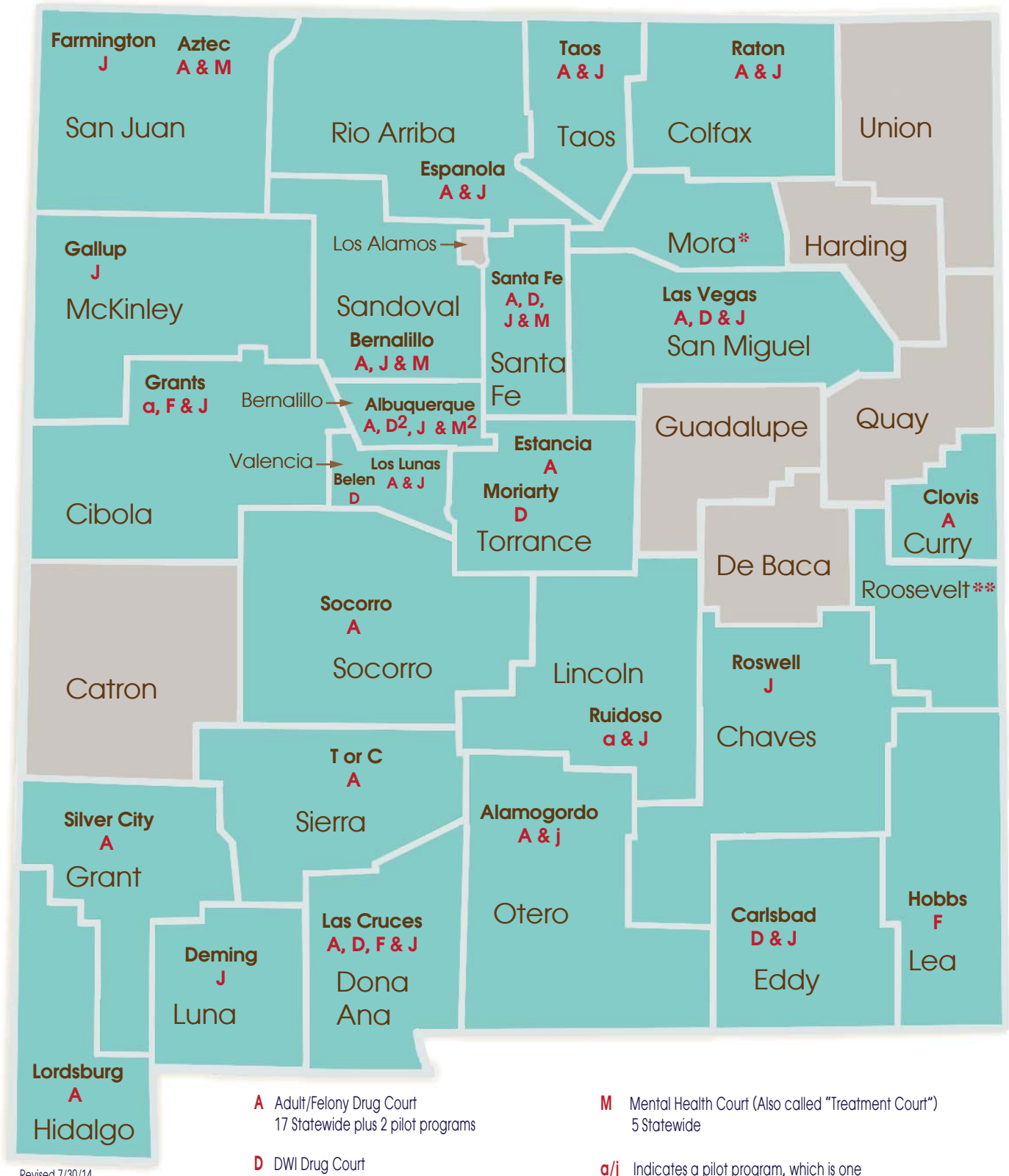
NEW MEXICO PROBLEM-SOLVING COURTS:

DISTRICT, METROPOLITAN, AND MAGISTRATE

As of July 2014, 26 counties (green-colored) have at least one drug court program, while only 7 (beige-colored) do not yet.



Revised 7/30/14

A Adult/Felony Drug Court
17 Statewide plus 2 pilot programs

D DWI Drug Court
8 Statewide

F Family Dependency Drug Court
3 Statewide

J Juvenile Drug Court
16 Statewide plus 1 pilot program

M Mental Health Court (Also called "Treatment Court")
5 Statewide

a/j Indicates a pilot program, which is one so new it has not yet had any graduates, and/or it as yet has no dedicated funding and is operating solely on donated time and services.

* Mora County residents are served by San Miguel County Drug Courts

** Roosevelt County residents are served by Curry County Drug Court

Problem Solving Courts
New Mexico Supreme Court

The Drug Court "Model":
Structure, Components, and Best Practices

A drug court is a specially designed court calendar or docket, the purpose of which is to achieve a reduction in recidivism and substance abuse and to increase the participants' likelihood of successful rehabilitation through early, continuous, and intense judicial oversight, treatment, mandatory periodic drug testing, and use of appropriate sanctions, incentives, and other community-based rehabilitation services.

- In essence, drug courts are judicially monitored, intensive treatment programs, roughly a year in length.
- Participants are subject to frequent and random drug testing, with ongoing intensive supervision.
- Participants are provided clear rules and expectations, and then held accountable for their actions.
- The drug court judge gives incentives and rewards for progress in the program, as appropriate, and imposes sanctions, from curfew to actual incarceration, as needed.
- They are behavior modification programs working with a difficult population, as they aim to reduce the substance abuse and recidivism of drug-dependent repeat-offenders.

How Do They Work?

- Turn normally adversarial nature of court system into a collaborative effort
- Focus on sobriety and accountability of drug court participant through teamwork

Drug Court Team

- Judge
- Prosecutor
- Defense Attorney
- Treatment Provider
- Probation/Surveillance Officer
- Program Coordinator

Drug Court "Staffing"

- Team meets with judge prior to hearing
- Informs judge of participants' activities, attitude, sobriety, compliance
- Advises judge on sanctions, rewards, advancement, or status quo

Drug Court Hearing

- Judge hears from each participant, one-on-one, in front of team, peers, and family
- For non-compliance, judge hands down sanction
- For progress, judge gives praise / reward

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The Drug Court "Model":
Structure, Components, and Best Practices

The Key Components of Drug Courts (NADCP, 1997)
With Some Research-Identified Best Practices (RBP's) that Reduce Recidivism and/or Costs
And Evidence-Based Practices (EBP's) for Effective Treatment

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
    - RBP – Both attorneys, probation, and treatment provider attend all staffings and hearings

2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
    - RBP – Drug Court allows non-drug charges

3. Eligible participants are identified early and promptly placed in the drug court program.
    - RBP – The time between arrest and program entry is 50 days or less
    - **RBP – Target population is High Risk / High Need**

4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
    - RBP – The minimum length of the program is 12 months or more
    - EBP – Motivational Interviewing, Moral Reconation Therapy, Matrix Model, among other cognitive behavioral therapies and ancillary services (such as vocational training, anger management, parenting classes, etc.)

5. Abstinence is monitored by frequent alcohol and other drug testing.
    - RBP – Participants are expected to have 90 days "clean" before graduation

6. A coordinated strategy governs drug court responses to participants' compliance.
    - RBP -- Sanctions are imposed immediately after non-compliant behavior
    - EBP – Contingency Management and graduated sanctions, informed by an understanding of proximal and distal behaviors

7. Ongoing judicial interaction with each drug court participant is essential.
    - RBP – The judge averages 3 minutes or more with each participant during the drug court hearing

8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
    - RBP – Review of the data has led to modifications in program operations

9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
    - RBP – All new hires to the program complete a formal training or evaluation

10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

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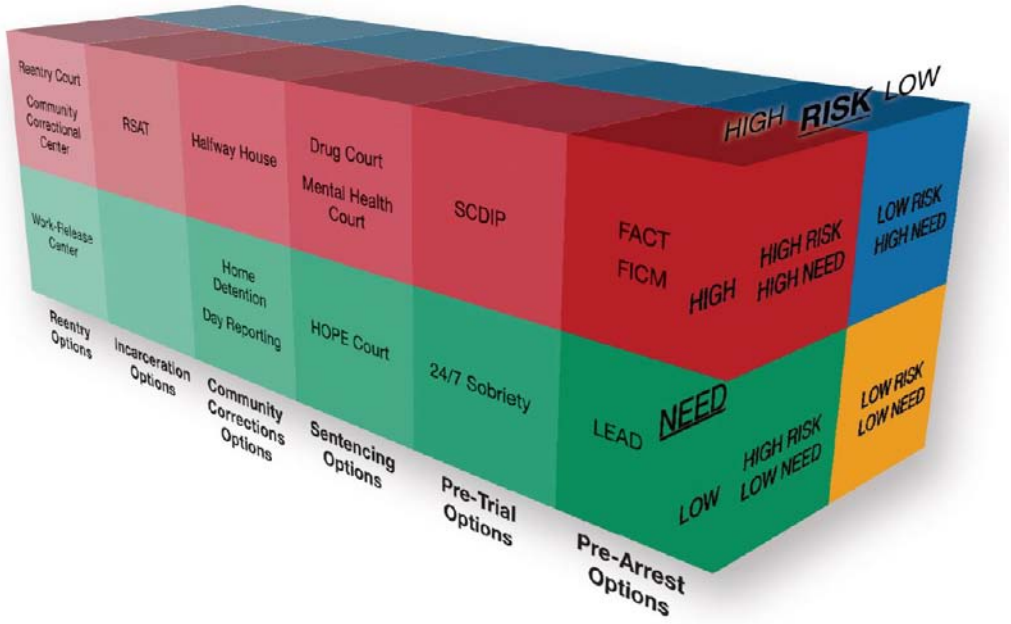
Risk and Need as a Quadrant Model

Criminogenic or Responsivity Need	Prognostic Risk: High	Prognostic Risk: Low
High	Supervision Treatment Pro-social habilitation Adaptive habilitation	Treatment (Pro-social habilitation) Adaptive habilitation
Low	Supervision Pro-social habilitation (Adaptive habilitation)	Secondary prevention Diversion

Interventions in (parentheses) are optional depending on the assessed requirements of the offender.

Quadrant Model Applied at each Intercept



Quadrant model adapted from Marlowe, D.B. (2009). Evidence-Based sentencing for drug offenders: An analysis of prognostic risks and criminogenic needs. *Chapman Journal of Criminal Justice*, 1, 167-201, at 184.

Programs listed at intercept points are potential examples of appropriate interventions.

Glossary of Terms

Prognostic Risk
The likelihood that an offender will recidivate or fail on community supervision. It does not necessarily refer to a risk for violence or dangerousness. High-risk offenders require more intensive supervision services. The most common prognostic risk factors include:

- Current age < 25 years
- Delinquent onset < 16 years
- Substance abuse onset < 14 years
- Prior felony convictions
- Prior rehabilitation failures
- History of violence
- Antisocial personality disorder or sociopathy
- Familial history of crime or addiction
- Criminal or substance abuse associations

Criminogenic Needs
Disorders or functional impairments that predict greater involvement in crime. High-need offenders require more intensive treatment services. Common examples of need factors include substance dependence or addiction, organic brain injury, low intelligence, and severe mental illness when it is combined with substance abuse.

Supervision
Close monitoring of offenders coupled with consistent consequences for their behavior. Typical interventions may include frequent court hearings or probation appointments, drug and alcohol testing, home visits, GPS location monitoring devices, and the imposition of graduated incentives and sanctions.

Treatment
Substance abuse, mental health or medical treatment services delivered by trained and credentialed professionals.

Pro-Social Habilitation
Interventions aimed at changing offenders' criminal thinking patterns and helping them to solve interpersonal problems or conflicts without recourse to illegal activities.

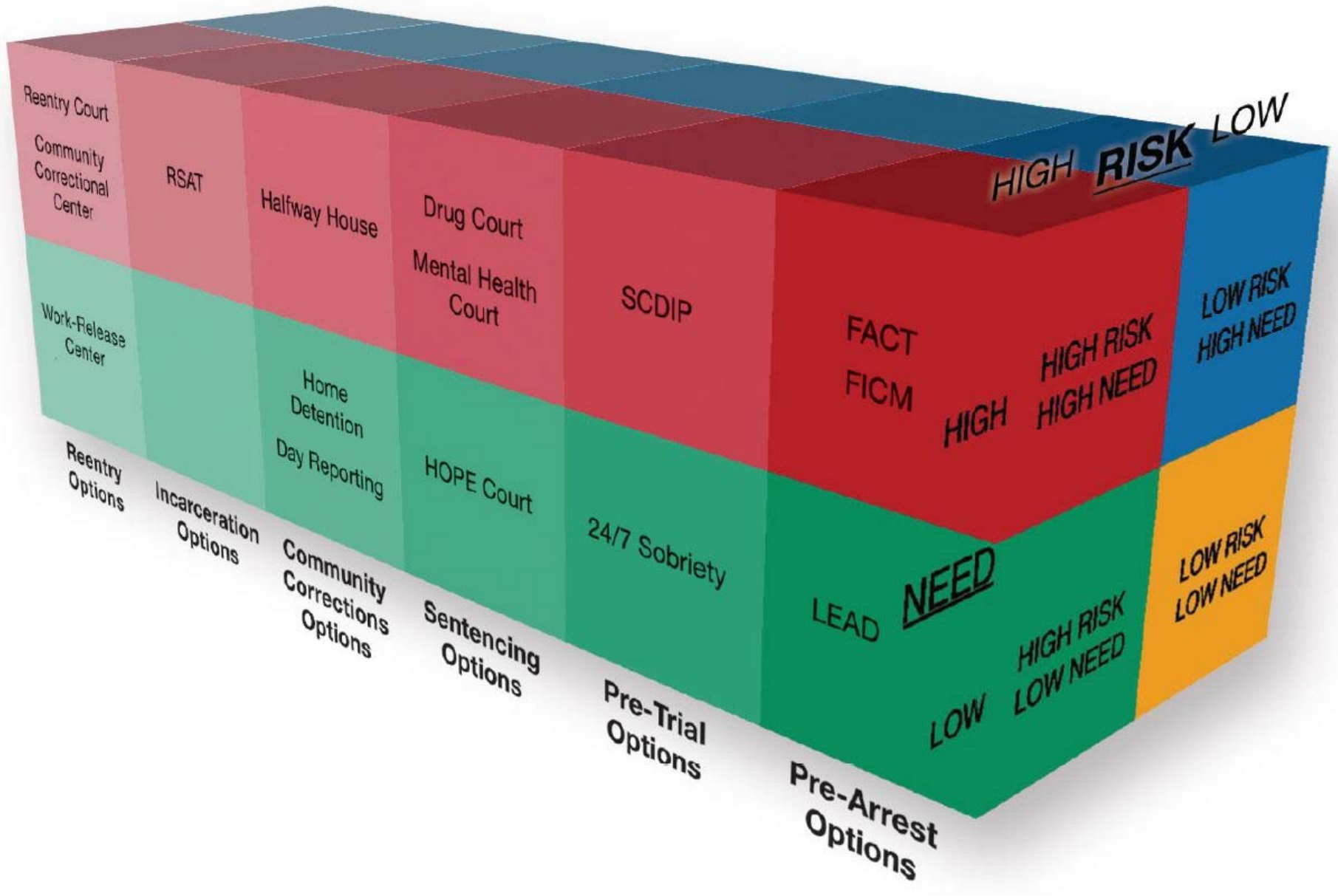
Adaptive Habilitation
Interventions aimed at improving offenders' ability to engage in productive activities, such as vocational training, educational courses or parenting groups.

Secondary Prevention
Brief psycho-educational interventions designed to reduce offenders' engagement in risky behaviors before they develop a clinical syndrome or disorder.

Proximal Behaviors
Behaviors that are relatively easy for offenders to perform, such as attending counseling sessions or following a curfew. Higher-magnitude sanctions should be administered for proximal infractions.

Distal Behaviors
Behaviors that are relatively difficult for offenders to perform, such as maintaining a job or earning a GED. Gradually escalating sanctions should be administered for distal infractions.

Quadrant Model Applied at each Intercept



Drug and Mental Health Court Fact Sheet

*A **Drug Court** is a specially designed court calendar or docket, the purpose of which is to achieve a reduction in recidivism and substance abuse and to increase the participants' likelihood of successful rehabilitation through early, continuous, and intense judicial oversight, treatment, mandatory periodic drug testing, and use of appropriate sanctions, incentives, and other community-based rehabilitation services. A **Mental Health Court** applies the drug court model to offender populations whose repeat criminal activity is driven by an underlying mental health issue rather than substance abuse.*

History and Head Count:

The first drug court started in Dade County, Florida, in 1989, and there are now more than **2500** nationwide. The first NM Drug Court started in 1994. As of July 1, 2014, there are **44** active drug courts in New Mexico (plus three pilot programs):

- 17 Adult/Felony, 16 Juvenile, 3 Family Dependency, and 8 DWI/Drug Courts
  - In addition, there are 5 Mental Health (or "Treatment") Courts in New Mexico

FY14 Drug and Mental Health Court Performance Measures (Draft):

Program Type (Nbr)	Recidivism (Intent-to-treat)	Cost-per-Client-per-Day	Graduates	Graduation %	Active Clients
Adult (17 + 2 pilot)	26.5%	$20.08	222	49.7%	474
Juvenile (16 + 1 pilot)	28.1%	$39.84	124	55.1%	181
DWI (8)	7.96%	$13.90	210	71.7%	326
Family Dependency (3)	21.3%	$33.71	19	76.0%	50
Statewide (44 + 3 pilot)	**21.5%**	**$22.29**	**575**	**58.1%**	**1031**
Mental Health (5)	28.3%	$15.41	121	62.4%	217

Performance Measure Points of Comparison:

As shown in the recidivism and cost-per-client figures below, drug courts are almost 5 times less expensive than prison, yet more than twice as effective in reducing recidivism:

- Average NM Drug Court **Recidivism Rate is 21.5%** during three-years post-program exit
  - Three-year reincarceration rate of New Mexico Corrections Department is **44.6%**[1]
- Average NM Drug Court **Cost-per-client-per-day** in FY14 was **$22.29**
  - Average NM daily cost of incarceration is **$92.98**[1]
  - Average NM daily cost of detention is **$64.76**[2]
- Average NM Drug Court **Graduation Rate** in FY14 is **58.1%**
  - National average for drug court graduation rate in 2008 was **57%**[3]

New Mexico Drug Courts -- Funding and Return on Investment:

As part of its effort to recover from the program cuts suffered by the state's drug court programs during the recent recession, **the judiciary will request $775,000 in additional General Fund monies for FY16.**

- Even with recent legislative appropriations, our drug court programs are still **14% below the General and OSF funding level of FY09** (from $11.0 million down to $9.45 million, a deficit of $1.55 million overall).
- The cuts have directly affected the number of participants who can be helped by the programs. NM Drug Courts are currently working with **1031** active participants, which is **down 18%** from the 1250 participants served in FY09).
- As nearly 50% of jail and prison inmates are clinically addicted, the need clearly exists for a three- to four-fold increase in drug court capacity statewide. At an LFC calculated **benefit-to-cost ratio of $3**[4], increased funding for drug courts would be money well spent.

[1] Both the reincarceration rate and the daily cost of incarceration are from an LFC report (#12-07) on NMCD, June 2012
[2] Cost of detention calculated by the New Mexico Sentencing Commission as part of the Detention Facility Reimbursement Act
[3] Painting the Current Picture, NADCP, 2011
[4] LFC Results First, July 2013

Strategies and Guiding Principles for other Problem-Solving Court Programs

Sixteen Strategies of Juvenile Drug Court

1. **Collaborative Planning**
   Engage all stakeholders in creating an interdisciplinary, coordinated, and systemic approach to working with youth and their families.

2. **Teamwork**
   Develop and maintain an interdisciplinary, nonadversarial work team.

3. **Clearly Defined Target Population and Eligibility Criteria**
   Define a target population and eligibility criteria that are aligned with the program's goals and objectives.

4. **Judicial Involvement and Supervision**
   Schedule frequent judicial reviews and be sensitive to the effect that court proceedings can have on youth and their families.

5. **Monitoring and Evaluation**
   Establish a system for program monitoring and evaluation to maintain quality of service, assess program impact, and contribute to knowledge in the field.

6. **Community Partnerships**
   Build partnerships with community organizations to expand the range of opportunities available to youth and their families.

7. **Comprehensive Treatment Planning**
   Tailor interventions to the complex and varied needs of youth and their families.

8. **Developmentally Appropriate Services**
   Tailor treatment to the developmental needs of adolescents.

9. **Gender-Appropriate Services**
   Design treatment to address the unique needs of each gender.

10. **Cultural Competence**
    Create policies and procedures that are responsive to cultural differences and train personnel to be culturally competent.

11. **Focus on Strengths**
    Maintain a focus on the strengths of youth and their families during program planning and in every interaction between the court and those it serves.

12. **Family Engagement**
    Recognize and engage the family as a valued partner in all components of the program.

13. Educational Linkages

Coordinate with the school system to ensure that each participant enrolls in and attends an educational program that is appropriate to his or her needs.

14. Drug Testing

Design drug testing to be frequent, random, and observed. Document testing policies and procedures in writing.

15. Goal-Oriented Incentives and Sanctions

Respond to compliance and noncompliance with incentives and sanctions that are designed to reinforce or modify the behavior of youth and their families.

16. Confidentiality

Establish a confidentiality policy and procedures that guard the privacy of the youth while allowing the drug court team to access key information.

Ten Guiding Principles of DWI Drug Courts

1. **Determine the Population**
   Targeting is the process of identifying a subset of the DWI offender population for inclusion in the DWI Court program. This is a complex task given that DWI Courts, in comparison to traditional Drug Court programs, accept only one type of offender, the person who drives while under the influence of alcohol or drugs. The DWI Court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.

2. **Perform a Clinical Assessment**
   A clinically competent objective assessment of the impaired-driving offender must address a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan.

3. **Develop the Treatment Plan**
   Substance dependence is a chronic, relapsing condition that can be effectively treated with the right type and length of treatment regimen. In addition to having a substance abuse problem, a significant proportion of the DWI population also suffers from a variety of co-occurring mental health disorders. Therefore, DWI Courts must carefully select and implement treatment practices demonstrated through research to be effective with the hard-core impaired driver to ensure long-term success.

4. **Supervise the Offender**
   Driving while impaired presents a significant danger to the public. Increased supervision and monitoring by the court, probation department, and treatment provider must occur as part of a coordinated strategy to intervene with the repeat and high-risk DWI offenders and to protect against future impaired driving.

5. **Forge Agency, Organization and Community Partnerships**
   Partnerships are an essential component of the DWI Court model as they enhance credibility, bolster support, and broaden available resources. Because the DWI Court model is built on and dependent upon a strong team approach, both within the court and beyond, the court should solicit the cooperation of other agencies, as well as community organizations to form a partnership in support of the goals of the DWI Court program.

6. **Take a Judicial Leadership Role**
   Judges are a vital part of the DWI Court team. As leader of the team, the judge's role is paramount to the success of the DWI Court program. The judge must also possess recognizable leadership skills as well as the capacity to motivate team

members and elicit buy in from various stakeholders. The selection of the judge to lead the DWI Court team, therefore, is of utmost importance.

7. **Develop Case Management Strategies**
   Case management, the series of inter-related functions that provides for coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI Court program.

8. **Address Transportation Issues**
   Because nearly every state revokes or suspends a person's driving license upon conviction for an impaired driving offense, the loss of driving privileges poses a significant issue for those individuals in DWI Court programs. In many cases, the participant solves the transportation problem created by the loss of their driver's license by driving anyway and taking a chance that he or she will not be caught. With this knowledge, the court must caution the participants against taking such chances in the future and to alter their attitude about driving without a license.

9. **Evaluate the Program**
   To convince stakeholders about the power and efficacy of DWI Court, program planners must design a DWI Court evaluation capable of documenting behavioral change and linking that change to the program's existence. A credible evaluation is often the only mechanism for mapping the road to program success or failure. To prove whether a program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over the relevant variables that can systematically contribute to behavioral change, and a commitment from the DWI Court team to rigorously abide by the rules of the evaluation design.

10. **Ensure a Sustainable Program**
    The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course, funding. Becoming an integral and proven approach to the DWI problem in the community however is the ultimate key to sustainability.

Ten Essential Elements of Mental Health Court

1. **Planning and administration**
   A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.

2. **Target population**
   Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.

3. **Timely participant identification and linkage to services**
   Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.

4. **Terms of participation**
   Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.

5. **Informed choice**
   Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.

6. **Treatment supports and services**
   Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use—and increase the availability of—treatment and services that are evidence-based.

7. **Confidentiality**
   Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing.

8. **Court team**
   A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court

participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.

9. **Monitoring adherence to court requirements**
   Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

10. **Sustainability**
    Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.

Thirteen Common Characteristics of Family Dependency Treatment Courts

1. **Integrated a focus on the permanency, safety, and welfare of abused and neglected children with the needs of the parents.**

2. **Intervened early to involve parents in developmentally appropriate, comprehensive services with increased judicial supervision.**

3. **Adopted a holistic approach to strengthening family function.**

4. **Used individualized case planning based on comprehensive assessment.**

5. **Ensured legal rights, advocacy, and confidentiality for parents and children.**

6. **Scheduled regular staffings and judicial court reviews.**

7. **Implemented a system of graduated sanctions and incentives.**

8. **Operated within the mandates of the Adoption and Safe Families Act of 1997 and the Indian Child Welfare Act of 1979.**

9. **Relied on judicial leadership for both planning and implementing the court.**

10. **Made a commitment to measuring program outcomes.**

11. **Planned for program sustainability.**

12. **Strived to work as a collaborative, nonadversarial team supported by cross training.**

13. **Integrated a focus on the permanency, safety, and welfare of abused and neglected children and the needs of their parents.**