



**Drug Court Advisory Committee Meeting
Via Webinar
Friday, September 17, 2010
1:00 pm to 3:00 pm**

Meeting Minutes

Approval of 8/16/20 Meeting Minutes

As a quorum was present and Judge Jaramillo not yet available a few minutes after the meeting's scheduled starting time, the attending members decided to review the meeting minutes from the 8/16 meeting. Peggy Nelson moved and Judge Segura seconded approval of the meeting minutes; the motion passed unanimously.

The Drug Court Advisory Committee (DCAC) meeting was called to order at 1:10 pm on Friday, September 17, 2010, the Honorable Cristina Jaramillo presiding.

Attending were:

The Honorable Cristina Jaramillo, Bernalillo County Metropolitan Court
The Honorable Peggy Nelson, Eighth Judicial District (ret.)
The Honorable David Segura, Santa Fe Co. Magistrate Court
The Honorable Monica Zamora, Second Judicial District
Virginia Acosta, Third Judicial District
David Eisenberg, Public Defenders Department
Cynthia Ferrari, Thirteenth Judicial District
Brad Ullrich, Eleventh Judicial District
Peter Bochert, Administrative Office of the Courts

Also attending were:

Mike Estrada, NM Corrections Department
Angela Peinado, Administrative Office of the Courts

Drug Court Standards

Review of Sections A & B:

Possible Updates: Peter Bochert referred the committee members to the amended NM Judiciary Drug Court Standards. Content in black ink was the original language approved by the Supreme Court in 2004. Content in red ink was amended language adopted in 2008 by DCAC but not yet sent to the Supreme Court for review and approval. At the last DCAC meeting, members had decided to review the entire drug court standards for



possible updates, both the original language and the proposed amended language, and to focus on Sections A and B during this meeting.

The committee determined to proceed by consensus rather than through motions and votes. At 1:35pm, Judge Jaramillo had to leave the committee meeting temporarily for court duties and she asked Peggy Nelson to chair the committee in her absence. The committee continued with its discussion of Sections A and B, making changes by consensus. The committee could not reach consensus on the final change they discussed, which was to the final sentence of Practice 1 in Section B. The original statement was:

Consideration of risk assessment factors is discretionary and shall be used by the drug court judge on a case-by-case basis.

And the proposed change was as follows:

Consideration of risk and need factors shall be used by the drug court judge, drug court team, or other designated authority on a case-by-case basis.

The difference of opinion was over the use of the word “shall” in the same sentence as “on a case-by-case basis.”

David Eisenberg moved and Brad Ullrich seconded adoption of the proposed change to Practice 1 in Section B. Six were in favor with one opposed, and the motion passed.

(All of the changes agreed to in Sections A and B are in an attached document, with committee revisions in red.)

Judicial Rules: Peter provided a summary of the judicial rule regarding “transfer” of drug court participants from one program to another in a separate jurisdiction. He explained there were two versions of the same rule currently under review by the Supreme Court. The first rule had been approved by the District Court Criminal Rules Committee. That rule had then been taken to the Magistrate Court Criminal Rules Committee, which had approved it with the inclusion of one additional sentence. That amended version had gone back to the District Court Criminal Rules Committee, which declined to approve the amended version.

The Supreme Court is reviewing the rules, determining whether to send them out for comment, or referring them back to the appropriate rules committee(s) to resolve the one sentence difference between the two. Joey Moya, senior counsel for the Supreme Court, had told Peter he would pass on to the Supreme Court any comments or suggestions DCAC may wish to provide on the rules at this time.



The sentence in question indicates that agreement has to be reached between the two counties involved as to which county will cover the cost of any program-related detention or incarceration for the “transferred” program participant. *At approximately 2:05pm, Judge Jaramillo returned to the meeting and resumed her role as chair.* The committee discussed both versions of the rule at length. Judge Jaramillo indicated that she was opposed to both versions of the rule as she thought they were based on a misapprehension that drug courts in separate jurisdictions operated similarly, when in fact they can be very different. Other members did not think the cost of incarceration should be a point of discussion as it could lead to expensive transport issues. Mike Estrada pointed out that the Correction Department’s Men’s Recovery Academy in Los Lunas takes in referrals from around the state, but Valencia County does not want to pay for detention of any out-of-county referrals. Instead, the Corrections Department has to transport sanctioned program participants back to their county of residence at significant expense. He believes that there will be significant push back by the counties on any rule that does not allow for negotiation over the costs of detention.

David Eisenberg moved that DCAC notify Joey Moya, through Peter, of its support for the District Court Criminal Rules version of the rule. Cynthia Ferrari seconded. After further discussion the vote was in support of the motion, with six in favor, none opposed, and one abstention.

Questionnaire / Funding Review Subcommittee

Cynthia Ferrari reported that she had solicited questions from this subcommittee via email but the subcommittee had not actually met to discuss them yet. She provided a list of the questions she had collected and asked if the committee members wished to discuss them now. Several members pointed to patterns within the questions, suggesting that some questions could be grouped together for clarity and others could possibly be combined as they were rephrasings of the same question. Upon further discussion, Cynthia agreed to call the subcommittee together prior to the next DCAC meeting to review, group, and consolidate the current list of questions as appropriate.

Certification Subcommittee

Peter summarized that at the last DCAC meeting he had indicated he would collect materials regarding certification procedures used by other states and provide those to Judge Segura, the chair of this subcommittee. At that time Judge Segura would call the members together to review. Peter indicated that he was still collecting those materials and had not yet presented them to Judge Segura, but planned to do so before the next DCAC meeting.

Miscellaneous Business



Peter reported that it appears the Supreme Court automatically sends certificates of appreciation to departing committee members. The committee agreed that it would be a good idea to send a thank you letter to Senators Bingaman and Udall for their help in securing the latest congressional earmark for the state's drug courts. Peter is to draft a letter for Judge Jaramillo's review and signature. If possible, he will provide that to her in time to take a signed copy with him when he travels to Washington, D.C. next week on other drug court business.

Next Meeting Date

The committee determined to meet via webinar again but found conflicts with members' October schedules. Peter was asked to send out some possible dates in mid- to late-October for members' consideration.

Adjourn

Judge Segura moved and Judge Zamora seconded adjournment of the meeting. The meeting was adjourned at approximately 3:00 pm.