

## Judicial Authority: Center Reponds to Attacks on Metro Court Judge Rankings

The following is the DWI Resource Center's response to an opinion piece published on Oct 27, 2004 in the Albuquerque Tribune by Judge Judy Nakamura, regarding the Center's Metro Court Judge Ranking Report. This article appeared in the Tribune on Nov. 8, 2004.

There has been a sharp negative response to the Metro Court judicial rankings recently released by the DWI Resource Center. However, none of the responses claims the numbers are in error, but rather that the Center based the report on the wrong criteria.

The position of those rejecting the Center's judicial evaluations is that we hold judges accountable for things that are outside their responsibility and control. Specifically, the opponents claim that including dismissals of DWI charges and the rates of recidivism--or rearrest--of DWI offenders is wrong because these are "not under the judges' control."

The first controversial part of the judicial evaluations concerns the rate of DWI dismissals in front of particular judges. The dismissal rate includes a small percentage of cases where there was not sufficient evidence, or some fundamental right of the defendant was violated and dismissal was required.

However, the majority of cases are dismissed where there is no problem with either the evidence or its collection. These dismissals result from the failures of police officers or prosecutors to be present in court. The failure-to-appear problem is one to which judges contribute substantially.

Judges routinely allow continuances on DWI cases when they are requested by the defense attorney, and even for the most trivial of excuses. This practice stretches the police department's resources by repeatedly forcing police to ensure that the arresting officer is properly informed of the rescheduled hearing date and requiring police to schedule an officer in court rather than on the street.

The practice also uses up the allowable time in which to prosecute an offender under "speedy trial" policies. When there is a problem with the state having personnel in place to prosecute, requests for continuances are either denied, or there is no "speedy trial" time left to accommodate the appearance of critical personnel.

In a significant number of cases, dismissal of DWI charges is an indirect consequence of the judges' individual practices regarding continuances of court hearings to accommodate the defendant.

The Center believes the judges have the ability to reschedule, rather than dismiss, charges against offenders. The claim that judges cannot make these adjustments just does not hold water--particularly since similar problems were remedied in Metro Court for other traffic offenses.

The ultimate authority to dismiss a case lies with the judge, and the Center believes DWI dismissals are properly included in any ranking of judicial performance.

The second argument is that recidivism is also outside judges' control. Again, the Center rejects this claim and insists that some of the responsibility for recidivism, indeed, lies with our courts. There is an enormous body of research discussing the deterrent effect that meaningful sanctions and follow-up have on DWI offenders. Remember, it's judges who levy the sanctions.

In New Mexico, as in most states, the vast majority of DWI cases are settled through plea agreements, not trials. Judges are an integral part of the plea process, because they have both the authority and the obligation to reject plea agreements.

If prosecuting attorneys are offering inappropriately low levels of punishment for DWI offenses--whether because prosecutors' case loads are too large, they are reluctant to go to trial or for some other reason--it is a judge's responsibility to reject those pleas and insist that the state and the defendant go back to the negotiating table or to trial.

Furthermore, it is within a judge's authority to ensure that the sanctions ordered are actually completed by an offender--one of the most important indicators of recidivism.

The Center recognizes New Mexico's impaired driving problem has many contributing factors, but we stand by our judicial evaluations and insist that part of the responsibility for this problem lies with the manner in which offenders avoid punishment through judicial dismissals, or in which offenders receive inappropriately light sentences or fail to complete the sanctions ordered without consequence. Judges share responsibility and control over these issues.

The Center believes that these two critical areas of dispute should be put in front of New Mexicans, so they can decide where the responsibility lies.

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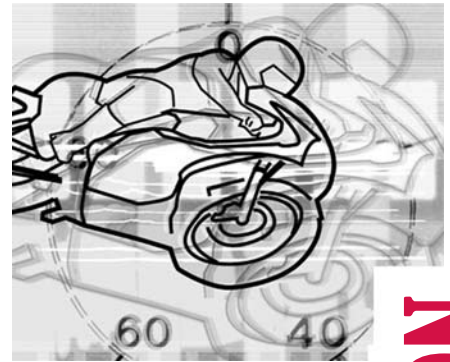


The DWI Resource Center, Inc. is committed to reducing the social and economic impact of drunk driving in New Mexico through education, public awareness, prevention and research. The Center serves as a clearinghouse for DWI information and issues, providing community leaders with statistical information and analysis to assist them in creating localized plans to reduce DWI death and injury in New Mexico. Our key services and projects include:

- Research and Development**
- Victim Services**
- DWI Prevention Programs**
- Community Involvement**
- Court Monitoring**

The DWI Resource Center, Inc. is a 501(c)3 non-profit organization. For more information about the Center or to make a contribution, please call us at (505) 881-1084, or visit our website at <http://www.dwiresourcecenter.org>.





**CDC: More Adults Dying In DUI Motorcycle Crashes**

A Centers for Disease Control and Prevention (CDC) report finds an increasing number of motorcyclists aged 40-44 dying in alcohol-related crashes, the Associated Press reported December 2, 2004.

According to the CDC report, the rate of older adults who have died in alcohol-related motorcycle crashes increased from 1.2 per 100,000 population in 1983 to 1.9 in 2003. Previously, the highest rate of death among alcohol-impaired motorcycle drivers was among the 20-24 year age group. However, that age group has seen a decline in alcohol-related motorcycle crashes.

The CDC attributes the shift to more adults in the 40-44 age group riding motorcycles. The increase in alcohol-related crashes may be a result of drivers drinking before riding a motorcycle or participating in weekend road trips that include drinking.

To address the issue, the CDC recommended sobriety checkpoints, greater enforcement of driving-under-the-influence laws, and programs in restaurants and bars to reduce drinking and driving.

**Upcoming Victim Impact Panel Dates**

January 11, 2005  
 February 8, 2005  
 March 8, 2005  
 April 12, 2005  
 May 10, 2005

7:00 P.M., UNM Continuing Education Building  
 \$30 fee for offenders, free to the General Public

**Distiller Challenges Oregon's Sales Ban**

Diageo-Guinness USA Inc., the maker of Smirnoff Ice, has filed a lawsuit against the state of Oregon to invalidate a state law that bans the sale of "malternatives" in grocery stores, the Associated Press reported. The company claims that the regulation fails to comply with the state's rule-making requirements.

The Oregon Liquor Control Commission (OLCC) adopted the regulation for malt beverages flavored with distilled spirits. According to the commission, drinks with more than one-half of one percent distilled alcohol can only be sold in state liquor stores.

The state Court of Appeals will hear the case.

**New Mexico Ranked in the 'Fatal 15' for Alcohol-Related Fatalities**

A report compiled by the national physicians' group End Needless Death on Our Roadways (END) ranks New Mexico among the nation's top states with the highest number of alcohol-related traffic fatalities.

The report identifies the 15 deadliest states based on alcohol-related fatalities. Leading the list is Rhode Island, where 55 percent of all traffic deaths last year were alcohol-related. Hawaii was second with 53 percent. Other states with a high percentage of alcohol-related deaths in 2003 were Nevada, 50 percent; North Dakota, 50 percent; South Carolina, 50 percent; Montana, 49 percent; South Dakota, 48 percent; Texas, 47 percent; Wisconsin, 46 percent; Connecticut, 45 percent; Louisiana, 45 percent; Massachusetts, 45 percent; New Mexico, 45 percent; Illinois, 44 percent; and Kansas, 44 percent.

The state with the lowest percentage of alcohol-related traffic fatalities was Utah at 15 percent, far below the national average of 40 percent.

The report was based on data from the National Highway Traffic Safety Administration.

**Supreme Court Says DWI Not Violent Crime**

The U.S. Supreme Court has overturned a federal appeals-court decision and ruled that drunken driving isn't grounds for deportation, Bloomberg News reported Nov. 9.

The unanimous ruling pertains to the case of Josue Leocal, who was ordered deported to his native Haiti following a 2000 drunk-driving incident in Florida that injured two people. But the justices ruled that drunk driving was not grounds for U.S. immigration officials to authorize deportation procedures because it wasn't a "crime of violence."

"Drunk driving is a nationwide problem, as evidenced by the efforts of legislatures to prohibit such conduct and impose appropriate penalties," wrote Chief Justice William Rehnquist. "But this fact does not warrant our shoe-horning it into statutory sections where it does not fit."

Rehnquist said drunk driving didn't meet the category of "violent, active crimes" under the deportation law.

**NIAAA Releases New Alcohol Prevention Website for Middle Schoolers**

The National Institute on Alcohol Abuse and Alcoholism (NIAAA), part of the National Institutes of Health (NIH), has released a new version of "The Cool Spot," the institute's website for middle school (11- to 13-year-old) children.

The Cool Spot uses engaging games and graphics to deliver important messages about the risks of underage drinking and ways to resist peer pressure," says NIAAA Director Ting-Kai Li, M.D. "It's vital to reach this age group, because the younger people are when they start to drink, the higher their chances of developing an alcohol problem at some point in their lives." Research shows that more than 4 in 10 people who start drinking before age 15 eventually become alcohol dependent.

The Cool Spot's new content is largely based on curriculum for grades six through eight, developed by NIAAA-supported researchers at the University of Michigan. The curriculum was used in a large-scale, multi-year project called the Alcohol Misuse Prevention Study (AMPS).

AMPS's goals include educating teens on actual alcohol use around their peers, helping kids learn skills to resist pressure to drink, and to give them reasons not to drink. "The Cool Spot" incorporates AMPS's goals in these and other features:

- **REALITY CHECK** quizzes kids about how much drinking is really going on in the U.S. The answers, which often surprise kids and adults alike, are based on results of the 2002 National Survey on Drug Use and Health.
- **DEEP DIGGING** depicts why using alcohol as a solution to problems, or a way of trying to cope, is trouble.
- **PEER PRESSURE** Bag of Tricks presents animated scenes that invite kids to identify some common peer pressure "tricks." It also lets kids know that spotting these tricks is the first step to resisting them.
- **KNOW YOUR NO'S**, an activity that introduces kids to a variety of ways to say no, helps them learn which one is the most effective.

The site has a 10-question interactive quiz that encourages visitors to glean some of the chief learning objectives. Middle school teachers, counselors, and after-school providers can have students complete and print the quiz to show they have grasped some basic prevention messages.

To appeal to the target audience, the website's new graphic design incorporates animated characters based on a popular Japanese comic book style called "anime." In pre-tests of the new site conducted among nearly 300 adolescents, middle schoolers reported that the site helped them clarify types of pressure they had already felt -- such as put-downs or rejection -- but had not recognized as forms of peer pressure.

NIAAA's website is located at: <http://www.thecoolspot.gov>

**Federal Parents@Work Program Helps Employers Prevent Substance Abuse In Employee Families**

Employers have a vested interest in helping their employees prevent family substance abuse. Many human resource and employee assistance professionals believe that employees who have children with substance abuse problems are more likely to suffer from decreased morale and productivity. The Parents@Work program, a component of the National Youth Anti-Drug Media Campaign, was developed to reach parents where they spend much of their time - at work.

Getting involved with the Parents@Work program is a free and easy way for employers, associations, unions and other organizations to share youth drug prevention information with working parents. Employers can find complete information about the Parents@Work program by visiting the federal website at <http://www.theantidrug.com>. This Web site contains ready-made resources, such as newsletter articles, Web banners, parenting brochures, multi-cultural resources, and much more. Distribution of these resources can help reduce absenteeism and health care costs while increasing productivity.

In a recent survey, 99 percent of human resource professionals said they believe that employees who have children with substance abuse problems are more likely to suffer from decreased morale and productivity, and that they use an increasing amount of health care dollars. Kids who learn about the risks of drug abuse from their parents or caregivers are about 36 percent less likely to smoke marijuana, 50 percent less likely to use inhalants, 56 percent less likely to use cocaine and 65 percent less likely to use LSD.

The Parents@Work program puts important anti-drug resources into the hands of parents where they spend most of their time - at work - while helping businesses with their bottom line. Drugs sapped a staggering \$143.4 billion from the U.S. economy in 1998. Losses for 2000 were projected at more than \$160 billion. A vast majority of these costs - \$98.5 billion - is from lost productivity. This includes \$12.9 billion in health care costs.

The Parents@Work program provides working parents and other caregivers with useful resources that will help keep kids drug-free. For more information about the Parents@Work program, visit the website at: <http://www.theantidrug.com>, or call (800) 729-6686. Espanol: (877) 767-8432. TDD: (800) 487-4889

## Research Confirms Alcoholism As Genetic Disease

Genetic research shows that 50 percent of vulnerability to alcoholism is linked to genetics and the other 50 percent is triggered by environment, such as cultures where heavy drinking is common, the Boston Globe reported Oct. 19.

According to Dr. Mary-Anne Enoch, a research physician at the National Institute of Alcohol Abuse and Alcoholism (NIAAA), genes work both ways, with some protecting people against alcoholism and other genes raising the risk for the disease.

For example, many Japanese, Chinese, and Jewish people carry genes that protect against alcoholism. These genes increase levels of certain liver enzymes, causing nausea, flushing, and rapid heartbeats among those who drink.

On the other hand, many Caucasians carry genes that affect brain function and can increase the risk of becoming an alcoholic.

Genetics research has been ongoing for several years with the goal of better understanding alcoholism so that more effective drugs can be designed to protect people predisposed to addiction. Research is taking place at Indiana University School of Medicine, the University of California at San Diego, Columbia University and the NIAAA.



## Wine Choices May Increase Cancer Risk

Spanish researchers have concluded that red wine may protect people from lung cancer, while white wine could increase cancer risk, Reuters reported Oct. 27.

In examining the effects of different wines on lung cancer, researchers at the University of Santiago de Compostela found that tannins and resveratrol found in red wine seem to provide anti-cancer properties. While tannins act as antioxidants by eliminating free radicals that are harmful to cells, resveratrol has been found to fight tumor growth.

"Consumption of red wine was associated with a slight but statistically significant reduction in the development of lung cancer," said research team leader Professor Juan Barros-Dios. "In terms of the daily number of glasses, white wine appeared to increase the risk."

The study involved 132 people with lung cancer and 187 people hospitalized for non-tobacco related minor surgery in the Santiago de Compostela district in northwestern Spain.

The researchers concluded that ethanol in white wine is responsible for the increased lung-cancer risk. Although red wine also contains ethanol, Barros-Dios said it appears the anti-cancer benefits outweigh the ethanol damage.

The study's findings are published in the journal Thorax.

## Binge Drinking Harms Blood Platelets

A Dutch study suggests that binge drinking appears to disrupt the actions of blood platelets, Health Day News reported Oct. 15.

Platelets are cells that are responsible for forming clots and repairing small breaks in the walls of blood vessels. The study found that binge drinking increased blood-platelet aggregation by causing more platelets to stick together. This, in turn, could lead to cardiovascular damage.

In addition, study author Dr. Dylan de Lange, a researcher at the Thrombosis and Haemostasis Laboratory of the University Medical Center in Utrecht, said that binge drinking appears to prevent platelet adhesion. As a result, platelets don't stick as readily to a damaged vessel wall.

The study is one of the few to examine binge drinking's impact on the cardiovascular system. For the research, 20 healthy volunteers were given either three glasses of alcohol or red wine in a 45-minute period. Their blood samples were collected 90 minutes after the start of the study. For the entire study period, participants consumed six drinks in three hours.

From the blood samples, researchers determined whether the platelets adhered to collagen or fibrinogen, two proteins that are exposed when the normal internal lining of a vessel is damaged. According to de Lange, the research found that alcohol hindered platelet adhesion to fibrinogen.

The study's findings are published in the October 2004 issue of Alcoholism: Clinical & Experimental Research.

## Early Teenage Alcohol Users Five Times More Likely To Abuse Alcohol As Adults

Persons reporting they first used alcohol before age 15 are more than five times as likely to report past year alcohol dependence or abuse as adults than persons who first used alcohol at age 21 or older. These are the conclusions of a special analysis of the 2003 National Survey on Drug Use and Health, announced today by the Substance Abuse and Mental Health Services Administration (SAMHSA).

Substance dependence and abuse is defined in the annual SAMHSA survey of almost 70,000 persons according to definitions of the American Psychiatric Association, and include symptoms such as recurrent use resulting in physical danger; trouble with the law due to alcohol use; increased alcohol tolerance; and giving up or reducing other important activities in favor of alcohol use.

"We now know the passage to alcohol abuse and dependence often begins during childhood and adolescence," SAMHSA Administrator Charles Curie said. "Research has shown that alcohol dependence, while once thought to be an adult-onset disease, is actually developmental in nature. That is why underage drinking prevention programs are a priority at SAMHSA."

The special report, entitled "Alcohol Dependence or Abuse and Age of First Use" clearly found that among the 14 million adults aged 21 or older who were classified as having past year alcohol dependence or abuse, over 13 million (95 percent) had started using alcohol before age 21. The survey found that 74 percent of adults aged 21 or older reported that they had started using alcohol before the current legal drinking age of 21.

The study found that among adults aged 21 or older who initiated alcohol use before age 21, the rate of past year alcohol dependence or abuse was nine percent. But only three percent of persons who first used alcohol at age 21 or older were classified as having past year alcohol dependence or abuse. Among those who first used alcohol before age 15, 16 percent were classified with alcohol dependence or abuse.

Alcohol abuse and dependence was higher for those who started drinking earlier, and lowest for those who first used at age 21 or older. Sixteen percent of those who began drinking alcohol before age twelve were classified with alcohol abuse or dependence, while the rate was 15.5 percent for those who began between ages 12 and 14. The rate of alcohol dependence or abuse was nine percent for persons who began drinking between ages 15 and 17, and 4.2 percent for those who began drinking alcohol between ages 18 and 20.

The data show that males aged 21 or older were more likely than females to report having first used alcohol before the age of 15. The survey also found that whites had the lowest rate of never having used alcohol (nine percent) compared to blacks, Asians or Hispanics, and also the highest rate of initiating alcohol use before age 21 (79 percent) and the highest rate of alcohol use before age 15 (20 percent).

The report is available on the web at <http://www.oas.samhsa.gov>.



## Brain Cells Rebound During Periods of Alcohol Abstinence

Based on animal research, scientists believe that new brain-cell activity takes place after heavy drinkers begin an abstinence program, according to the University of North Carolina (UNC) at Chapel Hill School of Medicine.

For the study, researchers at UNC's Bowles Center for Alcohol Studies gave alcohol to adult rats in amounts that produced alcohol dependency. Earlier research at UNC had found that alcohol dependency prevented the formation of new neurons in the hippocampus of adult rats. This area of the brain is used for learning and memory in animals and humans.

In the new study, the researchers found a significant increase in new neuron formation in the senior hippocampus within four to five weeks of abstinence.

"We looked at dividing cells after our four-day binge model of alcohol dependency and confirmed what we previously observed: When the animals were intoxicated, the measure of dividing cells decreases. And after abstinence for one week, we saw a huge burst in the number of new cells being born," said Bowles Center research associate Kim Nixon, a co-author of the study.

The study's findings could lead to better treatment of alcoholism, such as new avenues of therapies aimed at regenerating brain cells.

"Pharmacological agents such as antidepressants and behaviors such as running, increased physical activity, and learning experiences apparently help regulate the process of neurogenesis. Our research suggests they could be considered in the treatment of chronic alcohol dependency," said study co-author Fulton Crews, director of the Bowles Center.

The study's findings are published in the Oct. 27, 2004 issue of the Journal of Neuroscience.