

# University of New Mexico Institute for Social Research



Prepared for: Department of Transportation  
and the Office of the DWI Czar

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Paul Guerin, Ph.D.

## Specifics & Findings

**In this brief:** This study determines the extent to which offenders convicted of a felony DWI are being sentenced to be screened using the state mandated screening instrument, how often convicted offenders are sentenced to treatment and how often these individuals show up in the state-mandated screening instrument as being screened and tracked for treatment. We also study the treatment received by DWI offenders and the sentences of DWI offenders compared to mandatory minimum sentences.

The full report titled *Felony DWI Sentencing to Treatment Study* and the electronic version of this report can be found at: <http://isr.unm.edu/centers/cara/reports/>

### Main Findings

- Combining electronic data with a sample of hard copy records we estimated the frequency of sentencing to screening is 33% and estimated the frequency of sentencing to treatment is 29%.
- Slightly more than half (52.1%) of study group members were screened, 33.2% had a treatment requirement noted in the state screening program, and 30.2% had evidence of receiving treatment.
- With available information it appears that most offenders receive sentences that are more than the mandatory minimums and less than the allowable maximum.
- Using electronic information we were not able to completely collect treatment information for offenders convicted of a felony DWI. Combining the two sources of treatment we found 58.6% of the offenders received treatment.

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## Report in Brief: Felony DWI Sentencing to Treatment Study

The study is a continuation of the sentencing to treatment records study completed in June 2009 that focused on a review of court records of offenders convicted of a 2<sup>nd</sup> or 3<sup>rd</sup> DWI. Our study focuses on the counties of Bernalillo, Chaves, Dona Ana, McKinley, Santa Fe, San Juan, and Rio Arriba. The purpose of this study is to determine:

- The percentage of DWI offenders convicted of a 4<sup>th</sup> DWI or higher, as mandated by law, are being sentenced to be screened using the state mandated screening instrument (ADE) (NMSL 66 -8-102 K) and how often offenders are sentenced to treatment.
- The percentage of DWI offenders convicted of a 4<sup>th</sup> or higher found in the state mandated ADE screening and tracking database.
- The sentences of DWI offenders convicted of a 4<sup>th</sup> or higher compared to mandatory minimums.
- The percentage of DWI offenders convicted of a 4<sup>th</sup> or higher receiving treatment.
- The kind of treatment offenders in the sample received.

### Findings

To be eligible for the study an offender had to have been arrested for DWI after July 1, 2005, had been adjudicated between approximately July 2005 and December 2008 and have had four or more DWI convictions. Study cases were extracted from the New Mexico Motor Vehicle Division (MVD)

Citation and Tracking System (CTS). This produced 2,584 offenders.

Study cases were first reviewed via the Administrative Office of the Courts public website ([www.nmcourts.com](http://www.nmcourts.com)) to determine which cases in the sample were a conviction for a 4<sup>th</sup> DWI or higher. Because of time constraints we were only able to review 2,003 of the 2,584 cases. This review produced 964 cases that were a conviction for at least a 4<sup>th</sup> DWI. The remaining cases were either a conviction for a 1<sup>st</sup> DWI (n=312), 2<sup>nd</sup> DWI (n=140), or 3<sup>rd</sup> DWI (n=261), or we could not locate the case (missing, incomplete, or inaccurate court case numbers and other information) (n=68), or identify the level of conviction to confirm the case was for a 4<sup>th</sup> DWI or higher and the case was listed as unknown (n=258).

To check the completeness and accuracy of the on-line information, we reviewed hard copy Judgment and Sentence records for a smaller sample of cases for a number of the target counties (110 J&S hard copy documents: Bernalillo 38, Rio Arriba 5, Santa Fe 17, San Juan 26, and Chaves 24). To determine if offenders received treatment, regardless of what was included in the J&S, we reviewed records using automated information from two sources. First, we reviewed New Mexico Corrections Department (NMCD) information system records. We had hoped to review hard copy records for offenders who we could not match to automated NMCD information but were not able to complete this task in time for this report. Second, we matched records to the state mandated screening ADE database which is also used to track offender's progress including treatment.

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- Offenders convicted of 2<sup>nd</sup> and 3<sup>rd</sup> DWIs were more likely to be screened and to have treatment documented. This suggests the process is more completely developed for offenders convicted of misdemeanor DWIs. Like screening, the percent of offenders found requiring treatment varied considerably among counties.
- We found electronic data cannot be used to report on sentencing. To report on sentencing we would need to rely on a review of hard copy Judgment and Sentence records.
- Efforts should be made to more completely develop the process by which offenders who are convicted of a felony DWI are sentenced to screening and treatment. Study findings suggest the process is more completely developed for offenders convicted of misdemeanor DWIs and within some of the target counties in this study.
- The majority of offenders who were required to attend treatment were required to attend multiple types of treatment. The combination of treatment used most frequently was residential treatment, outpatient treatment, and self help groups (i.e. Alcoholics Anonymous).

**Target Audience:**

DWI Czar's Office, Governor's Office, N.M. Legislature, Department of Transportation, New Mexico citizens, and other local and state government policymakers.


Table 3 shows the number and percent of felony DWI offenders where screening and treatment was mentioned in the J&S by target county and all other counties. The screening percent ranged from a low of 0% in Rio Arriba to a high of 91.7% in Chaves. The treatment percent ranged from a low of 0% in Rio Arriba to a high of 83.3% in Chaves.

As noted in Table 4 we were able to match 52.1% of all cases for screening and we were able to find a treatment requirement for 63.6% of the 502 offenders. This accounted for 33.2% of the 964 study group members.

To be included in the study reviewed cases had to be a conviction for a 4th DWI or higher. Table 1 shows this information by study county and all other counties.



The majority of offenders who were required to attend treatment were required to attend multiple types of treatment. The combination of treatment used most frequently was residential treatment, outpatient treatment, and self help groups (i.e. Alcoholics Anonymous). For 16% of those who required treatment the type of treatment was not specified.

Taking into account the review of electronic records with hard copy records we found sentencing to screening was under-reported in the electronic records and sentencing to screening might be as high as approximately 33% and sentencing to treatment might be as high as approximately 29% (Table 2).


### Methodology

To be eligible for the study an offender had to have been arrested for DWI after July 1, 2005, had been adjudicated between approximately July 2005 and December 2008 and have had four or more DWI convictions.

#### **New Mexico Motor Vehicle Division (MVD) Citation and Tracking System (CTS)**

Study cases were extracted from the New Mexico Motor Vehicle Division (MVD) Citation and Tracking System (CTS). When a citation for DWI is issued in New Mexico, the police agency reports the citation to the MVD, which enters it into the tracking system. The court system then provides a copy of the citation to MVD upon disposition and the disposition is entered into the CTS.

#### **On-line court records**

On-line court records were accessed to review available information including Judgment and Sentence (J&S) records for each offender. This is a public site and information on the site does not constitute the official record of the New Mexico judiciary.

#### **Sample of hard copy court records**

To confirm the accuracy and completeness of the on-line court record information (sentencing to screening, sentencing to treatment, conviction charge(s), and sentence) official court hard copy records were sampled from District Courts.

#### **New Mexico Corrections Department information system records**

New Mexico Corrections Department information system records were accessed for treatment information. These electronic records include treatment information like the type of treatment (e.g. outpatient, intensive outpatient, AA/NA), if treatment was completed (yes or no), treatment start date, and treatment end date.

#### **New Mexico Screening and Tracking System**

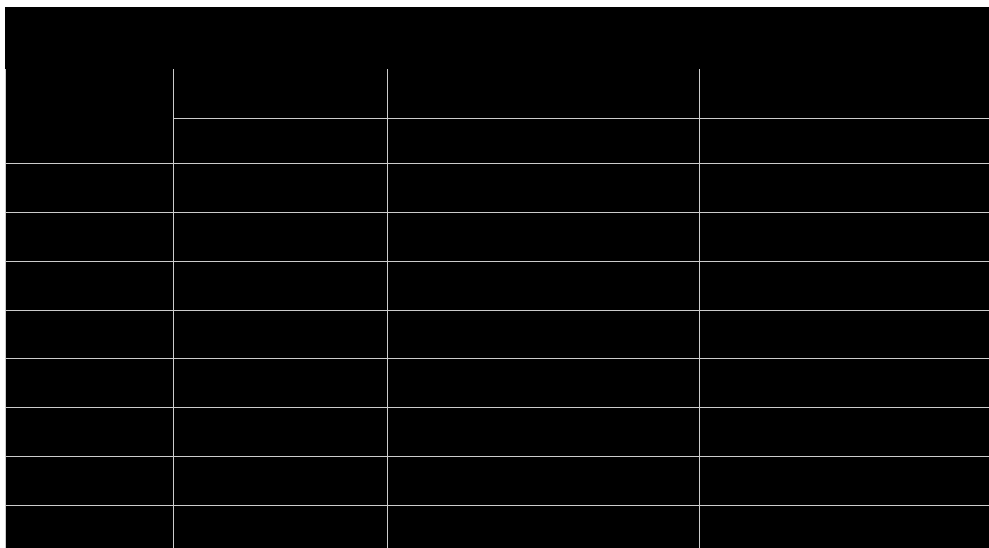
The NM DWI Screening and Tracking System created by ADE Inc. is maintained by the Department of Finance and Administration as part of its Local DWI (LDWI) Program. County DWI programs collect alcohol screening information on DWI offenders using a standard screening instrument and track completion of sanctions (including treatment, probation, DWI, school, victim impact panel, community service, jail, and ignition interlock); and enter these data into the NM DWI Screening and Tracking System.

Table 5 shows the number and percentage of felony DWI offenders by target county and other counties who matched for screening and required treatment to the ADE. Every county screened a minimum of more than 40% of all offenders. Chaves county screened almost two-thirds of all offenders and McKinley screened 92.1% of all offenders. Treatment requirements ranged between 16.7% for Chaves to a high of 59.6% for McKinley. In each county, except Rio Arriba, the

percent of offenders with a treatment requirement was less than the percent of offenders who were screened.

### Conclusion

Primarily due to the reliance on electronic data we were not able to adequately respond to all of the research questions. Combining on-line court information with our sample of hard copy records we estimated the



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frequency of sentencing to screening is approximately 33% and the estimated frequency of sentencing to treatment is approximately 29%.

We were also able to report how often study group members were screened and tracked. Slightly more than half (52.1%) of study group members were screened, 33.2% had a treatment requirement noted, and 30.2% had evidence of receiving treatment.

We were not able to answer the question regarding how many study group members were sentenced to less than the mandatory minimums or more than the allowable maximums using electronic on-line publicly available information. When we compared electronic data with our sample of hard copy J&S documents we found the electronic data did not match the hard copy documents. In an additional comparison with a much smaller sample this finding was confirmed.

We were not able to adequately answer the research question dealing with the percent of study group members who received treatment. Because not all study group members were screened and not all those screened were in the client tracking program we could not rely on the state screening and tracking program to respond to this question. For this study it was not possible to use NMCD hard copy information to supplement the screening and tracking and NMCD electronic information.

Because we were not able to respond to the research question dealing with the percent of study group members who received treatment we were also not able to report on the type of treatment study group members received.

Efforts should be made to more completely develop the process by which offenders who are convicted of a felony DWI are sentenced to screening and/or treatment. In our earlier study of offenders convicted of a 2nd and 3rd DWI a larger percent had screening mandated (83%) and treatment mandated (48.4%) and we also found the percent mandated to have screening and treatment in this study varied considerably by county. This suggests the process is more completely developed for offenders convicted of misdemeanor DWIs and within some of the target counties in this study.

Similarly, offenders convicted of 2nd and 3rd DWIs were more likely to be screened using the ADE and to have treatment documented in the ADE. This also suggests the process is more completely developed for offenders convicted of misdemeanor DWIs. Like screening the percent of offenders found requiring treatment varied considerably among counties. We were able to document treatment for almost 60% of the study

group and could not accurately document for the remaining 40%. It would be possible to respond to this research question by reviewing hard copy records only. We also found electronic data cannot be used to report on sentencing. To respond to this research question we would need to rely on a review of hard copy J&S records. 🚫

## About The Institute for Social Research

The Institute for Social Research is a research unit at the University of New Mexico. Critical issues with which the Institute works includes traffic safety, DWI, crime, substance abuse treatment, education, homeland security, terrorism, and health care.

**This and other ISR reports can be found and downloaded from the Institute for Social Research, Center for Applied Research and Analysis web site: (<http://isr.unm.edu/centers/cara/reports/>)**