



# MADD

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## NEW MEXICO COURT MONITORING FOR SIX COUNTIES PROJECT

Interim Report Two

Data: January 2008 through December 2008

Released:

August, 2009

Funded through a contract with the State of New Mexico, Department of Transportation, Traffic Safety Bureau.

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# DWI Court Monitoring for Six Counties Project Interim Report Two– January through December 2008 Released: August, 2009

## Executive Summary

The New Mexico Court Monitoring for Six Counties Project builds upon MADD’s court monitoring experience to accomplish the State’s goals of reducing drunk driving. The objectives of the New Mexico Court Monitoring for Six Counties Project are:

- To compile pertinent information on how DUI/DWI cases are handled;
- To make those involved in the legal system aware of the public interest and concern about the outcome of criminal cases; and
- To report relevant information gathered by the program to necessary entities so that the legal system can be improved.

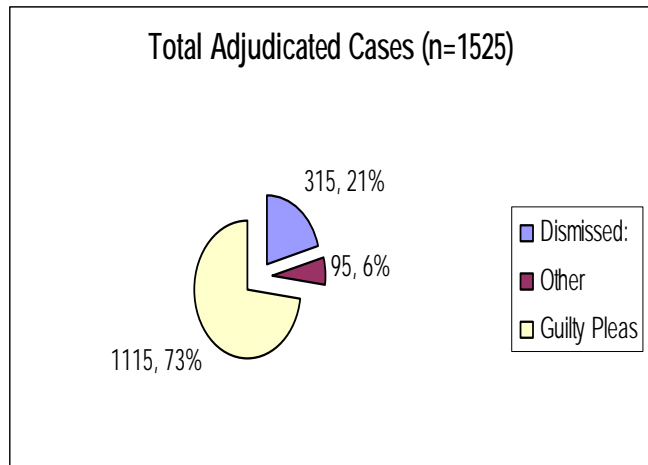
Counties identified for court monitoring activities are: Bernalillo, Doña Ana, McKinley, San Juan, Santa Fe and Rio Arriba. These counties are part of the NMDOT “Impaired Driving Demonstration Project,” an effort funded by the National Highway Traffic Safety Administration to help identify innovative programs that are effective in reducing drunk driving. Court monitoring under the project began in January 2008 and will last through June 2011. The project is not designed to be a scientific, statistical study of all DWI cases adjudicated during the monitoring period, nor does it focus on specific judges, attorneys or courtrooms. Instead it is an analysis of data pulled from cases selected on a random basis by the Court Monitoring Project Specialists who sit in various courtrooms in their counties and observe the legal process.

MADD’s first interim report on the project was released in October 2008, and analyzed data from the first five months of monitoring. This report builds on the first interim report and examines the issues identified in that report to determine if they continued as trends, problems and concerns that need to be further addressed. Specific issues include high dismissal rates, high reduced plea rates and the failure of officers to appear at proceedings. Additionally, this report identifies other issues that emerged as we continued to track cases throughout the year. A summary of the findings of the first and second interim report is included for each county.

**Total Cases Monitored January – December 2008: 2372**

Summary:

Cases Monitored	2372
Adjudicated	1525
Dismissed	315
Guilty Pleas	1115
Pleas to Original Charge	606
Pleas to Reduced DWI Charge	479
Pleas to Non DWI Charge	30
Ignition Interlocks Ordered	1094
Ignition Interlocks Waived (total not available)	



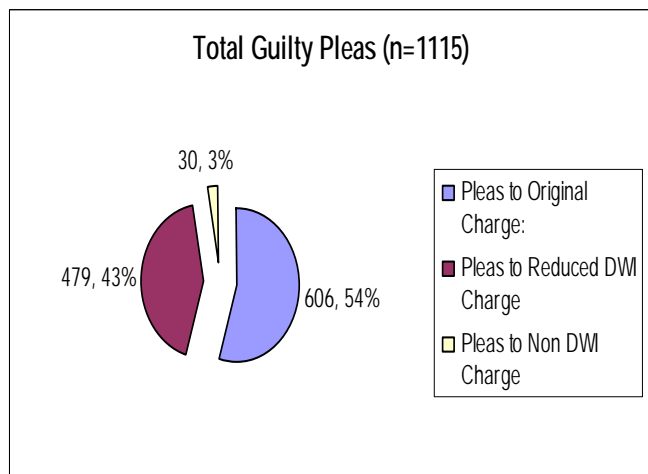
Additional Findings:

Bench Trials: 64

- Guilty after Bench Trial: 37

Other:

- Probation Violations: 31 -Dona Ana County



## Executive Summary (Continued)

### **SELECTED FINDINGS AND RECOMMENDATIONS:**

#### **REDUCED PLEAS FINDINGS:**

The report shows that in three of six counties courts accepted pleas to a reduced DWI charge in more than 50 percent of the cases monitored. Of concern were instances in all counties when defendants charged with aggravated DWI (blood alcohol content [BAC] was greater than .16) were allowed to plead to simple DWI, when defendants with multiple DWI charges were allowed to plead to first-time DWI charges, and cases where reduced pleas were accepted for defendants who had refused alcohol breath testing.

#### **REDUCED PLEA RECOMMENDATIONS:**

To address terms under which reduced pleas should be accepted, MADD continues to urge prosecutors not to offer and judges not to accept pleas to reduced cases from aggravated to simple DWI where the defendant's BAC is greater than .17 or where cases involve multiple DWI convictions (unless exceptional circumstances apply). MADD also continues to recommend additional training for prosecutors (many who have limited courtroom experience) regarding effective interactions with judges, the defense bar, and defendants.

#### **WAIVER OF IGNITION INTERLOCK FINDINGS:**

In McKinley County, alcohol ignition interlocks were ordered in almost all cases (252 county-wide) where DWI offenders were found guilty of a DWI charge; however, in 186 cases in McKinley Magistrate Court the interlock requirements were waived when offenders signed an affidavit attesting that they did not own a vehicle. In Rio Arriba County, ignition interlocks were ordered in all cases (102) where DWI offenders were found guilty of a DWI charge; however, in 35 cases, the interlock requirements were waived when offenders signed an affidavit attesting that they did not own a vehicle. While we were unable to access all the necessary data to track waivers in other counties for this report, we believe significant problems exist. We are making a concerted effort in all counties to determine trends and concerns relative to the waiver of mandatory ignition interlock requirements, including an examination of all Judgment and Sentencing Reports for each case monitored, and working closely with the local DWI coordinators in each county to assess waiver and other issues affecting the prosecution and adjudication of DWI cases.

#### **WAIVER OF IGNITION INTERLOCK RECOMMENDATIONS:**

To address this problem, MADD continues to recommend that probation or compliance units be tasked with determining whether defendants actually have a registered vehicle prior to courts accepting affidavits waiving the interlock requirement. Compliance units should closely monitor these offenders to determine if they are complying with the terms of their sentences, specifically if they continue to drive. Senate Bill 275 which passed in the last legislative session should help this issue as defendants will be required to obtain an interlock before they can apply for a regular license. To fully address the issue, MADD continues to urge the New Mexico Legislature to require electronic alcohol monitoring as an alternative to those DWI offenders who sign an affidavit declaring they have no vehicle or access to one.

#### **KEY RECOMMENDATIONS:**

1. In the First Interim Report, MADD strongly recommended that privately contracted attorneys be replaced with a public defender's office in McKinley County to alleviate substantial delays of police and court time in Gallup Magistrate Court. The legislature has authorized funds for a public defender's office which will be established in late 2009.
2. Amend the Six Month Rule to charge the defense with time for continuances if an officer is present and the defense refuses the opportunity to conduct an interview.
3. Prosecuting Offices should consider adopting a policy whereby reduced pleas or lesser sentences are offered at the earliest date possible in the proceedings, preferably the first pre-trial conference so that defendants know that no further reductions will be offered at a later date. As a result, "wait and see" strategies would not be viable, and the processing of cases would be more efficient for courts, officers and defendants.

4. Require ongoing training for prosecutors, including a clinic at the University of New Mexico (UNM) to provide prosecutorial training for law students. MADD recommended that funding be provided to UNM for such a clinic. MADD and the Governor's Office met with UNM faculty and it appears that funding may be available in the near future. MADD also urges the State Supreme Court to consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI cases.
5. MADD urges prosecutors to discontinue the practice of pleading down aggravated DWI charges when a defendant refuses a breath test. In some cases, courts are allowing pleas to simple DWI and in other cases, to non-DWI traffic offenses in satisfaction of all charges. MADD recommends eliminating the practice of pleading down refusals to simple DWI, except in extraordinary circumstances. MADD also recommends the legislature adopt legislation requiring a plea to a DWI charge in cases where aggravated DWI is charged due to refusing a breath test.

**BERNALILLO COUNTY COURT SYSTEM**  
 Period: January 2008 – December 2008

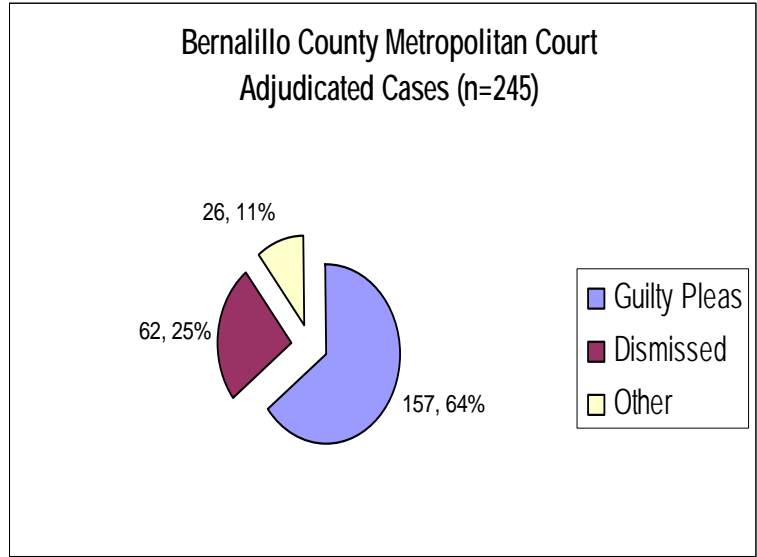
Total Cases Monitored in County During Reporting Period: 282

**FINDINGS**

**Bernalillo County Metropolitan Court**

Summary:

<b>Cases Monitored</b>	<b>282</b>
Adjudicated	245
Dismissed	62
Guilty Pleas	157
Pleas to Original Charge:	100
Pleas to Reduced DWI Charge	57
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	174
Ignition Interlocks Waived	Not Available



**Guilty Pleas: 157 (64%)**

**Pleas to Original Charge: 100 (64%)**

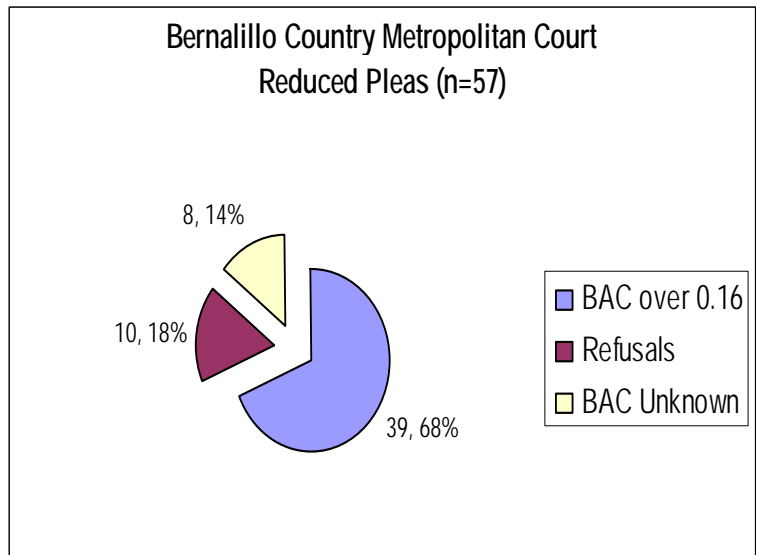
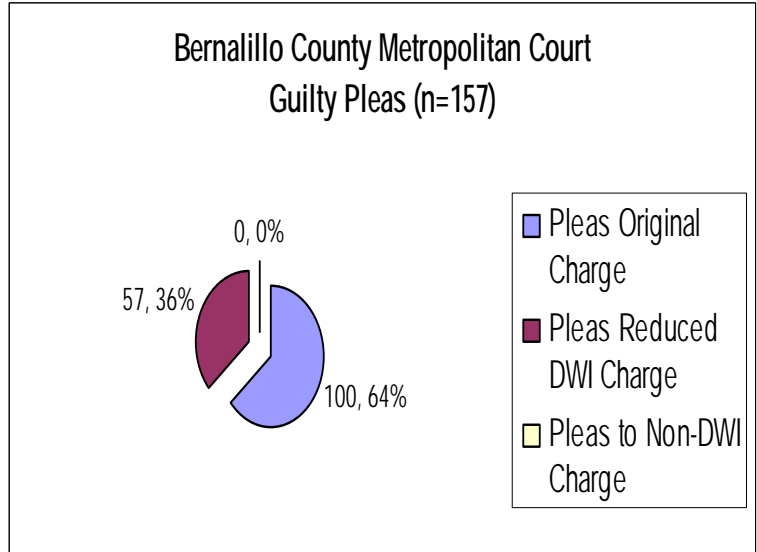
**Pleas to a Reduced DWI Charge: 57 (36%)**

- 39 defendants had a BAC of .16 or above (68%)
- 10 refused to take breath testing (refusals) (18%)
- 8 BAC unknown (14%)

**Pleas to a Non-DWI Charge: 0**

**Bench Trial: 26 (11%)**

- 19 guilty cases after a bench trial
- 7 cases found not guilty after a bench trial



**Bernalillo County Metropolitan Court Continued:**

**Cases Dismissed: 62 (25%)**

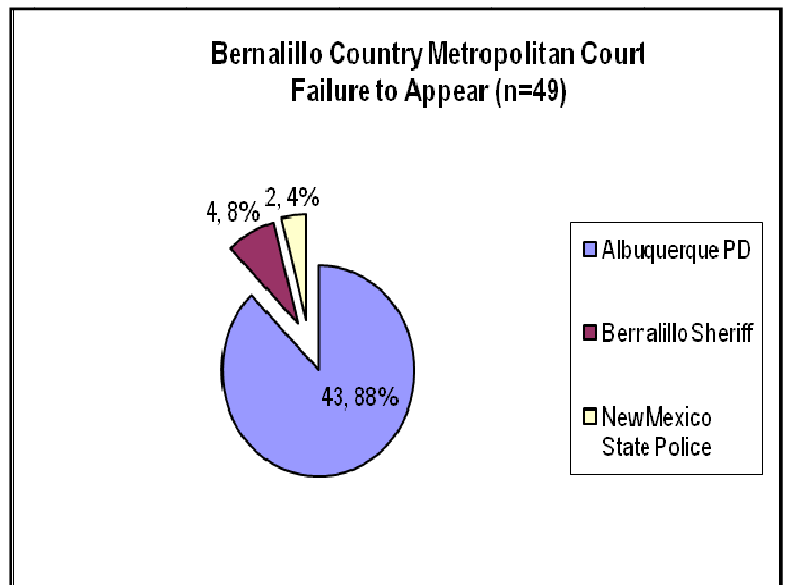
- 49 cases, the officer failed to appear (FTA),
- 1 case dismissed because of expiration of the Six Month Rule
- 5 others attributable to State/Prosecution
  
- **Officer Failure to Appear: 49 (79%)**
  - Albuquerque P.D. 43
  - Bernalillo Sheriff 4
  - New Mexico State Police 2

**Ignition Interlocks:**

- **Ordered: 174 (99%)**
  - Ignition interlock devices were not ordered in two cases involving out of state offenders
- **Waived: Not Available**

**Other:**

- 3 or more continuances granted in 126 cases



BERNALILLO COUNTY

Metropolitan Court

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	28%	87%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	13%	25%
DISMISSALS <i>(Officer FTA/No Discovery From State—Percent Is Of Total Dismissals)</i>	76%	87%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	13%	25%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	87%	64%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	58%	64%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	42%	36%
PLEA TO REDUCED NON-DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	N/A	N/A
GUILTY AFTER TRIAL <i>(Percent Is Of Adjudications)</i>	0%	8%
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	98%	99%
CONTINUANCES THREE OR MORE <i>(Percent Is Of Adjudications)</i>	N/A	51%

### **BERNALILLO FINDING No. 1:**

The dismissal rate is a significant trend that needs to be addressed, as one-quarter of all DWI cases adjudicated were dismissed. In the first interim report we noted that although the sample was small, it was significant that of the dismissed cases, 76% were dismissed because either the officer failed to appear or the State failed to provide discovery. After monitoring cases for one year, this continues to be a recurring issue, as 87% of cases dismissed were because either the officer failed to appear or the State failed to provide discovery. Of that number, 79% were dismissed due to an officer's failure to appear, and of those, 20% were due to difficulty in scheduling officer interviews.

As noted in our first interim report, the failure to appear at DWI proceedings or to provide discovery (including officer interviews) is a major problem because there is little incentive for the defense to seek an early disposition of the case. A rational defense strategy is to extend the case as long as possible anticipating that either the Six Month Rule will run out before the interview can be conducted, or at some point the officers will not appear and the case will be dismissed without refiling. Following this strategy, the defense will enter a plea at the last moment if all prosecution witnesses are present.

### **BERNALILLO RECOMMENDATION No. 1:**

Dismissals are recognized to be a significant problem. Several procedures have already been adopted to alleviate the issue of failure to appear by officers, which MADD supports. These include scheduling New Mexico State Police Officers on specific days and allowing affidavits to be used at Automatic License Revocation (ALR) hearings. We continue to recommend adopting the following policies to address the issue of dismissals:

1. Assign DWI cases to a finite number of judges on a rotating basis to facilitate more uniform policies.
2. The court consider adopting a policy encouraging judges to order defense attorneys to conduct on-the-spot interviews (investigator present or not). Some judges actually provide tape recorders for defense attorneys to use for the interviews, if the defense attorney does not have their own device available. We commend this as a best practice that all courtrooms consider adopting.
3. Amend the Six Month Rule to charge the defense with the time for continuance if an officer is present and the defense refuses the opportunity to conduct an interview.
4. Implement a traffic court division of Metropolitan Court to hear only traffic offenses. Such a change would free up both prosecutors and judges to deal with more serious DWI offenses.
5. In the interest of judicial economy and to combat congested court dockets, we recommend the prosecutor's office adopt timelines to offer reduced pleas for offenses other than DWI 1 or lesser sentences. It would be the judge's discretion whether penalties would increase for reduced pleas offered at a later date.

### **BERNALILLO FINDING No. 2:**

In the first interim report, we noted that the court is dismissing the case without prejudice if an officer fails to appear and when there is time left on the Six Month Rule. We found in all cases observed, the prosecutor's office had not refiled these cases. This trend continued as we monitored cases throughout the year.

### **BERNALILLO RECOMMENDATION No. 2:**

We continue to recommend that the prosecutor's office adopt a policy to immediately refile dismissed cases and the court adopt a policy to reset the case when there is time left on the Six Month Rule.

### **BERNALILLO FINDING No. 3:**

In the first interim report, we found it significant that 42% of guilty pleas were to reduced DWI charges. This number improved slightly as we tracked cases throughout the year; 36% of cases were pled to a reduced DWI charge. In 68% of those cases the defendant's BAC was .16 or higher, in 42% of those cases the defendant's BAC was .17 or higher, four defendants had a BAC of .21 or higher and in 10 cases the defendant refused a chemical test. Additionally, six defendants were allowed to plead down from a DWI 2 to a DWI 1, all having a BAC of .12 or above. As noted in our first interim report, reduced pleas are an issue in almost all counties. This sends a message to the community that repeat offenses are not taken with the seriousness that they deserve.

### **BERNALILLO RECOMMENDATION No. 3:**

Although we have seen improvement in the percentages, given the trend of reduced pleas, we continue to recommend that the prosecutor's office adopt a number of policies to address this issue:

1. Prosecutors consider a policy in which cases are not reduced from aggravated DWI to simple DWI if the defendant's BAC is .17 or above, unless there are exceptional circumstances, as approved by a supervisor.
2. Pleas to a reduced charge should be offered at the earliest date possible in the proceedings, preferably the first pre-trial conference.
3. Prosecutors consider not allowing reduced pleas on charges of DWI 2 or above, unless there are exceptional circumstances, as approved by a supervisor.
4. As noted in our first interim report, many prosecutors (assistant district attorneys (ADA)) handling DWI cases in New Mexico are recent law school graduates having limited courtroom experience. These findings point to a need for additional training regarding effective interactions with judges, the defense bar, and defendants. More training is recommended on trial preparation for DWI cases. As many of these prosecutors graduate from the University of New Mexico (UNM) Law School, we had recommended that UNM provide additional and specific prosecutor's training programs for law students in the areas identified above and throughout this report. MADD and the Governor's Office have met with faculty at UNM to discuss such a clinical program and it appears funding may soon be available.
5. As we previously recommended, DWI prosecutors attend annual regional trainings conducted by the New Mexico Traffic Safety Resource Prosecutor, on DWI-related case law, including updates and changes to local, state and federal laws. The State Supreme Court consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI cases.

### **BERNALILLO FINDING No. 4:**

When defendants sign an affidavit stating that they have no vehicle, there is a question as to whether judges are waiving the interlock requirement, as they have in other counties. In cases in which the defendant claims to have no vehicle, there is a question as to whether the defendant has access to other vehicles. Judges have not ordered interlocks in cases where the defendants were out-of-state residents.

### **BERNALILLO RECOMMENDATION No. 4:**

As noted in our first interim report, the law provides that: "Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau." NMSA 66-8-102(N). It appears judges are interpreting that interlock devices need only be ordered if the defendant is a New Mexico resident. We continue to recommend that this loophole in the interlock law be addressed by the Legislature, or that alternatively, prosecutors consider taking a test case to the Supreme Court for interpretation of the law as it currently is written. The waiver of ignition interlocks is a significant issue and MADD recommends the following:

1. Courts order the interlock and let probation determine whether the defendant has a registered vehicle or has access to a vehicle. As part of this process, the Department of Finance and Administration (DFA) should consider requiring compliance monitoring for all DWI offenders through its county-based local DWI affiliate (LDWI) programs.
2. The New Mexico Legislature enact a law requiring an alternative to alcohol ignition interlock for defendants who sign an affidavit declaring they have no vehicle or access to one.

**BERNALILLO FINDING No. 5:**

There is concern with the amount of time it takes to adjudicate DWI cases. Of the cases monitored and adjudicated, 51% had three or more continuances (126 cases) and 107 cases (85%) had between four and nine continuances, with one case having 22 continuances. These percentages were by far the highest of all six counties.

**BERNALILLO RECOMMENDATION No. 5:**

We recommend that Judges try to move cases as quickly as possible; however, before we can make a solid recommendation to deal with this issue, we will continue to monitor and determine reasons for the continuances.

DOÑA ANA COUNTY COURT SYSTEM  
 Period: January 2008 – December 2008

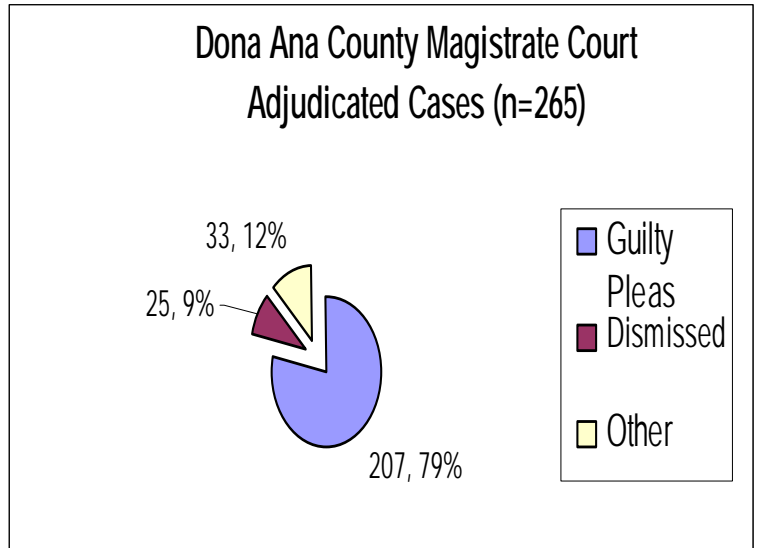
Total Cases Monitored in County During Reporting Period: 570

**FINDINGS**

Dona Ana County Magistrate Court

Summary:

<b>Cases Monitored</b>	<b>517</b>
Adjudicated	265
Dismissed	25
Guilty Pleas	207
Pleas to Original Charge	191
Pleas to Reduced DWI Charge	16
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	207
Ignition Interlocks Waived	Not Available

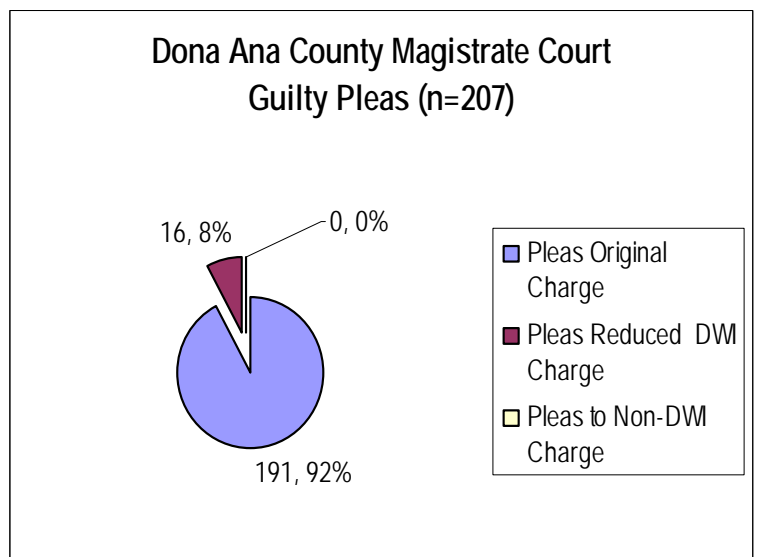


**Guilty Pleas: 207 (79%)**

Pleas to Original Charge: 191 (92%)

Pleas to a Reduced DWI Charge: 16 (8%)

- 3 defendants had a BAC of .16 or higher
- 12 defendants were charged with refusal



**Cases Plead to Non-DWI Charge: 0**

**Bench Trial: 0**

**Cases Dismissed: 25 (9%)**

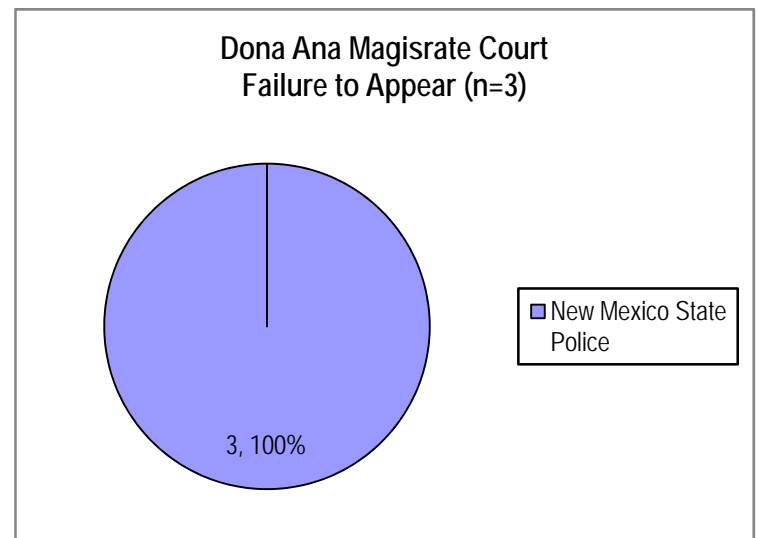
- 3 cases officers failure to appear – New Mexico State Police
- 1 case Prosecutor failure to appear
- 14 cases of declined prosecution
- 2 cases for Six Month Rule
- Other 3

**Ignition Interlocks**

- Ordered: 207 (100%)
- Waived: Not Available

**Other:**

- 33 cases of probation violations
- 171 cases transferred to District Court



**Dona Ana County Municipal Court**

**Summary:**

<b><i>Cases Monitored</i></b>	<b>2</b>
Adjudicated	2
Dismissed	0
Guilty Pleas	2
Pleas to Original Charge	2
Pleas to Reduced DWI Charge	0
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	2
Ignition Interlocks Waived	Not Available

**Guilty Pleas: 2 (100%)**

    Pleas to Original Charge: 2 (100%)

    Pleas to a Reduced DWI Charge: 0

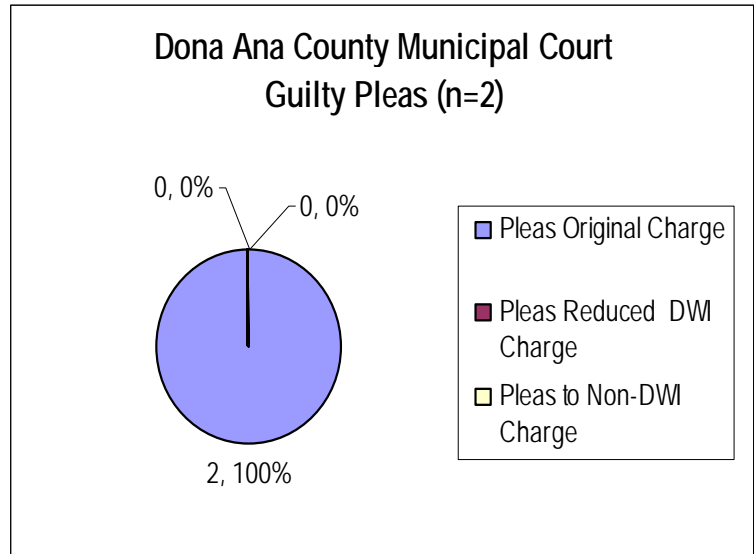
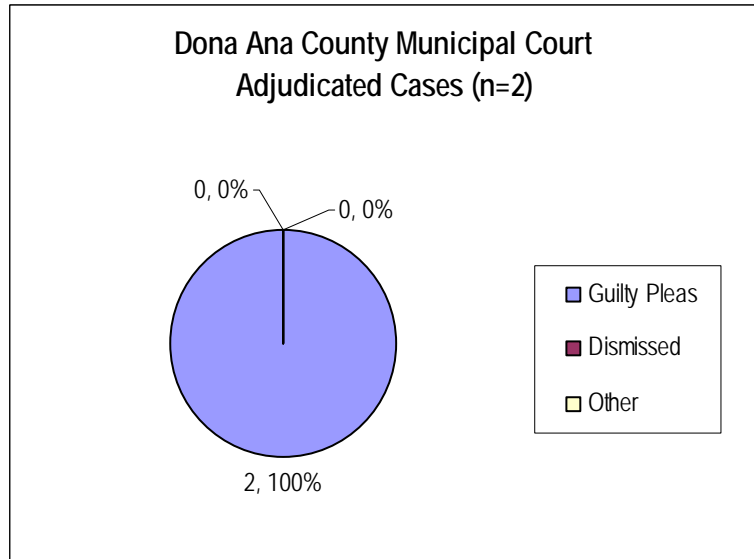
**Cases Plead to Non-DWI Charge: 0**

**Bench Trial: 0**

**Cases Dismissed: 0**

**Ignition Interlocks**

- Ordered: 2 (100%)
- Waived: Not Available



## Dona Ana County District Court

### Summary:

<b>Cases Monitored</b>	<b>51</b>
Adjudicated	22
Dismissed	1
Guilty Pleas	21
Pleas to Original Charge	19
Pleas to Reduced DWI Charge	2
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	21
Ignition Interlocks Waived	Not Available

### **Guilty Pleas: 21 (95%)**

**Pleas to Original Charge: 19 (90%)**

**Pleas to a Reduced DWI Charge: 2 (10%)**

- Of the 2 cases 2 pleas to reduced DWI charges, 1 defendant had a BAC above .16 (.19)

**Cases Plead to Non-DWI Charge: 0**

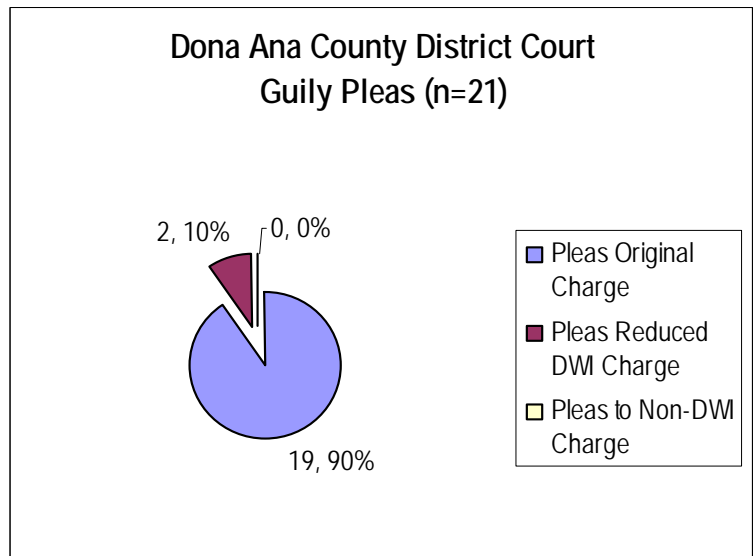
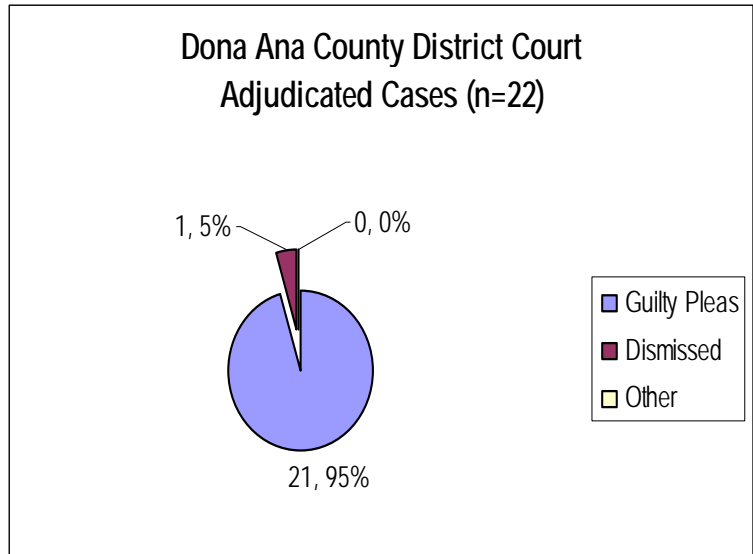
**Bench Trial: 0**

**Cases Dismissed: 1 (5%)**

- Declined prosecution

**Ignition Interlocks**

- Ordered: 21 (100%)
- Waived: Not Available



DOÑA ANA COUNTY

Magistrate and District Courts

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	32%	51%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	5%	9%
DISMISSALS <i>(Officer FTA—Percent Is Of Total Dismissals)</i>	33%	12%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	67%	88%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	95%	80%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	95%	92%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	5%	8%
PLEA TO REDUCED NON-DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	N/A	N/A
GUILTY AFTER TRIAL <i>(Percent Is Of Adjudications)</i>	N/A	N/A
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	100%	100%
CONTINUANCES THREE OR MORE <i>(Percent Is Of Adjudications)</i>	N/A	0%
INAUDIBLE PROCEEDINGS <i>(Percent Is Of Adjudications)</i>	N/A	4%

## **FINDINGS AND RECOMMENDATIONS:**

### **DOÑA ANA FINDING No. 1:**

As we noted in our first interim report, the Doña Ana County Magistrate Court had low dismissal and reduced plea rates and this trend continued as we monitored cases throughout the year. While the majority of cases that do not plead guilty at arraignment are transferred to District Court, we note that Magistrate Court adjudicated over 51% of cases monitored. As noted in our first interim report, the monitor tracked cases in District Court to determine if the low dismissal and reduced plea rates would continue in that forum. As the data shows, District Court did have low rates in those categories. However, the cases moved slowly in that forum. Of the 171 cases transferred to District Court, only 22 (13%) had been adjudicated by the end of the year.

### **DOÑA ANA RECOMMENDATION No. 1:**

We learned that the Doña Ana District Attorney's Office changed their policy in the fall of 2008 and now keeps cases in Magistrate Court rather than transferring cases where there is no guilty plea at arraignment to District Court. The Court Monitor has observed that transfers still occur. We will continue to monitor the effect this new policy has on the adjudication of cases in Magistrate Court beyond the arraignment stage, and continue to monitor in District Court to determine the effect of the large number of transfers.

### **DOÑA ANA FINDING No. 2:**

As noted in the first interim report, the Court Monitor observed that in the majority of cases adjudicated at arraignment in Magistrate Court, the defendant does not have counsel. The plea is negotiated between the prosecutor and the defendant with no defense attorney present. While the defendant can, and does, waive counsel at the plea, for purposes of charging a DWI 2 or higher, the waiver of counsel must be effective. In Doña Ana County, defendants are shown a video of their rights, in English, before arraignment. The court clerk begins the video at approximately 8:30 a.m. before the docket is called. There is no record of which defendants were actually present when video rights were given. While the court asks the defendant if he or she saw the video before taking a plea, this procedure may not be sufficient as a knowing waiver of rights. Once the first defendant pleads guilty, the court asks following defendants who plead guilty if they heard the plea proceedings involving the first defendant and if there are any questions. Even though subsequent defendants answer in the affirmative this procedure may not be sufficient if challenged in a subsequent proceeding.

In an effort to address these practices, a member of the Institute of Public Law, who is also a member of the MADD Court Monitoring Advisory Committee, met with the Magistrate Court. One suggestion to address the issue of video rights was to have a sign-in sheet for defendants, a practice that was in place in the past. The sign-in sheet should include a space for defendants to sign after the viewing of the video rights indicating that they heard and understood the same. Although the court was receptive to this recommendation and to adjusting other noted practices, no changes were made during this reporting period.

### **DOÑA ANA RECOMMENDATION No. 2:**

We continue to recommend the following policies be adopted to address this finding:

1. Have a Public Defender available in the courtroom to confer with and negotiate pleas for defendants who lack counsel. No plea negotiations should be undertaken until a defendant has the opportunity to confer with counsel.

2. The courts have a sign-in sheet for defendants before video rights are shown. The courts ascertain whether any defendant requires the Spanish or Navajo video. A clerk should be present during the showing of video rights to ensure each defendant that has signed-in remains in the courtroom while the video is being played. After the rights are played, defendants should be required to sign a sheet indicating he or she heard and understood the content of the video.
3. The court assesses the guilty plea proceeding and informs each defendant individually of the consequences of their plea.

**DOÑA ANA FINDING No. 3:**

As noted in the first interim report, the monitor observed that compliance checks are not conducted on a regular basis, and in several cases defendants went months without having a court ordered interlock installed in their vehicle. This problem continued throughout the year.

**DOÑA ANA RECOMMENDATION No. 3:**

MADD recommends that compliance units diligently monitor cases to ensure that defendants comply with interlock orders and all other terms of their probation and that courts adopt a policy requiring defendants to show proof of interlock within 15 days of sentencing. It is also recommended that compliance units conduct periodic checks to observe how the offender is getting to work to ensure that he or she is not driving a vehicle without an interlock.

**DOÑA ANA FINDING No. 4:**

The monitor observed that the court and prosecutors tend to consistently sentence repeat offenders to the mandatory minimum sentence. While this may be appropriate in some cases, it can send the wrong message to the offender and the community regarding the seriousness of alcohol impaired driving, especially by those with numerous repeat DWI offenses.

**DOÑA ANA RECOMMENDATION No. 4:**

MADD recommends that, in appropriate cases, prosecutors recommend and the court impose a sentence more severe than the mandatory minimum especially when an offender has multiple repeat offenses.

**DOÑA ANA FINDING No. 5:**

In some cases, judges hold proceedings at the bench. The general public in the courtroom often cannot hear these proceedings because the parties speak in soft tones without microphones. Our monitor observed this practice in a small number of cases tracked, although inaudible proceedings appear to occur on a larger scale. For all practical purposes, proceedings conducted at the bench are closed to the public.

**DOÑA ANA RECOMMENDATION No. 5:**

We recommend the court adopt a policy that all proceedings must be held in open court in a manner that can be heard by the general public. If negotiations must take place at the bench, a recap of what occurred should be announced to the courtroom.

MCKINLEY COUNTY COURT SYSTEM  
 Period: January 2008 – December 2008

Total Cases Monitored in County During Reporting Period: 568

**FINDINGS**

Gallup Magistrate Court

Summary:

<b>Cases Monitored</b>	<b>550</b>
Adjudicated	401
Dismissed	116
Guilty Pleas	267
Pleas to Original Charge:	62
Pleas to Reduced DWI Charge	184
Pleas to Non DWI Charge	21
Ignition Interlocks Ordered	246
Ignition Interlocks Waived	186

**Guilty Pleas: 267 (67%)**

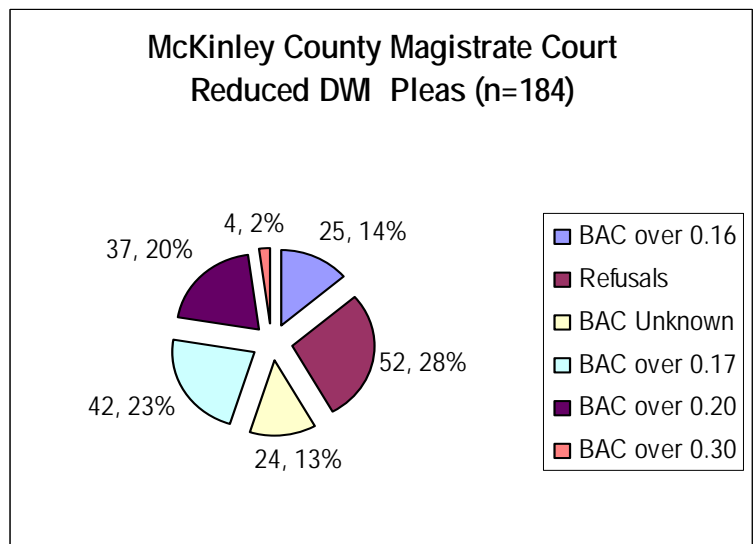
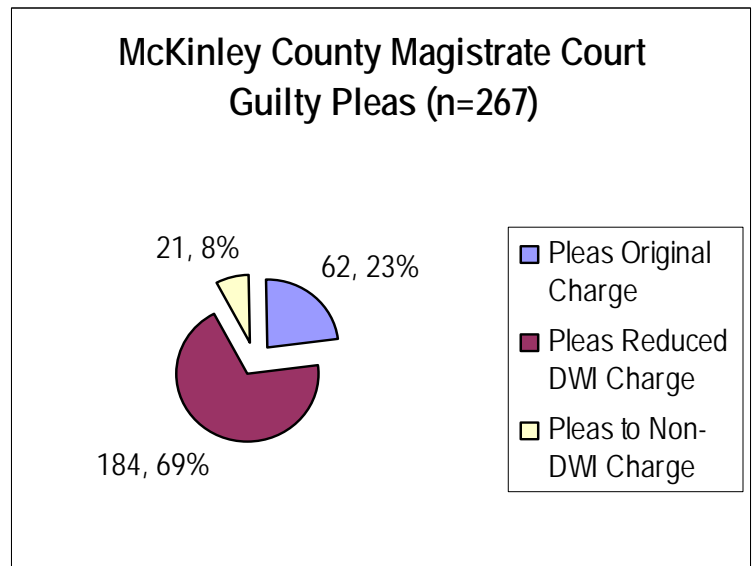
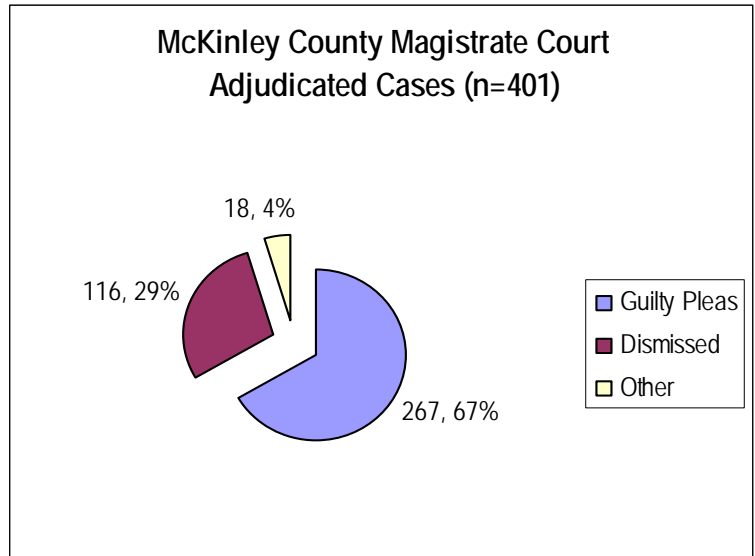
Pleas to Original Charge: 62 (23%)

Pleas to a Reduced DWI Charge: 184 (69%)

- 25 defendants had a BAC of .16 or above (14%)
- 42 had a BAC of .17 or above (23%)
- 37 had a BAC of .20 or above (20%)
- 4 had a BAC of .30 or above (2%)
- 52 were refusals (28%)
- 24 BAC unknown (13%)

**Cases Plead to Non-DWI Charge: 21 (8%)**

- 3 defendants allowed to plea to a non-DWI charge had a BAC .08 or higher
- 5 defendants refused breath testing and pled down to a non-DWI offense



### Gallup Magistrate Court (continued):

#### Bench Trial: 18 (4%)

- 12 guilty cases after a bench trial
- 6 cases found not guilty after a bench trial

#### Cases Dismissed: 116 (29%)

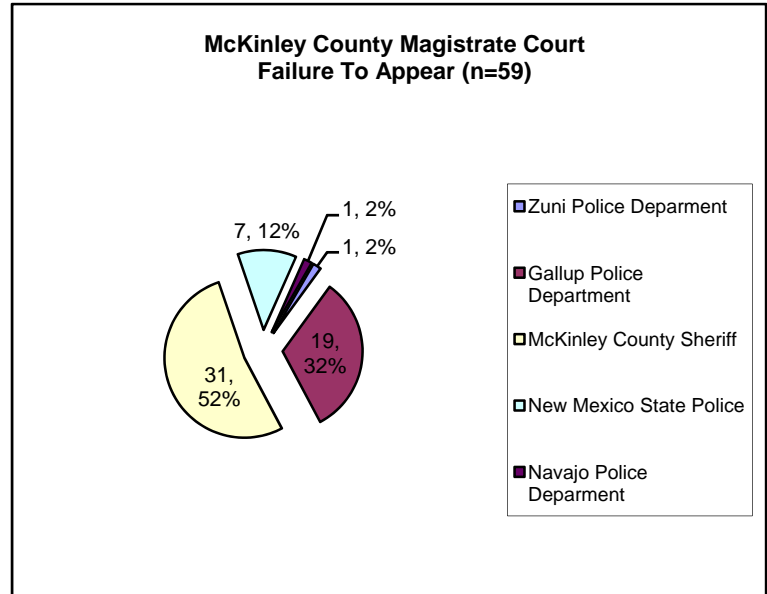
- 59 cases, the officer failed to appear (FTA),
- 17 cases dismissed because of expiration of the Six Month Rule
- 11 cases dismissed due to lack of jurisdiction (Tribal land)
- 13 dismissed attributable to State action
- 16 cases dismissed for other reasons

#### Ignition Interlocks

- Ordered: 246 (100%)
- Waived: 186 (72%)

#### Other:

- Inaudible proceedings noted in 387 cases monitored
- 3 or more continuances granted in 74 cases



**McKinley County Municipal Court:**

**Summary:**

<b>Cases Monitored:</b>	<b>9</b>
Adjudicated	4
Dismissed	1
Guilty Pleas	3
Pleas to Original Charge:	0
Pleas to Reduced DWI Charge	3
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	3
Ignition Interlocks Waived	0

**Guilty Pleas: 3 (75%)**

**Pleas to Original Charge: 0**

**Pleas to a Reduced DWI Charge: 3 (100%)**

- BAC information not available
- All cases reduced from DWI1 aggravated to DWI 1 non-aggravated

**Cases Plead to Non-DWI Charge: 0**

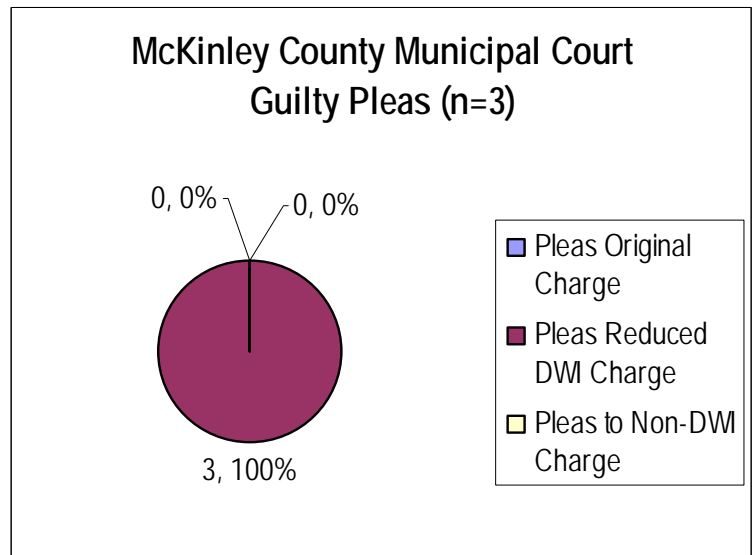
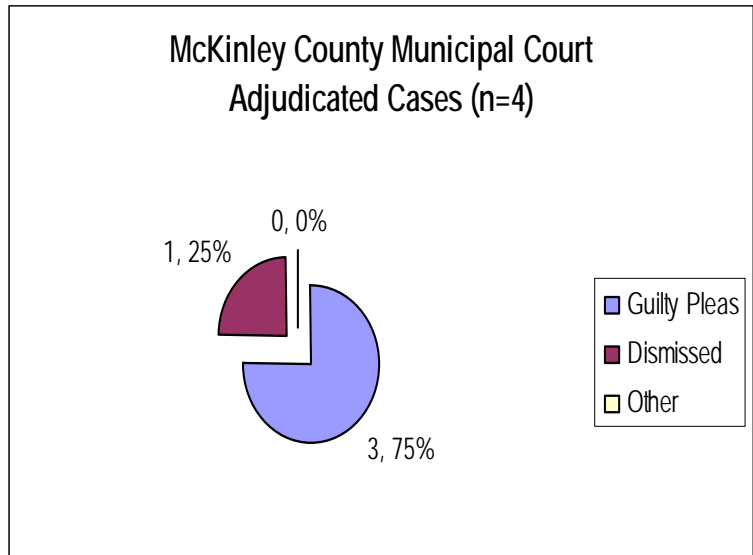
**Cases Dismissed: 1 (25%)**

- Officer failed to appear – Gallup Police Department

**Bench Trial: 0**

**Ignition Interlocks**

- Ordered: 3 (100 %)
- Waived: 0



**McKinley County District Court:**

**Summary:**

<b>Cases Monitored</b>	<b>9</b>
Adjudicated	3
Dismissed	0
Guilty Pleas	3
Pleas to Original Charge:	0
Pleas to Reduced DWI Charge	3
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	3
Ignition Interlocks Waived	0

**Guilty Pleas: 3 (100%)**

- Pleas to Original Charge: 0
- Pleas to a Reduced DWI Charge: 3 (100%)
  - BAC information not available

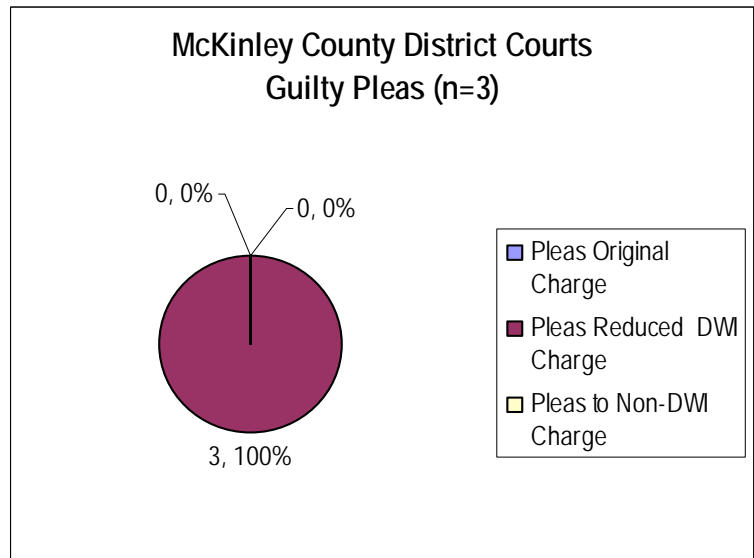
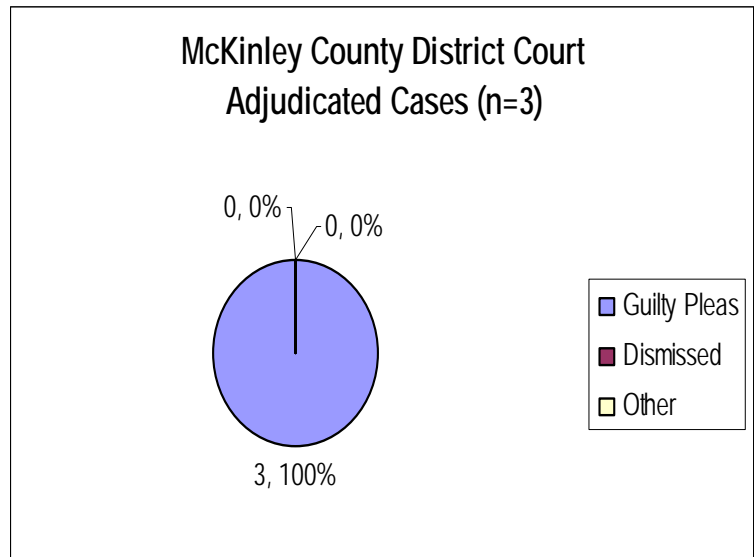
**Cases Plead to Non-DWI Charge: 0**

**Cases Dismissed: 0**

**Bench Trial: 0**

**Ignition Interlocks**

- Ordered: 3 (100%)
- Waived: 0



MCKINLEY COUNTY

All Courts

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	45%	72%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	19%	29%
DISMISSALS <i>(Officer FTA—Percent Is Of Total Dismissals)</i>	45%	52%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	55%	48%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	79%	67%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	22%	23%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	61%	72%
PLEA TO REDUCED NON-DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	7%	5 %
GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	3%
NOT GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	1%
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	100%	100%
INTERLOCKS WAIVED <i>(Percent Is Of Total Interlocks Ordered)</i>	71%	72%
CONTINUANCES THREE OR MORE <i>(Percent Is Of Adjudications)</i>	N/A	18%
INAUDIBLE PROCEEDINGS <i>(Percent Is Of Adjudications)</i>	N/A	95%

## **FINDINGS AND RECOMMENDATIONS:**

**All findings and recommendations are for Gallup Magistrate Court** as there were only 18 cases monitored and fewer than ten adjudications in Municipal and District Courts combined.

### **McKINLEY FINDING No. 1**

As we found in the first interim report, the percentage of dismissals caused by an officer failure to appear (FTA) is high. Our first reporting period found the rate to be 45%. After continuing to monitor for the year, that rate went up to 51%. The overall dismissal rate is excessively high at 29%. In 22% of cases either the Six Month Rule had run out or the prosecution dismissed the case.

### **McKINLEY RECOMMENDATION No. 1**

We must obtain more data to determine reasons why officers are failing to appear before we can make a viable recommendation. One question is whether subpoenas are actually being served on the officers notifying them to appear. We will continue to monitor this trend and attempt to gather necessary information. As detailed in Recommendation No. 2 below, we recommend more training for prosecutors on strategies to prepare a DWI case for trial to prevent dismissals.

### **McKINLEY FINDING No. 2**

The number of reduced pleas in Gallup Magistrate Court continues to be a significant problem. As noted in our first interim report, McKinley County has one of the highest percentages of reduced pleas among the six identified counties. In tracking cases over the year, the rate rose from our initial finding of 61% from January to May 2008, to 69% for all 2008. BAC information is available for 176 of the 184 reduced plea cases. Of those 176 reduced plea cases, 108 had a BAC of .16 or higher (62%), and of those 108 cases, 83 had a BAC of .17 or above (71%), 41 of the 83 cases had a BAC of .20 or higher (49%) and four had a BAC of .30 or higher (5%).

In 21 cases, defendants were allowed to plead down from a DWI charge to a non-DWI charge. Three of those pleas were in violation of law as the defendants had a BAC of .08 or above. Additionally, five of those cases were refusals.

The monitor observed that judges often do not question the prosecutor's basis for a reduction in charges.

### **McKINLEY RECOMMENDATION No. 2**

The law is clear; a DWI charge involving a defendant that has a BAC of .08 or above cannot be reduced to a non-DWI charge. Judges should not allow such pleas and prosecutors need to be trained not to offer pleas in such situations.

Additionally, reducing a DWI charge to a non-DWI charge when a defendant has refused a chemical test is also a practice of concern and one that we strongly urge the New Mexico Legislature to address via statute change.

Because of the continued trend of pleading down DWI cases in which the defendant had a BAC of .16 or above, we continue to recommend a number of policies be adopted to address the issue of reduced pleas:

1. Prosecutors consider a policy in which cases are not reduced from aggravated DWI to simple DWI if the defendant's BAC is .17 or above, unless there are exceptional circumstances, as approved by a supervisor.

2. Pleas to a reduced charge should only be offered at the earliest date possible in the proceedings, preferably the first pre-trial conference.
3. Prosecutors consider not allowing reduced pleas on charges of DWI 2 or above, unless there are exceptional circumstances, as approved by a supervisor.
4. As noted in our first interim report, many prosecutors (assistant district attorneys (ADA)) handling DWI cases in New Mexico are recent law school graduates and have limited courtroom experience. The frequency of reduced pleas and other findings point to a need for additional training for prosecutors, especially recent law school graduates. Goals of the training should be: effective interactions with judges, the defense bar, and defendants as well as trial preparation for DWI cases. As many of these prosecutors graduate from the University of New Mexico (UNM) Law School, we had recommended that UNM provide additional and specific prosecutor's training programs for law students in the areas identified above and throughout this report. MADD and the Governor's Office have met with faculty at UNM to discuss such a clinical program, and it appears funding may soon be available.
5. As we previously recommended, DWI prosecutors should annual attend regional trainings conducted by the New Mexico Traffic Safety Resource Prosecutor, on DWI-related case law, including updates and changes to local, state and federal laws. The State Supreme Court should consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI's.

**McKINLEY FINDING No. 3:**

While interlocks were ordered in all cases where defendants were found guilty, the Gallup Magistrate Court waived this mandatory requirement in 76% of cases, confirming our initial finding that this is a significant issue in the county. Per signed affidavit, the defendants declared they have no vehicle. It is likely, in some cases, that the defendants have access to other vehicles not registered to them. In several cases, judges waived interlocks when the defendants were out-of-state residents.

**McKINLEY RECOMMENDATION No. 3:**

As noted in our first interim report, the law provides that: "Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau." NMSA 66-8-102(N). It appears judges are interpreting that interlock devices need only be ordered if the defendant is a New Mexico resident. We continue to recommend that this loophole in the interlock law be addressed by the Legislature, or that alternatively, prosecutors consider taking a test case to the Supreme Court for interpretation of the law as it currently is written. The waiver of ignition interlocks is a significant issue and MADD recommends the following:

1. Courts order the interlock and let probation determine whether the defendant has a registered vehicle or has access to a vehicle. As part of this process, the Department of Finance and Administration (DFA) should consider requiring compliance monitoring for all DWI offenders through its county-based local DWI affiliate (LDWI) programs.
2. The New Mexico Legislature enact a law that requires an alternative to alcohol ignition interlock for those defendants who sign an affidavit declaring they have no vehicle or access to one.

**McKINLEY FINDING No. 4:**

Private defense attorneys, contracted as public defenders, continue to be late to court in a substantial number of cases. In several instances, cases are delayed several hours while the court either waits for defense counsel to appear or to confer with their client once they do appear. As a result cases are delayed and officers are often required to wait several hours for their case to be called.

#### **McKINLEY RECOMMENDATION No. 4**

As noted in the first interim report, there is not a public defender's office in Gallup. Private attorneys are contracted to provide this service. In our first interim report, we urged that the state consider opening a public defender's office in McKinley County to alleviate substantial delays of police and court time in Gallup Magistrate Court. It is our understanding that funding has been authorized and that a public defender's office will open in Gallup in late 2009. In the meantime, MADD recommends the court adopt the following policies:

1. Judges hold in contempt and fine defense attorneys who are excessively late. The court also consider reporting attorneys to the Attorney Disciplinary Board if they continue to routinely fail to appear or show up late, despite warnings regarding the same.
2. Judges require that defense attorneys confer with their clients before cases are called in order to ensure the smooth operation of court proceedings.

#### **McKINLEY FINDING No. 5**

As noted in the first interim report, previously, judges had their "DWI Day" on different days of the week. Judges are now holding their "DWI Day" on the same day of the week, necessitating that officers, prosecutors and defense attorneys appear in multiple courtrooms at the same time. This appears to result in more delay and appears to contribute to the problem of officers failing to appear.

#### **McKINLEY RECOMMENDATION No. 5**

We continue to recommend that Judges hold their "DWI Day" on different days to avoid overlap as much as possible. The problem of multiple courtrooms could be solved by instituting procedures such as the following:

1. Have officers and attorneys sign in to each courtroom they are required to appear in on a given day. Notify the clerk of the other courtrooms they are scheduled for the day.
2. When an officer or attorney is needed and not present, the courtroom clerk can either call or send an email message to the other courtrooms inquiring as to the individual's presence and their status.
3. If an individual is in the courthouse, has signed in, but is not available when the case is called, the court can delay hearing the case until the individual is free. There should be no prejudice to the defendant because the officer or attorney is in the courthouse, not "unavailable for trial."
4. These procedures may need modification such as prioritizing appearances so as not to unduly delay the parties.
5. It is recommended that the chief judge and chief clerk develop written procedures and notify all law enforcement and attorneys.

#### **McKINLEY FINDING No. 6**

Judges continue to hold proceedings at the bench. Of the cases monitored in 97% of those adjudicated, proceedings could not be heard by the general public because the parties spoke in soft tones without microphones. Additionally, plea negotiations on other cases continue to take place in front of the bench between defense counsel and prosecutors while the judge is conducting these proceedings. For all practical purposes, the majority of cases are closed to the public.

#### **McKINLEY RECOMMENDATION No. 6**

We continue to recommend that the court adopt a policy that all proceedings must be held in open court and in a manner in which they can be heard by the general public. As recommended previously, the court should require that all plea negotiations be conducted either before court begins, or outside the courtroom, while other cases are being heard.

**RIO ARRIBA COUNTY COURT SYSTEM**  
 Period: January 2008 – December 2008

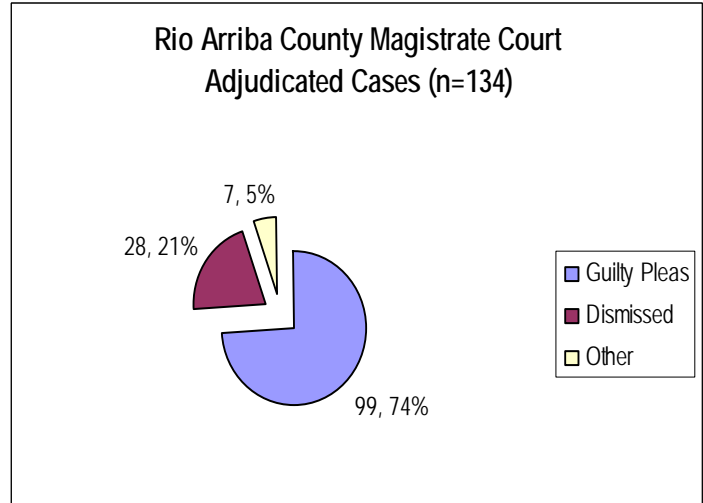
Total Cases Monitored in County During Reporting Period: 152

**FINDINGS**

**Rio Arriba County Magistrate Court**

Summary:

<b>Cases Monitored</b>	<b>152</b>
Adjudicated	134
Dismissed	28
Guilty Pleas	99
Pleas to Original Charge:	42
Pleas to Reduced DWI Charge	57
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	102
Ignition Interlocks Waived	35

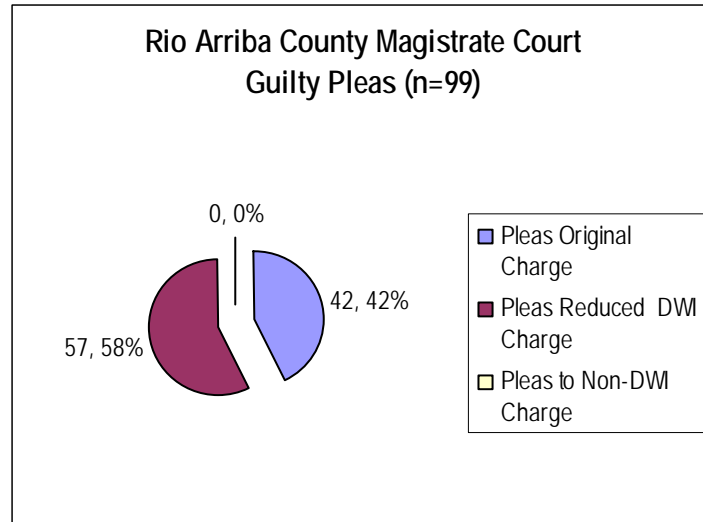


**Guilty Pleas: 99 (74%)**

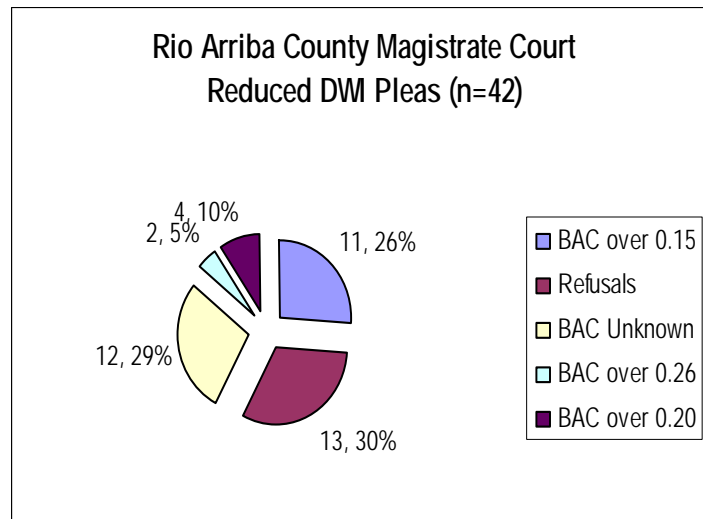
Pleas to Original Charge: 42 (42%)

Pleas to a Reduced DWI Charge: 57 (58%)

- 11 defendants had a BAC of .15 or above (26%)
- 4 had a BAC of .20 or above (10%)
- 2 had a BAC of .26 or above (5%)
- 13 were refusals (31%)
- 12 BAC unknown (28%)



**Cases Plead to Non-DWI Charge: 0**



**Rio Arriba Magistrate Court (continued):**

**Bench Trial: 7 (5%)**

- 3 guilty after bench trial

**Cases Dismissed: 28 (21%)**

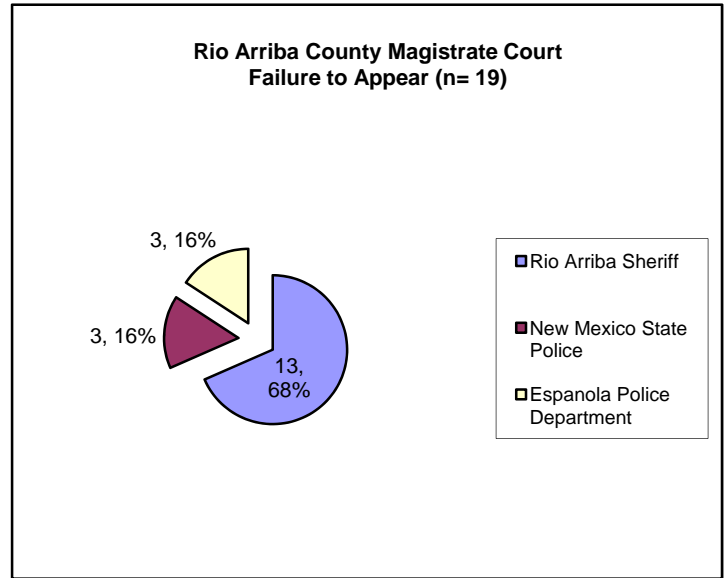
- 19 officer failure to appear
  - 13 Espanola Police Department
  - 3 Rio Arriba Sheriff
  - 3 New Mexico State Police

**Ignition Interlocks**

- Ordered: 102 (100%)
- Waived: 35 (34%)

**Other:**

- 1 case transferred to District Court



RIO ARRIBA COUNTY

Magistrate Court

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	52%	88%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	21%	21%
DISMISSALS <i>(Officer FTA—Percent Is Of Total Dismissals)</i>	100%	68%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	0%	32%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	79%	74%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	55%	42%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	45%	58%
GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	2%
NOT GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	3%
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	100%	100%
INTERLOCKS WAIVED <i>(Percent Is Of Total Interlocks Ordered)</i>	N/A	34%
CONTINUANCES THREE OR MORE <i>(Percent Is Of Adjudications)</i>	N/A	0%

## **FINDINGS AND RECOMMENDATIONS:**

### **RIO ARRIBA FINDING No. 1:**

The number of reduced pleas is high at 58%. While the monitor was unable to ascertain the BAC in many cases, in at least 11 cases the BAC was above .16, while four defendants had a BAC of .20. In several cases, we observed that prosecutors had not ordered the necessary paperwork to prove prior DWI convictions, resulting in reduced pleas for those defendants with prior DWI convictions. The Court Monitor observed that occasionally judges influence prosecutors regarding when to offer a reduced plea and the terms of such pleas.

### **RIO ARRIBA RECOMMENDATION No. 1:**

Given the trend of reduced pleas, as with other counties, we recommend that the prosecutor's office adopt a number of policies to address the issue:

1. Prosecutors consider a policy in which cases are not reduced from aggravated DWI to simple DWI if the defendant's BAC is .17 or above, unless there are exceptional circumstances, as approved by a supervisor.
2. Pleas to a reduced charge should only be offered at the earliest date possible in the proceedings, preferably the first pre-trial conference.
3. Prosecutors consider not allowing reduced pleas on charges of DWI 2 or above, unless there are exceptional circumstances, as approved by a supervisor.
4. As noted in our first interim report, many prosecutors (assistant district attorneys (ADA)) handling DWI cases in New Mexico are recent law school graduates having limited courtroom experience. These findings point to a need for additional training regarding effective interactions with judges, the defense bar, and defendants. More training is recommended on trial preparation for DWI cases. As many of these prosecutors graduate from the University of New Mexico (UNM) Law School, we had recommended that UNM provide additional and specific prosecutor's training programs for law students in the areas identified above and throughout this report. MADD and the Governor's Office have met with faculty at UNM to discuss such a clinical program, and it appears funding may soon be available.
5. As we previously recommended, DWI prosecutors should annual attend regional trainings conducted by the New Mexico Traffic Safety Resource Prosecutor, on DWI-related case law, including updates and changes to local, state and federal laws. The State Supreme Court should consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI's.
6. As recommended in our first interim report, the prosecutor's office adopt a policy requiring that Prosecutors order the necessary paperwork immediately upon the filing of a case charging the defendant with a DWI 2 or above. Prosecutors should consider obtaining the necessary information from the District Attorney's Office in the jurisdiction where the previous conviction occurred.

### **RIO ARRIBA FINDING No. 2:**

The dismissal rate of 21% for cases monitored is concerning. Dismissals because of officer failure to appear (FTA) continue to be of concern. Of the 28 dismissals, 19 were recorded as FTA by a police officer. While several of these cases were attributed to one officer on administrative leave, the monitor observed that, in general, there may be a problem with officer notifications. MADD observed that lack of preparation by some prosecutors contributed to dismissals and reduced pleas.

### **RIO ARRIBA RECOMMENDATION No. 2:**

We continue to recommend that the prosecutor's office work with the appropriate law enforcement agencies to develop an effective policy for notification of court required appearances. As detailed in Recommendation No. 1 above, we recommend mandatory and ongoing training for prosecutors in preparation for DWI cases and trials to prevent dismissals and reduced pleas.

### **RIO ARRIBA FINDING No. 3:**

The monitor observed that, during this reporting period, there appeared to be a close relationship between some prosecutors and defense attorneys. In some cases, prosecutors argued defense positions to the court.

### **RIO ARRIBA RECOMMENDATION No. 3:**

We recommend that prosecutors and defense attorneys rotate between courtrooms and perhaps between Santa Fe and Rio Arriba Counties, in addition to receiving more training as noted in Recommendation No. 1 above.

### **RIO ARRIBA FINDING No. 4:**

While interlocks were ordered in all cases, the courts waived this mandatory requirement in at least 34% of cases where defendant signed an affidavit. In the majority of these cases, the defendants signed an affidavit declaring they have no vehicle, although it is likely the defendants have access to a vehicle.

### **RIO ARRIBA RECOMMENDATION No. 4:**

As noted in the first interim report, the law provides that: "Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau." NMSA 66-8-102(N). Apparently judges are interpreting this to mean that interlock devices need only be ordered if the defendant is a New Mexico resident. We continue to recommend that this loophole in the interlock law be addressed by the Legislature, or that alternatively, prosecutors consider taking a test case to the Supreme Court for interpretation of the law as it currently is written.

Tracking for the year confirms that the waiver issue is a significant problem. We continue to recommend that:

1. Courts order the interlock and let probation determine whether the defendant has a registered vehicle or has access to a vehicle. As part of this process, the Department of Finance and Administration (DFA) should consider requiring compliance monitoring for all DWI offenders through its county-based local DWI affiliate (LDWI) programs.
2. The New Mexico Legislature enact a law that requires an alternative to alcohol ignition interlock for those defendants who sign affidavit declaring they have no vehicle or access to one.

### **RIO ARRIBA FINDING No. 5:**

The monitor observed that the Judgment and Sentencing Reports are not always completed according to the sentence issued by the court.

### **RIO ARRIBA RECOMMENDATION No. 5:**

We recommend that a clerk be placed in each courtroom with the responsibility of accurately completing Judgment and Sentencing Reports in accordance with the sentence issued by the court.

**SANTA FE COUNTY COURT SYSTEM**  
 Period: January 2008 – December 2008

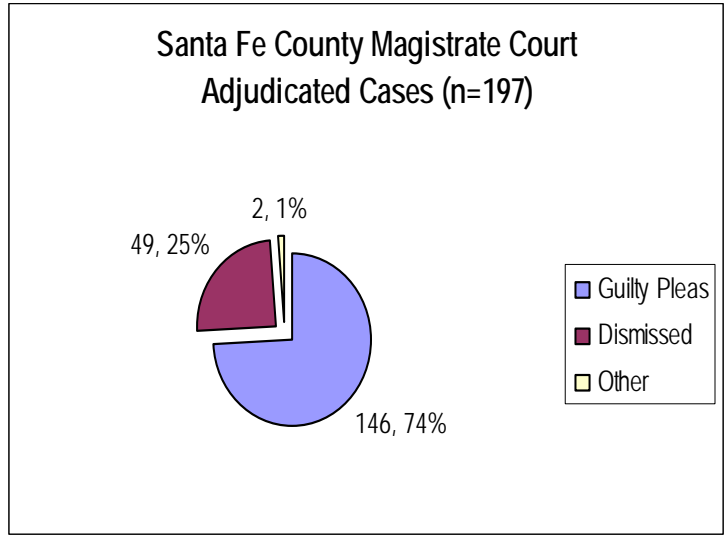
Total Cases Monitored in County During Reporting Period: 386

**FINDINGS**

Santa Fe County Magistrate Court

Summary:

<b>Cases Monitored</b>	<b>286</b>
Adjudicated	197
Dismissed	49
Guilty Pleas	146
Pleas to Original Charge:	93
Pleas to Reduced DWI Charge	48
Pleas to Non DWI Charge	5
Ignition Interlocks Ordered	142
Ignition Interlocks Waived	Not Available

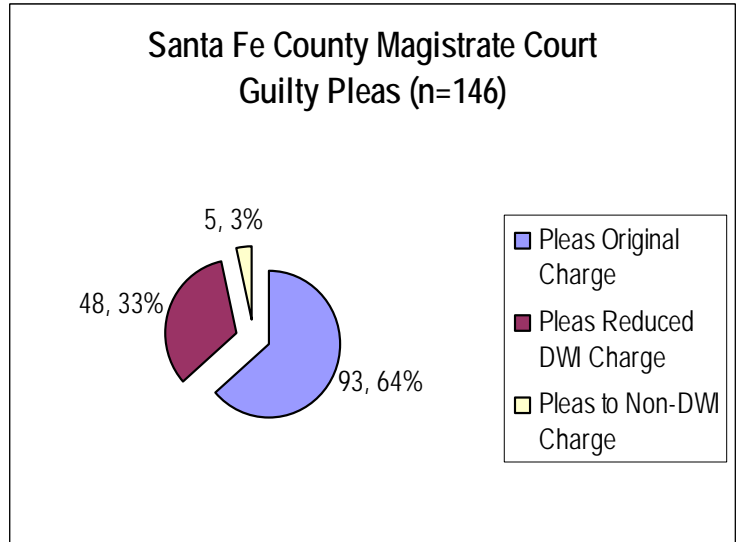


**Guilty Pleas: 146 (74%)**

Pleas to Original Charge: 93 (64%)

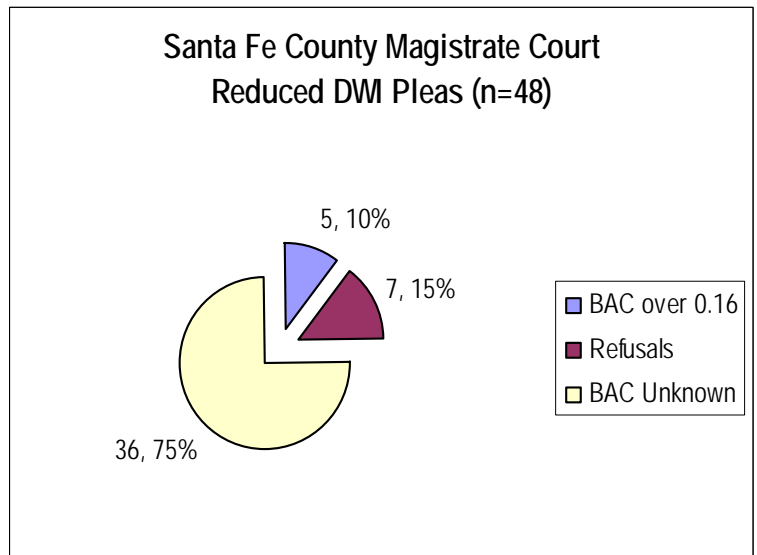
Pleas to a Reduced DWI Charge: 48 (33%)

- 5 defendants had a BAC of .16 or above (10%)
- 7 were refusals (15%)
- 36 BAC unknown (75%)



**Cases Plead to Non-DWI Charge: 4 (3%)**

- 2 defendants had BAC under .08
- 2 results unknown



**Santa Fe County Magistrate Court (continued):**

**Bench Trial: 2 (1%)**

- 2 guilty after bench trial

**Cases Dismissed: 49 (25%)**

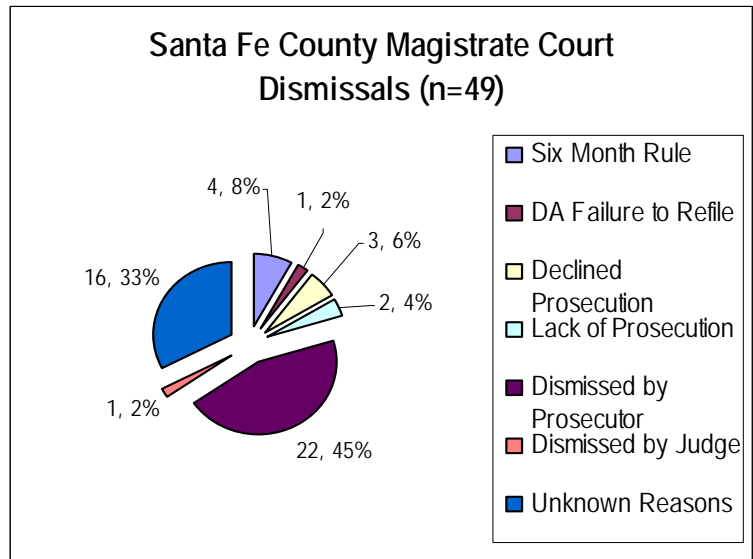
- 4 cases for six month rule
- 1 case where DA failed to re-file
- 3 for declined prosecution
- 2 for lack of prosecution
- 22 dismissed by prosecutor (reason unknown)
- One dismissed by judge (reason unknown)
- 14 for unknown reasons

**Ignition Interlocks**

- Ordered: 142 (99%)
- Waived: Not Available

**Other:**

- 8 cases with three or more continuances
- 5 cases transferred to District Court



**Santa Fe County Municipal Court**

**Summary:**

<b>Cases Monitored</b>	<b>100</b>
Adjudicated	78
Dismissed	9
Guilty Pleas	61
Pleas to Original Charge:	48
Pleas to Reduced DWI Charge	10
Pleas to Non DWI Charge	3
Ignition Interlocks Ordered	142
Ignition Interlocks Waived	Not Available

**Guilty Pleas: 61 (78%)**

**Pleas to Original Charge: 48 (79%)**

**Pleas to a Reduced DWI Charge: 10 (16%)**

- 4 defendants had a BAC of .16 or above (40%)
- 2 had a BAC of .21 or above (20%)
- 4 BAC unknown (40%)

**Cases Plead to Non-DWI Charge: 3 (5%)**

- 1 defendant had a BAC of .11
- 1 defendant had a BAC of .17 (but regulations in administering test not followed)
- 1 defendant had drugs (Xanax) in system

**Bench Trial: 8 (10%)**

- 6 guilty after bench trial
- 2 not-guilty after bench trial

**Cases Dismissed: 9 (12%)**

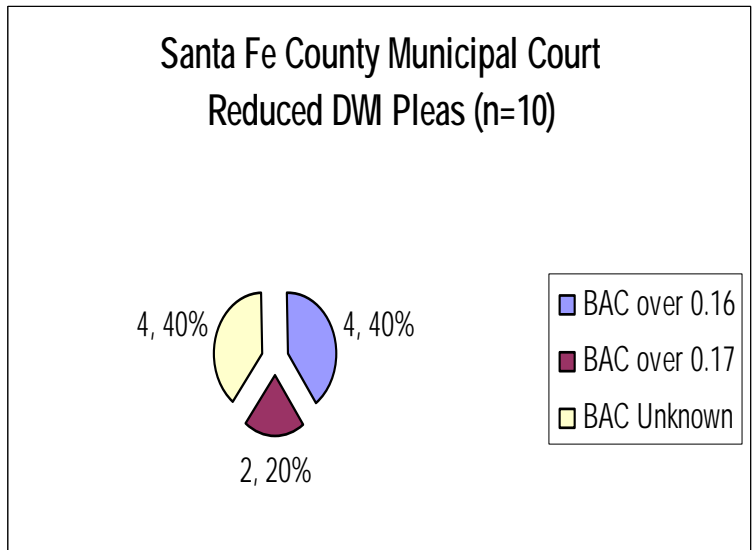
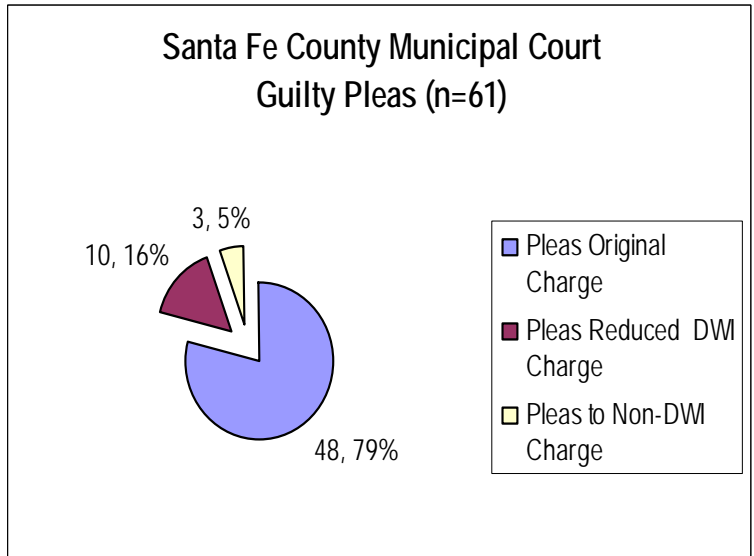
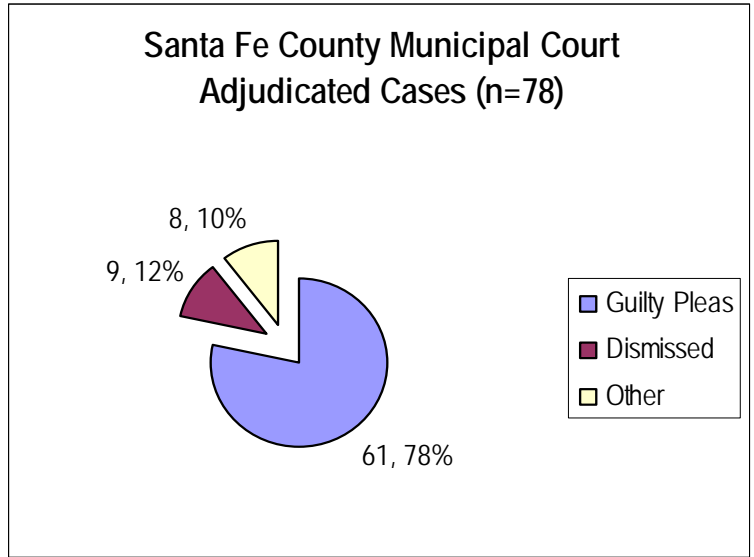
- 1 officer failure to appear – Santa Fe Police Department
- 2 cases dismissed pursuant to State v. Willie (Breath tests not in compliance with state regulations)
- 1 case of reasonable doubt to accuracy of breath test
- 1 for reasons unknown by prosecutor
- 4 unknown

**Ignition Interlocks**

- Ordered: 64 (97%)
- Waived: Not Available

**Other**

- 3 cases of 3 or more continuances



SANTA FE COUNTY

Magistrate and Municipal Courts

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	24%	71%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	8%	21%
DISMISSALS <i>(Officer FTA—Percent Is Of Total Dismissals)</i>	0%	11%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	100%	89%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	92%	75%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	64%	68%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	36%	28%
PLEA TO REDUCED NON-DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	0%	4%
GUILTY AFTER TRIAL <i>(Percent Is Of Adjudications)</i>	0%	3%
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	100%	100%

## **FINDINGS AND RECOMMENDATIONS:**

### **SANTA FE FINDING No. 1:**

Santa Fe County courts had the lowest number of reduced pleas (28%) of the counties monitored in 2008. However, in several cases, we observed that the prosecutor had not ordered the necessary paperwork to prove prior DWI convictions. This resulted in reduced pleas when the defendant had prior DWI convictions. While BAC information was incomplete, the BAC information that we were able to obtain showed that in several cases the defendant had a BAC of .16 or above and in at least two cases, .21 or above.

### **SANTA FE RECOMMENDATION No. 1:**

The prosecutor's office should consider adopting a policy requiring that prosecutors order the necessary paperwork immediately upon the filing of a case charging the defendant with a DWI 2 or above. We recommend training for prosecutors as indicated in Recommendation No. 2 (below).

### **SANTA FE FINDING No. 2:**

The dismissal rate was 12% for Municipal Court and 25% for Magistrate Court. Many of these cases were dismissed by prosecutors for unknown reasons. One dismissal in Magistrate Court was due to the failure of the prosecutor to refile on a 4<sup>th</sup> offense after the case was sent from District Court back to Magistrate Court.

### **SANTA FE RECOMMENDATION No. 2:**

We recommend the following policies be adopted to address these issues:

1. The prosecutor's office adopts a policy requiring that ADAs immediately refile cases that are dismissed without prejudice.
2. As noted in our first interim report, many prosecutors (assistant district attorneys or ADA's) handling DWI cases in New Mexico are recent law school graduates having limited courtroom experience. These findings point to a need for additional training regarding effective interactions with judges, the defense bar, and defendants. More training is recommended on trial preparation for DWI cases. As many of these prosecutors graduate from the University of New Mexico (UNM) Law School, we had recommended that UNM provide additional and specific prosecutor's training programs for law students in the areas identified above and throughout this report. MADD and the Governor's Office have met with faculty at UNM to discuss such a clinical program, and it appears funding may soon be available.
3. As we previously recommended, DWI prosecutors should attend annual trainings conducted by the New Mexico Traffic Safety Resource Prosecutor on DWI-related case law, including updates and changes to local, state and federal laws. The State Supreme Court should consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI cases.

### **SANTA FE FINDING No. 3:**

The Court Monitor observed that DWI cases are scheduled throughout the week rather than on a designated day resulting in continuances, especially in Municipal Court.

### **SANTA FE RECOMMENDATION No. 3:**

MADD recommends that specific days of the week be designated for the DWI docket. This would facilitate more timely adjudication of cases and fewer continuances. If specific days were designated for DWI cases, an assessment counselor could be present at the court ensuring that defendants are evaluated for treatment.

**SANTA FE FINDING No. 4:**

In the first interim report we noted that the court monitor had observed that in the majority of cases adjudicated at arraignment in Magistrate Court, the defendant does not have counsel. The plea is negotiated between the prosecutor and the defendant with no defense attorney present. While the defendant can and does waive counsel at the plea, for purposes of charging a DWI 2 or higher, the waiver of counsel must be effective. This practice is continuing and should be addressed.

**SANTA FE RECOMMENDATION No. 4:**

We continue to recommend that a Public Defender be available in the Magistrate courtrooms to confer with and negotiate pleas for defendants who lack counsel. Plea negotiations should not take place until a defendant has the opportunity to confer with counsel.

**SANTA FE FINDING No. 5:**

Judges are scheduling 90 day compliance checks at the time of sentencing to follow up on the defendant's compliance with terms of probation.

**SANTA FE RECOMMENDATION No. 5:**

This is a positive practice that should be followed by other courts, where feasible.

**SANTA FE FINDING No. 6:**

The monitor reported that Magistrate Court is planning a new schedule where the rotation of judges is used to alleviate scheduling conflicts.

**SANTA FE RECOMMENDATION No. 6:**

This is a positive change and we will monitor to observe how it affects scheduling conflicts.

**SAN JUAN COUNTY COURT SYSTEM**  
 Period: January 2008 – December 2008

Total Cases Monitored in County During Reporting Period: 414

**FINDINGS**

San Juan County Farmington Magistrate Court

Summary:

<b>Cases Monitored</b>	<b>36</b>
Adjudicated	15
Dismissed	5
Guilty Pleas	10
Pleas to Original Charge:	3
Pleas to Reduced DWI Charge	7
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	10
Ignition Interlocks Waived	Not Available

**Guilty Pleas: 10 (67%)**

Pleas to Original Charge: 3 (30%)

Pleas to a Reduced DWI Charge: 7 (70%)

- 3 defendants had a BAC of .18 or above (43%)
- 2 had a BAC of .20 or above (29%)
- 1 was a refusal (14%)
- 1 BAC unknown (14%)

Cases Plead to Non-DWI Charge: 0

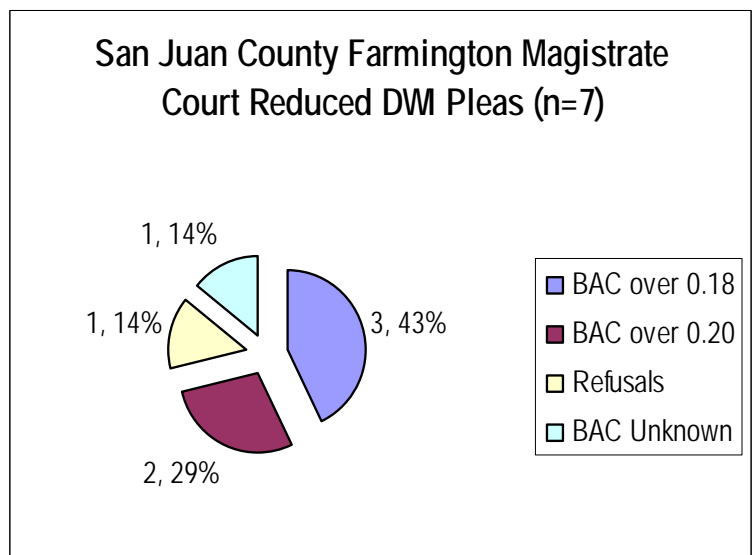
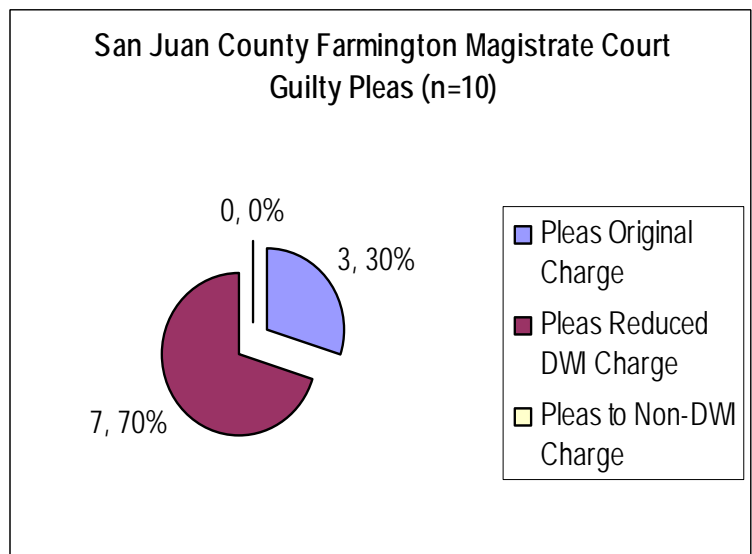
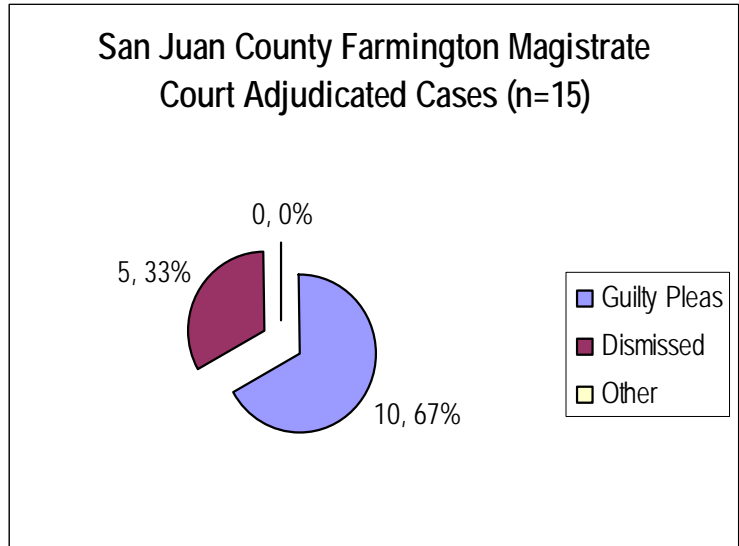
Bench Trial: 0

**Cases Dismissed: 5 (33%)**

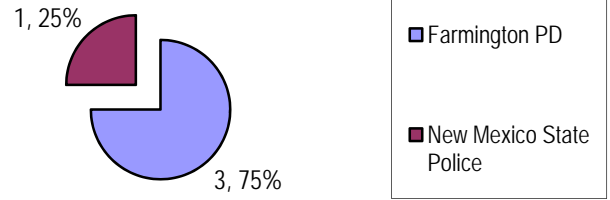
- 4 cases for officer failure to appear
  - 3 for Farmington Police Department
  - 1 for New Mexico State Police
- 1 case for suppression of evidence

**Ignition Interlocks**

- Ordered: 10 (100%)
- Waived: Not Available



San Juan County Farmington  
Magistrate Court  
Failure to Appear (n=4)



## San Juan County Farmington Municipal Court

### Summary:

<b>Cases Monitored</b>	<b>34</b>
Adjudicated	20
Dismissed	3
Guilty Pleas	16
Pleas to Original Charge	5
Pleas to Reduced DWI Charge	11
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	17
Ignition Interlocks Waived	Not Available

### Guilty Pleas: 16 (80%)

Pleas to Original Charge: 5 (31%)

Pleas to a Reduced DWI Charge: 11 (69%)

- 5 defendants had a BAC of .16 or above (46%)
- 2 had a BAC of .20 or above (18%)
- 2 were refusals (18%)
- 2 BAC unknown (18%)

### Cases Plead to Non-DWI Charge: 0

### Bench Trial: 2 (10%)

- 1 guilty after bench trial
- 1 not-guilty after bench trial

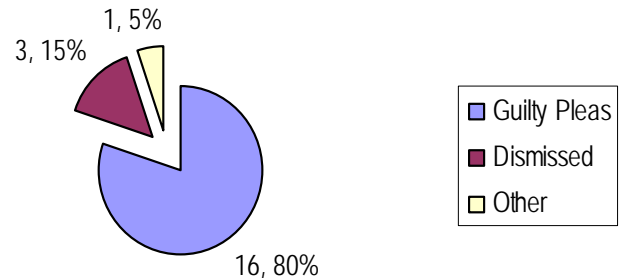
### Cases Dismissed: 3 (15%)

- 2 cases of officer failure to appear – Farmington Police Department
  - Prosecutor released officer too early
- 1 case unknown

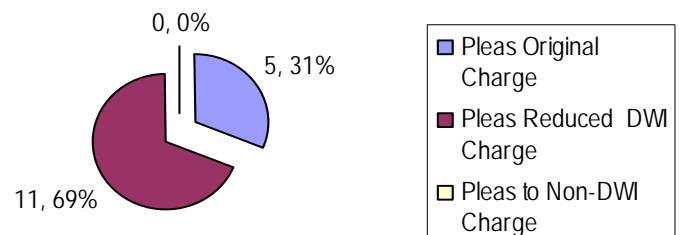
### Ignition Interlocks

- Ordered: 17 (100%)
- Waived: Not Available

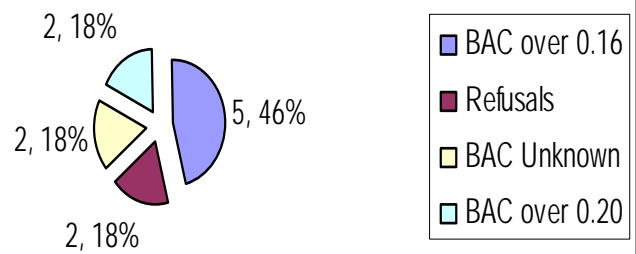
San Juan County Farmington Municipal Court Adjudicated Cases (n=20)



San Juan County Farmington Municipal Court Guilty Pleas (n=16)



San Juan County Farmington Municipal Court Reduced DWI Pleas (n=11)



**San Juan County Farmington District Court**

Summary:

<b>Cases Monitored</b>	<b>4</b>
Adjudicated	2
Dismissed	0
Guilty Pleas	2
Pleas to Original Charge:	1
Pleas to Reduced DWI Charge	1
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	2
Ignition Interlocks Waived	Not Available

**Guilty Pleas: 2 (100%)**

    Pleas to Original Charge: 1 (50%)

    Pleas to a Reduced DWI Charge: 1 (50%)

- DWI 5 Aggravated to a DWI 4 non-aggravated. BAC was .17.

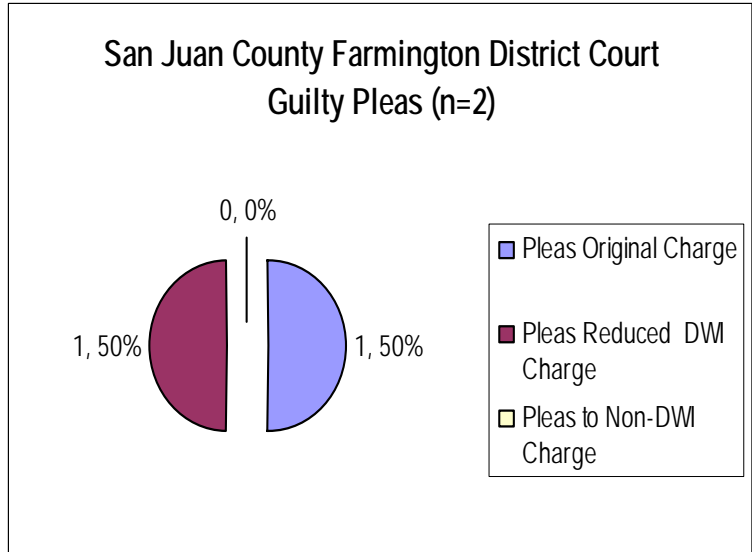
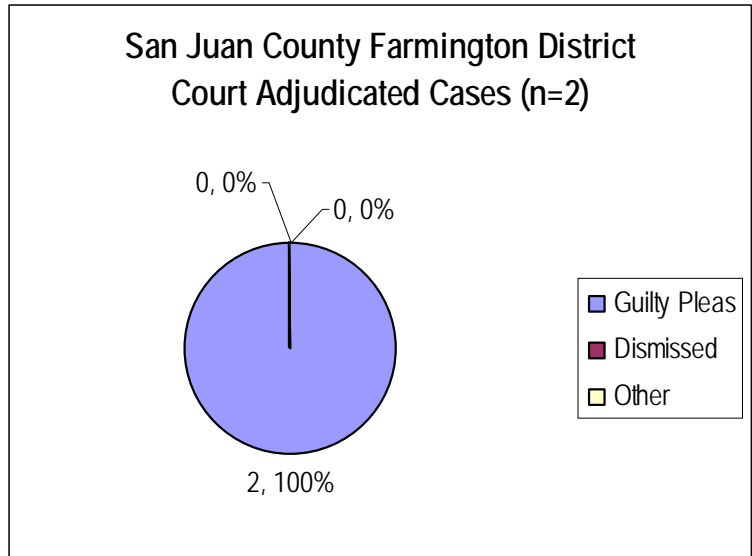
Cases Plead to Non-DWI Charge: 0

Bench Trial: 0

Cases Dismissed: 0

**Ignition Interlocks**

- Ordered: 2 (100%)
- Waived: Not Available



SAN JUAN COUNTY

Farmington Courts

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	11%	58%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	50%	22%
DISMISSALS <i>(Officer FTA—Percent Is Of Total Dismissals)</i>	100%	75%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	0%	25%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	50%	76%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	0%	32%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	100%	68%
PLEA TO REDUCED NON-DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	0%	0%
GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	3%
NOT GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	3%
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	100%	100%

## San Juan County Aztec Magistrate Court

### Summary:

<b>Cases Monitored</b>	<b>327</b>
Adjudicated	133
Dismissed	16
Guilty Pleas	116
Pleas to Original Charge:	37
Pleas to Reduced DWI Charge	79
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	116
Ignition Interlocks Waived	Not Available

### **Guilty Pleas: 116 (87%)**

**Pleas to Original Charge: 37 (32%)**

**Pleas to a Reduced DWI Charge: 79 (68%)**

- 21 defendants had a BAC of .16 or above (27%)
- 15 had a BAC of .20 or above (19%)
- 2 had a BAC of .30 or above (3%)
- 10 were refusals (13%)
- 31 BAC unknown (38%)

### **Cases Plead to Non-DWI Charge: 0**

### **Bench Trial: 1 (1%)**

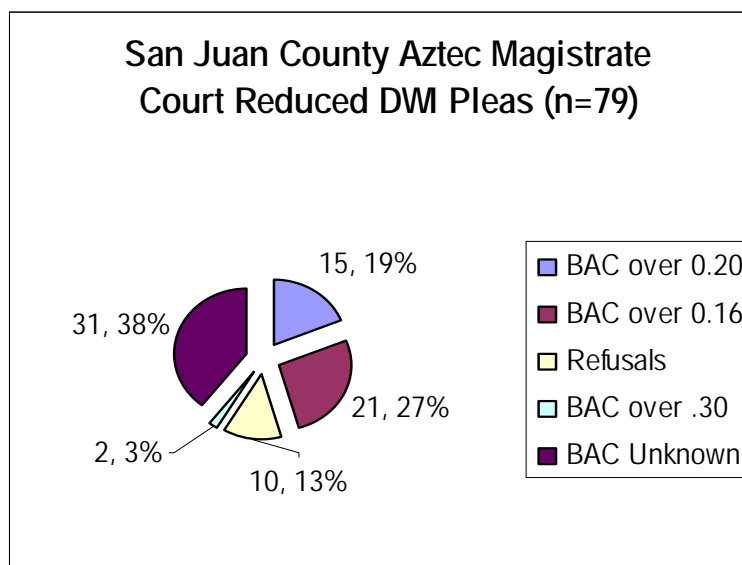
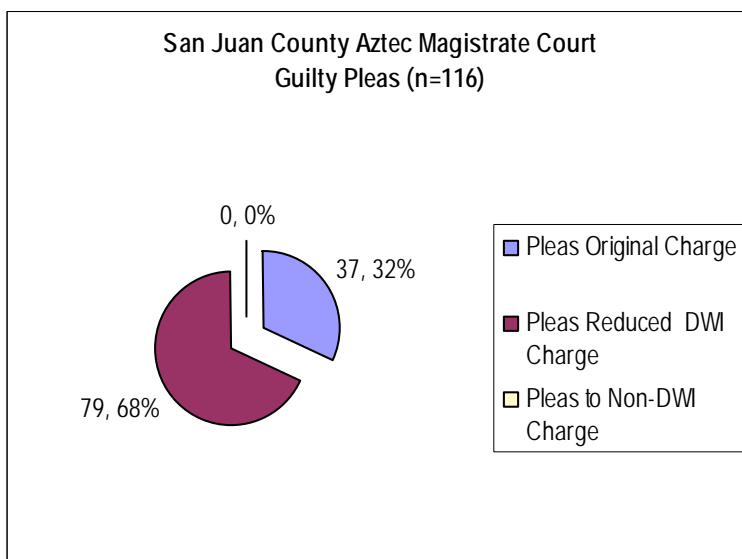
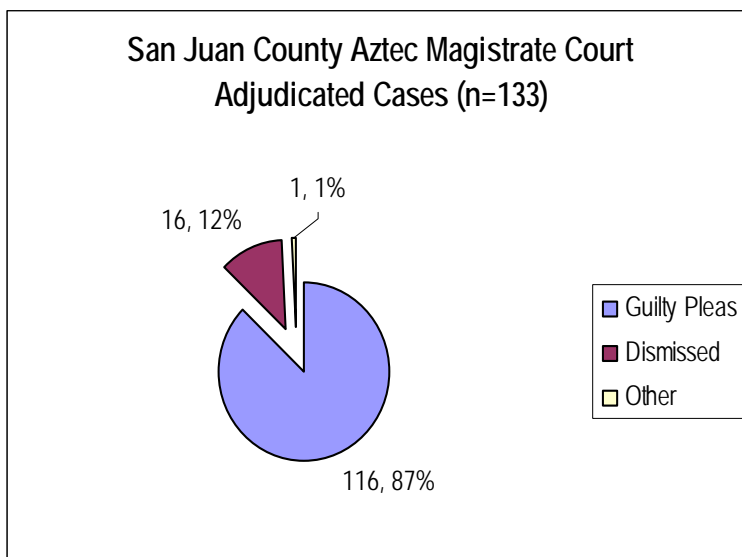
- 1 not guilty after bench trial

### **Cases Dismissed: 16 (12%)**

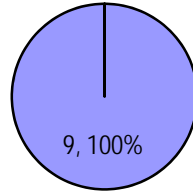
- 9 cases for officer failure to appear – New Mexico State Police (reasons unknown)

### **Ignition Interlocks**

- Ordered: 116 (100%)
- Waived: Not Available



San Juan County Aztec  
Magistrate Court  
Failure to Appear (n=9)



**San Juan County Aztec Municipal Court**

Summary:

<b>Cases Monitored</b>	<b>2</b>
Adjudicated	1
Dismissed	0
Guilty Pleas	1
Pleas to Original Charge:	0
Pleas to Reduced DWI Charge	0
Pleas to Non DWI Charge	1
Ignition Interlocks Ordered	0
Ignition Interlocks Waived	0

**Guilty Pleas: 1 (100%)**

    Pleas to Original Charge: 0

    Pleas to a Reduced DWI Charge: 0

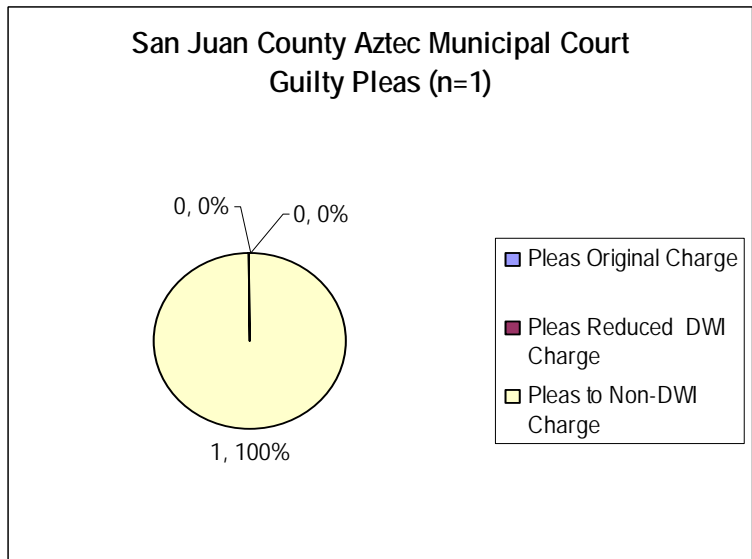
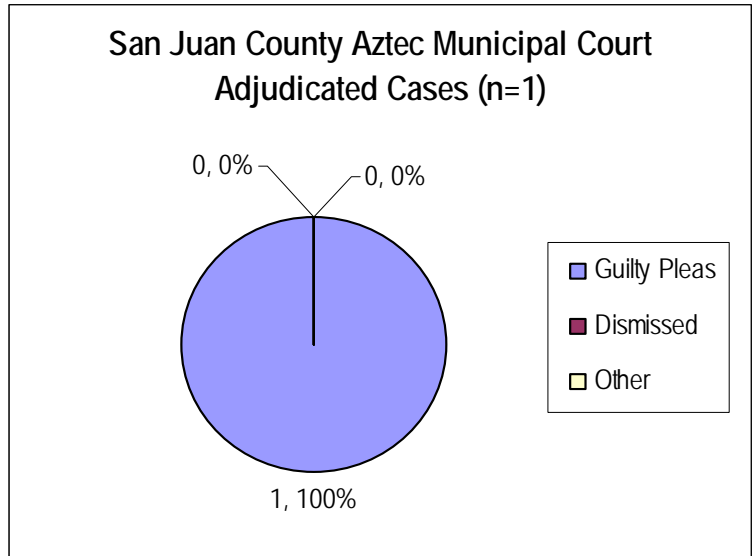
**Cases Plead to Non-DWI Charge: 1 (100%)**

- The defendant pled from a DWI 2 to careless driving. The defendant's BAC was .08.

**Cases Dismissed: 0**

**Ignition Interlocks**

- Ordered: 0
- Waived: 0



**San Juan County Aztec District Court**

Summary:

<b>Cases Monitored</b>	<b>8</b>
Adjudicated	4
Dismissed	0
Guilty Pleas	4
Pleas to Original Charge:	3
Pleas to Reduced DWI Charge	1
Pleas to Non DWI Charge	0
Ignition Interlocks Ordered	4
Ignition Interlocks Waived	Not Available

**Guilty Pleas: 4 (100%)**

**Pleas to Original Charge: 3 (75%)**

**Pleas to a Reduced DWI Charge: 1 (25%)**

- This was a refusal. The defendant pled from a DWI 5 aggravated to a DWI 4 simple.

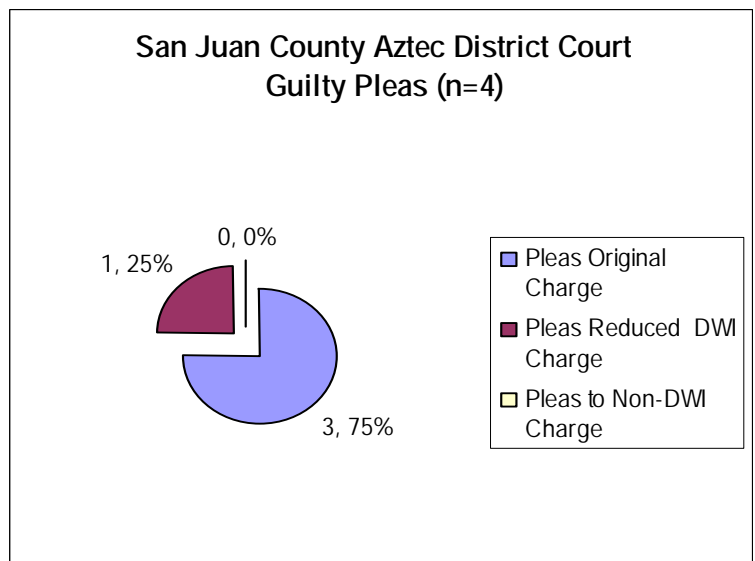
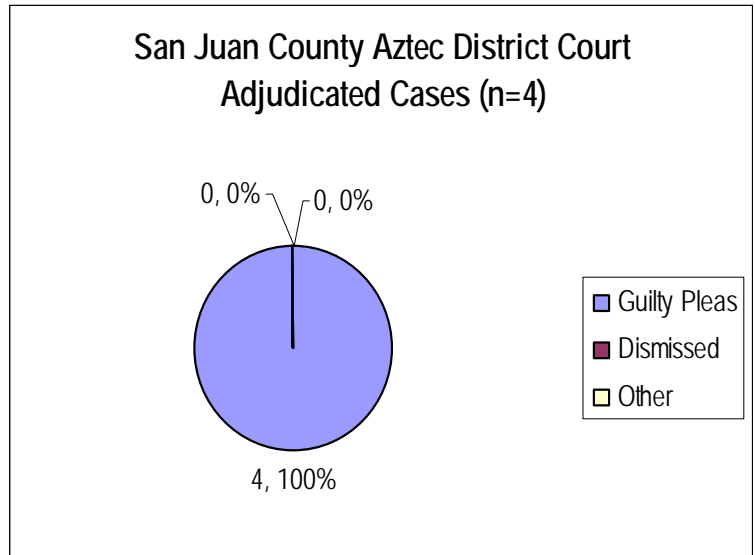
**Cases Plead to Non-DWI Charge: 0**

**Bench Trial: 0**

**Cases Dismissed: 0**

**Ignition Interlocks**

- Ordered: 4 (100%)
- Waived: Not Available



SAN JUAN COUNTY

Aztec Courts

Summary of First and Second Interim Report

REPORT CATEGORY	First Interim Report (January – May 2008) Percentages	Second Interim Report (January – December, 2008) Percentages
ADJUDICATIONS	14%	41%
DISMISSALS <i>(Total) (Percent Is Of Adjudications)</i>	35%	12%
DISMISSALS <i>(Officer FTA—Percent Is Of Total Dismissals)</i>	71%	56%
DISMISSALS OTHER <i>(Percent Is Of Total Dismissals)</i>	29%	44%
GUILTY PLEAS <i>(Percent Is Of Adjudications)</i>	65%	88%
PLEA TO ORIGINAL CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	38%	34%
PLEA TO REDUCED DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	62%	66%
PLEA TO REDUCED NON-DWI CHARGE <i>(Percent Is Of Total Guilty Pleas)</i>	0%	.08 %
GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	0%
NOT GUILTY AFTER BENCH TRIAL <i>(Percent Is Of Adjudications)</i>	0%	1%
INTERLOCKS ORDERED <i>(Percent Is Of All Found Guilty Of DWI Charge By Plea Or Trial)</i>	100%	100%

## **FINDINGS AND RECOMMENDATIONS:**

### **Aztec Courts:**

#### **SAN JUAN AZTEC FINDING No. 1:**

The number of DWI cases dismissed in San Juan Aztec Courts because officers failed to appear during interim report period two was 56% of the total number of cases dismissed.

#### **SAN JUAN AZTEC RECOMMENDATION No. 1:**

While lower than initially indicated in the first interim report, the fact that more than half of DWI cases dismissed was due to officer FTA is of concern. In order to make a recommendation to combat this problem, more data must be obtained. We will continue to watch this closely and attempt to determine the issues and trends going forward.

#### **SAN JUAN AZTEC FINDING No. 2:**

The number of reduced pleas is significant at 66% for Aztec Courts as a whole and 68% for Aztec Magistrate Court specifically. This is higher than our first interim report which showed 62% for Aztec Courts as a whole. Of the 79 reduced pleas in the county as a whole, we obtained BAC information on 59 cases. Of those cases, 64% had a BAC above .16, and 25% of the 59 cases had a BAC above .20 with two of those cases above .30. The one defendant who was allowed to plead to a non-DWI charge had a BAC of .08.

#### **SAN JUAN AZTEC RECOMMENDATION No. 2:**

As our first interim report showed, the number of reduced pleas is significant. Additionally, defendants have been allowed to plead to reduced charges with extremely high BAC's and have been allowed to plead down from DWI 3 aggravated to simple DWI. As a result we recommend that a number of policies be adopted to address the issue of reduced pleas:

1. Prosecutors consider a policy in which cases are not reduced from aggravated DWI to simple DWI if the defendant's BAC is .17 or above, unless there are exceptional circumstances, as approved by a supervisor.
2. Pleas to a reduced charge should only be offered at the earliest date possible in the proceedings, preferably the first pre-trial conference.
3. Prosecutors consider not allowing reduced pleas on charges of DWI 2 or above, unless there are exceptional circumstances, as approved by a supervisor. Offer best practices to Judges as to parameters of reduced pleas that are acceptable versus those that should be rejected.
4. As noted in our first interim report, many prosecutors (assistant district attorneys (ADA)) handling DWI cases in New Mexico are recent law school graduates having limited courtroom experience. These findings point to a need for additional training regarding effective interactions with judges, the defense bar, and defendants. More training is recommended on trial preparation for DWI cases. As many of these prosecutors graduate from the University of New Mexico (UNM) Law School, we had recommended that UNM provide additional and specific prosecutor's training programs for law students in the areas identified above and throughout this report. MADD and the Governor's Office have met with faculty at UNM to discuss such a clinical program, and it appears funding may soon be available.
5. As we previously recommended, DWI prosecutors should annual attend regional trainings conducted by the New Mexico Traffic Safety Resource Prosecutor, on DWI-related case law, including updates and changes to local, state and federal laws. The State Supreme Court should consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI cases.

### **SAN JUAN AZTEC FINDING No. 3:**

Of concern was the monitor's observation that treatment was ordered in only 58% of cases in Aztec Magistrate Court in which treatment was mandated. As noted above, we did not specifically track treatment for this report, but it is something we will monitor in the upcoming year to determine trends and concerns.

### **SAN JUAN AZTEC RECOMMENDATION No. 3:**

The court needs to ensure that treatment is being ordered in all cases and that oral orders of treatment are being recorded on the Judgment and Sentencing Reports.

### **Farmington Courts:**

#### **SAN JUAN FARMINGTON FINDING No. 1:**

During this reporting period although only a small number of cases were tracked in Farmington, failure to appear by officers is cause for concern as indicated in our first interim report. Of the eight cases dismissed, 75% were because an officer failed to appear.

#### **SAN JUAN FARMINGTON RECOMMENDATION No. 1:**

As with Aztec, in order to make a recommendation to combat this problem, more data must be obtained. Except for Farmington Municipal Court, we were unable to ascertain the reason why officers are failing to appear. We will continue to monitor and attempt to determine the issues and trends.

#### **SAN JUAN FARMINGTON FINDING No. 2:**

The number of reduced pleas is extremely high at 68% for Farmington in all courts; and with 70% for Farmington Magistrate Court. In looking at the county as a whole, of the 19 cases with reduced pleas, 13 had a BAC of .16 or higher (68%) and four were at .20 or above (21%). Three refused a chemical test.

#### **SAN JUAN FARMINGTON RECOMMENDATION No. 2:**

This is a trend that needs to be monitored. While the sample is small, the number of defendants that had a BAC of .16 or above is alarming and MADD recommends that action be taken in Farmington courts to adopt best practices and policies that MADD has recommended for other counties:

1. Prosecutors consider a policy in which cases are not reduced from aggravated DWI to simple DWI if the defendant's BAC is .17 or above, unless there are exceptional circumstances, as approved by a supervisor.
2. Pleas to a reduced charge should only be offered at the earliest date possible in the proceedings, preferably the first pre-trial conference.
3. Prosecutors consider not allowing reduced pleas on charges of DWI 2 or above, unless there are exceptional circumstances, as approved by a supervisor.
4. Offer best practices to Judges as to parameters of reduced pleas that are acceptable versus those that should be rejected.

5. As noted in our first interim report, many prosecutors (assistant district attorneys (ADA)) handling DWI cases in New Mexico are recent law school graduates having limited courtroom experience. These findings point to a need for additional training regarding effective interactions with judges, the defense bar, and defendants. More training is recommended on trial preparation for DWI cases. As many of these prosecutors graduate from the University of New Mexico (UNM) Law School, we had recommended that UNM provide additional and specific prosecutor's training programs for law students in the areas identified above and throughout this report. MADD and the Governor's Office have met with faculty at UNM to discuss such a clinical program, and it appears funding may soon be available.
6. As we previously recommended, DWI prosecutors should annual attend regional trainings conducted by the New Mexico Traffic Safety Resource Prosecutor, on DWI-related case law, including updates and changes to local, state and federal laws. The State Supreme Court should consider adopting rules requiring mandatory training for prosecutors in various aspects of criminal law and procedure for prosecuting DWI cases.

## CONCLUSION

MADD's first interim report analyzed only a small amount of data (1353 cases monitored with 432 adjudications) gathered during court monitoring activity from January through May 2008. Monitoring activity occurred in Bernalillo, Dona Ana, McKinley, Rio Arriba, San Juan and Santa Fe counties. That analysis revealed emerging trends, issues and areas of concern which were (for the most part) confirmed during our first year of monitoring, as detailed in this report. Some specific areas of concern in the first interim report included the high rate of reduced pleas, the high dismissal rate and the issue of waiver of interlock requirements. Other issues involved the efficiency of the courts in adjudicating cases, including the level of training for prosecutors, the use of privately contracted defense attorneys in one county, and the manner in which the courts are conducting DWI proceedings. Some of the issues were addressed between the first and second interim reports. Specifically, funding was authorized for a public defender's office in Gallup to help alleviate court delay and the inefficient use of police and court resources. There was discussion with the University of New Mexico to provide prosecutorial training for law students, and it appears that funding will be available for a clinical program. While the problem of waiver of interlock has not been solved, Senate Bill 275 has been passed which will require defendants to obtain an interlock before they can apply for a regular license.

Interim Report Two analyzes findings from additional data (2372 cases monitored and 1525 adjudications) gathered during court monitoring activity from January through December 2008. In almost all counties, the rate of dismissals and reduced pleas remained significantly high throughout 2008. Of continued concern is the frequency that courts grant reduced pleas for defendants with high BACs, those charged with refusal or DWI 2 or above. There is continued concern about waiver of interlock, the efficiency of the courts, the level of training for prosecutors, and the manner in which courts are conducting DWI proceedings. Solid recommendations were made in the first report to address these issues, but many were not implemented during this reporting period. As a result many recommendations remained the same in the second report as those in the first interim report. In addition to these recommendations, MADD has instituted several new practices in its court monitoring to track issues. MADD is now obtaining Judgment and Sentencing Reports for each case it monitors to analyze in depth the sentences ordered. MADD has also met with District Attorneys and Judges to discuss issues as they emerge to review solutions. MADD has filed judicial standards complaints where appropriate when it discovers violations of law.

Court monitoring under the project will continue to focus on areas of concern identified in this report, as well as any additional issues that surface. In particular, over the next reporting period we will expand data gathering to include frequency of treatment ordered by courts, application of mandatory minimum sentences, and clarity of Judgment and Sentencing Reports.

Based on the cumulative data, we will continue to revise and develop recommendations in order to improve the handling and adjudication of DWI cases across the legal system.