



Types of Diversion Programs and Examples from New Mexico and the United States

Presented by:
Nicole Devereaux
NMSC Research Scientist
nsdevereaux@unm.edu

MSC02 1625 | Albuquerque, NM 87131 | (505) 277-3494 | nmsc.unm.edu

Hello and welcome to the first webinar in our education series. My name is Nicole Devereaux and I am a research scientist with the New Mexico Sentencing Commission. If you have any questions throughout the session, please use the Q & A area. I will try to get answer questions as we go, and answer any remaining questions at the end of the webinar.

Welcome!

Outline for today's presentation:

Introduction: What is a diversion program?

- 1) Pre-arrest or Pre-booking Diversion
 - LEAD
 - Pre-Prosecution Diversion
- 2) Pre-Adjudication Diversion
 - Specialty or Problem-Solving Courts
 - Project HOPE: Hocking County, Ohio
- 3) Diversion at Adjudication and/or Sentencing
 - Alternatives to Incarceration

Other Resources and Examples

Questions

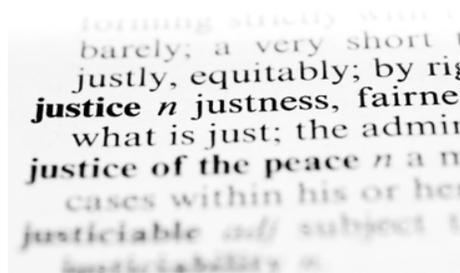
Today we are talking about Types of Diversion Programs and examples within New Mexico and around the United States. As you can see, we are focusing on three main points of contact in the justice system as places where diversion can take place. But first, let's define what we mean when we talk about diversion programs.

What is a diversion program?

Diversion is a term used to describe an intervention that redirects individuals who have violated a law away from formal processing in the justice system while still holding the individuals accountable for their actions.¹

Diversion can occur at different contact points throughout the criminal justice system:

- Pre-arrest or Pre-booking
- Pre-Adjudication
- At Adjudication or Sentencing



A diversion program is any intervention or program that redirects, or diverts, an individual away from formal processing in the criminal justice system. Diversion programs are usually for low-level, non-violent crimes including, but not limited to drug use or possession, alcohol related crimes, petty theft, etc. When an individual is diverted away from processing, they are instead provided with services – usually case management and treatment for drugs and/or alcohol. Other services that may be provided can include trauma-informed counselling, access to or help obtain temporary or permanent housing, medical care, and assistance with any other support services that individual may need.

The three points of contact we are looking at are one, pre-arrest or pre-booking – when a law enforcement officer or EMS provider initially comes into contact with the individual and before an arrest is made or before charges are officially filed. Two, pre-adjudication – so after an individual has been arrested and charged, but before sentencing, so through prosecutors or judges within the court; many programs at this point of contact fall into specialty or problem solving courts. And last, diversion at adjudication or sentencing which typically results in a deferred sentence or a sentence to treatment.

As we move forward, if we have missed any new or operating diversion programs in your area, please let us know through the Q&A. We are trying to give as many examples of diversion programs as possible in this time, but there are many, many other variations and types of programs. With that said, let's start by looking at pre-arrest or pre-booking diversion.

Pre-Arrest or Pre-Booking Diversion

LEAD : Law Enforcement Assisted Diversion

- Originated in Seattle in 2011 and originally evaluated through 2014: LEAD is an evidence-based diversion program²
- Based on harm-reduction model, individuals are instead referred a case-management program where the individual receives a wide range of support services, often including transitional and permanent housing and/or drug treatment.³
- LEAD National Support Bureau for programs around the country

LEAD in New Mexico:

Operating:

- City of Santa Fe
- Rio Arriba/Espanola
- Alb/Bernalillo County
- Pojoaque Pueblo
- Las Cruces/Dona Ana

Planning:

- Gallup
- Taos Town/County
- Las Vegas
- Lea County/Hobbs/Lovington
- Santa Fe County

Exploring/Contemplating:

- Kewa Pueblo
- Alamogordo

3

When we think about pre-arrest or pre-booking diversion, the most widespread and well researched program is LEAD which stands for Law Enforcement Assisted Diversion. LEAD started as a pilot program launched in Seattle, Washington in 2011. The initial program aimed to reduce racial disparities in the criminal justice system by responding to drug possession, sales, and prostitution with support services rather than prosecution and incarceration. The Seattle LEAD program has been evaluated extensively since it's origination and was found to be associated with 60% lower odds of arrest and 39% lower odds of felony charges compared to business as usual as well as evidence that the diverted offenders had less recidivism after receiving supportive services. Due to the success in Seattle, LEAD has expanded to have programs all over the United States. The LEAD National Support Bureau provides resources and support for jurisdictions that are exploring or developing their own LEAD programs. Currently in New Mexico, we have LEAD programs operating in (see above) as well as planning for LEAD in (see above) and Kewa Pueblo and Alamogordo are exploring and contemplating their own LEAD programs

LEAD: Advancing Criminal Justice Reform In 2021

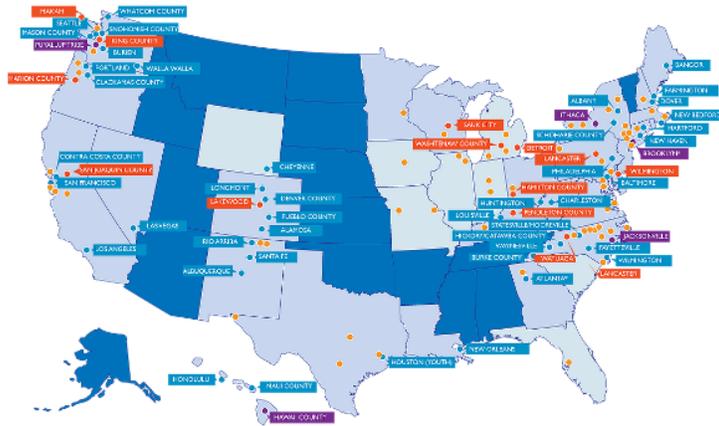


Image source: <https://www.leadbureau.org/>

Again, LEAD has expanded all over the country. This map is from the LEAD National Support Bureau. The sites in blue have operating LEAD programs. Purple sites are launching LEAD programs. Dark orange sites have LEAD in development, and the light orange or yellow sites are exploring bringing LEAD to their jurisdiction. Please note that the site in Las Cruces is now operational so this map is not quite up to date.

Pre-Arrest or Pre-Booking Diversion

District Attorney Pre-Prosecution Diversion Program

- Like with LEAD, Pre-Prosecution Diversion seeks to rehabilitate offenders and remove them from the formal criminal justice system⁴
- Requires arrest and that the *offender* become a *defendant* represented by an attorney
- Eligibility requirements for a defendant to qualify for this type of diversion can be specialized by each jurisdiction⁵

D.A. Pre-Prosecution Diversion in New Mexico:

1st Judicial District
2nd Judicial District
4th Judicial District
7th Judicial District
8th Judicial District
11th Judicial District
12th Judicial District
13th Judicial District

5

Of the other types of pretrial diversion programs, another widespread option is a District Attorney Pre-Prosecution Diversion Program. In these types of diversion, District Attorneys, or D.A.s work with a defendant to achieve similar outcomes as the LEAD program. With D.A. diversion, the offender must be a defendant by default as the offender must be represented by an attorney. Eligibility requirements for a defendant vary and can be tailored but usually require that the offense was non-violent and that the defendant have no prior felony convictions. Once a defendant enters into a D.A. Pre-Prosecution Diversion Program, they are required to participate in and adhere to program requirements for the duration of the program: often from 6 to 24 months. The successful completion of a diversion program is rewarded with a case dismissal prepared by the D.A.'s office. If a defendant fails to meet program requirements they will be entered into the traditional court system. Links to different District Attorney requirements and forms from around New Mexico can be found at the end of this presentation.

First Judicial District Attorney: Youth Diversion Program

First Judicial District Attorney: Youth Diversion Program

*A research-based initiative funded
by the William T. Grant Foundation*



- The primary objective of the project is to create and evaluate a diversion for juveniles (ages 12 to 17) and young adults (ages 18 to 25).
- The program is designed to:
 1. Reduce recidivism,
 2. Be developmentally informed in ways that encourage young people to make successful transitions to adulthood, and
 3. Reduce racial/ethnic disparities in criminal justice processing.
- 3 Stages: Development, Implementation, and Evaluation

6

The New Mexico Sentencing Commission is currently working with the first judicial district attorney and other University of New Mexico research partners to create and evaluate a new youth diversion program funded by the William T. Grant Foundation. The program will target both juveniles and young adults with aims to reduce recidivism, be developmentally informed in ways that encourage young people to make successful transitions to adulthood, and reduce racial and ethnic disparities in criminal justice processing. At this point, the program is still in the development stage with implementation and evaluation yet to come.

Pre-Adjudication Diversion

- **Specialty Courts or Problem Solving Courts⁶**
 - Specialty Courts focus on one type of offender or offense
 - Requires collaboration with service providers outside of the Court
 - Studies show cost-effectiveness compared to traditional courts
 - Court types currently in New Mexico: Adult Drug Court, DWI Drug Court, Family Dependency Court, Juvenile Drug Court, Mental Health or “Treatment” Court, Domestic Violence Courts/Programs

Drug Courts⁷

- Targets drug or alcohol use and can be further specialized by age (i.e. juvenile offenders)
- Involves offender assessments, treatment, monitoring, and graduated sanctions and incentives

Domestic Violence Courts⁸

- Developed in the 1990s to ensure follow-through on cases and victims of domestic violence
- Aims to bring more consistency to rulings within cases and incorporate more rehabilitation and deterrence for offenders

7

Moving to our second point of contact for possible diversion, we have of pre-adjudication diversion. The first type of program we want to focus on are specialty or problem solving courts. At this point of contact, an offender has been arrested and formally processed, so charges exist. The focus of problem solving courts, again, is to shift an individual away from incarceration and towards successful rehabilitation. Accordingly, many specialty courts focus on drug and alcohol addiction as something to be treated rather than punished. Every problem solving court has a specific problem it addresses and thus a specific offense or offender type it targets. Similar to D.A. Pre-prosecution diversion, a specialty court works with community resources and service providers to help offenders complete a court-ordered program; typical requirements include drug testing, treatment, group support and Court sanctions and incentives. According to New Mexico Courts and each judicial district website, New Mexico currently has problem solving courts for Adult Drug Court, DWI Drug Court, Family Dependency Court, Juvenile Drug Court, Mental Health or “Treatment” Court, Domestic Violence Courts/Programs.

Problem Solving Courts in New Mexico

- **Adult Drug Courts:** 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 11th, 12th, 13th
- **Juvenile Drug & Treatment:** 2nd, 3rd, 5th, 6th, 11th, 12th, 13th
- **Domestic Violence or Family Dispute Courts:** 1st, 4th, 5th, 7th, 9th, 12th, and 13th
- **Mental Health Courts:** Aztec (San Juan County), Bernalillo County and Metro, Sandoval County, Santa Fe County
- **11 Total Specialty Courts listed as part of Bernalillo County Metro Court**

Note for Juvenile Drug & Treatment Courts: *5th is a Family Drug Court; 5th is a Juvenile Justice Continuum of Services; 11th available in San Juan County only;

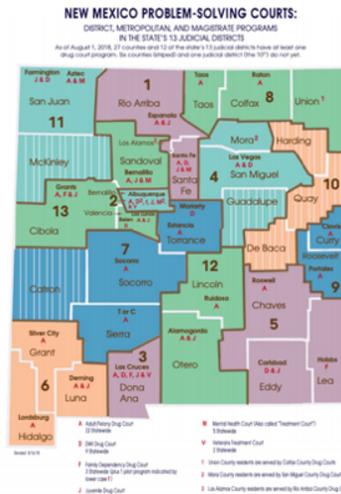


Image source: <https://nscourts.nmcourts.gov/maps/> (2018); Citation 9

New Mexico Sentencing Commission

8

The exact tally of those courts comes to 22 adult drug courts, 9 DWI drug courts, 3 family dependency courts plus another pilot, 11 juvenile drug courts, 5 mental health or “treatment” courts, and 2 veterans' treatment courts. In total, 27 of our 33 counties and 12 of the state’s 13 judicial districts have at least one drug court program. One or more of these specialty courts may have had to suspend its activities during the Covid-19 pandemic, but the rest remain operational. Bernalillo County Metropolitan Court leads the state in number and types of specialty courts with the following 11 specialty courts: Behavioral Health Court, Behavioral Health DWI Court, Community Veterans Court, Competency Court, Courts to School, Domestic Violence Early Intervention Program, Domestic Violence Solutions Treatment Education Program, DWI Recovery Court, Outreach Court, Pre-Adjudication Animal Welfare Court, and the Urban Native American Healing to Wellness Court. Please note that there are several other Tribal specialty courts not included on the map or in this list. While problem solving courts have been proven to be cost-effective compared to incarceration or detention and reduce recidivism rates, there are also programs that combine elements of both pre-arrest and pre-adjudication diversion programs.

Project HOPE in Hocking County, Ohio: A mixed model between pre-arrest and pre-adjudication¹⁰

- Program piloted in 2017 Hocking County Ohio (Southeastern Ohio)
- Recipient of COSSAP (formerly COAP) Grant Funds
- Program Services:
 - Referral services
 - Narcan distribution and healthcare tests
 - Sheriff's Intervention Unit (home visits)
 - Vivitrol Court and Probation
 - Family and children's services

How does Project HOPE operate daily?

- Weekly team meetings with CORE Team meeting directly after to discuss community visits and goals¹¹
- During Visits: (5 minutes to 2+ hours)
 - Ask about drug use and make appointments or referrals on the spot
 - Provide other info and public health programming



MSC02 1625 | Albuquerque, NM 87131 | (505) 277-3494 | nmssc.unm.edu

New Mexico Sentencing Commission

9

Once example of a combination approach program is Project HOPE. I came to know about Project HOPE (**Hocking Overdose Partnership Endeavor**) when they presented their program at the 2020 COSSAP Conference. COSSAP is grant agency run by the Bureau of Justice Assistance branch of the Department of Justice. COSSAP stands for Comprehensive Opioid, Stimulant, and Substance Abuse Program. This particular program is a mix between pre-arrest programming with specialty court components. Hocking County is in rural southeastern Ohio with only 1 ambulance serving the county out of its city center of Logan. Despite the rise in opioid use and overdoses, the community was resistant to narcan distribution and needle exchange programs. In order to combat the opioid epidemic, the county health department, sheriff's office, county EMS, county prosecutor's office, and several service **providers** [South Central Ohio Job and Family Services, Hopewell Behavioral Health, TASC (Treatment Accountability for Safer Communities) of SE Ohio, and funding agency 317 Board] **came** together to devise a team that is part home visit and services and part specialty court. A core team of program staff of public health nurses and sheriff's department officers do home visits for high-risk community members to see if they are ready to engage in services. If the individual agrees, the team refers or provides any number of services including Narcan, HIV tests, referrals for healthcare visits, or even booking an in-patient treatment bed while they are at the home. Other individuals are diverted

into a specialty drug court called Vivitrol Court (vivitrol is brand of opioid treatment also known as naltrexone) and must then also participate in home visits and resources provided by Project HOPE. The program has expanded to other counties within SE Ohio and is just one example of a program that combines contact points to achieve diversion.

Diversion at Adjudication or Sentencing

Deferred and Suspended Sentences¹²

- Requires the offender/defendant to plead guilty to charges
- Placed on probation instead of incarcerated
- Successful completion of probation conditions results in a case dismissal and full restoration of civil rights

Conditional Discharge without Judgement¹²

- Same as deferred sentence with following exceptions
- Offender/defendant does not have to plead guilty
- Available to all cases except first degree felony as long as offender has no previous felony convictions

Sentenced to Treatment/Special Incarceration Alternative Program^{13,14}

- From NM Stat § 31-18-22, established a program for certain adult offenders to provide substance abuse counseling and treatment, education courses and training, and other life skills and pre-release skills trainings.

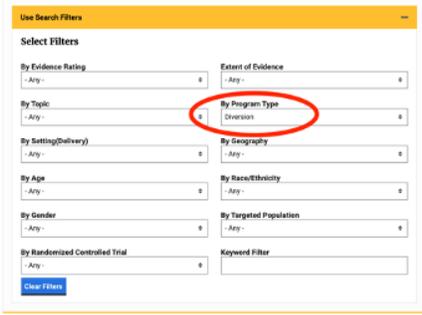
10

If an offender has not been diverted out of the criminal justice system by the time they are adjudicated and sentenced, there are still alternatives to incarceration and programs to help offenders stay out of the justice system in the future. In New Mexico these sentences and programs rely on interaction with the Court and the special programs and services provided by the New Mexico Corrections Department and are all part of current New Mexico statutes. In the first two categories, deferred and suspended sentences as well as conditional discharges, an offender has the potential to have their case dismissed and their record expunged by successfully completing the conditions and terms of their probation. In the third category, sentencing to treatment or special incarceration alternative programs, the offender is subject to completing treatment and participating in other services and training before being released to a probation term and offered post-release support services as well.

Where can I find more examples of diversion programs?

The National Institute of Justice has a Crime Solutions page where you can search and filter through rated programs around the country.

- A search of all diversion programs (as pictured) came up with 630 different programs
- If you, your jurisdiction, or CJCC needs help narrowing down the list, please email us!



The screenshot shows a search filter interface titled "Use Search Filters". Under the "Select Filters" section, there are several dropdown menus for filtering results. The "By Program Type" dropdown is highlighted with a red circle and shows "Diversion" as the selected option. Other filters include "By Evidence Rating", "By Topic", "By Setting/Delivery", "By Age", "By Gender", "By Randomized Controlled Trial", "Extent of Evidence", "By Geography", "By Race/Ethnicity", "By Targeted Population", and "Keyword Filter". A "Clear Filters" button is located at the bottom left of the filter section.

<https://crimesolutions.ojp.gov/rated-programs#-1>

11

As stated at the beginning of this webinar, we can touch on many types of diversion, but this presentation is by no means exhaustive of all the types of programs that exist. If you heard something that might work for you, but still want to see more examples or more information on exactly what implementation of these programs might look like, the National Institute of Justice has a repository of programs already rated by their effectiveness. Our search for diversion programs alone yielded 630 unique results. The website is on this slide and also included in the Resources slide at the end of the presentation. I want to show you just a few examples of the types and variations of programs on this list.

A few examples the National Institute of Justice search results:

Adolescent Diversion Project¹⁵

- Michigan State University and Ingham County, Michigan
- During the 18-week intervention, the caseworkers (i.e., student volunteers) spend 6–8 hours per week with the juveniles in their home, school, and community. The caseworkers work one-on-one with juveniles in order to provide them with services tailored to their specific needs. Caseworkers focus on improving juveniles' skills in several areas, including family relationships, school issues, employment, and free-time activities.

Gang Reduction Program¹⁷

- Los Angeles, California
- Implemented alternative programs for at-risk youth and families; provided social, educational, and behavioral interventions; and implemented programs to reduce gang crime in the target area. Each of the services provided were categorized by one of three programming types: Prevention, Intervention/Reentry, and Suppression.
- Through a partnership with an existing multiagency law enforcement collaborative called the (CLEAR), the LA GRP's suppression component coordinated resources for reducing violent gang crime in the target area.

Drug Treatment Alternative to Prison¹⁶

- Brooklyn, New York: King's County District Attorney's Office
- Targets all drug-addicted, nonviolent repeat felony offenders arrested in Brooklyn that face mandatory sentencing. Offenders must be 18+ years of age and have at least one prior felony and be addicted to drugs
- Uses a deferred-sentencing model over 15-24 months. Defendants that are accepted into the program plead guilty to a felony but the prison sentence is deferred while participants enter intensive residential drug treatment, followed by optional aftercare services.

Cherokee Talking Circle¹⁸

- United Keetoowah Band of Cherokee Indians, Oklahoma
- CTC is a school-based, manualized intervention that consists of 10 sessions to reduce substance abuse. Keetoowah-Cherokee students meet weekly for 45-minute sessions over 10 weeks. They are led by a counselor and a cultural expert in the format of a talking circle. Students who participate in CTC pledge to the group that they will maintain confidentiality of what is shared during the sessions. The manual uses both English and Cherokee languages.

12

Here are four examples of programs from around the country focusing on different age groups, races, and ethnicities. Each of these profiles has much more information available on the National Institute of Justice site including a program summary, program description, evaluation outcomes, evaluation methodology, cost, evidence-base, additional references, and related practices. Of the two youth focused programs I highlighted, one is the Adolescent Diversion Project (read slide). The other youth oriented program is the Cherokee Talking Circle (read slide). We also have a drug treatment alternative to prison out of Brooklyn that (read slide). And finally a Gang Reduction Program in Los Angeles that (read slide). Again, these are just 4 examples out of the 630 examples on the National Institute of Justice and those are just under the diversion category.

Thank you!

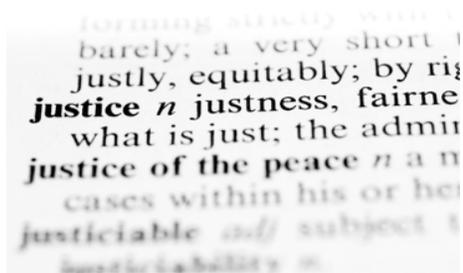
Contact: nmsc@unm.edu
Presenter: Nicole Devereaux
nsdevereaux@unm.edu

Questions?

If you have not already, please enter any questions into the Q&A box.

Please register for our next webinar on March 24:
Data Collection and Data Design with Dr. Jon Courtney

https://unm.zoom.us/webinar/register/WN_CvWMJf0CQLWSfCR3O28HRQ



That is all I have for you, today. If you have any questions, please make sure you've entered them in the Q&A. And lastly a plug [before I answer questions], our next Education Series Webinar will be on Wednesday March 24 at noon. Shari Houk will be hosting the session called "Data Collection and Data Design with Dr. Jon Courtney." Be sure to register at the link here! You can also email us for a full list of our upcoming webinars and the links to register for each session.

The full slides for the presentation as well as the recorded video will be available on our website within the next day so that you can have full access to the resources and citations. Now without further ado, let me get to questions.

Questions:::

Links to Resources

D.A. Pre-Prosecution Diversion Programs:

1st District: <https://www.1stjda.com/ppd>

2nd District: <https://berncoda.com/diversion/ppd/>

7th District: <http://7th.nmdas.com/7/index.htm#>

8th District: <https://www.8thda.com/ppd>

11th District: <http://11th1.nmdas.com/special-programs/>

12th District: <http://12th.nmdas.com/pre-prosecution-diversion-program/>

13th District: <http://13th.nmdas.com/wp-content/uploads/2016/02/PPDProgram.pdf>

LEAD National Support Bureau:

<https://www.leadbureau.org/resources>

Crime Reduction Grant Application:

<http://nmsc.unm.edu/data-integration/index.html>

National Institute of Justice Crime Solutions Search:

<https://crimesolutions.ojp.gov/rated-programs#-1>

Email: nmsc@unm.edu

Website: <http://nmsc.unm.edu/index.html>

Registration for next Webinar:

https://unm.zoom.us/webinar/register/WN_CvWMJf0CQLWSfCR3O28HRQ



Citations

1. "Diversion Programs." Office of Justice Programs. Model Programs I-Guides: Research Guided Pre-Implementation Resources for Communities. <https://ojidp.ojp.gov/sites/g/files/xyckuh176/files/mgp-iguides/topics/diversion-programs/index.html>
2. Collins SE, Lonczak HS, Clifasefi SL. Seattle's Law Enforcement Assisted Diversion (LEAD): Program effects on recidivism outcomes. *Eval Program Plann.* 2017 Oct;64:49-56. doi: 10.1016/j.evalprogplan.2017.05.008. Epub 2017 May 10. PMID: 28531654.
3. "What is LEAD?" LEAD National Support Bureau. <https://www.leadbureau.org/about-lead>
4. Bolt, Edward. "Pre-Prosecution Diversion Program." Twelfth Judicial District Attorney's Office. <http://12th.nmdas.com/pre-prosecution-diversion-program/>
5. Preprosecution Diversion Act. 31-16A-1 to 31-16A-8 NMSA 1978. <https://www.nmlegis.gov/handouts/CJRS%20081417%20Item%203%20NMSA%2031-16A%20Preprosecution%20Diversion.pdf>
6. Problem Solving Courts: Program Types. New Mexico Courts. <https://pscourts.nmcourts.gov/program-types/>
7. Overview of Drug Courts. July 22, 2020. National Institute of Justice. <https://nij.ojp.gov/topics/articles/overview-drug-courts>
8. Domestic Violence Courts. National Institute of Justice. <https://nij.ojp.gov/topics/courts/domestic-violence-courts>
9. Problem Solving Courts: Maps. New Mexico Courts. <https://pscourts.nmcourts.gov/maps/>
Note: All sources in red box were derived from each judicial district's website <https://www.nmcourts.gov/nm-courts/>
10. Lt. Downs, Ed. Gallagan, Kelly. Gilkey, Wes. Taulbe, Kelly. (2020, March 10.) *Strategies to Impact Opioid-Affected Families in Rural Appalachia.* [Conference Presentation.] 2020 COAP National Form: United We Stand: Bureau of Justice Assistance Supports Responding to America's Opioid Crisis, Washington, D.C. United States.
11. Warner, Grace. *Project HOPE making a big difference: Overdose deaths din county drop more than 20 percent in first year of program.* 13 April, 2019. The Logan Daily News. https://www.logandaily.com/news/project-hope-making-a-big-difference/article_96d09541-b165-5f3a-8e6d-25a970459ac6.htm
12. New Mexico Restoration of Rights and Record Relief. 21 Feb, 2021. Restoration of Rights. <https://ccresourcecenter.org/state-restoration-profiles/new-mexico-restoration-of-rights-pardon-expungement-sealing/>
13. Gjelten, E.A. "New Mexico Felony Crimes by Class and Sentences." Criminal Defense Lawyer: Published by NOLO. <https://www.criminaldefenselawyer.com/resources/criminal-defense/felony-offense/new-mexico-felony-class.htm>
14. 2011 New Mexico Statutes Chapter 31: Criminal Procedure Article 18: Sentencing of Offenders, 31-18-1 through 31-18-26 Section 31-18-22: Special incarceration alternative program. NM Stat § 31-18-22 (1996 through 1st Sess 50th Legis). Accessed from: <https://law.justia.com/codes/new-mexico/2011/chapter31/article18/section31-18-22/>
15. Program Profile: Adolescent Diversion Project (Michigan State University). 19 Nov, 2013. National Institute of Justice: Crime Solutions. <https://crimesolutions.ojp.gov/ratedprograms/332#pd>
16. Program Profile: Drug Treatment Alternative to Prison (DTAP). 25 May, 2011. National Institute of Justice: Crime Solutions. <https://crimesolutions.ojp.gov/ratedprograms/89#pd>
17. Program Profile: Gang Reduction Program (Los Angeles, California). 28 Sept, 2012. National Institute of Justice: Crime Solutions. <https://crimesolutions.ojp.gov/ratedprograms/275#pd>
18. Program Profile: Cherokee Talking Circle. 4 Aug, 2014. National Institute of Justice: Crime Solutions. <https://crimesolutions.ojp.gov/ratedprograms/363#pd>