

REC'D CLERK RECORDED 03/15/2013

MINUTES OF THE
SANTA FE COUNTY
DWI PLANNING COUNCIL

February 14, 2013

Santa Fe, New Mexico

This meeting of the Santa Fe County DWI Planning Council was called to order by Chair Allen Steele at approximately 9:02 a.m. on the above-cited date at 2052 S. Galisteo, Santa Fe, New Mexico.

The following individuals present:

Members Present:

- Allen Steele, Chair
- Richard De Mella
- Glenn Levant
- Grace Quintana-Trujillo
- Tom Starke
- Lisa Wooldridge

Member(s) Excused:

- Donna Bevacqua-Young
- [One vacancy]



Staff Present:

- Lupe Sanchez, DWI Program Coordinator
- Peter Olson, DWI Program
- Jennifer Romero, SFC Teen Court
- Diolinda Roybal, DWI Program

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

DWI MINUTES
PAGES: 10

I Hereby Certify That This Instrument Was Filed for Record On The 19TH Day Of March, 2013 at 02:07:45 PM And Was Duly Recorded as Instrument # 1699788 Of The Records Of Santa Fe County

Deputy Marcella Salazar Witness My Hand And Seal Of Office Geraldine Salazar County Clerk, Santa Fe, NM

Others Present:

- Lt. Alan Mascarenas, Santa Fe Police DWI Unit
- Shelley Mann-Lev, SFUDPA
- Loralee Freilich, DWI Educator
- Shelly Moeller, Consultant
- Ramona Flores Lopez, SFUDPA
- David Saldivar, Teen Court
- Ron Crow, SFSO
- Nathan Segura, SFSO
- Jennifer Romero, Teen Court
- Elizabeth Trickey, DOH Office of General Counsel

[Exhibit 1: Sign-in Sheets]

III. Approval of the Minutes: January 10, 2013

Mr. Levant moved to approve. Ms. Wooldridge seconded.

On page 3, third paragraph, Chair Steele asked that the sentence attributed to him characterizing CADDy as prevention/education be eliminated.

The correction was accepted by the movant and seconder and the motion to approve the January 10, 2013 minutes was unanimously [6-0] approved.

IV. Approval of the Agenda

Upon motion by Mr. Starke and second by Mr. Levant the agenda was unanimously [6-0] approved.

V. Matters from the Council

A. Follow-up from Previous Meetings

Mr. Sanchez said he included the letter to DOH regarding the potency of THC. Mr. Levant said his concern pertains to the potency and dosage of the marijuana that is dispensed and the fact that the medical marijuana legislation does not include specifications about them. He asked that a request be forwarded to the appropriate state agency requesting statute amendment to address this issue. He was unsure whether the correct agency was DOH.

Elizabeth Trickey, DOH General Counsel, said DOH is in charge of the marijuana program but a change in statute requires legislative action. She said it could be coordinated in cooperation with DOH if they supported the concept. She referred to Chris Woodward at DOH.

Mr. Levant suggested staff request DOH's cooperation.

B. Other Matters from the Council

None were offered.

VI. Information Items

A. Coordinator's Report

Mr. Sanchez stated the grant application is complete and under review by County management and from there will be forwarded to DFA Local Government Division.

DWI Day is February 20th at the Capitol starting at noon. He encouraged participation. Ms. Mann-Lev said red armbands will be distributed to those participating in the March of Sorrow starting at noon on the west side of the Capitol. Volunteers are welcome and Lisa Grace Guiffra is the contact person.

An annual Conflict of Interest form is required from committee members and forms were provided.

Mr. Sanchez advised the Council that he and consultant Shelly Moeller conducted an audit on the cab company's dispatch logs. Two nights of dispatch logs were reviewed and a 3 percent difference was revealed between calls and trip tickets. It appears the 3 percent error could be attributed to cash paying riders because the vast majority use a card when they call in the order.

Mr. Sanchez said staff would continue to conduct random audits and a ride-along is scheduled for February 22nd.

Ms. Moeller said there were approximately 120 to 140 rides each night. Repeat riders are not documented although she felt that could be ascertained.

Responding to Mr. Levant's concern, Mr. Sanchez said the cab company will reimburse the County for the 3 percent error. Ms. Moeller said over the two-day period she recalled there were only six tickets that were unaccountable.

Mr. Levant said the County's goal should be zero errors and he encouraged staff to continue the audit process.

Referring to Budget FY2013, contractual services provided within the packet, Mr. Levant said the budget adjustment for \$66,000 was not detailed. Mr. Sanchez said that money was earmarked for prevention and will be used for public awareness campaigns and the CADDY program. The funding for the contractual services is coming through a vacancy savings.

Mr. Levant said the Finance Committee would like more details about the contractors and the contract amounts.

c. Elizabeth Trickey, Assistant General Counsel, Department of Health

Ms. Trickey introduced herself as the attorney for Department of Health's Scientific Lab Division (SLD). The lab is responsible for most the DWI testing within the state. At this time the only other certified lab to conduct DWI work is the Albuquerque Police Department Crime lab which does blood testing for alcohol only.

She said her job entails addressing all legal issues for the lab which range from answering subpoenas to negotiating with DAs about whether an analysts can attend a trial, noting that they may have four other subpoenas for the same day. She mentioned two US Supreme Court cases, *Melendez-Diaz* and *Bullcoming*. In *Melendez-Diaz*, the Court held that it was a violation of the Sixth Amendment right of confrontation for a prosecutor to submit a chemical drug test report without the testimony of the person who performed the test. In the *Bullcoming* case the Court ruled that the then-common practice of submitting these reports without testimony was unconstitutional. It also held that so-called "notice-and-demand" statutes are constitutional and appeared to encourage New Mexico to enact such a statute. A cumulative outcome of the two cases translates to mean that SLD analysts that are doing blood testing are considered accusers of a DWI defendant, which under the confrontation clause of the US Constitution gives the criminal defendant the opportunity to confront the witnesses and the right to cross-examine the analyst. She distributed a copy of a 705 blood alcohol analysis report and gave a synopsis of the *Bullcoming* case explaining that the analyst was on administrative leave and the Court could not accept the testimony of the supervisor at that time. The *Bullcoming* case was advanced to the US Supreme Court where it lost.

The fallout from losing *Bullcoming* at the US Supreme Court has meant that reports, i.e. the 705 forms, cannot be entered into evidence without the right analyst testifying. Without the analyst's testimony the form is considered hearsay and inadmissible as evidence. Looking at the other side of the argument, Ms. Trickey said it is prejudicial to a defendant to enter a document if there is no one to testify affirming that they did the testing and those were the correct results.

Ms. Trickey said prior to drug and alcohol testing it was merely evidence of impairment. Evidence of impairment is still acceptable; however, most prosecutors want the numbers and most juries are persuaded by the numbers. She described the chain of custody regarding blood samples.

Ms. Trickey said "notice and demand" is an instrument where the prosecutor can submit documents without the author being present; however, the defendant has time to object and require that the analyst be present. The Court ruled in both *Bullcoming* and *Melendez-Diaz* notice and demand as constitutional. A bill has been introduced (HB 432) creating notice and demand to impose the law. She encouraged the council to support the bill and be present when it is under discussion noting there is likely to be heavy opposition from the criminal defense bar. The bill also allows for an analyst to appear by video.

Ms. Trickey pointed out that nine times out of ten when the analyst is not present at the hearing, the case is dismissed. A notice and demand law will solve that issue. An important component of HB 432 implies consent of video testimony by the analyst.

Mr. De Mella said calling the House Judiciary committee members was an effective method to get a bill passed. Grassroots efforts work.

The lab has seen an increase in multiple drugs, stated Ms. Trickey. With results .08 BAC or above no drugging testing is done; however, between .04 and .08 drug testing is conducted.

Ms. Wooldridge said the public is not aware of the evidence restriction issues and she encouraged public education. Ms. Trickey said offenders are getting convicted and more interlock mechanisms installed. She said the state has one of the toughest DWI laws with first offense interlock.

Mr. Starke encouraged attendance at the hearings and said proponents and opponents will have an opportunity to speak.

b. Committee Reports

Mr. Levant said Law Enforcement and Finance committees have met recently.

In regard to recognition, Mr. Sanchez said the Rotary Board will be meeting and his wife would solicit for interest in the DWI recognition program. He suggested acknowledging the DA with the most DWI convictions.

Communication & Public Policy Committee: Mr. Starke reported that the committee met in January and developed a list of action items and reviewed the public policy objectives within the strategic plan. The drafting of a monthly or quarterly newsletter that could be forwarded to the

BCC, the DWI community and alcohol treatment community was suggested. Sponsoring an annual DWI summit for Santa Fe County bringing the DWI community together was discussed as well as developing a calendar of events. Video DWI-related training sessions be web availability.

Mr. Starke identified a goal in the strategic plan of changing state law which the committee understands requires the BCC's support.

Ms. Mann-Lev said there is tremendous power within the voice of this council and she encouraged it be used. She mentioned that the local option bill failed. The list of alcohol-related legislation is long.

Mr. Sanchez said any council proposed legislation would require BCC approval.

A discussion ensued as to whether the DWI Planning Council can appear and support a bill in that capacity. Mr. Sanchez said staff is required to obtain permission from the County Manager to support a bill. He offered to talk to the manager in regard to HB 432 and any other bills the council is interested in.

One can introduce himself or herself as a council member speaking as an individual in regard to a bill.

Ms. Freilich said email blasts to supporters with a script in support of a bill that contains the phone listings of legislators has proved successful.

Law Enforcement Committee met in February, stated Ms. Wooldridge and they discussed the recognition program.

Mr. Sanchez noted that saturation patrols and checkpoints are scheduled in February and March. State Public Safety Special Investigation Division in conjunction with City Police and County Sheriff will conduct a number of enforcement operations, including plainclothes patrols and inspections of licensed liquor sales and underage sting operations. The dashboard is available online.

Mr. Levant said the committee **also** requested the results of the Mystery Shopper program and the CADDy program be provided to the appropriate law enforcement agencies for their edification. Mr. Sanchez said law enforcement receives CADDy information and Mr. Levant said he wants to see that formalized.

Mr. Levant repeated the **Finance Committee's** request for a hard copy of the contractors' contracts.

e. Planning Council Member Terms

Mr. Sanchez indicated council terms are for two years and he referred to a report within the packet identifying term expirations. Those interested in extending their service should reapply and contact him as soon as possible.

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Mr. Levant noted that he lives in District 2.

Ms. Freilich reminded staff that she was interested in serving on the Council.

VII. Action Items

b. Agenda Items for the Next Meeting

- Obtain a legislative update
- Review the scope of the DWI situation/problem in Santa Fe County
- Invite County Manager Miller to discuss the Council's role and scope of DWI in the County
- Review and discuss DWI dashboard report

VIII. Matters from the Public

None were presented.

IX. Announcements

A. Next PC meeting March 14, 2013, 9:00 to 10:30

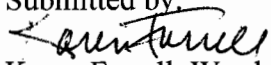
X. Adjournment

This meeting was declared adjourned at approximately 10:30 a.m.

Approved by:



 Allen Steele, Chair
 DWI Planning Council

Submitted by:

 Karen Farrell, Wordswork

DWI PLANNING COUNCIL MEETING

DATE: February 14, 2013

PLACE: 2052 South Galisteo

GUEST NAME	REPRESENTING	PHONE/E-MAIL
Lupe Sanchez	DWI Program	992-9840
Joyce Varela		
Diolinda Roybal	dRybal	
Peter Olson	DWI Program	
Alan / [unclear]	SMA	2505699
Ramon Flores Lopez	SFUADPA	955-1213
David Sardinar	Teen Court	603-6239
Shelly Meller	Evaluation	660-7393 [unclear]@[unclear].com
[unclear]	DWI issues	
Ron Crow	SFSD	986-2467 rcrow@santafecounty.org
Nathan Segura	SFSD	186-2475 nsegura@santafecounty.org
Shelley Mann-lw	SFBS/SFUADPA	
Jennifer Romero	Teen Court	
Jennifer		
Elizabeth Trickey	DOH OFFICE OF General Counsel / SW	476-5512 elizabeth.trickey@sfco.org

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DWI PLANNING COUNCIL MEETING

DATE: February 14, 2013

PLACE: 2052 South Galisteo

MEMBER'S NAME

SIGNATURE

Donna M. Bevacqua-Young

Richard De Mella

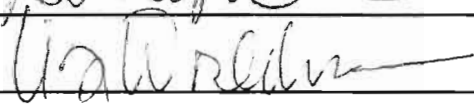
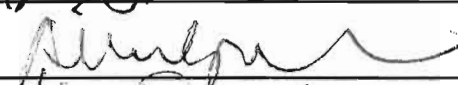
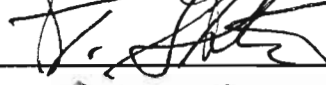
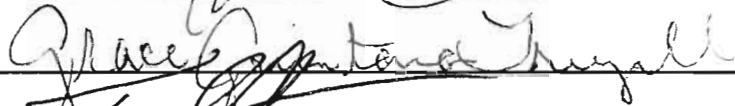
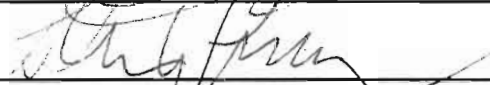
Glenn Levant

Grace Quintana-Trujillo

Tom Stark *e*

Allen Steele

Lisa Wooldridge



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DWI PLANNING COUNCIL MEETING

DATE: March 14, 2013

PLACE: 2052 South Galisteo

GUEST NAME	REPRESENTING	PHONE/E-MAIL
Lupe Sanchez	SFC DWI	
Joyce Varela		
Diolinda Roybal	SFC DWI	
Peter Olson	SFC DWI	
Ted Collins	NMSP	Ted Collins AS STATE NMSP
Nathan Segura	SFSO	nsegura@santabato-county.org
David Saldivar	Teen Court	
Looney Jackson	DWI Issues	looneyjackson@att.net
Shelly Moller		660 9393 psii@mac.com

Jennifer Romero Teen Court 915-9555

Leah Tafuya Adult Probation + Parole 310-2168 - leah.tafuya@statemn.us

DWI PLANNING COUNCIL MEETING

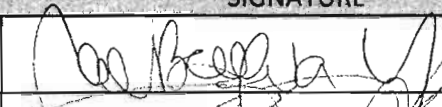
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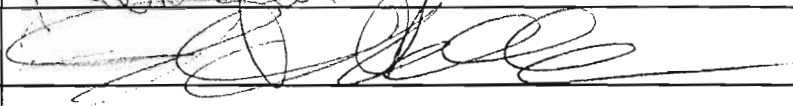
MEMBER'S NAME

SIGNATURE

Donna M. Bevacqua-Young

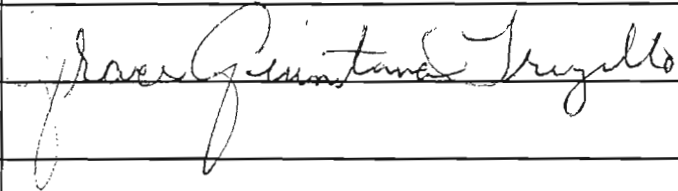


Richard De Mella



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