

# Chaves County DWI Misdemeanor Compliance Program Policy & Protocols

## **I. PURPOSE**

The purpose of these guidelines is to ensure, through standards and limitations of powers, the safe and consistent handling of misdemeanor defendants who may be monitored or supervised by the Chaves County DWI Misdemeanor Compliance Program.

Section 31-20-5.1 NMSA 1978 states that: *A county may create a "misdemeanor compliance program" to monitor defendants' compliance with the conditions of probation imposed by a district or magistrate court...A county's program shall comply with guidelines established by the administrative office of the courts.*

## **II. DEFINITION**

The Chaves County DWI Misdemeanor Compliance Program was designed to provide assistance to the Chaves County Magistrate Court as an alternative sentence to incarceration of prisoners at the Chaves County Detention Center. The program, by design, is to make individuals sentenced to probation comply with conditions of release as ordered in court orders and probations agreements.

## **III. LIMITATIONS**

The program created under Section 31-20-5.1 NMSA 1978 shall be limited to participation by persons who have been convicted of a misdemeanor criminal offense specified in the Criminal Code, convicted of driving while under the influence of intoxicating liquor or drugs, or convicted of driving while the person's driver's license is suspended or revoked pursuant to the Motor Vehicle Code.

#### **IV. PROGRAM SHALL BE COUNTY OPERATED**

The program existing pursuant to this statute shall be county run and is subject to these guidelines. Chaves County may hire compliance officers, or may contract with individuals or with public, private, or not-for-profit organizations to carry out the purpose of this program.

#### **V. PROGRAM NAME**

The program shall be called “Chaves County DWI Misdemeanor Compliance Program” hereinafter referred to as DWIMCP.

#### **VI. COMPLIANCE OFFICER TITLE**

Officers hired by counties shall be called “Court Compliance Officers” (hereinafter referred to as CCO) to avoid the appearance of overlap with NM Department of Adult Probation and Parole probation officers.

#### **VII. CCO POWERS and DUTIES**

A. The CCO shall have the power to:

1. Determine the extent to which referred defendants are in compliance with their sentences for attending and completing court-ordered programs and treatments, through interaction with magistrate and district courts, law enforcement agencies, community service agencies, and other community services.
2. Through telephone calls and office visits, encourage and motivate referred defendants to comply fully with sentences from the courts, including but not limited to payment of fines, fees, and restitution.
3. Provide periodic defendant compliance and non-compliance reports to the courts, district attorney’s office, and defense attorneys.
4. Receive and receipt compliance program costs from defendants.
5. Set up and maintain a community service program within the county.

6. Track defendants sentenced to the probation program.
- B. The CCO shall have the following powers and duties but only if such powers and duties are specifically given the CCO in the order of probation, signed by both the judge and defendant, setting conditions of probation:
1. May conduct random visits to bars and clubs.
  2. Require periodic and/or random testing of the defendants for alcohol and/or drug compliance.
  3. Monitor defendant's compliance with an electronic monitoring program.
  4. Monitor defendant's use of an ignition interlock device.
  5. May conduct random searches of defendants person, automobile if reasonable suspicion or safety issues exist.

#### **VIII. CCO LIMITATIONS**

- A. CCO's shall not have arrest powers and must observe and respect all due process rights of all defendants. Any arrest shall be made only by a law enforcement officer and only upon issuance of a warrant as set forth in NMRA- 6-802.
- B. CCO's shall not carry firearms.
- C. CCO's shall not make home visits unless extenuating circumstances exist and accompanied by law enforcement personnel.
- D. CCO's shall not handle receipts or other financial-related matters except the collection of probation fees.

#### **IX. CCO PREFERRED QUALIFICATIONS**

- A. Associate degree and one year experience in a criminal justice position or in counseling or Certified/Retired Law Enforcement Officer or Adult Probation Officer. Relevant education may substitute for experience

and relevant experience may substitute for education at a rate of 30 semester hours equating to one year full-time work experience.

- B. Knowledge of approved principles and practices of law enforcement and applicable laws and ordinances including but not limited to DWI enforcement, Criminal Law, Search & Seizure, etc...
- C. Knowledge of investigative techniques, interview and interrogation practices.
- D. Must be able to pass a rigid background investigation including work history, character, honesty, integrity, criminal record, driving record, etc.
- E. Ability to work independently; to analyze and evaluate investigative materials; to communicate and interview effectively both orally and in writing; to prioritize workload; to work in a stressful environment; operate a computer; be persuasive, assertive and empathetic to people from various populations; and maintain confidentiality. Ability to communicate in second language is desirable but not required.
- F. Ability to establish and maintain effective working relationships with fellow employees, the courts, law enforcement and other agencies.
- G. The county shall ensure that CCO's meet the minimum qualifications, knowledge, skills and abilities listed above.

## **X. FUNDING SOURCES**

- A. Section 31-20-5.1 NMSA 1978 authorizes judges to order a defendant to pay \$30 per month or \$1.00 per day in costs to be used to operate a DWIMCP. Judges may waive this amount in the event of indigence or for good cause. This fee shall be paid by the defendant and deposited with the county treasurer's office.
- B. The county shall be responsible for audit of the account.

## **XI. FILES**

- A. A clerk of the court will supervise any files maintained by the court. A separate file on the individual should be maintained by the CCO and any relevant documents (e.g. orders of probation, completion of

probation, reports to court) shall be given to a court clerk for inclusion in the defendant's court file

- B. The CCO shall have access to the court files of those defendants assigned to the program in order to follow up on the defendant's personal information and other related court documents. The officer shall be allowed to copy relevant documents but may not remove any documents from the file.

## **XII. SUPERVISION AND REPORTING**

- A. All CCO's shall be Employees or Contractors of the County.
- B. The CCO shall report to the presiding judge on all court-related issues.
- C. An employee CCO shall report to the county manager, who shall serve as or designate a direct supervisor for the CCO.
- D. The DWIMCP shall operate subject to guidelines as established by the AOC Magistrate Court Division and shall also be subject to specific probation conditions and guidelines of the presiding magistrate judge and district court judge.

## **XIII. TRANSFERS OF DEFENDANTS TO OTHER JURISDICTIONS**

Where defendant resides outside the county where sentenced by the court, the judge may order that:

1. The defendant shall be supervised by the sentencing county DWIMCP. In this case, with the written approval of the supervising DWIMCP, the defendant could participate in programs such as DWI school community service, etc., outside the originating jurisdiction but would be required to report back to the DWIMCP in the county in which the defendant was sentenced, or
2. The defendant will be referred to the NM Adult Probation and Parole Division.

DWI defendants shall be screened and tracked in the county where sentenced. With the written approval of the DWIMCP, the defendant may participate in programs such as DWI school, community service, etc., in the defendant's county of residence.

#### **XIV. ETHICS, CONDUCT AND CONFIDENTIALITY**

- A. The successful operation and reputation of the Chaves County DWI Misdemeanor Compliance Program is built upon the principles of fairness, honesty, and the overall ethical conduct of all county employees and private contractors. Each representative must strive to uphold both the spirit and letter of all applicable laws, regulations, policies and procedures and always maintain the highest standards of conduct and personal integrity. In general, the use of good judgment, based on high ethical principles, will guide you regarding acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with your immediate supervisor, and if necessary, with the DWI Coordinator for advice and consultation.
- B. Defendant files maintained by the DWIMCP, and information contained within those files, shall remain confidential. Only those reports submitted to the court as a matter of court record will become public in accordance with New Mexico Public Information Act.
- C. Such confidential information includes, but is not limited to, the following examples: client lists; client treatment and/or medical information; incident information; financial information; employee person information such as home address and phone numbers; operational procedures; program structure; and other services.
- D. All cabinets containing client files or information containing HIPPA information concerning clients will be locked at the end of each business day. Computers will be password protected and turned off at the end of each business day.
- E. Gifts gratuities and other considerations are prohibited.

## APPENDIX

These Misdemeanor Compliance Program guidelines have been established pursuant to Section 31-20-5.1 NMSA 1978.

31-20-5.1. Misdemeanor compliance programs; counties may establish; fees.

1. A county may create a “misdemeanor compliance program” to monitor defendants’ compliance with the conditions of probation imposed by a district or magistrate court. The program shall be limited to participation by persons who have been convicted of a misdemeanor criminal offense specified in the Criminal Code, convicted of driving while under the influence or intoxicating liquor or drugs or convicted of driving while the person’s driver’s license is suspended or revoked pursuant to the Motor Vehicle Code. A county’s program shall comply with guidelines established by the administrative office of the courts.
2. As a condition of probation, the district or magistrate court may require the defendant to pay a fee of not less than fifteen dollars (\$15.00) nor more than thirty dollars (\$30.00) per month to the county for the term of his probation. Money collected by the county pursuant to this subsection shall be used only to operate the misdemeanor compliance program.

History: Laws 2000, ch. 49. §1.