

STATE OF NEW MEXICO

**Impaired Driving Reassessment
June 18 – June 24, 1995**

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The Team commends the Traffic Safety Bureau for its continuing efforts to establish a comprehensive highway safety program in New Mexico- The Team hopes that this report will contribute to enhancing the effectiveness of the state's alcohol and drug impaired driving countermeasures program efforts in saving lives on New Mexico's highways.

The Team also thanks all the participants in the review for the time they invested in preparing and revising their presentations. The participants' responsiveness to the questions and candor in discussing the program activities in which they were involved aided the Team with its review.

INTRODUCTION

Motor vehicle crash injuries are the leading cause of death for individuals between the ages of one and thirty-four. Alcohol is involved in approximately 42 percent of these fatalities.

In pursuit of its goal to reduce alcohol-related traffic and injuries, the National Highway Traffic Safety Administration (NHTSA) developed a Technical Assistance Team evaluation program. This approach provides states the opportunity to use federal highway safety funds to support an administrative evaluation of existing and proposed alcohol and drug impaired countermeasures.

NHTSA staff facilitates the process by assembling a team of individual who, through their involvement in national and state programs, have demonstrated their competence in the development, implementation and evaluation of impaired driving programs. Selection to the Technical Assistance Team reflects experience in special areas identified by the requesting state. These special areas correlate with the components of a comprehensive impaired driving program defined in the Highway Safety Program Advisory published by NHTSA. Examples of team members' expertise include program management, evaluation, records, prevention, enforcement, prosecution, adjudication, treatment and rehabilitation, and driver licensing.

New Mexico was the third state in the nation to request an Impaired Driving Assessment. That assessment was completed in 1991. Now, New Mexico has become the first state to request and a complete reassessment.

The New Mexico Impaired Driving Reassessment was conducted in Santa Fe from June 18-24, 1995. The Chief of the traffic Safety Bureau arranged for state and local program experts (see section 7) to deliver briefings and provide support materials to the team on a wide variety of impaired driving and related topics. Forty seven presentations were made to the team over a period of three and a half days.

The state of New Mexico is located in the southwestern United and covers over 16,000 square miles. Almost one third of its land is controlled by either Indian tribes or the federal government. New Mexico is geographically diverse with deserts, mountains and mesas.

According to the 1990 census, New Mexico's population is 1,536,000. Almost one third of the people live in the Albuquerque metropolitan area. New Mexico is ethnically diverse with 50 % Anglo, 38% Hispanic, 9% American Indian and 2% African American. Youth 15 and under account for 26% of the population.

New Mexico has only 12 people per square mile, ranking 42nd in population density. New Mexicans rank 45th in per capita income, and one in six is below the poverty line.

The state is economically diverse with tourism, government, gaming, agriculture and ranching providing employment for its citizens.

The following 1994 data pertaining to motor vehicles and traffic safety in New Mexico were provided:

1,400,000	registered vehicles
1,300,000	licensed drivers
2,122.5	million miles traveled annually (estimated)
388	fatal motor vehicle crashes
447	motor vehicle crash deaths
18,949	motor vehicle crash injuries
5,165	alcohol related crashes
201	alcohol related fatal crashes
227	alcohol related fatalities
2,633	alcohol related crash injuries
2.1	crash deaths per 100 million vehicles Miles traveled (estimated) . (US=1.8)

New Mexico remains an enigma in the traffic safety world. Historically it has had an aggressive, pro-active traffic safety program. The Traffic Safety Bureau has been instrumental in enacting the most complete set of anti DWI laws in the nation. Despite this, New Mexico continues to lead the nation in alcohol related traffic deaths, cirrhosis deaths and fetal alcohol syndrome. The traffic safety community continues to fight the effect of widespread alcohol abuse this is done, traffic safety programs will be hampered in their effort to combat impaired driving.

The Team's analysis of New Mexico's Impaired Driving Program is based solely on the written and oral information provided during the assessment process. The Team used this information to develop recommendations after considering what could reasonably be accomplished within the State of New Mexico.

SUMMARY OF RECOMMENDATIONS

- The Governor should elevate the TSB so that the Traffic Safety Bureau Chief reports directly to the Secretary of Highway and Transportation.
- New Mexico should develop and implement a statewide DWI plan which should take into account the state's Highway Safety Plan, the state's Safety Management Plan, the state's Injury Prevention Plan, the local DWI Grant Program plans, the Community DWI Prevention Plans and the state's Substance Abuse Plan.
- The state should identify within the statewide DWI plan a section addressing the state's PI&E efforts in combating the DWI problem.
- The Department of Finance and Administration (DFA) and The Department of Health (DOH) need to work with the TSB to reduce and where possible eliminate duplication of program requirements of local Planning Councils and DWI Task Forces.
- The DWI Process and Data Standards Committee should implement the recommendations of the LANL report.
- The DWI Process and Data Standards Committee should become a standing committee to oversee the integrity of DWI data.
- Move forward on introduction of new technology such as Photo Imaging.
- TSB should designate a full-time PI&E Coordinator either in the agency or on a contract basis.
- TSB should promote development of traffic safety programs for large and small employers.
- The Alcohol and Gaming Division should promote legislation or enact policies to provide server certificate suspension or revocation for violations of alcohol control laws or proscribed server practices.
- Purchase and strategically place state of the art testing devices.
- Purchase and provide training in the use of preliminary breath testing devices.
- Encourage juvenile judicial officials to refrain from expunging DWI offenses from juvenile records.

- Make all courts, courts of record.
- Develop and implement a statewide program to target, prosecute and punish the repeat offender.
- New Mexico should establish a comprehensive screening, referral, and treatment system for DWI offenders.
- Screening for first offenders should be conducted by the DWI schools.
- TSB should study the San Juan County treatment/incarceration program and, based on fundings, replicate it in other regions of the state.
- All screening and treatment services should incorporate cultural components relevant to the specific client populations.
- TSB and MVD need to open communication to ensure an effective traffic safety programs.
- TSB and MVD should explore the possibility of creating an interactive computerized driver manual and make it available to the public and private schools in the state.
- When funding overtime enforcement for DWI programs, TSB should consider funding programs to increase efficiency in prosecution, court administration and MVD for processing DWI data.

1. PROGRAM MANAGEMENT

Good program management produces effective programs. Planning and coordination are especially important for impaired driving activities, since many different parties are involved. Each state's impaired driving program management system should have an established process for merging its planning (including problem identification), program control and evaluation activities. The system should address community traffic safety programs (CTSPs), state and local task forces, data analysis and funding.

1-A: State Program Planning

Advisory

States should develop and implement an overall plan for all impaired driving activities.

Status

The 1991 assessment recommended the State should establish a Governor's Commission on Impaired Driving. The report also recommended the establishment of an Executive Board. The Board should be made of cabinet level officials whose departments were involved with the impaired driving issues.

Since 1991, New Mexico has made tremendous strides in implementing many of the 1991 Assessment teams recommendations. The Traffic Safety Bureau (TSB) as directed by the New Mexico Motor Vehicles Code continues to be responsible for the coordination of activities and programs of the departments, divisions and agencies of the state that currently engage in promoting traffic safety. The Department of Public Safety, the Department of Health, The Department of Taxation and Revenue, The Department of Finance and Administration, The Department of Regulation and Licensing, District Attorney's Office and The Administrative Office the Courts are several of the organizations who currently adage in promoting traffic safety. The code also creates a five member advisory committee to the bureau.

The Secretary of Highway & Transportation serves as the Governor's Highway Safety Representative. Although the Traffic Safety Bureau Chief oversees the day-to-day operations of the program and is identified as the Coordinator, he is several layers down from the Governor's Highway Safety Representative.

The State continues to be recognized as a national leader in providing timely traffic crash data to localities and traffic safety organizations. These data allow them the ability to effectively identify traffic crash problems. Highlights of New Mexico's accomplishments since the 1991 Assessment include the following:

- The Attorney General's DWI Prevention Task Force developed an "Action Plan

for New Mexico to Prevent DWI”. The report produced 62 recommendations, of which several have been implemented.

- Successfully implemented several new DWI laws.
- The Community DWI Prevention Project (CDWI) was fully implemented.
- The CDWI project is supported with dedicated funding from a \$75 fee charged to each convicted DWI offender.
- The Local DWI Grant Program Act passed by the 1993 legislative session allocated new funds for local DWI countermeasures. This new allocation was funded by an increase in the alcohol excise tax.
- Metro Court is now court of record.
- Motor Vehicle Division (MVD) has initiated a major review of its automated systems.

While much has been accomplished, there is still no comprehensive DWI plan for the State. In addition, no organization has taken the lead to develop and carry out such a plan. When developed the plan should include a section addressing the state PI&E efforts.

Many groups have been formed at the state and local levels, but they are narrowly focused or have time limitations to complete their mandate.

The TSB has statutory authority to organize, plan and conduct a statewide program of activities designed to prevent crashes and to reduce the incidence of DWI in New Mexico. There is however, a desperate need for leadership from state government to direct, coordinate and build on the current successes which have been achieved. This leadership must begin with the Governor’s Representative (GR’s) office. The GR should have direct access to and counsel of the TSB’s resources. The TSB has been effective in designing and implementing a comprehensive DWI checkpoint program called “Operation DWI”. The office needs to build on that success and become more global in its role as the state’s coordinator for traffic safety.

Recommendations

- **Elevate the TSB so that the Traffic Safety Bureau chief reports directly to the Secretary of Highway and Transportation.**
- Expand the authority and make-up of the current Traffic Safety advisory committee to become a policy advisory board reporting to the Secretary of Highway and Transportation and the Governor.
- **Implement the 1991 Assessment recommendation to develop a statewide DWI plan which should take into account the state’s Highway Safety Plan, the state’s Safety Management Plan, the state’s Injury Prevention Plan, the Local DWI Grant Program plans, the Community DWI Prevention Plans and the state’s Substance Abuse Plan.**

- **Identify within the statewide DWI plan a section addressing the States PI&E efforts in combating the DWI problem.**
- The TSB needs to focus more time and effort on cultivating and maintaining closer working relationships with those organizations who are key players in solving New Mexico's DWI problem.

1-B: Program Control

Advisory

States should have established procedures for systematic monitoring and review of ongoing programs to ensure that program activities are implemented as intended.

Status

The 1991 Assessment found that the Traffic Safety Bureau (TSB) has a very effective system for tracking highway safety funded activities. Data systems currently in place provides good problem identification and therefore allow easy monitoring and review of activities that are conducted to address those problems.

TSB has applied its monitoring experience to the Community DWI (CDWI) projects. This includes fiscal accountability. The monitoring and review requirements of both the CDWI and the Local DWI Grant Program are extensive and in some cases duplicative. This duplication creates a drain on resources for both, the local planning councils and DWI task forces.

Recommendations

- **The Department of Finance and Administration (DFA) and The Department of Health (DOH) need to work with the TSB to reduce and where possible eliminate duplication of program requirements of local Planning Councils and DWI Task Forces.**
- The TSB should provide funds up front once the Local DWI Task Force plans have been approved and discontinue the current reimbursement system.

The TSB should require that at the conclusion of each fiscal year an independent fiscal audit be conducted of each local DWI program.

1-C: State and Local Task Forces and Community Traffic Safety Programs

Advisory

States should encourage the development of state and community impaired driving task forces and community traffic safety programs.

Status

In 1991, the Traffic Safety Bureau (TSB) worked cooperatively with several community safety committees and developed a close working relationship with the Department of Health (DOH). This relationship resulted in development of prevention groups which now embrace DWI as one of their primary injury prevention focuses.

TSB has been very successful in expanding the original six community safety committees and now has a Community DWI Prevention Program in almost every county/city in the state. These groups represent an excellent cross-section of the community.

There is duplication of effort at both the state and local level with Task Forces. Coordination of these activities needs focus at both the state and local level. Innovative programs many times are not shared with other localities and therefore do not get replicated. Some localities have two or more task groups operating in that community addressing the problem of DWI.

TSB's newsletter has excellent information on community as well as statewide activities and programs. Many communities' local programs have developed comprehensive DWI plans for their areas and have submitted them to the DOH for approval.

Recommendations

- The restructured Traffic Safety Advisory Committee should oversee the coordination of the activities of those different task groups.
- The TSB should continue to produce it's Traffic Safety News letter and incorporate a highlighted section on local program accomplishments.
- Integrated city/county local programs should be promoted as a model for those communities that have more than one group working on the DWI problem.

1-D: Data and Records

Advisory

States should establish and maintain records systems for crashes, driver licenses, and vehicle registrations.

Status

The Traffic Records files of the Traffic Safety Bureau (TSB) are accurate and timely. These data are displayed in a format that makes the information a valuable tool for community problem identification.

A major accomplishment since the 1991 assessment has been a legislative change making metro court a court of record.

The linking of data files has improved since the 1991 assessment. However, there are still gaps in database linkage between key agencies. A study was requested by the Speaker of the House and the Senate President Pro Tem which called on the Los Alamos National Laboratory (LANL) to "lead a task force of state information technology personnel who will identify record management, access and computational obstacles". The goal of this project was to improve the gathering, sorting, and dissemination of DWI information. As well, the 1993 legislative session committed a total of 18 million over the next several years to develop a computerized traffic safety information system. This system is to be completed by 1996. A comprehensive report was produced. The LANL report recommends that the DWI Process and Data Standards Committee continue to operate.

There is no identified point where DWI data integrity is audited. Individual agencies are automating for the first time or are enhancing/upgrading current automated systems. These systems may not communicate with each other. Additionally, the end user may not have access the data. .

The state is moving toward the implementation of imaging of hard copy records, especially regarding crash records. MVD talks favorably of the concept.

No bilateral agreement has been entered into between the State's MVD and the Tribes.

Recommendations

- Reestablish the DWI Process and Data Standards Committee.
- **The DWI process and Data Standards Committee should implement the recommendations of the LANL report.**

- **The DWI process and Data Standards Committee should become a standing committee to oversee the integrity of DWI data.**
- A Traffic Records audit should be conducted on the various systems currently in place.
- **Move forward on introduction of new technology such as Photo Imaging.**

1-E: Evaluation

Advisory

States should evaluate all impaired driving system activities regularly to ensure that programs are effective and that resources are allocated appropriately.

Status

In 1991, the state mainly utilized the Division of Government Research at the University of New Mexico (UNM) to produce traffic crash data. The Traffic Safety Bureau (TSB) conducted mostly administrative evaluations to determine program effectiveness.

Today, the state of New Mexico continues to be a national leader in analyzing and utilizing evaluations. The TSB has expanded the contract organizations that it uses to carry out evaluation activities.

Evaluation is an integral part of the state and local program effort. The TSB takes full advantage of the available traffic records data. TSB has expanded program planning to include the local Community DWI Programs (CDWI).

Recommendations

- The TSB should continue to contract with a variety of Universities and other contractors to conduct impact evaluations.
- The TSB should continue to share results of research with key traffic safety organizations to include local CDWI's and Local DWI Grant Programs.

F: Funding

Advisory

States should allocate funding to impaired driving programs that is adequate for program needs, steady (from dedicated sources) and, to the extent possible, paid by the impaired drivers themselves. The programs should work toward becoming self-sufficient.

Status

The State has a strong funding base for its DWI programs. Funding streams include fees, assessments and taxes as well federal 402, 153 and 410. A majority of these funds flow back to the localities to conduct DWI programs. The program is currently self-sufficient.

Recommendations

- NONE.

2. PREVENTION

Prevention programs seek to reduce impaired driving through approaches commonly associated with public health -- altering social norms, changing risky or dangerous behaviors, and creating protective environments. Prevention and public health programs promote activities to educate the public on the effects of alcohol and other drugs, limit alcohol and drug availability, and prevent those impaired by alcohol and other drugs from driving. Prevention programs are typically conducted in schools, worksites, medical and health-care facilities and community groups. Each state should implement a system of impaired driving prevention programs and is strongly encouraged to work with the public health community to foster health and reduce traffic-related injuries.

2-A: Public Information and Education for Prevention

Advisory

States should develop and implement public information and education (PI&E) programs directed at impaired driving. Programs should start at the state level and extend to communities through state assistance, model programs, and public encouragement.

Status

At the time of the 1991 assessment, the Traffic Safety Bureau (TSB) dedicated a significant amount of funding and coordination efforts to Public Information and Education (PI&E) activities. The assessment recommended continued efforts in coordination, development of campaigns to correct misinformation about alcohol, and development of materials for targeted groups. As the description of the current status given below indicates, the role of the State in PI&E has changed dramatically, with greater local program control and reduced emphasis on state level campaigns and coordination.

New Mexico has a variety of PI&E activities in communities throughout the state. Local PI&E activities are primarily conducted by CDWI groups.

TSB has implemented a high visibility campaign featuring a BAT (Blood Alcohol Testing) theme to increase awareness of sobriety checkpoints, new laws, and underage drinking.

There is no single PI&E theme used by State and local campaigns. There is also no comprehensive PI&E plan nor a single individual designated as a statewide PI&E coordinator. This reflects the decentralization of prevention planning resulting from the Local DWI Grant program.

Many of the materials used in local PI&E campaigns are traditional, though untested, such as Blood Alcohol Level Charts. Materials have not been developed based on target audience testing or research.

Though private businesses have supported other prevention activities, there was no evidence that significant private sector support has been given to produce or distribute PI&E materials.

Local programs have been successful in use of the media to present PI&E messages as well as to cover stories related to DWI prevention activities. There is no coordinated statewide effort to keep DWI issues in the public eye, other than the Alcohol Issues Consortium's efforts.

Recommendations

- **TSB should designate a full-time PI&E Coordinator either in the agency or on a contract basis.**
- The PI&E Coordinator should be responsible for a comprehensive statewide PI&E plan.

2-B: School Programs and Community Youth Programs

Advisory

States should ensure that education and support of student programs, preschool through college and trade schools, play a critical role in preventing impaired driving.

Status

The 1991 assessment report pointed out the need for additional resources and implementation of a comprehensive curriculum in alcohol and drug education. Since that time there has been a significant amount of resources available from Federal and State sources though these appear to be in jeopardy in the near future. The need for programs in colleges and universities was also pointed out. Significant progress has been made in this area.

New Mexico currently receives \$3 million in Federal Drug Free Schools funding and \$1 million in State General Funds for use in substance abuse prevention activities in schools. In addition, there is a DWI fund of \$300,000, supported in part by voluntary contributions held from resident tax refunds.

School based activities cover six major areas including: 1) instruction, e.g. peer education, 2) Student Assistance Programs in every district, 3) intervention and referral services in all schools, 4) drug and alcohol policies, 5) training for staff and students to recognize problems, and 6) community collaboration.

There is no statewide curriculum for substance abuse prevention or for DWI prevention. Specific DWI prevention issues have not been integrated into school health programs in any organized way. DWI prevention is a topic in every driver education course in public and private schools, using a State curriculum set by TSB; the course is mandatory since 1994 for all drivers under 18. The \$1 million in State funds will not be available next year. In addition, recent congressional action has put the future of Drug Free Schools money in doubt.

A community youth prevention program titled Teens Need Teens (TNT) has been implemented in many communities through DOH, TSB, and the local DWI Grant Programs as well as by schools and other organizations. This program is based on the concept of youth empowerment and features alternative activities, skill development, e.g., conflict resolution, and community service. The program requires minimal funds and receives technical assistance from the Department of Health (DOH).

There is no statewide DWI prevention program for youth. DOH has appointed a Prevention Coordinator who provides technical assistance to localities. The Coordinator position was originally funded by TSB seed money. The role of the Coordinator reflects a changing state role as prevention becomes an increasingly local initiative.

DOH has one public health worker in each district assigned responsibility for programs to address alcohol and violence. DOH views impaired driving as a critical component of the alcohol and violence issue. Through this effort DOH offers a program titled, "How Alcohol Effects Your Life", a "train-the-trainer" program implemented primarily in the most rural school districts.

Some localities have recently implemented Teen Courts, a system in which young offenders are tried by their peers. Sentencing is determined by young people in a way that might be more relevant to the young offender in order to "break the criminal cycle". In most localities DWI and violent offenses are

not heard in Teen Court. Courts hear other alcohol related offenses such as possession of alcohol or vandalism. All young defendants, regardless of charge, are required to complete a DWI prevention course, and in at least one community, must complete a substance abuse screening and counseling session.

Drug Abuse Resistance Education (DARE) is available in the fifth grade in all districts. The program has not been emphasized in recent years at the State level. There are currently no plans expansion into other grade levels statewide, although some communities have done so independently.

There are very few Students Against Driving Drunk (SADD) chapters in schools in New Mexico.

The University of New Mexico (UNM) in Albuquerque has a comprehensive substance abuse program developed with funds from the U.S. Department of Education. The program emphasizes risk reduction through development of norms inconsistent with substance abuse. PI&E material reflecting positive norms appear in the widely read campus newspapers. DWI prevention has also been an integral part of campus Student Assistance Programs, health promotion activities, disciplinary policies of the Dean of Students and the University Employee Assistance Program.

Programs on other campuses are being developed through a recently formed consortium.

All individuals between the ages of 18 and 45 applying for their first New Mexico driver's license are required to complete a DWI prevention course titled "None for the Road". The courses are offered locally by private contractors and regulated by TSB.

Driver Education is available in most public schools in New Mexico. The Driver Education curriculum provided by TSB includes a component addressing the effects of alcohol and other drugs on driving performance.

Recommendations

- TSB should coordinate with the DOH Prevention Coordinator to assure inclusion of DWI issues in prevention programs.
- TSB should work with the consortium of colleges to promote substance abuse prevention programs on campuses and to assure that DWI issues are incorporated into these programs.
- TSB and DOH should prepare plans to expand DWI prevention activities in schools to replace programs lost in the event of anticipated funding cuts.

2-C: Employer Programs

Advisory

States should provide information and technical assistance to all employers, encouraging them to offer programs to reduce impaired driving by employees and their families.

Status

Employer programs were not a priority area at the time of the 1991 assessment. Several recommendations were made for increasing the priority and developing several specific initiatives. The current assessment finds this area to still be problematic.

Some large employers and at least one large municipality have developed Employee Assistance Programs (EAP). Employer programs for the traffic safety and the prevention of impaired driving have not been widely promoted or coordinated.

Some local DWI Grant Fund Programs have included EAPs in their prevention efforts through such efforts as providing traffic safety training to employers.

The Network of Employers for Traffic Safety Program (NETS) has not been implemented in New Mexico.

Recommendations

- **Traffic safety programs for large and small employers should be developed and coordinated.**

2-D: Alcohol Availability and Responsible Alcohol Service

Advisory

States should promote responsible alcohol service policies and practices in the retail alcohol service, industry, including package stores, restaurants, and taverns, through well-publicized and enforced laws, regulations and policies.

Status

The major concerns at the time of the 1991 assessment were service to minors and the sale of alcohol through drive-up windows. The current assessment finds that significant efforts are being made toward addressing youth purchasing while efforts to eliminate drive-up windows have been unsuccessful.

New Mexico has a comprehensive alcohol control law. The law provides for licensed outlets for sale of alcohol for both on and off premise consumption. Alcohol by the drink may be sold in bars and restaurants. Alcohol for off-premise consumption may be sold at a wide variety of retail outlets. When an establishment has licenses for on- and off-premise sales, the off premise sales area must be physically separate.

New Mexico allows drive-up window sales for off-premise consumption. Legislation in 1981 placed a moratorium on the issuance of any additional licenses for drive-up windows but legislative attempts to close approximately 300 existing windows has been unsuccessful.

New Mexico law provides for limited restrictions on promotions by forbidding sales at less than 51% of the normal price, thus eliminating “two-for-one” promotions. Happy Hours, at which food is sold at reduced price, are allowed though alcohol cannot be sold at a discount greater than 50%.

The number of licenses for the sale of alcohol is limited by law to no more than one license for each 2,000 inhabitants of a local option area. Local option areas are incorporated municipalities or counties which have voted to allow the licensed sale of alcohol.

All retailers are allowed to sell for on-premise consumption between the hours of 7:00 a.m. And 2:00 a.m. and from 7:00 a.m. to midnight for off-premise consumption. Recent legislation will allow Sunday sales of alcohol for off-premise consumption.

New Mexico has both Dram Shop and Social Host liability. Numerous significant awards have been made to individuals injured by intoxicated drivers who were provided alcohol by licensed servers or social hosts.

New Mexico law requires training for all individuals who sell or serve alcohol for on- or off- premise consumption. A comprehensive standardized course has been developed by the Alcohol and Gaming Division and is provided by certified programs. Currently eight programs have been certified to provide training. In addition, numerous large corporations, such as Pizza Hut, have been approved to provide training to their employees.

Servers are provided buttons with a "U-Turn" theme informing underage patrons that they will not be served.

Following completion of training, servers are certified for five years. Though other penalties might apply, certification is not revoked for violation of alcohol control law or proscribed server procedures.

Since 1953 Native American tribes have had the right to control the sale, possession and use of alcohol by their people. Most nations have maintained complete prohibitions against alcohol on the reservation. Native American residents of the reservation travel to nearby towns to purchase and consume alcohol, often resulting in impaired driving. In addition, a major "bootlegging" industry has developed, providing illegal alcohol on the reservations.

Recent change in New Mexico law will allow wholesale sales of alcohol to the tribes. Tribes will retain the right to determine if they will allow the sale of alcohol on reservations. If tribes elect sell alcohol, they will not be subject to any New Mexico alcohol control regulation. This change creates the potential for dramatically increased availability of alcohol in Native American areas. However, the impact of the law change remains to be seen.

The Department of Public Safety, (DPS) Special Investigations Division is responsible for enforcement of alcohol control laws. There are 20 agents responsible for monitoring 3,700 licensees as well as all legal gaming establishments. DPS works with state and local enforcement.

DPS and state and local enforcement conduct numerous Cops-in-Shops programs in which officers pose as employees of retail establishments to apprehend underage purchasers.

Recommendations

- **The Alcohol and Gaming Division should promote legislation or enact policies to provide server certificate suspension or revocation for violations of alcohol control laws or proscribed server practices.**
- The traffic safety community in New Mexico should continue to pursue legislation to eliminate alcohol sales through drive-up windows.
- The TSB, the DOH, and the Alcohol and Gaming Division should provide support for a comprehensive evaluation of the effect of recent policy changes. allowing wholesale sale of alcohol to tribes.

2-E: Transportation Alternatives

Advisory

States should promote alternative transportation programs that enable impaired individuals to reach their destination without driving.

Status

The availability and coordination of Designated Driver and Safe Ride programs were concerns in the 1991 assessment. The prevalence of such programs remains unknown partially due to the local nature of these efforts and the continuing lack of statewide promotion and coordination.

The extreme rural nature of New Mexico creates the situation where most alcohol sales locations require significant driving time and often over narrow, curved, poorly lit roads. Except in the major metropolitan areas, public transportation is very limited.

Designated Driver programs are used by several local DWI programs. There is no coordinated statewide Designated Driver effort currently. Without this coordination, it is uncertain to what extent Designated Driver Programs are designed and implemented without enabling or promoting excessive drinking.

Many alcohol establishments rely on Safe-Ride programs, in which intoxicated individuals can obtain safe transportation home, and in some cases can have their vehicle towed home by a “Topsy Tow” project.

It is uncertain how widely available or utilized either Designated Driver or Safe Ride programs have been.

Recommendations

- Designated driver and safe ride programs should be monitored to assure that they do not enable excessive consumption of alcohol.
- Alternative transportation programs should provide all clients with materials related to impaired driving and the health risks associated with irresponsible drinking.

3. DETERRENCE

Deterrence programs seek to reduce impaired driving through activities that create the maximum possible fear of arrest and punishment among persons who might be tempted to drive under the influence of alcohol or other drugs. Close coordination with law enforcement agencies at the municipal, county, and state levels is needed to create and sustain the fear of arrest. Equally close coordination with courts and the motor vehicle licensing and registration agency is needed to enhance the fear of punishment. Effective use of all available media is essential to create and maintain a strong public awareness of impaired driving enforcement and sanctions.

Each state should implement a system of programs to deter impaired driving. The deterrence system should include legislation, public information and education, enforcement, prosecution, adjudication, criminal sanction, alcohol and other drug screening/diagnosis/referral to treatment, driver licensing and vehicle registration activities.

[Note: Some of this material is also addressed in Section 4, Driver Licensing and Section 5, Treatment and Rehabilitation.]

3-A: Laws to Deter Impaired Driving

Advisory

States should enact laws that define and prohibit impaired driving in broad and readily enforceable terms, facilitate the acquisition of evidence against impaired drivers and permit a broad range of administrative and judicial penalties and actions.

Status

The 1991 Assessment noted that New Mexico had a comprehensive body of laws to address the impaired driving problem. Some concerns were noted about the impoundment law, whether both blood and breath could be tested and whether the existing juvenile laws served as a deterrent.

Four recommendations were made:

- Make metropolitan, municipal and magistrate courts, courts of record.
- Increase Administrative License Revocation (ALR) suspension to 1 year for those under 21.
- Adopt 08 .
- Establish a felony level DWI offense

These recommendations were included in the 1993 legislative package and most were enacted.

In 1995 it is clear that the New Mexico laws on impaired driving are among the most complete in the nation. New Mexico has enacted laws that:

- Set the per se level at .08 Blood Alcohol Content (BAC).
- Set the per se level at .04 BAC for all commercial drivers.
- Suspend the license of those under 21 who have a .02 or greater BAC.
- Make it illegal to drive under the influence of drugs.
- Define and establish vehicular homicide.
- Prohibit open containers of alcohol in vehicles.
- Authorize police to conduct DWI checkpoints.
- Authorize use of preliminary breath tester.
- Authorize police to require more than one test and test for drugs.
- Create an effective Administrative License Revocation procedure that suspends licenses for refusal of test or for a BAC .08 or greater.
- Provide for increasing penalties for repeat offenders culminating in a felony after 3 convictions.
- Provide harsher penalties for vehicular homicide.
- Suspend licenses of those under 21 for possession of drugs or alcohol.
- Establish victim restitution and assistance programs.
- Provide harsh penalties for driving while revoked.
- Made Metro Courts, courts of record.
- Establish fees paid by defendants to fund treatment and anti-DWI programs.
- Prohibit plea bargains.
- Provide both Dram Shop and social host liability.
- Require registration of kegs.
- Require driver education with DWI education component before licensing.
- Encourages community DWI programs and dedicates funds to support them.
- Make boating while intoxicated illegal.

New Mexico has no glaring shortcoming in the area of recognized anti-DWI law. Rather, most seem concerned with the effects of two new laws that will permit package sales on Sunday and .allow the sale of alcohol on the reservations. These two laws could undue much of the good done the reforms enacted over the last decade.

There is still a concern about the deterrent effects of juvenile law. Juveniles can have up to three misdemeanor charges expunged from their records.

Recommendations

- Seek repeal of the laws that permit Sunday package sales and sales on the reservation.

- Permit sentencing courts access to juvenile records so that appropriate treatment and sanctions can be applied.
- New Mexico should evaluate whether expungement undermines the deterrent effects of the law.

3-B: Public Information and Education for Deterrence

Advisory

States should implement public information and education (PI&E) programs to maximize the public's perception of the risks of being caught and punished for impaired driving.

Status

In 1991, New Mexico had .10 % per se blood alcohol concentration (BAC) law. It was recommended that the public be made aware of the need to lower the BAC to .08 % . Because of this campaign, New Mexico now has a .08% per se law in force. Another 1991 recommendation was to conduct extensive public awareness programs to inform New Mexico citizens of the consequences of the Administrative License Revocation (ALR) law.

In 1995, the status of public information and education for deterrence reasons concerning ALR has improved because of news releases. The current state program is concentrated on one issue, Operation DWI. There are other programs at the county and municipal levels, but are generated through Community DWI task force committees. Programs seasonally focused tend to be on holidays generating higher volumes of traffic and possibilities for multiple traffic offenses. The program at the local level is just beginning to develop and has not been sustained over a period of time.

Recommendations

- Enhance public awareness of Operation DWI.
- Develop statewide messages concerning the overall problem of DWI.
- Develop an educational program for youthful offenders.

3-C: Enforcement

Advisory

States should implement comprehensive enforcement programs to maximize the likelihood of detecting, investigating, arresting, and convicting intoxicated drivers.

Status

In 1991, most law enforcement agencies in New Mexico were using outdated breath testing equipment. Albuquerque was an exception and was able to conduct an effective driving while intoxicated program. Training statewide for the detection and apprehension of the drinking driver needed to be improved.

New Mexico is currently applying pressure on the impaired driver through the use of sobriety checkpoints (SCP). During 1994, local, county and State Police officers conducted 450 SCPs with the apprehension of 2.5 intoxicated drivers per checkpoint. The program, Operation DWI, has proven to be very successful. It is believed to be an effective tool for the prevention of driving while intoxicated. The SCPs are educational and the motoring public in New Mexico can expect confront a SCP at anytime.

With the exertion of a few metropolitan areas, the state continues to use outdated (Intoxilyzer 3000) breath testing equipment throughout the state. There are plans to update the equipment but the procurement process has been hampered and new units have not been purchased in over four years. In sections of the state, away from major metropolitan areas, the accessibility of breathtesting units continue to be a problem. In some cases, if a unit breaks down, there is not another unit to replace it for several weeks. Breathalyzer training and certification is adequate and taught in basic law enforcement schools.

DWI enforcement is one major concern for all departments in New Mexico. Most departments utilize (one city refuses to participate) Operation DWI sobriety checkpoints. Officers are assigned selective enforcement on high alcohol-related crash nights. New Mexico State Police have other duties that hamper their ability to applied full time forces to the problem of the drinking driver. They do use selective enforcement (saturation patrol) on predetermined locations to make the most of their limited manpower. The cities of Albuquerque and Rio Rancho have unique programs and apply sufficient manpower to the problem of the drinking driver.

New Mexico is one of the few states that has trained a number of officers in Drug Recognition Expert (DRE). From information furnished, there are arrest and convictions after utilizing DRE methods. Standardized Field Sobriety Testing (SFST) and Horizontal Gaze Nystagmus (HGN) are taught in basic training and utilized in the field. Police officers have been instrumental in instructing judicial officials the basics of all three methods.

There is an impression among law enforcement officials in New Mexico that even though they strictly enforce the DWI (alcohol and drug) statutes, many cases are not adjudicated because complicated administrative and judicial process lead to a number of dismissals. Law enforcement and judicial officials agree that approximately 15% are not reported to the Motor Vehicle Division (MVD). This will continue to be the case until a statewide system for processing and tracking cases is put into place. Every citation or warrant should be recorded by the Administrative Office of the Courts and electronically tracked to adjudication.

Statistics indicate a disproportionate DWI problem among the American Indian population. Fatal and serious injury crashes occur in and around those locations and highways leading to establishments serving alcoholic beverages. Many reasons were given for this problem, including accessibility to alcoholic beverage, cultural and socio-economic conditions and the need to travel some distances to drink or acquire alcoholic beverages. In some instances, American Indians receive a number of DWI apprehensions on the reservations and still hold a valid New Mexico drivers license.

Blood alcohol concentration levels continue to be high. Since .08 per se has been enacted, law enforcement agencies should provide additional training to their officers in the detection and apprehension of the impaired driver at lower BAC levels. One method to ensure that this takes place is to implement the training and use of preliminary breath testing devices.

State alcohol law enforcement agents are spread thin across the state but continue to provide enforcement efforts at bars and retail establishments in cooperation with local officers. Until the number of Cops-in-Shops programs increase and more pressure applied to the retail outlets, New Mexico can expect alcoholic beverages to reach the youthful offender.

The use of video/audio equipment in the apprehension and prosecution of DWI has been established in some communities.

Local communities through a grant program known as "Community DWI Prevention" has provided important funds for local law enforcement activities. The majority of the funds has been expended for sobriety checkpoints, saturation patrols, public information and education, alternative youth programs, court clerks and monitoring.

Juvenile offenders when cited for DWI are afforded an expungement of their records for three misdemeanors in a two year period. An example of a youthful offender having 2 DWIs expunged between the age of 16 and 17. Citations issued for this offense seems to have little impact on the prevention of the DWI offense.

New Mexico, in cooperation with cellular service, has a DWI citizen's reporting process. By dialing *DWI, a citizen can report an offense of DWI or any other violation observed.

Recommendations

- Continue to enhance to presence of sobriety checkpoints.
- **Purchase and strategically place state of the art breath testing devices.**
- New Mexico State Police and Tribal Police should conduct joint enforcement along major corridors that experience high serious injury or fatal crashes.
- Provide In-Service training for the detection and apprehension of the intoxicated driver at lower levels of blood alcohol concentration.
- **Purchase and provide training in the use of preliminary breath testing devices.**
- Continue developing Drug Recognition Expert programs.
- Participate in the development of a electronic tracking system within the Criminal Justice System.
- Develop a selective enforcement program with emphasis on the repeat offender.
- Continue to fund and provide video/audio capabilities.
- Participate in local Community DWI.
- **Encourage juvenile judicial officials to refrain from expunging DWI offenses from juvenile records.**
- Department of Highway and Transportation should erect metal signs on the shoulder of the highway advertising the use of *DWI..

3-D: Prosecution

Advisory

States should implement a comprehensive program for visible and aggressive prosecution of impaired driving cases.

Status

The main concerns noted in the 1991 Assessment were a lack of prosecutorial resources, plea downs on second and third offenses and the lack of experienced prosecutors in the urban municipal courts and no prosecutors in the rural municipal courts.

Recommendations made in 1991 called for more resources and support for prosecutors, increasing filings in magistrate courts rather than municipal courts, vigorous prosecution of repeat offenders, appellate follow through and granting magistrate courts exclusive jurisdiction over misdemeanor DWIs.

Some of those recommendations have been accomplished. Repeat offenders are being vigorously prosecuted in a few jurisdictions despite some problems with proving prior convictions. Filings in magistrate courts are up by about 20% with a corresponding decrease in municipal courts.

Unfortunately, prosecutorial resources still seem inadequate despite some funding increases enacted by the 1993 legislative session. In Bernalillo County, there are 19 lawyers assigned to prosecute in the 12 criminal Metro Courts. This number includes prosecutors who handle appeals and supervise the section.

DWI cases are filed in the municipal, metropolitan, magistrate and district courts. With the passage of the 1993 reforms, district courts gained original jurisdiction of the newly created DWI felony. Previously, DWI cases came to the district courts only on appeal from the lower courts.

In the metropolitan and magistrate courts, the responsibility for prosecution rests with the District attorney's (D.A.s) offices in the 13 judicial districts. Prosecutions in the municipal courts are carried out by city attorneys, assistant D.A.s on a contract basis or, in some rural areas, by the police officers themselves.

DWI prosecution statistics have remained relatively constant since the 1991 Assessment. approximately 25 % of the DWI cases filed are in municipal court, 30 % in metro court and 45% in magistrate court. The vast majority of cases are resolved by pleas. Conviction rates have averaged around 70% for the last 10 years, according to the DWI citation tracking system. This figure is somewhat misleading due to the fact that

dispositions go unreported in about 15 % of the cases. Spot studies have shown that most of those unreported cases have resulted in convictions, leading one to believe that the actual conviction rate is around 80%. Dismissals have averaged about 15% over the 10 year span. As in 1991, officer unavailability and the speedy trial law are the main reasons for dismissals.

Training for prosecutors can only be described as haphazard. Many D.A.'s offices try to hire lawyers who participated in the D.A. clinical law program while in law school. The only training received seems to be in-house and on the job. Neither funding nor manpower appear to be available to permit prosecutors to receive training from other sources.

Prosecutors expressed frustration with the cumbersome procedure necessary to prove prior DWI convictions and an inability to secure documentation. A study was conducted by Los Alamos National Laboratory (LANL) and several recommendations were made that address the problem. Also causing frustration is the fact that most municipal and magistrate courts are not courts of record. This permits the defendant two bites at the apple in that an appeal to district court results in a trial de novo. This forces the state to try the case twice to get a conviction. Statistics show that repeat offenders are a significant problem in the state, yet there is no concerted prosecution effort to target and punish repeat offenders.

Police officers who must present their DWI cases have been given a training manual. They are still overmatched when the defendant hires counsel.

Recommendations

- Seek to implement LANL report recommendations on prior convictions.
- **Make all courts, courts of record.**
- Develop standardized prosecutor training program through the New Mexico Institute of Public Law.
- **Develop and implement a statewide program to target and prosecute and punish the repeat offender.**

3-E: Adjudication

Advisory

States should implement a comprehensive impaired driving adjudication program to ensure the effectiveness of prosecution and enforcement efforts.

Status

The 1991 Assessment found that the urban courts had very large dockets and that rural courts had a severe lack of resources and support services. That situation has not changed. A study by the National Center for State Courts found that the Metro Courts needed at least 3 more courts to handle the volume of cases filed on the criminal side. The legislature created these new courts and the Governor vetoed them.

The judicial system in New Mexico has two branches. The state court branch includes the Supreme Court, Appellate Court, District Courts, Magistrate Courts and Metro Court, and is managed by the Administrative Office of the Courts. Municipal courts comprise the other branch. The branches operate independently of each other and are separately funded. New Mexico has a Judicial Education Center, which is relatively new and operates under the Institute of Public Law. This Center will provide training for both branches. It receives some of the funding from a \$1 cost added to each citation.

In the past, training for the judges was done at the National Judicial College, through the bar association, judicial conclaves and though teleconferencing in the rural areas. Judges also receive training from law enforcement in technical areas of DWI.

On the local level, the state and municipal courts are beginning to work more closely. In Colex county, for instance, the municipal judges are invited to district/magistrate court meetings and joint policy positions are adopted and adhered to. When judges deviate from policy, they are called upon to explain why in this forum.

The New Mexico justice system is unusual in that the majority of DWI cases in the state are heard by non-lawyer judges. Metro Court judges are required to be lawyers with at least 3 years of experience. Municipal and magistrate court judges are not required to be lawyers and few, if any are. This does not seem to present a problem. The disposition rates in the magistrate and municipal courts track those of Metro Court very closely.

The Metro Court is a court of record, thereby limiting appeals. Neither municipal nor magistrate courts are courts of record, necessitating a trial de novo upon appeal to the district court.

Metro is a hybrid municipal/magistrate court and is 15 years old. Metro Court is the only non-district court to actually have a probation department to supervise defendants. They also have a pretrial services division to expedite release of defendants on bond. Probation supervises the screening of defendants and monitors their compliance with the courts sentence. Most of the other courts have very little ability to monitor compliance and it appears that the non-compliance rate is substantial. Defendants sentenced by the Metro Court are required to attend a victims impact panel and do community service.

San Juan County has started a program that may become a model for the state. A judge has adopted a policy that requires all first time DWI offenders to spend 28 days in a treatment and incarcerative

facility patterned after a program in Prince Georges County, Maryland. The program has been in operation for 10 months with 250 participants. Only two have been re-arrested for DWI. Employed offenders in the program are released to go to work but spend nights and weekends in the facility participating in various treatment modalities. Treatment is diverse and culturally based and makes use of a sweat lodge. Follow-up continues through the Defendant's six month probation period. This is particularly appropriate in view of the fact that about 80% of all DWI offenders in San Juan County are American Indians. The program is funded by a \$500,000 DWI grant, supplemented by city and county funds.

Resources are so lacking that a Farmington municipal judge has the only municipal court probation officer in the state. This could only be accomplished by giving up a secretary position and forfeiting some of the judge's own benefits. The probation officer handles scheduling of offenders for programs and monitors compliance.

Problems similar to those cited in 1991 remain. Police and prosecutors testified to a lack of consistency in sentencing. The legislature has addressed the problem by making more aspects of sentences mandatory.

The most serious problem remains the large percentage of unreported dispositions. Over the last 10 years, on average, 15 % of all dispositions are not reported. As noted, most of the missing dispositions are convictions. If the disposition is not reported, the conviction essentially does not count.

Some of the missing dispositions are the result of clerical error. Others are alleged to be the result of an agreement between the judge and the offender whereby the offender pleads guilty and the judge agrees not to place the conviction on the defendant's record. This essentially becomes a deferred adjudication even though New Mexico's laws have no such provision.

There are 16 Indian reservations in New Mexico. Each of these is a sovereign entity with its own tribal code and tribal justice system. Convictions in tribal courts are not reported to the state.

Recommendations

- **Make all courts, courts of record.**
- Provide probation services to all DWI sentencing courts.
- TSB should study San Juan County's program and try to interest other courts in replicating it.
- Statutorily prohibit suspended imposition of sentence for DWI.

3-F: Licensing

Advisory:

Driver licensing action can be an effective means for preventing, deterring, and monitoring impaired driving. In addition to the license sanctions for impaired driving offenses discussed earlier

Status

New Mexico does not have a graduated (provisional) driver license system. A learner's permit is permissive rather than mandatory. The idea of a graduated driver license system is to help beginner drivers learn to drive step by step by controlling their progression toward full driving privileges. Restrictions are placed on the license and lifted gradually and systematically until the driver graduates to an unrestricted license. It helps in two ways. It ensures that new drivers accumulate the behind-the-wheel experience in low risk settings. It also means drivers are older and maybe more mature by the time they get their regular licenses. If a youthful driver in New Mexico does not complete a behind-the-wheel driver education course, they tend to learn to drive by trial and error and are over represented in the number of traffic crashes.

The driver manual has not been updated with the new laws nor has it been reprinted since January 1993. The manual should be a source of updating new drivers on safe driving and rules of the road. The driver's manual should readily provide references to the younger driver on what he/she must do to obtain a driver's license.

Recommendations

- **TSB and MVD need to open communication to ensure an effective traffic safety programs**
- TSB and MVD should explore the feasibility of a full graduated license program and it's affect on highway safety.
- **TSB and MVD should explore the possibility of creating an interactive computerized driver manual and make it available to the public and private schools in the state.**

4. TREATMENT AND REHABILITATION

Many first-time impaired driving offenders and most repeat offenders have substantial substance abuse problems that affect their entire lives, not just their driving. They have been neither prevented nor deterred from impaired driving. Each state should implement a system to identify and refer these drivers to appropriate substance abuse treatment programs to change their dangerous behavior.

Advisory

States should have a systematic program to evaluate persons who have been convicted of an impaired driving offense to determine if they have a significant alcohol or other drug use problem.

States should establish and maintain programs to treat alcohol- and other drug-impaired persons referred through traffic courts and other sources.

Status

At the time of the 1991 assessment, screening was not required and there was no system for assuring availability of or compliance with screening, referral, and treatment of DWI offenders.

The report recommended implementation of such a system and the development of innovative treatment programs.

Since the last assessment New Mexico has mandated screening for all drivers convicted of DWI. Drivers are required to complete screening and any prescribed treatment prior to license reinstatement. Screening and treatment are not substituted for other sanctions.

Albuquerque, the largest jurisdiction, screening has been provided on a contract basis by a private provider. The Metro Court will discontinue this arrangement and develop its own in-house screening capability.

Many smaller localities have had difficulty providing screening services.

Department of Health (DOH) is responsible for setting screening standards for programs they fund. At this time, there are no state supported programs.

DWI schools, required of all first offenders, do not currently conduct screening.

No agency has responsibility for setting standards, developing, or monitoring a comprehensive screening, referral and treatment system for DWI offenders. This results in fragmented services and lack of cohesive driver treatment plans.

There is a critical lack of availability of treatment services appropriate for DWI offenders in New Mexico. There are several impediments to development of appropriate services. There is a lack of funding for new programs. This situation is exacerbated by the inability of most services to qualify for third party reimbursement. In addition, no agency has taken the lead in development and coordination of treatment services capable of providing services appropriate for convicted impaired drivers. The state does not require or provide program certification which is required to obtain optimal third party payor recognition.

A significant amount of Local DWI Grant Program funds have been assigned to outpatient treatment. However, it is unclear what services are being provided. Several local programs are implementing non-traditional treatment approaches which are often untested with the DWI population.

An innovative intensive treatment program for DWI offenders has been opened in San Juan County. The program is based on the treatment jail concept developed in Prince Georges County, Maryland. Offenders are sentenced to a minimum 28 days in jail. While incarcerated offenders receive inpatient treatment. Following initial treatment, offenders are assigned to work release which might include training or apprenticeships. The program has been implemented with \$500,000 from the Local DWI Grants Program, funds from the county and municipalities and in kind services from local businesses.

The treatment provided in the San Juan County program incorporates several components of traditional Native American culture such as sweat lodge and Medicine Man. The extent of cultural components in other screening and treatment programs is unknown.

Recommendations

- **New Mexico should establish a comprehensive screening, referral, and treatment system for DWI offenders.**
- The DWI treatment system should include standardized screening.
- **Screening for first offenders should be conducted by the DWI schools.**
- Screening for second and subsequent offenders should be conducted using standards and procedures set by DOH.
- All offenders referred for treatment should receive treatment only from agencies approved by DOH.
- The DWI treatment system should include procedures for monitoring offender progress and providing certification of completion of treatment plans prior to

reinstatement of the driver license.

- DOH should assist treatment programs to meet standards required for public and private third party reimbursement for services provided to referred DWI offenders.
- **TSB should study the San Juan County treatment/incarceration program and, based on findings, replicate it in other regions of the state.**
- **All screening and treatment services should incorporate cultural components relevant to the specific client populations.**

5. DRIVER LICENSING

Motor vehicle administrators are in a unique position to address highway safety problems. They routinely come in contact with every driver on a formal basis. Programs implemented by the motor vehicle agency can prevent or deter the incidence of impaired driving as well as effect the treatment and rehabilitation of impaired drivers. For example, controls in the licensing process can prevent the issuance of a license to an individual with an alcohol or other drug problem, and the use of administrative license revocation (or suspension) can deter impaired driving.

5-A: Prevention

Advisory

Each state should have a licensing/registration system that reinforces the deterrence and prevention of impaired driving, as well as fosters the treatment and rehabilitation of impaired drivers.

Status

The 1991 Assessment indicated New Mexico vehicle laws provides the New Mexico Motor Vehicle Division (MVD) with authority to maintain driver license records. The current driver licensing system is almost independant of other supportive systems in the Division. Reliable data are often lost. In some areas of the State, magistrates and other judges often do not file dispositions with the MVD. Tribal counts do not currently provide MVD with data on DWI court activity within their jurisdiction. Data which reflect sentencing are nearly nonexistent on the computerized record systems. When data are available, as in cases sentenced to DWI Schools, it is not encoded for data entry. There is no linkage with other subsystems such as vehicle registrations, making it difficult to match drivers with their vehicles to assist in the implementation of existing statutes on vehicle impoundment.

The existing system does not reflect the special requirements of the State's youth. The driver's manual, which is primarily utilized by the youth of the State, is the initial contact with the Motor Vehicle Code. The updated version does not reflect drug and alcohol-free themes. The information is not presented in a manner which reinforces deterrence and prevention of impaired driving as it applies to the youth.

It is a felony to alter, forge, or counterfeit a driver's license, however, there is little or no enforcement of this provision. Illegal activity surrounding this issue is rampant.

New Mexico does not have a distinctive license for youth under the age of 21. The administrative sanctions for operation under the influence by minors are limited. The law states that offenders under the age of 18 will have licenses administratively revoked for 6 months on their first offense with a BAC in excess of .05 % and one year on the second offense.

One of the recommendations made in the 1991 assessment was to create a "tamper resistant" Driver's license distinctive for those under 21. Holographic image, magnetic strip licenses should be issued. This recommendation is in the final stages of implementation and is anticipated for MVD to start issuing the new driver's license by summer of 1996.

Another recommendation was to expand the definition of youthful DWI offender to include all under the age of 21. This has been accomplished with the passage of a comprehensive DWI legislation package that became law in 1993.

The current computerized driver license file does not contain complete DWI conviction information. The problem continues to exist of disposition data being incomplete. It is still reported that in some areas of the State, courts are not sending the judgment abstract to MVD to update the driving record. If MVD receives a judgment abstract from a Tribal court, the driving record will reflect the conviction. However, it is virtually non-existent for the Tribal courts to send any DWI conviction abstract to MVD.

A new statutory mandate requires all new license applicants age 45 and younger to complete a DWI prevention school. This program can either be taught in a school based driver education class or by private contractors. Although this program may be burdensome to the public and to MVD, it is an excellent program ensuring all New Mexican drivers are informed of the State's DWI laws.

Traffic Safety Bureau (TSB) and MVD are not corroborating on presentation of information to the general motoring public. There appears to be little effort between the two agencies to coordinate programs and campaigns. Motor Vehicle field offices are an excellent resource for informing the motoring public about DWI and other traffic safety laws. Television monitors with traffic safety video's could be installed in the MVD field offices. TSB and MVD should work jointly in exploring cost effective means of developing public education and information programs.

New Mexico does not have a graduated (provisional) driver license system. A learner's permit is permissive rather than mandatory. The idea of a graduated driver license system is to help beginner drivers learn to drive step by step by controlling their progression toward full driving privileges. Restrictions are placed on the license and lifted gradually and systematically until the driver graduates to an unrestricted license. It helps in two ways. It ensures that new drivers accumulate the behind-the-wheel experience in low risk settings. It also means drivers are older and maybe more mature by the time they get their regular licenses. If a youthful driver in New Mexico does not complete a behind-the-wheel driver education course, they tend to learn to drive by trial and error and are over represented in the number of traffic crashes.

The driver manual has not been updated with the new laws nor has it been reprinted since January 1993. The manual should be a source of updating new drivers on safe driving and rules of the road. The driver's manual should readily provide references to the younger driver on what he/she must do to obtain a driver's license.

Recommendations

- **TSB and MVD need to open communication to ensure an effective traffic safety programs.**
- TSB and MVD should explore the feasibility of a full graduated license program and it's affect on highway safety.
- TSB and MVD should explore the possibility of creating an interactive computerized driver manual and make it available to the public and private schools in the state.

5-B: Deterrence

Advisory

The state driver licensing agency should support the passage and implementation of laws to deter impaired driving.

Status

As summarized in the 1991 Assessment, by statute, the Motor Vehicle Division (MVD) is the sole repository of the most comprehensive file of information existing on the convicted impaired driver. MVD reissues licenses based upon completion of the time period of revocation. MVD has an extremely small staff assigned to the numerous steps for the processing of DWI data. Many data elements essential to the relicensing process are not captured.

The process of relicensing only examines the time frame of the revocation originally imposed. The Division will approve reapplication by an individual if the proper reinstatement fees have been paid.

The license revocation period is one year for first and second offense, and five years for offenders with three or more offenses. Most cases are prosecuted as a first offense, the vast majority have sanction of one year license revocation. First offenders sentenced to DWI school face no conviction-based revocation.

the Division has taken a lead in establishing administrative revocation hearings. There are three hearing officers charged with holding of these hearings. They are viewed by the Division as mini-trials and used by defense attorneys for discovery purposes. All cited drivers within the State are afforded the opportunity to present their case prior to implementation of revocation action by the Division.

Of the recommendations made in the 1991 Assessment, there are several which have been implemented or are in the process of being implemented. The Administrative Hearing Office has increased the hearing officer staff by one additional hearing officer.

The State of New Mexico should be commended for passage of legislation in 1993 setting the legal limits of DWI at .02 BAC for individual's under 21 years of age and .08 BAC for those 21 or older.

Because New Mexico does not have a graduated driver license program, a youth-oriented and prompt driver improvement program is not in place. MVD has a program for sanctioning drivers administratively for DWI and for refusal to submit to a breath test, however it appears juveniles rarely are adjudicated for DWI or possession of alcohol. Many of them are released by youth probation without any sanctions other than the driver license revocation by MVD. The system has different penalties for different age groups. These age groups are 17 years of age and under, 18-20 year olds, and those over the age of 20. Juveniles are not treated as adults as it pertains to traffic offenses.

Approximately 77% of driver's arrested for DWI receive an administrative license revocation within 20 days from the date of arrest. An additional 23 % request an administrative hearing. The hearing must be held and a decision rendered within 90 days from the date of arrest. It appears overall average of the number of days from arrest to revocation is approximately 45 days.

New Mexico's DWI programs consisting of the Community DWI (CDWI), Operation DWI checkpoints and Local DWI Grant Programs and receiving overtime funding on the front end of these programs for enforcement.

The overtime funding for enforcement impacts other agencies. Prosecutors, Courts, and MVD impacted by enforcement DWI countermeasures.

Recommendations

- **When funding overtime enforcement for DWI programs. TSB and other agencies should consider funding for programs in prosecution, courts administration and MVD for processing DWI data.**
- Juvenile traffic offenses should be treated the same as if the offense was committed by an adult.
- Juvenile probation should seek prosecution and adjudication for any alcohol related offense. Thus, juveniles should be held to some accountability for their actions.

5-C: Treatment and Rehabilitation

Advisory

States should utilize all information available from the motor vehicle agency to assist in the treatment and rehabilitation of impaired drivers.

Status

New Memo law requires all DWI offenders to submit to screening and treatment. Motor Vehicle division (MVD) assumes a person has completed all court ordered screening and treatment at the time of license reinstatement and does not require proof of completion or compliance with a treatment program. MVD has a provision in statute which regulates the use of a Medical Advisory board, however, the Board is used in a limited capacity and not for the identification of the problem drinking driver.

Recommendations

- The role of the Medical Advisory Board should be expanded to set standards for and make determinations of the habitual drinking driver.

5-D: Program Management

Advisory

The state should ensure the effective use and dissemination of motor vehicle and driver record information.

Status

As the 1991 Assessment pointed out, the State of New Mexico has a uniform traffic citation which is effectively utilized by its many police agencies. This provides standardized documentation for the courts and Motor Vehicle Division (MVD).

MVD fails to systematically update police, prosecutors, and judiciary of regulatory and statutory changes which can effect daily operation of these constituencies.

Currently driving records in New Mexico are available to law enforcement and the courts. Due to the lack of computer technology, the records are not available to law enforcement for immediate on-the-road access. The driving record is available to the judiciary when sentencing DWI offenders, however, due to some of the courts not reporting DWI conviction abstracts to MVD the records are not always complete. Therefore, the courts do not rely on computerized driving records instead continue to rely on hard copy court conviction abstracts.

Recommendations

- The MVD should provide timely notification to all police agencies, judges, magistrates, and prosecutors of all changes within vehicle and traffic statutes and MVD procedures.
- The Commission on Judicial Conduct should hold each judge or judicial court accountable for the submission of the court abstracts to MVD.

6. TECHNICAL ASSISTANCE TEAM

Vincent M. Burgess

6000 Watch Harbour Road
Midlothian, VA 23113
(804) 739-3354

Transportation Safety Administrator
Virginia Department of Motor Vehicles

PAST EXPERIENCE

- *Program Director*, Virginia Department of Transportation Safety
- *Administrator*, Virginia Alcohol Safety Action Program, Department of Transportation Safety
- *Program Manager*, Virginia Alcohol Safety Action Program, Highway Safety Division of Virginia
- *Program Coordinator*, Portsmouth/Suffolk Alcohol Safety Action Program, Portsmouth, VA
- *Production Planner*, National Planning and Control Department, Johnson and Johnson International, Milltown, New Jersey

CONSULTING ACTIVITIES

- *Governor Appointed Member*, State EMS Advisory Board
- *Governor Appointed Member*, Virginia Alcohol Safety Action Program Commission
- *Member*, Virginia Traffic Safety Research Advisory Committee
- *Member*, American Society of Public Administration
- *Member*, National Association of Drug and Alcohol Highway Safety Administrators
- *Member*, NHTSA Review Committee on National Traffic Safety Planning
Member, Virginia Association of Traffic Engineers
- *Board Member*, National Association of Governor's Highway Safety Representative
- *Chairman*, Professional Development Committee
- *Member*, Ad Hoc Advisory Board to the Virginia Alcoholic Beverage Control Board
- *Chairman*, Transportation Subcommittee of Virginia Injury Prevention Task Force
- *Board Member and Past Treasurer*, Washington Regional Alcohol Program
- *Impaired Driving Assessment Team*, New Mexico, National Highway Traffic Safety Administration

William S. Ethridge

3321 Barnsley Lane
Raleigh, NC 27804
(919) 872-6174

Director - North Carolina NETS
Consultant - Traffic Safety

PAST EXPERIENCE

- *Major, NC Highway Patrol, 33 years*

CONSULTING ACTIVITIES

- *Facilitator, Management Systems Seminars in Chemical/Radiological Techniques*
- *Consultant, Network for Employers for Traffic Safety (NETS)*
- *Impaired Driving Assessment Team, West Virginia, Alaska (NSTSA)*

ORGANIZATIONS AND APPOINTMENTS

- *Member, Governor's Response Committee*
- *Chair, Training Sub-Committee*
- *Member, Governor's Radiation Sub-Committee on Response*
- *Advisory Member, Triangle J. Council of Government*

Juanita Hensley

P.O. Box 20020
Juneau, AK 99802
(907) 465-2650

Division of Motor Vehicles
Department of Public Safety

PAST EXPERIENCE

- *Chief*, Driver Services, Alaska Department of Public Safety, Division of Motor Vehicles
- *Supervisor*, Conviction Section, Driver Services, Alaska Department of Public Safety, Division of Motor Vehicles

CONSULTING ACTIVITIES

- *Board Member*, Certified Driver Examiner Board of Directors; American Association Motor Vehicle Administrators (AAMVA)
- *Member*, American Association Motor Vehicle Administrator Driver License and Control Standing Committee
- *Board Member*, Capital City Chapter, Alaska Peace Officers Association
- *Member*, Juneau Mayor's Task Force on Youth

Judge Tim Johnson

County Court 5, Suite 2162
Bexar County Justice Center
San Antonio, TX 78205
(210) 220-2567 (Office)
(210) 691-1255 (Home)

AWARDS

- *Tenacity Award*, Community Alliance For Traffic safety, 1989
- *Outstanding Young Alumni*, Illinois State University, 1990

PAST EXPERIENCE

- *Assistant Criminal District Attorney*, Bexar County
- *Lecturer*, Criminal Justice/Student Legal Advisor, Southwest Texas State Univ.
- *Vice President and General Counsel*, Newell Recycling Company, San Antonio, TX
- *Judge*, County Court 5
- *Lecturer*, Criminal Trial Practice, San Antonio College
- *Adjunct Professor*, San Antonio School of Law

CONSULTING ACTIVITIES

- *Impaired Driving Assessment Team - Connecticut, Colorado, Montana, and Alaska, North Carolina*, National Highway Traffic Safety Administration

ORGANIZATIONS AND APPOINTMENTS

- *Advisor*, Treatment Alternatives to Incarceration Program (TAIP)
- *Advisor*, San Antonio Safety Counsel
- *Advisor*, Crimestoppers of San Antonio
- *Advisor*, Community Alliance for Traffic Safety
- *Lecturer*, AACOG Law Enforcement Academy
- *Alumnus*, National Judicial College .
- *Administrative Judge*, County Courts
- *Lecturer*, Continuing Legal Education, State Bar of Texas, San Antonio Bar Association, Texas Center for Judiciary.
- *Creator*, DEAD Program (Drug Education and Diversion)
- *Member*, Jail Population Committee
- *President*, Texas Court at Law Judges Association, 1993-94

Robert P. Lillis

58 Scotland Road
Canandaigua, New York 14424
(716) 394-5811

University of Rochester
School of Medicine and Dentistry,
Department of Community and Preventive Medicine
Principal Investigator, Research Accident Investigation Team
Injured Driver Project, Detection of Drugs Study

PAST EXPERIENCE

- *Manager*, Traffic Injury Prevention Projects, New York State Department of Health
- *Instructor of Epidemiology*, New York State School of Public Health, State University of New York at Albany
- *Project Director*, New York State Division of Alcoholism
Special Highway Safety Policy Analysis Project
- *The Research and Evaluation Support System*, Youth Alcohol Study
- *Research Scientist*, B.R.X., Inc.
- *Action*, Older American Evaluation Project
Acting Director of the Planning, Research, and Evaluation Unit, Illinois
Dangerous Drugs Commission
- *Research Assistant*, National Action Committee, U.S. Office of Education National Drug Education Project

CONSULTING ACTIVITIES

- *Special Consultant to the U. S. General Accounting Office*: methodological reviews of-minimum drinking age laws (1985); motorcycle helmet laws (1991); mandatory seatbelt laws (1992)
- *Evaluation Consultant to the Children at Risk Project* (Funded by U.S. Office of Substance Abuse Prevention)
- *Evaluation Consultant to Project Survival*, National Center for the Furtherance of Jewish Education
- *Consultant on the Rural Drug Abuse Study*, Conducted by B.R.X., Inc, for the National Institute on Drug Abuse
- *Impaired Driving Assessment Team: Maryland, Arizona, California, Texas, Connecticut, West Virginia, Wisconsin Oregon, and North Carolina*, National Highway Traffic Safety Administration

ORGANIZATIONS AND APPOINTMENTS

- *Member*, International Committee on Alcohol Drugs and Traffic Safety,
- *Research Consultant*, Governor Carey's Task Force on Drunk Driving
- *Former Membership Chair*, Section on Alcohol and Drug Abuse, American Public Health Association
- *Former Member*, Executive Committee of the Council on Alcohol Policy, National Association of Public Health Policy
- *Chairman*, Evaluation Committee, American Red Cross Cholesterol Screening Pilot Study

AGENDA

New Mexico Impaired Driving Reassessment Agenda June 18-24, 1995

Sunday, June 18, 1995

4.00 - 5:30pm

Welcome

Steven Flint, Traffic Safety Bureau Chief
Joanne Schirmer, DWI Program Manager

6:00pm - 7:00pm

Reception

Monday, June 19, 1995

8:30am - 9:30am

Overview

Background on Laws & Status
New Mexico DWI Policy

Steven Flint, Traffic Safety Bureau Chief
Fred Nathan, Attorney General's Office

9:30am - 9:45am

Break

9:45am - 11:45am

Enforcement

Checkpoint Program
State Police DWI Enforcement
DWI Enforcement Training

Calvin Shields, Safer New Mexico Now
Sgt. Mark McCrackin
Jim Allison, Safer New Mexico Now

1:45am - 1:00pm

Lunch

1:00pm - 2:00pm

Enforcement (cont.)

Other Enforcement
DWI Chemical Testing
APD Chemical Testing
DECP in New Mexico

Capt. Robert Force, Rio Rancho DPS
Jeff Robb, DOH Scientific Laboratory
Julian Atencio, Albuquerque PD Criminalistic
Guy Walton, Albuquerque PD Criminalistic

2:00pm - 3:30pm	<i>Administrative License Revocation</i>
Police Perspective	Capt. Robert Force, Rio Rancho Sgt. Dennis McCarthy, Rio Rancho DPS.
Hearing Scheduling Hearing Officer Perspective Legal Perspective	Yolanda Salazar, Motor Vehicle Division Jerry Richardson, Motor Vehicle Division Lewis Terr, Taxation & Revenue Dept.
3:30pm - 3:45pm	<i>Break</i>
3:45pm - 5:15pm	<i>Records</i>
Overview Proving Priors MVD Perspective Court Automation Initiative	James Hall, Los Alamos Task Force Carolyn Johnson, UNM Institute of Public Law Frank Mulholland, Motor vehicle Division Wally Kuencer, Administrative Office of the Courts

Tuesday, June 20, 1995

8:30am -10:00am	Prosecution, Trials and Sentencing Around New Mexico
Overview & Prosecution	Sherry Scott, Certified Paralegal, DA's Office, Alamogordo
Farmington DWI Rural Area DWI	Judge Bill Liese, Farmington Municipal Court Judge Vickie Hudson, Angel Fire Municipal Court
10:00am -10:15am	<i>Break</i>
10:15am -11:45am	<i>Trials and Screening - Albuquerque</i>
Overview Judicial Perspective	Linda Atkinson, DWI Resource Center Judge Michael Kavanaugh, Bernalillo co. Metro Court
Administrative View	Bennina Armijo-Cisneros, Metro Court Administrator
11:45am - 1:00pm	<i>Lunch</i>

1:00pm - 2:00pm

Overview
Police View of Metro Ct.
Felony Prosecution

Prosecution - Albuquerque

Joanna Aguilar, Deputy District Atty, Bernalillo Co.
Lt. Brian Baldwin, Albuquerque Police Dept.
Joanna Aguilar, dep. District Atty, Bernalillo Co.
Phil Cheeves, asst. Supervisor Albuquerque Metro
Court

2:00pm - 3:30pm

Treatment for DWI
DWI School

Post-Trial Processes

Dr. Phillip May, UNM CASAA
Modesto Montano, NM Traffic Safety Bureau

3:30pm - 3:45pm

Break

3:45pm - 5:15pm

NM Prevention Overview
Citizen Activism
Driver Licensing
Public Attitudes
Campus Programs

Prevention, Public Information, & Education

Donna Dossey, Dept. Of Health Injury Prevention
Linda Atkinson DWI Resource Center
Janice Laskowki, Pueblo Alegre Inc.
Stuart Castle, Dept. Of Epidemiology
Bo Miller, University of New Mexico

Wednesday, June 21, 1995

8:30am - 9:45am

Youth Enforcement
Teen Courts
School Programs
Health Initiatives

Youth Programs

Officer Jerry McDaniel, Farmington PD
Judge Susan Krueger, Mesilla Municipal Court
Jim Ball, NM Drug Free Schools Program
Muiriel Kirchmier, Dept. Of Health Injury
Prevention

9:45am - 10:00am

Youth Programs

Sgt. Donald Christy, Santa Fe Police Department
Sgt Jeff Dierringer, Santa Fe Police Department

10:00am - 11:00am

Server Training
Enforcement

Alcohol Service

Annjanette Tories, Alcohol & Gaming Division
Richard Menefee, DPS Special Investigationa
Division

11:00am - Noon

Prevention

Native American Programs

Nancy Bill, Indian Health Service

Noon -1:00pm

Lunch.

1:00pm - 3:00pm

Community DWI Prevention
County DWI Planning
Santa Fe Programs
Bernalillo County Program
Sierra County Program
Sandoval DWI Programs

Community Program

Joanne Schirmer, NM Traffic Safety Bureau
Joyce Johnson, Dept. Of Finance & Administration
Nancy Owen Lewis, Santa Fe Municipal Court
Paula Ramsey, City of Albuquerque
Marta Ryals, Sierra County
Sam Miners

3:00pm - 3:15pm

Break

3:15pm - 3:45pm

Dorothy Sloan, Dept.- Of Health Div. Of Substance
Abuse

3:45pm - 5:00pm

Evaluation

Traffic Safety Bureau Staff

Steven Flint, Traffic Safety Bureau
Joanne Schirmer, Traffic Safety Bureau

Saturday, June 24, 1995

8:00am -10:00am

Presentation of Findings and Recommendations

LIST OF ACRONYMS

ALR	Administrative License Revocation
B.A.T.	Breath Alcohol Testing
BAC	Blood Alcohol Content
CDWI	Community DWI Prevention Project
CTSP	Community Traffic Safety Programs
DA	District Attorney
DFA	Department of Finance and Administration
DOH	Department of Health
DPS	Department of Public Health
DWI	Driving While Intoxicated
EAP	Employee Assistance Programs
GR	Governor's Representative
HGN	Horizontal Gaze Nystagmus
LANL	Los Alamos National Laboratory
MVD	Motor Vehicles Division
NETS	Network of Employers for Traffic Safety Program
PI&E	Public Information and Education
SADD	Students Against Driving Drunk
SCP	Sobriety Checkpoints
SFST	Standardized Field Sobriety Testing
TNT	Teens Need Teens
TSB	Traffic Safety Bureau
UNM	University of New Mexico