Bernalillo County Youth Services Center

Juvenile Detention Alternative Initiative

# Smaller, Smarter and More Strategic: Juvenile Justice Reform in Bernalillo County

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# Executive Summary

- Referrals to Juvenile Probation decreased 36.6% from FY 99 through FY 10.
- Felony offenses referred to Juvenile Probation decreased 11.8% from FY 99 through FY 10.
- Misdemeanor offenses referred to Juvenile Probation decreased 30.4%.
- Property crimes are the most frequently referred offenses.
- Since FY 04, there has been a decrease in all offense categories.
- Since FY 08, the number of referrals sent to the Children's Court Attorney (CCA) has decreased to approximately 47%.
- The decrease in CCA referrals is attributed to a decrease in referrals and the increased use of diversion programs.
- Probation is the most common disposition for a juvenile who is found to have committed a delinquent act.
- The number of youth taken into custody and booked at the Bernalillo County Youth Services Center (YSC) has decreased 36% from FY 00 through FY 10.
- In FY 09 and FY 10, more youth were released than held following booking/intake than in previous years.
- The average daily population decreased 45% from FY 00 through FY10.
- The average length of stay at the YSC has shown minor fluctuations.
- The number of youth placed in the Community Custody Program decreased 30% from FY 06 through FY 10.
- The number of youth successfully completing Community Custody Program and Youth Reporting Center continues to increase.
- When compared with FY 99, the year before reform began, with FY 10, there is a 45% decrease in the number of petitions filed.
- The number of re-opened petitions (probation violations) decreased 30% from FY 00 through FY 10.
- Courts modified the juvenile probation agreement to an "advise and assist" court order and is available to the youth in Spanish and English.
- The number of new/original Youthful Offender petitions decreased 44% from FY 00 through FY 10.
- The number of bench warrants decreased 48% from FY 06 through FY 10.
- From FY 04 through FY 10, ATD programs helped taxpayers avoid spending $4,742,529.00. In FY 10, the amount was $946,089.00.

# Introduction

In the 1990s, communities across the United States expressed increasing concern about the perceived increase in juvenile crime. Prompted by their concern for safety, the public pushed the criminal justice system to build more detention beds and house more youth in custody. The residents of Bernalillo County echoed these concerns. Juvenile detention beds in Bernalillo County were expanded in 1994 and 1996, only to see the beds filled and capacity exceeded after each expansion. As a result, the Bernalillo County Juvenile Justice System reached two conclusions: Building more beds was not the answer, and the public would be better served if another model of operations could be implemented which would protect public safety, provide for youth accountability, produce better results for the youth and be cost effective.

In 1999 collaboration was formed between the Bernalillo County Youth Services Center (YSC), the Children's Court Division of the Second Judicial District Court, the Children, Youth and Families (CYFD)/Juvenile Probation Office (JPO), the District Attorney's Office and the Public Defender Office to explore other options. This initial review led the group to consider implementing the Juvenile Detention Alternative Initiative (JDAI) which was being supported nationally by the Annie E. Casey Foundation (AECF), the foundation for the United Parcel Service (UPS).

The JDAI philosophy, with its eight core strategies, had proven successful in several sites around the country in reducing the number of youth held in custody pending resolution of their charges with no adverse affect on public safety. The JDAI philosophy is predicated on keeping youth in custody who require detention and servicing the others in graduated levels of supervision within the community setting.

During the last ten years the results in Bernalillo County have been impressive, with the detention population dropping from a daily average of 114 in 2000 to 63 in 2010, the number of youth presented for booking for detention from 4,335 in 2000 to 2,278 in 2010, all referrals to Juvenile Probation Office declining from 10,100 in 2000 to 6,570 in 2010, and the number of formal charges or revocations of probation filed by the District Attorney's Office declining from 3,663 in 2000 to 2,116 in 2010. The results were so impressive that in 2005 the AECF named the Bernalillo County Youth Services Center (YSC) as a national JDAI model site joining Santa Cruz, California, Chicago, Illinois, and Portland, Oregon. Delegations from other states considering implementing JDAI in their local regions now visit the YSC to learn more about the JDAI program. The Bernalillo County Juvenile Justice System has saved the taxpayers millions of dollars by abandoning the old model of inappropriately detaining youth and expanding the number of juvenile detention beds to adopting the JDAI model, with no adverse affect on public safety or reduction in youth accountability.

JDAI identifies eight (8) key strategies that assist in achieving the above listed goals: collaboration, data driven policy, admissions, case processing, alternatives to detention, special cases, eliminate racial disparity and improve the conditions of confinement

The following report highlights the JDAI efforts and 10 years of successful reform within the Bernalillo County Juvenile Justice System. Unless otherwise noted, CYFD/JPO information provided is for seven (7) years and is limited to the District 2 Juvenile Probation Office, Bernalillo County. Whenever possible, information for 1999 is provided to show pre-reform justice reform data.

JDAI has several goals:

Provide for public safety, youth accountability, reduce the number of youth unnecessarily or inappropriately detained, minimize failures to appear for court and incidents of delinquent behavior, redirect public finances towards successful reform strategies and improve the conditions of confinement.

Data in this report comes from three (3) agencies: CYFD, BCYSC and the Administrative Office of the Courts (AOC).

To understand the statistics used in this report, the reader needs an understanding of what the statistics count. CYFD/JPO statistics count the number of referrals and dispositions, BCYSC statistics count the number of bookings that occurred in a given year, while the AOC counts the number of petitions filed in the Second Judicial District, Children's Court Division. The report does not count the number of individual youth, since youth may be referred, booked and petitioned more than once in a given year.

The information for each data source is reported by fiscal year. The fiscal year begins July 1st of a given year and ends June 30th of the following year, i.e., FY 09 (July 1, 2008 through June 30, 2009).

# Juvenile Population

Prior to any discussion as to the impact of JDAI reform in Bernalillo County, population information, specifically for those 10-17, must be provided and examined. Bernalillo County is the largest county in the state. The county's population increased 19% from the 2000 census (556,002) to the 2010 census (662,564) (U.S. Census Bureau). Unlike the general population, there have been minor fluctuations for the 10-17 population, less than 3% decrease or increase in either direction (See Figure 1). The 10-17 population reached its peak in 2006, when the 10-17 population was projected to be 64,563 ( Easy Access to Juvenile Populations).

Figure 1: Bernalillo County 10-17 Population

Data Source: U.S. Census Bureau

Changes in population, though, make up only part of the picture. Additional variables impact delinquency and the juvenile justice system. These include changing economic conditions, education, health care, and employment

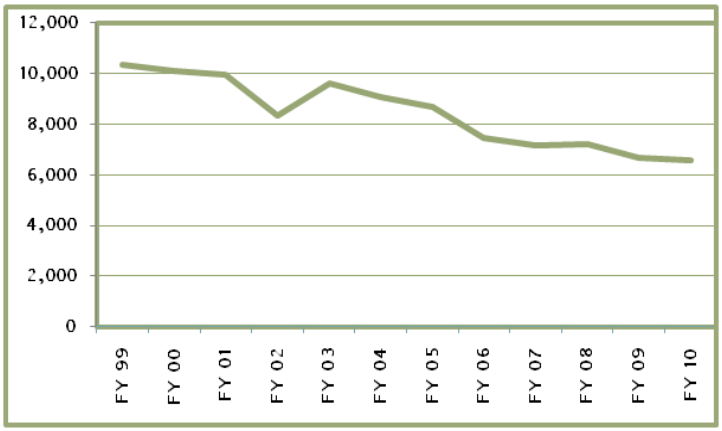
# District 2 Juvenile Probation

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) once described juvenile probation as "the workhorse" of the juvenile justice system (Torbet, P, 1996) Probation services in Bernalillo County are administered by the New Mexico Children, Youth and Families Department. Juvenile probation provides front-end services for first time, low-level delinquent acts as well as back-end services as an alternative to incarceration at a state run institution.

## Referrals

As stated above, juvenile probation officers provide front end services which include receiving and examining complaints. Figure 2 illustrates the number of referrals the Juvenile Probation Office, in Bernalillo County, has received from FY 99 through FY10. The juvenile probation office has seen a 36.6% decrease in referrals from FY 99 (year prior to JDAI) through FY 10. From FY 04 through FY 10, the decrease is 27.5%.

Figure 2: Number of Referrals to Juvenile Probation, FY 99 -- FY 10




Data Source: CYFD/FACTS

## Offense Type

Although the New Mexico Children's Code does not make a distinction between misdemeanors and felonies for youth charged with a delinquent act, juvenile probation officers, as stated above, are required to give notice to the Children's Court Attorney (CCA) upon receipt of a felony. Figure 3 shows the number of misdemeanor and felony charges referred to juvenile probation from FY 04 through FY10. During this time period, misdemeanor offenses decreased 30.4%

## Offense Category

CYFD categorizes each delinquent act into four (4) major offense categories: assaultive, property crimes, drugs and weapons. Many of the delinquent acts may fall into more than one offense category, e.g., armed robbery. Armed robbery is considered an assaultive, property and weapons crime.

According to Figure 4, the property crimes category is the offense type most commonly referred to juvenile probation. These delinquent acts include, but are not limited to, shoplifting, burglary, criminal damage to property and falsely obtaining services.

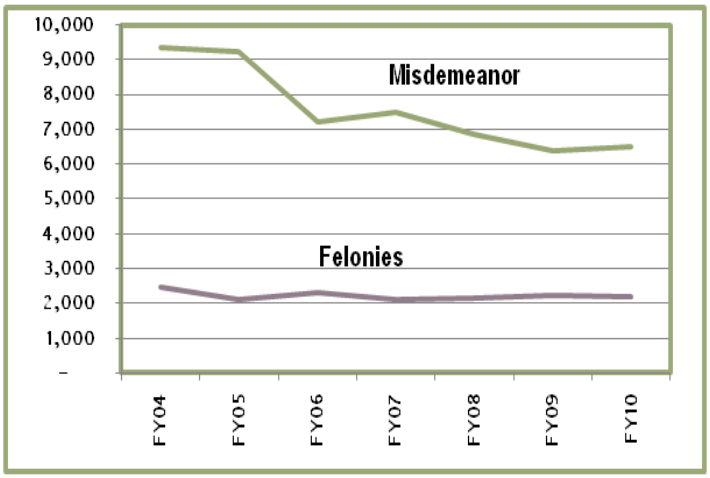
Beginning in FY 06, assaultive offenses, which include but are not limited to battery, domestic violence, aggravated assault, criminal sexual penetration, murder, are the second most commonly referred offense. Prior to FY 06, drug related offenses were the second most commonly referred offense. The least referred offenses are weapons related offenses for all fiscal years.

It should be noted that since FY 04, there has been a decrease in all offense categories: drug related offenses decreased 45%, property crime offenses decreased 23%, weapons offenses decreased 22%, and assaultive offenses decreased 13%.

## JPO Recommendation

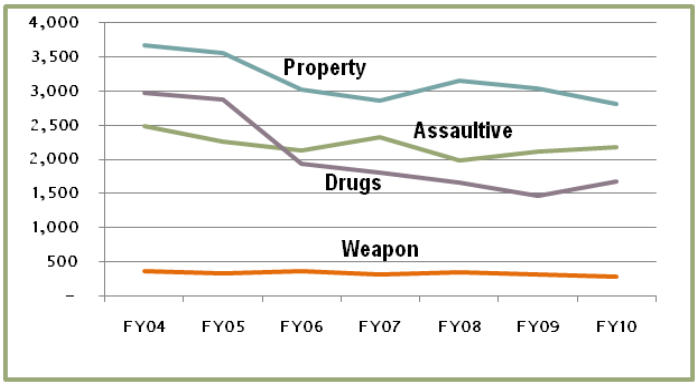
Figure 5 shows the number/percentage of referrals that were handled informally or referred to the CCA from FY 04 through FY 10. From FY 04 through FY 07, more than 50% of the referrals were sent to the CCA. However, beginning in FY 08, there was a change in that approximately 50% of the referrals were handled informally and 50% were sent to the CCA. In FY 09 and 10, fewer than 50% were sent to the CCA,

Figure 3: Number of Misdemeanor and Felony Offenses



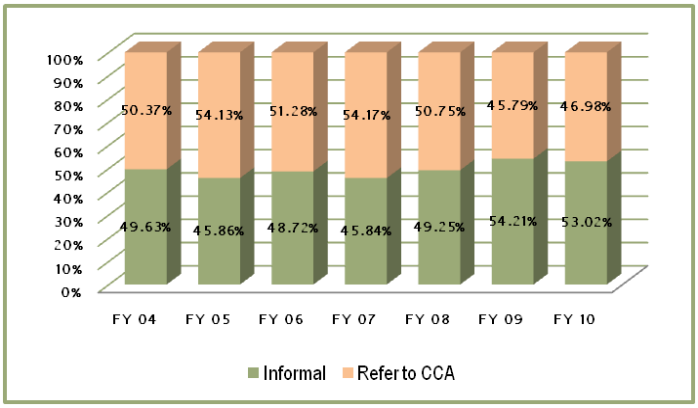

Data Source: CYFD/FACTS

Figure 4: Offense Category by Fiscal Year




Data Source: CYFD/FACTS

Figure 5: Percent of Referrals Handled Informally or Referred to CCA




Data Source: CYFD/FACTS

**Children's Code Changes that Helped with Juvenile Justice Reform**

2003 Required CYFD to develop a Risk Assessment Instrument (RAI).

- Allowed detention center staff to apply the RAI and admit youth into detention center.
- Narrowed the criteria for detention requiring "substantial" risk be demonstrated or history of failure to appear.
- Prohibited eighteen (18) year old youth from being housed in juvenile detention facilities.
- Shortened time frame to file a petition from 48 hours to 24 hours for youth in custody.
- Allowed for youth who have been detained to have further considerations for release by a judicial officer prior to a detention hearing.
- Provided for 90 days of mandatory parole supervision upon release from a juvenile correctional facility.
- Modified the sealing of juvenile records.

2005 Children under the age of eleven (11) cannot be detained in a detention facility.

- Required child's parent/guardian/custodian to be given notice of preliminary inquiry (PI) for youth in custody and the right to be present.
- If child is not detained, PI is conducted within 30 days and a petition is filed within 60 days of completion of PI.
- Added Aggravated Battery Against a Household Member to the offenses considered as Youthful Offender.
- Child 14 or over charged with First Degree Murder and found to have committed a delinquent act shall be adjudicated as a delinquent and subject to those dispositions .
- Changed how long a case may be pending for youth not found to be competent.
- Removed the limit on the number of Consent Decrees the court may grant.
- Removed the requirement that an admission be made for a Consent Decree.
- Allowed for a one (1) year commitment to be extended for a period of six months, inclusive of the three month requirement of parole supervision.

46% and 47% respectively. This decrease in referrals sent to the CCA is attributed to fewer referrals made to the juvenile probation office as well as an increase in the use of diversion programs.

# Dispositions

The New Mexico Children's Code allows for a variety of dispositions (NM Children's Code 32A-2-19, NMSA 1978). They include: fines, probation, up to 15 days in detention, and a commitment for either 1 year or 2 years. A child may be receive a commitment up to 21 years of age, if the child is found to be a youthful offender and receives a juvenile sanction or is adjudicated of a delinquent act that is defined as an enumerated crime within the Children's Code youthful offender definition.

At least 89% of juveniles found to have committed a delinquent act are placed on probation. (see Table 1). Although most of the cases placed on probation are for property crimes, the offense profile has changed from FY 07 to FY 10 with decreases in assaultive (although minor) and drug related offenses (see Table 2).

**Table 1: Percent of Disposition Types by Fiscal Year**

| Disposition Group | FY 04 | FY 05 | FY 06 | FY 07 | FY 08 | FY 09 | FY 10 |
|---|---|---|---|---|---|---|---|
| Probation | 89% | 90% | 89% | 91% | 93% | 93% | 91% |
| Commitment | 5% | 6% | 5% | 6% | 5% | 5% | 6% |
| Detention | 5% | 4% | 5% | 3% | 1% | 1% | 2% |
| Adult Sanctions | 0% | 1% | 0% | 0% | 0% | 0% | 0% |
| Other | 0% | 0% | 0% | 0% | 0% | 1% | 1% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Data Source: CYFD/FACTS

2007 Added the eight (8) JDAI key strategies to "Purpose of the Act" for delinquency.

2009 Added language to promote the elimination of disproportionate minority contact within the systems and proceeding under the Children's Code.

- Allowed a child to be released to an adult authorized by the child's parent/guardian/custodian, to avoid having a child remain in detention simply because a parent is unable to be present for the child's release within the timeframe required.
- Allows for the option for a child taken into custody to be delivered to a center or organization recognized as an alternative to secure detention.
- Allows the use of electronic communications for telephonic probable cause determinations and allows the court to grant permission for detention hearings to be conducted by use of electronic means at the request any party.
- Children subject to the Delinquency Act are not only entitled to the same basic rights as adults, but are also entitled to all the basic rights afforded under the Delinquency Act.
- Allows the completion of predispositional evaluations to be completed within the child's community rather than requiring that all children be sent a correctional facility
- The child's brain development, maturity development, trauma history and disability are additional dispositional and amenability factors to be considered.
- Allows youth who turn 18 to remain in a juvenile detention facility instead of an automatic transfer to an adult facility.
- CYFD was given the authority to determine releases from a long term facility and requires CYFD to give due consideration to public safety, the extent to which the child has been rehabilitated, the adequacy and suitability of the proposed release plan and the needs and best interests of the child.
- Eliminated the Juvenile Parole Board and replaced the board with the Juvenile Public Safety Advisory Board which is consistent with CYFD's move toward the Missouri model with regard to release of juveniles from a long-term facility.

**Table 2: Percent of Offense Categories with Probation as a Disposition by Fiscal Year**

| | FY 07 | FY 08 | FY 09 | FY 10 |
|---|---|---|---|---|
| **Assaultive** | 22.56% | 21.72% | 22.72% | 21.25% |
| **Drugs** | 25.70% | 23.89% | 22.03% | 17.18% |
| **Other** | 11.06% | 13.13% | 13.13% | 16.04% |
| **Property** | 34.27% | 33.92% | 36.76% | 41.50% |
| **Weapon** | 6.40% | 7.34% | 5.37% | 4.03% |
| **Total** | 100% | 100% | 100% | 100% |

Data Source: CYFD/FACTS

To increase the success of client supervision, the JPO instituted three (3) initiatives: Gender Responsive Programming, Revocation Alternative Meetings (RAM) and Probation Orientation Meetings. In April 2007, after much planning and training, a gender responsive unit was created to provide specialized services to girls. The goals of the program are to: reduce the number of probation violations, develop relationships and rapport with the clients and to connect clients to the community. The provision of services is based on trauma informed care.

In September 2007, the juvenile probation office began conducting Revocation Alternative Meetings (RAM). If a child is having problems following the conditions of probation, an independent "facilitator" conducts a meeting with the probationer, parent/guardian, JPO and JPO Supervisor. The participants discuss the problems and possible solutions. Utilizing the client's strengths, a plan is developed which addresses the needs of the child and family.

In March 2009, the juvenile probation office began providing probation orientation. The purpose of the orientation is to present the juvenile probation agreement in a way youth can understand.

Every youth and their parents are required to attend the orientation. During the meeting, the youth and their parents are separated as staff reviews the probation agreement. Following this initial review, in a "game-show" format, youth and their parents are tested on their knowledge and meaning of the conditions of probation. It is hoped that with this alternative to a formal setting there would be a decrease in the number of technical violations. Probation orientation is a work in progress. The goal is to have peer driven and facilitated orientations run by youth who successfully completed probation.

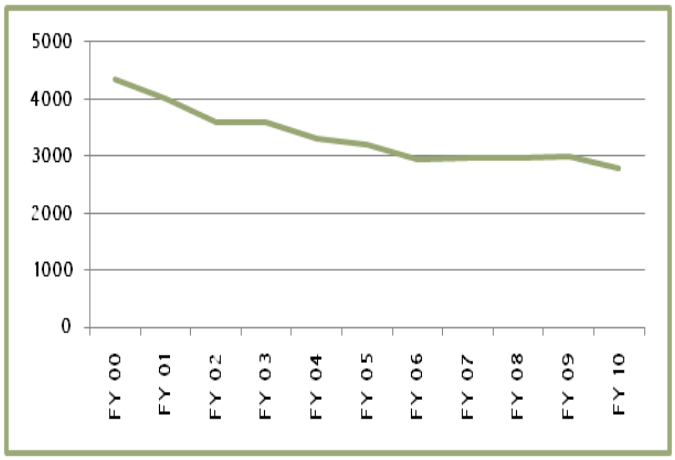
# Youth Services Center — Detention

In July 2003, the New Mexico Children's Code was changed with an emphasis on reducing the number of youth held in detention. The changes included: the use of an objective detention risk assessment instrument ("RAI") to assist in the decision to detain youth; using alternatives to detention, i.e., GPS, electronic monitoring, youth reporting centers, and increased supervision; and making the criteria for detention more specific. In addition to completing a RAI, it must be demonstrated that the youth poses a substantial risk of harm to self or others or they may leave the court's jurisdiction.

Youth may be placed in detention at various times during case processing. At the time the youth is brought to the Youth Services Center, the referring law enforcement agency must complete a probable cause statement.

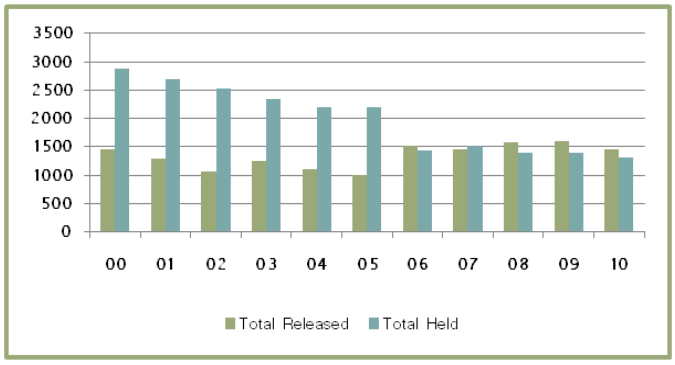
Although the Children's Code requires a probable cause review within 48 hours of the youth's admission to detention, in Bernalillo County a judicial officer reviews probable cause within 24 hours. If there is not probable cause to believe that the youth committed a delinquent act, the youth is released from detention. If probable cause is found, the judicial officer can find detention is appropriate, release to a parent/guardian/custodian or agency agreeing to supervise the youth or release the child with or without conditions (NM Supreme Court Rules 10-222).

Figure **6: Number of Bookings by Fiscal Year**




Data Source: BCYSC/E-Justice

Figure **7: Number of Youth Held or Released**




Data Source: BCYSC/E-Justice

## Bookings

Figure 6 provides information on the number of bookings by fiscal year. The number of youth taken into custody and booked at the BCYSC has decreased 36% from FY 00 (7/1/1999 to 6/30/00) to FY 10 (7/1/09 to 6/30/2010).

Figure 7 shows the number of youth held and released prior to a probable cause review. At least 65% of youth were detained through FY 05. Beginning in FY 06 the number and percent of youth detained began to decrease as more youth were being released. Within the last three years, at least 52% of the youth taken into custody were released.

## Average Daily Population

Prior to reform efforts, the average daily population (ADP) at the YSC was 114 youth. Since reform efforts began, the ADP has been reduced 45% to 65 youth in FY 10 (see Figure 8). As detention alternatives initiatives were developed and implemented there was a steady decrease in detention population. Although there continue to be slight fluctuations in the detention population, the ADP continues to be less than 80 youth in detention.

## Average Length of Stay

For those youth held in detention, the average length of stay has fluctuated from FY 00 through FY 10. See Figure 9.

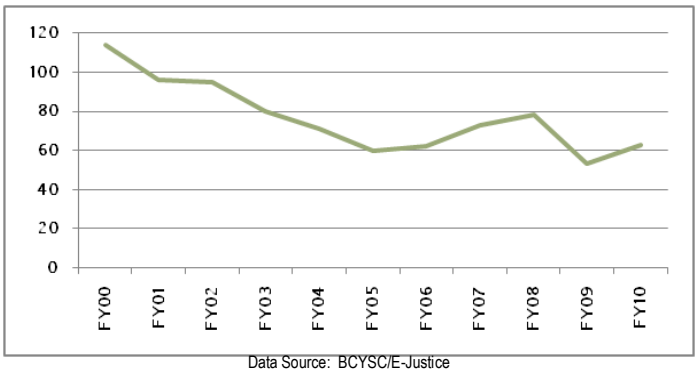
## Detention Recidivism

There are a couple of ways to define detention. A common method is to count the number of times a youth is booked, regardless of whether the child is held or released. The YSC defines detention recidivism as a new booking for a youth previously **booked and held** in which there are new charges or court order holds within in a given year. If a youth is released from detention to a treatment center and returns upon completion of treatment, this is not counted as a recidivist.

# Alternative to Detention Programs

Prior to reform efforts, probation officers had limited options when a child was brought to the detention center for a delinquent act. They could either release them to a parent/guardian/custodian or hold them pending further review. If a child was held pending the review, chances increased the child would appear before the court for further detention, which led to either overcrowding or the need to build additional living units. It was during this time, 1999, that the YSC created the Youth Monitoring Program which later was renamed the Community Custody Program (CCP). A second program, Youth Reporting Center (YRC), was created in 2001 and a Girls Reporting Center (GRC), a spin-off of the YRC, was implemented in 2008. As a result of these programs, two living units, historically used to house Bernalillo County youth at YSC, were able to be shut down; the first was closed in 2000 and the second was closed in 2002.

**Figure 8: Average Daily Population by Fiscal Year**

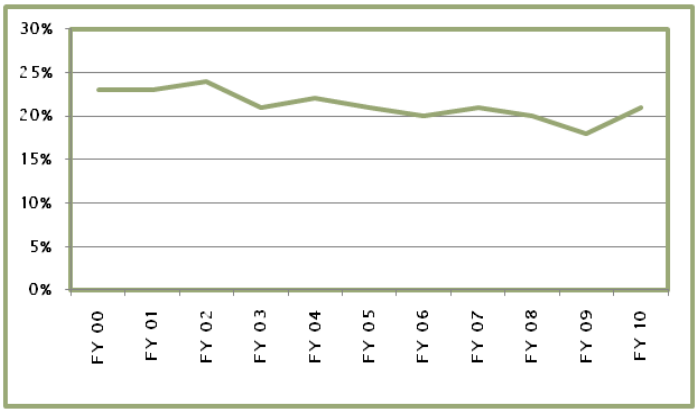



Data Source: BCYSC/E-Justice

**Figure 9: Average Length of Stay**

Data Source: BCYSC/E-Justice

**Figure 10: Detention Recidivism by Fiscal Year**




Data Source: BCYSC/E-Justice

**NO NEW DELIQUENT ACTS OR CRIMES**

**+**

**ATTENDANCE AT ALL COURT HEARINGS**

**=**

**SUCCESSFUL COMPLETION OF CCP/YRC/GRC**

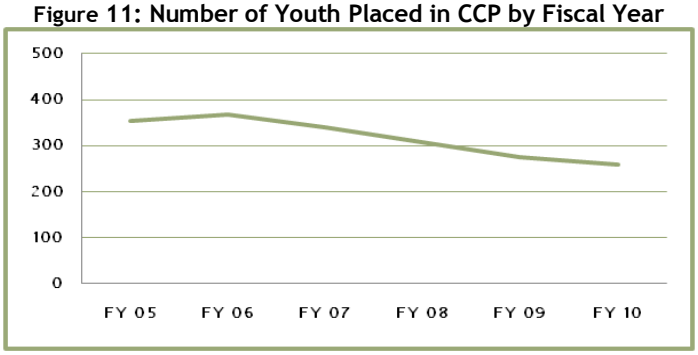
In developing alternative to detention programs (ATD), the YSC had to address JDAI critics that public safety would be compromised if the child was released from detention. The YSC strongly supports JDAI's dedication to keeping communities safe. "That's why JDAI is focused on ensuring that the right youth – but only the right youth – are detained, and only for as long as needed" ( The Annie E. Casey Foundation).

To address public safety, the ATD programs have two goals to define: no new delinquent acts/crime and ensuring the youth's attendance at the next court appearance success. As encouraged by JDAI, the YSC focus on data holds the system accountable for public safety results (The Annie E. Casey Foundation).

## Community Custody Program

Following a detention hearing, a child my made eligible for CCP pending interviews with the youth and family members. If the youth is accepted into CCP, the program utilizes house arrest, GPS monitoring, electronic monitoring, face-to-face contact with YSC staff at home, school, work, or office. In addition, each youth is assigned a case manager to assist in providing services to the client and family. Figure 11 shows the number of youth placed in CCP from FY 05 through FY 10. Although the number of youth placed in the program has decreased 30% since FY 06 to FY10, the percentage of youth successfully completing the program has increased (see Table 3). The youth is released from the program when the case has reached a final disposition or after 30 days unless the youth's participation is extended for compliance reasons.

**Figure 11: Number of Youth Placed in CCP by Fiscal Year**




Data Source: BCYSC/Practima

**Table 3: Discharge Status of Youth Placed in CCP by Fiscal Year**

| | Successful Completions | Unsuccessful Completions |
|---|---|---|
| FY 05 | 80% | 19% |
| FY 06 | 84% | 16% |
| FY 07 | 90% | 10% |
| FY 08 | 89% | 11% |
| FY 09 | 90% | 10% |
| FY 10 | 95% | 5% |

Data Source: BCYSC/Practima

In 2001, CCP began accepting "youthful offenders" into their program. A "youthful offender is a youth who is subject to either juvenile or adult sanctions" ( NM Children's Code, 32A-2– 19C).

A "youthful offender" is released from CCP when the cases has a disposition, or if the Court order the youth out of the program.

Table 4 shows the discharge status for those youthful offenders placed in CCP. The three youth were charged with the following:

- Negligent Use of a Firearm;
- Battery on Household Member, False Imprisonment, and Criminal Damage to Property; and
- Trafficking of a Controlled Substance

Table **4: Discharge Status of Youthful Offenders Placed in CCP**

| | Successful | Unsuccessful | |
|---|---|---|---|
| | | FTA | New Charges |
| FY 07 | 23 | 1 | |
| FY 08 | 32 | 1 | 1 |
| FY 09 | 30 | | 2 |
| FY 10 | 31 | 0 | 0 |

Data Source: BCYSC/Practima

## Important Dates for Juvenile Justice Reform in Bernalillo County

**1999** Talks begin with Annie E. Casey Foundations

**2000** Hired JDAI Coordinator; Developed Risk Assessment Tool;

**2001** Youth Reporting Center Created; Implemented the 11:00 am meeting to review cases going to a detention hearing; Implemented Weekly Judicial Reviews and CCP/YO protocol.

**2002** Due to a decrease in detention population a unit was closed.

**2003** As an alternative to detention for youth charged with low level delinquent acts, created Reception Assessment Center (RAC) with New Day, Inc. ; YSC given access to CYFD Family Automated Client Tracking System (FACTS); To reduce the number of youth failing to appear for future court hearing, families were given hand written notice of next court date at First Appearance.

**2004** To help expedite cases for youth held in detention YSC began requiring police reports at time of booking; YSC hired statistician for data analysis.

**2005** To help expedite cases for youth referred for a felony, juvenile probation began forwarding referrals to Children's Court Attorney, for review, prior to PI. Once the PI is completed, the petition can be filed sooner.

**2006** Began using GPS; Court began using bi-lingual notices.

**2007** Juvenile Probation created a gender specific supervision program; JPO implemented additional diversion classes for youth referred for a 2nd or 3rd misdemeanor; To help reduce the number of probation revocations, JPO began implementing the Revocation Alternative Meeting (RAM) .

**2008** Opened Girls Reporting Center; Bernalillo County Case Flow Study Completed; Probation Agreement was revised.

**2009** Probation Orientation began for youth recently placed on probation.

**2010** Created Racial and Ethnic Disparities (RED) to address the over representation of minorities in the juvenile justice system.

# Youth Reporting Center and Girls Reporting Center

The second ATD program the YSC created was the Youth Reporting Center (YRC). Initially, the YRC was one program which accepted both boys and girls. However, in FY 2008, a separate program was created for the girls called the Girls Reporting Center (GRC). The opening of the GRC coincided with the CYFD's creation of the Gender Responsive Program.

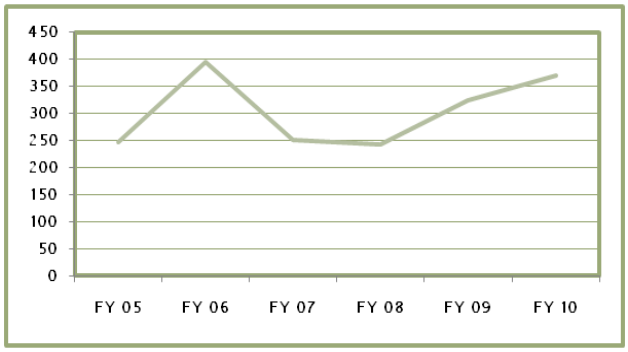
Figure 12 shows the number of youth placed in both YRC and GRC since FY 05. In FY 06, there were 395 youth participating in the program. However, there was a major decrease in the number of participants in FY 07, followed by steady increases.

Table 5 provides discharge information for the YRC and GRC. From FY 05 through FY 08, a successful discharge occurred on average 75%. However, in FY 09 and FY 10 a successful discharge was reported for 91% of the participants.

In short, most youth in the ATD programs have not been arrested for new offenses and have appeared in court.

Figure 13 provides information on the graduated levels of supervision since the start of JDAI in Bernalillo County.

**Figure 12: Number of Youth Placed in YRC by Fiscal Year**



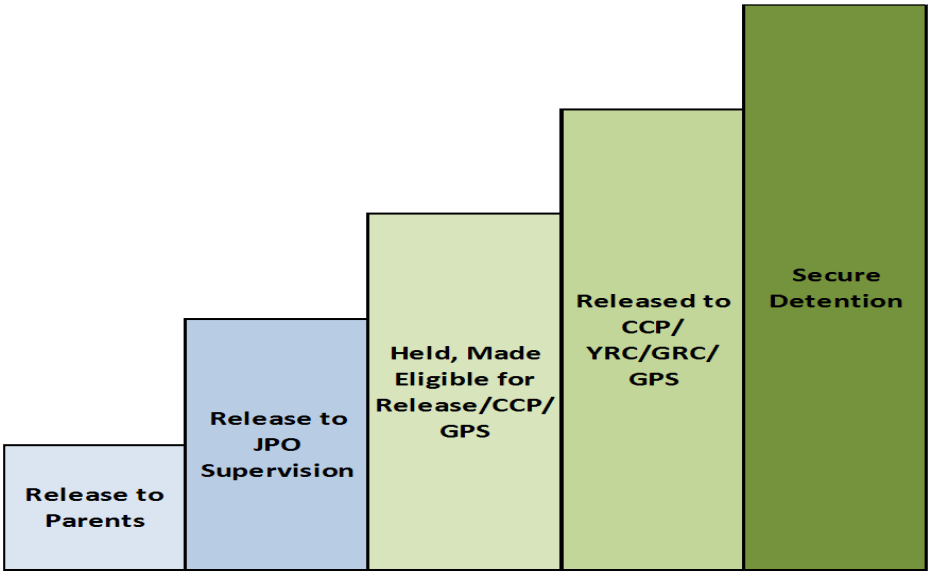

Data Source: BCYSC/Practima

**Table 5: Discharge Status of Youth Placed in YRC by Fiscal Year**

| | Successful Completions | Unsuccessful Completions |
|---|---|---|
| FY 05 | 75% | 24% |
| FY 06 | 74% | 25% |
| FY 07 | 78% | 19% |
| FY 08 | 73% | 24% |
| FY 09 | 91% | 8% |
| FY 10 | 91% | 8% |

Data Source: BCYSC/Practima

**Figure 13: Alternatives to Detention**

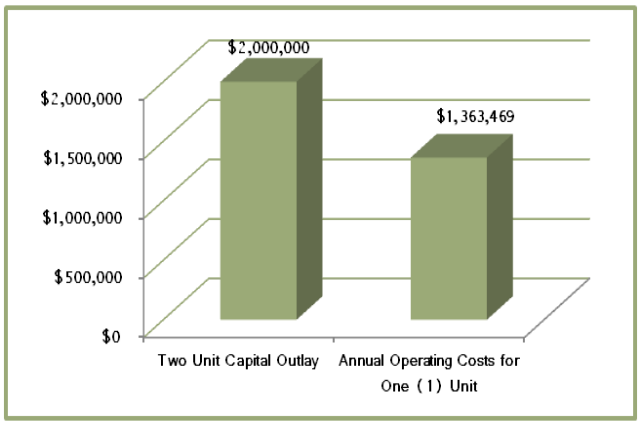


# Financial Costs of Detention Reform

Costs of secure detention vary from county to county, state to state. Figure 17 illustrates how alternatives to detention save taxpayers from having to build and operate living units. Figure 18 compares the costs of keeping a child in detention versus the costs of alternatives to detention programs. It is estimated that the cost of building, financing and operating a single detention bed costs the public 1.25 – 1.5 million dollars over a 20 year period. It costs approximately $285 a day to keep one child in detention as opposed to $33 a day to keep a child in an alternative to detention program, and $7 to place a child on a GPS.

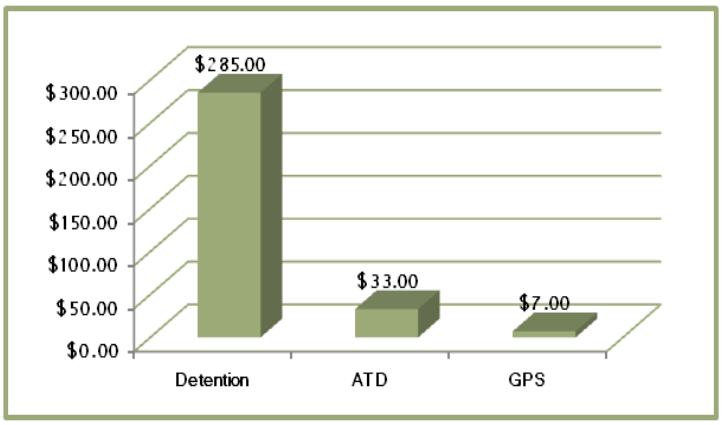
Prior to CCP accepting youthful offenders in calendar year 2001, youth were given the option of bonding out of detention with additional supervision provided by CYFD. For those youth who were unable to bond out, they remained in detention pending disposition, on average **171 days,** at a cost of **$48,735.00 per youth** (see Table 7**)** However, in FY 10, those youth who were not accepted into an ATD program, the average length of stay was **127 days,** at a cost of **$36,195.00**. Those youth accepted into an **ATD program** remained in the program **172 days**, on average, at a cost of **$5,676.00**. While the youth's time in ATD was similar to the time in custody in FY01 there was a substantial savings to the taxpayers with no adverse effect on public safety.

**Figure17: Facility Expansion Cost Avoidance**




Data Source: YSC

**Figure 18: Daily Costs of Detention and ATD Programs**




Data Source: YSC

**Table 7: Cost Avoidance**

| | Number of Youth | Average Length of Stay | Cost |
|---|---|---|---|
| FY 01 | 1 Youth in Detention | 171 Days | $48,735.00 |
| FY 10 | 1 Youth in Detention | 127 Days | $36,195.00 |
| FY 10 | 1 Youth in CCP | 172 Days | $5,676.00 |
| FY 10 | **Cost Savings for 1 Youth** | | **$30,519.00** |
| FY 10 | **Cost Savings for 31 Youth** | | **$946,089.00** |

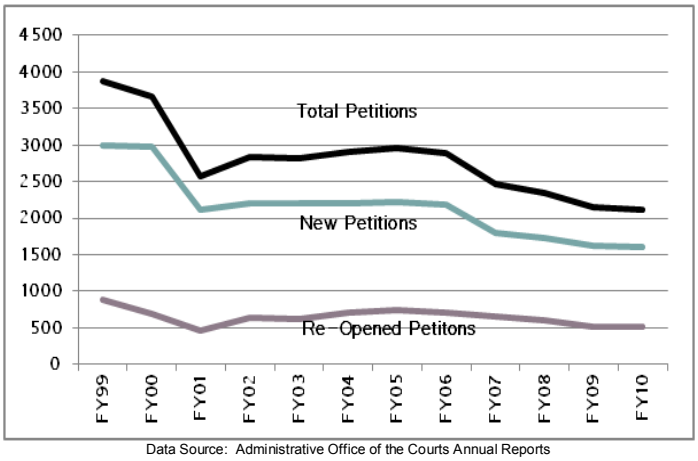
Data Source: YSC

# Second Judicial District : Children's Court Division

## All Petitions

Fewer youth are going to court today than 10 years ago. Figure 19 provides a graphic representation on the number and type of petitions (new and re-opened) for the Second Judicial District. The number of petitions include both delinquent and youthful offender. In FY 99, the year before reform began, 3,873 petitions were filed. In FY10, the latest year for which information is reported, there were 2,116 petitions filed, representing a 45% decrease.

**Figure 19: Number of Petitions Filed by Fiscal Year**




Data Source: Administrative Office of the Courts Annual Reports

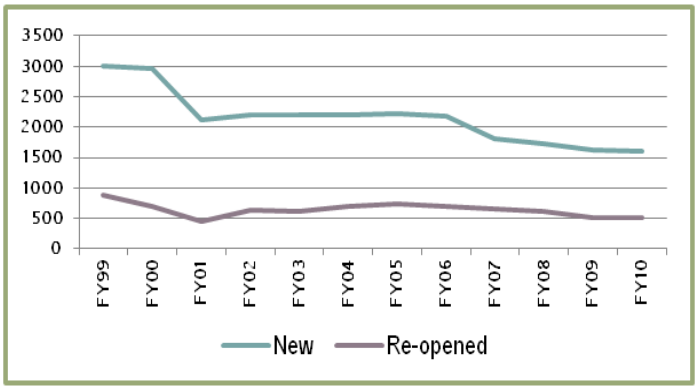
## Delinquency Petitions Only

Beginning in FY00, the Administrative Office of the Courts (AOC) Annual Reports began reporting information specific to delinquency petitions and youthful offender petitions. Prior to that time, the information was combined. During the last 10 years, the total number of delinquency petitions decreased 42%, from 3,580 (FY00) to 2,043 (FY10). The most significant decrease, 30%, was from FY00 to FY01. It was during this time that juvenile probation initiated a variety of diversion programs.

The number of filings for new delinquency petitions showed little variation from FY02 (2,140) through FY06 (2,143) (see Figure 20). In FY07, there was an 18% decrease in the number of new delinquency petitions from the previous fiscal year. Since FY07, the number of filings for new petition decreased 11% while the number of filings for **re-opened** petitions decreased 30% from FY00 (693) through FY10 (481).

In 2008, the Courts modified the juvenile probation agreement to an "advise and assist"/strength based court order which provides the opportunity for the youth to be released early from supervision for good behavior. Recognizing that many youth and families need assistance and support to comply with probation, the newer version includes the phrase, "my JPPO will assist." For Spanish speaking clients and families, a Spanish version of the probation agreement is provided.

**Figure 20: Number and Type of Delinquency Petitions Filed by Fiscal Year**

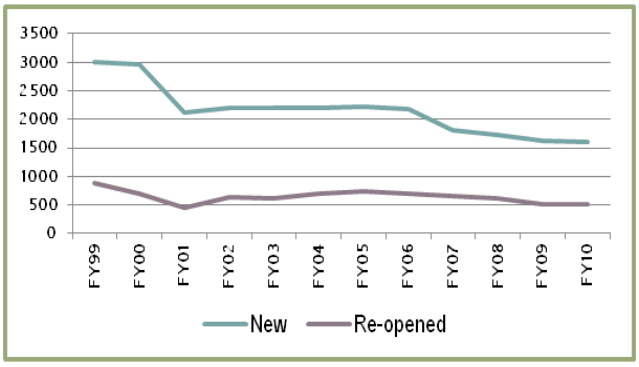



Data Source: Administrative Office of the Courts Annual Reports

## Youthful Offender Petitions

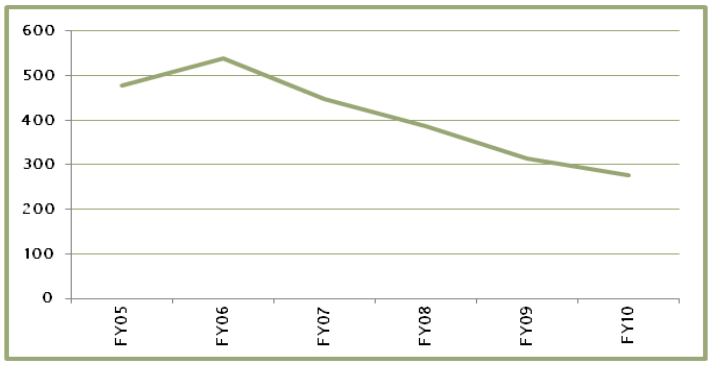
As previously noted, the AOC began separating youthful offender petitions from delinquency petitions in FY 00. During the last decade, the number of **new** youthful offender petitions decreased 44% from FY 00 to FY 10, 81 petitions to 45 petitions, respectively (see Figure 21). However, since FY 01, there have been yearly fluctuations in the number of youthful offender petitions filed. But the total number of petitions has remained largely consistent.

Figure **21: Number of Youthful Offender Petitions by Fiscal Year**




Data Source: Administrative Office of the Courts Annual Reports

**Figure 22: Bench Warrants by Fiscal Year**




Data Source: Second Judicial District, Children's Court Division

## Bench Warrants

The number of bench warrants issued has decreased at a faster rate than the decreases in referrals and petitions filed. Data on the number of bench warrants issued began to be tracked in FY 05. But, when compared with FY 10, there has been a 48% decrease since FY 06 (see Figure 22). More recently, there has been an 11% decrease from FY 09 to FY 10.

# Case Processing

## Bernalillo County Juvenile Justice Case Flow

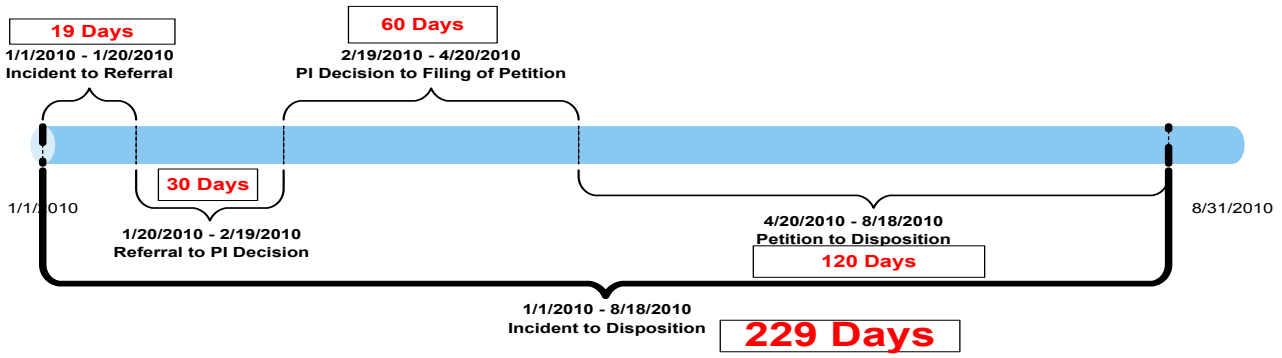
In 2009, BCYSC completed a self-assessment study of the current case processing practices within the Bernalillo County Juvenile Justice System. The statistics indicate cases are handled within the prescribed time limits of the New Mexico Supreme Rules and the New Mexico Children's Code.

When talking about case flow and the timeliness of how quickly or how long it takes for a case to reach final disposition, we need to make sure we are not equating speed with effectiveness. However, the YSC is interested in identifying and reducing delays. The American Bar Association (ABA) defines delay "as any elapsed time other than reasonably required for pleadings, discovery, and court events [SIC]. (Michigan Court Administrative Office, p.2)

Figure 23 and Figure 24 provide graphic examples of a hypothetical incident occurring on January 1, 2010 for a non-detained youth who has a case in which a petition is filed. Figure 23 shows the earliest time a case can be adjudicated according to the New Mexico Supreme Court Rules and Children's Code. According to this scenario a case would be disposed **in a little less than 9 months after the incident**.

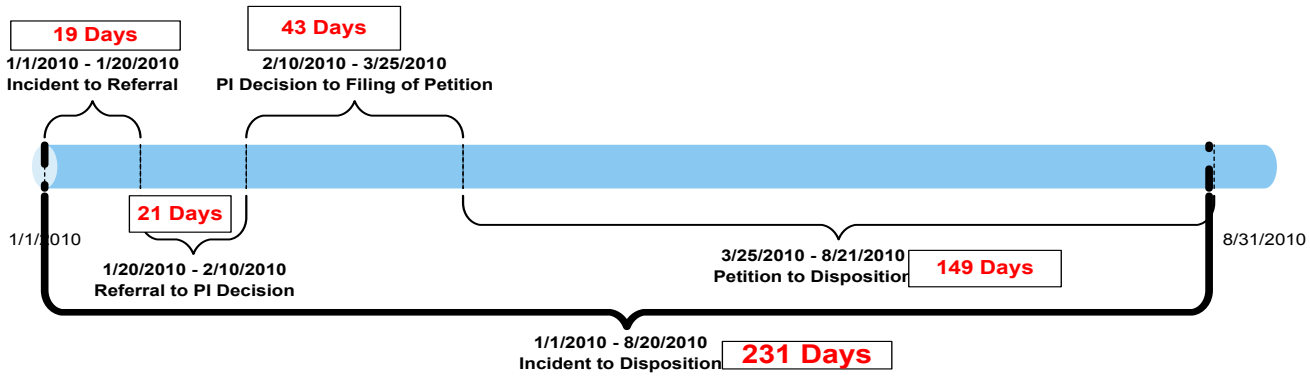
Figure 24, using FY 09 case processing times for Bernalillo County, **the case would also be disposed just short of 9 months.**

**Figure 23: Timeline for Processing a Non-Detained Client per New Mexico Supreme Court Rules and Children's Code**




New Mexico's Children's Code does not require a maximum number of days for: a) the Juvenile Probation to receive a police report and b) to hold a disposition hearing for non-detained youth once the youth is adjudicated..

**Figure 24: Timeline for Process a Non-Detained Client per FY 09 Case Processing Times**



# Protocols

In addition to the initiatives listed above, the various stakeholders, Children's Court Attorneys, Public Defenders, Youth Services Center staff, JPO's and Court staff have been active participants in reducing case processing time. The stakeholders have created the following protocols with other juvenile justice stakeholders to help reduce the time it takes to process a case.

**Book and Release —** If a youth is brought to the YSC and is determined, through the Risk Assessment Instrument (RAI), that the youth is eligible for release, YSC staff contacts the parents to pick up the child immediately. Upon release, YSC staff obtains additional contact information and provides the family with a copy of the Preliminary Inquiry (PI) Letter. YSC staff provides the JPO with a copy of the letter, police report, the release/transfer of custody form and booking slip.

Upon assignment of the case, usually within 48 hours of receipt of the referral, the assigned JPO has three (3) to five (5) business days to contact the family to advise them of the date and time of the PI, if applicable, or the date and time of the assigned diversion program.

**Dual Track Protocol —**Upon receipt of a felony referral and prior to the required Preliminary Inquiry, the Juvenile Probation Office copies the required paperwork and forwards the necessary documentation to the Children's Court Attorney (CCA), thus allowing the CCA to review the case and determine, what charges, if any, should be filed. Immediately upon completion of the PI, the JPO forwards the required document to the CCA notifying them that a PI was completed and recommending appropriate services. If appropriate, the necessary paperwork is completed for a petition to be filed. This shortened time frame decreases the time it takes to review, identify possible charges and file a petition.

**DWI/DUI Protocol —**If a youth is brought to the YSC and is charged with Aggravated DWI/DUI, a second or subsequent DWI or DWI/DUI resulting in an accident, or death, the youth is held in detention pending the filing of a petition and a detention hearing. If a youth is charged only with DWI and the RAI indicates the youth is eligible for release, YSC staff determines if there is a need to contact the on-call JPO supervisor for additional information. Otherwise, YSC contacts the parents to pick up the child. Upon release, YSC staff instructs the child and the family to report to the juvenile probation office the next business day by 9:00 am. YSC flags the paperwork for fast tracking within the juvenile probation office. The JPO completes the preliminary inquiry and advises the youth he/she must appear before a judicial officer at the prescribed time for a DWI/DUI Release Hearing. The Children's Court Attorney reviews the case and, if appropriate, files a petition the next business day as if the youth were in detention. The case is staffed at the 11:00 meeting and recommendations for services are developed. The case is then presented at the DWI/DUI Release Hearing, and the judge may order the youth to participate in the services deemed most applicable to the particular circumstance. The youth stays on the Court's thirty day calendar, as if the youth were in custody and, moves toward disposition.

If the youth fails to appear for the PI, the JPO forwards the required paperwork to the CCA and schedules the DWI/DUI Release Hearing. If the child fails to appear for the hearing, a bench warrant is issued.

**Domestic Violence Protocol -** The domestic violence protocol is very similar to the DWI/DUI protocol. If a youth is brought to the YSC and is charged with offenses related to domestic violence, the RAI is completed. If the RAI indicates the youth is eligible for release, YSC staff contacts the parents, unless YSC determines there is a need to contact the on-call supervisor for additional information. Upon release, YSC staff instructs the child and the family to report to the juvenile probation office the next business day by 10:00 am. YSC flags the paperwork for fast tracking within the juvenile probation office. The JPO completes the preliminary inquiry. The JPO may handle the case informally and provide services or, if the JPO feels the court intervention is needed, the JPO forwards the required paperwork to the CCA who reviews the case and, if appropriate files a petition. If the CCA files the petition the case is fast tracked. Unlike the DWI/DUI protocol, there is not a Domestic Violence Release Hearing nor does the Court treat the case as if the child is in detention.

**FTA Protocol —** In an earlier section, it was noted that the number of bench warrants have decreased. A primary reason for the decrease is due to the warrant protocol. The protocol is for those youth who have a Court summons returned or when the youth fails to appear for a First Appearance/ Arraignment. When the child fails to appear for the hearing, the judge defers issuing a bench warrant until the end of the week. During that time, the judge allows the Juvenile Probation Office to locate the child. JPO's resort to variety of sources to locate the child: the probation file, protective services records, school records, internet, utility companies, grandparents, public defenders office, cell phone numbers, e-mail addresses, visits to the last know resi-

dence along with visiting neighbors at that address. If the youth is located, the youth is instructed to appear in court at a designated time on Friday of that week and to contact his/her defense attorney. The JPO is responsible for submitting a change of address notification to the Courts. If the youth does not appear, the judge issues a bench warrant.

Although not part of any protocol, the court provides written notice of the next court hearing when the client appears for a hearing. The information is provided in both English and Spanish.

# Challenges for the Future

**The juvenile justice system is not the adult system** – Many people believe the adage "if you do the crime, you do the time," applies to juveniles. However, New Mexico's juvenile justice system focuses on **accountability and rehabilitation**. Unlike the adult system, the juvenile justice system holds youth accountable for their action to the extent of the child's age, education, mental and physical condition, background and other relevant factors (NM Children's Code 32A-2-2, NMSA 1978). We forget that most youth outgrow their delinquent behavior and become law abiding citizens. However, for those youth who do not outgrow their delinquent behavior, Bernalillo County juvenile justice stakeholders are challenged to correctly identify those youth and provide appropriate services, including incarceration, to ensure public safety.

**Budget uncertainties impede services to youth and their families** – During these tough economic times, policy makers in Bernalillo County and across the nation are finding that it is more fiscally responsible to provide community based supervision to our youth without compromising public safety. Local juvenile justice stakeholders have relied on community providers to provide the necessary treatment of youth pre-adjudication and post adjudication. However, these providers are also facing economic difficulty and while tightening their purse strings, they are also tightening criteria for accepting and providing services to our youth. Youth and families without health insurance facing behavioral health issues are finding it more difficult to obtain treatment. Without the treatment, these youth face further involvement in the juvenile justice system and possibly the adult system.

**Case processing times** – In spite of efforts to shorten case processing times for youth referred to the courts, these efforts are not sufficient. Victims wait, on average 8 ½ months, for cases to be resolved. The youth alleged to have committed these acts have their lives on hold, and in some instances, continue their delinquent activity while their cases wait to be heard. Local stakeholders need to closely examine why the delays are occurring and take the appropriate measures to shorten the time frames when possible. In addition, all stakeholders should challenge themselves and ask what they can do individually to shorten the timeframes before they ask others to change their behaviors and practices.

**The juvenile justice pendulum swings** – During the last thirty or so years, the New Mexico juvenile justice pendulum has swung back and forth. Although accountability and rehabilitation are always emphasized, juvenile justice personnel have had to deal with the calls to get tough on crime and to treat youth like adults to the gentler approach of providing treatment without locking up youth. It is difficult for those staff hired under one philosophy to change to another.

**Inadequate data systems to measure what is working or what we are doing**. If a youth violates the law or probation, the existing data systems are able to capture this information. We know how many youth are booked, held, participated in ATD's, number of petitions, etc. However, if the youth does not have a new referral, we do not know why this is occurring. Are there particular individuals, programs or conditions of probation that have had a positive effect on the youth?

Obtaining information on recidivism is a daunting challenge. Recidivism means different things to each of the stakeholders. Is it a new delinquent referral regardless of the offense or disposition? Does it include technical violations of probation that are not related to the commission of a new crime? For specific offense types, it would be interesting to look at the severity of the original offense and the new delinquent offense. Is the delinquent act increasing in severity or decreasing? This information might tell us what services are effective or not.

According to the New Mexico Children's Code, as part of holding the youth accountable, there should "be rehabilitative restitution to the victims of the child's delinquent act to the extent the youth is able to do so" (NM Children's Code, 32A– 2—2, NMSA 1978).

Critics of juvenile justice reform often mention the system is neglecting the victim. However, those critics do not know if the current victim services are meeting the victim's needs. A simple survey could ask victims if they were satisfied with how their case was handled as well as the timeliness of the process.

# Recommendations

**Stakeholders should continue evaluating case processing time and seriously look within their own agencies as to how they can reduce case processing time.** With the decrease in bookings, referrals and petitions, case processing times should be reduced. Staff within each agency should look within and ask "How can we reduce the time it takes from an incident to disposition." Although the times are within those recommended by the Supreme Court and Children's Code, are these time frames meeting the needs of the youth appearing before the court, the victim and addressing public safety? Are there ways in which Bernalillo County Juvenile Justice agencies can further reduce the time it takes to process a delinquency case without compromising public safety, ensuring a victim receives justice, while at the same time the youth is held accountable and receives the services needed to become a responsible, productive and a law abiding citizen without waiting six months or longer?

**Stakeholders should continue to develop a working partnership with Albuquerque Public Schools (APS) to develop strategies to assure that normal adolescent behaviors are not criminalized by the unnecessary involvement of law enforcement.** In 2010, the YSC undertook an analysis of delinquent acts occurring on school grounds. Data was gathered on the delinquent acts that brought the youth to the YSC by the various law enforcement agencies as well as referrals made to CYFD by the Albuquerque Public School Police. A review of offenses indicated many students were referred and/or booked for misdemeanor, non-violent offenses, that according to the APS Student Handbook should be handled by the schools, but were instead referred to law enforcement.

**YSC staff should conduct a program analysis of in-custody youth with the goal of developing effective programming and interventions for those who appear to present chronic mental health issues or delinquent behavior.** The YSC has a Children's Community Mental Health Clinic (CCMHC) available for youth and families involved in the juvenile justice system for youth not in custody. In-custody youth cannot access CCMHC services unless the youth was already receiving services. YSC needs to develop a process to determine if the current services are meeting the needs for those youth with **chronic** mental health issues and/or delinquent behavior. If the services are not meeting the needs of these youth, then program changes should be identified, implemented and monitored to determine effectiveness.

**ATD programs need to be strengthened to assure youth who are normally in custody do not present an unnecessary risk to public safety and to further examine and objective manner how youth are selected for participation.** One of JDAI's core strategies includes the use of objective tools and instruments to identify youth most like to reoffend. Although CCP has a high percentage of success, the number of youth participating in CCP has decreased. YSC should undertake a project to develop a valid, objective assessment tool to be used for those youth referred to the program.

**Stakeholders need to identify the contributing factors related to the over-representation of minorities, both in custody and out of custody.** Much has been written about the over-representation of minorities in the adult criminal justice system, but little has been written about the existing problem within the juvenile justice system. Although the current report provides general information regarding juvenile justice reform, it does not mean stakeholders ignored the over-representation of minorities. There is currently a subcommittee, Racial, Ethnic Disparities (RED) group, working on this issue within a specific high crime/delinquent area within the city. There are many factors beyond the scope of the juvenile justice system that influence the inequality of treatment of minority youth. However, we need to identify those areas that can be used to create a fairer and more equitable system.

**Juvenile justice reform efforts should include a broader spectrum of the community.** Bernalillo County is fortunate in that stakeholders include individuals who can effect change within their agencies. Any change that might be perceived as having an effect on crime has the potential to become a political issue and, therefore, there is pressure to maintain the status quo. It may be safer, but it may also be wrong (Annie E. Casey). Agencies must take a serious look at how they can contribute to continued success of juvenile justice reform.

# Conclusion

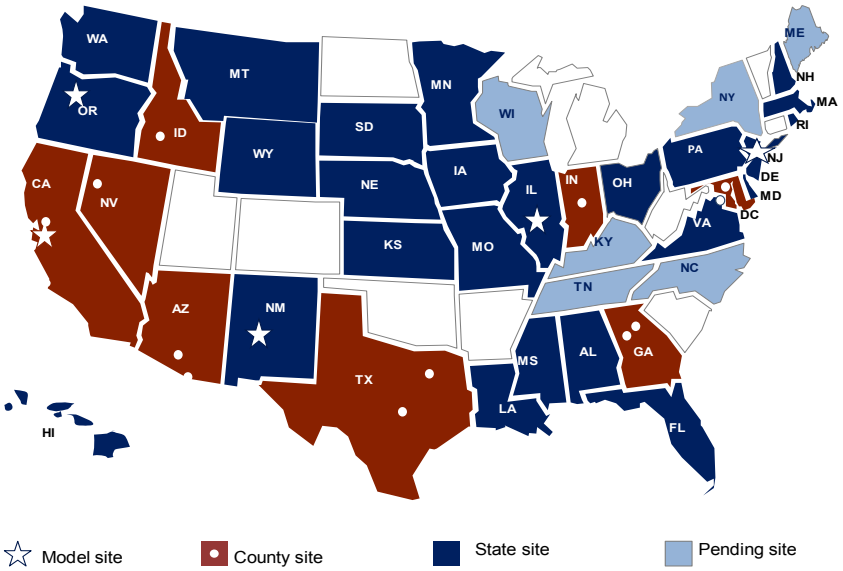
At a recent National Summit on Justice Reinvestment and Public Safety: Addressing Recidivism, Crime, and Corrections Spending, Laurie Robinson, Assistant Attorney General for the Office of Justice Programs called for thoughtful corrections policies "based on sound data" and ensuring that tough approaches to crime "are leavened with wisdom, with foresight, and with deliberation." Before these words were spoken, and with the help of the Annie E. Casey Foundation, Bernalillo County juvenile justice practitioners acted with wisdom, foresight and deliberation and utilized existing data systems to help guide juvenile justice reform. Juvenile justice practitioners in Bernalillo County did not rely on the normal get "tough on crime" rhetoric to address the problem by locking up youth but instead, chose to utilize community based programs. They know from past experience that detaining youth is not the answer. Detention leads to increased recidivism and delinquent behavior, lack of educational and employment opportunities and association with more delinquent peers.

Although juvenile justice reform started with detention, there were ripple effects which impacted other parts of the juvenile justice system. Information from a variety of sources shows the following in Bernalillo County**:**

- Decrease in the number referrals to CYFD/JPO;
- Decrease in both felony and misdemeanor offenses referred to CYFD;
- Decrease in the number of youth booked;
- Decrease in the number of youth detained;
- Decrease in the length of stay (YSC);
- Closing of two living units (YSC) for Bernalillo County youth;
- Decrease in the number of petitions filed;
- Decrease in the number of bench warrants issued;
- Increase in the number of youth successfully completing the Community Custody Program;
- Increase in the number of youth successfully completing the Youth Reporting Center;
- Increase in the number of youth using GPS; and
- ATD Programs helped taxpayers avoid spending $946,089.00 in FY 10; and $4,742,529 from FY 07 through FY 10.

The successes Bernalillo County has seen are not uncommon. These successes are found in other Annie E. Casey model sites. Communities across the nation are hoping to replicate what has been accomplished in Bernalillo County as well as other Annie E. Casey JDAI pilot sites. JDAI is now active in 32 states. As counties and states struggle with smaller budgets, they recognize effective community based programming is the answer rather than increased incarceration.

**JDAI is now active in 140 jurisdictions in 32 states**

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# Acknowledgements

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Previous Stakeholders: Judge Marie Baca (Ret.), Tommy Jewell (Ret.), Judge Michael E. Martinez (Ret.), Craig Sparks (Former Regional Administrator/Chief Probation Officer and Ron West (Former District 2 Chief Probation Officer).

Report Readers: Linda Matteucci, Interim Director Youth Services Center, Douglas E. Mitchell, JDAI Coordinator, Jeanne Masterson, CYFD/ District 2 Chief Juvenile Probation Officer and Susan Alkema, 2nd Judicial District Children's Court Special Master.

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# Acronyms

| Acronym | Full Name |
|---|---|
| ADP | Average Daily Population |
| AECF | Annie E. Casey Foundation |
| AOC | Administrative Office of the Courts |
| APS | Albuquerque Public School |
| ATD | Alternative to Detention |
| CCA | Children's Court Attorney |
| CCMHC | Children's Community Mental Health Clinic |
| CCP | Community Custody Program |
| CYFD | Children, Youth and Families Department |
| FACTS | Family Automated Client Tracking System |
| FTA | Failure to Appear |
| GRC | Girls Reporting Center |

| Acronym | Full Name |
|---|---|
| JDAI | Juvenile Detention Alternatives Initiative |
| JPO | Juvenile Probation Office |
| OJJDP | Office of Juvenile Justice and Delinquency Prevention |
| PI | Preliminary Inquiry |
| RAC | Reception Assessment Center |
| RAI | Risk Assessment Instrument |
| RAM | Revocation Alternative Meeting |
| UPS | United Parcel Service |
| YRC | Youth Reporting Center |
| YSC | Youth Services Center |