

Calendar

- Drug Court Coordinators Meeting August 16, 2010 Webinar
- DCAC August 20, 2010 Webinar
- NMADCP August 23, 2010 Teleconference
- Court Officer Basic Training August 30 - September 3, 2010 NMCD (FULL)

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Judiciary Budget Hearings

The Budget Committee of the NM Supreme Court met this past Thursday and Friday (8/5-8/6) in Santa Fe as part of the judiciary's preparation of its unified budget for FY12. Prior to the economic downturn in 2009, such budget hearings would have focused exclusively on projected budget needs for the upcoming fiscal year. The last two years, however, the budget hearings have also included discussions of budget issues for the current fiscal year. This year is no exception as recent revenue projections provided to the legislature led the Governor to call for a 3.2% cut for the current fiscal year (FY11) by all state agencies and the judiciary.

David Abbey, Director of the NM Legislative Finance Committee, presented to the budget committee on the state's general fund and revenue outlook by way of explaining the need for a 3.2% budget cut. David's presentation summarized revenue and appropriations for the last several fiscal years. New Mexico's recurring revenue is derived from taxes (i.e., gross receipts, personal and corporate income tax), investment earnings, and energy-related revenues (crude oil and natural gas). New Mexico had revenue of almost \$6 billion in FY09 and had general fund appropriations close to that amount. Since then, revenue has fallen approximately \$820 million,

leading to repeated cuts to the state's (and our judiciary's) operating budgets. Although oil and gas revenue has actually increased since January 2009, the continuing problem for the state's budget is the sharp



decrease in tax revenue. The most recent projections for FY11 indicate the state's revenue will fall \$151 million short of the amount needed to cover appropriations, thus the 3.2% mandated cut across the board.

A good deal of the two-day budget hearings was spent in discussion of how the courts were going to implement a 3.2% cut to their current FY11 budgets. The courts were unanimous in their attempt to avoid staff furloughs (or to minimize them as much as possible, since the 2nd Judicial District and Metro Court have already implemented furlough plans), and most felt they could do so even with the 3.2% budget cut. The courts' drug court programs continue to suffer, as

courts reduce contractual services and program capacity as one way to offset the need for staff furloughs.

The revenue outlook remains problematic, at best, going forward, with FY08 revenue levels possibly not being reached again until FY15. The Chief Justice is investigating possible emergency funding for courts facing furloughs through stimulus funds provided to the Governor last year. All courts are looking at ways to protect staff and programs while making do with less funding. The AOC will continue to work on accessing other funds (such as liquor excise tax funds and federal grants) for our drug court programs, and will provide more information on all budget-related issues as it becomes available.

Adult Drug Courts

1st Judicial District
Lupe Sanchez

2nd Judicial District
Catherine Hartman

3rd Judicial District
Virginia Acosta

4th Judicial District
Anna Lujan

6th Judicial District
Jim Helgert

7th Judicial District
Jason Jones

8th Judicial District
Reynaldo Garcia

9th Judicial District
Robin Miller

11th Judicial District
Brad Ulrich

12th Judicial District
Maureen Schmittle

13th Judicial District
Donald Garley
Karen McCutcheon

DWI/ Drug Courts

**Bernalillo County
Metropolitan Court**
Sylvia Serna

Dona Ana Magistrate
Priscilla Quinones

Eddy Magistrate

McKinley Magistrate

Santa Fe Magistrate
Donita Sena

Torrance Magistrate
Susan Rossignol

Valencia Magistrate
Gilbert Romero

Illegal Immigrants and Drug Courts

One of our drug courts recently asked about how to work with illegal immigrants who are accepted into the program, since any jail-based sanction imposed on such a participant is likely to get the attention of ICE leading to the participant's deportation, certainly a far greater sanction than the drug court had in mind when detaining the participant for a dirty drug test.

Caroline Cooper with American University has responded to our request for information about how drug courts elsewhere in the county have dealt with this issue. She cites Padilla vs. Kentucky which, as she summarizes:

The Court held in Padilla that criminal defense attorneys have an obligation to inform their clients if a guilty plea carries a

risk of deportation. The situation is complicated by the fact that



(1) the list of criminal offenses for which conviction carries potential immigration consequences is lengthy and includes some which may be considered misdemeanors under various state laws and may entail convictions for which defendants are unrepresented; and (2) a "conviction" for federal immigration law purposes can

include cases referred for diversion or with deferred adjudication, frequently the situation in drug courts.

The decision is available online (<http://www.supremecourt.gov/opinions/09pdf/08-651.pdf>). Further review and analysis of this case is important, but the implications are that defense counsel must advise the potential program participant regarding drug court sanctions and the possibility of deportation. If the defendant has been fully informed, than the defendant has the means to make a fully informed decision and any sanctions would then fall, as they would for any other participant, based on how the defendant performs in compliance with program dictates.

"Doing the Due"

Judge William Meyer presented at both the NADCP 16th annual drug court conference in Boston as well as at the Operational Tune-up in Albuquerque on constitutional and due process case law related to drug courts. Judge Meyer started both presentations with a pre-test, which included the following first question:

1. Drug Courts should not refer participants to AA and NA, because such programs require that the participant, among other things: (a) appeal to God to address shortcomings (Step 5) and (b) by prayer, make contact with God (Step 7), which are violations of the Establishment Clause of the First Amendment. TRUE or FALSE

The answer to that first question surprised many attendees as case law directs courts to provide an alternative to such "deity-based" twelve-step programs. Many courts nationwide and certainly here in New Mexico have incorporated

Alcoholics Anonymous (and/or Narcotics / Cocaine Anonymous) into their programs, mandating that participants attend regularly, get a sponsor, and provide proof of attendance to the program. Such program components are included for perfectly appropriate reasons, namely to help the participant achieve sobriety as well as develop a long-term support group that can support them in recovery after they have graduated from the program. Judge Meyer points out, however, that based on case law a court cannot mandate participation in such a "deity-based" program. Instead, they need to offer the participant a choice of deity-based and non- deity-based or "secular" twelve-step programs.

There are a number of such secular twelve-step programs, and for those concerned about access to such programs in their local community, many are available via the internet. Here are programs and their web addresses for those interested in

further information:

LifeRing Recovery
<http://www.unhooked.com>

Rational Recovery
<http://www.rational.org>

Secular Organizations for Sobriety (SOS)
<http://www.secularhumanism.org/sos>

Judge Meyer makes the point that the best time to offer alternatives to a participant is upon entry to the program. Advise the participant that participation in a twelve-step program is an essential component of the program and that the participant has a choice, between traditional AA/NA or one of the secular alternatives. The participant must make their choice at that time, and the court and program has then complied with the concerns raised by case law.

DWI Drug Court Program Updates:

Dona Ana County Magistrate DWI Drug Court is working hard to train new team members. Dona Ana County Compliance has filled the vacant monitoring positions and



assigned two new monitors to the Dona Ana Drug Court program. They will be working closely with the DWI DC Team through this learning period.

Eddy County Magistrate DWI Drug Court has lost the DWI DC Program Coordinator. Mr. Click resigned and the position remains vacant. Judge Henry Castaneda

will continue the program and monitor participants on a weekly basis by scheduling an hour twice a week for participants to come in and see him.

McKinley County Magistrate DWI Drug Court is restructuring their program under the direction of Judge Henrietta Sandoval-Soland. The team is pursuing training opportunities and technical assistance to strengthen their program.

Santa Fe County Magistrate DWI Drug Court began assessing and collecting the \$50 Drug Court Fee to participants in July, 2010. This fee will be collected and utilized for program costs such as treatment expenses for the participants.

Torrance County Magistrate DWI Drug Court has been in operation for one year. On June 9, 2010 the

program celebrated their first graduation with two participants completing the program.

Valencia County Magistrate DWI Drug Court is reaching out to participants by having the DWI DC Coordinator conduct participant visits out of the Los Lunas Magistrate Court. This will assist participants who face transportation issues in getting to the Belen Magistrate Court.

Eloisa has been working with the DWI Coordinators for the above courts on a Participant Survey in order to gather information on how the team is delivering services. This Participant Survey will ask questions such as: a) how each team member has played a significant role in their program participation, and b) what can be done to make the program more effective for the participant.

Operational Tune-Up

An extraordinary training was provided by our friends at the National Drug Court Institute (NDCI) in Albuquerque last month. Seven drug court teams attended a two-day "Operational Tune-up" at the Sheraton Uptown Hotel, July 8-9. The training was team-based and each team had at least one NDCI facilitator sitting with them. The training focused on Adult Drug Court programs and recent research regarding best practices.

The NDCI was launching a new version of its Operational Tune-Up training, and we benefited as they brought in the stars of the drug court firmament to ensure it went without a hitch: Doug Marlowe, Chief of Science and Policy with the National Association of Drug Court Professionals (NADCP) presented on drug court research and best practices; Judge William Meyer (CO ret.) presented on constitutional and due process issues affecting drug court practices nationwide; Terance Walton presented on evidence-

based treatment practices; and many others of long and prominent standing with the nation's drug court policies acted as team facilitators-- Judge Peggy Hora (CA ret.), Karen Freeman-Wilson (recent CEO of the NADCP), Shannon Carey and Mike Finigan of NPC Research, along with other experienced judges, program coordinators, and of course Carolyn Hardin and her wonderful staff.

The general format was for the entire group to hear from one of the presenters and then each team retired with their facilitator to a separate room to focus on that new information and how it could be used to benefit their specific program. Each team worked with its facilitator to develop a work plan, identifying the issues they wanted to address in their program, next steps, people responsible, and timeframes for execution.

One topic from the general presentations is discussed ("Doing



the Due") elsewhere in this newsletter, and others will be summarized in notifications to come. What was clear in general from the training was how effective team-based training could be, as it brings the team together to focus on specific issues that they can all discuss and determine how to resolve within the constructs of their own community, court, and decision-making process. The AOC will continue to look for team-based training opportunities, and many thanks are due to Angela Peinado of the AOC for her excellent work in bringing this unique training opportunity directly to New Mexico's programs.

Juvenile Drug Courts

1st Judicial District
Ginger Sloan

2nd Judicial District

3rd Judicial District
Katherine Cardon

4th Judicial District
Anna Lujan

5th Judicial District
Victoria Henderson
Christy Williams

6th Judicial District
Rachel Pelz

8th Judicial District
Reynaldo Garcia

11th Judicial District
George Di Re

12th Judicial District
Maureen Schmittle

13th Judicial District
Cynthia Ferrari
Eva Hazlett-Sanchez
Joseph Rinaldi

Family Dependency Drug Court

3rd Judicial District

5th Judicial District
Sheri Buie

8th Judicial District
Reynaldo Garcia

13th Judicial District
Eva Hazlett-Sanchez

Treatment Court

1st Judicial District
Lupe Sanchez

2nd Judicial District
Rachel Saiz

11th Judicial District
Brad Ulrich

13th Judicial District
Laurel Carrier

Bernalillo County Metropolitan Court
Art Marshall

Bulletin Board



Administrative
Office
of the
Courts

Problem-Solving Courts
Staff

Peter Bochert
Statewide Drug Court
Coordinator
aocpwb@nmcourts.gov
505-827-4834

Angela Peinado
Statewide Program Mgr:
DWI Drug Courts
aocaxp@nmcourts.gov
505-827-4729

Eloisa Gonzales
Magistrate DWI Drug Court
Program Supervisor
aocexc@nmcourts.gov
505-827-4812

Carmen Rodriguez
Administrative Assistant II
aoccxr@nmcourts.gov
505-827-7967

[http://joo.nmcourts.gov/
joomla/pscourts](http://joo.nmcourts.gov/joomla/pscourts)

Do you have any suggestions in naming the Problem-Solving Courts Newsletter?

Please send your ideas to Carmen by September 10th.

On September 15th, a survey through Survey Monkey will be sent out for your vote on the new name.

Training

Missed one of the Problem-Solving Courts Training Sessions for FY10?

The Problem-Solving Courts Website under the Training tab has a list of all the sessions available through Webinar, DVDs and presentation materials.

Problem-Solving Courts Website.

There are *NEW* menu items added onto the website.

Added on the main menu is a "Calendar".

Two sub-menu items are also added on. "Newsletters" will be posted under the "Court Programs" menu and "NADCP" will be under "Resources" menu.

Records & Retention

The State Records and Archives will be reviewing a new Retention Policy for Problem Solving Courts at their next board meeting. A review has been sent to all Coordinators/Program Managers and feedback received will be discussed at the meeting. The AOC will let you know of the progress.

Court Officer Basic Training

The next Court Officer Basic Training will be held in Santa Fe the week of August 30, 2010. At this time, the training is at full capacity; however the subcommittee is looking at future training opportunities. The AOC will keep you posted.

If you...

Have any articles, tidbits, announcements, or pictures that you would like to share about your Drug Court on the monthly PSC Newsletter, please send them to Carmen Rodriguez at aoccxr@nmcourts.gov by the 5th of each month.

Training for FY11

The AOC has closed out the training grant through the Department of Public Safety and is now looking at new training opportunities for Fiscal Year 11. Here are some of the anticipated training sessions:

- Dual - Diagnosis Client
- Sanctions & Incentives
- Clients: Dealing with Grief & Loss
- Performance Measures
- Juvenile DC Training
- Phasing
- Treatment Providers: Doing More with Less
- Targeting Populations

If you have ideas for presenters on these topics, please send Angela Peinado their contact information.

Peter and Carmen would like to thank all the Drug Courts for submitting their Performance Measures and successfully uploading their databases.

