

# ALBUQUERQUE CRIMINAL LAWYER BLOG

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## **Budgetary Realities May Force Changes In Albuquerque's Flawed DWI/DUI Enforcement**

A series of articles over the last month point to significant budgetary issues facing law enforcement, the courts, and the District Attorneys offices across New Mexico. Albuquerque will feel the crunch as much as any.

In mid November, it was announced that the State police will be forced to cut back on hiring and training of new officers. The budget issues are so severe that the first 2 police academies for 2010 have been cancelled completely. The State Police was already short on officers. These additional cutbacks will leave the force stretched very thin.

The Second Judicial District Court in Albuquerque is down 23 positions. According to a national study, the court needs an additional 36 staff, and 10 judges to make it work correctly. In response, the clerk is cutting hours back even further to 10 AM to 4 PM. All court activities, including hearings, are being cut back as well. On Fridays, all court activity will close at 4:15 PM.

The DWI/DUI interlock fund for the poor is also running low. Interlock devices are mandatory for all DWI/DUI offenders. For those that refuse the breath alcohol test or blow .08 or over, the license revocation is automatic by Motor Vehicles Division (MVD). In addition, any driver convicted of DWI/DUI will be ordered by the court to have the interlock device for 1 year as a term of probation.

So what does any of this have to do with DWI/DUI enforcement in Albuquerque? It points to overburdened police departments, courts and district attorney's offices. Though I have not yet seen numbers of Albuquerque Police Department, the Metropolitan Court in Albuquerque, or the District Attorney's Office in Albuquerque, the trends are clear. Government budgets are in crisis in New Mexico and across the nation. Albuquerque is not immune.

All the while, Albuquerque Police and the Albuquerque District Attorney's office continue to burden the courts and state budgets with overzealous DWI /DUI enforcement. Albuquerque Police's DWI/DUI Unit continues to carry a 2 arrests per shift quota for its officers. Related to this quota is the continued and common practice of arresting drivers who are below the legal limit of .08 breath alcohol level. And then there are the DWI/DUI arrests of drivers who have not even been driving as with the recent veteran who was sleeping in his car to avoid driving while intoxicated.

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Much of the impetus for these overzealous policies has arguably been driven by the quest for state and federal funding for DWI/DUI enforcement. These arrests, no matter how unfair and illogical, and in the case of arresting drivers for sleeping off a drunk contrary to public policy, helped push up the DWI/DUI statistics for Albuquerque and the State of New Mexico. With these statistics, the state was able to tap into federal funding, and Albuquerque was able to tap into both state and federal funding.

The well is running dry. So hopefully, the police will get back to enforcing the DWI/DUI laws in the spirit in which they were written. The State needs to keep drunk drivers off the road. That is the bottom line. A driver under the .08 limit is not legally drunk. If it is the intent to make it otherwise, then rewrite the law, or make it illegal to have any a sip of alcohol before getting in a vehicle. This raises all kinds of taxation issues as neither New Mexico nor Albuquerque can afford the loss of taxes associated with bars and restaurants. Again, it comes down to money.

Finally, don't encourage people to drive drunk by the threat of arrest for trying to do the right thing. Let drivers, encourage drivers to sleep it off. It makes no sense force a decision between driving drunk and being arrested for driving drunk for sleeping in your car. A gambling oriented individual would drive drunk. Thus this ridiculous trend endangers lives Perhaps that is not enough to halt to policy. If reason and logic fail, money never does. These policies are stretching an already overburdened court with cases that should not be there.

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