

The University of New Mexico

Dona Ana County Magistrate Court DWI- Drug Court Outcome Study

May 2009

Paul Guerin, Ph.D.

Elizabeth Watkins, M.P.A.

Prepared for:

Local Government Division,
Department of Finance Administration,
State of New Mexico and
the Dona Ana County Magistrate
Court

NEW MEXICO SENTENCING COMMISSION

BACKGROUND AND INTRODUCTION

This report summarizes findings from an outcome study of the Third Judicial District Dona Ana Magistrate Court DWI-Drug Court conducted by the New Mexico Sentencing Commission at the University of New Mexico. In April 2008 the Department of Finance Administration (DFA) and the University of New Mexico (UNM) signed a Memorandum of Understanding (MOU) to study the operations and conduct an outcome study including a cost analysis of the Third Judicial District Court Magistrate Court DWI-Drug Court in Dona Ana County. This MOU was amended in January 2009 to reflect preliminary findings.

The Institute for Social Research at the University of New Mexico completed two previous process evaluations for the Third Judicial District Court Adult Drug Court Program that included the Dona Ana Magistrate Court as one of the courts in the Third Judicial District. The first evaluation was completed in 2001 and the second was completed in 2002. The purpose of these studies was to develop an understanding of the internal dynamics of the Third Judicial District Adult Drug Court Program, with a particular focus on the District Court program, including an understanding of the overall structure, organization, and operations of four different courts located in the district. The included courts were:

- Third Judicial District Court Drug Court
- Dona Ana County Magistrate DWI-Drug Court
- Las Cruces Municipal DWI Court
- Mesilla Municipal DWI Court

Process evaluations lay critical groundwork for future outcome evaluations which examine the match between stated program goals and court functioning.

This report noted the development of the Third Judicial District Court Adult Drug Court programs was at the time incomplete and was complicated by the inclusion of four different drug courts under the umbrella of a single program and evaluation. An added difficulty was that ISR found significant variations between DWI-Drug Court processes and procedures amongst the lower level courts analyzed. The results of the 2002 study indicated the various courts included in the study did not, “completely follow/implement all of the 10 key components provided by the Drug Courts Program Office” (ISR Process Evaluation, 2002).

We have been unable to locate process evaluations that look at each of the individual lower level courts. As a result, we were able to gather very little historical information on the Dona Ana Magistrate Court DWI-Drug Court Program. A critical component of this study aims to address the difficulties of the 2002 process evaluation by providing an examination of the operations in only the Dona Ana Magistrate Court DWI-Drug program.

PROGRAM HISTORY AND DESCRIPTION

The Dona Ana County DWI-Drug Court began operations in 1995 with the participation of three courts; the municipal courts in Las Cruces and Mesilla, and the Magistrate Court in Dona Ana County.

Historically the design capacity of the Magistrate DWI-Drug Court program has been 30 clients and more recently the capacity has been increased to 51 clients. The program accepts 2nd and 3rd DWI offenders who are post-adjudication or probation violators. Offenders are screened by the DWI-Drug Court team after sentencing. The program excludes offenders who are gang members or affiliated with a gang, offenders with convictions for sex crimes, and offenders with drug trafficking convictions. Individuals with convictions for violent offenses are considered on a case by case basis.

The program is designed to last one year and includes three different phases. According to the program, participants appear before the judge within one week of being accepted into the program and progress reports are heard during DWI-Drug Court sessions. Currently, DWI-Drug Court team meetings and DWI-Drug Court sessions are regularly attended by Dona Ana County Compliance Monitors, the treatment provider, the Dona Ana County Sheriffs office, a District Attorney, a Public Defender, the Judge, and the Coordinator. Historically, the District Attorney, Public Defender, and Sheriff have not actively participated in the team meetings or court sessions.

The program uses sanctions for dirty drug tests, failure to participate, failure to appear at a court session, failure to pay fees or do community services, and any other non-compliance or program violation. Sanctions include jail time, community service, loss of program level, and attendance at relapse prevention groups. Incentives are used as well for good reports, clean tests, phase advancement, and graduation. Clients can receive movie passes, a night off from group, and restaurant certificates. Clients can be terminated from the program for various reasons that include failure to participate and a new DWI offense or new felony charge. Clients graduate after fully complying with program requirements.

Supervision is provided by the Dona Ana County DWI Compliance Monitor office. Supervision is provided in the office and community supervision is not conducted. The office also does not conduct drug testing of any kind. Drug tests are conducted by the treatment provider who also monitors treatment compliance. According to the Coordinator the number of required drug tests per week differs by phase. A minimum of 3 are required in Phase 1, a minimum of 2 per week in Phase 2, and a minimum of 1 per week in Phase 3. Dirty tests can result in increased testing, increased supervision, increased treatment, and jail time.

The Dona Ana County Compliance Office collects mandatory program fees that are currently \$40.00 a month. Clients who are indigent can have their program

fee waived. Community service is also required and is done with non-profit organizations. Clients are assessed using the ASI (Addiction Severity Index) and according to the program, treatment varies by assessment results. Treatment options are also available for dual diagnosis, pregnant, and mentally ill clients. Clients enter treatment after being sentenced to drug court and the assessment occurs before admission. Non-compliance with treatment is reported at drug court reviews and if necessary special staffings and hearings may be held to address non-compliance issues.

RESEARCH DESIGN AND METHODOLOGY

This research has two inter-related objectives. The first and more limited objective was to study the characteristics of this court, its program design, and the population the court serves in order to report the characteristics of this program and document if this program is based on best practices and meets national standards. The completion of this objective serves to place the outcome study in context. The second objective was to study the effectiveness of this court in terms of re-offending compared to a minimum of two matched comparison groups of DWI offenders handled through other courts and programs. The study relied heavily on the use of historical information and is quasi-experimental.

The objectives were to be accomplished in a variety of ways including:

- Studying the components of this court and documenting their contribution to treatment engagement and retention, program compliance, and in-program outcomes.
- Constructing profiles of program participants who successfully complete and do not complete the program. This includes controlling for program and client characteristics.
- Comparing this court's participants with individuals in other forms of community supervision such as probation focusing on compliance, treatment engagement and retention, completion rates, and long-term outcomes (minimum twelve months).

A review of the program's policies and procedures, a survey of program staff, and a review of program materials were completed in order to document the implementation and current status of the program. This information would be used to provide context to the outcome study.

The program survey includes a number of different sections that collects information useful for describing when the program began, how individuals are referred to the program, how clients are accepted and transition through the program, how the program operates, aftercare, program funding, and community involvement. Survey topics include:

1. Program information including the date the program began operating, mission statement, stated goals and objectives, and caseload.
2. Eligibility information including screening, offenses, and exclusion criteria.
3. Program coordination information that gathers information on who is responsible for different aspects of the program.
4. Incentives and sanctions information including what prompts the use of sanctions, types of incentives and sanctions, and reasons for termination.
5. Court processes includes when participants appear before a judge, admission, and appear at supervision and treatment.
6. Information dissemination collects information on how information is disseminated and what information is disseminated to whom.
7. Supervision information including who provides supervision and frequency of supervision.
8. Urinalysis and Drug Testing including frequency of drug testing, responses to dirty UAs, and location of testing.
9. Program fees include the amount of fees, frequency of payments, and types of community service available.
- 10 Treatment information including assessment information, types of services, and frequency of services.
11. Aftercare includes whether aftercare services are provided and the type of services provided after clients leave the program.
12. Program funding includes information on how the program is funded.
13. Community involvement includes how community organizations are involved.

The DWI-Drug court team survey was designed to be completed by each active member of the DWI-Drug Court team and complements the program survey. The survey collects information on a number of topics including:

1. DWI-Drug Court team information. Questions are asked about satisfaction with their work, rewarding aspects, main goals of the program, how well the team works together, and the quality of the collaboration among team members.
2. Client information includes questions about the characteristics of the target population, the most appropriate type of clients, benefits to clients, and types of clients that do best.
3. DWI-Drug Court processes including whether the program has a phase system, whether graduation requirements are fair, graduation requirements, and the effectiveness of the program.
4. Incentives and sanctions includes information on the appropriateness of sanctions and incentives and the effectiveness of sanctions and incentives.
5. DWI-Drug Courts and the community including how effective the program is in using community resources.
6. Costs. This section includes questions regarding whether respondents feel the program is cost effective.
7. Outcomes. This section includes questions about how clients benefit from the program and the effectiveness of the program compared to the traditional court system

Our design also included the collection and review of program materials to better understand how the program operates from referral to discharge. Usual program materials include a policy and procedure manual, job descriptions, contracts with treatment providers and other groups, treatment schedules, meeting notes, and list of team members.

The completion of a quasi-experimental outcome study is the primary goal of this research. Outcome studies are useful for a number of reasons. First, knowledge involving client success and a program can be used in an interactive manner to create a self-correcting system and improve programs. Second, both funding sources and service providers have a vested interest in utilizing scarce resources in the most effective manner. Programs that are effective in reducing future contact with the criminal justice system should be replicated. Third, outcome evaluation findings, if valid and reliable, can be used to make programs more useful to the target population.

The DWI-Drug Court sample was designed to consist of participants who were referred, admitted, and discharged from the program. The sample was designed to consist of individuals who had been discharged a minimum of approximately one year, who were participants a minimum of thirty days, and to include both graduates and non-graduates. We planned to have a sufficiently large sample to conduct appropriate analyses. Individuals who were participants less than thirty days were to be excluded from the study because we wanted to only include individuals who receive a minimum amount of the program. We planned to include non-graduates and graduates and control for length of program stay and services received to measure the effect of the program.

The design included the use of a minimum of two matched comparison groups. These comparison groups were to originate from several sources. First, we planned to include matched individuals convicted of DWI in Dona Ana County that did not become part of the DWI-Drug Court. This could have included those assessed for the program who did not become a participant for some reason (i.e. chose not to) and individuals who were eligible but never referred. Second, we planned to include matched individuals convicted of DWI in other counties (i.e. Alamogordo).

Comparison group members were to be matched on variables that may include sex, race/ethnicity, age, type of offense, the presence of a substance abuse history, and drug court eligibility criteria (i.e. no violent felony convictions and the current offense is not a violent felony). Comparison group members were also to be matched in time. This means comparison group members were to be taken from the same time period as the drug court group so that we can control for what might be occurring in the larger community (e.g. a new District Attorney or change in laws). Another matching variable was geographic location. The size of both groups were planned to be approximately the same size.

These individuals are those who typically are under the supervision of the local probation department. Information collected for the comparison groups, to the extent possible, was comparable. This consists of demographic data, substance abuse history data, criminal history data, current offense data, and exit from probation information. Both the drug court group and comparison group data is taken from official records and does not consist of any self-report information.

Using historical information only allows us to collect official information that is available for the DWI-Drug court and comparison group. It is our experience that historical information for the comparison group is more limited than what is available for the DWI-Drug court group. This primarily occurs because each New Mexico DWI-Drug Court uses a client management information system that routinely collects information necessary to complete this type of study, while information for the comparison group is typically maintained in hard copy files that typically contain less information and often in different formats.

Outcome evaluation is typically the comparison of actual program outcomes with desired outcomes (goals). For criminal justice programs outcome evaluation measures typically focus on recidivism rates. Other types of outcomes that can be measured include changes in substance abuse and improvements in social indicators (e.g. employment, family relationships, and living arrangements). Studies using historical information are limited to those measures that can be obtained through official sources. This is a weakness of this type of study. A strength of this type of study is it is relatively inexpensive to complete and requires much less time than other types of studies. We have chosen to focus on a number of different outcomes. These include:

- DWI recidivism – defined as official re-arrest for DWI post program.
- time to re-arrest - in-program and post-program

Various data sources were accessed to conduct this outcome study. Dona Magistrate Court court records were accessed via nmcourts.com, a web based public application, and hard copy court files. We also hoped to access the Court's DWI-Drug Court's information system and probation files (including ADE data) that contain additional information. We collected information from the treatment provider contracted by the County to provide treatment services. We have access to New Mexico Department of Transportation data and have included the University of New Mexico, Division of Government Research (DGR) to provide this information. The NMSC has worked with the DGR in the past to gain access to DWI records. To the extent possible we planned to collect similar information from the same sources for comparison group members. We planned to utilize other information systems and official files for available information.

We also planned to conduct a cost study for the Dona Ana DWI-Drug court program. Cost analyses are important because they can lead to more efficient use of resources and can expand what can be accomplished for any particular budget or resource. Information obtained from conducting cost analyses can be used in a variety of manners including the following:

- To make funding decisions
- To prioritize
- To determine if a program is cost effective
- To recommend programs to implement and/or make changes to existing programs
- To make comparisons between programs or services
- To establish expectations

In planning for the cost study, we targeted the type of cost measure to available time and resources, the ability to obtain reliable and consistent data, the requirements of the procurement, and the recommendations of LGD and the DWI Advisory Committee. We intended to collect budget and expenditure information from the DWI-Drug Court program as well as from the comparison groups parent program (i.e. County Compliance Monitors) and information on the number of clients served during the study time period.

National Drug Court Standards

Before addressing the primary objective of the project, it was first necessary to conduct a study of the characteristics of the court, its program design, and the population served.

Critical to this goal was to identify accepted best practices for both the DWI and Drug Court model to confirm that the Dona Ana Program was indeed a fully functional DWI-Drug Court program under these national standards. To do this, it was essential to compare the program components and organization of the Dona Ana magistrate DWI-Drug court to national best practice standards as developed by the Drug Court Standards Committee of the National Association of Drug Court Professionals and the DUI/Drug Court Advisory Council. In 1997 the Drug Court Standards Committee designated ten defining components of the drug court model in an attempt to describe “the very best practices, designs, and operations of drug courts” (National Drug Court Institute, The 10 Guiding Principles of DWI Courts

(http://www.ndci.org/pdf/Guiding_Principles_of_DWI_Court.pdf). In a similar effort, the DUI/Drug Court Advisory Council compared the goals of the DWI and Drug court models to develop a list of guiding principles. These ten components and guiding principles represent the best know conceptualization of the drug and DWI court model and provide standards for DWI-Drug courts nationwide.

Both the guiding principles and drug court components are utilized in the process evaluation literature as best practice criterion when analyzing the operations of DWI-Drug Courts. They are used in a similar manner for this report. Using the principles and components as a guide, we can determine the level of adherence to best practice. Specifically, this works by comparing the national standards to the conditions found in the day to day operations of the Dona Ana DWI-Drug court program. The 10 components and principles help researchers identify areas of

strength and identify specific program components that are in need of improvement.

LITERATURE REVIEW

The drug court components and DWI court guiding principles are summarized below.

Summary of DWI Court Guiding Principles and Drug Court Components

DWI Court (Guiding Principles)	Drug Court (10 Key Components)
<ul style="list-style-type: none"> • Determine the population 	<ul style="list-style-type: none"> • Integrate treatment services with justice case processing
<ul style="list-style-type: none"> • Develop the treatment plan 	<ul style="list-style-type: none"> • Nonadversarial approach
<ul style="list-style-type: none"> • Perform a clinical assessment 	<ul style="list-style-type: none"> • Early identification and placement
<ul style="list-style-type: none"> • Supervise the offender 	<ul style="list-style-type: none"> • Access to a continuum of treatment services
<ul style="list-style-type: none"> • Forge agency, organization, and community partnerships 	<ul style="list-style-type: none"> • Monitor with frequent alcohol and drug testing
<ul style="list-style-type: none"> • Take a judicial leadership role 	<ul style="list-style-type: none"> • Govern drug court response to compliance
<ul style="list-style-type: none"> • Develop case management strategies 	<ul style="list-style-type: none"> • Ongoing judicial interaction
<ul style="list-style-type: none"> • Address transportation issues 	<ul style="list-style-type: none"> • Evaluation of program goals and effectiveness
<ul style="list-style-type: none"> • Evaluate the program 	<ul style="list-style-type: none"> • Continuing interdisciplinary education
<ul style="list-style-type: none"> • Ensure a sustainable program 	<ul style="list-style-type: none"> • Forging partnerships among drug courts, public agencies, and community-based organizations

Within the DWI court model the strategic targeting of offenders is a critical consideration. Best practice suggests that courts should place emphasis on recruiting offenders who have the most serious criminal and dependency issues, those who are repeat offenders, and those who are seen to pose the most negative community impact. A functional DWI court requires that clients first undergo a clinical assessment that identifies impairments and strengths in related bio-psychosocial domains, including alcohol use severity, drug involvement, medical status, psychiatric status, employment and financial status, family and social status, alcohol triggers and cognitions, self-efficacy and motivation for change, as

well as level of patient care (National Drug Court Institute: The Ten Guiding Principles of DWI Courts, http://www.ndci.org/pdf/Guiding_Principles_of_DWI_Court.pdf). Based on the results of a clinical assessment, the DWI court should develop a treatment plan that provides each client with an individually prescribed constellation of treatment services that facilitate long term recovery.

Because relapse presents a serious threat to community safety, functional DWI courts must include close supervision and monitoring by the court, probation department, and treatment provider. Supervision must take place not only in the court, but in the community and in the offender's home. Monitoring can take many forms, but frequently includes the use of risk screeners, frequent drug testing, breathalyzers, and ignition interlocks. In addition to supervision and monitoring, DWI courts must provide offenders with a court order clearly delineating expectations and consequences for non-compliance. DWI courts embody a collaborative spirit, and must also forge partnerships with community agencies to increase the spectrum of service providers, solicit broader support and understanding regarding the mission of the DWI court setting, and to build a foundation of financial and other resources to encourage long-term sustainability of the DWI court.

Within the DWI court model, the judge is considered to be the team leader and success often depends on the level of judicial involvement in the process. As the team leader the judge's responsibility is to provide general oversight and motivation to DWI team members. Additionally, the DWI court judge is charged with the authority to employ sanctions and rewards when necessary (National Drug Court Institute: DWI Courts and DWI-Drug Courts: Reducing Recidivism Saving Lives http://www.ndci.org/dwi_drug_court.htm). The involvement of the DWI treatment team requires that the DWI court have established team management strategies that ensure seamless collaboration between all stakeholders. This case management strategy should ensure that clients are linked to the appropriate services, that these treatment services are monitored, and that real-time assessment information is collected for evaluation purposes (National Drug Court Institute: The Ten Guiding Principles of DWI Courts, http://www.ndci.org/pdf/Guiding_Principles_of_DWI_Court.pdf). Team members typically include the Judge, a Coordinator, the treatment provider, probation, a representative from the District Attorney and Public Defender, and law enforcement.

Reliable evaluations of the DWI court model are essential to convince stakeholders of the effectiveness of the DWI court model. Court, probation, and treatment data should be able to document clear behavioral change within DWI court participants that can be directly linked back to DWI court services. In addition to a plan for evaluation, DWI courts must have a plan to ensure the sustainability of the program which includes considerations of structure and scale; organization and participation, and funding (National Drug Court Institute, http://www.ndci.org/dwi_guidingprinciples.html). A final consideration for DWI court is the issue of transportation. Upon conviction for a

DWI offense, in nearly every state, a person's driving privileges are revoked. This issue of transportation must be addressed by DWI-Drug courts and other stakeholders to prevent participants from driving without a license.

How do Drug Court and DWI Courts differ?

Though there are variations in implementation, both models share a number of characteristics. Both models include intense drug/alcohol addiction treatment, heavy court supervision, and require compliance with treatment and other court-mandated requirements that is verified by frequent alcohol and drug testing, close community supervision, and interaction with the judge in non-adversarial court review hearings (National Center for State Courts: The Newest Problem Solving Courts, 2004). Despite these similarities, operational and structural distinctions remain. One of the most important distinctions is the nature of the offenders served in both types of courts. In the case of the DWI courts, offenders are referred as a result of an impaired driving arrest and/or documented history of impaired driving while the traditional drug court dock targets individuals who have engaged in non-traffic related criminal behavior as a result of their illegal drug use (National Drug Court Institute, http://www.ndci.org/dwi_drug_court.htm). Therefore, drug court participants tend to be viewed as more serious offenders.

Hybrid DWI-Drug courts target a mix of DWI offenders and illicit drug abusers. Additionally, participants in the DUI court setting tend to be employed with emotional resources that are helpful in the recovery process, including family support, education, and religious ties. This stands in contrast to the typical drug court participant who tends to be out of work or unable to support themselves. Participants in the drug court setting also have a "legal orientation" because they view themselves as being on the right side of the law whereas drug court participants are aware of their "illegal orientation" (DWI Drug Court Courts: Defining a National Strategy, 1999). DUI offenders tend to be in a state of denial regarding their substance abuse issues, while their drug-using counterparts have a more realistic perception of their addiction.

The Effectiveness of DWI-Drug court programs

Some studies have concluded that drug court programs are effective in that they reduce recidivism and improve treatment retention (Belenko, 1998; Cissner & Rempel, 2005; Goldkamp, 2003; Harrell, 2003; Marlowe, Dematteo & Festinger, 2003; Roman, Townsend & Bhati, 2003). In 1998 Columbia University's National Center on Addiction and Substance Abuse (CASA) provided the first major academic review and analysis of drug court research in which researchers analyzed 30 evaluations pertaining to 24 drug courts across the nation. The evaluation found, that despite varying structures, jurisdictional compositions, and evaluation methods, a number of consistent findings emerged. The study found drug courts have been more successful than other forms of community supervision in closely supervising drug offenders in the community through frequent monitoring and close supervision, providing treatment and related

services to offenders who have not received such services in the past, generating actual and potential cost savings and substantially reducing drug use and recidivism while offenders are in the program (Belenko, 1998). These results were supported by a 2003 meta analysis conducted by the Washington State Institute for Public Policy Institute. The study examined 30 evaluations with reasonably strong research designs as well as six adult drug courts in Washington State. The analysis found that the 30 studies analyzed, on average, produced a 13.3 percent reduction in recidivism. Within the Washington State program, five of the six drug courts analyzed produced similar results both in terms of recidivism and cost savings. The cost-benefit analysis study found that while drug courts are more expensive to operate, they also produce more benefits than costs, including savings from future crime prevention and by minimizing contacts with the criminal justice system (Washington State Institute for Public Policy, 2003).

Fewer evaluations have been completed on true DWI Courts. Although the body of research is small, most evaluations have demonstrated effectiveness through both reduced recidivism and increased monetary savings (Future Trends in State Courts, 2008). However, many of these outcome evaluations have been limited in scope. Additionally, DWI court evaluations have focused primarily on recidivism rates, with little attention to the specific elements of the court that most contribute to successful outcomes. Differences in drug court approaches and structure can influence effectiveness of the program. According to Longshore et al (2001) the set of characteristics based on which drug courts vary are numerous and these differences may be encapsulated along the following dimensions: (1) leverage, (2) population severity, (3) program intensity, (4) predictability, and (5) rehabilitative emphasis. Early identification and enrollment, treatment, the use of rewards and sanctions, legal coercion, judicial supervision, and adherence to the drug court team approach have all been identified as research supported effective components of the drug court model (Center for Court Innovation, Moving Beyond Do They Work?).

DATA COLLECTION

Three sources were identified for data collection: the Dona Ana Magistrate Court DWI-Drug Court, the Dona Ana County Compliance Monitor office, and electronic information from the contracted treatment provider, Southwest Counseling, Inc. Initial contact was made with the recently hired DWI-Drug Court Coordinator in late April 2008 followed by the first program visit in May of 2008. During this visit we discussed various aspects of the program including how the program operates, the design capacity of the program, our need for a list of clients both current and past, the role different groups play in the program (i.e. the court and treatment provider), potential comparison groups, and how we might conduct the study.

It is important to note that prior to the initial visit we discovered that previous to the current Coordinator there had never (as far as we know) been a Coordinator that was dedicated to this program. At some time in the past the

Coordinator for the District Court assisted with this program. Our scope of work did not include a review of this history.

We discovered during our first visit the program did not have a record keeping system that allowed it to track referred, admitted, served and discharged individuals. Because of this the program could not identify clients back to January 2002 and could only identify current clients. We also found the program lacked formal written policies and procedures and an explicit mission statement or goals.

While these issues became clear it was also clear the Coordinator was tasked with dealing with these issues. A later section briefly describes some of the changes that have occurred since our study began and other proposed changes. Following the initial visit to the Dona Ana County Magistrate Court DWI-Drug Court program and in discussions with the Coordinator we decided to try to construct a list of admitted clients going back to January 2002 and through December 2007. To begin this process the Coordinator provided us a list of current clients and recent clients she was able to construct from various sources.

Contact was made with the current treatment provider who began providing services sometime in mid- to late-2001 and became the sole provider in approximately July 2002. Between January 2002 and June 2002 there was another provider whose clients were closed to treatment by June 2002. In late June 2008, NMSC staff met with the Chief Executive Officer of the treatment provider and with Dona Ana County Magistrate Court DWI-Drug Court staff. Following this meeting a request for electronic client treatment level information was made for all clients admitted to this program for the period January 1, 2002 through June 30, 2008 including the date of each visit per client, the length of the visit (begin time and end time), the units, the billed charge, and the type of service (i.e. individual, group, case management, drug test, etc.) from the Dona Ana County DWI court. NMSC also requested the discharge date and reason for clients who were not active. Southwest Counseling was eventually able to provide a list of 90 clients for the requested time period. The provided information was extensive and included 44 different variables that covered when each client entered treatment, when they left treatment, their diagnosis, each service date, the type of service, and the length and cost of each service.

During the same visit NMSC researchers met with staff from the Dona Ana County DWI Compliance Office to discuss the possibility of this office constructing a list DWI-Drug Court participants monitored by DWI Compliance Monitors for the same time period. Dona Ana County DWI Compliance Monitors are responsible for ensuring DWI offenders are compliant with court orders, treatment plans, and other mandates. The Compliance Monitor Office was able to provide us with a list of approximately 451 probationers who according to their records were DWI-Drug Court clients during the study period.

After receiving both lists NMSC staff matched the Southwest Counseling list of 90 clients to the DWI Compliance Monitor list of 451 clients. We expected to

completely match the two lists but after merging the lists found only 29 clients matched across both lists. After discovering it was not possible to construct a list of clients for the study dates we decided to make another visit to Las Cruces to collect available information from both Magistrate Court files and Compliance Monitor files. The primary goal of this data collection was to determine if we could collect enough information on a sample of clients. We were also hopeful that through this process we might be able to discover other individuals who we could confidently determine were clients in the program and add them to our sample.

Two visits to Las Cruces were made for data collection. The first trip was made in August 2008 to examine DWI Compliance Monitor files for 120 identified DWI court participants. The DWI Compliance office is located in the Dona Ana County Health and Human Services Department and all individuals convicted of DWI in the county are sentenced to be monitored by this program. The DWI Compliance Office is also responsible for screening convicted offenders in the county. Offenders are supervised based upon the conditions of their sentence and all visits are conducted in the office. DWI Compliance Monitors do not provide supervision in the community.

The purpose of the visit was to review files to confirm the identified individuals were in fact DWI-Drug Court participants and then to collect relevant information from these files. Information we were looking to obtain included the date of their first visit to the office, any drug analysis tests and their results, any fees, any visits, the date of those visits, and the results of visits.

Arrest dates ranged from March of 2003 to December of 2006. We were unable to identify a DWI court discharge date within the Compliance Monitor files but were able to estimate the length of time in the program by taking the difference between the DWI program start date and the case closing date.

Some files included important documents including the Supervision Agreement and Understanding, Condition of DWI Probation and Supervision, Dona Ana County Drug Court confirmation, Court Ordered Ignition Interlock, DWI Program Fee Agreement, Compliance Fee Agreement, and Community Service form. However, these documents were not available in all of the files reviewed. Table 2 reports the percentage of Compliance Monitor files in which all of the described documents were complete or missing altogether.

Table 2 below excludes certain individuals from the counts and percentages for a number of the documents. For example, individuals sentenced to unsupervised probation are not included in the calculations for the Supervision Agreement and Understanding and Conditions of DWI Probation counts, individuals we could not confirm were sentenced to the DWI-Drug Court program were excluded from the Dona Ana County Drug Court form calculation, and cases that were not closed were excluded from the Community Service form calculation. Based on an estimate provided by Dona Ana County staff we excluded 15 percent of the clients missing the two fees forms (DWI Program Fee Agreement and

Compliance Fee Agreement) because clients who do not meet a minimum income requirement are not required to pay fees.

Summary of Compliance Monitor File Completion

	Complete Number of Cases	Complete Percentage	Missing Number of Cases	Missing Percentage
Supervision Agreement and Understanding	89	91.8	8	8.2
Condition of DWI Probation and Supervision	93	90.1	10	9.9
Dona Ana County Drug Court	86	84.3	16	15.7
Court Ordered Ignition Interlock	87	84.5	16	15.4
DWI Program Fee Agreement	92	89.3	11	10.7
Compliance Fee Agreement	60	62.5	36	37.5
Community Service	45	72.6	17	27.4

A second trip was made in October 2008 to review Magistrate Court files. During this visit we hoped to review 111 court files and were able to review 71 files. We were not able to locate 40 Magistrate Court files. When reviewing these files we looked for available court information including indications the offender was sentenced to the program, the date each offender was sentenced to the program, the conditions of their sentence (e.g. days in jail, probation terms, fines, fees, and costs), the assigned judge, the case open date, the case close date, and the case sentence date.

Adherence to DWI Principles and Drug Court Components

Best practice suggests that the nature of the DWI-Drug court demands a file separate from the court file that tracks events specifically related to the participant's screening, entrance and progress throughout the program. This file would naturally incorporate information from the court, the treatment provider, and the supervision component. However, at the time of data collection the Dona Ana DWI-Drug court did not maintain any DWI-Drug court program files for clients served during the study period. If these files existed, we would expect to

find a great deal more information than was available through the sources utilized for this study. For example, these files should include not only basic court case demographics (conditions of sentence, days in jail, probation terms, fines, fees, costs, etc.) but also a through record of important incidents from the initial screening through to final disposition. This includes materials related to initial assessment and screening as well as evidence of referral and acceptance, relevant consent for participation forms, as well as records of graduation/termination status. Additionally, DWI-Drug court files would be expected to contain documentation that supports adherence to national standards. Most prominently, these files would include records of judicial supervision and contacts, including a listing of DWI-Drug court hearings, evidence of court mandated drug testing, and records of rewards/sanctions. Given the nature of the Dona Ana program, we would also expect to find records of phase changes. While the absence of these documents does not confirm that the Dona Ana County program is not engaging in these activities, it does make it more difficult to confirm that the Dona Ana program is functioning as a DWI-Drug Court in adherence with national standards. The lack of documentation presents a critical roadblock to performing an outcome study. While it is possible to do an analysis on recidivism rates without the selected data, this analysis would be largely without value. Without confirmation that a coherent process exists, we would be unable to confirm whether or not the program itself produced these results.

Further, best practice suggests a fully implemented program has a team that includes various members and regular meetings and staffings. We could not document the participation of team members for the study period beyond the Judge and a representative from the treatment provider.

Based on the results of our visits to the program in Las Cruces, our inability to construct the historical group of clients in the program using a variety of methods, a lack of documentation on the program, our data collection efforts in which we were unable to collect a large of enough pool of consistent and reliable information, we recommended the study of the Dona Ana Magistrate Court DWI-Drug Court in Las Cruces be suspended. The DWI-Drug Court Evaluation Advisory Committee agreed with our recommendation and in September 2008 the study was officially suspended over concerns the program did not adhere to national drug court standards or the national DWI Guiding Principles. See Table 3 for a listing of critical documents we were unable to collect for the purpose of this study.

Missing Documents

Type of Document	Description
Order for Screening or Evaluation	Order mandating screening for admission to DWI-Drug Court program
Screening Forms	Screening instrument used for admission to DWI-Drug Court program
Judicial Orders	Examples include judicial orders to seek community based treatment and to pay fees associated with the program
Evidence of Drug-Court Team Meetings	Confirmation of DWI-Drug court team meetings; evidence can include drug court team meeting minutes or sign in sheets
Policies and Procedures	Includes information related to program operations, admissions requirements, treatment phases, and program components
Records of Sanctions for Noncompliance	Records of sanctions for noncompliance with judicial orders
Evidence of Judicial Status Hearings	

CONCLUSION

For a variety of reasons discussed earlier in this report we were not able to conduct the planned outcome study of the Dona Ana County Magistrate Court DWI-Drug Court program. The program has been in operation since 1995 and is one of the oldest DWI-Drug court programs in U.S. This report outlines the work we undertook that led to our decision regarding the completion of an outcome study. After discovering the program did not maintain an information system and was not able to provide us a list of individuals referred or clients served by the program for the study time period we tried to construct the study group by collecting information from the treatment provider, the Magistrate Court, and DWI Compliance Monitor office. After collecting information from each source we found we could still not construct the group of clients served by the program for the study period. Further, we found available information was not consistent at all the available data sources. Overlaying our inability to construct the study

group was the fact the program did not follow prescriptive standards for Drug Court and DWI-Drug Court principles. Lack of critical documentation confirming that Dona Ana Magistrate DWI-Drug court functions as a drug court by national standards poses several problems for future analysis. An outcome evaluation is of limited usage if we cannot effectively link the results of the evaluation to the DWI-Drug Court program. Additionally, without documentation we cannot identify specific client characteristics or program areas that are most or least effective in producing changes in recidivism rates.

Since the AOC hired the Coordinator and we began our study the program has made several changes, is discussing other changes, and is making adjustments to the program. Following is a brief discussion of some of these efforts.

1. Coordinator - The Coordinator was hired in March 2008 to specifically serve this program. The Coordinator's job duties include: scheduling and arranging staffing meetings with team members, developing and implementing supervision plans for program participants, coordinating with the County DWI Compliance Monitor Office, the treatment provider, DA's office, PD's office, Dona Ana Sheriff's Office, etc. The Coordinator also conducts legal screenings on referred offenders, some data collection, and some drug testing.
2. Training - In March 2009 members of the DWI-Drug Court team attended a DWI-Drug Court training sponsored by National Center for DWI Courts (NCDC). This 3.5 day training was attended by the Coordinator, the DWI-Drug Court Judge, a representative from the District Attorney, a representative from the treatment provider, a law enforcement representative, a Compliance Monitor from the County office, and an evaluator. A representative of the Public Defender, though invited, did not attend. Representatives of the DWI-Drug Court program have also attended various other trainings including the National Association of Drug Court Professionals annual conference, a coordinator training, and the annual New Mexico Association of Drug Court Professionals conference.
3. Database - Since approximately September 2008 the Coordinator has been using a Microsoft Access database to collect referral, screening, assessment, compliance, and discharge data. Some data back to June 2006 has also been entered into the database. The systematic use of a database will, at a minimum, allow the program to document referrals, admissions, progress, compliance, and discharge information.
4. Policy and Procedure Manual - The Coordinator, with input from other members of the team is developing a policy and procedure manual that will outline more clearly the policies and procedures under which the program operates.
5. Improved Coordination among Team Members - The program has also been working on improving the coordination among team members. The DWI-Drug Court training was evidence of this effort. Another positive change has been the recent (early 2009) incorporation of the District Attorney and Public Defender as members of the team.

In the future after changes have been made to the program and the program has stabilized a process evaluation should be completed. Following the successful completion of a process evaluation that documents the development of the program it will be possible to complete an outcome evaluation of the program.

About The Commission

The New Mexico Sentencing Commission serves as a criminal and juvenile justice policy resource to the State of New Mexico. Its mission is to provide information, analysis, recommendations, and assistance from a coordinated cross-agency perspective to the three branches of government and interested citizens so that they have the resources they need to make policy decisions that benefit the criminal and juvenile justice systems. The Commission is made up of members from diverse parts of the criminal justice system, including members of the Executive and Judicial branches, representatives of lawmakers, law enforcement officials, criminal defense attorneys, and members of citizens' interest groups.

This and other NMSC reports can be found and downloaded from the NMSC web site: (<http://nmsc.unm.edu/reports.php>)

APPENDIX A – ADMINISTRATIVE OFFICE OF THE COURTS RESPONSE

Doña Ana County Magistrate Court

Presiding Judge Oscar C. Frieze
Division I

Judge Joseph Guillory
Division II

Judge Olivia Nevarez-Garcia
Division III

Judge Richard L. Silva
Division IV

Judge Kent L. Wingenroth
Division V



Bernice A. Ramos, Judicial Manager
110 Calle de Alegria
Las Cruces, NM 88005
(575)524-2814 (575)525-2951 fax

Civil Division
(575)647-3816 (575)647-5114 fax

Anthony Magistrate Court
P.O. Box 1259/935 Anthony Drive
Anthony, NM 88021
(575)233-3147 (575)882-0113 fax

Hatch Magistrate Court
P.O. Box 896/ 210 West Hall Street, Suite G
Hatch, NM 87937
(575)267-5202 (575)267-5088 fax

June 5, 2009

To: Joyce Johnson, Chief
Special Programs and Planning Bureau
Department of Finance and Administration

Dear Ms. Johnson,

In response to the "Dona Ana County Magistrate Court DWI-Drug Court Evaluation Study," the NM Administrative Office of the Courts (AOC) and the Magistrate Court would like to enumerate the many changes and improvements made to the DWI Drug Court Program since the evaluation team first visited the program in the spring of 2008. Historically, the program, although viable, has operated without full resources for most of its existence; specifically, the program has lacked a program coordinator and a fully configured drug court team. Consequently, complete adherence to the 10 Guiding Principles of DUI Courts and the 10 Key Components of Drug Courts was not possible. In March of 2008, just prior to the arrival of the evaluation team, the AOC hired a program coordinator who became responsible for facilitating an evolution in the program that would result in adherence to programmatic national standards.

The Dona Ana County Magistrate DWI Drug Court Program has made considerable progress towards complying with the 10 Guiding Principles and 10 Key Components. Currently, due to the efforts of the court and the new program coordinator, the program has a fully staffed drug court team that includes representatives from the appropriate agencies, as follows: Dona Ana County Magistrate Court Judge and Coordinator; Dona Ana County DWI Compliance Office; Third Judicial District Attorney's Office; New Mexico Public Defender's Office; Dona Ana County Sheriff's Office; and Southwest Counseling Center, Inc. Further, the Dona Ana County Magistrate DWI Drug Court Treatment Team has established significant collaboration through continuous, open communication and the ongoing sharing of information and ideas. In addition, the same collaborative advances have also resulted in the drafting of the program's first policy and procedure manual and client handbook. Upon final approval from the AOC, both of the aforementioned will be implemented.

Various members from all pertinent agencies participating in the Dona Ana County Magistrate DWI Drug Court Program team have also collectively attended several training conferences hosted by, but not limited to: NADCP conference in St. Louis, MO; coordinator training in Reno, NV; NM Drug Court Conference in Albuquerque, NM; NHTSA DWI Court training in Newport Beach, CA; NADCP conference in Anaheim, CA;

The Dona Ana County Magistrate DWI Drug Court Treatment Team continuously seeks to provide participants with a variety of rehabilitation services. Similarly, team members consistently exceed their scope of professional practice in an effort to meet

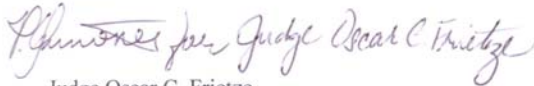
the individual needs of the program participants. To illustrate, some of the services offered to participants include, but aren't limited to: educational program referrals; family and parenting class referrals; employment/job development referrals; community service projects; transitional care; gender and culturally sensitive programming; access to healthcare.

The Dona Ana County Magistrate DWI Drug Court Program Coordinator is further responsible for conducting legal screenings on offenders. In addition, program files on all participants are now being created and maintained by the program coordinator. The program files contain information on events related to, but not limited to: legal and clinical screenings; entrance and progress throughout the program; court information; treatment information; supervision information; phase advancements; medical information; incident reports; progress reports; evidence of participation in drug court hearings; evidence of rewards and sanctions; court orders for screenings or evaluations.

The Dona Ana County Health and Human Services Division, Southwest Counseling Center, Inc. and the program coordinator have collectively begun tracking data on participants from 2006 to present. As a result of such, valid performance measures can now be generated for same time period. Also, eligibility criteria are being adhered to as a mechanism to determine participant viability in the program. The coordinator also conducts routine criminal history queries on offenders, as part of the eligibility process.

The Dona Ana County Magistrate DWI Drug Court Team currently participates in eligibility and advisory meetings several times monthly and record of same is maintained by the coordinator and the Dona Ana County Health and Human Services DWI Program Coordinator. In addition, protocols have been established whereby compliance monitors and treatment providers expeditiously provide the court with feedback on participant compliance. The AOC provides the Dona Ana County Magistrate DWI Drug Court Program with technical assistance as the program coordinator ensures the implementation of and adherence to the 10 Key Components of Drug Courts. With the realization of the program's mission statement, goals and objectives, partnerships forged, and continued mentoring by the AOC, the Dona Ana County Magistrate DWI Drug Court Program's policies and procedures shall continue to evolve in a manner that is consistent with national standards.

Respectfully yours,

A handwritten signature in cursive script that reads "Judge Oscar C. Fritze". The signature is written in dark ink and is positioned above the printed name.

Judge Oscar C. Fritze
Dona Ana County Magistrate Court Judge, Div. I