to deal with a population that can cause serious harm, my concern is the unintended consequences of this policy may be just the opposite of its intent. Will offenders come out of prison with the skills to maintain sobriety and not drive in a community setting?

Department of Correction's 4th Time DUI Clients Admitted or Assessed

Select Committee on Corrections Reform and Oversight
2-22-08
Attachment 3

By Gender

Number of Admissions

Gender	Number of Admissions
Male	2,294
Female	243

Percent by Gender

Female 9.58%
Male 90.42%

By Race/Ethnicity

Number of Admissions

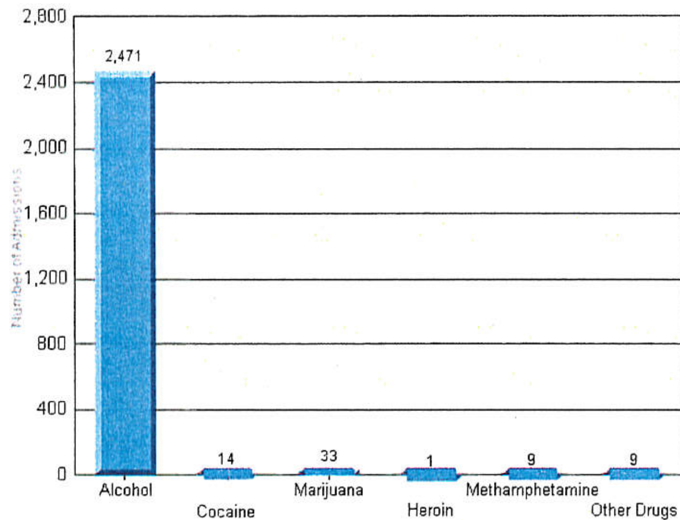
Race/Ethnicity	Number of Admissions
European	2,035
African	160
Native	73
Asian/Pacific	1
Hispanic	260
Alaskan	2
Other	6

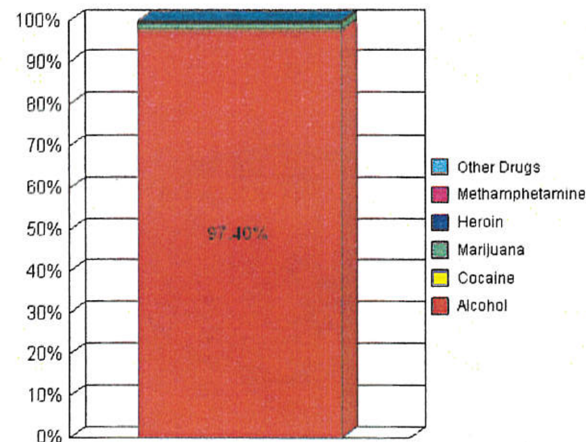
Data Source: KCPC
Available data between: January 1, 2002 through January 4, 2007

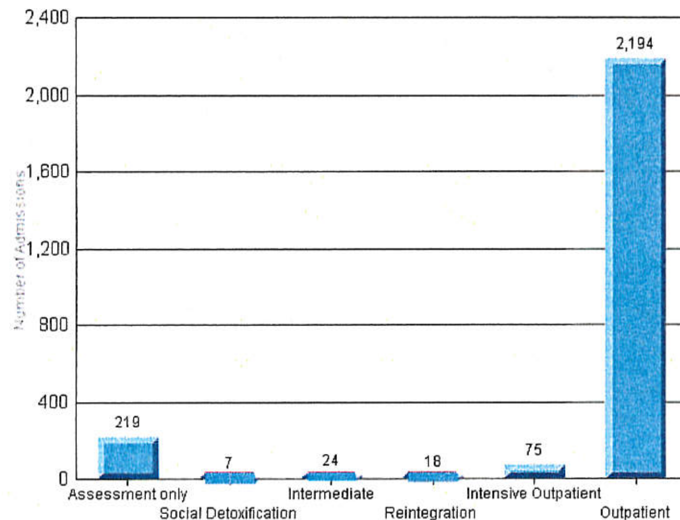
Percent by Race/Ethnicity

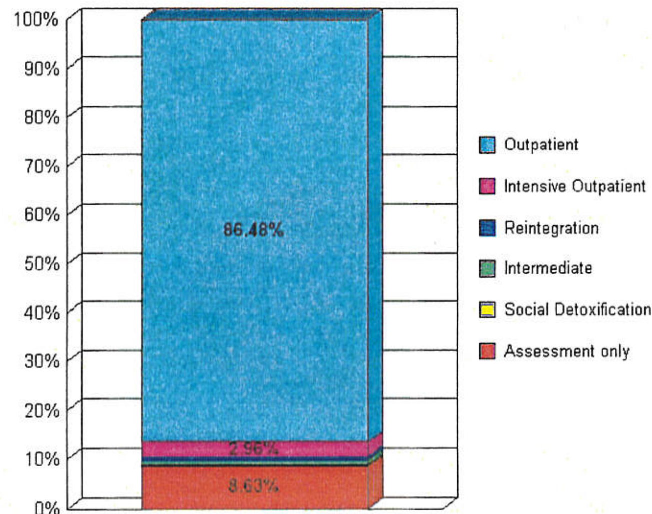
African 6.31%
Native 2.88%
Asian/Pacific 0.04%
Hispanic 10.25%
Alaskan 0.08%
Other 0.24%
European 80.21%

Department of Correction's 4th Time DUI Clients Admitted or Assessed









Data Source: KCPC
Available data between: January 1, 2002 through January 4, 2007

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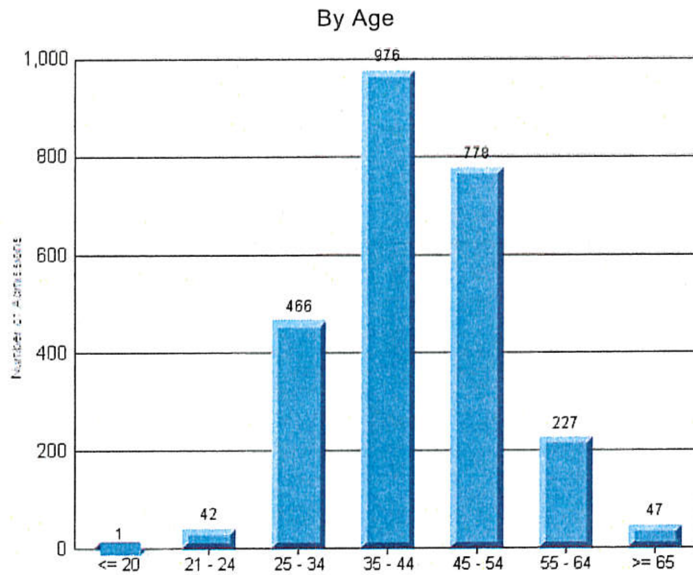
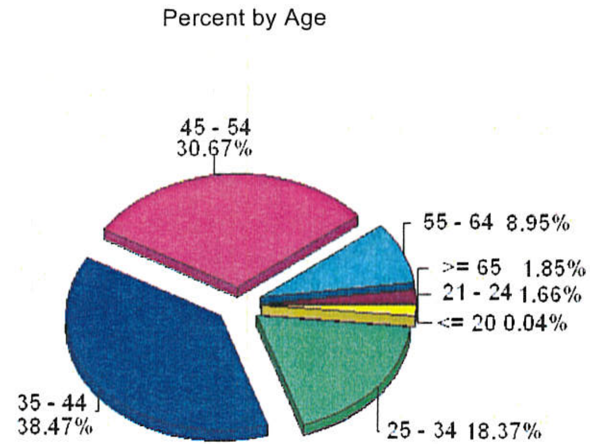
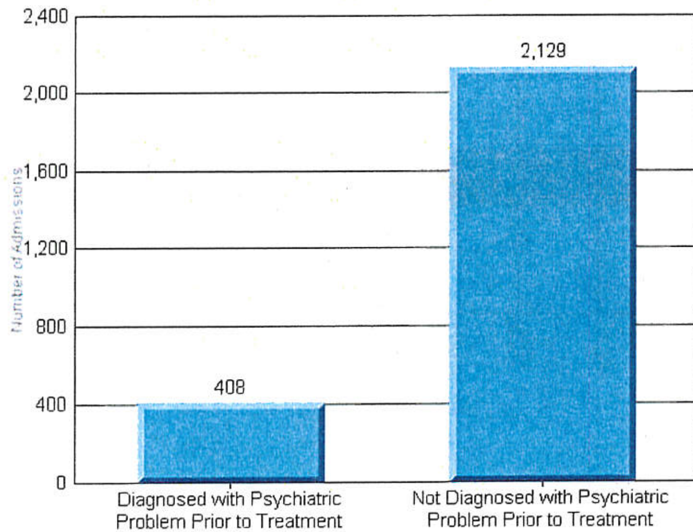
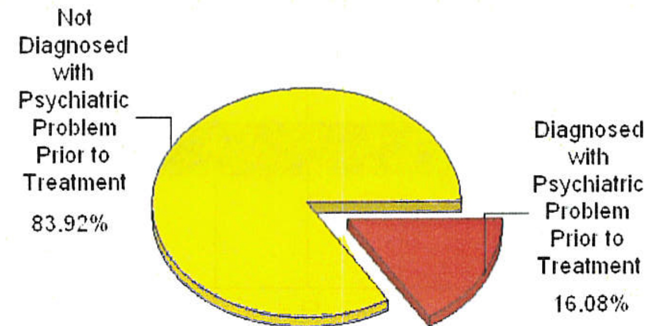
Department of Correction's 4th Time DUI Clients Admitted or Assessed









Data Source: KCPC
Available data between: January 1, 2002 through January 4, 2007

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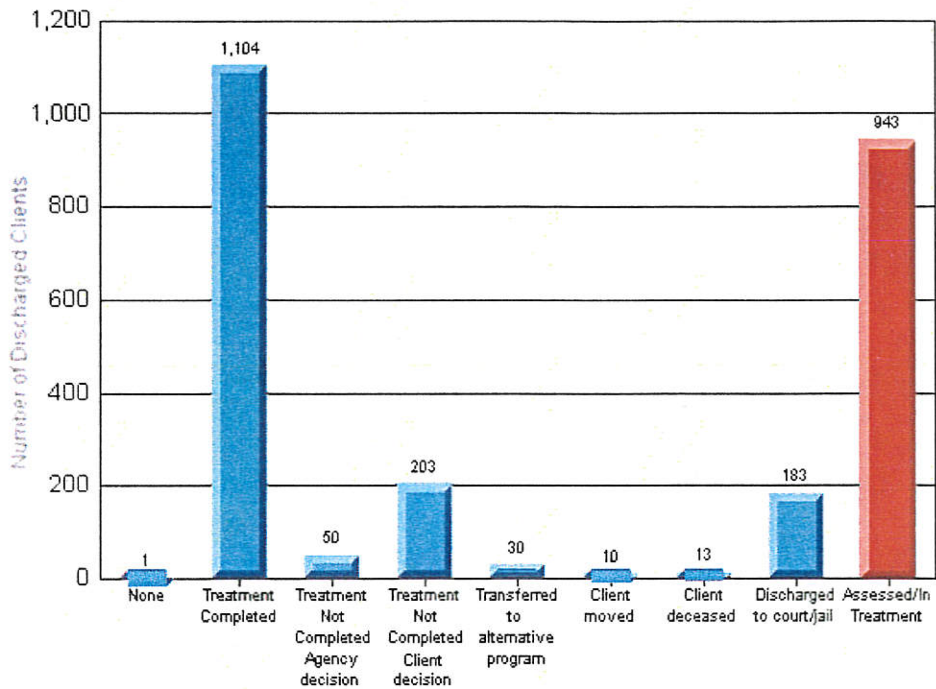
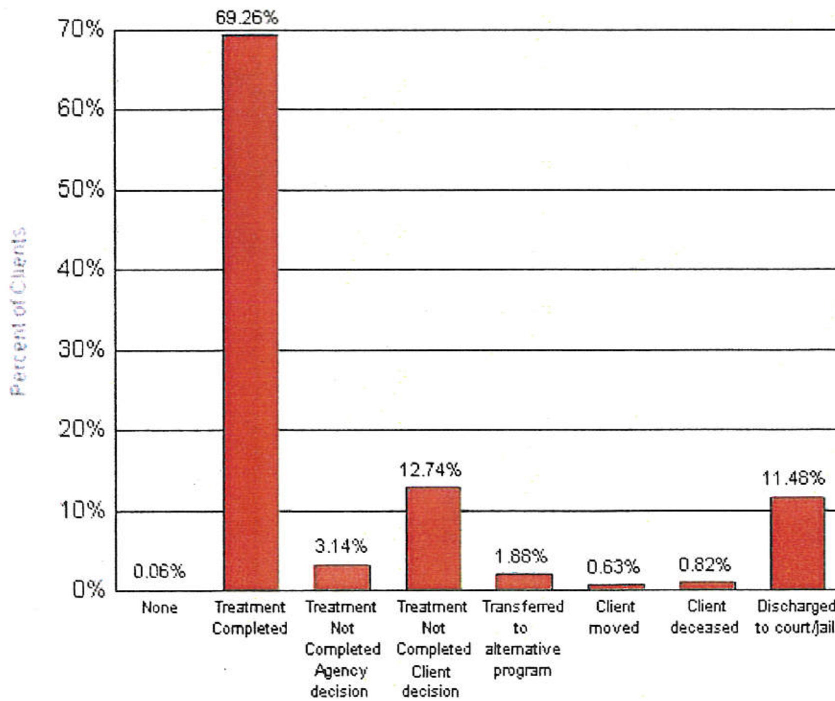
Department of Correction's DUI Clients Admitted to Addiction and Prevention Service's Programs





Data Source: KCPC

Available data between: January 1, 2002 through January 4, 2007

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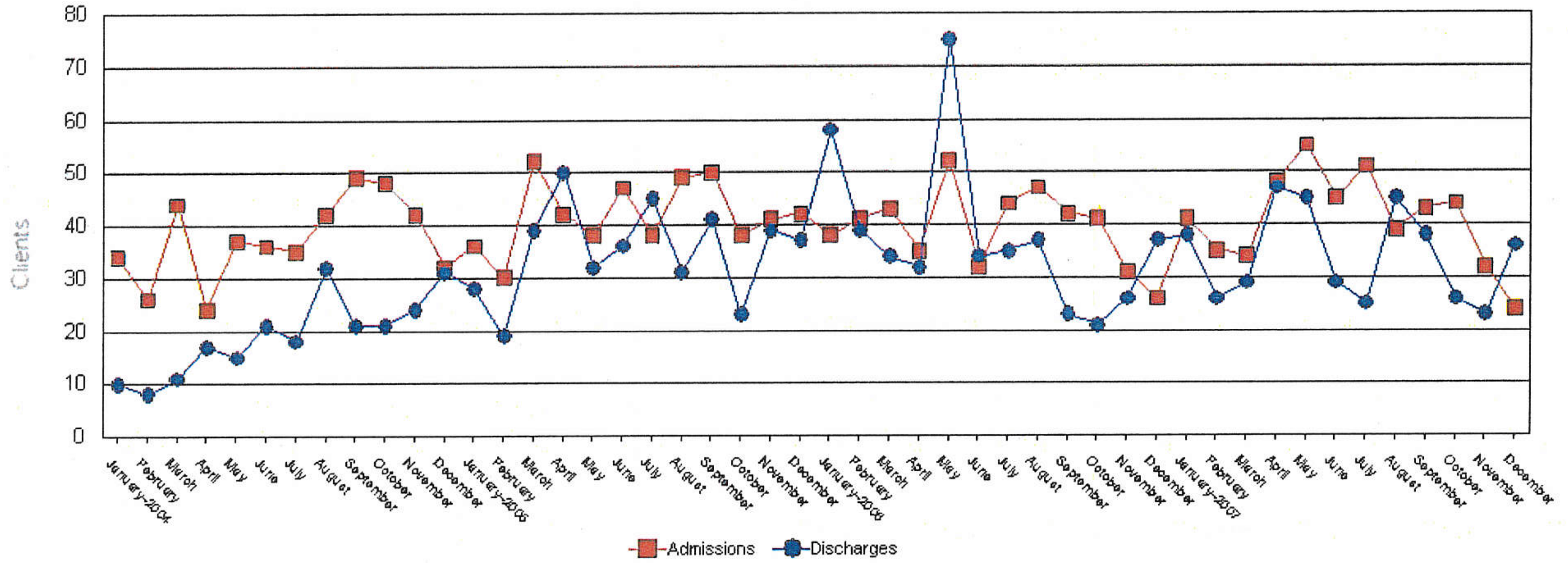
Fourth Time DUI Admissions and Discharges
January 1, 2004 through December 31, 2007



Available data between: January 1, 2002 through January 4, 2007