

New Mexico 2nd Judicial District Criminal Justice Strategic Plan

Developed January, 2012

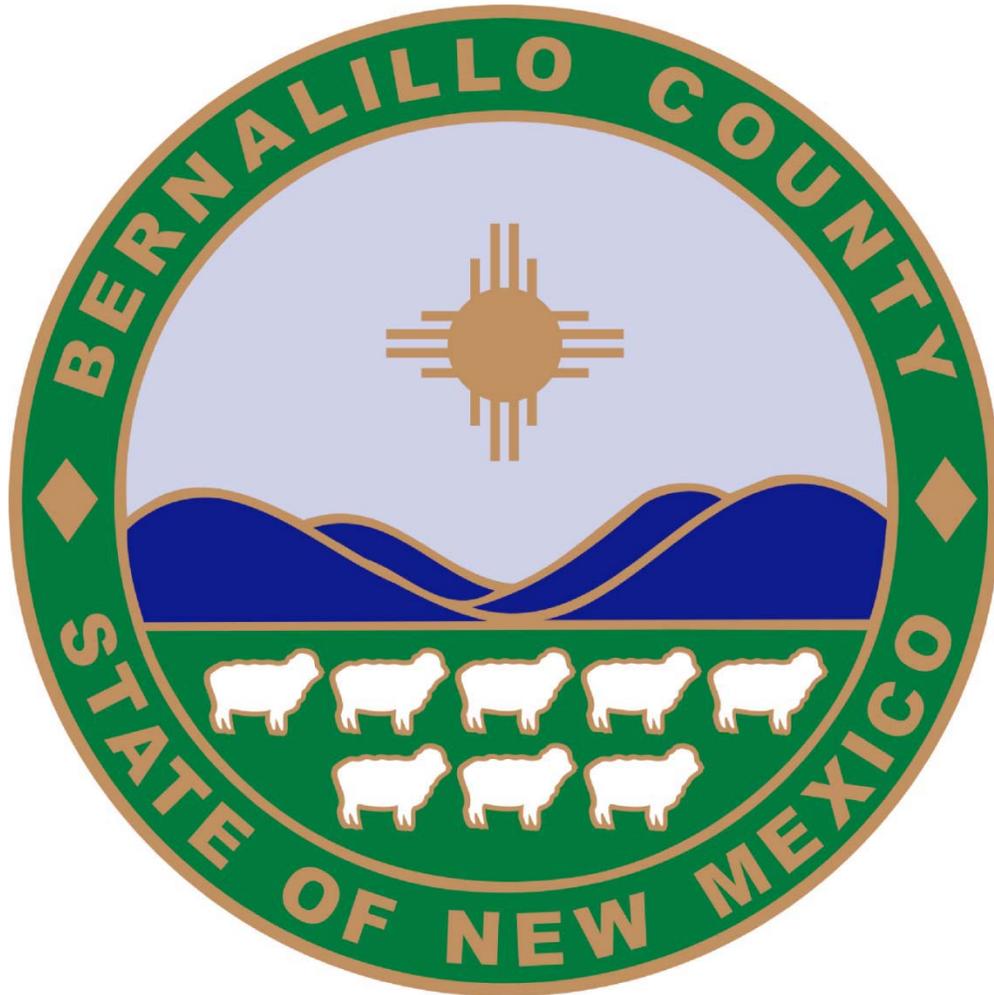


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Executive Summary

Recommendation: The MDC Should Present Its Strategic Plan to the Court. MDC officials should share this strategic plan with the District Court Presiding Criminal Court Judge and other criminal justice stakeholders in order to garner support for the model contained herein. Following, MDC officials should support efforts by the District Court Presiding Criminal Court Judge to convene a collaborative meeting of stakeholders and when permitted initiate discussions regarding the eight core strategies within such meetings. The eight core strategies which will be discussed are:

1. Collaboration
2. Use of accurate data
3. Objective admissions criteria and instruments
4. New or enhanced non-secure alternatives to detention
5. Case processing reforms
6. Special detention cases
7. Reducing racial disparities
8. Improving conditions of confinement

Recommendation: The County Should Assist in Presenting this Strategic Plan to the Criminal Justice Collaborative. Once ratified, the plan should be circulated for endorsement by public and private agencies in the affected community. Broad public support provides greater assurance that detention reform goals and implementation efforts will be sustained through successive elections and administrations.

Recommendation: The County Should Support the Presiding Criminal Court Judge as He Assigns Subcommittees to Each of the Core Strategies Discussed in this Plan by Participating When Called Upon by Him to Do So. Ideally, when a criminal justice collaborative is finally convened, the body should assign “sub-committees” to analyze the data and corresponding action items contained within this strategic plan. The subcommittees should review the cost of each reform component or strategy contained within this strategic plan, noting any perceived savings or cost avoidance which can be realized.

Recommendation: The County Should Participate as a Member of the Collaborative in Managing the Execution of this Strategic Plan. The collaborative should also assign specific implementation responsibilities to agencies that have the authority and the ability to carry them out. The delegation of implementation tasks is a critical and necessary element of the strategic plan; if responsibilities are not assigned, the plan is unlikely to produce the desired reforms.

Recommendation: The County Should Commit to a Communications Strategy, Together With the Other Members of the Collaborative. The collaborative body should adopt a supplemental communications strategy. A detention strategic plan that proposes to change the way offenders are handled in the community will surely generate calls from the media and other interest groups; stakeholders will need to be “on the same page” as they respond to requests for information in press interviews and other forums. The communications strategy should also identify a spokesperson that can provide information and reassurance on the plan at community speaking engagements or in appearances before local government councils or agencies. Ideally, this spokesperson would be the District Court Administrator.

Recommendation: Complete the Pretrial Services versus Bonding: Outcome Study – A comparative analysis by Dr. Moreland of the rates of failing to appear (FTA), failing to pay (FTP), failing to comply (FTC), failing to report (FTR), and committing offenses while out on bond and pretrial release.

Recommendation: Complete the Bernalillo County Metro Detention Center Fiscal Year Report 2011 – A profile of the MDC population, which is a follow-up to the Fiscal Year Report 2010.

Recommendation: Complete the Workload and Cost Implications for Felony Caseflow Management Improvement – This study, based on a model already successfully developed, refined, and utilized by the NCSC in other criminal justice jurisdictions, seeks to estimate the value of the improved efficiencies resulting from implementing the 2009 NCSC recommendations, not just those for County agencies, but also for State-level public treasuries and justice agency budgets in the felony court process before the Court. (See Appendix I) This study would assist the reform collaborative body in determining the most appropriate sequence of case processing reforms to enact in order to provide the greatest returns to the taxpayers, having the new ability to quantify the savings to each of the criminal justice stakeholders upon successful implementation of any given reform.

Recommendation: Complete the MDC Program Evaluation Report 2012 – A review and evaluation of the programs at the Metropolitan Detention Center, which is a follow-up to the report provided in 2011.

Recommendation: Complete a Preliminary Profile of the MDC Population Utilizing the COMPAS Risk and Needs Assessments – An automated objective risk assessment tool known as “COMPAS” is currently beginning a six to nine month phase of implementation. Once implemented, the ability to assess offender risk and need, as well as the ability to share all related risk and need data, will provide new data to criminal justice stakeholders. Such data includes an estimation of what number of currently detained offenders would be safe to supervise in alternatives to both detention and incarceration.

Recommendation: Implement and Fully Utilize the Northpointe Inc. Classification, Risk/Needs Assessment, and Case Management Suite, COMPAS at the MDC -- Bernalillo County has recently signed an agreement with Northpointe Inc. to provide the MDC with objective and validated tools and assessments specifically designed to aid in jail classification, pretrial release decisions, pretrial service supervision level decisions, presentence reports, jail programming and post adjudication treatment decisions, and probation supervision level decisions, all in order to maximize the limited resource capacity. The tool provided by Northpointe is known as COMPAS, and is the most sophisticated and most reputable criminal justice assessment suite available in the world. The use of an objective risk assessment tool free of racial bias minimizes opportunities for discriminatory decisions. The COMPAS tool may be utilized by the MDC to develop transition plans, the tool may be used by Pretrial Services to inform their pretrial release and supervision decisions, and partner agencies can use the tool to inform decisions of supervision, sanctions, and alternatives to incarceration.

Recommendation: The County Should Provide COMPAS Access to any Interested Criminal Justice Partners: The County should begin engaging all interested criminal justice stakeholders in the implementation planning, rollout, and training phases in order to make this game changing technology available at every decision point along the local criminal justice continuum. This software is entirely internet based, and licenses should be made available to District Court, Metro Court, and New Mexico Probation and Parole in order to provide those partners with additional actuarially informed decision-making capability, as well as the ability to better monitor client activity by using the case management module provided.

Recommendation: The County Should Make Available to Pretrial Services an Automated, Validated Risk Assessment Tool: The County should provide Pretrial Services a validated risk assessment tool in order to insure that the appropriate offenders are released from detention, either ROR or to the direct supervision of Pretrial Services. For example, certain populations and sub-populations such as violent sex offenders might not be considered appropriate by COMPAS for such alternatives. Such a tool will insure that only those offenders actuarially determined to be *likely* to appear in court and not reoffend while in the community be released pretrial. The tool will make this possible without widening the net, which occurs when placing offenders under more intense levels of supervision that should have been placed under lower levels of supervision. The tool

should also guide Pretrial Services in the determination of the frequency of offender reporting, as well as how the alternatives will be used to manage the offender.

Recommendation: The County Should Shift all Responsibilities Currently Associated with the Community Custody Program to the District Court Pretrial Services: The Community Custody Program (CCP) duplicates and overlaps supervision and functionality that correspond to the judicially directed Office of Pretrial Services. This dynamic makes the development of a cohesive continuum of alternatives to detention difficult. Therefore, CCP and Pretrial services should be combined under the direction of the judicially directed Office of Pretrial Services in order to more efficiently create a cohesive continuum where net widening can be minimized, communication improved, and therefore public safety insured. The Courts should determine who is placed in such alternatives, as well as determine the appropriate level of supervision within those alternatives, using the validated risk assessment tool, COMPAS.

Recommendation: Create a Continuum of Pretrial Detention Alternatives Consistent with the Continuum Proposed in Appendix C: The continuum of detention alternatives commonly used in successful JDAI model sites, and the continuum which Bernalillo County should make available for use by Pretrial Services, should include three basic program models for offenders held in secure detention prior to a disposition hearing: (1) community supervision (non-residential, non-facility-based supervision with a high level of mobility permitted), (2) home confinement (non-residential, non-facility-based supervision with a very low level of mobility permitted), and (3) shelter care (non-secure residential placement). Within each model are a range of levels of supervision.

Recommendation: Establish Pretrial Community Supervision, Consistent with Appendix C: Community supervision should be the least secure level of pretrial supervision. In this alternative to detention, the offender should not be permitted to leave the County, should be home before curfew, and should periodically check in with the pretrial service supervisor. The frequency with which an offender should check in with their supervisor can vary from multiple times per week, to once a month, depending on the level of supervision prescribed by Pretrial Services. The offender should check in with their supervisor, or in the absence of their supervisor the offender should check in with a kiosk. Although the required frequency of contact should generally be the responsibility of the offender to fulfill, the assigned pretrial service supervisor should also pay additional random visits to the offender's home or work in order to insure compliance with the terms of the offender's supervision.

Recommendation: The County Should Purchase "Pretrial Service Kiosks" for use by Pretrial Services in Managing Community Supervision Level Offenders: Pretrial kiosks use an electronic reporting system and should be located in pretrial services offices and day reporting centers. An offender goes to the office, verifies his or her identity with a fingerprint scan at the kiosk, and answers a series of questions displayed on the touch screen. Offenders respond to about nine to 30 or more questions, in Spanish or English, although some responses simply require confirmation that the data is correct. The reports are sent by email to the supervisor within seconds, with the client's "yes" responses to questions about drug use, or contact with law enforcement, for example, moved to the top of the report for the supervisor's immediate attention.

Recommendation: Establish Pretrial Home Confinement, Consistent with Appendix C: When community supervision is insufficiently restrictive to insure that an offender appears in court and abstains from committing serious offenses, home confinement with electronic monitoring should be considered the next level of supervision provided by Pretrial Services. Electronic monitoring, which should be provided by the County, is intended to enhance, and not replace the intense supervision associated with home confinement. Staff caseloads for home confinement will be kept much lower than those of community supervision in order to ensure this intense supervision. Offenders on home confinement are only permitted to leave their home for work or school, as approved by their pretrial supervisor. However, if the offender is not employed or enrolled in school full

time, the offender must report from 8:00am to 8:00pm, seven days a week, to the day reporting center provided by the County.

Recommendation: Provide Electronic Monitoring Equipment to Pretrial Services for Their Use in Monitoring Home Confinement and Non-Secure Residential Program Clients, Consistent with Appendix C. When the responsibilities of CCP are shifted under the control of Pretrial Services, the electronic monitoring equipment should also be provided to Pretrial Services as part of the consolidation of alternatives to detention in order to enable Pretrial Services to use the electronic monitoring within its graduated sanctions.

Recommendation: Convert Pretrial Agreements to “Pay for Performance” Contracts: Currently, the agreement through which the County funds Pretrial Services at District Court allows little latitude for compensating the Court in exchange for providing services to significantly more offenders than they currently serve. The recommendations provided in this plan for alternatives to detention and incarceration all require the Courts to be able to serve more offenders on pretrial services. When the County executes another agreement with District Court in 2012, it should execute an agreement which pays “for performance.” The current agreement for about \$552,000 annually allows District Court Pretrial Services to carry a caseload of up to 700 offenders. At this rate of about \$2 per day, per offender, the new agreement should allow the Court to supervise as many offenders as it considers prudent, at the rate of \$2 per day, per offender, up to \$1.5 million annually.

Recommendation: Establish a “Shelter”, or Non-Secure Residential Program, for use by Pretrial Services, Consistent with Appendix C: When the supervision provided through home confinement is insufficient to insure an offender’s pretrial compliance, or in the event the offender does not have a home which can be approved for home confinement or community supervision, a non-secure residential program, or a shelter program, will be the next level of supervision, pursuant to the “graduated sanctions for alternatives to detention,” provided in Appendix A.

Recommendation: Utilize Graduated Sanctions for Alternatives to Detention: Consistent with the principle of employing evidence-based practices in the utilization of alternatives to detention, the County should promote the use of the validated “Ohio Progressive Sanction Grid,” found in Appendix A.

Recommendation: Upon Completion of the Cost Savings Study mentioned in Core Strategy II, the County Should Support the Efforts by the Court to Improve Felony Case Processing by Providing Sufficient Funding for Pro-Tem Judges to Preside over Status Conferences. The Cost Savings study is designed to demonstrate the amount of savings each stakeholder can expect through participation in specific initiatives. The completion of this study will be necessary in order to justify to taxpayers the additional investment necessary in order to successfully implement a status conference docket. Once the study is complete, the anticipated savings calculated to be realized through status conferences will justify to constituents the additional investment requested in this strategic plan for the initiative. The status conferences should be fully funded once a demonstration of net cost savings is provided.

Recommendation: Upon Completion of the Cost Savings Study mentioned in Core Strategy II, the County Should Support the Efforts by the Court to Improve Felony Case Processing by Providing Sufficient Funding for Pro-Tem Judges to Preside over Settlement Conferences. The Cost Savings study is designed to demonstrate the amount of savings each stakeholder can expect through participation in specific initiatives. The completion of this study will be necessary in order to justify to taxpayers the additional investment necessary in order to successfully implement a settlement conference docket. Once the study is complete, the anticipated savings calculated to be realized through settlement conferences will justify to constituents the additional investment requested in this strategic plan for the initiative. The settlement conferences should be fully funded once a demonstration of net cost savings is provided.

Recommendation: Upon Completion of the Cost Savings Study mentioned in Core Strategy II, the County Should Partner with the Courts to Implement Those Recommendations Determined by the Study to

Provide the Greatest Cost Savings to the Taxpayers. By implementing those recommendations which are likely to produce the greatest cost savings, the criminal justice stakeholders should then reinvest that cost savings into the system by funding other initiatives targeted to increase public safety.

Recommendation: The County Should Provide the Court with Modern Court Date/Commitment Reminder Technology: The County should fund a court reminder system to be utilized by the courts in order to remind all offenders of their many obligations or commitments with the courts.

Recommendation: The County Should Perform an Analysis of FTA Warrants: The County should analyze the number of FTAs due to bad addresses or bad telephone numbers. The County should also assess the adequacy of attempts to contact offenders, with particular attention to the notification responsibilities of attorneys representing the offenders and departments (probation, courts) handling their cases. New procedures to update offender records, to send reminder notices, and to make phone contacts during hours when the offenders and their families are likely to be home are also recommended.

Recommendation: The County Should Create a Continuum of Incarceration Alternatives for Probation Violators and those Awaiting Placement in a Program, Consistent with Appendix C: The continuum of incarceration alternatives which Bernalillo County should make available for use by New Mexico Probation and Parole should include three basic program models for offenders supervised on probation: (1) community supervision (non-residential, non-facility-based supervision with a high level of mobility permitted), (2) weekend non-secure program (residential, facility-based supervision on Friday, Saturday and/or Sunday), and (3) work release (non-secure residential placement). Within each model exists a range of degrees or levels of supervision provided by modifying the frequency of contact with the client and by utilizing varying degrees of restriction of the client's movement.

Recommendation: Discontinue "Post-Adjudication" Use of CCP: The County should discontinue sending "sentenced" MDC inmates to the "Community Custody Program" ("CCP") and limit the use of post-trial, or "post-adjudication", alternatives to incarceration to only those who are placed in such alternatives as a result of a validated objective risk assessment, and as specifically authorized by the Court. The County should fund these alternatives to incarceration, and the Courts should manage who is eligible for such alternatives. The Courts should also determine the level of supervision necessary within those alternatives with the use of a validated risk assessment tool. This eliminates the "widening the net" effect currently caused by CCP. The County should discuss with New Mexico Probation and Parole the possibility of it using the electronic monitoring currently in use by their department as a graduated sanction, consistent with the validated sanctions grid found in Appendix B.

Recommendation: The County Should Make Available to New Mexico Probation and Parole an Automated, Validated Risk Assessment Tool: New Mexico Probation and Parole should be provided access to the COMPAS risk/needs assessment tool in order to make new alternatives to incarceration available to those on probation and insure that the appropriate offenders are recommended for placement in those alternatives to secure incarceration. For example, certain populations and sub-populations such as sex offenders might not be considered appropriate by COMPAS for such alternatives. Such a tool will insure that, unlike the current CCP program and protocol, only those offenders actuarially determined to be *likely* to comply with treatment and not reoffend while in the community be placed in alternatives to incarceration without widening the net by placing offenders under more intense levels of supervision who should have been placed under very low levels of supervision. The tool should also guide Probation and Parole in the determination of the level of risk of the offender, which determines how the alternatives to incarceration will be used to manage the offender.

Recommendation: Establish Community Supervision for Special Detention Cases Not Already Being Considered for Supervision in the Community by Providing the Court with COMPAS Risk Assessments to Further Assist the Court in Revocation Decisions: New Mexico Probation and Parole already provides

supervision to any offenders already on probation. However, those offenders currently in custody on a technical probation violation should be evaluated and screened, using the COMPAS risk/needs assessment, and then be considered by the Court for release to the continuum of non-secure alternatives to incarceration under the supervision of Probation and Parole. These probationers should become subject to the validated sanctions grid provided in Appendix B in order to achieve offender compliance without using secure custody as a sanction for technical violations. However, those offenders arrested on FTA/FTC/FTP or FTR (failure to appear, comply, pay, or report) warrants for open cases, who are not on probation, and as permitted by the Court, should be considered for pretrial release through an evaluation and screening, utilizing the COMPAS risk/needs assessment. Those who qualify should be considered for Pretrial Services. Community supervision should be the least secure level of supervision.

Recommendation: Establish Weekend Non-Secure Residential Program, Consistent with Appendix C: In this program, probation violators report to the “Metropolitan Assessment and Treatment Services” (“MATS”) on Friday at 6:00pm, and they must remain until Sunday at 6:00pm. In some cases, and consistent with the provided graduated sanctions, Probation Violators may be required to report to this program for multiple, sequential weekends. Probation Violators are expected to continue to attend approved work or school on the weekdays despite reporting to the program on the weekends. However, if the offender is not employed or enrolled in school full time, the offender must report to MATS for day treatment from 8:00am to 8:00pm, Monday through Friday, for every week that falls between sanctioned weekends. During this time, the Probation Violators will be required to participate in mandatory treatment, counseling, job development, life skills classes, and community service. Probation Violators serve on weekend work crews under the direct supervision of probation or corrections officers. During the day they serve on work crews, maintaining parks and other public property, and in the evenings they participate in group counseling and guidance sessions. The program is specifically geared to technical probation violators and offenders who fail to perform community service hours. When an offender violates a condition of community supervision, he or she need not automatically be returned to secure detention. Staff should modify the supervision in accordance with the provided graduated sanctions.

Recommendation: Establish “Work Release”, or Non-Secure Residential Program, for use by Probation and Parole, Consistent with Appendix C: When the supervision provided through the weekend non-secure residential program is insufficient to insure an offender’s compliance on probation, or in the event the offender does not have a home or other residential option which can be approved for community supervision, a non-secure residential program, or work release, will be the next level of supervision, pursuant to the “graduated sanctions for alternatives to incarceration,” provided in Appendix B. This program will occur at “MATS”, although offenders will not be kept in secure custody. Offenders leaving the program without the official consent of Probation and Parole will be considered to be absconding from the program. Although this work release program may have some hardware (locks on the doors and windows), the work release program depends on close staff supervision. The non-secure residential alternative program will provide mandatory population-specific services: treatment, counseling, job development, education, vocational training, recreation, tutoring, and life skills training.

Recommendation: In Addition to Assigning High Risk Probationers to More Intensive Forms of Supervision, the County Should Provide Reentry Services to those High Risk Probation Violators Facing Probation Revocation: For those Probation Violators who are assessed to be “high risk”, or who after multiple unit sanctions have moved beyond the stage of an “out of custody” hearing, and consistent with the sanctions grid are facing a probable probation revocation at an “in custody” hearing, a “last chance” reentry initiative should be sponsored by the County in order to provide more individualized reentry programming to such offenders. Such a reentry initiative, as found in Appendix D, should utilize national standards and “best practices” in reentry services and principles in a final attempt to support the offender in his/her reintegration

back into the community. If the offender qualifies for the program, and if the judge allows the offender to voluntarily submit to the program, the offender will have the opportunity to participate. The program will be subject to the same Ohio Progressive Sanctions grid.

Recommendation: The County Should Provide Day Treatment Within the Continuum of Alternatives to Incarceration, Consistent with Appendix C. The Department of Substance Abuse Programs (DSAP) will establish a network of services within MATS intended to provide full length assessments to those individuals identified by COMPAS as medium and high risk and in need of specific treatment for anger management, addiction, mental health, and domestic violence services. Day treatment, intended for those in post-trial status, is mandatory for all individuals within the alternatives to incarceration continuum, unlike day supervision which is part of the alternatives to detention continuum, also featured in Appendix C. Failure to comply with mandatory treatment prescribed by DSAP will result in sanctions consistent with the sanction grid found in Appendix B. Such sanctions may eventually result in a probation revocation, consistent with the sanction grid.

Recommendation: Utilize Graduated Sanctions for Alternatives to Incarceration. Consistent with the principle of employing evidence-based practices in the utilization of alternatives to incarceration, the County should promote the use of the validated “Ohio Progressive Sanction Grid,” found in Appendix B.

Recommendation: The County Should Create a New Detention Intake Team: The creation of a new detention intake team is critical to successful implementation of a risk assessment tool and effective utilization of detention alternatives in reducing DMC and detention rates. The team should be overseen by a “pretrial placement coordinator” (PPC). Each day, the team should review every single offender in detention, their risk assessment scores, their case status, and their amenability to community-based alternatives. The PPC should perform daily quality control checks to ensure that offenders are being processed expeditiously and that staff is faithfully adhering to the RAI. If one worker, for example, is overriding the RAI at a significantly higher rate than other workers, or at a significantly higher rate for minorities than for whites, that pattern should be noted and addressed immediately. The result of this level of swift and consistent oversight should be substantial compliance with the system’s reform efforts.

Recommendation: A Validated, Objective Sanctions Grid Should Be Used by Partners in Informing Detention Decisions: Already mentioned in this strategic plan, in order to reduce the use of detention for violations of pretrial release and probation and to minimize staff inconsistencies, a “sanctions grid” should be used by for its community supervision partners to follow. A validated sanctions grid provides a range of sanctions to be used depending on the seriousness of the violation and the offender’s overall risk status without negatively affecting public safety. Officers can choose among specific options, but they should not go outside the grid’s ranges. Moreover, line staff should not place offenders in detention for a violation of probation or pretrial release conditions without having first tried other sanctions. Finally, decisions to detain cases should have to be approved by the supervisor and by an “alternative placement” committee. Such conditions minimize the possibility of an officer exercising personal biases that can arbitrarily discriminate and aggravate the jail population.

Recommendation: The County Should Fund a Reentry Initiative, Targeting High Risk Offenders in the three Highest Referring Zip Codes: Re-entering offenders, most imprisoned for non-violent crimes, tend to be men of color from a handful of communities. Such is also the case in Bernalillo County. The population report prepared by Dr. Nicol Moreland revealed that three zip codes, 87108, 87105, and 87121, experienced the highest levels of recidivism. These primarily areas comprised primarily of minorities should be targeted with reentry services aimed at reducing recidivism. Reentry levels the playing field for minorities.

Recommendation: The County Should Establish An Assessment Team Comprised of Interested Members of the Community and Criminal Justice System to Perform Biannual Conditions Assessments of the MDC: The conditions assessment is one of the first steps which should be taken in detention reform because it

provides a baseline for reform and guides stakeholders throughout the remaining steps in the process. This step should be taken as soon as possible.

Recommendation: The County Should Implement a Validated Classification System; Classification and separation issues aggravate crowding, create dangerous groupings that foment victimization, and allow the transference of criminal skills and thinking. The County has purchased Northpointe's COMPAS, which includes its validated "Decision Tree" classification instrument in the software suite.

Recommendation: The County Should Change its Corrections Training Curriculum to Focus on Crisis Prevention and Intervention, Unit Management Principles, Alternatives to Use of Force, and Specialized Courses on LGBTI, Gender, and Special Inmate Populations. The MDC Training department has made the necessary modifications and is now providing these and other specialized courses to new and existing staff. Staff is also receiving instruction on de-escalation techniques and communication skills.

Recommendation: The County Should Implement Unit Management: The MDC is currently in the planning phase of implementing Unit Management. Unit Management is a case management focused method of correctional service delivery that flattens the organizational chart and subdivides the facility into multiple "units." Each unit operates autonomously, merging operations and security chains of command under a single unit manager charged with providing improved programming, case management, sanitation, and recreation to offenders. The move is one away from an oppressive paramilitary culture to one of rehabilitation.

Recommendation: The County Should Implement Therapeutic Communities That Promote Behavior Modification: The MDC has successfully implemented "honor pods" in six pods. The pods, which attract offenders interested in "character building", offer benefits and incentives to those offenders willing to abide by the rules of the program and participate in evidenced-based programming. The behavior modification system focuses on rewarding positive behavior instead of punishment. The program utilizes some of the principles of Unit Management, such as "town hall meetings," "inmate advisory board meetings", and assigned security and case management staff. The result has been a dramatic decline in incidents and a near tripling in education credits per offender. The outcomes have been so encouraging that an additional six pods are planned for expansion in order to accommodate the growing demand by offenders wishing to make constructive use of their detention time and prepare for reintegration into the community. Details about the honor pod program can be found in Appendix J. An additional four pods of this type of therapeutic community will be implemented in order to integrate inmate work detail positions into the therapeutic community model.

Recommendation: Where Possible, the MDC Should Provide Increased Opportunities for Exercise, a Reduced Number of Hours Inmates are locked Down, Increased Opportunities for Education, Fewer Restrictions on Visiting, Less Restrictive and More Forgiving Methods of Discipline, and Less Crowded Housing Areas: The success of the honor pod concept in encouraging good behavior by the inmates has provided an opportunity for the MDC to plan an expansion of the concept through most of the facility. Nearly every means of improving conditions of confinement is provided by the honor pods to those who do not require the highest levels of secure custody (see Appendix J). The MDC plans to expand first to work detail pods the honor pod concept, and subsequently the MDC plans to implement a facility-wide system of incentivized behavior modification with the use of the COMPAS tool.

Recommendation: Automate the Grievance Process and Implement an Automated Evaluation Process: The grievance process currently depends upon assigned personnel to visit individual pods and provide grievance forms to interested offenders. Numerous complaints about unfriendly grievance specialists filtering what can and cannot be grieved make it difficult for administration to have a clear view of the concerns of inmates. In addition, there have been numerous complaints about the manual commissary process.

Lastly, the administration is preparing different sets of evaluation questions which it would like inmates in different pods to answer, perhaps after submitting commissary orders, in order to gather information as to the

various conditions of confinement and other issues of interest to the County. The County should procure kiosks which should be installed in every pod. The kiosks should serve to automate grievances, evaluations, and commissary orders.

The Criminal Justice Problem Facing Bernalillo County and the Holistic Model Capable of addressing it

Introduction

This Strategic Plan will identify the Bernalillo County criminal justice problem and establish a model to solve that problem. The model which is established in this Strategic Plan is driven by data and carefully designed to provide tangible and cost effective outcomes to the taxpayer. This plan will also set forth recommended action items and ideal timelines within which to achieve each of those recommendations.

The Metropolitan Detention Center

The Metropolitan Detention Center (MDC) is a “county jail” funded by the taxpayers of Bernalillo County and directed to fulfill its primary mission of insuring the public safety. The MDC insures the public’s safety by detaining those individuals who present a risk of committing another crime while they await the outcome of the charges already brought against them.

The MDC, Then and Now

The Department of Corrections and Detention was established in the early 1970’s under a Joint Powers Agreement between the City of Albuquerque (COA) and Bernalillo County. Under the Agreement, the City and County were to fund the Department equally. In the beginning, the City operated the Bernalillo County Jail. The County Jail was located on the top floor of the County Court House and the City Jail was located on the lower level of the Albuquerque Police Department. In 1978 the Departments combined into one facility – The Bernalillo County Detention Center downtown at Fourth Street and Roma.

As the Department grew, in 1983 the Satellite Facility on Fourth Street was acquired and the North Tower was built in 1986. In 1995, a lawsuit now known as “McClendon” was filed against the department, alleging civil rights violations. Eventually the Department expanded into a Westside Facility in 1996. By 1997, the average daily population of the Bernalillo County Department of Corrections was 1098 inmates. As the inmate population kept growing, the Department developed a new 2068 bed facility in 2002 to accommodate the growing population, naming it the Metropolitan Detention Center.

When the MDC opened in 2002, the average daily population was 1,410. In July 2006 Bernalillo County assumed all responsibility for the operations of the Metropolitan Detention Center. In

2006, Bernalillo County also completed the construction of the Health Services Unit (HSU), adding an additional 168 beds to the facility. This new unit brought the jail’s design capacity to 2236. By this time, the jail population was above capacity (106%) at 2368 inmates, and climbing. The addition of nearly 1000 inmates to the average daily population of the new jail in less than four years after its construction only confirmed that the County could not build its way out of the problem. By 2010, the average daily population of the MDC had already reached 2746 inmates, which is 123% of its rated capacity (see Figure 1).

To further illustrate the ill-conceived notion of addressing overcrowding by adding jail beds, the MDC engaged in the regular practice of paying other New Mexico county jails to house its inmates in a misguided attempt to accommodate the growing population. Like the new construction, the outsourcing of inmate housing resulted in the expenditure of millions of dollars of taxpayer dollars which never attempted to address the underlying problems driving the rise in the population.

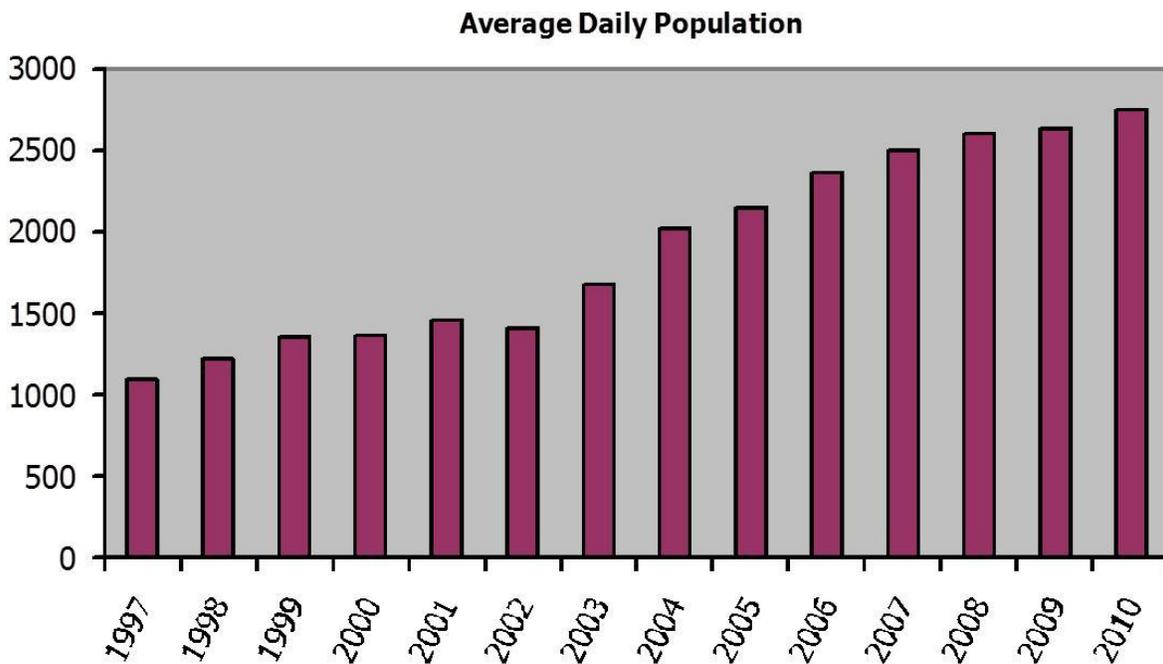


Figure 1

To put the jail population in proper perspective, we should compare the average number of inmates held at the MDC in 2010 (2483) to the population of Bernalillo County as of 2010 (642,527) in order to arrive at a “population per detained” ratio. In Bernalillo County, that ratio is 259 county citizens not detained for every county citizen detained. In King County (Seattle,

Washington), Clark County (Las Vegas, Nevada), Jefferson County (Golden, Colorado), Salt Lake County (Salt Lake City, Utah), and Multnomah County (Portland, Oregon) those ratios are 918, 593, 474, 460, and 555 to one, respectively. Where the lower ratio is indicative of a greater proportion of a county citizenship detained, Bernalillo County detains a far greater proportion of its citizens than other comparable counties.

In addition to comparing Bernalillo County's "population per detained" ratio to other comparable counties, the "percent of capacity" at Bernalillo County's MDC can also be contrasted with comparable counties. The percent of capacity, which is used to measure how crowded the jail is, illustrates further the stark difference in penal culture between Bernalillo and other counties. Whereas the MDC's average 2010 census (2483) represented 111% of its rated capacity, King, Clark, Jefferson, Salt Lake, and Multnomah counties averaged rated capacities in 2010 of 69%, 108%, 70%, 99%, and 66%, respectively.

At times, the MDC's capacity reaches as high as 118%. This level of crowding at the MDC affects every aspect of institutional life, from the provision of basic services such as food and bathroom access to programming, recreation, and education. It stretches existing medical and mental health resources and, at the same time, produces more mental health and medical crises.

Crowding places additional stress on the physical plant (heating, plumbing, air circulation) and makes it more difficult to maintain cleaning, laundry, and meal preparation. When staffing ratios fail to keep pace with population, the incidence of violence and suicidal behavior in an inmate population rises. In jails filled beyond the rated capacity, staff invariably resorts to increased control measures such as lockdowns, restraints, and uses of force. As the population at the MDC has increased over the years, so has the number of inmate incidents (see Figure 2).

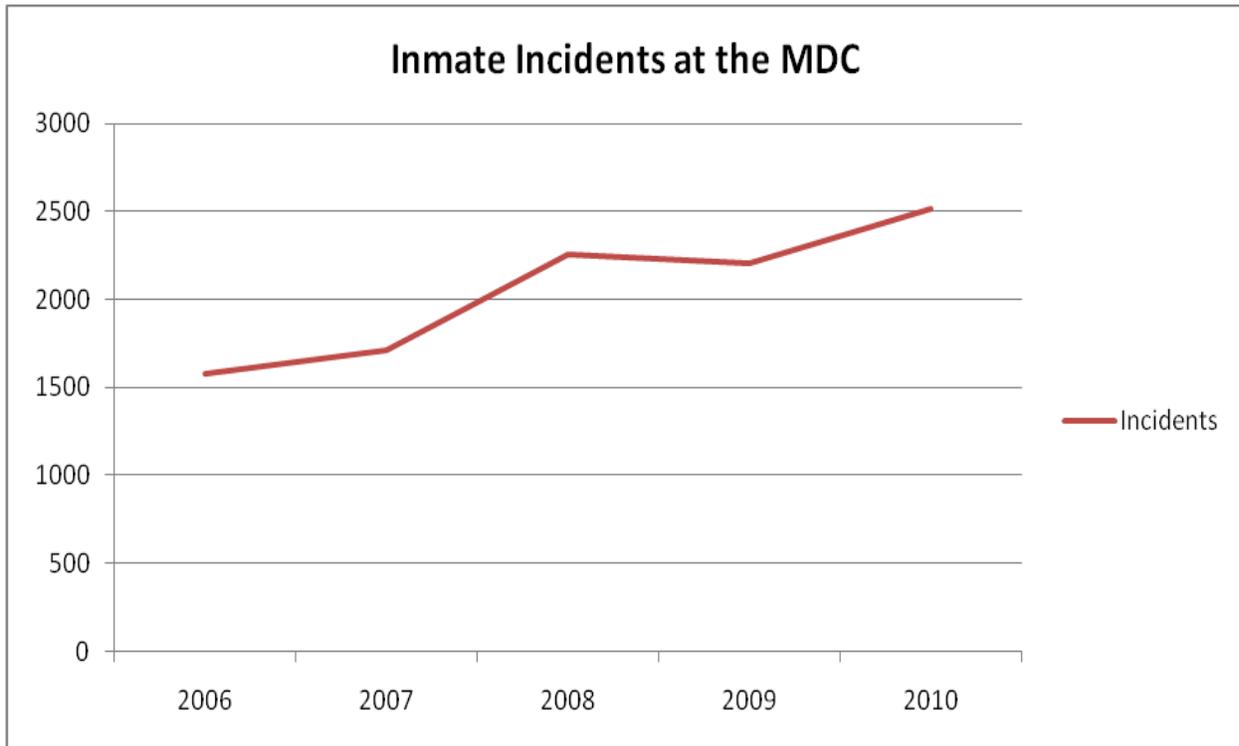


Figure 2

One might postulate that the reason Bernalillo County detains so many of its citizens is that the City of Albuquerque, comprising the majority of the County’s population, struggles with increases in crime rates which thereby drive the jail population. However, this is not the case. Despite a reduction in crime rates since the 1990’s, the MDC jail population has steadily increased during the same period.

Data provided by the Uniform Crime Statistics obtained from the United States Department of Justice supports a decrease in every type of crime rate from the 1990’s to present (see Figures 3 through 12). Concurrently, while the population of the City of Albuquerque increased 23% from 1997 to 2009, the population of the Metropolitan Detention Center increased 140%.

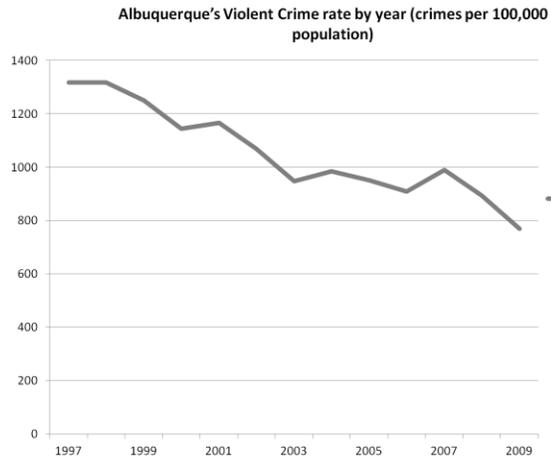


Figure 3



Figure 6

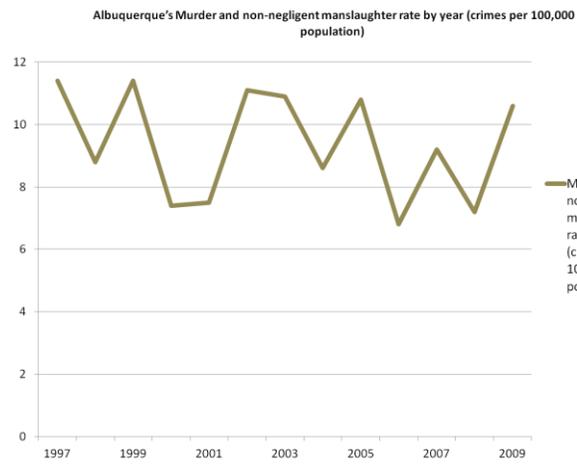


Figure 4



Figure 7

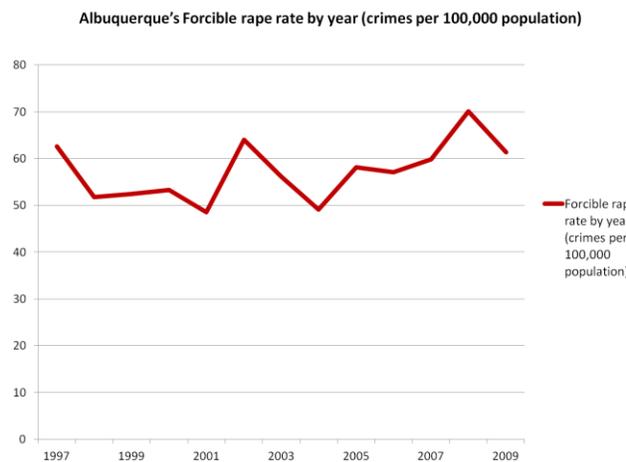


Figure 5

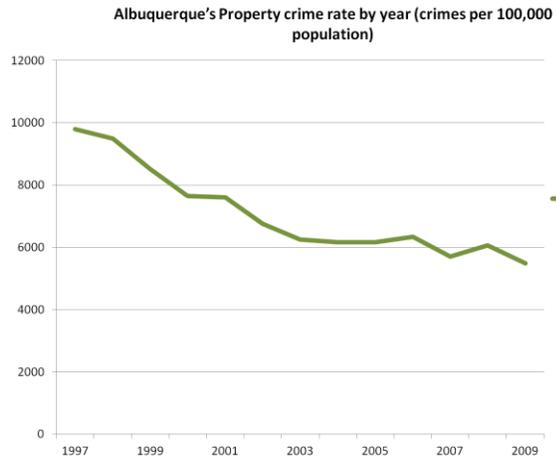


Figure 8

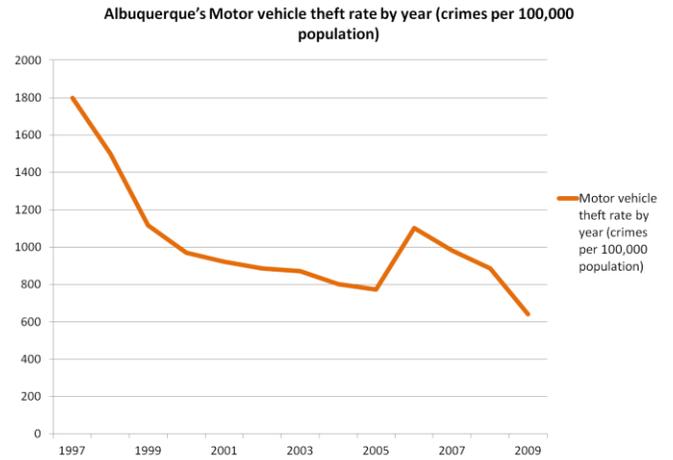


Figure 11

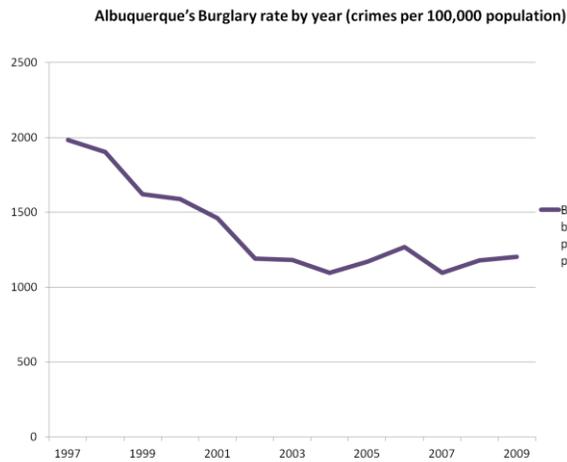


Figure 9

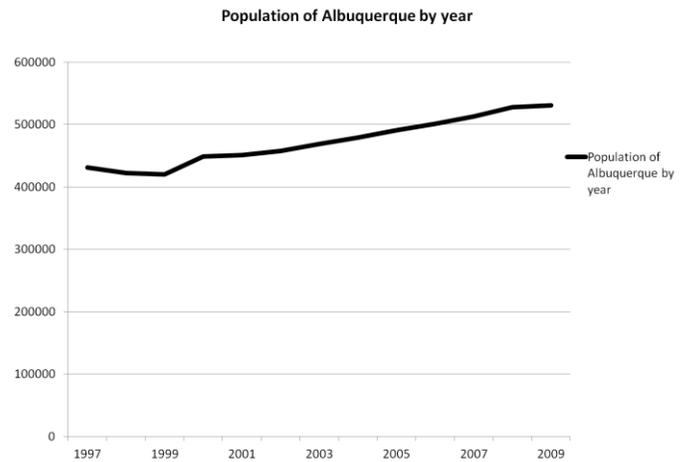


Figure 12

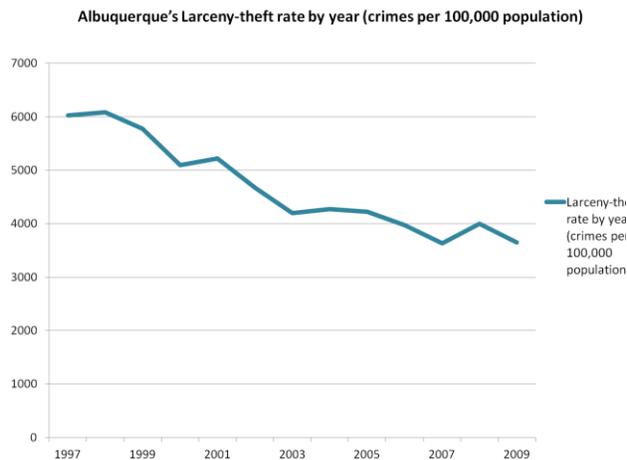


Figure 10

A recent analysis of the MDC population revealed that although 39,061 individuals were booked into the MDC in 2010, only about 26,448 were held after being booked (see Figure 13). (Figures 13-18 are attributed to Appendix K) An analysis of those 26,448 who were booked and held at the MDC revealed that 66% had been booked on a warrant (see Figure 14).

The analysis also revealed that of the 66% of those held in detention who had been booked on a warrant, 49% were booked and held for “failing to pay,” “failing to comply,” “failing to appear,” or “failing to report” as ordered by the Court in an already open court case. Another 24% of the bookings on warrant were probation violations; of which an estimated 58% were technical violations, such as providing a urinalysis testing positive for drugs or alcohol, failing to report for community service, failing to pay fines, etc.

All of the above types of bookings on a warrant comprised 41.5% of all those individuals booked and held at the MDC in 2010 (see Figure 15). These are usually non-violent offenders who do not threaten public safety and ought not to be detained in secure custody. This is therefore not an appropriate use of detention resources which are intended to detain those who pose a threat to public safety.

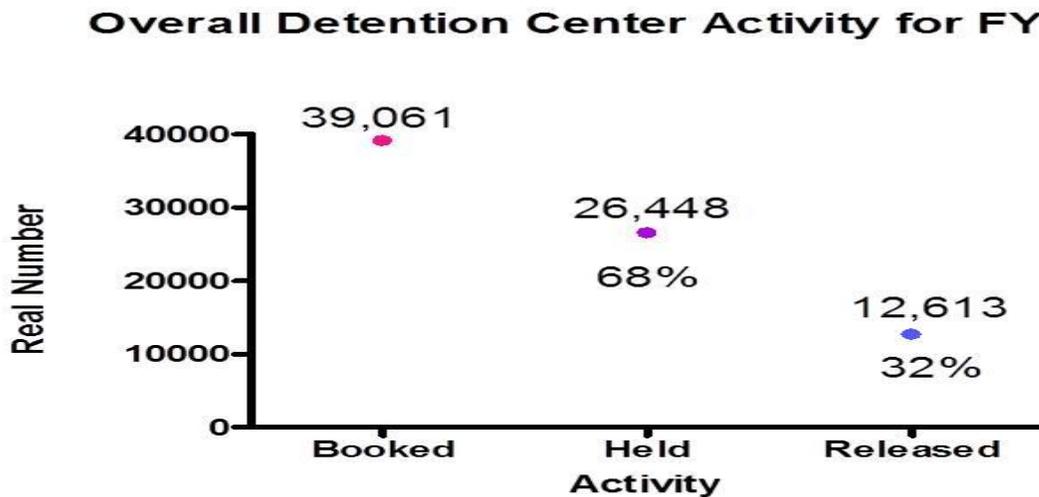


Figure 13

Detention Activity By Crime Code FY 2010

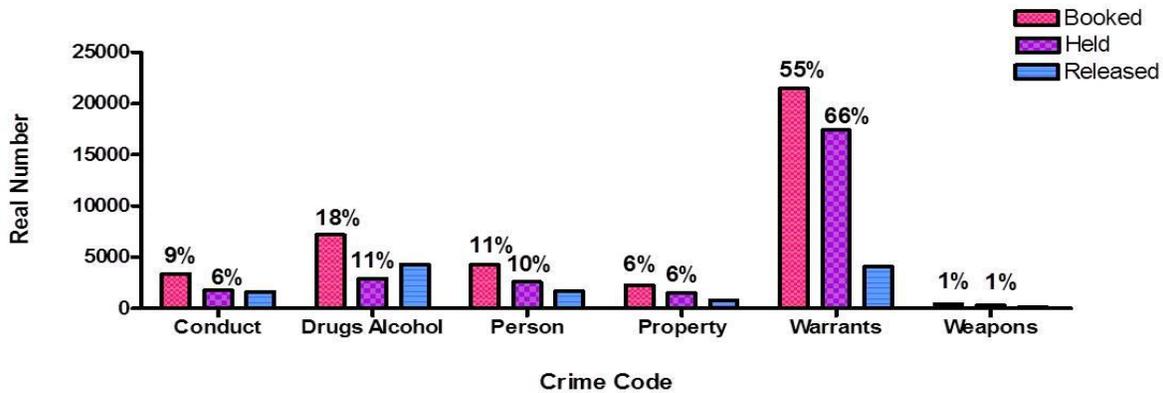
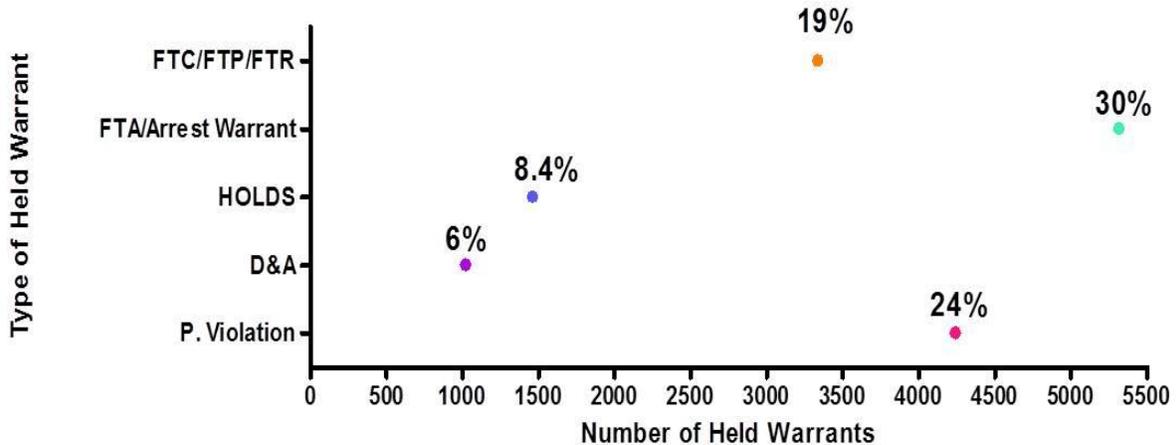


Figure 14

Top 5 Held Warrant Types for 2010



~88% reported above

Figure 15

A total of 26,448 individuals were booked and held in the MDC in 2010. Of that total number of individuals booked, 41.5% were booked on a warrant for an administrative infraction and not for a new offense. The average length of stay in 2010 for those same individuals booked and held on a warrant at the MDC was 30 days. Given that the cost per day to house an inmate at the MDC in 2010 was \$80.00, taxpayers paid a total of \$26,342,208 in 2010 to house individuals who failed to appear for a court or probation appointment, failed to pay a fine or restitution, failed to contact a probation officer or court official as required, or failed to abstain from drugs or alcohol while under State supervision. The \$26 million spent by taxpayers in 2010 to detain individuals who

failed to meet the expectations placed upon them by the State represents 38% of the total \$70.2 million annual budget of the MDC. This is not an effective use of public safety spending since these individuals rarely represent a threat to public safety.

Furthermore, the data supports the notion that the jail tends to detain those individuals who earn less income disproportionate to those who earn more. This raises the concern as to whether the jail actually detains those who present an actual public safety risk, or just those who cannot afford to post bail. Data shows that the likelihood of an individual being booked and then held at the MDC varies based on what part of town that person resides. 2010 data shows both the median household income by zip code, as well as the percent held after booking by zip code (see Figures 16 and 17). If both data sets are compared, the data reveals that the more income an individual earns, the less likely they will be held after the time of booking.

Although jail is intended to protect the public by detaining those who present a public safety risk, a strong correlation between poverty and the likelihood of being held in detention exists at the MDC. The correlation supports the notion that in Bernalillo County, the ability one has to post a bond rather than threat one poses to public safety determines whether that person is released pretrial.

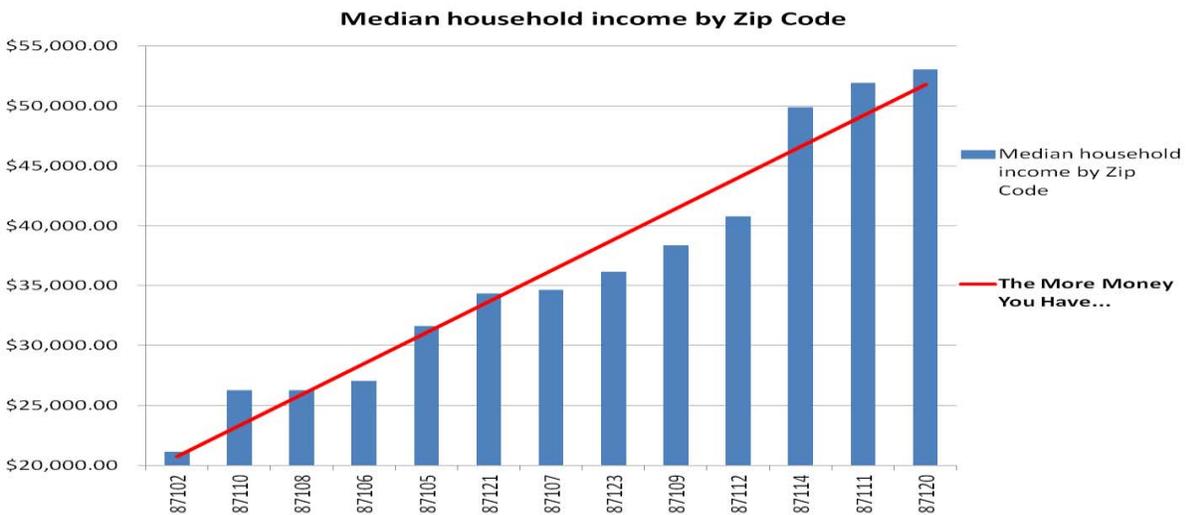


Figure 16

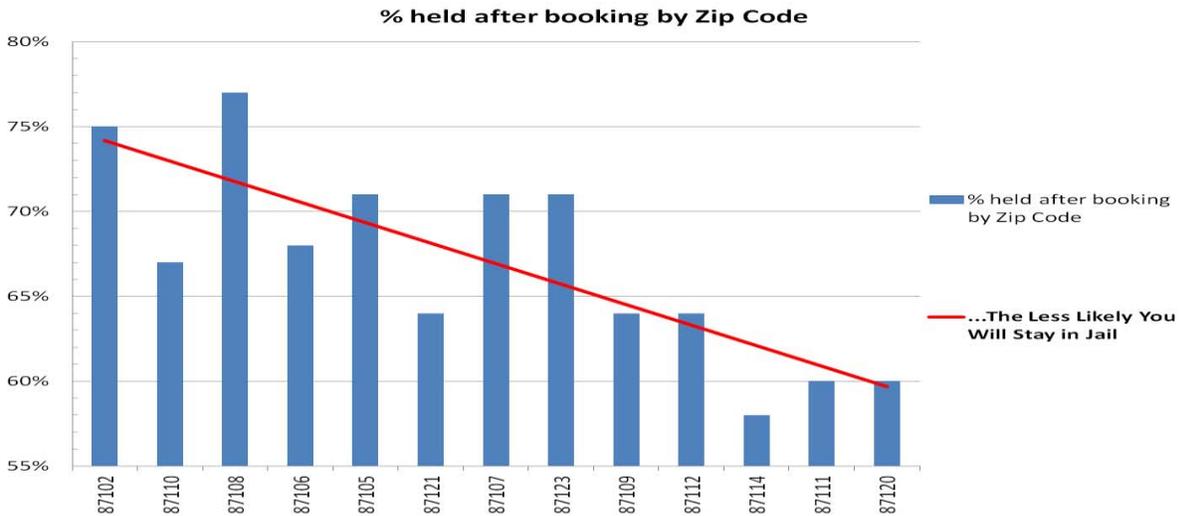


Figure 17

Similar to other facilities prior to engaging in comprehensive reform efforts, the MDC also shows signs of prevalent disproportionate minority confinement. Irrespective of charge, whereas 60% of Caucasians are held at booking, 70%, 74%, 75%, and 75% of Hispanics, Mexicans, American Indians, and African Americans are held beyond booking, respectively (see Figure 18).

Detention Activity by Ethnicity FY 2010

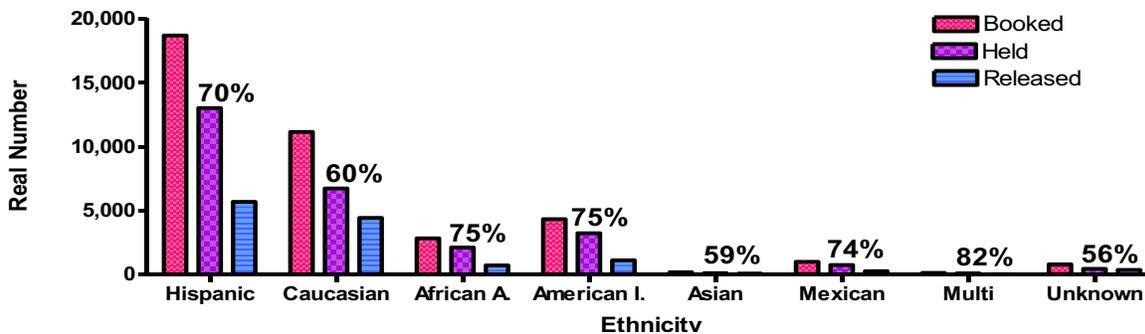


Figure 18

Not only does Bernalillo County detain a higher proportion of its citizens than comparable counties, Bernalillo County also has far fewer jail staff to manage those detained citizens. Every year as the jail population has risen; the number of corrections officers employed by the MDC has remained stagnant (see Figure 19). Currently one corrections officer supervises up to 95 inmates in a single housing “pod” at the MDC. The County is currently funding an increase in

staffing at the MDC, but unless the rise in population is stemmed, staffing increases will not keep pace with population increases.

A more precise measure of staffing levels is the ratio of total inmates per total jail staff within the institution. This ratio accounts for varying staffing patterns throughout the institution, the level of adequate case management and other support staff available to inmates, and the relief factor presumably employed to provide staff coverage for vacation and days off.



Figure 19

In 2011, there were approximately 4.68 inmates for every staff member employed by the MDC in Bernalillo County. This ratio was 2.48, 3.29, 3.2, 3.31, and 3.88 for King, Clark, Jefferson, Salt Lake, and Multnomah counties in the same year, respectively (see Figure 20).

Number of Inmates Per Jail Employee

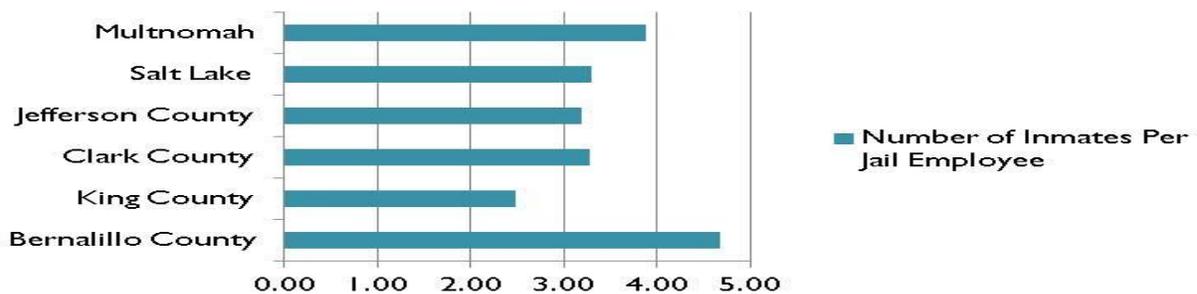


Figure 20

Every year as the jail becomes increasingly crowded, the cost to house, feed, manage, and care for the population increases. What once cost taxpayers less than \$20 million annually to operate now costs taxpayers more than \$70 million annually to operate (see Figure 21). Unless a plan can be implemented to stop the rise in jail population, and although the MDC already houses a greater proportion of the County’s citizens than comparable counties, arrangements will have to be made to finance construction and operation of a 512 bed jail expansion. The initial start-up cost of a single unit expansion is estimated to cost about \$52 million, and the associated recurring cost is estimated to be about \$26 million, annually (see Figure 22).

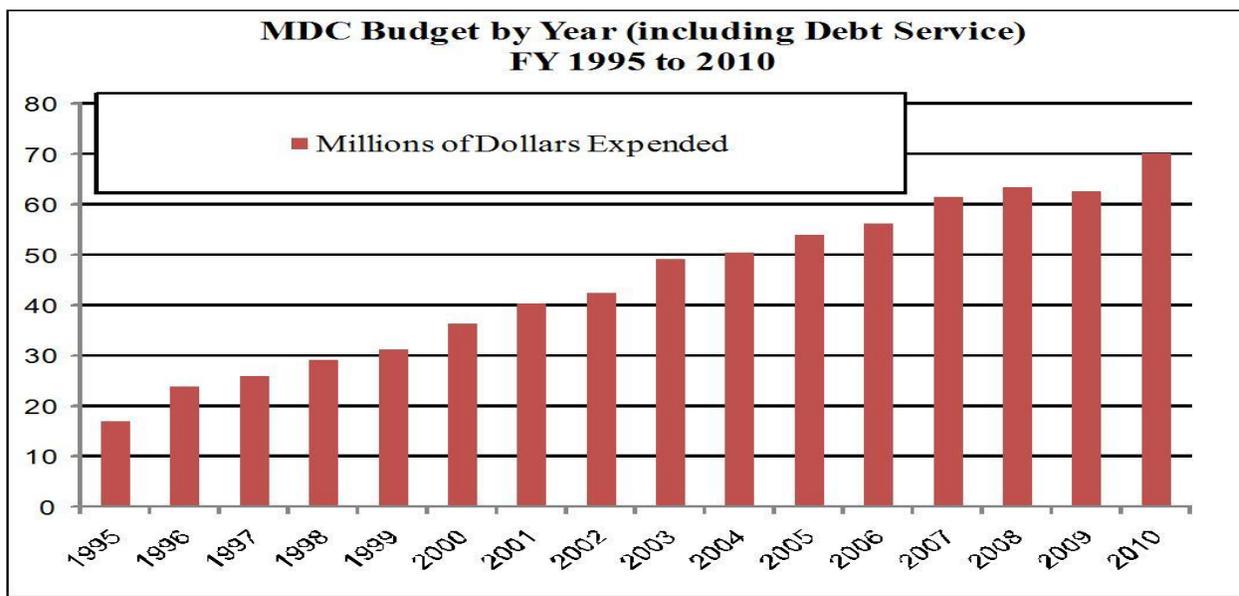


Figure 21

Estimated Cost to Build and Operate an Additional 512 Bed Unit at the MDC

Initial Unit Cost (512 beds)

<i>Capital Cost</i>	<i>Initial Staffing and Operating Costs</i>	<i>Total</i>
<i>Investment</i>		
\$31 million for 1 unit	\$21 million for 1 unit	\$52 million

Recurring Unit Cost (512 beds)

<i>Annual Debt Cost</i>	<i>Recurring Staffing and Operating Costs</i>	<i>Annual Total</i>
\$5.4 million for 1 unit	\$21 million for 1 unit	\$26.4 million

New Total Recurring MDC Cost (2748 beds)

<i>Grand Total</i>	<i>Annual</i>
	\$96.6 million

Figure 22

The cost to run the current 2236 bed facility is significant, but the cost to add and run an additional unit would be a significant and avoidable expense to taxpayers. The additional cost of expanding the MDC would further drain resources from other public priorities, such as parks, recreation, and community services, and given the history of our County, within a few years the newly constructed unit would likely become overcrowded as well.

Efforts have already been made to stave off the impending call to construct additional jail space. However, despite those efforts by the County and other stakeholders to reduce the jail population, the efforts did not form part of a larger, well-coordinated, evidence-based model which included the full cooperation of all criminal justice stakeholders in the community. Past efforts lacked complete system reform.

Efforts by limited stakeholders produced programs which have not yielded the desired results since appending even good programs to fundamentally unsound systems will not work. The cumulative effects of uncoordinated agency actions often have dire consequences: citizens are detained inappropriately, detention facilities become crowded, resources are wasted, the courts get backlogged, conditions of confinement deteriorate, and the ability of the detention agency to provide both custody and care for accused non-adjudicated citizens is diminished.

While Bernalillo County criminal justice stakeholders have made strides to improve its criminal justice system, more clearly needs to be done – too many citizens of Bernalillo County are being detained for too long; too many go back to jail, either for technical probation violations or because they have committed new crimes, and too little is done to prepare either the individuals being released, or their families or the communities into which they are being released to deal with the demands of reentry. At this rate we must either reform the current system, or commence planning to finance construction and operation of an additional 512 bed unit at the MDC. The latter option is avoidable. Our county's current rate of detention is unsustainable.

The National Institute of Corrections (NIC) is the arm of the United States Department of Justice that provides grant funding, research, training, and general direction to adult correctional facilities nationwide. In recent years the NIC has awarded grant funding to jurisdictions testing various models of reform in order to study and determine the most effective use of correctional resources. The results of these studies have produced volumes of literature guiding jails and prisons to evidence-based practices which have already proven to be effective. Many of these practices are based on concepts already common-place in the juvenile justice world, where funding and demand for reform existed long before society cared about the adult criminal justice system. The NIC has been effective at expounding on each of the practices, but it has not

provided a holistic model that incorporates each of the practices into a comprehensive correctional system reform approach.

Smart correctional reforms are those that can reduce incarceration without jeopardizing public safety by the more effective management of the risk posed by certain offenders, the better deployment of resources and the design of systems to measure accountability for results. Such an evidence-based holistic model already exists in the juvenile justice world. The model is called the “Juvenile Detention Alternatives Initiative” or JDAI. This model brings together each of the evidence-based practices instructed by NIC in a system reform approach. Such an approach, though very effective, requires the cooperation of all members of a criminal justice system in order to be effective. Such cooperation, while attainable in the juvenile justice word, is remarkable difficult to attain in adult systems which are large and involve many political players. The model known as “JDAI” which will be presented in this strategic plan strives to attain five objectives:

- **Eliminate the inappropriate or unnecessary use of secure detention;**
- **Minimize re-arrest and failure-to-appear rates pending adjudication;**
- **Ensure appropriate conditions of confinement in secure facilities;**
- **Redirect public finances to sustain successful reforms; and**
- **Reduce racial, ethnic, and economic disparities.**

Eight interrelated core strategies will be pursued in order to accomplish these objectives:

1. ***Collaboration*** between the major criminal justice agencies, other governmental entities, and community organizations. Without collaboration, even well designed reforms are likely to flounder or be subverted. A formal structure within which to undertake joint planning and policymaking is essential.
2. ***Use of accurate data***, both to diagnose the system’s problems and proclivities and to assess the impact of various reforms, is critical. Without hard facts, myths and anecdotes will rule the system and preclude agreement on key aspects of policy and practice.
3. ***Objective admissions criteria and instruments*** must be developed to replace subjective decision making at all points where choices to place offenders in secure custody are made.
4. ***New or enhanced non-secure alternatives to detention*** must be implemented in order to increase the options available for offenders. These programs must be careful to target only offenders who would otherwise be locked up. Whenever possible, they should be based in those neighborhoods where detention cases are concentrated and operated by local organizations.
5. ***Case processing reforms*** must be introduced to expedite the flow of cases through the system. These changes reduce lengths of stay in custody, expand the availability of non-secure program slots, and ensure that interventions with offenders are timely and appropriate.

6. **Special detention cases** — offenders in custody as a result of probation violations, writs and warrants, as well as those awaiting placement—must be re-examined and new practices implemented to minimize their presence in the secure facility
7. **Reducing racial disparities** requires specific strategies (in addition to those listed above) aimed at eliminating bias and ensuring a level playing field for offenders of color. Change in this arena also requires persistent, determined leadership because the sensitive nature of these discussions and changes frequently provoke defensiveness and avoidance.
8. **Improving conditions of confinement** is most likely to occur when facilities are routinely inspected by knowledgeable individuals applying rigorous protocols and ambitious standards. Absent of this kind of consistent scrutiny, conditions in secure facilities are unlikely to improve and often will deteriorate.

Most JDAI sites have improved their public safety results while reducing confinement (See Figures 23 and 24). How? They are now better able to identify which offenders really pose significant risks, and they are focused on results—implementing policies and practices based on public safety outcomes, not just political rhetoric or programmatic hype (See Appendix L). This strategic plan focuses on implementing policies and practices based on public safety outcomes.

Aggregation of Juvenile Crime Indicator (JCI) Data by Local JDAI Site and by Indicator Type

JUVENILE CRIME INDICATOR	# OF SITES ¹ REPORTING	AGGREGATE BASELINE	AGGREGATE RECENT	CHANGE (#)	CHANGE (%)
Juvenile Arrests	15	29,885	25,756	-4,129	-13.8%
Referrals/Complaints	18	170,661	125,220	-45,441	-26.6%
Delinquency Petitions	12	90,595	67,837	-22,758	-25.1%
Felony Petitions	29	53,151	41,402	-11,749	-22.1%

¹ Aggregation of Juvenile Crime data by local JDAI site, instead of grantee, because of variation in the type of indicator sites chose to report

Figure 23

Aggregation of Public Safety Data by Grantee and Indicator

	GRANTEES REPORTING (#)	AVERAGE BASELINE RATE	AVERAGE MOST RECENT RATE	AVERAGE PERCENTAGE POINT CHANGE	AVERAGE PERCENTAGE CHANGE
Failure to Appear Rate	12	11.8%	4.6%	-7.2%	-61%
Pre-Adjudication Re-Arrest Rate	13	26.5%	20.4%	-6.1%	-23%
Juvenile Crime Indicator¹	30	Not Applicable ²	Not Applicable	Not Applicable	-23%

¹ May be defined as juvenile arrests, delinquency petitions, felony petitions, or referrals/complaints

² Juvenile Crime Indicators reported as raw numbers, not rates.

Figure 24

Core Strategy I: Collaboration

A criminal justice system is comprised of key stakeholders such as law enforcement, Courts, detention, community service providers, District Attorneys, Public Defenders, Probation and Parole, Pretrial Services, and local government leaders. A collaborative body involving these system actors provides a context for leadership to emerge and offers the protection of collegial support and policy consensus when controversy—a predictable by-product of real change—eventually arises. Collaboration by multiple stakeholders may be the only way to address the barriers to change that the local adult criminal justice’s “non-system” character poses.

Consistent with standards of best practice set forth by both JDAI and the National Center for State Courts, a criminal justice collaborative should always be led by the Presiding Criminal Court Judge of the District or “Superior” Court. The role of the other stakeholders is to provide support for and follow the leadership of this Judge who directs the collaborative.

Recommendation: The MDC Should Present Its Strategic Plan to the Court. MDC officials should share this Strategic Plan with the District Court Presiding Criminal Court Judge and other criminal justice stakeholders in order to garner support for the model contained herein. Following, MDC officials should support efforts by the District Court Presiding Criminal Court Judge to convene a collaborative meeting of stakeholders and when permitted initiate discussions regarding the eight core strategies within such meetings. The eight core strategies which will be discussed are:

1. Collaboration
2. Use of accurate data
3. Objective admissions criteria and instruments
4. New or enhanced non-secure alternatives to detention
5. Case processing reforms
6. Special detention cases
7. Reducing racial disparities
8. Improving conditions of confinement

Recommendation: The County Should Assist in Presenting this Strategic Plan to the Criminal Justice Collaborative. Once ratified, the plan should be circulated for endorsement by public and private agencies in the affected community. Broad public support provides greater assurance that detention reform goals and implementation efforts will be sustained through successive elections and administrations.

Recommendation: The County Should Support the Presiding Criminal Court Judge as He Assigns Subcommittees to Each of the Core Strategies Discussed in this Plan by Participating When Called Upon to Do So. Ideally, when a criminal justice collaborative is finally convened, the body should assign “sub-committees” to analyze the data and corresponding action items contained within this strategic plan. The subcommittees should review the cost of each reform component or strategy contained within this strategic plan, noting any perceived savings or cost avoidance which can be realized.

Recommendation: The County Should Participate as a Member of the Collaborative in Managing the Execution of this Strategic Plan. The collaborative should also assign specific implementation responsibilities to agencies that have the authority and the ability to carry them out. The delegation of implementation tasks is a critical and necessary element of the Strategic Plan; if responsibilities are not assigned, the plan is unlikely to produce the desired reforms.

Recommendation: The County Should Commit to a Communications Strategy, Together With the Other Members of the Collaborative. The collaborative body should adopt a supplemental communications strategy. A detention Strategic Plan that proposes to change the way offenders are handled in the community will surely generate calls from the media and other interest groups; stakeholders will need to be “on the same page” as they respond to requests for information in press interviews and other forums. The communications strategy should also identify spokespersons that can provide information and reassurance on the plan at community speaking engagements or in appearances before local government councils or agencies. Ideally, this spokesperson would be the District Court Administrator.

Core Strategy II: Use of Accurate Data

Data driven reform consists of making policy decisions based on actual rather than anecdotal evidence. The specific data required for planning and monitoring reform is directly linked to the objectives of reform:

- Eliminate the inappropriate or unnecessary use of secure detention;
- Minimize re-arrest and failure-to-appear rates pending adjudication;
- Ensure appropriate conditions of confinement in secure facilities;
- Redirect public finances to sustain successful reforms; and
- Reduce racial, ethnic, and economic disparities.

Much of the data cited in this strategic plan has been taken from the “Bernalillo County Metro Detention Center Fiscal Year Report 2010,” by Dr. Nicol Moreland, PHD; from “Felony Caseflow Management in Bernalillo County, New Mexico,” by David Steelman of the National Center for State Courts (NCSC); and from “MDC Program Evaluation Report 2011,” by Dr. Nicol Moreland, PHD; However, additional data must be gathered in order to guide this ongoing process. The following include, but are not limited to, the studies or reports which are necessary in order to continue to make data driven reform of the criminal justice system in Bernalillo County via this ongoing strategic plan:

Recommendation: Complete the Pretrial Services versus Bonding: Outcome Study – A comparative analysis by Dr. Moreland of the rates of failing to appear (FTA), failing to pay (FTP), failing to comply (FTC), failing to report (FTR), and committing offenses while out on bond and pretrial release.

Recommendation: Complete the Bernalillo County Metro Detention Center Fiscal Year Report 2011 – A profile of the MDC population, which is a follow-up to the Fiscal Year Report 2010.

Recommendation: Complete the Workload and Cost Implications for Felony Caseflow Management Improvement – This study, based on a model already successfully developed, refined, and utilized by the NCSC in other criminal justice jurisdictions, seeks to estimate the value of the improved efficiencies resulting from implementing the 2009 NCSC recommendations, not just those for County agencies, but also for State-level public treasuries

and justice agency budgets in the felony court process before the Court. (See Appendix I) This study would assist the reform collaborative body in determining the most appropriate sequence of case processing reforms to enact in order to provide the greatest returns to the taxpayers, having the new ability to quantify the savings to each of the criminal justice stakeholders upon successful implementation of any given reform.

Recommendation: Complete the MDC Program Evaluation Report 2012 – A review and evaluation of the programs at the Metropolitan Detention Center, which is a follow-up to the report provided in 2011.

Recommendation: Participate in the Justice Reinvestment Initiative (JRI) – A request for technical assistance from the Bureau of Justice Assistance (BJA), which would provide additional and credible input regarding specific needed system reform, is pending news of an award.

Recommendation: Complete a Preliminary Profile of the MDC Population Utilizing the COMPAS Risk and Needs Assessments – An automated objective risk assessment tool known as “COMPAS” is currently beginning a six to nine month phase of implementation. Once implemented, the ability to assess offender risk and need, as well as the ability to share all related risk and need data, will provide new data to criminal justice stakeholders. Such data includes an estimation of what number of currently detained offenders would be safe to supervise in alternatives to both detention and incarceration.

Core Strategy III: Objective Admissions Criteria and Instruments

The amount of capacity the local criminal justice system needs for both in-custody and community-based supervision options are dependent upon many variables, including its values, its resources, and the needs of its community. The objectives outlined within this strategic plan are:

- Eliminate the inappropriate or unnecessary use of secure detention;
- Minimize re-arrest and failure-to-appear rates pending adjudication;
- Ensure appropriate conditions of confinement in secure facilities;
- Redirect public finances to sustain successful reforms; and
- Reduce racial, ethnic, and economic disparities.

To accomplish these objectives within limited resources and using evidence-based practices, the system would need to identify which offenders are likely to recidivate and to respond in a way that reduces the likelihood of that recidivism while protecting the public. The research is clear on how jurisdictions can achieve that objective. The research on what works to reduce offender recidivism focuses on principles of risk, need, and treatment.

Risk (who to target)

Assessing for level of risk to reoffend allows systems to triage offenders and to focus on those offenders who pose the higher risk of continued criminal conduct. This principle states that our most intensive correctional treatment and intervention programs should be reserved for higher-risk offenders. Placing lower risk offenders into intensive intervention programs both increases their criminality due to the co-mingling with higher risk offenders and disrupts and degrades their pro-social networks and supports, such as marriage and family, employment, and school participation. Expending criminal justice resources on lower risk offenders therefore, would be contra-indicatory to the objective of reducing recidivism.

Need (what to target)

The need principle identifies certain criminogenic factors that are highly correlated with criminal conduct. This principle states that programs should target crime producing needs, such as anti-

social attitudes, values, and beliefs, anti-social peer associations, substance abuse, and other factors that are highly correlated with criminal conduct.

Supervision or Treatment (how to target)

The treatment principle identifies how to target risk and need factors, including using behavioral programming. These types of programs focus on the current circumstances and risk factors that surround the offender's behavior, they are action oriented, and they teach offenders new skills to replace their criminal behavior through practice and role playing. Treatment is reserved for post-adjudication and should never be mandated for offenders in pretrial status. This concept is discussed further in Core Strategy IV: New or Enhanced Non-Secure Alternatives to Detention.

These principles can be applied throughout the system, from pretrial through sentencing, in-custody, and community-based supervision. The research indicates that following these principles can lead to substantial reductions in recidivism and increased public safety.

Managing basic system capacity to optimize available resources is an integral part of implementing objective admissions criteria and validated instruments. Deficiencies in system capacity, such as jail overcrowding, high community supervision caseloads, and lack of corrections health staffing lead to safety issues, staff burnout, and interfere with the system's ability to reduce recidivism by focusing on the principles of risk, need, and treatment. This strategic plan is designed to build system capacity through objective assessments that can be used to maximize resources which are currently distributed inefficiently.

Probation and pretrial service risk assessments are based on risk factors statistically associated with the recidivism of a particular population. Administrators and policymakers can use these instruments to accurately classify the risk of their probation and pretrial populations. These systems can be designed to help probation and pretrial agencies determine the level of supervision and services persons placed on probation and pretrial need in order to reduce re-offending and technical violations.

In the absence of risk assessments, probationers and pretrial service clients who are low-risk and high-risk may be supervised in the same manner, which is inefficient and decreases public safety. Over-responding to low risk offenders wastes resources and tends to make the offender more likely to recidivate, while under-responding to high-risk offenders increases the likelihood that the offender will fail to appear in court or reoffend while under supervision. The failure to use actuarial assessment tools at the pretrial, sentencing, supervision, or release decision points increases the likelihood that the offenders with the wrong risk levels and non-criminogenic needs

will be targeted. Objective, actuarially developed assessments prescribe the right amount of supervision to the right level of client, just as insurance policy is derived from actuarial tables to determine how much to charge for policies, and doctors use research to select the medical treatment that has the best chance at patient recovery.

Recommendation: Implement and Fully Utilize the Northpointe Inc. Risk/Needs Assessment and Case Management Suite, COMPAS -- Bernalillo County has recently signed an agreement with Northpointe Inc. to provide the MDC with objective and validated tools and assessments specifically designed to aide in jail classification, pretrial release decisions, pretrial service supervision level decisions, presentence reports, jail programming and post adjudication treatment decisions, and probation supervision level decisions, all in order to maximize the limited resource capacity. The tool provided by Northpointe is known as COMPAS, and is the most sophisticated and most reputable criminal justice assessment suite available in the world.

Recommendation: The County Should Provide COMPAS Access to any Interested Criminal Justice Partners: The County should begin engaging all interested criminal justice stakeholders in the implementation planning, rollout, and training phases in order to make this game changing technology available at every decision point along the local criminal justice continuum. This software is entirely internet based, and licenses should be made available to District Court, Metro Court, and New Mexico Probation and Parole in order to provide those partners with additional actuarially informed decision-making capability, as well as the ability to better monitor client activity by using the case management module provided.

The utilization of this software by the Courts, Probation, Pretrial Services, and Jail will insure that more information is captured about each client as they circulate throughout the criminal justice system, thereby helping to make every decision about that client a more informed decision than would otherwise be the case. Use of the tool by the Courts, as well as by Probation and Parole, will increase the likelihood of appropriate pretrial release and probation violation decisions.

Core Strategy IV: New or Enhanced Non-Secure Alternatives to Detention

Secure Detention and Detention Alternatives

Detention should be viewed as a legal status, with varying levels of custody supervision, rather than as a building. A reformed detention system should include a *continuum* of detention alternatives, with various programs and degrees of supervision matched to the risks of detained offenders, ranging from secure detention to various degrees of non-secure detention, also known as detention alternatives. Detention alternatives should offer a variety of levels of supervision to offenders awaiting adjudication that include, at a minimum, community supervision; home confinement; and a non-secure shelter for offenders who need 24-hour supervision, or for offenders without a home to return to.

Placement in the continuum should be based upon an individualized assessment of each offender's potential danger to the community and likelihood of flight. An effective continuum allows for offenders to be moved to more- or less-restrictive settings as a function of their program performance. For pre-adjudicated offenders, secure detention should ONLY be used to ensure the offender's appearance at subsequent court hearings and/or to minimize the likelihood of serious new offenses. Pre-trial alternatives to detention, therefore, are not meant to punish offenders or to provide treatment.

Detention alternatives should be planned, implemented, managed, and monitored using accurate data. Detention alternatives should be culturally competent, relevant, and accessible to the offenders they serve. Whenever possible, programs should be located in the neighborhoods from which the offenders come, both for ease of participation and because community context is important to program outcomes.

Detention alternatives should be designed and operated on the principle of using the least restrictive alternative possible. Designing detention alternatives this way encourages a jurisdiction to (1) match the degree of restriction to the risks posed by the offender, (2) increase or decrease restrictiveness according to the offender's performance, and (3) ensure cost-efficiency by "reserving" costly secure detention beds for offenders who represent the greatest risk to public safety. In order to avoid widening the net, and in order to insure that the integrity and consistency of the continuum of detention alternatives is maintained, one agency is responsible for managing the continuum. This means that competing alternatives to detention should be consolidated in order to create a cohesive continuum.

In juvenile detention, where even “overcrowded” facilities house extremely small numbers of youth, and even smaller numbers are therefore diverted to alternatives (perhaps 100), the continuum of alternatives to detention and the ability to divert to those alternatives is typically a power granted by the Court to the juvenile detention center. However, in adult detention systems where the number of those diverted to alternatives might be very high (sometimes in the thousands), the standard best practice, as determined by the Pretrial Justice Institute, is that an agency of “Pretrial Services” be directed by the Court to manage these large populations of pretrial offenders permitted to be released into alternatives to pretrial detention.

Recommendation: The County Should Make Available to Pretrial Services an Automated, Validated Risk Assessment Tool: The County should provide Pretrial Services a validated risk assessment tool in order to insure that the appropriate offenders are released from detention, either ROR or to the direct supervision of Pretrial Services. For example, certain populations and sub-populations such as violent sex offenders might not be considered appropriate by COMPAS for such alternatives. Such a tool will insure that only those offenders actuarially determined to be *likely* to appear in court and not reoffend while in the community be released pretrial. The tool will make this possible without widening the net, which occurs when placing offenders under more intense levels of supervision that should have been placed under lower levels of supervision. The tool should also guide Pretrial Services in the determination of the frequency of offender reporting, as well as how the alternatives will be used to manage the offender.

Recommendation: The County Should Shift all Responsibilities Currently Associated with the Community Custody Program to the District Court Pretrial Services: The Community Custody Program (CCP) and Pretrial Services compete instead of collaborate. This makes the development of a cohesive continuum of alternatives to detention difficult. Therefore, CCP and Pretrial services should be combined in order to more efficiently create a cohesive continuum where net widening can be minimized, communication improved, and therefore public safety insured. The Courts should manage who is eligible for such alternatives, as well as determine the level of supervision necessary within those alternatives, using the validated risk assessment tool, COMPAS.

Recommendation: Create a Continuum of Pretrial Detention Alternatives Consistent with the Continuum Proposed in Appendix C: The continuum of detention alternatives commonly used in successful JDAI model sites, and the continuum which Bernalillo County should make available for use by Pretrial Services, should include three basic program models for offenders held in secure detention prior to a disposition hearing: (1) community supervision (non-residential, non-facility-based

supervision with a high level of mobility permitted), (2) home confinement (non-residential, non-facility-based supervision with a very low level of mobility permitted), and (3) shelter care (non-secure residential placement). Within each model are a range of levels of supervision.

Recommendation: Establish Pretrial Community Supervision, Consistent with Appendix C: Community supervision should be the least secure level of pretrial supervision. In this alternative to detention, the offender should not be permitted to leave the County, should be home before curfew, and should periodically check in with the pretrial service supervisor. The frequency with which an offender should check in with their supervisor can vary from multiple times per week, to once a month, depending on the level of supervision prescribed by Pretrial Services. The offender should check in with their supervisor, or in the absence of their supervisor the offender should check in with a kiosk. Although the required frequency of contact should generally be the responsibility of the offender to fulfill, the assigned pretrial service supervisor should also pay additional random visits to the offender's home or work in order to insure compliance with the terms of the offender's supervision.

Recommendation: The County Should Purchase "Pretrial Service Kiosks" for use by Pretrial Services in Managing Community Supervision Level Offenders: Pretrial kiosks use an electronic reporting system and should be located in pretrial services offices and day reporting centers. An offender goes to the office, verifies his or her identity with a fingerprint scan at the kiosk, and answers a series of questions displayed on the touch screen. Offenders respond to about nine to 30 or more questions, in Spanish or English, although some responses simply require confirmation that the data is correct. The reports are sent by email to the supervisor within seconds, with the client's "yes" responses to questions about drug use, or contact with law enforcement, for example, moved to the top of the report for the supervisor's immediate attention.

Entering the data electronically saves time by eliminating inaccuracies in re-keying. A time not spent generating report is time that can be spent one-on-one with clients focusing on problems. If the only officer at a divisional office is on a home visit or is called to court, the offenders can still come in and report at the kiosk and the supervisor will be notified, allowing the supervisor to contact the offenders at a later time.

The kiosks also permit a supervisor to leave a message for a client after he or she logs in. Kiosks allow supervision reporting by internet for home confinement clients as well. Clients with computer access can go to a secure website, log in using a password, and respond to the same series of questions they would find at a kiosk.

Recommendation: Establish Pretrial Home Confinement, Consistent with Appendix C:

When community supervision is insufficiently restrictive to insure that an offender appears in court and abstains from committing serious offenses, home confinement with electronic monitoring should be considered the next level of supervision provided by Pretrial Services. Electronic monitoring, which should be provided by the County, is intended to enhance, and not replace the intense supervision associated with home confinement. Staff caseloads for home confinement will be kept much lower than those of community supervision in order to ensure this intense supervision.

Home confinement is designed so that staff may increase (or decrease) the intensity of supervision and contact time based upon an offender's behavior. When an offender violates a condition of home confinement, he or she need not automatically be returned to secure detention. Staff should modify the supervision in accordance with the provided graduated sanctions. Through home confinement, staff provides frequent, random, unannounced, face-to-face community supervision, and telephone contacts, to minimize the chances that offenders are engaged in ongoing delinquent behavior and to ensure court appearance. Offenders on home confinement are only permitted to leave their home for work or school, as approved by their pretrial supervisor. However, if the offender is not employed or enrolled in school full time, the offender must report from 8:00am to 8:00pm, seven days a week, to the day reporting center provided by the County.

Recommendation: Provide Electronic Monitoring Equipment to Pretrial Services for Their Use in Monitoring Home Confinement and Non-Secure Residential Program Clients, Consistent with Appendix C. When the responsibilities of CCP are shifted under the control of Pretrial Services, the electronic monitoring equipment should also be provided to Pretrial Services as part of the consolidation of alternatives to detention in order to enable Pretrial Services to use the electronic monitoring within its graduated sanctions.

Recommendation: Convert Pretrial Agreements to "Pay for Performance" Contracts: Currently, the agreement through which the County funds Pretrial Services at District Court allows little latitude for compensating the Court in exchange for providing services to significantly more offenders than they currently serve. The recommendations provided in this plan for alternatives to detention and incarceration all require the Courts to be able to serve more offenders on pretrial services. When the County executes another agreement with District Court in 2012, it should execute an agreement which pays "for performance." The current agreement for about \$552,000 annually allows District Court Pretrial Services to carry a caseload of up to 700 offenders. At this rate of about \$2 per day, per offender, the new agreement should allow the

Court to supervise as many offenders as it considers prudent, at the rate of \$2 per day, per offender, up to \$1.5 million annually.

Day Reporting

This is a non-secure community program operated at the Metropolitan Assessment and Treatment Services complex, also known as “MATS.” The program will provide six to 12 hours of daily supervision and structured activities for offenders on home confinement unable to work or attend school full time. The MATS complex consists of treatment services and apartment living, both of which are currently operating under the direction of Bernalillo County, however MATS will serve as a non-secure facility intended to provide support to Pretrial Services and New Mexico Probation and Parole.

Day reporting should not be confused with day treatment. Day reporting is pre adjudication, and day treatment is post adjudication. Applying “day treatment” program expectations to “day reporting” programs can have negative consequences. For example, offenders who comply with day reporting program requirements, but who are (inappropriately) expected to demonstrate changes in attitude, demeanor, self-control, etc., may be unnecessarily violated even though they attend the program, appear in court, and remain arrest-free. Our jurisdiction needs to emphasize that the alternative detention programs, like secure custody, are designed to provide a time-limited form of detention supervision and not longer-term treatment. Court reviews for offenders in the alternatives should be scheduled in the same time frames as offenders held in secure detention.

The day reporting center may provide vocational training, education, tutoring, recreation, optional life skills training, or other activities intended to occupy the offender. However, consistent with the concept that any alternative to detention maintain pretrial compliance as their primary role, programming will be entirely optional. Those disinterested in the available programs may opt out. However, offenders are encouraged to avail themselves of educational or service opportunities which may become admissible to the Court via a pre-sentence investigation report. Those opting out of programs must continue to attend day reporting and abide by the rules within. Recreational programs will be available to the day reporting center in order to encourage offenders to stay occupied.

Recommendation: Establish a “Shelter”, or Non-Secure Residential Program, for use by Pretrial Services, Consistent with Appendix C: When the supervision provided through home confinement is insufficient to insure an offender’s pretrial compliance, or in the event the offender does not have a home which can be approved for home confinement or community

supervision, a non-secure residential program, or a shelter program, will be the next level of supervision, pursuant to the “graduated sanctions for alternatives to detention,” provided in Appendix A.

This program will occur at “MATS”, although offenders will not be kept in secure custody. Offenders living in the non-secure residential program, or “shelter”, are those who would have been authorized for home confinement by judges, but they either do not have a home, or their home is not appropriate for home confinement. Just as is the case with home confinement, if an offender housed in the non-secure residential program does not possess approved full time employment or is not enrolled in school full time, or any full time combination of school and employment thereof, the offender will be expected to attend day reporting until such time as they obtain such employment or school placement.

Program rules and expectations will be enforced using a behavior modification system, similar to what is in place within the MDC honor dorm (see Appendix J), which will be discussed later in this strategic plan. Offenders who cannot be managed with the program’s behavior modification system will be subject to the “graduated sanctions for alternatives to detention,” provided in Appendix A. Offenders leaving the program without the official consent of Pretrial Services will be considered to be absconding from the program.

The non-secure residential facility will be staffed to provide time-limited housing for offenders as an alternative to secure detention. Offenders are typically supervised by staff 24 hours a day, seven days a week. Although this shelter program may have some hardware (locks on the doors and windows), shelter care depends on close staff supervision. A low direct staffing ratio must be maintained for each shift, in addition to an on-site unit manager and case manager. The non-secure residential alternative program will provide “normal” population-specific services: education, vocational training, recreation, tutoring, and optional life skills training. Staff will generally work shifts. Much as occurs in a hospital emergency room or a secure detention facility, the staff in a non-secure residential facility must report to work even when the shelter’s population is low.

Data Collection

Once the continuum of detention alternatives has been implemented, three basic questions need to be asked regarding the operation of each of the individual alternatives: (1) Is the program handling the offenders for which it was designed? (2) Is the program reducing the population of the secure facility? (3) Are offenders in the alternative program remaining arrest-free and attending their court hearings?

Graduated Sanctions

Currently, our County is detaining in jail many people who could safely receive intermediate community-based sanctions, which, when targeted to appropriate individuals, have proven to be both more effective than jail in reducing recidivism and less costly. The harmful effects of incarceration on families and communities have been well documented. Non-secure detention, when properly utilized, not only better protects public safety and saves money, but also avoids the disruption that incarceration causes families and communities; especially African American and Latino communities from which most incarcerated individuals come. Non-secure detention diverts and supervises appropriate individuals as well as provides education and employment training in the community.

Many within the jail population do not require the intense control full time custody provides and would benefit from non-secure detention in the community. Likewise there will always be persons who never intend to live lawfully or respect the rights of others. As citizens, we need to understand that it is not one or the other: build jails or support community corrections. We need strong systems of each. We need to create enough jail space to house the truly violent and those with no desire to change their criminal behavior and, at the same time, we need to invest heavily in helping offenders who are not yet steeped in criminal behavior and wish to chart a different path. Detaining someone in jail should be our last resort – it is expensive, it is stigmatizing, and it can increase risk for future criminal behavior. An effective continuum of detention alternatives must be designed strategically. Alternatives to detention must be supported by smart decisions, timely case processing, accurate information systems, and quality supervision. Alternatives to detention should accomplish detention’s main purposes: maximizing court appearance and minimizing pretrial re-arrest rates.

Recommendation: Utilize Graduated Sanctions for Alternatives to Detention: Consistent with the principle of employing evidence-based practices in the utilization of alternatives to detention, the County should promote the use of the validated “Ohio Progressive Sanction Grid,” found in Appendix A.

The Validated Ohio Progressive Sanction Grid, Applied to Alternatives to Detention

This validated graduated sanctions grid significantly reduces reliance on court hearings, court sanctions, and local jail detention. It also offers a more efficient and concentrated use of hearings, and better congruence between offender risk and revocation sanctions.

1. The grid's progressive approach to sanctions, which should be sensitive to the offender's level of risk, insures that offenders are less likely to experience a violation hearing and be remanded to secure custody for technical violations.
 - a. The grid relies on front-end agency responses to violations by increasing the level of contact with the offender, increasing the supervision level, increasing the frequency of drug testing, and permitting pretrial release supervisors to tailor sanctions which are consistent with the offender's level of risk and violation behavior, which work better than an excessive use of punitive sanctions.
 - b. This progressive sanction regime serves as an important cost-effective population management tool because secure detention resources are used sparingly and limited mostly to high risk offenders or those who pose public safety risks. This is because the progressive structure of the grid also allows for critical, community-based interventions to occur before pursuing a hearing, without increasing overall rates of reoffending.
 - c. The grid also provides a structural opportunity to align sanctions with high-risk and potentially chronic violators on the front-end of supervision, allowing those offenders to retain any pro-social experiences gained without facing the presumption of immediate remand.
 - d. Research indicates that interventions consistent with the Ohio Progressive Sanction Grid are especially effective for high risk and need offenders supervised under the grid's guidelines, and research also supports a heavier use of control sanctions for high risk offenders where necessary, even though overuse of punitive sanctions worsens outcomes in general.
2. Violation behavior is categorized within risk level, forming the vertical axis of the grid.

Risk scores are from the offender's static COMPAS assessment.

- a. High-level violations include absconding, violations of protective orders, victim contact, program terminations, change of residence and certain misdemeanor offenses.
- b. Low-level violations mostly include employment, reporting, substance abuse, and curfew violations.

- c. Sex offender violations, weapons infractions, threatening behavior, out-of-state fugitive status, and causing bodily injury are handled uniquely as “major” violations and are not addressed through the grid.
3. The County will collaborate with the District and Metro Court Pretrial Services departments and develop a comprehensive list of high, low, and “major” violations with which to guide the application of the sanction grid.
4. It is important to note that the grid does not provide structured menus of specific sanctions in each response cell, nor does it incorporate incentives along with sanctions as part of a single unified system of response strategies.
 - a. Rather, the cells refer mainly to levels of organizational response, which include local unit-level responses (as determined by the probation officer), pretrial supervisor summons, and remand hearings.
 - b. A sanction refers broadly to any official response imposed on the offender.
 - c. More specifically, unit-level sanctions imposed by detention alternative personnel include responses such as more restrictive conditions, structured supervision activities, substance abuse testing and monitoring, housing and other community referrals, upgrades in supervision levels, increased reporting, informal and written reprimands, summons to a pretrial services supervisor, and halfway house and/or non-residential program placement.
5. Referral to a remand hearing is necessary in order for a remand to secure custody to be considered.
 - a. The sanction grid allows multiple opportunities to impose unit-level sanctions before initiating the process to pursue a remand hearing.
 - b. This break between local and hearing-level response thus constitutes the main progressive element of this grid, rendering it less structured and incremental than other graduated sanction systems, such as conventional drug courts, that incorporate more nuanced response options.
 - c. Importantly, however, this helps preserve probation officer discretion and allows opportunities for more tailored interventions to be imposed at the higher risk levels, consistent with the violation behavior.

- d. On the other hand, the system is explicitly proportional in that the number of local sanctions allowed decreases with increases in risk and violation severity.
- e. As an intermediate step, the grid directs probation officers to schedule one or more Pretrial Service Office Summons prior to resorting to a remand hearing.
- f. These refer to unit-level sanctions that require appearances in front of pretrial service supervisors as a vehicle for amplifying the importance of abiding by the conditions of supervision and restating the consequences of non-compliance.
- g. Finally, the grid presumes that remand hearings will be scheduled out of custody except when overridden by public safety concerns or in cases involving out-of-state fugitives.

Core Strategy V: Case Processing Reforms

Background

Bernalillo County, home to Albuquerque, is the most populous of New Mexico's 33 counties. There are 88 general jurisdiction District Court judges statewide operating through 13 different judicial districts, some districts being multi-county. All district courts and their personnel are state funded. The Second Judicial District, having a total of 26 judges, serves Bernalillo County only. The Criminal Division of the District Court is composed of 10 judges; there are no commissioners, referees or magistrates (no provision for district court adjunct judicial officers exists in New Mexico). The judges assigned to the Division generally do not rotate, each having expressed a desire to handle criminal cases exclusively. The Division operates primarily on an individual calendar system, although judges do rotate periodically into an arraignment calendar. The Division is overseen by a Division Presiding Judge, chosen by the District Court Chief Judge. The Chief Judge is elected by his/her peers for a 3-year term.

District Court judges are elected initially in a partisan election prior to being eligible for subsequent nonpartisan retention elections. To be retained, a judge must receive 57 percent "yes" votes out of all the votes cast on the question of whether the judge should remain in office. Terms are six years.

There is one multi-story, modern District Court courthouse in the county located in downtown Albuquerque where all adult court matters are conducted (there is a separate Juvenile Justice Center). The Courthouse was built by and is operated by the County. The Metropolitan Detention Center (MDC) is located 18 miles from the courthouse, so prisoners must be transported to downtown Albuquerque.

The limited jurisdiction court in the County is called the Metropolitan Court; it is unique in New Mexico as a combination of the magistrate and municipal courts that exist in the other 32 counties. Its 16 judges operate from a new multi-story courthouse located across the street from the Bernalillo County Courthouse. Metro judges are full-time and law trained. They conduct felony and misdemeanor Initial Appearances within 48 hours of booking. IA's in felony cases are done via video on weekdays; a prosecutor and judge are present at the Metro Courthouse and a public defender ("warm body") appears with the defendant at a jail courtroom. On weekends and holidays, IA's are conducted at the jail courtroom; no prosecutors are present. Only one calendar a day is scheduled. By law, Metro judges cannot take pleas.

Most cases are bound over to the District Court for indictment. Bernalillo County has a culture of indictment; at least 80 percent of all felonies go to the Grand Jury. Approximately 20 percent, generally low level property and economic crimes, may be plead within a few weeks at a specially structured early plea court. If a defendant is in custody, an indictment must take place within 10 days of the IA. If a defendant is released from jail, an indictment must be scheduled within 60 days of IA. Approximately 10,000 felonies are indicted annually.

The chief prosecutor is called the District Attorney. A DA is elected in each of the 13 judicial districts. The office is state funded. The Public Defender is appointed. The office is also state funded.

Settlement Conference Pilot

In May of 2009, Judge Ross Sanchez petitioned the New Mexico Supreme Court for a rule change, permitting the District Court to engage in a settlement conference pilot proposed by Judge Sanchez. In July of 2009, the Supreme Court commended Judge Sanchez for his innovation and granted his request. In August of 2009, the National Center for State Courts assisted District Court in the development of its pilot by providing the Court a white paper entitled “Criminal Pretrial Settlement Conferences: Best Practice Lessons from Urban Trial Courts , Including the Superior Court of Arizona for Maricopa County” (see Appendix E). Over the subsequent several months a settlement conference pilot was developed, executed, and then measured. The results of the pilot were that the experiment was widely successful. 91% of the cases referred to the pilot resolved.

Study of Felony Caseflow Management

At the request of District Court In 2009, the National Center for State Courts performed a study of felony case processing in Bernalillo County and in November of the same year issued a report. The NCSC made a variety of recommendations to enhance the already innovative court, expanding on some of the Court’s successes (see Appendix F). As a result of the study, District Court invited the NCSC to return in March of 2010 to participate with the Criminal Court Judges in a “Shirtsleeve Workshop” in order to discuss the study and any potential next steps in enhancing the Court’s existing programs. The Judges determined in that meeting that they should (see Appendix G):

- Expand their already successful “Early Plea Program,”
- Implement into practice “Settlement Conferences” in light of the pilot’s success,

- Create a consolidated “Probation Violation Docket,”
- Draft new criminal rules and impose stricter guidelines to prompt lawyers to show up prepared to hearings, and
- Implement a firm and universal continuance policy.

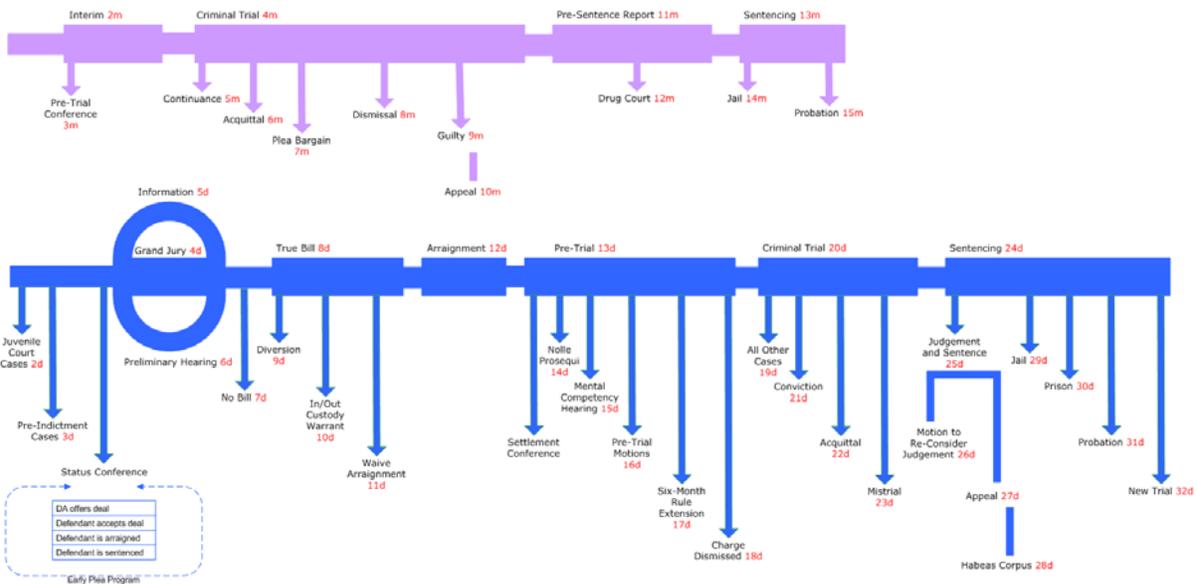
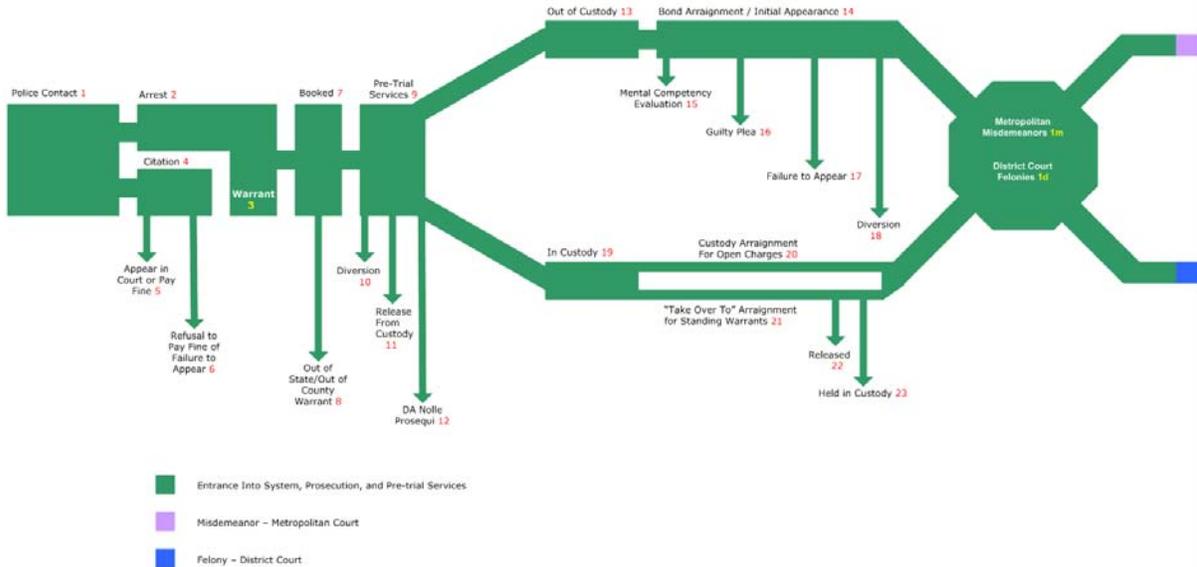
Some of the steps the Criminal Court Judges determined to take would require support from the NCSC or other criminal justice stakeholders, such as the County. The NCSC issued a supportive response entitled “Next Step in the Improvement Efforts by the Second Judicial District to Provide Prompt and Affordable Justice in Bernalillo County” (see Appendix H).

The Court was commended on its decision to expand its “Early Plea Program,” recommending that the court follow Chief Judge Baca’s recommendation to call this a “status conference” and provide for its use as a triage for all cases. Likewise, the NCSC commended the Court for its decision to expand the successful settlement conference pilot, and recommended the Court utilize the settlement conference for all cases not resolved prior to indictment. The County supported the Court’s determination to create a consolidated Probation Violation Docket by soon after funding what is now known as the Probation Violation Docket.

The Probation Violation Docket has been operating for nearly a year. The County has funded an analysis of the pilot which will soon provide the Court the information it needs in order to insure that the pilot is providing cost savings to the taxpayers. In the meantime, the Court has expressed interest in continuing to enhance its process by expanding its Early Plea Program into an early triage hearing known as a “status conference,” which is similar to the widely successful program of the Maricopa County Superior Court. The Court has also expressed interest in making available settlement conferences to all cases not resolved prior to indictment, also a successful and standard practice in jurisdictions such as Maricopa County.

The Court has asked the County to support the initiatives by providing additional funding for pro-tem judges in order that the status and settlement conferences are led by those same judges currently operating the Probation Violation Docket. The savings expected to be generated for each criminal justice stakeholder participating in these two court-led initiatives should be measured in advance by the National Center for State Courts using the cost savings model sponsored by the State Justice Institute. Below is a flow chart illustrating the placement of the status and settlement conferences into the existing case flow:

Bernalillo County Criminal Justice System Flow Chart



Recommendation: Upon Completion of the Cost Savings Study mentioned in Core Strategy II, the County Should Support the Efforts by the Court to Improve Felony Case Processing by Providing Sufficient Funding for Pro-Tem Judges to Preside over Status Conferences.

The Cost Savings study is designed to demonstrate the amount of savings each stakeholder can expect through participation in specific initiatives. The completion of this study will be necessary in order to justify to taxpayers the additional investment necessary in order to successfully implement a status conference docket. Once the study is complete, the anticipated savings calculated to be realized through status conferences will justify to constituents the additional investment requested in this strategic plan for the initiative. The status conferences should be fully funded once a demonstration of net cost savings is provided.

Recommendation: Upon Completion of the Cost Savings Study mentioned in Core Strategy II, the County Should Support the Efforts by the Court to Improve Felony Case Processing by Providing Sufficient Funding for Pro-Tem Judges to Preside over Settlement Conferences.

The Cost Savings study is designed to demonstrate the amount of savings each stakeholder can expect through participation in specific initiatives. The completion of this study will be necessary in order to justify to taxpayers the additional investment necessary in order to successfully implement a settlement conference docket. Once the study is complete, the anticipated savings calculated to be realized through settlement conferences will justify to constituents the additional investment requested in this strategic plan for the initiative. The settlement conferences should be fully funded once a demonstration of net cost savings is provided.

Recommendation: Upon Completion of the Cost Savings Study mentioned in Core Strategy II, the County Should Partner with the Courts to Implement Those Recommendations Determined by the Study to Provide the Greatest Cost Savings to the Taxpayers.

By implementing those recommendations which are likely to produce the greatest cost savings, the criminal justice stakeholders should then reinvest that cost savings into the system by funding other initiatives targeted to increase public safety.

Core Strategy VI: Special Detention Cases (warrants, probation, waiting for placement, placement failure)

Certain cases seem to resist reform, and detention rates in these cases will remain high unless specifically targeted. These “special” detention cases clusters in predictable areas: offenders detained on warrants, offenders detained for probation violations, and offenders in post-adjudication or post disposition detention waiting for placement. It takes time to recognize the impact and challenges of these special detention cases and to develop relevant reform strategies.

Analysis of the warrant caseload

Quantitative analysis of the caseload of offenders detained on warrants should be a prerequisite for any plan to improve system response in these cases. The analysis should identify the level of the problem as well as the specific factors that may contribute to high detention rates in these cases. The analysis should include:

- The number of warrants issued, by type and by issuing authority, and reasons for issuance (e.g., new offense, FTA, escape from custody).
- “Holds” for other jurisdictions should also be tracked.
- The basic characteristics of offenders detained on warrants including offense and risk score. The number of admissions to detention, length of stay, and beds used by offenders with various types of warrants.
- A description of the process for issuing and curing warrants, including reasons for nonappearances.
- A review of options to detention that may be appropriate for offenders who pose minimum risk to the public.

Dr. Nicol Moreland, PHD, performed such an analysis and revealed a chain of preventable events leading to \$20 million a year cost to taxpayers:

1. A failure to appear (FTA) in court generates a warrant.
2. Such warrants are usually issued as “no bond” holds as a result of the contempt with which the court views the offender’s negligence to remember to appear in court.

3. As a result of these FTA warrants, offenders are generally required to sit in jail until their case is disposed of.

To illustrate the effect of FTA's on the jail's population, the following can be derived from Dr. Nicol Moreland's 2010 jail population analysis:

1. 66% of all those held in the jail are held on a warrant
2. 30% of all "held" warrants are due to "FTA's". 19% of all "held" warrants are due to failing to pay, failing to "comply, or failing to report.
3. The average length of stay for "held" warrants is 30 days
4. The cost per bed in 2010 was \$80
5. Approximately 26,448 individuals were booked and held in 2010

Using the data above, both the FTA's and the FTP/FTC/FTR's can be calculated. FTA's cost the County approximately \$12,568,089.60 annually, whereas FTP/FTC/FTR's cost the County \$7,959,790.08 annually. The combined total of offenders failing to remember an appointment or commitment with the court is approximately \$20,527,881. Courts nationwide have discovered that many of those offenders apprehended on warrants have never received written notice of their court hearing dates. Bernalillo County may not have a system for tracking families that have moved or families without telephones.

Court Appointment and Commitment Reminders

Pretrial Services can recommend to the Court that an individual be released "on their own recognizance," known as "ROR". Generally, individuals released ROR require no supervision or other restrictions be placed on them. Individuals who bond out of jail likewise do not receive supervision from the courts or bonding companies. Individuals released from jail without any supervision required supervision by Pretrial Services tend to fail to appear in court because upon release from jail, no mechanism is in place for these individuals to be reminded of their commitments to or appointments with the Court. Any investment in a court reminder system targeting those inmates released on their own recognizance ("ROR") or released on any sort of bond would diminish this undue cost to the taxpayer.

Ironically, society recognizes that individuals might forget their dentist or doctor appointments unless an automated phone service calls to remind them of the commitment, yet offenders involved in the criminal justice system are expected to remember their court commitments

without any such reminders. Offenders involved in addiction or otherwise unable to effectively manage their lives lack the discipline and sophistication necessary to remember their court commitments. The taxpayer is shouldered with the burden of paying the \$20,527,881 it costs every year to house those individuals who fail to remember their commitments to the court.

Recommendation: The County Should Provide the Court with Modern Court Date/Commitment Reminder Technology: The County should fund a court reminder system to be utilized by the courts in order to remind all offenders of their many obligations or commitments with the courts.

Recommendation: The County Should Perform an Analysis of FTA Warrants: The County should analyze the number of FTAs due to bad addresses or bad telephone numbers. The County should also assess the adequacy of attempts to contact offenders, with particular attention to the notification responsibilities of attorneys representing the offenders and departments (probation, courts) handling their cases. New procedures to update offender records, to send reminder notices, and to make phone contacts during hours when the offenders and their families are likely to be home are also recommended.

Risk screening and intake procedures

Risk screening should be mandatory for offenders apprehended on warrants. When applied, the risk assessment instrument (RAI) should contribute to detention decisions related to underlying offense, behavior, and other risk factors. An RAI serves as a triage instrument, recommending non-secure alternatives to detention to those who indicate little likelihood of re-offending or absconding. However, warrants generated from FTA warrants contribute to jail overcrowding since jurisdictions often have policies for mandatory secure detention of offenders booked on FTA warrants. Mandatory detention policies are rooted in the notion that a court order is sacrosanct, immediately enforceable, and not to be second guessed by an administrator or caseworker. However, a mandatory detention policy does not necessarily promote the goals of adult detention, which are to protect the public and to ensure the offender's appearance in court. These goals can often be met by non-secure alternatives to detention (or by simple release) if the offender's RAI score indicates little likelihood of re-offending or absconding.

Recommendation: The County Should Partner with the Court to Develop a Mechanism for first-time FTA Warrants to be considered for Alternatives to Detention: The County should seek authorization from the Court to change procedures and give detention intake staff new options for handling offenders apprehended on bench warrants. For example, judges might be encouraged to check a box on the order to issue a bench warrant, authorizing the detention staff

to evaluate the offender and to refer him or her to non-secure detention alternatives. This option would reduce high bed utilization rates for these special detention cases. Judges may be more likely to authorize this option for a first-time FTA or when the court suspects that the offender has moved or was not properly notified of the hearing date.

When authorized by the judge, the risk assessment tool should recommend a specific level of supervision which is consistent with the offender's risk level. The degree of ongoing restrictiveness should depend upon the offender's risk and performance in the program. Noncompliance with non-secure detention alternative rules can lead to reclassification and tighter restrictions; positive performance should result in less stringent requirements. A judge may authorize in individual cases to move FTA warrant offenders to non-secure options instead of keeping offenders in secure lockup until the next court date. A second FTA in court exhausts the non-secure detention privilege and should result in admission to secure detention.

Probation Violations:

Dr. Moreland's jail population analysis of arrests on "warrants" can be used to determine the impact of probation violations on the jail population. First we must understand the chronology of a probation violation:

1. A probation violation is committed by an offender
2. The probation officer books the offender into jail on an "arrest and hold," pending the warrant from the judge
3. The judge issues a "no bond" hold which shortly follows the offender's arrest, thereby holding the offender in jail, pending a probation violation hearing
4. As a result of the probation violation warrants, offenders are generally required to sit in jail until their case is disposed of via a probation violation hearing

To illustrate the effect of probation violations on the jail's population, the following can be derived from Dr. Nicol Moreland's 2010 jail population analysis:

- 66% of all those held in the jail are held on a warrant
- 24% of all "held" warrants are due to probation violations.
- The average length of stay for "held" warrants is 30 days

- The cost per bed in 2010 was \$80
- Approximately 26,448 individuals were booked and held in 2010

Using the data above, the cost to the taxpayer for probation violators held at the jail can be calculated. The combined total cost of offenders arrested and held on probation violations within the MDC is approximately \$10,054,072. Many of these offenders are held on “technical violations” which can range from providing a positive drug test to not attending court mandated counseling or treatment.

The overriding rationale given by probation agencies for high rates of revoking probation and returning technical violators to jail is that unless they do so, more serious criminal conduct will result. The problem with this rationale is that no actual research demonstrates any connection between rule-breaking behavior of the kind involved in technical violations and future crime. Arguably, then, the whole enterprise is thrown into question by the lack of any cause-and-effect data connecting technical violations and crime.

Given both the financial costs of jail and its long-term consequences for those sent back and their families, it is hard to imagine that using non-secure detention alternatives is not better. The wholesale return of so many probationers to jail for technical violations, especially for drug use, has the effect of drawing funds away from interventions that could bring substantial public safety benefits.

Currently, our County is incarcerating in jail many people who have committed little more than an administrative violation such as failing to complete treatment and could safely receive intermediate community-based sanctions, which, when targeted to appropriate individuals, have proven to be both more effective than jail in reducing recidivism and less costly. The harmful effects of incarceration on families and communities have been well documented.

Non-secure incarceration alternatives, when properly utilized, not only better protect public safety and save money, but also avoid the disruption that incarceration causes families and communities; especially African American and Latino communities from which most incarcerated individuals come. Non-secure incarceration alternatives divert and supervise appropriate individuals as well as provide treatment, education, and employment training in the community.

Many within the jail population do not require the intense control full time custody provides and would benefit from non-secure incarceration in the community. Likewise there will always be

persons who never intend to live lawfully or respect the rights of others. As citizens, we need to understand that it is not one or the other: build jails or support community corrections. We need strong systems of each. We need to create enough jail space to house the truly violent and those with no desire to change their criminal behavior and, at the same time, we need to invest heavily in helping offenders who are not yet steeped in criminal behavior and wish to chart a different path.

Incarcerating someone in jail should be our last resort – it is expensive, it is stigmatizing, and it can increase risk for future criminal behavior. An effective continuum of incarceration alternatives must be designed strategically. Alternatives to incarceration must be supported by smart decisions, timely case processing, accurate information systems, and quality supervision. Alternatives to incarceration should accomplish detention’s main purposes: insuring compliance with commitments to the court, minimizing the likelihood of re-offense, and insuring compliance with mandatory treatment and counseling.

Incarceration alternatives should be planned, implemented, managed, and monitored using accurate data. Incarceration alternatives should be culturally competent, relevant, and accessible to the offenders they serve. Whenever possible, programs should be located in the neighborhoods from which the offenders come, both for ease of participation and because community context is important to program outcomes. Incarceration alternatives should be designed and operated on the principle of using the least restrictive alternative possible. Designing incarceration alternatives this way encourages a jurisdiction to (1) match the degree of restriction to the risks posed by the offender, (2) increase or decrease restrictiveness according to the offender’s performance, and (3) ensure cost-efficiency by “reserving” costly secure incarceration beds for offenders who represent the greatest risk to public safety.

Expansion of Offender Work Detail Program

Research shows that when moderate to high risk offenders are engaged with pro-social activities for 70% of their free time, their recidivism rate drops significantly. Bernalillo County currently operates an inmate work program which occupies offenders in this manner. The inmate work program is called the “Bernalillo County Clean Team,” also known as “BCCT.” The program provides an opportunity for inmates both in custody and in the Community Custody Program (CCP) to give back to the community by providing community service through work details in the community. The program should be expanded.

Unfortunately, expanding work detail by utilizing additional in-custody offenders would incur additional transportation costs and corrections officer salaries expense. However, a very

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significant expansion of inmate work detail is possible, without incurring additional cost to the County, by expanding the use of offenders in the community to provide work detail. The several hundred offenders on probation who would be ordered to the alternatives to incarceration continuum, subsequent to a technical violation of the conditions of their probation, would all be required to participate in the “Creating Health Attitudes Now through Gainful Employment” (or “CHANGE”) program, which would be an expansion of the existing BCCT .

The CHANGE program would continue to manage in-custody offenders on work details while adding the several hundred technical probation violators to its program. In addition to picking up litter and otherwise cleaning the community, the CHANGE program participants would be assigned to landscape, farm, and other manual labor work details, as needed. Offenders would be required to serve on weekend or weekday work crews, maintaining parks and other public property. The CHANGE program case managers will ensure that every offender in the continuum of alternatives to incarceration maintains an approved level of gainful employment, work search, community service, school, or an appropriate combination of some or all of those activities. In the table below are several possible combinations of school, work, and service:

Variable Combinations of Community Service, School, and Homework Permitted	Different Combinations of Activities					
	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Any combination of mandated CHANGE program, treatment, counseling, etc.(hours)	55	46	37	28	19	1
Education or Vocational Preparation (credit hours)	0	3	6	9	12	18
Homework (must be performed at MATS unless otherwise authorized)	0	6	12	18	24	36
Approximate Hours Occupied Every Week	55	55	55	55	55	55

Variable Combinations of Employment, Work Search, and Community Service Permitted	Different Combinations of Activities					
	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Employment and/or Work Search (hours)	40	36	30	25	20	15
Any combination of mandated CHANGE program, treatment, counseling, etc.(hours)	15	19	25	30	35	40
Approximate Hours Occupied Every Week	55	55	55	55	55	55

Variable Combinations of Employment, Work Search, Community Service, School, and Homework Permitted	Different Combinations of Activities					
	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Employment and/or Work Search (hours)	40	36	30	25	15	0
Any combination of mandated CHANGE program, treatment, counseling, etc.(hours)	15	10	7	3	4	1
Education or Vocational Preparation (credit hours)	0	3	6	9	12	18
Homework (must be performed at MATS unless otherwise authorized)	0	6	12	18	24	36
Approximate Hours Occupied Every Week	55	55	55	55	55	55

Consistent with the COMPAS assessment, the Courts will order some offenders to participate in programs at MATS such as treatment, counseling, education, job development; life skills classes, or guidance sessions, case managers will determine the appropriate mix and schedule of activities to occupy the offender's time. Depending on the arranged work or school schedule, offenders might be required to participate in programs at MATS during the day, in the evening, or even on the weekend.

The CHANGE program serves as a means of ensuring that offenders learn to be constructive by applying themselves at an adequate and productive level of work, school, and/or community service, but it also services as a means of providing restitution to the community. Therefore, the CHANGE program will target the MDC's "highest referring" zip codes as its top priority for work details in order to provide opportunities to offenders to give back to these communities. The top three of MDC's highest referring zip codes where offenders will provide manual labor on work crews in landscaping, farming, litter clean-up and other services are 87121, 87105, and 87108.

One of the work details specifically targeted to give offenders urban farming skills should occur at an undeveloped County property at Coors and Don Felipe SW. The work detail should consist of a landscaping, irrigation, and an agricultural "enterprise" that would be developed as part of this initiative.

This property is primarily a storm drainage facility and secondarily an undeveloped park property that is being committed to this enterprise as a pilot project. Water service needs to be brought to this property, trees and existing vegetation need to be pruned, and there are some land treatment measures to implement to ensure the success of the enterprise and the CHANGE program, before offenders will be able to work at this property.

The County will plan necessary improvements at this property to help ensure that designed improvements will support the intended enterprise program and success for all involved. The Enterprise will consist of successfully installing and developing hoop house, or possibly terraced land, and the associated irrigation to plant, raise, use and possibly sell various produce.

Maintenance of the irrigation system is also required and is expected to be a major teaching element of the enterprise. Irrigation could include but is not limited to traditional/non-traditional flood irrigation, traditional drip irrigation in addition to maintaining the infrastructure involved with these types of irrigation. Licensure in the appropriate discipline (e.g. Journeyman

Sprinkler) may be required in order to perform necessary maintenance or construction of the irrigation system.

The Land Management Section of the Bernalillo County Parks and Recreation Department will be able to provide limited and focused technical support in this enterprise to get it established. Involvement will be determined by the scope of work, but could include direction in soil analysis and technical irrigation support.

The enterprise is also intended to prepare the offenders to re-enter society with practical work skills and values. Inmates will learn about and be able to apply the enterprise of farming, the sciences of food and agriculture, and the reward that comes from living the law of the harvest. The Central College of New Mexico (CNM) has a one-year certificate program on landscaping and horticulture that actively seeks students. Offenders could have the opportunity to enroll in this program and the service provider will be required to coordinate with CNM on student enrollment. This program teaches the basics of landscape construction and maintenance and includes soil science, plant science and irrigation design. The CHANGE program will facilitate the instruction of community farming, irrigation, agriculture, horticulture, pest management and hydroponic farming. While any investment in farming projects will be funded directly by Bernalillo County, the CHANGE program will transform the available community service labor provided by the offenders into an opportunity for cultural, vocational, and motivational instruction and sustainable production.

Recommendation: The County Should Create a Continuum of Incarceration Alternatives for Probation Violators and those Awaiting Placement in a Program, Consistent with Appendix C: The continuum of incarceration alternatives which Bernalillo County should make available for use by New Mexico Probation and Parole should include three basic program models for offenders supervised on probation: (1) community supervision (non-residential, non-facility-based supervision with a high level of mobility permitted), (2) weekend non-secure program (residential, facility-based supervision on Friday, Saturday and/or Sunday), and (3) work release (non-secure residential placement). Within each model exists a range of degrees or levels of supervision provided by modifying the frequency of contact with the client, and by utilizing a day treatment center described in this chapter.

Recommendation: Discontinue “Post-Adjudication” Use of CCP: The County should discontinue sending “sentenced” MDC inmates to the “Community Custody Program” (“CCP”) and limit the use of post-trial, or “post-adjudication”, alternatives to incarceration to those who are placed in such alternatives as a result of a validated objective risk assessment, and as

specifically authorized by the Court. The County should fund these alternatives to incarceration, and the Courts should manage who is eligible for such alternatives. The Courts should also determine the level of supervision necessary within those alternatives with the use of a validated risk assessment tool. This eliminates the “widening the net” effect currently caused by CCP. The County should discuss with New Mexico Probation and Parole the possibility of it using the electronic monitoring currently in use by their department as a graduated sanction, consistent with the validated sanctions grid found in Appendix B.

Recommendation: The County Should Make Available to New Mexico Probation and Parole an Automated, Validated Risk Assessment Tool: New Mexico Probation and Parole should be provided access to the COMPAS risk/needs assessment tool in order to make new alternatives to incarceration available to those on probation and insure that the appropriate offenders are recommended for placement in those alternatives to secure incarceration. For example, certain populations and sub-populations such as sex offenders might not be considered appropriate by COMPAS for such alternatives.

Such a tool will insure that, unlike the current CCP program and protocol, only those offenders actuarially determined to be *likely* to comply with treatment and not reoffend while in the community be placed in alternatives to incarceration without widening the net by placing offenders under more intense levels of supervision who should have been placed under very low levels of supervision. The tool should also guide Probation and Parole in the determination of the level of risk of the offender, which determines how the alternatives to incarceration will be used to manage the offender.

Recommendation: Expand the Bernalillo County Clean Team (BCCT) by mandating that all offenders assigned to the continuum of alternatives to incarceration participate in a minimum number of community services hours on work detail crews they are assigned to.

Recommendation: Establish Community Supervision for Special Detention Cases Not Already Being Considered for Supervision in the Community by Providing the Court with COMPAS Risk Assessments to Further Assist the Court in Revocation Decisions: New Mexico Probation and Parole already provides supervision to any offenders already on probation. However, those offenders currently in custody on a technical probation violation should be evaluated and screened, using the COMPAS risk/needs assessment, and then be considered by the Court for release to the continuum of non-secure alternatives to incarceration under the supervision of Probation and Parole, with the assistance of Bernalillo County personnel supporting the alternatives to incarceration programs in the community. These probationers

should become subject to the validated sanctions grid provided in Appendix B in order to achieve offender compliance without using secure custody as a sanction for technical violations. However, those offenders arrested on FTA/FTC/FTP or FTR (failure to appear, comply, pay, or report) warrants for open cases, who are not on probation, and as permitted by the Court, should be considered for pretrial release through an evaluation and screening, utilizing the COMPAS risk/needs assessment. Those who qualify should be considered for Pretrial Services.

Community supervision should be the least secure level of supervision. Those offenders assigned to community supervision within the alternatives to incarceration continuum of care provided to Probation and Parole by Bernalillo County will be expected to maintain satisfactory enrollment in the CHANGE program.

Recommendation: Establish Weekend Non-Secure Residential Program, Consistent with Appendix C: When an offender violates a condition of community supervision, he or she need not automatically be returned to secure detention. Staff should modify the supervision in accordance with the provided graduated sanctions, and in most cases escalate the offender to the alternative to incarceration known as the “weekend non-secure residential program.”

In this program, probation violators report to the “Metropolitan Assessment and Treatment Services” complex (or “MATS”) on Friday at 6:00pm, and they must remain until Sunday at 6:00pm. In some cases, and consistent with the provided graduated sanctions, Probation Violators may be required to report to this program for multiple, sequential weekends. Probation Violators are expected to continue to attend approved work or school on the weekdays despite reporting to the program on the weekends. However, if the offender is not employed or enrolled in school full time, the offender must report to MATS for day treatment from 8:00am to 8:00pm, Monday through Friday, for every week that falls between sanctioned weekends. During this time, the Probation Violators will be required to participate in mandatory treatment, counseling, job development, life skills classes, and community service consistent with their mandatory satisfactory enrollment in the CHANGE program.

Recommendation: Establish “Work Release”, or Non-Secure Residential Program, for use by Probation and Parole, Consistent with Appendix C: When the supervision provided through the weekend non-secure residential program is insufficient to insure an offender’s compliance on probation, or in the event the offender does not have a home or other residential option which can be approved for community supervision, a non-secure residential program, or work release, will be the next level of supervision, pursuant to the “graduated sanctions for

alternatives to incarceration,” provided in Appendix B. This program will occur at “MATS”, although offenders will not be kept in secure custody.

Offenders living in the non-secure residential program, or “work release” program, are those who are either being transitioned from the jail to the community or those who need an increased level of supervision or sanction than provided by their previous level of supervision. Just as is the case with the weekend non-secure program, all offenders living in the non-secure residential program participate in mandatory satisfactory enrollment in the CHANGE program.

Program rules and expectations will be enforced using a behavior modification system, similar to what is in place within the MDC honor dorm, which will be discussed later in this strategic plan. Offenders who cannot be managed with the program’s behavior modification system will be subject to the “graduated sanctions for alternatives to incarceration,” provided in Appendix B. Offenders leaving the program without the official consent of Probation and Parole will be considered to be absconding from the program.

The non-secure residential facility will be staffed to provide time-limited housing for offenders as an alternative to secure incarceration. Offenders are typically supervised by staff 24 hours a day, seven days a week. Although this work release program may have some hardware (locks on the doors and windows), the work release program depends on close staff supervision. A low direct staffing ratio must be maintained for each shift, in addition to an on-site unit manager and case manager.

The non-secure residential alternative program will provide mandatory population-specific services: treatment, counseling, job development, education, vocational training, recreation, tutoring, and life skills training. Staff will generally work shifts. Much as occurs in a hospital emergency room or a secure detention facility, the staff in a non-secure residential facility must report to work even when the program’s population is low.

Data Collection

Once the continuum of incarceration alternatives has been implemented, four basic questions need to be asked regarding the operation of each of the individual alternatives: (1) Is the program handling the offenders for which it was designed? (2) Is the program reducing the population of the secure facility? (3) Are offenders in the alternative program remaining arrest-free and attending their court hearings? (4) Are the offenders responding well to any mandatory treatment or counseling?

High Risk Probationers In Need of Intense Reentry Services

In corrections, the primary “risk” to be managed is public safety. By studying the attributes of persons who commit crimes with those who do not, it is possible to reduce criminal incidents. Those who pose a “high” risk for re-offending should be assigned to the more restrictive and most treatment based forms of intervention. This can be achieved by either enhancing the security surrounding the high-risk prisoner or by exposing the prisoner to treatment services that will result in the prisoner suppressing or negating her tendencies to act out in the future. Conversely, those that pose the least level of risk should experience the least restrictive and expensive forms of intervention. The key assumption is that we can identify high-risk inmates or offenders and that by responding to that risk, public safety is enhanced.

The least understood threat to public safety is when low risk offenders are subject to unnecessary levels of supervision or “dosages” of treatment. Not only are valuable and increasingly scarce resources being diverted from those who truly need them, several studies have shown that exposing low risk offenders to treatment actually increases their recidivism rates.⁹ Why this occurs is not fully understood. It may be that the services were poorly delivered. But another explanation is that if low risk offenders are told via the treatment process that they are “sick” and are in need of treatment, they begin to accept and internalize criminal or deviant behavior.

Within the detention population are a number of high risk probation violators who unless they are assisted in their eventual and inevitable reentry into the community will return to jail with new technical violations. Most are in need of mental health treatment or addiction treatment. Nearly half are homeless. Most fail to contact their probation officers as required resulting in technical violations that land them back in custody.

If mandatory intensive treatment for addiction and mental health related issues are provided to those inmates scored by COMPAS as “high risk,” and if best practice reentry services are provided to these individuals most at risk for returning to jail, decreases in the rate of recidivism for these offenders will be experienced.

Day Treatment

This is a non-secure community program which will occur at the “Metropolitan Assessment and Treatment Services” complex (“MATS”). Day Treatment should not be confused with day reporting. Day reporting is pre adjudication, and day treatment is post adjudication. Unlike day reporting, in day treatment, offenders are expected to demonstrate changes in attitude, demeanor,

self-control, etc., in addition to complying with program rules and attending to any Court commitments.

Day treatment, like reentry programming, is focused on reducing recidivism and should track outcomes such as re-offense rates, employment rates, etc. The reporting center should provide treatment referrals, submit compliance information to the Office of Adult Probation and Parole, and enable the offender to access other community services. The day treatment center may provide mandatory treatment, counseling, job development, vocational training, education, tutoring, recreation, life skills training, or other activities intended to reduce recidivism. Typically, the Court will order the offender to maintain satisfactory enrollment in a program provided by the day treatment at MATS if the COMPAS instrument has identified that program as necessary to meet an assessed risk or need level through an assessment provided to the Court.

Recommendation: In Addition to Assigning High Risk Probationers to More Intensive Forms of Supervision, the County Should Provide Reentry Services to those High Risk Probation Violators Facing Probation Revocation: For those Probation Violators who are assessed to be “high risk”, or who after multiple unit sanctions have moved beyond the stage of an “out of custody” hearing, and consistent with the sanctions grid are facing a probable probation revocation at an “in custody” hearing, a “last chance” reentry initiative should be sponsored by the County in order to provide more individualized reentry programming to such offenders. Such a reentry initiative, as found in Appendix D, should utilize national standards and “best practices” in reentry services and principles in a final attempt to support the offender in his/her reintegration back into the community. If the offender qualifies for the program, and if the judge allows the offender to voluntarily submit to the program, the offender will have the opportunity to participate. The program will be subject to the same Ohio Progressive Sanctions grid.

Recommendation: The County Should Provide Day Treatment Within the Continuum of Alternatives to Incarceration, Consistent with Appendix C. The Department of Substance Abuse Programs (DSAP) will establish a network of services within MATS intended to provide full length assessments to those individuals identified by COMPAS as medium and high risk and in need of specific treatment for anger management, addiction, mental health, and domestic violence services.

Day treatment, intended for those in post-trial status, is mandatory for all individuals within the alternatives to incarceration continuum, unlike day supervision which is part of the alternatives to detention continuum, also featured in Appendix C. A pilot study by Northpointe of the current

MDC detention population will yield estimates of the number of medium to high risk technical probation violators currently in custody who will be expected to participate in the mandatory treatment within DSAP's day treatment center inside MATS. Failure to comply with mandatory treatment prescribed by DSAP will result in sanctions consistent with the sanction grid found in Appendix B. Such sanctions may eventually result in a probation revocation, consistent with the sanction grid.

Recommendation: Utilize Graduated Sanctions for Alternatives to Incarceration. Consistent with the principle of employing evidence-based practices in the utilization of alternatives to incarceration, the County should promote the use of the validated "Ohio Progressive Sanction Grid," found in Appendix B.

The Validated Ohio Progressive Sanction Grid, Applied to Alternatives to Incarceration

This validated graduated sanctions grid significantly reduces reliance on court hearings, court sanctions, and local jail detention. It also offers a more efficient and concentrated use of hearings, and better congruence between offender risk and revocation sanctions.

1. The grid's progressive approach to sanctions, which should be sensitive to the offender's level of risk, insures that offenders are less likely to experience a violation hearing and be remanded to secure custody for technical violations.
 - a. The grid relies on front-end agency responses to violations by increasing the level of contact with the offender, increasing the supervision level, increasing the frequency of drug testing, and permitting probation officers and supervisors to tailor sanctions which are consistent with the offender's level of risk and violation behavior, which work better than an excessive use of punitive sanctions.
 - b. This progressive sanction regime serves as an important cost-effective population management tool because secure detention resources are used sparingly and limited mostly to high risk offenders or those who pose public safety risks. This is because the progressive structure of the grid also allows for critical, community-based interventions to occur before pursuing a hearing, without increasing overall rates of reoffending.
 - c. The grid also provides a structural opportunity to align sanctions with high-risk and potentially chronic violators on the front-end of supervision, allowing those offenders to retain any pro-social experiences gained without facing the presumption of immediate remand.

- d. Research indicates that interventions consistent with the Ohio Progressive Sanction Grid are especially effective for high risk and need offenders supervised under the grid's guidelines, and research also supports a heavier use of control sanctions for high risk offenders where necessary, even though overuse of punitive sanctions worsens outcomes in general.
2. Violation behavior is categorized within risk level, forming the vertical axis of the grid.

Risk scores are from the offender's static COMPAS assessment.

- a. High-level violations include absconding, violations of protective orders, victim contact, program terminations, change of residence and certain misdemeanor offenses.
 - b. Low-level violations mostly include employment, reporting, substance abuse, and curfew violations.
 - c. Sex offender violations, weapons infractions, threatening behavior, out-of-state fugitive status, and causing bodily injury are handled uniquely as "major" violations and are not addressed through the grid.
3. The County will collaborate with the New Mexico Department of Probation and Parole and develop a comprehensive list of high, low, and "major" violations with which to guide the application of the sanction grid.
 4. It is important to note that the grid does not provide structured menus of specific sanctions in each response cell, nor does it incorporate incentives along with sanctions as part of a single unified system of response strategies.
 - a. Rather, the cells refer mainly to levels of organizational response, which include local unit-level responses (as determined by the Probation Officer), Probation Office supervisor summons, and probation revocation hearings.
 - b. A sanction refers broadly to any official response imposed on the offender.
 - c. More specifically, unit-level sanctions imposed by incarceration alternative personnel include responses such as more restrictive conditions, structured supervision activities, substance abuse testing and monitoring, substance abuse or mental health treatment, housing and other community referrals, upgrades in supervision levels, increased reporting, informal and written reprimands,

summons to a probation office supervisor, and halfway house and/or non-residential program placement.

5. Referral to a probation revocation hearing is necessary in order for a revocation to secure custody to be considered.
 - a. The sanction grid allows multiple opportunities to impose unit-level sanctions before initiating the process to pursue a probation revocation hearing.
 - b. This break between local and hearing-level response thus constitutes the main progressive element of this grid, rendering it less structured and incremental than other graduated sanction systems, such as conventional drug courts, that incorporate more nuanced response options.
 - c. Importantly, however, this helps preserve probation officer discretion and allows opportunities for more tailored interventions to be imposed at the higher risk levels, consistent with the violation behavior.
 - d. On the other hand, the system is explicitly proportional in that the number of local sanctions allowed decreases with increases in risk and violation severity.
 - e. As an intermediate step, the grid directs probation officers to schedule one or more Probation Office Summons prior to resorting to a probation revocation hearing.
 - f. These refer to unit-level sanctions that require appearances in front of probation office supervisors as a vehicle for amplifying the importance of abiding by the conditions of supervision and restating the consequences of non-compliance.
 - g. Finally, the grid presumes that probation revocation hearings will be scheduled out of custody except when overridden by public safety concerns or in cases involving out-of-state fugitives.

Core Strategy VII: Reducing Racial, Gender, and Economic Disparities

Racial, gender, and economic disparity in detention cause “disproportionate minority confinement” (“DMC”). This is a condition that exists when a racial/ethnic group’s representation in confinement exceeds their representation in the general population. Disparity is the different treatment of individuals who are similarly situated or who have common characteristics. Disparity in the treatment of individuals in the criminal justice system based on their gender, racial and/or ethnic identity, and economic status is a condition which should be addressed by reform.

Disproportionate minority confinement occurs because:

- Minority or poor offenders experience barriers to service or lack of access,
- Subjective rather than objective decisions are made,
- Cultural insensitivity occurs, and
- Unnecessary delays contributing to longer length of stays in detention occur.

DMC issues are more effectively pursued in the context of comprehensive reforms because disproportionality flourishes in a sloppy system. The benefit of pursuing comprehensive reform in Bernalillo County is the potential to address the racial disparity already established in the first section of this plan. Beyond comprehensive reform, specific actions are recommended to address known causes of DMC.

Recommendation: The County Should Provide the Court and MDC an Objective, Validated Risk Assessment Tool: Already mentioned in this Strategic Plan, the use of an objective risk assessment tool free of racial bias minimizes opportunities for discriminatory decisions. The tool may be utilized by the MDC to develop transition plans, the tool may be used by Pretrial Services to inform their pretrial release and supervision decisions, and Probation and Parole can use the tool to inform decisions of supervision, sanctions, and alternatives to incarceration.

Recommendation: The County Should Create a New Detention Intake Team: The creation of a new detention intake team is critical to successful implementation of a RAI and effective utilization of detention alternatives in reducing DMC and detention rates. The team should be overseen by a “pretrial placement coordinator” (PPC). Each day, the team should review every

single offender in detention, their risk assessment scores, their case status, and their amenability to community-based alternatives. The PPC should perform daily quality control checks to ensure that offenders are being processed expeditiously and that staff is faithfully adhering to the RAI.

If one worker, for example, is overriding the RAI at a significantly higher rate than other workers, or at a significantly higher rate for minorities than for whites, that pattern should be noted and addressed immediately. The result of this level of swift and consistent oversight should be substantial compliance with the system's reform efforts. While some effect will be realized from the implementation of a risk assessment instrument initially the impact will not be maximized until a system of internal accountability is created.

Recommendation: A Validated, Objective Sanctions Grid Should Be Used by Partners in Informing Detention Decisions: Already mentioned in this Strategic Plan, in order to reduce the use of detention for violations of pretrial release and probation and to minimize staff inconsistencies, a “sanctions grid” should be used by for its community supervision partners to follow. A validated sanctions grid provides a range of sanctions to be used depending on the seriousness of the violation and the offender's overall risk status without negatively affecting public safety. Officers can choose among specific options, but they should not go outside the grid's ranges. Moreover, line staff should not place offenders in detention for a violation of probation or pretrial release conditions without having first tried other sanctions. Finally, decisions to detain cases should have to be approved by the supervisor and by an “alternative placement” committee. Such conditions minimize the possibility of an officer exercising personal biases that can arbitrarily discriminate and aggravate the jail population.

Recommendation: The County Should Fund a Reentry Initiative, Targeting High Risk Offenders in the three Highest Referring Zip Codes: Re-entering offenders, most imprisoned for non-violent crimes, tend to be men of color from a handful of communities. Such is also the case in Bernalillo County. The population report prepared by Dr. Nicol Moreland revealed that three zip codes, 87108, 87105, and 87121, experienced the highest levels of recidivism. These primarily areas comprised primarily of minorities should be targeted with reentry services aimed at reducing recidivism. Reentry levels the playing field for minorities.

Core Strategy VIII: Improving Conditions of Confinement

Holding offenders in crowded, inadequately staffed facilities may result in physical and emotional damage that leaves them worse off than before the system intervened. Conditions that interfere with family relations, education, jobs, and support programs may lead to future criminal behavior.

Maintenance of safe, humane institutional conditions is the duty of every criminal justice system, but it is difficult to meet that duty in systems where large numbers of offenders are unnecessarily detained or held longer than needed. Crowded facilities often keep offenders locked in their cells for longer than usual and curtail institutional programs such as outdoor exercise, visiting, and leisure activities. During crowded periods, many large numbers of offenders are excluded from education and programs and are forced to eat meals in their cells. Crowded facilities often have trouble keeping up with laundry and building maintenance.

Although the MDC is already accredited by the American Correctional Association, comprehensive detention reform should include a conditions assessment by a competent assessment team. Assessment teams should include personnel competent to complete the inspection instrument. Generally, this requires several inspectors working for two to three days in the facility. Efforts should also be made to ensure continuity of assessment practice through successive assessments. This helps ensure that changes over time are accurately perceived and contributes to efficiency in the inspection process. A sample conditions assessment considered standard by JDAI can be found in Appendix K.

Recommendation: The County Should Establish An Assessment Team Comprised of Interested Members of the Community and Criminal Justice System to Perform Biannual Conditions Assessments of the MDC: The conditions assessment is one of the first steps which should be taken in detention reform because it provides a baseline for reform and guides stakeholders throughout the remaining steps in the process. This step should be taken as soon as possible.

Recommendation: The County Should Implement a Validated Classification System; Classification and separation issues aggravate crowding, create dangerous groupings that foment victimization, and allow the transference of criminal skills and thinking. The County has purchased Northpointe's COMPAS, which includes its validated "Decision Tree" classification instrument in the software suite.

Recommendation: The County Should Change its Corrections Training Curriculum to Focus on Crisis Prevention and Intervention, Unit Management Principles, Alternatives to Use of Force, and Specialized Courses on LGBTI, Gender, and Special Inmate Populations. The MDC Training department has made the necessary modifications and is now providing these and other specialized courses to new and existing staff. Staff is also receiving instruction on de-escalation techniques and communication skills.

Recommendation: The County Should Implement Unit Management: The MDC is currently in the planning phase of implementing Unit Management. Unit Management is a case management focused method of correctional service delivery that flattens the organizational chart and subdivides the facility into multiple “units.” Each unit operates autonomously, merging operations and security chains of command under a single unit manager charged with providing improved programming, case management, sanitation, and recreation to offenders. The move is one away from an oppressive paramilitary culture to one of rehabilitation.

Recommendation: The County Should Implement Therapeutic Communities That Promote Behavior Modification: The MDC has successfully implemented “honor pods” in six pods. The pods, which attract offenders interested in “character building”, offer benefits and incentives to those offenders willing to abide by the rules of the program and participate in evidenced-based programming. The behavior modification system focuses on rewarding positive behavior instead of punishment. The program utilizes some of the principles of Unit Management, such as “town hall meetings,” “inmate advisory board meetings”, and assigned security and case management staff.

The result has been a dramatic decline in incidents and a near tripling in education credits per offender. The outcomes have been so encouraging that an additional six pods are planned for expansion in order to accommodate the growing demand by offenders wishing to make constructive use of their detention time and prepare for reintegration into the community. Details about the honor pod program can be found in Appendix J. An additional four pods of this type of therapeutic community will be implemented in order to integrate inmate work detail positions into the therapeutic community model.

Recommendation: Where Possible, the MDC Should Provide Increased Opportunities for Exercise, a Reduced Number of Hours Inmates are locked Down, Increased Opportunities for Education, Fewer Restrictions on Visiting, Less Restrictive and More Forgiving Methods of Discipline, and Less Crowded Housing Areas: The success of the honor pod concept in encouraging good behavior by the inmates has provided an opportunity for the MDC

to plan an expansion of the concept through most of the facility. Nearly every means of improving conditions of confinement is provided by the honor pods to those who do not require the highest levels of secure custody (see Appendix J). The MDC plans to expand first to work detail pods the honor pod concept, and subsequently the MDC plans to implement a facility-wide system of incentivized behavior modification with the use of the COMPAS tool.

The COMPAS tool lends itself to more efficiently managing inmate discipline and therapeutic sanctions. By providing the facility-wide consistency made possible by the tool, inmates can expect consistent responses to their negative OR positive behavior, no matter which area of the facility they reside in. As a result, similar to what is currently the norm within the honor pods, inmates will be able to expect far fewer hours locked down, secondary and post-secondary education opportunities, window visits, use of exercise equipment, and many other benefits given in accordance to the inmate's behavior. Graduated sanctions and rewards are thereby utilized both within the facility, as well as outside of the facility as provided within the alternatives to detention and incarceration. In this manner, a successful implementation of alternatives within the community is expected to reduce the population within the MDC, thereby easing crowding there.

Recommendation: Automate the Grievance Process and Implement an Automated Evaluation Process: The grievance process currently depends upon assigned personnel to visit individual pods and provide grievance forms to interested offenders. Numerous complaints about unfriendly grievance specialists filtering what can and cannot be grieved make it difficult for administration to have a clear view of the concerns of inmates. In addition, there have been numerous complaints about the manual commissary process.

Lastly, the administration is preparing different sets of evaluation questions which it would like inmates in different pods to answer, perhaps after submitting commissary orders, in order to gather information as to the various conditions of confinement and other issues of interest to the County. The County should procure kiosks which should be installed in every pod. The kiosks should serve to automate grievances, evaluations, and commissary orders.

Appendix A: Alternatives to Detention Graduated Sanctions Grid

Alternatives to Detention Graduated Sanctions Grid

Offender Name:

MDC Booking # :

Offender Category	Violation Level	Number of Sanction Incidents												
		1	2	3	4	5	6	7	8	9	10	11	12	13
Risk: HIGH (Weekly Check-in, Weekly drug test)	High Severity Violation	US	US	POS	OC	IC								
	Low Severity Violation	US	US	US	US	POS	POS	OC	IC					
Risk: MEDIUM (Bi-Weekly Check-in, Bi-Weekly drug test)	High Severity Violation	US	US	US	POS	POS	OC	IC	IC					
	Low Severity Violation	US	US	US	US	US	US	POS	POS	OC	OC	IC		
Risk: LOW (Monthly Check-in, Monthly drug test)	High Severity Violation	US	US	US	US	POS	POS	OC	IC	IC	IC	IC		
	Low Severity Violation	US	US	US	US	US	US	US	US	POS	POS	OC	OC	IC

Code for Grid Box

For each sanction, put your initials and the date in the box.

For overrides, the Pretrial Supervisor must sign and date the form.

US: Unit Sanction

POS: Pretrial Office Summons

OC: Out of Custody Court Hearing

IC: In Custody Court Hearing

Unit Supervisor:

Date:

Pretrial Supervisor:

Date:

Unit Sanctions Corresponding to the Sanctions Grid, Categorized in Sequence by Risk and Severity Level

Recommended List of Unit Sanctions	Risk Level	Low		Medium		High	
	Severity Level	Low	High	Low	High	Low	High
Verbal Warning		X					
Written Warning		X	X	X			
Increase Reporting to:		Bi-Weekly	Bi-Weekly	Once Weekly	Once Weekly	Twice Weekly	
Increase Reporting to:		Once Weekly		Twice Weekly			Daily
Increase Reporting to:		Twice Weekly	Twice Weekly	Three Times Weekly	Three Times Weekly	Daily	
Home Confinement							
Home Confinement		96 Hours	96 Hours	96 Hours	168 Hours	168 Hours	
Home Confinement				120 Hours			288 Hours
Home Confinement		120 Hours	168 Hours	168 Hours	216 Hours	216 Hours	
Residential Non-Secure Custody: Offenders at this level are subject to the "honor level system" behavior modification system. The MATS unit manager may recommend commitment of the offender to secure custody to the Probation Officer and Judge if offender is unresponsive to behavior modification system.		5 Days					
		10 Days	10 Days				
		15 Days		15 Days	15 Days	15 Days	15 Days
		20 Days	20 Days	20 Days		20 Days	
		25 Days		25 Days	25 Days	25 Days	25 Days
		At this last stage, the offender is committed to secure custody where the offender is screened and a recommendation is prepared for the judge regarding whether the offender can be recommended for the MDC Reentry Initiative or not. Prison may be the alternative.					

Appendix B: Alternatives to Incarceration Graduated Sanctions Grid

Alternatives to Incarceration Graduated Sanctions Grid

Offender Name:

MDC Booking # :

Offender Category	Violation Level	Number of Sanction Incidents												
		1	2	3	4	5	6	7	8	9	10	11	12	13
Risk: HIGH (Weekly Check-in, Weekly drug test, Weekly counseling/treatment)	High Severity Violation	US	US	POS	OC	IC								
	Low Severity Violation	US	US	US	US	POS	POS	OC	IC					
Risk: MEDIUM (Bi-Weekly Check-in, Bi-Weekly drug test, Bi-Weekly counseling/treatment)	High Severity Violation	US	US	US	POS	POS	OC	IC	IC					
	Low Severity Violation	US	US	US	US	US	US	POS	POS	OC	OC	IC		
Risk: LOW (Monthly Check-in, Monthly drug test, Monthly counseling/treatment)	High Severity Violation	US	US	US	US	POS	POS	OC	IC	IC	IC	IC		
	Low Severity Violation	US	US	US	US	US	US	US	US	POS	POS	OC	OC	IC

Code for Grid Box

- US: Unit Sanction*
- POS: Probation Office Summons*
- OC: Out of Custody Court Hearing*
- IC: In Custody Court Hearing*

For each sanction, put your initials and the date in the box.
For overrides, the Probation Supervisor must sign and date the form.

Unit Supervisor:

Date:

Probation Supervisor:

Date:

Unit Sanctions Corresponding to the Sanctions Grid, Categorized in Sequence by Risk and Severity Level

Recommended List of Unit Sanctions	Risk Level	Low		Medium		High		
	Severity Level	Low	High	Low	High	Low	High	
Verbal Warning		X						
Written Warning		X	X	X				
Community Service		4 Hours	16 Hours	8 Hours	20 Hours	16 Hours		
Community Service		8 Hours		12 Hours			32 Hours	
Community Service		12 Hours	24 Hours	16 Hours	28 Hours	24 Hours		
Weekend Non-Secure Custody								
Weekend Non-Secure Custody		96 Hours	96 Hours	96 Hours	168 Hours	168 Hours		
Weekend Non-Secure Custody				120 Hours			288 Hours	
Weekend Non-Secure Custody		120 Hours	168 Hours	168 Hours	216 Hours	216 Hours		
Residential Non-Secure Custody: Offenders at this level are subject to the "honor level system" behavior modification system. The MATS unit manager may recommend commitment of the offender to secure custody to the Probation Officer and Judge if offender is unresponsive to behavior modification system.		5 Days						
		10 Days	10 Days					
		15 Days		15 Days	15 Days	15 Days	15 Days	
		20 Days	20 Days	20 Days		20 Days		
		25 Days		25 Days	25 Days	25 Days	25 Days	
	At this last stage, the offender is committed to secure custody where the offender is screened and a recommendation is prepared for the judge regarding whether the offender can be recommended for the MDC Reentry Initiative or not. Prison may be the alternative.							

Appendix C: Continuum of Alternatives Flowchart

Pretrial Non-Secure Residential Program (Shelter):

- Uses electronic monitoring
- Offenders may only leave facility as approved for work or school
- Offenders not engaged in approved work or school must attend day reporting
- Program rules enforced using a behavior modification system similar to that of the honor dorm within the MDC (honor level system)
- Recreational activities available to offenders participating in day reporting

A dark, broken border indicates that the level of supervision is accompanied by electronic monitoring

Alternatives to Detention under Pretrial Services

Decreasing level of supervision

Increasing level of supervision

Secure Detention

Pretrial
Post-trial (adjudication)

Non-Secure Residential Custody (Work Release):

- Offenders may only leave facility as approved for work or school (work release known as MDC Reentry Program).
- Offenders not engaged in approved work or school must attend day reporting at MATS
- Program rules enforced using a behavior modification system similar to that of the honor pods within the MDC
- Inmates may be immediately ordered to secure custody by the Judge, under recommendation by the MATS unit manager or Probation Officer, if the offender is unresponsive to behavior modification system at the MATS.
- Education, life skills, job development, and other applicable reentry programming is mandatory for offenders
- Treatment and counseling mandatory for post-adjudication residents and is specific to the offender's assessment.
- 18 hours of mandatory weekly community service

Alternatives to Incarceration (Special Detention Cases such as Probation, warrants, or "awaiting a program")

Pretrial Home Confinement:

- Uses electronic monitoring & random drug testing
- Offenders may only leave home as approved for work or school
- Offenders not engaged in approved work or school must attend day reporting at MATS

Weekend Non-Secure Program:

- 18 hours of mandatory weekly community service
- Offenders not engaged in approved work /school attend day reporting on weekdays between weekends at MATS
- Evening treatment mandatory

Pretrial Community Supervision

- Frequency of check-ins may be frequent or infrequent, depending on risk assessment
- Frequency of check-ins subject to change, depending on offender compliance
- Kiosks, random urinalysis, and phone contact part of supervision

Community Supervision

- Frequency of check-ins may be frequent or infrequent, depending on risk assessment
- Counseling and treatment is mandatory
- Probation officers or other designated supervisors may make unannounced visits at offender school or work

**Appendix D: Bernalillo County Metropolitan Detention
Center Reentry Initiative**

Bernalillo County Metropolitan Detention Center Reentry Initiative for Medium to High Risk Probation Violators

Introduction:

The MDC is looking to contract with faith and/or community-based organizations (FBO's/CBO's), and other nonprofit organizations to deliver reentry services to offenders releasing from the MDC.

Background:

Each year in Bernalillo County more than 40,000 inmates are released from custody at the MDC and return to their communities and families. The return of these offenders threatens the fragile cohesion in many of the most troubled neighborhoods in the County. Without help, a majority of offenders return to criminal activity. According to the United States Department of Justice, 68 percent of offenders will be charged with new crimes within three years of their release from prison and 47 percent will be reconvicted.

Transitioning offenders face a myriad of challenges that contribute to a return to criminal activity, re-arrest and re-incarceration. Joblessness among offenders has been broadly linked to recidivism rates. Statistics reveal that even before incarceration, adult offenders demonstrate weak or nonexistent ties to the workforce. Data from 1997 show that nearly one-third of adult offenders were unemployed in the general population. Post incarceration employment rates only get worse – unemployment among offenders has been estimated at between 25 and 40 percent. Likewise, offenders also demonstrate low levels of education attainment. Nineteen percent of adult State offenders are completely illiterate and 40 percent are functionally illiterate; over half of State parole entrants were not high school graduates and as many as eleven percent had an eighth grade education or less. Research has also broadly documented the substance abuse and mental health issues of offenders – factors that are likely to contribute to poor education levels, lack of employability and a return to criminal activity.

In returning to criminal activity, offenders contribute to the presence of violence and crime in already struggling neighborhoods and reduce their own chances of living healthy and positive lives or contributing to their families. Research indicated that parental loss is related to a host of poor outcomes for children that include poverty, drug abuse, educational failure, criminal behavior and premature death. Healthy and consistent relationships between parents and children strengthen the community by positively impacting both generations. Offenders with strong

family and communities have greater success in reentering into the community and avoiding incarceration.

In order to successfully transition into the community, it is essential that offenders possess the skills and support necessary to enter and compete in the workforce. This request for proposal is designed to draw on the unique strengths of FBOs, CBOs and other non-profit organizations that can provide employment, training, job placement and supportive services to offenders. FBOs, CBOs partners are well suited to help offenders transition back into society because they can provide the resources and infrastructure necessary to intervene in the lives of transitioning offenders and interrupt cycles of crime and incarceration. Research indicated that FBOs and CBOs are among the strongest, most trusted organizations in neighborhoods to which the majority of transitioning offenders will return. Many FBOs and CBOs also possess a proven ability to work collaboratively with other service providers, Departments of Labor and Employment, local Workforce Centers and Departments of Corrections. Partnering government agencies with FBOs and CBOs is paramount to successful offender reentry.

A recent study of offenders who were booked and held at the MDC revealed that a disproportionate number of minorities and women were held at the MDC. The top three referring zip codes of inmates held at the MDC were 87105, 87108, and 87121. An analysis of the data representing those inmates who recidivated, or returned to jail in the same year, minority ethnicities represented the highest rates of recidivism. In addition, 68%, 32%, and 31% of those inmates from zip codes 87121, 87108, and 87105, respectively, returned to jail within the same year. 25% of all MDC inmates return within the same year. The result of these staggering rates of recidivism is an ever-increasing population within the MDC, creating an overcrowded facility that averages a daily population of 2,368, which represents 106% of its rated capacity.

Unless the rates of offender recidivism are controlled, the increasing average daily population at the MDC will require the construction of an additional unit. The cost to construct an additional unit at the MDC would total approximately \$36.4 million in initial construction, followed by an additional \$21 million in annually recurring operating costs. Add this to the staggering social and economic costs of new crimes and victims; unsuccessful outcomes of the efforts our workforce and human service systems; homelessness and child support; public health in areas such as mental health and substance abuse; offenders caught up in a cycle of incarceration; the overall impact on our communities; and the costs to New Mexico are devastating.

These costs are increasing at an alarming rate while our ability to remove barriers, provide skills needed for self-sufficiency, and find viable employment moves at a much slower pace.

Employment that provides a living wage is critical to decreasing recidivism as well as increasing self-sufficiency and public safety. Since released offenders most often return to the community from where they came, this project focuses on providing services to the zip codes from which the most offenders are committed and released: 87121, 87105, and 87108.

The MDC wishes to partner with FBOs, CBOs and non-profit organizations to help reduce recidivism and increase employment by increasing the options for offender reentry services, providing mentoring, counseling, housing, and education, training and employment opportunities. All have housing issues; however, many times shelters will not house offenders at all, public housing will not house offenders with a drug conviction and most temporary housing (motels) will not take offenders with a drug conviction. This leaves almost no available housing. And to perpetuate the problem, offenders must have an address to receive public assistance, social security, work first payments, a driver's license and other supportive services. This means that with no address, there are no subsidies. Approximately 75% of offenders re-entering society do not have a driver's license, social security cards or any other form of identification. The lack of documentation prohibits offenders from participating in traditional government programs and receiving funding for education, training and employment. Lack of knowledge of the community partnerships prohibits successful transition.

Transportation is an issue, as are the lack of employment readiness training and the lack of knowledge of the workforce and educational systems. An effective, comprehensive transition plan and active partnerships can alleviate barriers to reentry. Our offender transition plans will include strategies to address education, employment, mental health, and substance abuse using community support. When our offenders are released, they will have support from the workforce, correctional, educational and community partnerships. Bernalillo County wants to provide offenders with positive, strength-based case management using a "team" concept that will encourage and reward success. We believe the key to successful reentry is gainful employment that leads to self-sufficiency.

The MDC is seeking to contract with a maximum of three (3) organizations that can provide services to offenders releasing into the Albuquerque Metro Area and a maximum three (3) organizations who can deliver transition planning, peer mentoring, family reunification ("Strengthening Families Program"), cognitive behavioral intervention ("Thinking for a Change"), and reentry preparation program facilitation, work readiness support services, housing placement, career counseling, job placement, follow up services, and provide follow-up for a minimum of six (6) months on the participating offenders.

Service providers will be responsible for tracking outcomes on the offenders served, services provided, completion of services, job placement, job retention, earnings and recidivism. Service providers must report back to the MDC, or designated representative, services provided and outcomes for offenders served. The MDC, or designated representative, will provide guidance, support, and on-going technical assistance for all service providers selected under this RFP.

Service providers will be compensated on a per-capita basis and Contracts will be structured based on payment points listed under “Compensation Benchmark Payment Points.” The compensation may vary based on performance outcomes. If a service provider provides intensive case management, work readiness skills, job placement, and provides follow-up services to the offender for minimum of six (6) months, and the offender completes all benchmarks, the service provider may earn up to \$3000.00 per offender.

The mission of the Bernalillo County MDC Reentry initiative is to reduce crime by implementing a seamless plan of services and supervision developed with each offender—delivered through state and local collaboration—from the time of their entry to jail through their transition, reintegration, and aftercare in the community. Bernalillo County’s approach to reduce crime by former inmates who are re-entering society is a comprehensive model of inmate transition planning. The purpose of this RFP is to help offenders successfully transition back into society by providing them a positive path of their choice to embark on, by providing the services they need to gain employment that pays a livable wage, and by helping them become and remain self-sufficient. This RFP is based on both the “National Transition from Jail to Community (T4C) Initiative” and the “Ready4Work” principles found in the offering funded by the USDOL and the Annie E. Casey and Ford Foundations.

Reentry Initiative Objectives:

- Promote public safety by reducing the threat of harm to persons and their property by released offenders in the communities to which those offenders return.
- Increase success rates of former prisoners by fostering effective risk management and treatment programming, accountability, and community and victim participation.

Project Goals

The project goals are:

1. Enroll offenders in service provider programs (Enrollment)

2. For the benefit of offenders transitioning back into society, provide the appropriate services to help the offender attain and retain a job (Service Rate)
3. Help offenders become a productive member of society by providing the skills needed and place the offender in training and a job (Job Placement)
4. Help offenders identify and remove barriers to employment and provide services and solutions that help offender enter employment (Entered Employment Rate)
5. Place offender in jobs that pay a livable wage (Average Earnings)
6. Provide follow-up services to offender to help offender maintain employment for six (6) months. (Job Retention)
7. Reduce recidivism by providing the services and support the offender needs to maintain employment. (Reduce Recidivism)

Service providers are expected to work with established partners and new partners (when needed) to achieve the project goals of this RFP. A list of community providers potentially capable of teaming with applying other agencies, FBOs, or CBOs will be provided.

Eligibility and Project Expectations

1. Who is Eligible to respond to the RFP? Any FBOs, CBOs, non-profit agency, or combination thereof, who is currently delivering reentry services to offenders, has experience delivering reentry services to offenders or has experience delivering reentry services to like populations, and can operate in the State of New Mexico to perform the services described in this RFP.
2. The reentry services that must be delivered by the service providers and partners are:
 - a. Enrollment, Risk/Needs Assessments, and Transition planning
 - b. Peer mentoring, “Strengthening Families Program”, “Thinking for a Change”, and reentry programming
 - c. Work Readiness Support Services
 - d. Housing Placement
 - e. Career Counseling

f. Job Placement

g. Follow-up Services

Reentry Services

A. Enrollment, Risk/Needs Assessments, and Transition planning

1. Probation violators who score as high risk and need will be targeted by this project.
2. However, special attention shall also be placed in targeting minorities and women from the 87108, 87105, and 87121 zip codes who are at high risk for unemployment, homelessness or severely dysfunctional and unstable home life, and drug abuse.
3. An initial assessment will be performed on offenders in an effort to triage and divert those targeted for this program by the Northpointe Institute software known as “COMPASS.” COMPASS will then measure each inmate’s risks, needs, strengths, and weaknesses.
4. This assessment is then used in combination with inmate input to create a Transition Accountability Plan (TAP). This plan specifies programs, treatments, and interventions that will enable the prisoner to succeed in returning home and reintegrating into the community.

B. Peer Mentoring with Faith-based and/or Community Organizations, Design and Framework

1. Consistent with Federal guidelines governing nearly all current reentry grant offerings (http://www.doleta.gov/PRI/PDF/Mentoring_Ex_Prisoners_A_Guide.pdf), the MDC Reentry Initiative outlined as one of its goals, to build solid, outcome-centered relationships with area churches, mosques, synagogues, and other faith-based institutions with the goal of increasing the capacity of these houses of worship to provide intervention, and reinforcement of personal responsibility to former inmates via “peer mentoring.” Historically, these institutions embody uncompromising ethical and moral leadership and reentry in Bernalillo County can be greatly impacted by incorporating value-based mentorship, and the life-long influence of encouraging responsible decision-making within a faith-based framework.
2. Mentoring is informal counseling and assistance. Mentors can be unrelated adults or peers with similar backgrounds. Mentors are role models and informal advisors. For a

mentoring service to be successful, mentors must be trained and knowledgeable about the returning prisoner population, and their myriad of needs and barriers.

3. Mentors should be prescreened and trained in the standards of conduct to maintain as a mentor.
4. For any mentoring program, there are many challenges associated with finding appropriate mentors and the necessary number of mentors prepared to dedicate the time and energy to building a relationship with former prisoners. To overcome this challenge we feel it both practical and wise to focus our efforts on promising collaborations with houses of worship to find suitable and willing mentors who will provide former prisoners with individual support and guidance.
5. Churches, mosques, synagogues, and other houses of worship are often the single best source of volunteers in a community. The areas that effective contractual relationships can readily exist within the faith-based community include – but are not limited to – mentoring and employment, family reunification, and the development of pro-social activities. Research shows that when moderate to high risk offenders are engaged with pro-social activities for 70% of their free time, their recidivism rate drops significantly.
6. This MDC Reentry Initiative is focusing on in custody programming, housing placement, and job placement.
7. Pre-release and post-release training and services have been directed and guided by the goal of impacting former inmate's economic status by increasing the earning potential, and wages of men and women returning from jail to Bernalillo County. Findings from a Public/Private Venture study concluded that former prisoners in employment programs 1) remained in the program longer; 2) were twice as likely to obtain an unsubsidized job; and 3) were more likely to stay employed than those who did not have a mentor.
8. The MDC reentry initiative has designed a funding opportunity for faith-based networks to develop and implement a strategy to recruit and retain mentors who are then matched with returning offenders who will assist in supporting the ex-offender in the community by offering support, guidance and assistance with personal challenges and weekly opportunities for pro-social activities – particularly on weekends.
9. Recognizing that families are where our histories are made, another significant priority outlined in the MDC's Comprehensive Plan is the development of a mechanism by which the family can begin to be engaged in the offender's reentry process. One avenue entails

facilitated training sessions and/or information-sharing mini-conferences coordinated throughout the year, with flexibility for increased attendance by family members and co-equal support systems. This priority includes mobilization and capacity building of CBOs and FBOs to become more preventative and responsive to the needs of the children and families of returning offenders through pro-social engagement.

10. Research shows that moderate to high risk former prisoners will have improved outcomes to the extent that they can be involved broadly in pro-social activities. Some research suggests that upwards of 70% of former inmates' time should be engaged. This is consistent with the need to provide activities for mentors, mentees and the families of former inmates.
11. Evening meals and social hours, especially with guest speakers and child care provided, is a good example of how FBOs can use their space, their staff and their talents. Another example of how FBO's and CBO's can use their space, staff, and talents is through renting space for service providers during business hours so that former inmates and their families can easily and readily access services. Recognizing that many emergency services, such as the provision of food, clothing and shelter are already being provided by faith based institutions for persons who are in need and extending these services for former prisoners so that they can engage in pro-social activities without embarrassment is a critical aspect of reintegration.
12. Although funds cannot be used to directly or indirectly compensate religious instruction, worship, prayer, proselytizing or other inherently religious practices or institutions, service providers are encouraged to partner with current FBO's and CBO's willing and interested in assisting offenders at the MDC on a volunteer basis in capacities encouraged within this offering, such as peer mentoring. Mentoring is mentioned specifically four times in the "Compensation Benchmark Points." However, CBO's and FBO's can also be trained to:
 - a. Assist in transition planning
 - b. Facilitate Thinking for a Change and reentry programming;
 - c. Provide work readiness support services;
 - d. Assist in housing placement;
 - e. Provide career counseling;

- f. Assist in job placement; and
 - g. Provide follow-up services
13. The Service Provider will report all program outcomes to the MDC and will manage the day-to-day implementation of proposed mentoring programs in accordance with this design. The Service Provider will coordinate services directly with its partner churches and/or partner FBOs and/or CBOs, and will coordinate appropriate training and technical assistance for those partner churches and/or partner FBOs and/or CBOs. Each partner church and/or partner FBO and/or CBO will designate a Mentor Coordinator within its individual institution whose duties will include:
- a. Recruitment and retention of mentors;
 - b. Ensuring all mentors' completion of screening, interviewing, and match components;
 - c. Maintenance/submission of mentor/mentee documentation;
 - d. Pre-release/Transition Team coordination;
 - e. Communication and Coordination with the Service Provider;
 - f. Program management, monitoring, and reporting;
 - g. Coordination of mentor training, technical assistance, and other supports;
 - h. Monitoring of Matches;
 - i. Development and implementation of mentoring program; and
 - j. Coordination of group activities;
 - k. Mentor expectations:
 - l. Meeting with mentee(s) at least once a week (at faith institution or in community);
 - m. Assist mentee with establishing a personal plan for reintegration success;
 - n. Assist mentee with accessing community and faith-based support programs;

- o. Provide opportunities to attend social or entertainment events (at faith institution or in community);
 - p. Provide, friendship, guidance, encouragement, support, and leadership to mentee;
 - q. Attend mentor trainings;
 - r. Attend group activities
14. Peer Mentors should be recruited from among the current cadre of MDC volunteers, as well as from the community. Each mentor reports to the mentor coordinator of the service provider and is expected to do the following:
- a. Meeting with mentee(s) at least once a week;
 - b. Assist mentee with establishing a personal plan for reintegration success;
 - c. Assist mentee with accessing faith-based support programs;
 - d. Provide opportunities to attend pro-social or faith-based events;
 - e. Provide, friendship, guidance, encouragement, support, and leadership to mentee;
 - f. Attend mentor trainings;
 - g. Attend group activities.

C. Strengthening Families Program

1. The service provider will work with inmates already screened into the MDC Reentry Initiative who have chosen the service provider as their reentry path of choice. The inmates who will engage in family reunification are expected have a child or children interested in participating with their parent inmate in the program. The program which has been chosen for the family reunification portion of the MDC Reentry Initiative is the “Strengthening Families Program.” (<http://www.strengtheningfamiliesprogram.org/index.html>)
2. The service provider will administer a Pre-Program Enrollment and Pre-test Session and evaluation consistent with the requirements of the "Strengthening Families Program".
3. The service provider will develop an individual care plan for each program inmate.

4. The service provider will facilitate “Strengthening Families Program” classes to inmates. The MDC will be responsible for providing all programming materials, but the service provider will be expected to obtain any required training, as well as to consistently facilitate the program in such a way as to maintain the fidelity of the program. Program fidelity will be periodically monitored by the MDC.
5. The service provider will facilitate one (1) group session every week, per authorized caseload of up to 12 parents. Each group session consists of a one (1) hour long group meal that precedes or follows two (2) one (1) hour group sessions. Four (4) culturally matched “co-leaders” are needed to facilitate each caseload (of twelve (12) parents, along with their children) meal and group sessions.
6. The service provider will supervise the interaction that occurs every weekly session between the program inmate and their child/children. The service provider will monitor and coach the program inmate during such interaction to insure that the sessions enhance the parent/child relationship and promote the principles of the program.
7. The service provider will conduct weekly 15 minute interviews with each program inmate, individually, to provide them feedback on their progress or recommended corrective actions.
8. The service provider will speak every week (for 15 minutes) by phone with the caregiver of the inmate’s child/children in order to obtain feedback on the effect of the interaction between the inmate and their child/children, to encourage the caregiver to continue to support the inmate’s ongoing participation in the program, and to provide support for the child/children’s caregivers in the community in preparation for the inmate’s release.
9. The service provider will prepare weekly progress notes and corrective actions regarding the inmate’s progress within the “Strengthening Families Program” curriculum. The service provider is expected to take thorough case/progress notes based on the inmate’s interaction with their child/children during program sessions, the inmate’s group interaction and participation during program sessions, weekly interviews between the service provider and the inmate, homework assignments completed by the inmate, and phone calls the service provider conducts with the child’s caregiver in the community.
10. The service provider will administer a post-test and evaluation consistent with the requirements of the "Strengthening Families Program".

11. Reporting: The service provider will provide the following via email in Microsoft Word or Excel format to the reentry manager every Wednesday, by end of business day, for activities from the previous week:

- a) Roster of names, booking numbers, ages, length of time in Strengthening Families program, and housing location of each member of current program case load.
- b) Progress/case notes for every inmate on program case load
- c) Session logs listing:
 - i. Inmates in attendance at each class
 - ii. Name, gender, and age of child/children present during the session
 - iii. The curriculum “session” provided during the class (for example, the “Strengthening Families Program” is comprised of 14 “sessions”)
 - iv. The date the session was given
 - v. The location of the session (exact location of classroom)
 - i. Names of facilitating service provider employees
 - vi. Names of supervising MDC employees (if any)
- d) Phone logs listing:
 - i. Name of inmate the phone call is concerning
 - ii. Name of family member or child’s caregiver in the community with whom call is made
 - iii. Date and time of phone call
 - iv. Name of person making the call
 - v. Nature of the call
 - vi. Summary of phone conversation
 - vii. Follow-up expected as a result of the conversation
- e) Copies of any pre-test and evaluations completed

f) Copies of any post-tests and evaluations completed

12. Minimum Time Requirements: SFP involves the whole family in a multi-component, dynamic, and interactive behavior change intervention. Sessions generally are 2 hours long. Parent Skills Training involves groups of about 4 to 12 parents in the first hour while their children attend a separate Children's Skills Training group. In the second hour, the families are split into two multifamily Family Skills Training groups, each run by two culturally matched co-leaders, preferably a man and a woman. Parents and their children practice strengthening their family relations through exercises designed to improve their observation, monitoring, play, communication, and discipline skills. Billable Hours:

- a) Two culturally matched "co-leaders" will facilitate one Parent Skills Training group each week for one (1) hour each. Each class may have no more than twelve (12) inmates/parents in attendance. Each parent must have at least one of their children in attendance at the concurrent Children's Skills Training group if the parent wishes to participate in the Parent Skills Training group. The number of different weekly groups will depend upon the caseload the County authorizes the service provider to manage at any given time. The caseload is reviewed by the County every quarter.
- b) Two culturally matched "co-leaders" will facilitate one Children's Skills Training group each week for one (1) hour each. Each class must have a minimum of one (1) child in attendance for every parent attending the Parent Skills Training group. This group transpires concurrently, but separately, from the Parent Skills Training group. The number of different weekly groups will depend upon the caseload the County authorizes the service provider to manage at any given time. The caseload is reviewed by the County every quarter.
- c) Two culturally matched "co-leaders" will facilitate one multifamily Family Skills Training group while the other two culturally matched "co-leaders" will facilitate the other training group. Every week, parent and child/children will participate in one (1) Family Skills Training group for one (1) hour each, during which the parent and child/children are paired with another family to practice strengthening their family relations through exercises designed to improve their observation, monitoring, play, communication, and discipline skills. The number of different weekly groups will depend upon the caseload the County authorizes the service

provider to manage at any given time. The caseload is reviewed by the County every quarter.

- d) Four culturally matched "co-leaders" will facilitate one (1) group meal for one (1) hour each, preceding or following the weekly Parent/Child and Family Skills Training group sessions and intended for informal family practice time and group leader coaching.
- e) One group facilitator will facilitate one (1) Pre-Program Enrollment and Pre-test Session for two (2) hours each. Each pre-program enrollment and pre-test session must have a minimum of four (4), and no more than twelve (12) inmate parents, present with their participating child/children, in attendance.
- f) One group facilitator will facilitate one (1) Post-Program Evaluation and Post-test Session for two (1) hour each. Each post-program test session must have a minimum of four (4) and no more than twelve (12) inmate parents, present with their participating child/children, in attendance.

D. “Thinking for a Change” Program

1. “Thinking for a Change” is an integrated Cognitive Behavior Change Program developed by the U.S. Department of Justice and the National Institute of Corrections. This program teaches problem solving skills by both cognitive restructuring and social skills interventions. The program seeks to change the self-entitled thinking that leads individuals to engage in illegal, antisocial behaviors that cause harm to themselves, their family and the community. The “Thinking for a Change” curriculum uses as its core, a problem solving component, embellished by both cognitive restructuring and social skills interventions. While each of the concepts are presented systemically, the participant quickly learns and appreciates that cognitive restructuring does require some cognitive skills methods, as does cognitive skills require an objective, systematic approach to identify thinking, beliefs, attitudes, and values.
2. The program was developed to be appropriate for a wide-range of offender groups. It has been used with juvenile and adult offenders. It has been implemented in all phases of the juvenile and adult criminal justice systems including pre-incarceration (Probation), in prisons and jails, as well as in community (Aftercare and Parole). The format of “Thinking for A Change” is designed so that sessions are accessible and meaningful for offenders of varying social, emotional and intellectual/academic abilities. The self-insight

and interpersonal skills offenders learn in “Thinking for A Change” are also applicable to other treatment programs, either provided simultaneously or consecutively with “Thinking for a Change.”

3. The ideal group size is between 8 to 12 individuals. “Thinking for A Change” is a highly interactive Cognitive Behavior program. Feedback is central to the process of developing Cognitive Behavior skills. The feedback process is greatly hindered as group size increases. The larger the group size, the greater the challenge to ensure that all group members participate productively.
4. “Thinking for A Change” follows guidelines for most Cognitive Behavior programs. Sessions should be offered at least twice a week with the option of offering more sessions if time allows. No more than one lesson should be taught in a day. Course participants need time between sessions to identify problem situations, examine their thinking, and practice new skills. Sessions should last between one and two hours depending on the size of the group, time of day, availability of break time, and attention span of participants.
5. “Thinking for A Change” is designed to be a close-ended group. The lessons are sequential, therefore it is necessary for all participants to begin with lesson 1 and proceed in order. In high turn-over situations or situations where offenders are moved to different facilities, lessons 10 and 16 could be considered lessons where groups could be combined.

E. Work Readiness Supportive Services

1. Work Readiness Supportive services are important to an offender’s successful reentry. Supportive services that alleviate barriers to employment are expected under this project; however, because compensation for services is based on performance, there will be no direct compensation for supportive services.
2. A service provider may leverage community public resources in order to provide the offender supportive services OR purchase those services privately. However, the service provider may not seek reimbursement.
3. Examples of supportive services expected to be provided to offenders are:
 - a. Identity Restoration (birth certificate, social security card, New Mexico I.D., etc.)

- b. Training (hard/soft skills)
 - c. Transportation assistance
 - d. Emergency housing supplements
 - e. Tools
 - f. Work clothing
 - g. Addiction and Mental Health Counseling
 - h. Legal Services
 - i. Medication assistance (while awaiting public benefits)
 - j. Enrollment in public entitlements (child care assistance, food stamps, etc.)
 - k. Other work-related supportive services
4. It is expected that if the service provider does not offer supportive services directly, they would partner with organizations who can offer the services needed for an offender's successful transition. Any organization that responds to the RFP should have the ability to offer supportive services either directly or through other partnerships.

F. Housing Placement

1. The service provider must incorporate a clear plan for programming and/or curriculum-based training (on-site at the housing place of service delivery) that promotes the MDC's goal of transforming each participant's life by encouraging a drug-free lifestyle – deliberately focusing on helping them discover ways of dealing with idle time, building relationships with drug-free associates, adjusting to the routines of day-to-day living, and re-affirming their place in society.
2. House chores, curfews, addiction recovery meetings or classes, regular and random drug and alcohol tests, and other related structure should exist in the transitional and permanent housing during at least the first 12 months of the offenders' participation in this program.

G. Job Placement and Service Opportunity

1. A growing number of former inmates face difficulties reintegrating into the workforce due to a combination of factors including substance abuse, a lack of sustained work history, deficient job retention skills, poor interpersonal skills, transportation and housing barriers, and an inability to meet the social expectations of the work place.
2. To transition into productive workers, succeed in our region's labor market, and become productive members of their neighborhoods former inmates require:
 - a. comprehensive case management and support services,
 - b. meaningful work-place experience,
 - c. community service opportunities during idle time,
 - d. an expectation of making significant yet tapered payments to repay the opportunities and benefits they are provided from service provider,
 - e. financial management assistance, and
 - f. opportunities to learn and re-learn work behavior and necessary work-place skills.
3. The service provider is expected to develop positive relationships with employers in order to encourage them to employ the formerly incarcerated.
4. Service providers are also expected to work to assist offenders in eventually obtaining full time employment that pays a "livable wage." In Albuquerque, a livable wage is defined as \$8.14 an hour, be it through regular or self-employment. Full time employment, for the purposes of this project, is defined as 36 hours per week.
5. Service providers are expected to assist inmates in procuring employment prior to release from jail.
6. In the event the offender has not obtained employment prior to release from jail, or if the offender has lost employment, the offender is expected to perform job search activities for at least 36 hours per week.
7. Offenders are encouraged to further their education or vocational preparation towards the career of their choice. Offenders may study in lieu of work full time consistent with the table below (class/work-loads not represented below, such as those credit hours that fall between those represented in the table, should be derived using the same formula of [1 credit hour equals 3 hours of employment]):

Variable Combinations of Employment and Education Permitted	Hours at Work Versus Credit Hours of Academic or Vocational Preparation				
	Option 1	Option 2	Option 3	Option 4	Option 5
Employment (hours)	36	27	18	9	0
Education or Vocational Preparation (credit hours)	0	3	6	9	12

8. Research shows that when moderate to high risk offenders are engaged with pro-social activities for 70% of their free time, their recidivism rate drops significantly. Therefore, in addition to maintaining employment or performing job search activities for 36 hours per week, approximately fifteen (15) offenders are expected to perform twenty (20) hours of community service each, per week, at an undeveloped County property at Coors and Don Felipe SW, which would consist of a landscaping, irrigation, and agricultural “enterprise” that would be developed as part of this initiative.
 - a. This property is primarily a storm drainage facility and secondarily an undeveloped park property that is being committed to this enterprise as a pilot project.
 - b. Water service needs to be brought to this property, trees and existing vegetation need to be pruned, and there are some land treatment measures to implement to ensure the success of the enterprise and the reentry program, before offenders will be able to work at this property.
 - c. The service provider will be required to participate with the County in planning necessary improvements at this property to help ensure that designed improvements will support the intended enterprise program and success for all involved.
 - d. The Enterprise will consist of successfully installing and developing hoop house, or possibly terraced land, and the associated irrigation to plant, raise, use and possibly sell various produce.
 - e. Maintenance of the irrigation system is also required and is expected to be a major teaching element of the enterprise.

- i. Irrigation could include but is not limited to traditional/non-traditional flood irrigation, traditional drip irrigation in addition to maintaining the infrastructure involved with these types of irrigation.
 - ii. Licensure in the appropriate discipline (e.g. Journeyman Sprinkler) may be required in order to perform necessary maintenance or construction of the irrigation system.
- f. The Land Management Section of the Bernalillo County Parks and Recreation Department will be able to provide limited and focused technical support in this enterprise to get it established. Involvement will be determined by the scope of work, but could include direction in soil analysis and technical irrigation support.
- g. The enterprise is also intended to prepare the offenders to re-enter society with practical work skills and values. Inmates will learn about and be able to apply the enterprise of farming, the sciences of food and agriculture, and the reward that comes from living the law of the harvest.
- h. The Central College of New Mexico (CNM) has a one-year certificate program on landscaping and horticulture (Mark to elaborate) that actively seeks students.
 - i. Reentry offenders could have the opportunity to enroll in this program and the service provider will be required to coordinate with CNM on student enrollment.
 - ii. This program teaches the basics of landscape construction and maintenance and includes soil science, plant science and irrigation design.
- i. Preference will be given to service providers capable of teaching community farming, irrigation, agriculture, horticulture, pest management and hydroponic farming.
- j. While any investment in farming projects will be funded directly by Bernalillo County, the service provider is expected to possess or be able to partner with an agency which possesses the skills to transform the available community service labor provided by the offenders into an opportunity for cultural, vocational, and motivational instruction and sustainable production.

H. Graduated Sanctions and Accountability

1. Consistent with Kohlberg's Theory of Moral Development which governs the motivational portion of the MDC Honor Dorm, from whence the participants for this project come, the service provider will be expected to collaborate with the assigned Probation Officer in the proper utilization of the validated "Ohio Progressive Sanction Grid," found in Appendix B. Given that the population targeted by this offering will continue to be supervised by New Mexico Probation and Parole, the graduated sanctions are structured to culminate in the ultimate revocation of probation.
2. The service provider will coordinate with participating employers, housing providers, community service farms, probation officers, and other partners in the application of sanctions consistent with the provided mandatory graduated sanctions grid.
3. This validated graduated sanctions grid significantly reduces reliance on revocation hearings, revocation sanctions, and local jail detention. It also offers a more efficient and concentrated use of hearings, and better congruence between offender risk and revocation sanctions.

I. Project Sequence

1. An employee at the MDC will be designated as the project coordinator.
2. The coordinator will work with workforce center employment specialists, case managers inside the MDC, probation officers, reentry specialists, and other organizations to identify and refer offenders to the project and the project coordinator.
3. The offender will meet with the project coordinator for interview, orientation and assessments.
4. The offender will choose which of one of the awarded service providers with whom the offender would like to work.
5. The offender will be introduced to the service provider while still in custody.
6. Bernalillo County's case management strategy will begin in the jail with a participant assessment that measures both risk to re-offend, and criminogenic needs (NorthPointe's COMPAS).

- a. The service provider will enroll the offender in the COMPAS system, conduct any assessments, prepare a transition accountability plan (TAP), and review the assessment and transition plan with the offender.
 - b. COMPAS will be utilized to develop each inmate's TAP.
 - c. Review of the TAP in relation to the COMPAS assessment will be the basis for what areas and for whom resources should be primarily focused.
 - d. More specifically, during this process, those prisoners who are identified as higher-risk will rank highest in priority for Bernalillo County and service provider resources and services.
7. The service provider will pair the offender with a peer mentor via initial group mentoring, begin the process of the "Strengthening Families Program", and start "Thinking for a Change" and reentry programming while the inmate is still in custody. The principles of peer mentoring via group mentoring can be explored further by reading the U.S. Department of Labor's publication on mentoring ex-offenders: http://www.doleta.gov/PRI/PDF/Mentoring_Ex_Prisoners_A_Guide.pdf
8. The TAP is updated as needed during this step and is reworked into a collaborative, inmate-centered plan involving each inmate, jail staff, probation officers, and the services provider.
- a. At this phase, both the community and the inmate are mutually preparing for the offender's release by discussing and verifying the offender's needs, such as housing, employment, substance abuse prevention and intervention, and clothing.
 - b. The TAP describes actions that will prepare the offender for release, defines the terms and conditions of that release, and specifies the supervision and services the offender will receive in the community.
 - c. During this phase, each inmate meets with his or her transition team to discuss and confirm the TAP and provide appointment dates and service-provider contact information.
9. Upon release of the offender from custody, the service provider will provide work readiness support services such as assisting the offender in identity restoration (birth certificate, social security card, New Mexico I.D., and any other documentation necessary

to obtain a job), soft skills training, transportation assistance, emergency housing, work clothes, work tools, addiction and mental health counseling, legal services, and medication assistance (while awaiting public benefits), either directly or through partnerships.

10. The service provider will provide transitional or permanent housing placement.
11. The service provider will provide career counseling, appropriate training, job placement, and follow-up services such as insuring the offenders' understanding and compliance of the conditions of the job placement, insuring the appropriate application of Thinking for a Change and reentry skills, insuring the appropriate application of soft skills such as financial literacy, and continuing to foster positive family reunification via the "Strengthening Families Program".
12. The Service provider will assess the offender, enter and maintain data, maintain job placement information, records, and case notes in accordance with the goals of the project listed under "Project Goals."
 - a. While participating in this program, the former inmate, his or her probation officer (if on probation), and the service provider chosen by the inmate work together to ensure that the inmate successfully completes each of the program benchmarks.
 - b. The offender and the service providers also prepare for the end of the project period (12 months of continuous employment), when community and faith-based providers will take over the case by providing a continuum of care that includes mentoring, development of positive social networks, and constructive community involvement.
 - c. Throughout the program, the project coordinator will be available and work with service providers to provide technical assistance, performance measure training and guidance, and other assistance as needed.

J. Contracts

Agreements will be performance based contracts with the MDC. Compensation will be per capita and paid on identified payment points. MDC benchmarks for reporting are, but not limited to:

1. Risk/Needs Assessments and Transition planning

2. Peer mentoring; “Strengthening Families Program” facilitation, “Thinking for a Change” facilitation, and reentry programming
3. Work Readiness Support Services
4. Housing Placement
5. Career Counseling
6. Job Placement
7. Follow-up Services
 - a. Employment at six (6) months
 - b. Employment at twelve (12) months

Payments to the awarded vendor will be made as offenders meet the payment points listed under “Compensation Benchmark Payment Points.”

K. Mandatory Reporting of Outcomes:

1. Percentage of clients enrolled in COMPAS, assessed, and provided a transition plan
2. Percentage of clients receiving identity restoration (birth certificate, social security card, New Mexico I.D., etc.)
3. Percentage of Clients actively case managed and receiving services monthly
4. Percentage of clients enrolled in public medical benefits
5. Percentage of clients screened for other public benefits
6. Percentage of clients enrolled in other public benefits
7. Percentage of clients retained in program (actively) after three months
8. Percentage of clients retained in program (actively) after six months
9. Percentage of clients retained in program (actively) after twelve months
10. Percentage of clients completing “Thinking for a Change”
11. Percentage of clients completing “Strengthening Families Program”

12. Percentage of clients completing reentry programming
13. Percentage of clients completing career counseling program
14. Percentage of clients obtaining transitional or permanent sober housing
15. Percentage of clients continuing to work with mentor after 30 days
16. Percentage of clients continuing to work with mentor after 90 days
17. Percentage of clients continuing to work with mentor after 6 months
18. Percentage of clients continuing to work with mentor after 12 months
19. Percentage of clients who obtained employment through contractor referral
20. Percentage of clients who obtained employment prior to release from jail
21. Percentage of clients who obtained employment within one week of release from jail
22. Percentage of clients who obtained employment within one month of release from jail
23. Percentage of clients who obtained employment on their own
24. Percentage of clients earning \$8.14 an hour and working at least 35 hours per week
25. Percentage of clients in weekly attendance at community service farms.
26. Percentage of clients who remained employed (in one or more jobs) for six months
27. Percentage of clients who remained employed (in one or more jobs) for nine months
28. Percentage of clients who remained employed (in one or more jobs) for twelve months
29. Percentage of clients actively case managed and receiving services who test positive for illegal substances after three months
30. Percentage of clients actively case managed and receiving services who test positive for illegal substances after six months
31. Percentage of clients actively case managed and receiving services who test positive for illegal substances after nine months

32. Percentage of clients actively case managed and receiving services who test positive for illegal substances after twelve months
33. Percentage of clients detained for a probation violation
34. Percentage of clients actively case managed and receiving services re-incarcerated for a new offense

L. Project Funding

1. The MDC's goal is to award and contract with a minimum of one(1), and a maximum of five (5) service providers in the Albuquerque Metro area, but will award based on meeting the requirements of the RFP.
2. The maximum amount of funding a service provider can receive for each offender is approximately three thousand dollars (\$3,000.00) per offender.
3. Funding for this project is performance based, and therefore the MDC does not guarantee funding for any awarded vendor.
4. Each awarded vendor will be funded based on offender choice and organization performance.
5. The MDC reserves the right to increase and/or decrease awarded vendor's Contracts as needed based on offender choice and organization performance.

M. Project Performance Measures

1. There are four (4) performance measures or outcome measures that will be used for this project:
 - a. Entered Employment rate
 - b. Employment Retention rate
 - c. Earnings
 - d. Recidivism rate
2. In addition, the MDC requires the reporting of:
 - a. Enrollment rate

- b. Participation in training/programming
 - c. Workforce preparation
 - d. Restoration of client identification
3. The service providers are responsible for meeting the project performance measure requirements of the contract and may be compensated at each payment point specified in “Project Benchmark Payment Points.”
4. The MDC requires quarterly and final written reports based on these project performance measures and USDOL benchmarks.
- N. Awarded Vendor Compensation Benchmarks
- 1. This awarded vendor compensation format is different because the compensation is based on performance.
 - 2. There are eight (8) different payment points and each payment is based on the completion of a task, which directly relates to performance measures identified under “Project Performance Measures” above.
 - a. The first (1st) payment point will be based on enrollment, assessment, and transition planning in the NorthPointe COMPAS;
 - b. The second (2nd) payment will be paid upon the successful matching of the offender with a peer mentor, upon the completion of the “Strengthening Families Program”, upon completion of the “Thinking for a Change” program, upon completion of the reentry programming, and upon completion of any prescribed in-custody programming (anger management, addiction education, etc.). If the offender has no family with whom to reunite, or if the family is not willing to participate, the service provider is permitted to skip family reunification, but the service provider will be paid a reduced amount;
 - c. The third (3rd) will be paid upon the provision of all required work readiness support services, as defined in your proposal;
 - d. The fourth (4th) payment will be paid upon the successful placement of the offender in transitional or permanent “sober” housing;

- e. The fifth (5th) payment will be paid upon the provision of career counseling and the confirmation of 30 days retention of mentee;
 - f. The sixth (6th) payment will be paid when an offender is placed in a job earning \$8.14 per hour, the awarded vendor provides verification that offender is working 35 hours per week, and confirmation of 60 days of retention of mentee is provided;
 - i. Please note that the development of a resume must be included in the work readiness class.
 - ii. Please note that the job placement payment point will only be paid when an offender is placed in a job earning \$8.14 per hour.
 - iii. If an offender is placed in a job making less than \$8.14 per hour, the service provider is expected to enter the job in the NorthPointe COMPAS system and then continue to work with the offender until s/he is earning \$8.14 per hour.
 - iv. Once the offender reaches the \$8.14 per hour, the service provider will be paid.
 - g. The seventh (7th) payment will be paid upon completion of the 6 month program and/or needs assessment/ no recidivism/ no drugs or alcohol consumed by anyone in the home during this period, and confirmation of 6 months of retention of mentee is provided; and
 - h. The eighth (8th) payment will be paid upon completion of the 12 month program and/or needs assessment/no recidivism.
- O. Compensation Benchmark Payment Points:
- 1. \$100.00 enrollment, assessment, and transition planning in COMPAS;
 - 2. \$700.00 successful matching of a peer mentor, completion of “Thinking for a Change” and reentry programs, and completion of the “Strengthening Families Program” (the service provider will only receive \$400 if the inmate does not have family with whom to participate in “Strengthening Families Program”, or if the inmate’s family is unwilling to participate in the process);

3. \$400.00 work readiness support services as defined in your proposal;
 4. \$500.00 placement in permanent or transitional sober housing (MDC must approve the housing and verify that it no one living in the housing consumes drugs or alcohol at any point);
 5. \$200.00 career counseling, as defined in your proposal, provided to offender (The MDC will only compensate the service provider for approved and bona fide career counseling given in its entirety), and the confirmation of 30 days retention of mentee;
 6. \$500.00 job placement in a job earning \$8.14 per hour and provided verification that job is for at least 35 hours per week, and confirmation of 60 days of retention of mentee is provided;
 7. \$300.00 6 month program and/or needs assessment/ no recidivism/ no drugs or alcohol consumed by anyone in the home during this period, and confirmation of 6 months of retention of mentee is provided; and
 8. \$300.00 Bonus Payment for 12 month program and/or needs assessment/ no recidivism/ no drugs or alcohol consumed by anyone in the home during this period.
- P. Proposal Narrative (This Section has a twelve (12) page limit.)
1. Organizational Capacity - in this section the vendor should demonstrate their capability to provide/deliver the services needed under this project. The vendor should describe:
 - a. Who Are You
 - b. Type of Organization
 - c. Management and Key Players in Offender Programs
 - d. Roles of Each
 - e. Background, Experience and Other Qualifications of Staff
 - f. Length of Time Delivering Services
 2. Project Management – Describe the capacity of the organization’s staff in managing contracts and managing partners. Need to show that your organization has the experience

to manage this project. Specifically include organizational capabilities and previous history of managing:

- a. Performance-Based Projects
 - b. Billing and Accounting
 - c. Performance Measures/Outcomes
 - d. Case Management
3. Project Design and Service Strategy – Describe your project design and service strategy. Describe your strategies on how you help offenders succeed and meet the performance goals.
 4. Assessments/Intake – Explain how you plan to use the COMPAS assessments to plan and direct your service delivery.
 5. Case Management Style – What services will be provided through case management and how often do you plan to communicate with your offenders.
 - a. How will you use COMPAS to keep track of your offenders?
 - b. Types of Services (employment and others) you currently deliver
 - c. Types of Training You or Your Partner’s will Offer Offenders
 - d. Describe Proposed Services in Detail
 - e. Describe Your Follow-Up Services
 - f. How Long You Have Been Delivering Services
 - g. Success on other projects, projects or programs
 6. Describe your process working with offenders from the moment the offender walks in the door until the time the offender transitions into a job.
 7. Experience – As explained in this RFP, the MDC cannot fund any organization that is not, or has not provided services to offenders. If the organization is newly formed, the individuals working with the offenders must have experience working with this

population. Discuss the amount of experience you and/or your organizations/partnerships have working with offenders and:

- a. Performance Measures/Outcomes
 - b. Case Managing Offenders
 - c. Workforce Centers
 - d. Departments of Corrections
 - e. Faith- and Community-Based Organizations
8. Partnerships – Describe any partnerships that you may have that offer resources for the offenders you serve that you plan on partnering with for this project. Please describe the services they offer. Please include any partnerships with your local Workforce Centers, Federal and/or State or County Corrections, Re-entry Specialists, FBOs and CBOs.
9. Do you refer offenders you serve to partners for help? If so, describe the types of services and how the partnership works (referral? on site?) and then how do you plan on keeping track of the services they offer your clients?
10. Thoroughly detail how you will provide assistance in securing/restoring offender identification (birth certificate, social security card, New Mexico I.D., etc.)
11. Housing Placement Plans
- a. Describe how you will provide housing placement and housing search assistance to each client.
 - b. Describe how you will assist clients in navigating through rental assistance programs and publicly funded housing programs.
 - c. Describe how you will develop positive relationships with property owners to encourage renting to the formerly incarcerated (who have income and/or monthly entitlement support)
12. Job Placement Plans
- a. Describe your job placement and performance strategies and your connections with employers, markets, or industries.

- b. Describe how you plan to bring your clients to an income of \$8.14 an hour, whether self-employed or otherwise.
- c. Describe your organization's previous experience working with employers in the community.
- d. Include as attachments to your proposal - no fewer than 10 letters of support from employers who have agreed to act as transitional job or unsubsidized employers within the MDC Reentry Initiative program structure.
- e. Describe your plan for formally interacting with collaborators, especially the employer community.
- f. What are the current formal or informal partnerships/agreements/collaboration efforts you have that will further assist in the comprehensive delivery of services to the targeted population?

13. References and Partnership

- a. Please provide five community service provider/public service agency references that can provide reference to your organization's history of coordinating services among multiple providers consistent with jail reentry services.
- b. What are the current formal or informal partnerships/agreements/collaboration efforts you have that will further assist in the comprehensive delivery of services to the targeted population?
- c. Please provide a minimum of five community service provider/public service agency letters of reference that speak to your organization's history of coordinating services among multiple providers consistent with reducing the barriers faced by former inmates to successfully reintegrate back into the community.

14. Mentoring Potential

- a. Please detail your overall vision, framework, and expectations for the development and implementation of mentoring programs for the partner institutions involved in your application.

- b. Please give a brief description of your alliance or coalition’s current community outreach programs/ministries, activities specifically geared toward former inmates and/or individuals with felony backgrounds.
- c. Mentoring Institutions
 - i. Mentoring institutions will be required to detail their planned strategy to occupy considerable amounts of time of a participant’s day when they are not working or engaged in program services.
 - ii. Mentoring institutions should demonstrate that their mentoring plans are based on the assessment of the participant and detail how they will prioritize meeting his/her criminogenic needs, as well as how they will work with participant, and his/her probation officer and/or community case management agency to guide the participant to various supportive services.
 - iii. Mentoring institutions should demonstrate the capacity to engage participants in pro-social activities; formal structures that focus on issues of work identity, connection to the workforce, family expectations, and reintegration challenges.

Q. Payment Point Services Narrative (This Section is not counted toward the twelve (12) page limit.)

- 1. In the payment point services narrative part of your proposal, please provide a description on the services and/or training that you will provide offenders at each payment point.
- 2. It should also provide a description of your performance structure; what you are going to deliver at each point – please provide details.

R. Line Item Budget Narrative (This Section is not counted toward the twelve (12) page limit.)

- 1. As stated in the Section IV.G., this project pays up to \$3000.00 per offender if all payment points are met. In the line item budget narrative part of your proposal, please provide a line item budget in order to justify the \$3000.00 per client.
- 2. In addition to the first part of the budget narrative, please describe any leveraged resources and the partnership in which they are connected.

S. Minimum Qualifications for all Bidders

Community and faith-based public or private non-profit organizations are encouraged to apply. Organizations must meet or exceed all of the following criteria in order to be considered as a possible contractor:

1. Non-profit status under Internal Revenue Code. IRS DETERMINATION LETTER MUST BE ATTACHED TO RFP RESPONSE
2. Be fiscally sound as verified through independent audit within the past three years from the date of RFP response. MUST BE ATTACHED TO RFP RESPONSE
3. Maintain a clear management structure as proven through an organizational chart. MUST BE ATTACHED TO RFP RESPONSE
4. Have an organizational mission that is service-oriented.
5. Demonstrated experience providing services to moderate-to-high risk criminal justice system participants.
6. Demonstrated history and experience in providing reintegration assistance to former inmates with a clear understanding of the housing, employment, and sobriety challenges faced by this population.
7. Verification of an existing service delivery location within Bernalillo County that has the capacity and minimum operational requirements to implement services immediately upon contract award.
8. Any RFP Response submitted without the above attachments, and/or not meeting the minimum qualification standards will be disqualified.
9. Any collaboration of two or more entities must clearly provide the following information in the narrative portions of the RFP:
 - a. Identify the lead agency for the collaborative partnership (must meet the 7 minimum requirements).
 - b. State the roles and responsibilities of each collaborator and how long the collaboration has been in existence.

- c. Include an organizational chart for each organization and for the collaboration.
- d. Describe how funds will flow within the collaboration.
- e. Identify the qualified fiscal agent for the collaborative partnership, if different than the stated lead agency.

Appendix E: Criminal Pretrial Settlement Conferences: Best Practice Lessons from Urban Trial Courts, Including the Superior Court of Arizona for Maricopa County



Criminal Pretrial Settlement Conferences: Best Practice Lessons from Urban Trial Courts, Including the Superior Court of Arizona for Maricopa County

August 31, 2009

Introduction

In 2009, the Supreme Court of New Mexico approved the use of settlement conferences (often known as criminal pretrial conferences) in the District Court for the Second Judicial District in Bernalillo County. To aid the development and implementation of such settlement/pretrial conferences for felony cases in Bernalillo County, the National Center for State Courts (NCSC) has been asked to provide this “white paper.”¹ It outlines best practices from urban trial courts around the country, with particular reference to experience in the Maricopa County Superior Court in Phoenix, Arizona. The overall theme for this white paper is that successful use of criminal pretrial/settlement conferences requires that they be part of a broader effort by the court and its justice partners to see that justice is done in a prompt manner that serves the interests of both case participants and taxpayers.

Lessons from Urban Trial Courts Generally

A trial court’s use of settlement/pretrial conferences in felony matters can be an important part of a caseload management effort.² In order for criminal pretrial conferences to work successfully, the following are critical:

- Court commitment to achieving justice promptly;
- A strong commitment by the prosecutor’s office to speedy case processing; and

¹ This paper was prepared for the study of felony caseload management in the Second Judicial District of New Mexico, under a contract between the County of Bernalillo, New Mexico and the National Center for State Courts, by David C. Steelman (dsteelman@ncsc.org; mobile phone 603-391-2374) and Gordon M. Griller (ggriller@ncsc.org; mobile phone 480-209-9621).

² See Barry Mahoney and Dale Sipes, “Toward Better Management of Criminal Litigation,” 72 *Judicature* (No. 1, June/July 1988) 29.

- Commitment by public defenders and others representing criminal defendants not only to providing effective assistance of counsel, but also to resolving cases expeditiously in recognition of speedy trial requirements.

In view of the fact that about 95% of all criminal cases in American trial courts are disposed by plea or other nontrial means, criminal caseflow management should focus on ways to provide for meaningful plea discussions between prosecution and defense counsel, beginning at an early stage of proceedings. This includes the following:

- Early determination of defendant eligibility for counsel at public expense, so that defendants can be represented by counsel as soon as possible after arrest and initial appearance in Bernalillo Metropolitan Court;
- Early opportunities for defense counsel to meet with their clients;
- Prompt provision of arrest reports, recorded statements and other police information by law enforcement officers to the prosecutor’s office;³
- Prosecution provision of an early “discovery package” to defense counsel to promote meaningful early discussion of disposition options between prosecution and defense counsel;⁴
- Realistic plea offers by the prosecution as early as possible;⁵
- Defense counsel preparation to negotiate, balancing the best interests and constitutional rights of their clients, and including meetings with their clients;
- Court insistence that counsel meet deadlines for case preparation and monitoring of the scheduling of pretrial settlement conferences to identify and resolve reasons for unnecessary continuances and rescheduling;⁶
- Early court decisions (preferably before pretrial settlement conferences) on admissibility of evidence, most notably regarding defense motions to suppress evidence;
- Court and prosecution commitment to enforcing a “plea cutoff date” policy;⁷
- To help prosecution and defense counsel be focused on achievement of negotiated pleas as part of the pretrial settlement conference process, court provision of firm and credible trial dates.

³ To avoid problems that may arise *after* cases have been filed in court, it may be necessary for the district court in Bernalillo County to work with prosecutors and law enforcement officials to address *pre-filing* issues associated with police and prosecutor activities immediately after arrest.

⁴ Unless and until the prosecution has provided suitable discovery to the defense attorney, there can be no meaningful opportunity for plea discussions. To avoid unnecessary multiple rescheduling of criminal pretrial settlement conferences, it is critical for this to be addressed as early as possible in the felony process.

⁵ A realistic plea offer is one that can be seen by defense counsel and the defendant as being sound on the specific evidence in the case and reflects a reasonable prediction of the likely outcome in the case. Unless a prosecutor is willing to make such offers, defense counsel will maintain that “justice delayed is justice achieved,” and criminal pretrial settlement conferences will fail to achieve early case dispositions.

⁶ For a model continuance policy, see Appendix A.

⁷ For the elements of a successful plea cutoff policy, see Appendix B.

Lessons from Maricopa County Superior Court

National-scope studies of delay in urban trial courts show that the judges, court staff and justice partners of the Arizona Superior Court for Maricopa County in Phoenix have for decades sought to assure that justice is done promptly in the felony and civil matters that come before it.⁸ As a result, it has long been recognized as a court with a long and successful history of managing delay.⁹ Presented here are best practices from the successful operation of criminal pretrial conferences in the Maricopa County Superior Court.

Prior to the Conference

- The **pretrial should be thought of as a process** rather than a conference, because the progression of narrowing the issues, clearly identifying the options, and assessing the arguments culminates in negotiated pleas.
- It is **critical for the court to promote preparation by the lawyers prior to the conference**. The oft mentioned caseflow adage that prepared lawyers settle cases is based on hard evidence and documented fact. The earlier a case is prepared for trial, the earlier it can be resolved by the parties. Counsel preparation is the single most important factor in settlement.
- Since lawyers are more prone to prepare for meaningful events; the **conference must be seen by all as an important significant event**. Not a mere status conference which many meaningless pretrials essentially are where the judge inquires of the parties what they have done, the lawyers explain why things are not moving along as they should, the judge admonishes the lawyers and then another pretrial conference date is set.
- The **conference must be realistically set**; far enough in advance (i.e., 2 weeks prior to the trial date is a common point) to permit preparation, but short enough to stimulate preparation.
- An effective trial management conference **requires that the lawyers be substantially ready for trial**.
- The **lawyers who will try the case and the defendant must be present**.
- Normally, in a criminal management conference, the **assigned trial judge is not the trial conference judge** unless the parties so stipulate.
- Under the NM Supreme Court permitted criminal trial management conference pilot project, the **trial conference judge takes a more active role in presenting information to the defendant**. This requires that the judge be relatively familiar with the nature of the offense, the prosecutor's plea offer, the defendant's criminal history, and defense arguments.
- To ensure the trial management conference is successful, **it would be wise that the court require counsel to prepare certain documents in advance of the**

⁸ See, for example, Thomas Church, et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (NCSC, 1978); Larry Sipes, et al., *Managing to Reduce Delay* (NCSC, 1980); Barry Mahoney, et al., *Changing Times in Trial Courts: Caseflow Management and Delay Reduction in Urban Trial Courts* (NCSC, 1988); and John Goerdts, et al., *Reexamining the Pace of Litigation in 39 Urban Trial Courts* (NCSC, 1991).

⁹ See William Hewitt, et al., *Courts That Succeed: Six Profiles of Successful Courts* (NCSC, 1990).

pretrial. Discussion and agreement among public lawyers and the court regarding the exact requirements and documents should be decided in establishing the pilot. The Maricopa Superior Court model, although discretionary, often requires a settlement memorandum be filed.

At the Conference

- **Strict adherence to a plea cut-off date.** Normally, the plea offer should expire no later than 24 hours after the trial management conference. Negotiated dispositions are based on an early, realistic offer that is unlikely to improve substantially with the passage of time. (See Appendix B.)
- **Conference should last no longer than 45 minutes.**
- **Level-headed discussion of major discovery elements, but not in an adversarial manner.** The pretrial is not intended to engender arguments, but to present data and options.
- **Informal setting** at a counsel table in the courtroom, a conference room or jury room, generally with the judge robed.
- Judge explains the **three-fold purpose** of the conference: give information to the defendant, advise the defendant of the evidence, and examine the plea offer.
- Judge reviews the **context in which the pretrial or trial management conference is offered**...it is non-coercive (not trying to force the defendant to enter a plea), it examines the role of the jury regarding conviction and acquittal and it relates the settlement statistics for like criminal cases, indicating that most arrive at a negotiated plea.

APPENDIX A. MODEL CONTINUANCE POLICY¹⁰

It is the policy of this Court to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. For all of its case types and dockets, and in all of its courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. To protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

Except in unusual circumstances, any continuance motion or request must be in writing and filed not later than [48 hours] before the court event for which rescheduling is requested. Each continuance motion or request must state reasons and be signed by both the attorney and the party making the request.

The Court will grant a continuance only for good cause shown. On a case-by-case basis, the Court will evaluate whether sufficient cause justifies a continuance. As a guide to practitioners, the following will generally *not* be considered sufficient cause to grant a continuance:

- Counsel or the parties agree to a continuance;
- The case has not previously been continued;
- The case probably will settle if a continuance is granted;
- Discovery has not been completed;
- New counsel has entered an appearance in the case or a party wants to retain new counsel;
- Unavailability of a witness who has not been subpoenaed;
- Plaintiff has not yet fully recovered from injuries when there is no competent evidence available as to when plaintiff will be fully recovered;
- A party or counsel is unprepared to try the case for reasons including, but not limited to, the party's failure to maintain necessary contact with counsel;
- The failure to schedule the hearing on a suppression motion on a timely basis unless the prosecution failed to comply with a discovery order;
- A police officer or other witness is either in training or is scheduled to be on vacation, unless the Court is advised of the conflict soon after the case is scheduled and sufficiently in advance of the trial date;

¹⁰ This model policy was originally developed by David C. Steelman, Principal Court Management Consultant, National Center for State Courts, at the request of the Presiding Judge of the Yamhill County Circuit Court in McMinnville, OR, in 2006, as part of a caseload management technical assistance program with the Oregon Judicial Department. It has been revised in 2009 as part of a technical assistance project with the Alaska Judicial Department and the Alaska Superior Court for Anchorage, incorporating examples of grounds on which continuances would generally be granted or not granted in substantial reliance on the continuance policy published by the Circuit Court of Petersburg, VA (11th Judicial Circuit)(© Supreme Court of Virginia 2009) (see <http://www.courts.state.va.us/courts/circuit/Petersburg/continuance.html>, as downloaded on June 23, 2009).

- Any continuance of trial beyond a second trial date setting.

The following will generally be considered sufficient cause to grant a continuance:

- Sudden medical emergency (not elective medical care) or death of a party, counsel, or material witness who has been subpoenaed;
- A party did not receive notice of the setting of the trial date through no fault of that party or that party's counsel;
- Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship or possibly miscarriage of justice if the trial is required to proceed as scheduled;
- Unanticipated absence of a material witness for either party;
- Illness or family emergency of counsel.

Any grant of a continuance motion or request by the Court shall be made on the record, with an indication of who requested it and the reasons for granting it. Whenever possible, the Court shall hold the rescheduled court event not later than [7 days] after the date from which it was continued.

Information about the source of each continuance motion or request in a case and the reason for any continuance granted by the Court shall be entered for that case in the Court's computerized case management information system. At least once a quarter, the chief judge and other judges of the Court shall promote the consistent application of this continuance policy by reviewing and discussing a computer report by major case type on the number of continuances requested and granted during the previous period, especially as they relate to the incidence and duration of trial-date continuances. As necessary, the Court shall work with bar representatives and court-related agencies to seek resolution of any organizational or systemic problems that cause cases to be rescheduled, but which go beyond the unique circumstances of individual cases.

APPENDIX B. ELEMENTS OF A SUCCESSFUL “PLEA CUT-OFF” POLICY FOR CRIMINAL CASES¹¹

Introduction¹²

In view of the fact that about 95% of all criminal cases are disposed by plea or other non-trial means, criminal caseload management should focus on ways to provide for meaningful plea discussions between prosecution and defense counsel, beginning at an early stage of proceedings. Prosecutors should be prepared to make realistic plea offers as early as possible. Defense counsel, in turn, should be prepared to negotiate, balancing the best interests and constitutional rights of their clients.

The court should establish and be prepared to enforce a “plea cut-off” policy. Under such a policy, the court in a scheduling order might establish a date for prosecution and defense counsel to meet to discuss the possibility of a plea, at which the prosecutor’s office would be prepared to make its best offer to the defendant. A plea cut-off date, perhaps a week after that conference and one or two weeks before the scheduled trial date, would be the last date on which the defendant could accept the prosecution’s best offer. If the defendant sought to plead guilty after that date, he or she would have to plead to the original charge filed by the prosecutor. There would be no benefit for the defendant to wait, since the prosecutor’s offer would not “get better” from a defense perspective.

Necessary Features

In order for a plea cut-off policy to be successful, there are certain features that must be present. They are the following:

- The court and the prosecutor’s office must both be committed to making the program work.
- The program must provide an opportunity for a “best-and-final” prosecution plea offer after defense counsel has (a) received sufficient discoverable evidence to assess the strength of the prosecution’s case, and (b) met the defendant enough to have attorney-client credibility in discussion of the prosecution offer.
- The prosecutor’s office must make a best-and-final plea offer that is really a “good offer” – that is, one that is credible based on the evidence and what a reasonable defense attorney would expect to happen if the case went to trial.
- There should be a plea cut-off date after which the prosecution’s best-and-final plea offer is no longer available.
- Even though the court cannot be expected to reject a defendant’s guilty plea, even on the day of trial, the court must be firm in its enforcement of the plea cut-off

¹¹ This document was originally prepared by David Steelman, Principal Court Management Consultant, National Center for State Courts, on September 13, 2008, in response to a technical-assistance request from Suzanne H. James, Court Administrator for the Circuit Court for Howard County in Ellicott City, Maryland.

¹² David Steelman, with John Goerdt and James McMillan, *Caseload Management: The Heart of Court Management in the New Millennium* (NCSC, 2004 edition), p. 33.

date. This means that in almost all circumstances, absent unforeseen developments, most or all of the criminal judges must require the defendant to “plead straight up” or “make a naked plea,” without the benefit of the best offer made by the prosecutor.

Other Features Promoting Success

The success of a plea cut-off policy requires that the above features be present. There are other features that can enhance the likelihood of success. These include the following:

- Court capacity to provide credible trial dates.
- Early prosecution screening of cases to assure that charges fit the evidence.
- Early determination of defendant’s eligibility for representation by the public defender or otherwise at public expense.
- Early defense counsel contact with the client to develop a working attorney-client relationship.
- Early prosecution provision of a “discovery package” to defense counsel, with sufficient information to allow defense counsel (a) to identify any potential suppression issues, and (b) otherwise to assess the strength of the prosecution case.
- Timing of the final prosecution-defense plea discussion close enough to the trial date for the defendant to take the prosecution’s best-and-final offer seriously, but enough in advance of the trial date to allow the court scheduling flexibility if the defendant decides to accept the prosecution offer and plead guilty on or before the plea cut-off date.

Appendix F: *Felony Caseflow Management in Bernalillo County New Mexico*



Felony Caseflow Management in Bernalillo County, New Mexico

November 2009

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National Center for State Courts

This document was prepared under a February 2009 agreement between the National Center for State Courts (NCSC) and the County of Bernalillo, New Mexico (County), for a study of criminal felony case processing, with particular attention to the Second Judicial District Court of New Mexico (Court). The points of view and opinions expressed in this report are those of the authors and do not necessarily represent the official position or policies of the County or the Court. NCSC grants the County and the Court a royalty-free, non-exclusive license to produce, reproduce, publish, distribute or otherwise use, and to authorize others to use, all or any part of this report for any governmental or public purpose.

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Felony Caseflow Management in Bernalillo County, New Mexico

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PREFACE

This report was prepared under a February 2009 agreement between the National Center for State Courts (NCSC) and the Bernalillo County for a study of felony case processing in the Second Judicial District Court of New Mexico. The findings are based on interviews, observations, published reports, and felony case processing data provided by the District Court and the Bernalillo County District Attorney's Office. Limitations of time and budget prevented NCSC from inspecting individual case files on which such data were based. Moreover, the case processing data reflect a "snapshot in time" of criminal justice practices, which can and should change in response to economic and social factors, changes in statutes and court rules, and adoption of best practices as recommended here.

The members of the NCSC project team wish to express their gratitude and appreciation for all of the assistance and gracious hospitality we received from everyone that they worked with in Bernalillo County. In particular, we want to express thanks for the advice and guidance given us by Second Judicial District Court Chief Judges William Lang and Ted Baca, Criminal Division Presiding Judge Albert "Pat" Murdoch, Bernalillo County Manager Thaddeus Lucero, and other members of the executive leadership team for this project; and Juanita Duran and Mark Pickle of the Second District Court and Destry Hunt of Bernalillo County Government for assistance with the myriad details of completing the project.

HIGHLIGHTS OF FINDINGS AND RECOMMENDATIONS

Chapter I. What the Numbers Show about Felony Case Processing Times

Highlights of Findings:

- District Court's pending inventory was about 20% higher on 2/28/09 than on 6/30/04.
- For felony cases with indictments, elapsed time from arrest to indictment averages about 4 months.*
- Since fiscal year 2004-05, the District Court has disposed of more than half its criminal cases in less time than the statewide average.
- District Court elapsed time from filing to nontrial disposition averages almost 6 months.*
- District Court elapsed time from filing to jury trial disposition averages almost 20 months.*
- About 60-70% of cases have failures to appear and bench warrants.

Highlights of Recommendations:

- District Court monitoring of felony case processing times should begin at arrest and should include the date of initial appearance and determination of probable cause. Scheduled court events and continuances should routinely be made available from judges' chambers to the District Court's central case information system. The Court should continue monitoring felony clearance rates and should routinely monitor how many cases were older than applicable time standards at disposition; how many active pending cases are currently approaching or older than applicable time standards; and how frequently does the trial in a case actually commence on the first-scheduled trial date.

Chapter II. Understanding the Numbers

Highlights of Findings:

- Average length of stay in pretrial detention for serious felons is about 8-9 months.
- Even with electronic records, exchange of information between Metro Center, District Court and other criminal justice partners is largely by paper.
- Initial arrest reports from APD routinely take 30-90 days to be transmitted, and there is a dramatic difference of perspective between APD and other criminal justice partners.
- APD has increased its sworn officers, but it has a shortage of non-sworn staff.
- Sixty-four percent of those booked at MDC are released from jail shortly after initial appearance in Metro Court. Most are charged with minor violations.
- Virtually all felony cases in Bernalillo County are prosecuted by indictment.
- Cases are assigned to individual judges at or soon after arraignment. The exercise of peremptory removal supports at least an appearance of "judge shopping," and some judges may have significantly fewer active assigned cases, with their approach to dealing with cases being seen as a burden on their colleagues.
- Rule 5-501 provides that unless the Court orders a shorter time, the DA must disclose discoverable evidence to the defendant within 10 days after arraignment or waiver of arraignment. The DA's Office understands this to mean that there is no entitlement to discovery before indictment.
- Continuing problems in the transmission of police reports and other discoverable information from the APD to the DA's Office are seen as a source of discovery delay.
- Rule 5-604 provides that a trial must typically commence within six months after arraignment, providing that a case can be dismissed with prejudice if trial is not started within time limits. It appears that this sanction is seldom applied, however. Since almost two-thirds of all cases had at least one bench warrant, it is likely that time extensions are often granted because a defendant had failed to appear.

* Limitations of time and budget prevented NCSC from inspecting individual case files on which the data from the Bernalillo County District Attorney's Office and Second Judicial District Court were based to determine the reasons for elapsed times in specific cases.

Chapter II. Understanding the Numbers (continued)

Highlights of Recommendations:

- There should be a coordinated, sustained effort toward integrating and sharing electronic data among the various digitized case management systems in the county.
- The District Court should explore the possibility of assuming responsibility for felony inmate jail monitoring from the County.
- The APD Records Department should be reorganized and staffed more appropriately. Electronic field automation incident reporting should be integrated with Records Department business practices and paper records from other sources.
- Compatibility between BCSO and APD electronic computer report writing systems should be sought. The DA's Office and the Public Defender's Office should adjust business processes and introduce software as necessary to promote efficient electronic receipt of law enforcement reports and discoverable information.
- Serious consideration should be given to ways that more cases can be resolved before indictment.
- A probation violation calendar should be established by the District Court and overseen by a specially-assigned PV judge, who need not be the sentencing judge.
- The DA's Office should consider having many more felonies prosecuted by information rather than by indictment. An ad hoc committee led by the Chief Judge and composed of knowledgeable and high-level prosecutors and defense lawyers should be created to explore earlier discovery exchange geared toward prosecutions by information and early pleas at or before District Court arraignment.
- Consistent with its authority under Rule 5-501 to order earlier discovery, the District Court should encourage the DA's Office to disclose discoverable information before indictment to allow an experienced attorney from the Public Defender's Office to review a case before indictment and engage in discussions with a prosecutor about a possible plea or the most suitable way to proceed on felony charges.
- After communication with the District Attorney's Office and the Public Defender's Office, the District Court should consider the introduction of a plea cutoff policy to promote earlier pleas and greater certainty of trial dates. (See Appendix E for more details.)
- The Criminal Division should adopt a policy limiting unnecessary continuances, reflecting best practices for the management of criminal cases and the need to provide credible trial dates. (See Appendix D for a model continuance policy.) This policy should be applied with reasonable consistency by all the judges of the Criminal Division.

Chapter III. Comprehensive Caseflow Management Improvement Program

Based on their assessment of felony case-processing situation in Bernalillo County, the NCSC project team members offer an overall program for felony caseflow management improvement with the following features:

- There should be consensus and commitment to caseflow management among Criminal Division judges.
- The DA's Office should work with law enforcement on early provision of reports and early discovery exchange.
- Defense counsel must have early contact with clients and be conversant with cases at the first pretrial conference.
- There should be established criteria for success in timely case processing.
- Information technology improvements are needed to provide efficient information exchange and effective case status monitoring.
- The District Court and each of its criminal justice partners should take steps to exercise active caseflow management.
- There should be consensus about priorities and implementation steps.

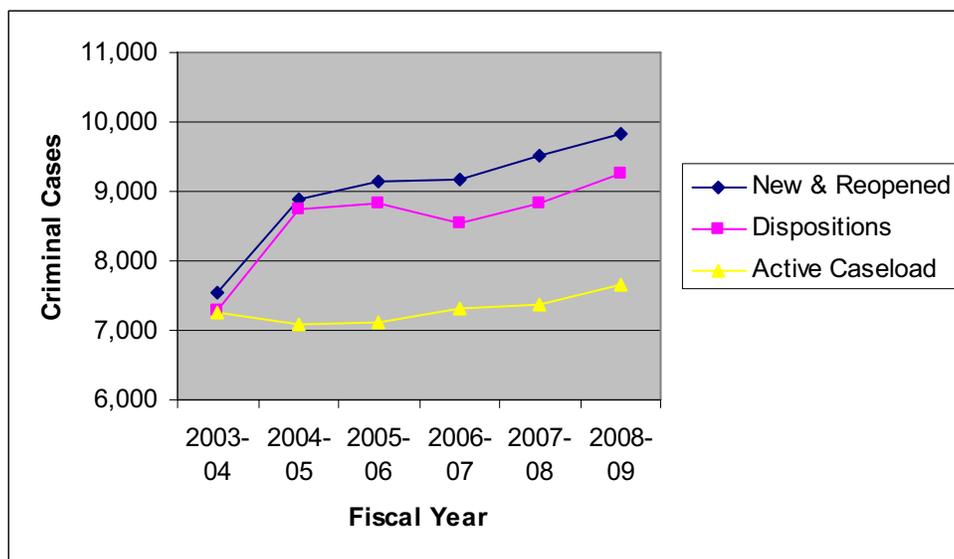
Chapter I. What the Numbers Show about Felony Case Processing Times in Bernalillo County

A. Introduction

Primary responsibility for felony case processing in Albuquerque and Bernalillo County is in the Criminal Division of the Second Judicial District Court. The Criminal Division has ten judges, including the Presiding Judge. The criminal caseload of the Court far exceeds that of the other 12 judicial districts in New Mexico, amounting to more than one-third of the statewide total.

1. Filings and Dispositions. From fiscal year 2003-04 to fiscal year 2004-05, the number of new criminal cases filed or reopened increased by almost 18%. Yet the Court was able to increase its dispositions by 20%, so that the active pending caseload at the end of June 2005 was actually lower than it had been a year before. For fiscal years 2005-06 and 2006-07, the growth in new or reopened cases was slower, as Figure 1 illustrates, and the Court was able to prevent any substantial growth in its active pending caseload.

Figure 1. Second District Court Trends in Criminal Cases Filed or Reopened versus Cases Disposed, FY 2003-04 through FY 2008-09

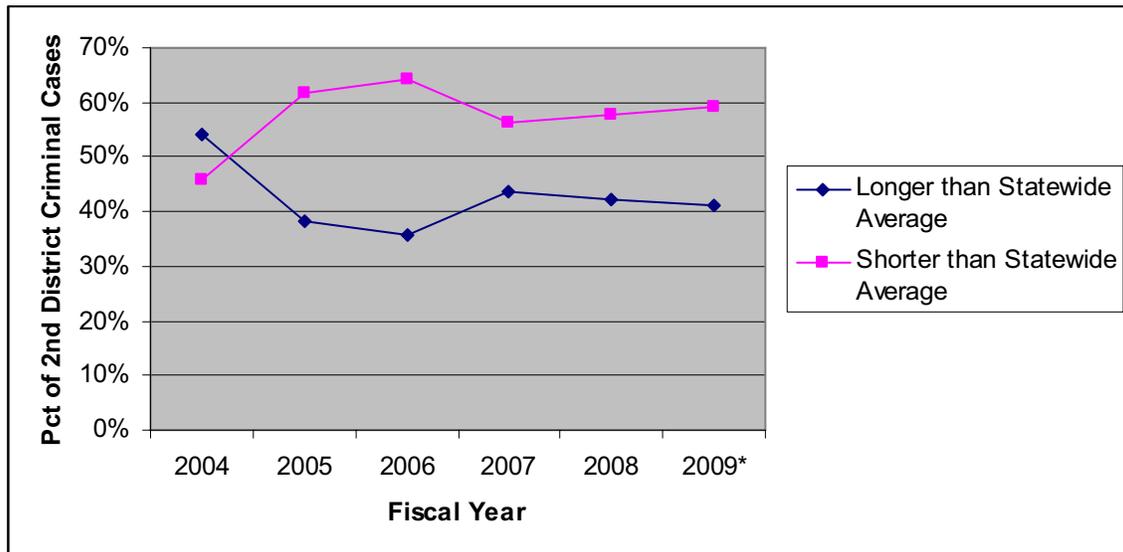


In fiscal years 2007-08 and 2008-09, however, increases in the number of new filings and reopened cases were more substantial, by 22% over fiscal year 2007-08. The criminal division judges were again able to increase the number of cases that they disposed. As a result, despite the greater effort by the Court, the active pending caseload was larger at the end of June 2009 than it had been just a year or two earlier.

2. Comparison with Statewide Averages. It is informative to compare criminal case data for Bernalillo County with statewide data for all district courts in New Mexico. The court administrator in the Second Judicial District maintains such a comparison for times from the filing of new cases in District Court to disposition, that time for reopened cases, and for the age of pending criminal cases.

a. Disposition Time for New Cases. In fiscal year 2003-04, the average time from District Court filing to disposition for new cases in Bernalillo County was nine months (271 days), compared to a statewide average of about seven months (207 days). As Figure 2 shows, more than half (54%) of all Bernalillo County cases disposed that year took longer than the statewide average.

Figure 2. Time from District Court Filing to Disposition (in Days) for New Criminal Cases with One Judge: Percent of Second Judicial District Cases Longer and Shorter than Statewide Average¹



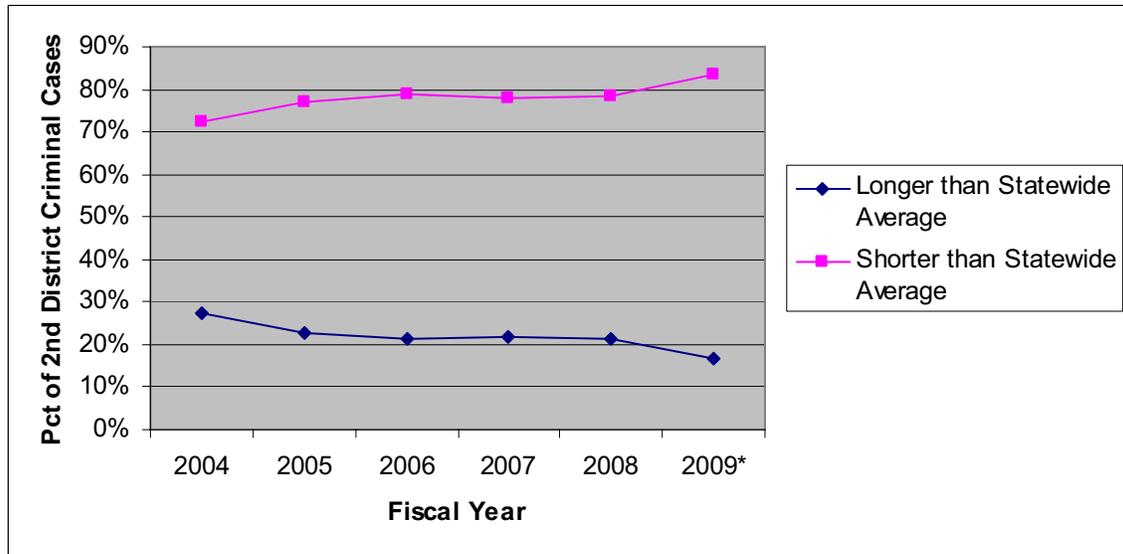
* Note: Percentages for FY 2009 are for the period only from July 1, 2008, through February 28, 2009.

¹ Source: Court Administrator, Second Judicial District.

In fiscal years 2004-05 and 2005-06, the Court’s timeliness for criminal cases improved, so that over 60% of disposed cases each year took less than the statewide average. In subsequent fiscal years, the Court has continued to dispose of more than half its criminal cases in less time than the statewide average, although it has not been able to sustain the results it achieved in fiscal years 2004-05 and 2005-06. See Table A-1 in Appendix A for more details.

b. Disposition Time for Reopened Cases. If cases have been inactive and are reopened, their overall time to disposition is not as long as it is for newly-filed cases. From fiscal year 2003-04 to fiscal year 2008-09, the Court’s average time to disposition for such cases has been shorted from over four months (127 days) to less than two-and-one-half months (71 days). As Figure 3 illustrates, the percentage of cases disposed in a shorter time than the statewide average (99 days) has grown from about 73% to just over 83%. See Table A-2 in Appendix A for more details.

Figure 3. Time from District Court Filing to Disposition (in Days) for Reopened Criminal Cases with One Judge: Percent of Second Judicial District Cases Longer and Shorter than Statewide Average²



* Note: Percentages for FY 2009 are for the period only from July 1, 2008, through February 28, 2009.

² Source: Court Administrator, Second Judicial District.

c. Age of Active Pending Cases. As Figure 1 above indicates, the Court’s criminal case dispositions since fiscal year 2004-05 have lagged behind new filings and reopened cases. Table 1 shows the predictable results: even though the total number of pending cases dropped in fiscal year 2007-08 to a level lower than fiscal year 2003-04, the total at the end of February 2009 was 19.7% higher than it was at the end of fiscal year 2003-04.

Table 1. Trends in Total Pending Criminal Cases with One Judge, Second Judicial District and Statewide³

Fiscal Year	Total Pending Cases
2004	5,581
2005	6,296
2006	5,898
2007	6,035
2008	5,462
2009*	6,683

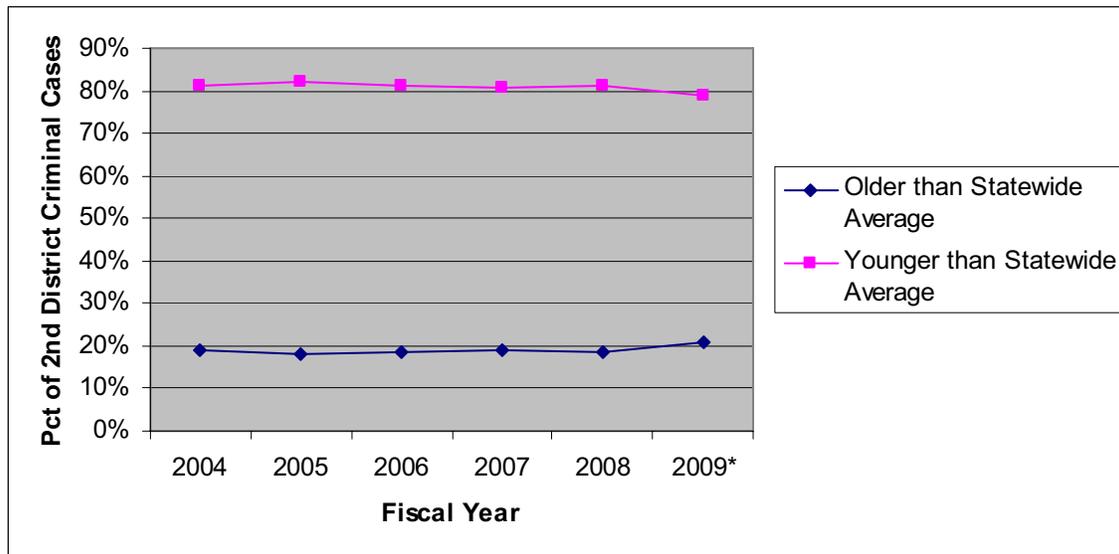
* Note: The total for FY 2009 is as of February 28, 2009.

The average age of criminal cases pending in Bernalillo has remained stable. For fiscal year 2003-2004, it was about eight months (243 days), compared to a statewide average of ten months (305 days). In subsequent years the average age has gone as high as 248 days (FY 2005-06) and as low as 225 days (FY 2006-07); and as of the end of February 2009 it was 242 days. See Table A-3 in Appendix A.

Figure 4 shows the percent of Bernalillo County pending criminal cases older than the statewide average and younger than the statewide average. Throughout the period from fiscal year 2003-04 through February 2009 in fiscal year 2008-09, about 80% of the active criminal cases in Bernalillo County have been pending for a period of time shorter than the statewide average. Although the percent older than the statewide average hovered between 18% and 19% through the end of fiscal year 2007-08, it was up to 21% as of the end of February 2009. See Table A-3. It is too soon to determine if this is part of any trend toward having a larger and older pool of active pending cases.

³ Source: Court Administrator, Second Judicial District.

Figure 4. Average Age from District Court Filing to Disposition (in Days) for Active Pending Criminal Cases with One Judge: Percent of Second Judicial District Cases Longer and Shorter than Statewide Average⁴



* Note: Percentages for FY 2009 are for the period only from July 1, 2008, through February 28, 2009.

Faced with demand far exceeding current capacity, the Court is concerned that steps must be taken to streamline criminal case processing. Working with the District Attorney’s Office, the Public Defender’s Office, law enforcement, and its other criminal justice partners, the Court must explore the extent to which improvements in criminal caseflow management can help to control the size and age of active cases pending adjudication.

As part of the effort to determine what steps are desirable to improve criminal caseflow management, it is important to learn more about the current movement of criminal cases, and how that compares to the New Mexico time expectations for felony cases presented in section B. In the sections after that, data are shown for

- Booking trends in the Metro Detention Center (section C);
- Time from initial appearance in Metro Court to District Court filing (section D);
- Time from District Court filing to disposition for a sample of criminal cases disposed (a) by plea or other nontrial means, and (b) by jury trial, in the time period from July 1, 2008, through June 30, 2009 (section E).

⁴ Source: Ibid.

B. New Mexico Case Processing Time Expectations

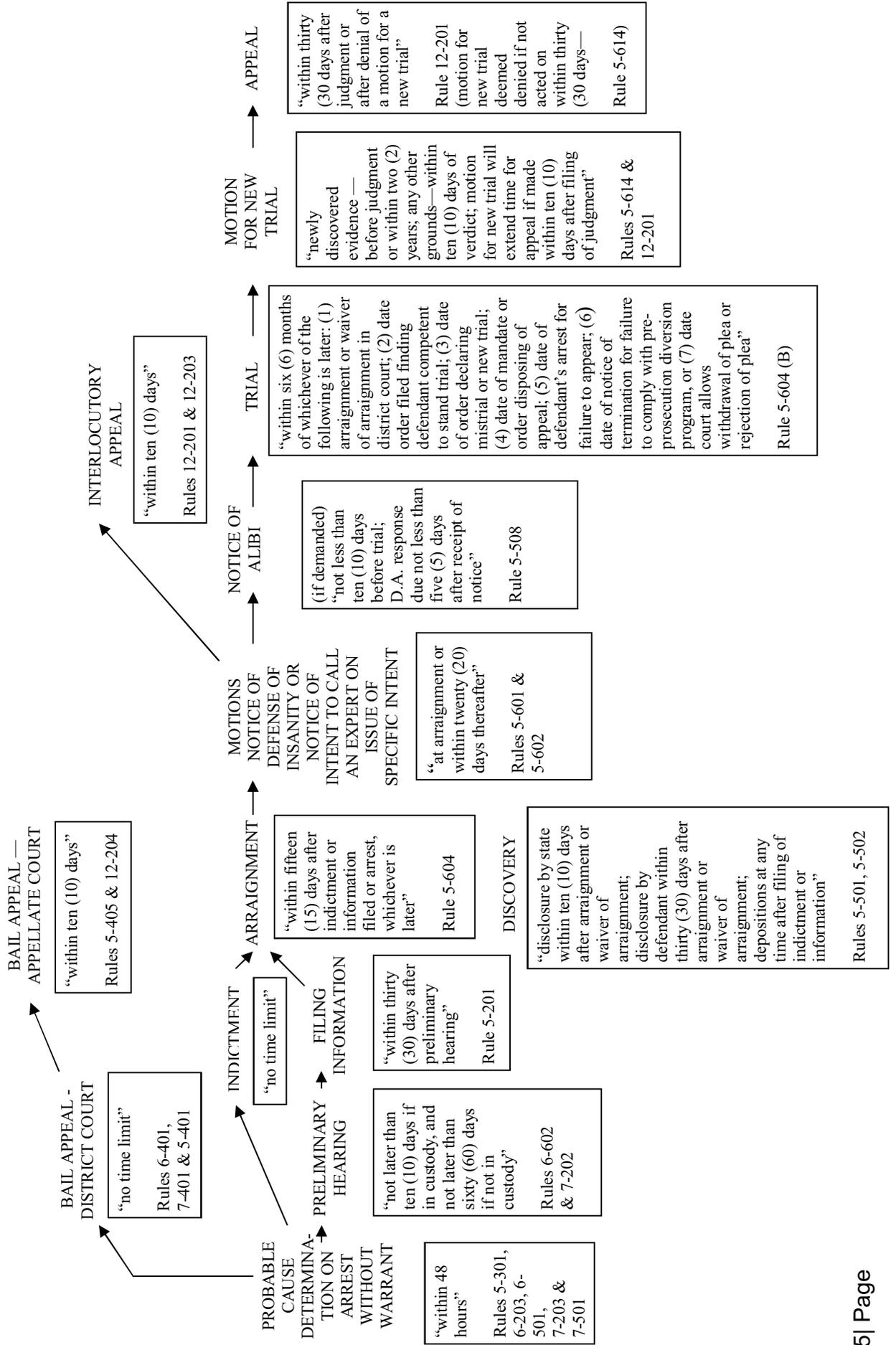
New Mexico Rules of Criminal Procedure provide incrementally for the length of time that a felony criminal case should typically take from arrest and initial appearance in a limited-jurisdiction court (the Metropolitan Court in Bernalillo County) through filing and disposition in district court (in Bernalillo County, the Second Judicial District Court). Based on Criminal Rule 5-901, Figure 5 shows the general time sequence for a typical felony case in New Mexico, showing a total expected elapsed time of seven to nine months. This is not inconsistent with the New Mexico statewide average elapsed time (207 days) from district-court filing to disposition. See Table A-1 in Appendix A.

If a defendant is not in custody following initial appearance, a preliminary hearing must be held within 60 days if not waived, and a district attorney prosecuting by information must then file it within 30 days after a finding of probable cause. As Figure 5 indicates, however, the rules provide no time limit on the filing of an indictment if a district attorney's office chooses to use such a charging document for a defendant who is not in custody. This allows for a great deal of potential elasticity in the total amount of time from arrest and initial appearance to the return of an indictment by a grand jury, and then to the filing of that indictment by a district attorney's office. Upon the filing of an indictment, a district court then has fifteen days within which to arraign the defendant.

What Figure 5 does not show is the potential impact of extensions of time that are allowed under the rules. Rule 5-604 (B) provides, with specific exceptions, that trial is to commence within six months after district court arraignment is held or waived. Subsequent sections of Rule 5-604 provide as follows for extension of time to trial:

- C. Extensions of time in district court.** For good cause shown, the time for commencement of trial may be extended by the district court provided that the aggregate of all extensions granted by the district court may not exceed six (6) months.
- D. Extension of time by Supreme Court.** For good cause shown, the time for commencement of trial may be extended by the Supreme Court or a justice thereof.

**Figure 5. Time Sequence for Typical Felony Case in New Mexico
(N.M. Criminal Procedure Rule 5-901)**



For all practical purposes, the effect of these criminal rule provisions relating to extensions of time is to provide an 18-month time standard, commencing at district court filing, for felony cases in New Mexico.⁵

C. Time from Initial Appearance to District Court Filing

The Second Judicial District Court’s case information system does not collect information on elapsed times from arrest and first appearance to felony filing in the District Court. In April 2009, the NCSC project team consequently asked the Bernalillo County District Attorney’s Office for data on times from arrest to indictment for the first 500 cases opened in fiscal year 2008-09. For more detailed attention to aspects of felony case processing before filing in the District Court, see Chapter II.

1. Types of Cases in Sample. The District Attorney’s Office provided data for 512 cases that it opened from July 1, 2008, through July 21, 2008.⁶ Table 2 shows the kinds of cases that were opened. About 4% were very serious cases – those involving charges of capital murder, other criminal homicide, or rape and other violent sex offenses. Two-thirds were other violent felonies, felony property offenses, and felony drug offenses.

Table 2. Charge Types in Felony Case Sample from DA’s Office (N = 512)

Number of Cases and Frequency by Charge Type								
Capital Offense	Criminal Homicide	Rape/ Sexual Offense	Other Violent Felony	Felony Property Offense	Felony Drug Offense	Other Miscellaneous Felony	Felony DWI	Total
4	1	16	118	107	117	133	16	512
1%	0%	3%	23%	21%	23%	26%	3%	100%

2. Days between Law Enforcement Arrest and Opening of Case by District Attorney’s Office. A typical criminal case is initiated by law enforcement officers who may bring an arrested defendant to the Bernalillo County Metropolitan Detention Center

⁵ See the outline of New Mexico case processing time standards in National Center for State Courts, Knowledge and Information Services, “Case Processing Time Standards in State Courts, 2007” (February 2009), Appendix B (available online at <http://www.ncsc.org>), which reports that a mandatory New Mexico time standard under a Supreme Court rule with a 1990 effective date calls for 100% of all cases to be tried within 18 months.

⁶ Limitations of time and budget prevented NCSC from inspecting individual case files on which the data from the DA’s Office were based to determine the reasons for elapsed times in specific cases.

before filing a complaint and associated documents with the Office of the District Attorney (DA). When the DA’s Office receives the complaint, it opens a file and creates a “case” for criminal prosecution.

Table 3 indicates that the average (mean) elapsed time from arrest to the opening of a sample case was three days, and that at least half of the cases were opened in two days or fewer. Only 14 cases in the sample (3.7%) took longer than five days, and the longest elapsed time was 50 days.

Table 3. Days from Arrest to Opening of Case by DA’s Office, for Sample Cases Opened after Arrest (N = 372)

Mean	Median	Longest
3	2	50

In a handful of sample cases, a defendant was not arrested until *after* a case had been opened by the DA’s office. As Table 4 shows, as much as four months might elapse before an arrest was made.

Table 4. Days from Arrest to Opening of Case by DA’s Office, for Sample Cases Opened before Arrest (N = 5)

Mean	Median	Longest
73	82	120

3. Elapsed Times after Cases were opened by the DA’s Office. Of the 512 sample cases opened by the DA’s Office in early July 2008, there were 112 for which an indictment had been returned by April 2009, and for which records showed an indictment date. As Table 5 shows, the average (mean) time from case opening to indictment was about four months (121 days), and one case took almost nine months for the filing of an indictment.

Table 5. Days from Date Opened to Indictment Date, for Cases with Indictments and a Reported Indictment Date (N = 112)

Mean	Median	Longest
121	129	264

While 408 of the sample cases went to indictment, the balance (104 cases, or 20.2% of the total) were closed without indictment. Times to closure for these cases were almost identical to those for cases in which there were indictments. The average (mean) time to non-indictment disposition for these cases was also about four months (123 days) as Table 6 shows; and the longest time was just short of nine months (263 days). The close similarity of the elapsed times for cases with indictment dates and those closed without indictment suggests that cases were often not disposed until they went to the grand jury unit of the DA’s Office.

Table 6. Days from Date Opened to Date Closed, for Cases Closed with No Indictment (N = 104)

Mean	Median	Longest
123	124	263

By April 2009, only a small number of the July 2008 cases (37, or 7.2% of the total) had been closed by April 2009 *after* indictment. Table 7 shows that the average time from indictment to disposition was 120 days, with the longest time being 230 days.

Table 7. Days from Indictment Date to Date Closed, for Cases Closed after Indictment (N = 37)

Mean	Median	Longest
120	128	230

The remaining cases opened by the DA’s Office in the first half of July 2008 had indictments but were as yet not disposed. Not surprisingly, all of these cases were between eight and nine months old, as Table 8 illustrates.

Table 8. Days from Date Opened by DA’s Office to Current Date, for Indicted Cases without Date Closed (N = 371)

Mean	Median	Longest
262	263	272

4. Manner and Reasons for Dispositions. There was only one case in the sample for which the report of the DA’s Office showed that a grand jury had returned a “no bill.” The most common reasons for disposition, as Table 9 shows, were that the DA’s Office declined to prosecute (70 cases); that pleas were negotiated (40 cases with guilty pleas and 15 cases dismissed as part of a plea agreement); and that the DA’s office entered a nolle prosequi (20 cases).

Table 9. Manner of Dispositions for Closed Cases (N = 154)

Court Dismissed	Dismissed per Plea Agreement	Guilty Plea	No Contest	Nolle Pros	Pled Guilty to Lesser Charge	Prosecution Declined	No Bill	None Given or Nor Closed
3	15	40	2	20	3	70	1	358

The sample case report from in the DA’s Office also gave reasons in some cases for why they had been dismissed. Table 10 shows that insufficient evidence (33%) and uncooperative victims (17%) accounted for half of the sample case dismissals.

Table 10. Disposition Reasons Given for Dismissals (N = 94)

Conduct Not Criminal	Convicted in Another Case	Essential Witness Unavailable	Insufficient Evidence	Law Enforcement Agency Uncooperative	Unlawful Search and Seizure	Victim Uncooperative	Other Reasons
1	1	3	31	5	2	16	35
1%	1%	3%	33%	5%	2%	17%	37%

D. Time from District Court Filing to Disposition

If a grand jury returns an indictment in a case, then the DA’s Office files the case in the District Court. New Mexico rules provide that the Court must then arraign the defendant within 15 days. The NCSC project team requested data from the District Court on elapsed times to disposition in the Criminal Division. (See Appendix B.) The data provided by the Court for cases disposed between March 1, 2008, and April 30, 2009, are analyzed here.⁷

⁷ Limitations of time and budget prevented NCSC from inspecting individual case files on which the data from the District Court were based to determine the reasons for elapsed times in specific cases.

1. Overall Days to Nontrial and Jury Trial Disposition. From the data provided by the Court, overall times to disposition were calculated for cases disposed by guilty plea or other nontrial means and for cases disposed by jury trial. Table 11 presents the overall results.

Table 11. Days from District Court Filing to Nontrial Disposition (N = 1,586 cases) and to Jury Trial Disposition (N = 124 cases)

Description	Nontrial Dispositions	Jury Trial Dispositions
Mean	174.4	595.7
Median	170	542
90 th Percentile	303	1,061.5
Maximum	884	1,639

As the table shows, the average (mean) time from filing in District Court to nontrial disposition was just under six months. Yet, as the 90th percentile figure indicates, 10% of the cases took 10 months (303 days) or more, and the longest nontrial disposition in the sample took 29 months (884 days).

Cases that actually went to jury trial took much longer. The average time was 19 ½ months (596 days). Although half the jury trial cases were disposed in less than 18 months (median of 542 days), 10% took 35 months (1,061.5 days) or more. The longest time to disposition by jury trial was almost 4 ½ years (1,639 days).

Table 12 shows the distribution of nontrial disposition times by case type. Of the total, 56.5% were disposed in 180 days or less after filing in District Court, and 85.4% were disposed within 270 days. Together, felony property cases and felony drug cases made up 1,418 (90%) of all the sample cases with nontrial dispositions.

**Table 12. Days from District Court Filing to Nontrial Disposition, by Case Type
(N = 1,573)**

Case Type	90 Days or Less	91-180 Days	181-270 Days	271-365 Days	366-730 Days	Over 731 Days	Totals
Felony undesignated	0	1	0	0	0	0	1
Felony drug	80	205	152	65	23	2	527
Felony first degree	1	2	0	3	0	0	6
Felony homicide	1	1	0	0	0	0	2
Felony miscellaneous	9	9	3	0	0	0	21
Felony property	140	341	268	118	23	1	891
Felony sexual offense	4	13	12	6	3	0	38
Felony vehicular homicide	0	1	0	0	0	0	1
Misdemeanor DWI	3	0	0	0	0	0	3
Misdemeanor	70	7	4	1	1	0	83
Totals	308	580	439	193	50	3	1,573
Percent	19.6%	36.9%	27.9%	12.3%	3.2%	0.2%	100.0%

The distribution of elapsed times from filing in District Court to jury trial disposition in sample cases is shown in Table 13. None were tried in less than three months, and only 25% were tried within twelve months. Most common were felony crimes against the person; felony crimes against property; and felony sexual offenses. Cases with charges of felony sexual offenses were the most likely of all case types to take more than two years to go to trial.

Table 13. Days from District Court Filing to Jury Trial Disposition, by Case Type

Case Type	91-180 Days	181-270 Days	271-365 Days	366-730 Days	Over 731 Days	Totals
Felony drug	0	1	5	11	1	18
Felony domestic violence	0	2	1	1	0	4
Felony DWI	0	1	1	4	2	8
Felony first degree	0	0	1	8	7	16
Felony miscellaneous	0	0	0	1	0	1
Felony crimes against person	1	0	6	16	5	28
Felony crimes against property	1	2	5	13	4	25
Felony public safety	0	1	0	1	0	2
Felony sexual offenses	0	0	2	8	11	21
Misdemeanor	0	1	0	0	0	1
Totals	2	8	21	63	30	124
Percent	1.6%	6.5%	16.9%	50.8%	24.2%	100.0%

2. Impact of Failures to Appear. During the interviews by NCSC project team members with the judges of the Criminal Division, several observed that defendants’ failures to appear often led to court issuance of bench warrants and were a common reason for longer times from District Court filing to disposition. Sample data from the Court bear out this observation. Among the sample cases, two-thirds (1,072 of 1,601 with nontrial dispositions, and 83 of 124 disposed by jury trial) had at least one bench warrant issued.

Table 14 shows how soon after filing the District Court issued a bench warrant for defendants with an initial failure to appear. Nine out of ten failures to appear in cases with nontrial dispositions came within 17 days after filing, indicating that most bench warrants were issued at the time of arraignment in the District Court. Although the average (mean) time for nontrial cases was a week, it was three weeks in cases that ultimately went to jury trial. In ten percent of the jury cases with failures to appear, the issuance of a bench warrant came 48 days or more after filing in District Court.

Table 14. Days from District Court Filing to First Bench Warrant in Cases with Nontrial Dispositions (N = 1,072 cases) and in Cases with Jury Trial Dispositions (N = 83 cases)

Description	Nontrial Disposition	Jury Trial Disposition
Mean	6.83	21.57
Median	0	0
90 th Percentile	17	48
Maximum	726	314

E. Conclusion

If one were to measure elapsed time from felony arrest in Bernalillo County to felony disposition in the District Court, it is currently necessary to inspect data from both the DA’s Office and the Court. For the typical elapsed time, the most reliable estimates can be derived by adding the following together:

- Mean time from arrest to the opening of a case in the DA’s Office;
- Mean time from case opening in the DA’s Office to indictment; and
- Mean time from filing to disposition in District Court.

Table 15 presents an estimate of typical overall times to nontrial disposition and jury trial disposition. For cases with nontrial dispositions, it is about 9.8 months (298 days). For jury trial cases, it is just under two years (720 days).

Table 15. Average (Mean) Days from Arrest to District Court Nontrial Disposition and from Arrest to Disposition in Cases with Jury Trial Dispositions

Description	Nontrial Disposition	Jury Trial Disposition
Arrest to DA Opening	3	3
DA Opening to Indictment	121	121
District Court Filing to Disposition	174	596
Totals	298	720

Specific Recommendations on Criminal Case Information. For a citizen – whether it is the victim in a criminal case, the defendant, a witness, or a person reading a newspaper, criminal proceedings begin at arrest and are believed to be under the control of the courts. Citizens in Bernalillo County may not necessarily understand why there may be any lack of continuity from first appearance in Metropolitan Court and proceedings in District Court; that matters may be outside court control; or that the courts may not have means to quickly determine the status of any given case. Management of felony case progress in Bernalillo County can benefit from the availability of improved case information.

To provide data for this report, it was necessary for the NCSC project team to request information from the DA’s Office and the Court about case processing times. Monitoring and management of felony case progress calls for there to be better information routinely available to court leaders.

Recommendation 1: District Court monitoring of felony case processing times in Bernalillo County should begin at arrest and should include the date of initial appearance and determination of probable cause.

Recommendation 2: Such case information as scheduled pretrial court events, scheduled trial dates, and continuances should routinely be made available from individual Criminal Division judges’ chambers to the District Court’s central case information system to support monitoring and management of criminal caseflow by the District Court Chief Judge, Criminal Division Presiding Judge, and Court Administrator.

Recommendation 3: Among any other measures of court performance⁸ that the District Court may employ, the Criminal Division should continue monitoring clearance rates (dispositions as a percentage of new filings and reopened cases) and should routinely monitor how many cases were older than applicable time standards at disposition; how many active pending cases are currently approaching or older than applicable time standards; and how frequently does the trial in a case actually commence on the first-scheduled trial date.

⁸ See the ten core court performance measures developed by NCSC and court leaders and presented as “CourTools – Trial Court Performance Measures” (© NCSC 2005), available on line at http://www.ncsc.org/D_Research/CourTools/temp_courttools.htm. The four measures of caseflow management court performance recommended here are CourTools Measures 2-5.

Chapter II.

Understanding the Numbers: Felony Case Processing in Bernalillo County

A. Introduction

When a person is arrested on felony charges in Bernalillo County, he or she is booked in the county detention center before being presented in the limited-jurisdiction trial court for consideration of pretrial release and determination of probable cause. If probable cause is found to hold the defendant for felony prosecution, then prosecutors prepare the case for presentation to a grand jury. If the grand jury returns an indictment, prosecutors then file charges in the general-jurisdiction trial court. In this chapter, the NCSC project team describes felony case processing before and after indictment and offers recommendations for specific improvements. The specific recommendations in this chapter contribute to the comprehensive felony caseflow management improvement program suggested in Chapter IV.

B. Arrest, Incarceration, and Police Reports

Arrests in Bernalillo County (population 640,000) are generated principally by the two largest law enforcement agencies serving the community; the Albuquerque Police Department (APD) which accounts for roughly 60 percent, and the Bernalillo County Sheriff (BCS) generating an additional 20-25 percent. Other smaller law enforcement agencies (i.e. state police, state probation and parole department) account for the remainder. See Table 16.

1. Arrest and Booking. Over 40,000 adults are booked annually in the County's newly constructed Metropolitan Detention Center (MDC) located 18 miles from the center of Albuquerque.⁹ It is ranked 39th in size in the US; it is considered a mega-jail

⁹ The MDC has been operated by Bernalillo County Government since 2007. Prior to 2007, it was managed under a joint powers agreement between the City of Albuquerque and the County.

Table 16. Defendants Booked at Bernalillo County Metropolitan Detention Center, FY 2006-FY 2009^a

FY 2006	Defendants Booked	Bookings by Law Enforcement Agency ^b							
		APD	BSO	NSP	FED	BND	PRO/PAR	UNMPD	OTH
Total	38,823	22,647	9,387	774	62	184	1,827	297	3,645
Avg/Month	3,235	1,887	782	65	5	15	152	25	304
Pct by Agency		58.3%	24.2%	2.0%	0.2%	0.5%	4.7%	0.8%	9.4%

FY 2007	Defendants Booked	Bookings by Law Enforcement Agency ^b							
		APD	BSO	NSP	FED	BND	PRO/PAR	UNMPD	OTH
Total	41,255	24,883	9,492	816	89	276	2,160	215	3,324
Avg/Month	3,438	2,074	791	68	7	23	180	18	277
Pct by Agency		60.3%	23.0%	2.0%	0.2%	0.7%	5.2%	0.5%	8.1%

FY 2008	Defendants Booked	Bookings by Law Enforcement Agency ^b							
		APD	BSO	NSP	FED	BND	PRO/PAR	UNMPD	OTH
Total	41,597	24,865	10,624	829	39	196	2,385	246	2,413
Avg/Month	3,466	2,072	885	69	3	16	199	21	201
Pct by Agency		59.8%	25.5%	2.0%	0.1%	0.5%	5.7%	0.6%	5.8%

FY 2009 (thru Feb 2009)	Defendants Booked	Bookings by Law Enforcement Agency ^b							
		APD	BSO	NSP	FED	BND	PRO/PAR	UNMPD	OTH
Total	26,488	16,191	6,476	596	40	57	1,461	140	1,527
Avg/Month	3,311	2,024	810	75	5	7	183	18	191
Pct by Agency		61.1%	24.4%	2.3%	0.2%	0.2%	5.5%	0.5%	5.8%

^a Source: Bernalillo County Metropolitan Detention Center.

^b **KEY:**
APD = Albuquerque Police Department
BSO = Sheriff's Office
NSP = State Police
FED = Federal agencies
BND = Bonding Agencies
PRO/PAR = Probation & Parole
UNMPD = University of NM Police Department
OTH = Other agencies, such as American Indian Tribal Police, Airport Police, Albuquerque Public School Security, New Mexico Open Space Rangers, Forest Service, and Department of Transportation/Public Safety.

among the 3,300 jails in the United States; and it is staffed by 546 security and civilian employees.¹⁰ Roughly 60 percent of the arrestees are brought immediately to the MDC, and 40 percent are transported in groups from law enforcement sub-stations or holding facilities. Although the MDC is modern and professionally operated by County Corrections, it has encountered a series of capacity and overcrowding problems since its opening in 2003. The Detention Center houses adults arrested on misdemeanor and/or felony charges who are awaiting case disposition (pretrial status), and those who have been sentenced (post-trial). Over the years, the number of felons in each category has risen significantly. Among those incarcerated, more than 50 per cent are pretrial felony detainees. In January 2009, this amounted to 1,391 out of 2,675 inmates. The average length of stay for non-released felons held on serious original charges before final disposition is 240-280 days.¹¹

While internal booking and jail management systems are digitized and state-of-the-art, there is little electronic records interchange with the courts. Stand-alone, separate electronic case management systems exist in law enforcement,¹² District Court, Metro Court, and the state run Probation and Parole Department. Consequently, paper records and files are the medium of exchange and there is significant redundant data entry.

One of the common consequences of disparate electronic criminal justice case management systems National Center studies have found is a propensity for confusion regarding in-custody jail inmate status. The result can be an inmate who becomes “lost”

¹⁰ Some criticisms of MDC operations are that the MDC is understaffed; temporary or part-time employees who fill permanent positions lack the training and skills necessary for their jobs, especially regarding records management (turnover in staff positions is alleged to be high due to the remote location of the MDC and low salaries); responses to inquires for information from private citizens and bail bonding companies do not get prompt attention as do requests from court officials; too many inmates are sitting in jail on open cases, bench warrants or indictments without a next appearance date (a more effective monitoring system to promote timely court action should be developed); and MDC managers and higher level officials are much more helpful and responsive than rank and file employees (“considerate attitude does not filter down”).

¹¹ A federal court consent decree resulting from a class action lawsuit on behalf of the inmates (McClendon vs. Bernalillo County) commenced in 1995 over conditions at a downtown Albuquerque jail owned by the County governs pretrial overcrowding, mental health and disability treatment and housing conditions at the new Detention Center as well. A continual concern by County officials pertains to managing the MDC to avoid violating the consent decree. (The original design capacity for the MDC is 2200 inmates). When MDC reaches limits close to the consent decree, inmates are transported by MDC to Santa Fe holding facilities. A series of programs have been instituted by the County to limit jail overcrowding.

¹² APD and BCS share a new Tiburon (proprietary law enforcement case management system). Although the BCS has hardware and licenses for the system, there is no funding for data transfer from their old system and interfaces with the APD database.

in the system or may be held longer than necessary. Since trial courts are ultimately responsible for prompt and timely adjudication processes, some courts have developed protocols to monitor the status of jail inmates, especially those incarcerated beyond normal time periods. An example is the Superior Court of Georgia in Fulton County (Atlanta), which confronts a variety of separate criminal justice computer systems and serving a community of 700,000 residents similar in size to Bernalillo County.¹³ It has found it necessary to create a four-person jail monitoring group (Judicial Administrative Expedition Unit) to track and audit criminal caseflow for defendants in custody at the Fulton County Jail, including those awaiting indictment and other court hearings. The unit also collaborates and coordinates with various local and state criminal justice agencies to promote the overall expeditious movement of cases for jail inmates.

The number of felons moving from pretrial to sentenced status average 300 inmates per month. However, significant delays appear to exist in processing judgment and sentencing orders and their arrival at the MDC. It routinely takes 30 days from the time of sentencing to the delivery of an order. A pilot electronic sentencing order project is now underway.

Specific Recommendations on Arrest and Booking. Based in the NCSC project team's assessment of case processing at this stage, the following three recommendations are offered.

Recommendation 4: A coordinated, sustained effort toward integrating and sharing electronic data among the various digitized case management systems would considerably reduce delay and redundant data entry among criminal justice agencies in the county.¹⁴ It is understood that city, county and state agencies have worked to do so in the past without noticeable success. A confounding factor certainly has been the fact that law enforcement and justice entities in the county are funded by different governments. However, separate funding authorities at the local level are not usual occurrences

¹³ Comparisons between Fulton and Bernalillo counties are limited at best. Population density, geographic size, crime patterns, court structure/jurisdiction, and ethnic and racial backgrounds of residents differ dramatically. Population size and independent computer systems tracking the same in-custody inmates, however, are somewhat analogous.

¹⁴ Reducing redundancy would have a direct and positive impact on productivity, accuracy (data entry errors) and efficiency in the overall justice system within the county. Entering the same data at multiple entry points by different criminal justice agencies often slows the caseflow process and populates criminal history records with incomplete, inaccurate and inconsistent information.

throughout the United States. It certainly makes coordination and cooperation more difficult, but not impossible.¹⁵

Recommendation 5: MDC management should review their training processes for MDC rank and file staff, especially those entering data and those responsible for monitoring the length of stay of inmates to improve data entry accuracy and ensure no inmates “get lost in the system.” Information on inmates languishing in jail should have established, clearly defined action plan protocols triggering high-level court and judicial intercession together with remedies. All pretrial in-custody cases should have a next appearance date, nothing should be “off calendar.”

Recommendation 6: The Court should explore the possibility of assuming responsibility and staffing, along with the funding, for felony inmate jail monitoring from the County. Direct involvement by the Court in auditing and overseeing the movement of in-custody felons through the adjudication process would likely have a greater affect on promoting streamlined system change as well as prompting more timely disposition for languishing cases than continuing to locate that function with County Corrections. This suggestion is not based upon reducing jail overcrowding, but on reducing trial court delay.

2. Police Reports. Another continual, troublesome delay point in the felony caseflow process is the time lag in getting police reports to the prosecutor’s office. Initial arrest reports routinely take 30 to 90 days from the time of submittal to APD Records until completion. Numerous criminal justice officials interviewed assessed these delays to be both serious and prolonged, so much so that the NCSC project team expressly revisited the Albuquerque Police Department (APD) to talk with the Chief of Police and upper-level management to gather more specific information regarding possible causes and remedies.¹⁶ Since the 1980’s, under a joint agreement with the Bernalillo County Sheriff’s Office (BCSO), APD has processed all arrest and investigative records for both

¹⁵ It was noted that some 10 years ago a Metro Justice Information Coordinating Council was created and funded out of the County Manager’s Office, but was disbanded.

¹⁶ This two-day visit by NCSC team member Gordy Griller with Janet Cornell took place in August 2009.

departments. In exchange, the Sheriff's Office oversees and processes all outstanding warrants.¹⁷

There appear to be multiple reasons for the delays. One likely source is the dramatic staff reductions and hiring freezes occurring over the past few years in non-sworn personnel at the APD Records Department. These reductions are largely attributed to unprecedented City budget cuts occasioned by the continuing national recession and, concurrently, a forcefully pursued APD policy to increase the number of sworn officers to 1100 by the end of CY2008 which has diverted money for civilian employees to officer positions.¹⁸ Resultantly, a severe 50 percent decrease in the number of records processing personnel has taken place. Complicating this staff shortage is a high turnover rate among civilian data entry operators in the Records Department; exacerbated further by the use of temporary employees as a stopgap, inexpensive coverage mechanism.¹⁹

A second underlying factor contributing to the delay in police reports, NCSC consultants conclude, is APD's heavy concentration toward upgrading front-end information systems directed at apprehension and crime prevention necessary to support large-scale increases in patrol officers. Over the last several years, APD developed a Technology Strategic Plan that called for widespread enhancement of all electronic information systems within the Department. Tiburon, a well-respected law enforcement private software vendor, was selected as the contractor. Among the priority systems upgraded were those supporting patrol and field services to assist the growth in sworn officers, namely a mobile reporting system (digitized data flow from patrol cars) called *Copperfire*® that is compatible with Tiburon and a new computer-aided dispatch system. Simultaneously, a widespread hardware upgrade took place modernizing all in-car hardware, including over 450 laptops and 150 police vehicle printers. Internet services were enhanced, too, allowing the public to request or file a police report online and to

¹⁷ Currently, BCSO has 72,000 outstanding misdemeanor warrants and 150,000 outstanding felony warrants.

¹⁸ The national average of sworn police officers to population in cities 250,000 people or greater is 2.8 per 1000 residents (International Chiefs of Police). APD reached 1146 personnel in training and/or patrolling city streets in late 2008; a ratio of 2.2 sworn officers per 1000 residents. Albuquerque population is estimated to be 518,271.

¹⁹ Where there is little staff permanency, numerous small problems ranging from such things as re-training confusions to uncertainty and delays in fixing equipment breakdowns can easily compound and enlarge creating more delay in producing reports.

access neighborhood crime information in real time through a nationwide software service dubbed, “*Crimereports.com*.” As a result, police report processing suffered.

APD is banking on *Copperfire*® to modernize and revamp their arrest report processing. There is no doubt that *Copperfire*® is one of the better client / SQL server approaches available in the public safety marketplace today. It is a customized report writing and forms generation solution for first responders – both police and fire. It is also capable of generating statistics and records management protocols when programmed effectively. A critical issue, however, is that the specific forms and their designs used by a police agency must be specially programmed; essentially written uniquely for each contracting law enforcement agency. This development cycle is time consuming and should a form or process be added or changed, it requires further systems work.

Another problem inherent in automating incident field reports is the numerous follow-up reports and data, much of it in paper format that must be appended either manually or electronically to the initial digitized document. Also, it is important that prosecution and defense agencies have compatible software and systems to fully utilize *Copperfire*® generated data. This, unfortunately, may not be currently the case in Bernalillo County.

Third, incompatible computer systems between BCSO and APD have resulted in time consuming, manual conversion procedures. Specifically, BCSO deputies and detectives complete police reports in electronic form on the current BCSO system, print them out and give them to the APD Records Department to be re-entered into the APD electronic system.²⁰ Data transfer and interface software is not currently available between BCSO and APD electronic police report writing systems.

Fourth, re-engineering of APD’s police report procedures and processes is needed. Based on interviews and observations, there appears to be widespread misunderstanding beginning at the police officer level regarding the importance of thorough and timely report writing and submission. Some of it may stem from the fact that supervisory officers or Records Department personnel often must contact arresting or

²⁰ If there is an error in the paper copy to be corrected or additional information be added, the initiating BCSO officer must physically go to APD Records and change it on the original paper copy so it can be keyed in by Records. Missing or erroneous data could be as simple as a missing or erroneous beat number, social security number or case number.

investigating officers for supplemental information to augment or correct erroneous reports, officers feeling that along the process someone else will catch mistakes or ferret out needed details. Some may originate with inadequate training regarding the essential elements of report writing. Some could be occasioned by continued reliance on manual report writing, redundant data entry in re-keying arrest reports, and detailed Records Department approvals to ensure report completeness and accuracy. Some is connected to the difficulty in locating primary and secondary officers who may be reassigned and have lingering data problems in old reports.

Fifth, all criminal investigative work for the District Attorney must be done by law enforcement occasioning some miscommunications, delays and confusion. The DA has no investigative unit within her office. There are numerous situations where an assistant DA or DA bureau chief will send a report back to law enforcement because of missing or conflicting information, all taking additional time. An example cited was the need by some assistant DA's for handwritten statements from victims.

Recently, APD administration has taken steps to improve the police report processing. A Deputy Police Chief meets monthly with the District Attorney's Office to streamline arrest report information flow between the two offices. Arrest reports have been simplified, some being computerized to ease completion. A new approach established recently is the electronic transfer of domestic violence taped statements to assigned prosecutors. Regarding delayed or inadequate reports from officers and detectives, a procedure has been introduced to enlist the chain of command in prompting problem officers to complete reports by emailing notices to higher level supervisors when an officer is recalcitrant.

All of these steps certainly help. The problem, however, is systemic and needs a broader-scoped solution, namely business process reengineering. Business process reengineering (BPR) is the analysis and redesign of workflow. The technique gained notoriety in the 1990s as businesses began revisiting the need for speed, service and quality over control and efficiency and ran into unanticipated problems as they attempted to use technology to mechanize old, antiquated ways of doing business. Various governments, including law enforcement agencies, followed suit in the public sector, but

often fell short because the common focus was too often on quick fixes rather than breaking cleanly away from old rules about organizing and conducting business.

Specific Recommendations on Police Reports. One of the major tenets of process reengineering in the computer age is to organize work around outcomes, not tasks. Ideally, when followed to the extreme, the principle encourages one person to perform all the steps in a process by designing the person's job around an objective or outcome instead of a single duty or step in a process. Other principles that are helpful in process reengineering that law enforcement leaders may wish to keep in mind as they attempt to simplify and streamline workflow in police report writing include...

- Work backwards by having those who use the output of a work process engage in the reengineering analysis itself. Ad hoc, inter-agency committees or task forces often work well provided they are effectively led.
- Concentrate only on a few prioritized, urgent work redesign efforts at a time otherwise details can become overwhelming.
- Put the decision point where the work is performed and build control into the process. There is an assumption in many organizations today, police agencies included, that people doing the work have neither the time nor the inclination to monitor and control it and therefore lack the knowledge and skill to make decisions about it. Proven, modern day reengineering principles, however, argue that those who perform the work should make the decisions and that the process itself can have built in controls. The ultimate objective is for the doers to be self-managing and self-controlling. This direction is certainly in line with empowering employees and strengthening middle management capabilities.
- Capture information once and at its source. As the criminal justice system continues to move toward computerization and electronic databases, leaders need to promote the elimination of as much redundant data entry as possible. NCSC project consultants conclude there is a strong predisposition by criminal justice agencies in Bernalillo County to operate autonomously causing an excessive amount of duplicative work processing. Consequently, system-wide approaches toward reengineering solutions and integrating work are very important goals to embrace in moving forward.

Recommendation 7: APD should locate its Court Services Unit (liaison group with the District Attorney's Office) at the DA's Office. BCSO maintains staff at the DA's Office to coordinate data and interaction with prosecutors, which promotes faster problem-solving regarding police report difficulties.²¹

²¹ NCSC consultants were advised that in the past the APD Court Services Unit was co-located with the DA, but was moved to the Public Safety Building. It is not known why this move separating the Unit from the DA occurred.

Recommendation 8: The APD Records Department should be reorganized and staffed more appropriately with the priority goal of promoting improved, reengineered police report processes. A priority challenge will be integrating the Copperfire® electronic field automation incident reporting suite with Records Department business practices and paper records from other sources (i.e. crime lab, other evidence reports, etc.)²²

Recommendation 9: Compatibility between BCSO and APD electronic computer report writing systems should be sought. BCSO, courtesy of the City of Albuquerque, has licenses and hardware consistent with Tiburon, but the data transfer and interface software must be purchased and installed.²³

Recommendation 10: The systemic significance of police reports for the felony discovery process should be reflected in efforts by the DA's Office and the Public Defender's Office to adjust business processes and introduce software as necessary to promote efficient electronic receipt of law enforcement reports and discoverable information.²⁴

C. Pretrial Release and Probable Cause Determination in Metro Court

Within 48 hours of arrest, all defendants are scheduled for an Initial Appearance (IA) at the MDC to determine whether probable cause exists for release (bail, bond, released to pretrial services or on their own recognizance), to determine the suspect's true name and address, entitlement to a public defender, and to advise them of their rights and the charges against them.²⁵ A Metropolitan Court Judge (limited jurisdiction) conducts all IA's. During weekdays, a judge and prosecutor at the Metropolitan Courthouse in downtown Albuquerque appear by video conference transmitted to a specially structured, video-equipped MDC courtroom where a public defender physically appears with the defendants. During weekends no video appearances are conducted; Metro judges rotate sitting as an IA judge at the MDC. On Saturdays, Sundays and holidays, no district attorneys are present. When a defendant is represented by private counsel, the lawyer

²² NCSC consultants were advised that on-site supervision of the Records Department was transferred from a sworn officer to a civilian supervisor. Given the culture of most law enforcement agencies, it is often easier to obtain compliance from officers and detectives in amending and supplementing arrest data when supervision of records processing is overseen by a sworn officer.

²³ The cost of this software is roughly \$150,000. County officials appear to be favorably disposed although budget difficulties have delayed the purchase.

²⁴ For a parallel recommendation, see Recommendation 20 in Section E, "District Court Felony Case Processing."

²⁵ Defendants booked from 5:00 AM to 5:00 PM are set over to the next day to permit data collection.

often attends the hearing at the Metro Courthouse while his/her client remains at the MDC.

Sixty-four percent of those booked are released from jail shortly after the Initial Appearance. Most are charged with minor violations.

Prior to an IA, pretrial staff at the MDC interview the defendant, principally gathering information regarding offense, whether he/she is a flight risk or a danger to themselves or the community, and criminal history background. Data is shared with the District Attorney's Office.

At felony IA sessions, the reading of the criminal complaint is routinely waived, the defense attorney normally having a copy. The district attorney presents the charges, outlines the known criminal history and recommends release conditions or continued incarceration. A common complaint by defense attorneys and some District Court officials is that Metro judges have a propensity to set high bonds.²⁶ This does occasion a series of bond reduction motions before the District Court Criminal Department Presiding Judge.

Persons arrested on District Court probation violations, after an Initial Appearance, must appear before the sentencing judge according to local rule. These cases may be delayed numerous times – the defendant generally remaining in custody – waiting for the assigned district attorney, public defender and defendant to coordinate an appearance before the sentencing judge.²⁷ This is true even though new statewide court rules require a probation violation report be completed within 5 days of arrest²⁸ and a hearing to be conducted within 30 days. Technical violations are processed more quickly than new charges. A pilot experimental program permitting guilty pleas regarding

²⁶ Metro judges conclude it is a matter of perspective since they customarily preside over misdemeanor cases and are reluctant to set low bonds on felony matters, the province of the general jurisdiction court. Some time ago, the District Court channeled funds and responsibility for hearing felony IA's to the Metro Court. There is an ongoing offer by the Metro Court to return responsibility to the District Court, although no mention of any additional funding which is a condition upon which the District Court would entertain the proposition.

²⁷ Each party – prosecutor, defense lawyer and defendant – may continue an appearance on a probation violation for 30 days. The result is often a 90-day delay.

²⁸ In New Mexico, the Probation and Parole Department is a state executive branch agency. They operate a separate CMS case management computer system, preparing probation violation reports using a pre-designed, electronic template. Reports are generally 3-4 pages long and require 4 to 5 days to prepare accurately. The Department has an officer stationed at the MDC to coordinate interaction with the jail.

probation violations to be heard quickly by a special appearance judge rather than the sentencing judge is now underway.

Two separate, court-operated Pretrial Service Agencies conduct the interviews. The Metro Court PSA staff offices full-time at the MDC and interviews everyone booked in the jail. The District Court PSA staff is present at the MDC during weekdays and concentrates primarily on diverting appropriately classified defendants to pretrial release. District Court PSA maintains a large pretrial release program with up to 1300 defendants monitored by 5 staff who office at the downtown Bernalillo County Courthouse. Clients are ordered into the program by District Judges after IA. The Agency recommends a release plan to the Court, develops behavior/treatment/reporting contracts with defendants administered through graduated levels of supervision. For crisis intervention and field services, the Agency relies on the state's Adult Probation and Parole Department. Defendants are supervised until they enter a plea or are sentenced.

Many defendants booked in jail have severe mental illnesses, often exhibiting co-occurring disorders including addictions, learning disabilities, and personality problems. For those who don't have the ability to bond or bail out of custody, District Court PSA works closely with a jail-based County Psychiatric Services Unit (PSU) to facilitate and divert them to counseling and medical services. There is a special Mental Health Court option run by the District Court allowing defendants with low-level, non-violent felonies who have a mental illness to enter a plea agreement and submit to a pretrial diversion program modeled on a three-phase drug court regimen. The capacity of the program is 200 clients; its recidivism rate is a low 2 percent. Metro Court PSA also works to assist those charged with misdemeanors who are diagnosed with mental illness, often channeling them to a special competency docket they conduct.

District Court PSA also maintains a three-person investigations unit at the County Courthouse which conducts criminal background inquiries for all in-custody and out-of-custody defendants to assist the Court further regarding release and case scheduling conditions. Data acquired is entered into the court's case management database.

Specific Recommendations on Pretrial Release and Probable Cause Determination. Based on the description presented here, the NCSC project team offers the following three recommendations.

Recommendation 11: Serious consideration should be given to ways more cases can be resolved at Initial Appearance or shortly thereafter without the scramble that now takes place to get cases to the Grand Jury. The culture of indictment is not only delaying resolution of lower-level matters, but likely causing much extra work in case processing for public lawyers and the court. Many general jurisdiction urban trial courts target early disposition of such matters, often setting up plea calendars either at or within a few days of initial appearance.

Recommendation 12: A probation violation calendar should be established by the District Court overseen by a specially-assigned PV judge, not necessarily the sentencing judge.

Recommendation 13: Inordinate and avoidable delays regarding continuances of probation violation hearings should be reduced through tight scheduling and date certain to the extent possible within due process requirements.

D. District Attorney Case Presentation to the Grand Jury

Statewide criminal rules of procedure permit a probable cause hearing before a Grand Jury for in-custody defendants charged with a felony within 10 business days of Initial Appearance. Out-of-custody cases must be indicted within 60 business days. Although the rules permit prosecution by information with a preliminary hearing before a judge, it is the customary practice in Bernalillo County for 80 percent of the 10,000 felony cases to be taken to the Grand Jury.²⁹

The presentation of cases to the Grand Jury is a hectic process due to the high volume and the fact there is only one Grand Jury is empanelled to hear matters. Generally, 25 cases per day are scheduled for indictment. Evidence of this overload is a 5 to 6 month lag on Grand Jury indictments for non-10 day, out-of-custody cases. A District Attorney policy does not allow defense lawyer access to discovery prior to indictment.

Critical problems in processing cases appear to reside with law enforcement. Often there are delays in getting data from police agencies. Also, officers frequently fail

²⁹ On commencement of prosecution by complaint, information or indictment, see Rule 5-201. On preliminary hearings, see Rule 5-302.

to appear (FTA) to testify at the Grand Jury. The FTA rate is 10 to 20 percent in spite of aggressive subpoena, telephone reminder and email efforts by the DA's Office.

Criminal complaints are filed in 20 percent of the cases, principally on low-level property and economic crimes. Many of these cases are channeled through a pre-indictment / pre-plea program (PIPP) where early pleas on first offender felony cases are encouraged; most pleading to misdemeanors and sentenced to treatment programs. Generally, a plea offer is made by the DA's Office a few days after Initial Appearance, the defendant given two weeks to reply.

Currently at the DA's Office there are three prosecutors and 28 support staff assigned to manage the Grand Jury process and 2 attorneys working with the PIPP program. To effectively manage the workload in a more methodical fashion, should the caseflow culture remain primarily an indictment one, there most certainly should be an increase in the number of DA personnel assigned to the Grand Jury and the empanelment of a second Jury. However, in the opinion of the NCSC consultants, a less costly, swifter alternative would be a widespread preliminary hearing process taking the form of a modified Early Plea Program (EPP) where the complaint and police report are the same thing.

Specific Recommendations on District Attorney Case Presentation to Grand Jury. The NCSC project team offers the following three recommendations for improvement of this phase of case processing.

Recommendation 14: The District Attorney's Office should consider having many more felonies prosecuted by information rather than by indictment. The District Court can provide a setting for decisions on this issue by holding a preliminary hearing or other pre-indictment "triage event" (see Chapter III), at which prosecution and defense attorneys can identify cases suitable for early pleas and determine if there is probable cause for others are suitable for felony prosecution on an information rather than an indictment. If the majority of felony cases not resolved by plea at this stage are prosecuted by information, then the judge who is presiding can immediately arraign the defendant on those charges, thereby shortening elapsed time from arrest to commencement of District Court felony prosecutions.

Recommendation 15: An ad hoc committee led by the Chief Judge and composed of knowledgeable and high-level prosecutors and defense lawyers should be created to explore earlier discovery exchange geared toward prosecutions by information and early pleas.

Recommendation 16: Arrangements should be promoted to locate the APD Court Services Unit with the District Attorney's Office (the BCSO Unit is currently co-located with the DA). The Units should have clear formal authority, in addition to expediting arrest records, to coordinate officer appearance at Grand Jury and preliminary hearing proceedings. Statistics should be kept regarding officer failures-to-appear and those who exhibit consistent and habitual absences without good cause showing should be disciplined up to and including termination.

E. District Court Felony Case Processing

At the return of an indictment under current practices, the DA's Office files the case in the District Court. Matters are then assigned to judges and proceed to arraignment and completion of discovery, with the possibility of motions or other pretrial hearings before plea or trial and, if a defendant is convicted, sentencing. If probation is part of a sentence, there may be further hearings on any violation of probation.

1. Arraignment and Assignment of Cases to Individual Judges. Under Rule 5-604 (A), a defendant must be arraigned by the Court within 15 days after the filing of an indictment or information or the date of arrest, whichever is later. Under a master schedule for all judges in the Criminal Division, judges hold arraignments in rotation every Friday.

Except for arraignments, which are heard one day each week under a master schedule for the Criminal Division, each judge has individual responsibility for all other court events in the cases assigned to him or her, so that cases are scheduled in chambers by their judicial assistants (TCAA's).

Cases are assigned to individual judges at or soon after arraignment. If a defendant with a pending matter in the Criminal Division has a new case filed, the NCSC project team understands from interviews that the new matter is not sent to the judge with the prior pending matter. This appears in part to be a consequence of the manner in which the District Attorney's Office is organized, with different units handling different

kinds of matters. As a result, a single defendant may have cases pending before different judges at the same time.

New Mexico law permits a party to file a petition once per case for peremptory removal of the judge to which a case has been assigned. Any assigned case for that judge must then be reassigned to one of the other Criminal Division judges. The exercise of peremptory removal supports at least an appearance of “judge shopping,” under which an attorney can seek to avoid a judge that he or she believes may be too harsh, too lenient, or too demanding. As a consequence, some judges may have significantly fewer active assigned cases, and their approach to dealing with cases may be seen as a burden on their colleagues.

Specific Recommendations on Arraignment and Case Assignments. Based on these observations, NCSC offers the following recommendations.

Recommendation 17: In the absence of exceptional factors under which justice would be served by severance of charges, the District Court in coordination with the District Attorney’s Office should introduce a practice of having all pending matters with the same defendant consolidated before one judge.

Recommendation 18: Individual assignment of cases to judges can have the effect of fixing accountability and avoiding having judges pass case problems on to other judges. Yet it can also provide opportunities in New Mexico for lawyers to exploit differences in practices among individual judges by way of peremptory removal petitions. Rather than allowing this prospect to cause judges to be uniformly easy on attorneys as a way to avoid peremptory removal, the judges of the Criminal Division should seek consensus by committing to the consistent application of best practices in caseflow management. Except in unusual circumstances providing good cause in individual cases, judges should consistently hold themselves and attorneys accountable to comply with such best practices as those recommended in this report.

2. Discovery and Pretrial Motions. Rule 5-501 provides that unless the Court orders a shorter time, the DA must disclose discoverable evidence to the defendant within 10 days after arraignment or waiver of arraignment. The DA’s Office understands this to mean that there is no entitlement to discovery before indictment.

In addition, problems in the transmission of police reports and other discoverable information from the Albuquerque Police Department (APD) to the District Attorney's Office have been seen as a source of discovery delay. APD's introduction of a new "Copperfire" electronic police report writing and forms generation system (see part 2 in Section B, "Arrest, Incarceration, and Police Reports") offers promise to address some elements of this problem, especially if there is coordination with any necessary software and work-process adjustments in the DA's Office and the Public Defender's Office.

At least 10 days before trial, the DA must file a certificate that all required discovery has been produced. Should the DA fail to comply, the Court may impose sanctions. Unless a shorter time is ordered by the Court, Rule 5-502 requires the defense to provide all discoverable information within 30 days after arraignment or its waiver, or 10 days before trial, whichever is earlier.

Rule 5-212 provides that any motion to suppress evidence must be filed within 20 days after the entry of a plea unless the Court waives time for good cause shown. There is no time requirement for when a hearing must be held on a suppression motion. Rule 5-601 (D) provides that all pretrial motions must be made at arraignment or within 90 days thereafter, unless the Court orders otherwise or waives the time requirement on good cause shown. The Court must rule on motions within a reasonable time after filing.

Specific Recommendation on Discovery and Motions. On the basis of the above discussion, NCSC offers the following two recommendations.

Recommendation 19: The District Attorney's Office should reconsider its interpretation of Rule 5-501 in order to disclose discoverable information before indictment sufficient to allow an experienced attorney from the Public Defender's Office to review a case before indictment and engage in discussions with a prosecutor about a possible plea or the most suitable way to proceed on felony charges. Such reconsideration should be encouraged by the District Court, which Rule 5-501 allows to order such disclosure earlier in a case.

Recommendation 20: To reflect the systemic significance of police reports for the felony discovery process, the DA's Office and the Public Defender's Office should make any necessary changes in business processes and software to promote efficient electronic receipt of law enforcement reports and discoverable information.³⁰

³⁰ This suggestion parallels Recommendation 10 in Section B, "Arrest, Incarceration, and Police Reports."

Recommendation 21: The District Court should provide at arraignment for any motion to suppress evidence to be made and heard well in advance of trial, with appropriate arrangements for discovery to be completed.

3. Disposition by Plea or Trial. Rule 5-304 provides that, absent good cause shown, the District Court may fix the time at which notification must be given to the Court of a plea agreement.

New Mexico's criminal procedure rules allow a court to hold a pretrial hearing in the nature of a trial management conference³¹ if one is deemed appropriate. Under Rule 5-603, the District Court may order the attorneys to appear for pretrial hearing at any time after the filing of an information or indictment. Such a hearing may be held to consider (a) simplification of issues; (b) the possibility of admissions of fact and documents to avoid unnecessary proofs at trial; (c) the number of expert and other witnesses; and (d) any other matters to aid trial disposition. Such a hearing is probably not needed for most criminal trials, though it would be helpful for more complex matters. The NCSC project team did not determine how frequently pretrial hearings are held for this purpose in Bernalillo County.

As has been noted in Chapter II, Rule 5-604 provides that a trial must typically commence within six months after arraignment. For good cause shown, a trial start can be extended up to six months by the District Court, and then again by the Supreme Court. As Table 12 in Chapter II indicates, half of all Bernalillo County cases sampled by NCSC took 18 months or more (median 542 days) from District Court filing to jury trial disposition.

The rule provides that a case can be dismissed with prejudice if trial is not started within time limits. It appears that this sanction is seldom applied, however. The average time in the sample was about 20 months (596 days mean time), and 10% took 35 months (1,061.5 days) or more. It was thus common for jury trial cases to have more than two time extensions. Since about two-thirds of all cases had at least one bench warrant, it is possible that such time extensions were often granted because a defendant had failed to appear.

³¹ See Ernest Friesen, "The Trial Management Conference," 29 *Judges' Journal* (No. 4, Fall 1990) 4.

Specific Recommendations on Plea or Trial. NCSC offers the following two recommendations for this stage of proceedings.

Recommendation 22: After communication with the District Attorney's Office and the Public Defender's Office, the District Court should consider the introduction of a plea cutoff policy to promote earlier pleas and greater certainty of trial dates. (See Appendix E for more details.) Such a policy appears to be permissible under Rule 5-304, which permits the Court to fix the time at which notification must be given of any plea agreement.

Recommendation 23: The Criminal Division should adopt a policy limiting unnecessary continuances, reflecting best practices for the management of criminal cases and the need to provide credible trial dates. (See Appendix D for a model continuance policy.) This policy should be applied with reasonable consistency by all the judges of the Criminal Division.

4. Sentencing and Probation. Under Rule 5-703, a presentence report must be available at least 10 days before a sentencing hearing. Rule 5-701 requires, absent good cause shown, that a sentencing hearing must begin within 90 days after trial conclusion or entry of a guilty plea. Sentence must then be imposed within 30 days after the end of the sentencing hearing.³² Any motion to modify a sentence must under Rule 5-801 be filed within 90 days after sentence has been imposed or an appeal has been dismissed or conviction affirmed.

Under Rule 5-805, the initial hearing on a probation violation must begin within 30 days after the filing of a petition to revoke probation, or later if the defendant has been found incompetent, if a case is on appeal, or if a defendant fails to appear. The adjudicatory hearing on a probation violation must be held within 60 days after the initial hearing. Hearings on probation violations are held by the judges under a master schedule on a rotating basis every Friday.

³² The rule permitting at least 120 days (and perhaps longer if a sentencing hearing ends on a date later than when it was begun) from conviction to imposition of sentence in New Mexico appears to allow a longer time than is provided by rule or statute in some other states. For example, sentence must be imposed within 40 days after conviction in the State of Washington; within 45 days in Tennessee; within 60 days in West Virginia; within 90 days in Wisconsin and Pennsylvania; and "without unreasonable delay" in Kentucky and New Jersey.

Specific Recommendation on Probation Violations. NCSC offers the following suggestions for management of probation violation hearings.

Recommendation 24: To improve timeliness in probation violation hearings and promote better use of time for judges and other criminal case participants, the judges of the Criminal Division should revisit the prospect of having a single judge hear all probation violation hearings for a week on a rotating basis. The risk of having a party exercise the right to peremptory removal of a judge at this stage should be addressed through the development and reasonably consistent application of Criminal Division policies and practices.

F. Conclusion

In the different sections of this chapter, a set of specific recommendations for improvement have been offered. It is important to make two points about these recommendations. First, it is critical that adoption of such improvements as those recommended here be a matter of division-wide policies among the judges, and that all or almost all of the judges be committed to following the policies most of the time in most circumstances. Second, the Court must avoid viewing “improvement” as little more than the adoption and application of one or two simple, discrete changes. Instead, attention must be given to the systemic nature of the criminal justice process and the need for a systematic approach to improvement.

Recommendation 25: To limit judge shopping and any potential for having individual judges criticized at retention, the judges of the Criminal Division should adopt and consistently apply best practices in the management of cases during all phases of case processing. To the extent possible, the Criminal Division should have published policies for the management of criminal cases, and the judges should follow them with sufficient consistency to give predictability and consistency to attorneys in the handling of criminal cases.

Recommendation 26: Bernalillo County officials and District Court leaders should not view the recommendations offered in this report as a “cafeteria menu” from which they may simply pick some and reject others. Nor should the problems and potential solutions be viewed as the responsibility of just one or two organizations for piecemeal implementation. Instead, improvement of felony caseflow

management in Bernalillo County should be viewed as a matter requiring systemic effort under the leadership of the District Court and involving all its criminal justice partners and stakeholders. To that end, the Court and the County should adopt and implement a comprehensive improvement plan such as that offered in Chapter III of this report.

Chapter III.

Comprehensive Felony Caseflow Management Improvement Program for Bernalillo County

Although specific numbered recommendations for improvement are offered throughout Chapter II, it is not enough simply to “fix” a defined set of specific problems. Instead, the District Court and the other court-related and general government stakeholders in Bernalillo County must take a broader and more comprehensive approach. It is critical to change the mindset of the criminal justice community in Bernalillo County.

Based on their assessment of felony case-processing situation in Bernalillo County, the NCSC project team members offer the following overall program for felony caseflow management improvement in Bernalillo County. This program follows Recommendation 26, and it builds on the other specific numbered recommendations offered in Chapter II for particular phases of felony case processing.

A. Criminal Division Judge Commitment and Policies

- Currently, there is little communication among the judges about what works and what doesn’t regarding calendar settings, continuances, pretrial processes, and trial management. Judges meetings should be structured to discuss these basics and move toward agreement on Division policies. Lawyers and staff are confused, on the one hand, and game the judges, on the other hand, since there is no consistency among the judges.
- Learning the basic principles and best practices of criminal caseflow management by the judges and key court staff must be an announced, agreed upon objective. Either county or grant funds should be sought to run a one to two-day session specifically targeting these principles.
- Pretrials and criminal settlement conferences should be consistently set 30-45 days after arraignment, lawyers must be expected to be prepared, and a judge with authority to accept a plea must be present.

B. District Attorney and Law Enforcement

- The DA should develop a plan and process for preliminary hearings instead of channeling the vast majority of cases through Grand Jury indictment. Delays can be reduced, pleas enhanced, and excessive work on the part of many justice system agencies lessened.

- Law Enforcement arrest records processing must be improved; accurate and timely data needs to be transmitted to the DA's Office without the current delays experienced. There should be a commitment and action plan to reengineer the workflow procedures with special attention to remedying the widespread delays in APD's Records Department.
- DA plea policies should be widely understood by the defense bar, including a strong plea cut-off policy widely known to the defense bar.
- The DA should explore assigning lawyers to cases as soon as practical after a decision is made to charge. The delays occasioned in not assigning a lawyer to a case until after Grand Jury indictment work against early pleas and disposition of the case.

C. Public Defender and Private Defense Counsel

- Discovery needs to be exchanged as early as possible.
- Pretrial conferences must to be meaningful; defense lawyers must be conversant with their case at the first pretrial. The system should operate on the presumption there will be only one pretrial unless the case is highly unusual, complex, or there has been a change in counsel. Settlement conference orders (trial management orders) should be developed at the pretrial for any case that is not pled.

D. Criteria for Success in Timely Case Processing

- Bernalillo County case processing standards commencing at arrest or initial appearance should be developed and applied, including time to district court indictment, and phasing in the movement toward agreed-upon best practices using such goals as those recommended by the American Bar Association as a guide.
- Perhaps building upon the Bernalillo County experience in this effort, the Supreme Court of New Mexico should revisit its current implied 18-month time guideline running from district court arraignment, having research done on statewide standards in other jurisdictions. See National Center for State Courts, Knowledge and Information Services, "Case Processing Time Standards in State Courts, 2007" (February 2009), available online at <http://www.ncsc.org>.

E. Information Technology and Effective Capacity to Monitor Case Status

- The new Tyler electronic case management software must be able to clearly measure the time between major events in the criminal caseflow, producing understandable statistics. All those entering data, especially judicial assistants to judges, must dependably and uniformly log data into the system. Training programs and error rates, including omissions, delays and inaccuracies, must be strictly monitored by court administration and reported to the employing judge. Enhancing the current system may be difficult and take needed time away from instituting other necessary caseflow reforms.

- TCAA's in judges' chambers should be required to attend periodic special training programs on their key role in case processing and provided opportunities to enhance their skills and understandings.
- To address the systemic significance of police reports for the felony discovery process, the DA's Office and the Public Defender's Office should coordinate with APD and BCSO to make any necessary changes in business processes and software to promote efficient electronic receipt of law enforcement reports and discoverable information.

F. Recommended Steps to Exercise Active Caseflow Management

- Law enforcement: See case processing recommendations in "Arrest to Indictment" Section of Chapter II.
- District Attorney: By moving more cases away from prosecuting virtually all cases by indictment to one focusing more on prosecution by information, earlier exchange of discovery should be easier to accomplish for those matters. For cases that continue to proceed to indictment, exchange of discovery should take place prior to indictment as should the assignment of an assistant DA responsible for the case up to and through trial.
- Indigent Defense: Currently, a public defender is not assigned to the case until after Grand Jury indictment. An ad hoc task force chaired by a leadership judge should help the DA and PD develop a mutually acceptable early discovery experimental project. Once perfected, the new approach should be expanded to the entire court.
- Triage Event: Although this might be achieved through an expansion of the "Pre-Indictment Plea Program (PIPP)" or of the "Early Plea Program (EPP)," it would be more effective in a pre-indictment preliminary hearing conducted by the District Court. Should the justice system move a majority of cases to preliminary hearing, this can serve as a pre-indictment triage event, provided there is a simultaneous commitment to exchange discovery and assign defense and prosecution counsel prior to indictment. The great majority of cases not resolved by plea at this stage should be prosecuted by information and arraigned at preliminary hearing by the District Court judge immediately upon filing of the information.
- Case Preparation: Preparation of a case from arraignment requires a written continuance policy that is consistently enforced by

Criminal Division judges; agreement about standard time periods from arraignment to pretrial; and Division-wide consistency in conducting pretrial conferences (i.e., what is expected, routine settlement and trial management orders, and expectations that lawyers will be prepared). (See Appendix D.)

- Pretrial Conferences: See the best practices described in Appendix C.
- Plea Cutoff: The Criminal Division and the District Attorney's Office should consider the possibility of introducing a plea cutoff policy, which would require commitment and consistency from both the Court and the District Attorney. (See Appendix E.)
- Credible Trial Dates: The Criminal Division should have a written and published policy to limit unnecessary continuances. (See Appendix D.) Most of the time, most of the Criminal Division judges should follow the policy, granting continuances for good cause and only when absolutely necessary.

In addition, a clear, workable, agreeable back-up judge plan must be developed. It should be widely understood and clearly demonstrated by trial date that no one will be turned away on a trial date for lack of a judge. This may require that civil judges cover for Criminal Division judges when they are all in trial and are overset.

- Trial Management: Pursuant to Rule 5-603, the District Court should hold a pretrial hearing for purposes of trial management in cases where streamlining the order of proof would be aided by such a hearing. If the judge and the attorneys are able to shorten the typical trial duration by reducing any unnecessary redundancies, it has the effect of making more judge, prosecutor and defense attorney time available for other matters, in effect expanding the amount of available resources.³³
- The PV Calendar: A separate probation violation calendar should be structured. To date, the Court has allowed the lawyers to control whether such a calendar is structured or not. In developing such a calendar, most courts in other jurisdictions listen to suggestions from numerous parties,

³³ See Dale Sipes and Mary Oram, *On Trial: The Length of Civil and Criminal Trials* (Williamsburg, VA: National Center for State Courts, 1988).

and then proceed with a solution decided upon by the Court taking into account the suggestions. The decision should rest with the Criminal Division.

G. Priorities and Consensus for Implementation

- **Needed Priorities:** Leadership; Criminal Division-wide training on the principles of criminal caseflow management; an agreed upon action plan; experimental / pilot programs; timely and accurate information.
- **Court Consensus:** Criminal Division judges need a retreat for training and consensus-building in caseflow management.
- **DA/PD Consensus:** These two offices and their top-level leaders do not appear to get along institutionally. Perhaps some sort of one-on-one meeting with a facilitator would help. It is to their mutual advantage to work effectively together and promote early resolution of cases, especially given the continued poor economy and likely constricted budgets and staff. Is there an icon in the community that could encourage cooperation? A current or former judge or chief justice, a mediator, a respected attorney?
- **City/County Consensus:** A candid assessment is that trust levels appear low among the County and City stakeholders. There seems to be suspicion of ulterior motives. A respected public official or a retired professional or other community leader who is well-respected might champion the effort to build inter-governmental consensus.
- **Assuring Success:** There must be continued attention to corrective initiatives. Data should be published, public commitments offered, and reports issued. This would be a big step in the culture of the local justice system which is currently based on autonomously operated agencies. The ultimate issue is this: How can the Court and affiliated criminal justice agencies operate together as a system?

APPENDICES

APPENDIX A.

**AVERAGE AGE OF DISPOSED AND PENDING
BERNALILLO COUNTY FELONY CASES, FY 2004-FY
2009, COMPARED TO NEW MEXICO STATEWIDE
DISTRICT COURT AVERAGES**

Table A-1. Average Time to Disposition (in Days), New Felony Cases with One Judge, Second Judicial District and Statewide ^a

Fiscal Year	Total Cases	2d Dist Ct Average	Statewide Average	Over Statewide Average	Under Statewide Average
2004	3,324	271	207	54.1%	45.9%
2005	4,014	202	207	38.2%	61.8%
2006	3,891	200	207	35.9%	64.1%
2007	3,559	232	207	43.7%	56.3%
2008	3,396	225	207	42.3%	57.7%
2009 ^b	1,996	222	207	41.0%	59.0%

Table A-2. Average Time to Disposition (in Days), Reopened Felony Cases with One Judge, Second Judicial District and Statewide ^a

Fiscal Year	Total Cases	2d Dist Ct Average	Statewide Average	Over Statewide Average	Under Statewide Average
2004	1,606	127	99	27.4%	72.6%
2005	1,768	123	99	22.9%	77.1%
2006	1,965	110	99	21.2%	78.8%
2007	1,705	98	99	22.0%	78.0%
2008	1,663	106	99	21.5%	78.5%
2009 ^b	860	71	99	16.6%	83.4%

Table A-3. Average Age (in Days), Pending Felony Cases with One Judge, Second Judicial District and Statewide ^a

Fiscal Year	Total Cases	2d Dist Ct Average	Statewide Average	Over Statewide Average	Under Statewide Average
2004	5,581	243	305	19.0%	81.0%
2005	6,296	240	305	18.1%	81.9%
2006	5,898	248	305	18.7%	81.3%
2007	6,035	225	305	19.1%	80.9%
2008	5,462	232	305	18.7%	81.3%
2009 ^b	6,683	242	305	21.0%	79.0%

^a Source: Court Administrator, Second Judicial District.

^b FY 2009 data are for the period from July 1, 2008, through February 28, 2009, only.

APPENDIX B.

**NCSC REQUEST FOR SAMPLE ELAPSED TIME FELONY
CASE DATA FROM DISTRICT COURT**



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Memo

To: Kevin Ybarra
From: David Steelman
CC: Judge William Lang
Judge "Pat" Murdoch
Juanita Duran
Mark Pickle
Jane Macoubrie
Gordy Griller
Date: April 14, 2009
Re: Request for sample case data

This request comes after my discussions with Juanita Duran and my receipt of information from you. NCSC would like data from three representative samples -- one consisting of 100 criminal cases recently disposed by each criminal division judge; a second consisting of all criminal cases recently disposed by jury trial; and the third consisting of 100 cases per criminal division judge that were still open on a recent date. A "case" is a single defendant and all the charges involved in a single incident.

By "disposed" cases I mean those in which there has been a conviction by plea or trial or an acquittal or other non-conviction event ending a prosecution (such a dismissal or nolle prosequi). A case "disposed by jury trial" is one in which a disposition is reached after a trial jury has been impaneled. An "open" case is one that has not yet been disposed by any such means.

A sample consisting of 100 cases per judge will have a $\pm 10\%$ margin of sampling error, and NCSC will not report on individual judges. The sample results will be reported in the aggregate for the entire division, and the aggregate sample will have a margin of error of less than $\pm 5\%$, which is considered an

acceptable level of sampling error. Of course, there will be no margin of error for jury trial dispositions.

To identify the specific cases in the sample of "disposed" cases for each judge in the criminal division, please determine how many cases each judge disposed in the most recent 12-month period (for example, between April 1, 2008, and March 31, 2009), and then divide that total by 100. If Judge A had 1,500 disposed cases, example, begin the sample with the first disposed case during that period, and then pick every $(1,500 \div 100 =)$ 15th case until you have a total of 100 sample cases. (If there are multiple defendants prosecuted together at the same time, please pick just one of those defendants -- for example, the one first named in the indictment.)

To identify the "jury trial dispositions," determine how many cases had a jury impaneled in the most recent 12-month period (for example, between April 1, 2008, and March 31, 2009). Then provide the information we need for all of those cases.

To identify the specific cases in the sample of "open" cases for each judge in the criminal division, determine how many cases each judge had pending as of the last day of the one-year period for disposed cases (e.g., March 31, 2009), and then divide that total by 100. Begin the sample with the oldest pending case, and then pick every "nth" (for example, "n" could equal $1,500 \div 100$) until you have a total of 100 sample cases, being careful to pick just one defendant in a multiple-defendant prosecution.

In each sample, here is the information that NCSC requests:

- Date of arraignment on indictment;
- Date of first entry of appearance by a public defender or first entry of appearance by private defense counsel;
- Date of entry of appearance by any conflict counsel;
- Date of last recorded discovery event;
- Date of hearing on any suppression motion;
- Date of last pretrial hearing;
- Number of times a bench warrant was issued;
- Number of times any event before trial was not held and was rescheduled;
- Date of trial commencement or disposition by non-trial means;
- Number of times that trial start was scheduled but was not held and had to be rescheduled; and
- In conviction cases, date of sentencing.

Our analysis will involve the calculation of elapsed times from date of arraignment to subsequent court event. This will enable us not only to determine how well the Court does by comparison to relevant generally-accepted time standards, but also to see where things typically get bogged down.

APPENDIX C.

**BEST PRACTICE LESSONS FOR FELONY PRETRIAL
SETTLEMENT CONFERENCES**

Appendix C.

Best Practice Lessons for Felony Pretrial Settlement Conferences

A. Introduction

In 2009, the Supreme Court of New Mexico approved the use of settlement conferences (often known as criminal pretrial conferences) in the District Court for the Second Judicial District in Bernalillo County. To aid the development and implementation of such settlement/pretrial conferences for felony cases in Bernalillo County, the National Center for State Courts (NCSC) has been asked to provide a “white paper.” This chapter is based on that white paper. It outlines best practices from urban trial courts around the country, with particular reference to experience in the Maricopa County Superior Court in Phoenix, Arizona. The overall theme for this chapter is that successful use of criminal pretrial settlement conferences requires that they be part of a broader effort by the court and its justice partners to see that justice is done in a prompt manner that serves the interests of both case participants and taxpayers.

B. Lessons from Urban Trial Courts Generally

A trial court’s use of settlement/pretrial conferences in felony matters can be an important part of a caseflow management effort.³⁴ In order for criminal pretrial conferences to work successfully, the following are critical:

- Court commitment to achieving justice promptly;
- A strong commitment by the prosecutor’s office to speedy case processing; and
- Commitment by public defenders and others representing criminal defendants not only to providing effective assistance of counsel, but also to resolving cases expeditiously in recognition of speedy trial requirements.

In view of the fact that about 95% of all criminal cases in American trial courts are disposed by plea or other nontrial means, criminal caseflow management should focus on ways to provide for meaningful plea discussions between prosecution and defense counsel, beginning at an early stage of proceedings. This includes the following:

- Early determination of defendant eligibility for counsel at public expense, so that defendants can be represented by counsel as soon as possible after arrest and initial appearance in Bernalillo Metropolitan Court;
- Early opportunities for defense counsel to meet with their clients;
- Prompt provision of arrest reports, recorded statements and other police information by law enforcement officers to the prosecutor’s office;³⁵

³⁴ See Barry Mahoney and Dale Sipes, “Toward Better Management of Criminal Litigation,” *72 Judicature* (No. 1, June/July 1988) 29.

³⁵ To avoid problems that may arise *after* cases have been filed in court, it may be necessary for the district court in Bernalillo County to work with prosecutors and law enforcement officials to address *pre-filing* issues associated with police and prosecutor activities immediately after arrest.

- Prosecution provision of an early “discovery package” to defense counsel to promote meaningful early discussion of disposition options between prosecution and defense counsel;³⁶
- Realistic plea offers by the prosecution as early as possible;³⁷
- Defense counsel preparation to negotiate, balancing the best interests and constitutional rights of their clients, and including meetings with their clients;
- Court insistence that counsel meet deadlines for case preparation and monitoring of the scheduling of pretrial settlement conferences to identify and resolve reasons for unnecessary continuances and rescheduling;³⁸
- Early court decisions (preferably before pretrial settlement conferences) on admissibility of evidence, most notably regarding defense motions to suppress evidence;
- Court and prosecution commitment to enforcing a “plea cutoff date” policy (see Appendix E);³⁹
- To help prosecution and defense counsel be focused on achievement of negotiated pleas as part of the pretrial settlement conference process, court provision of firm and credible trial dates.

C. Lessons from Maricopa County Superior Court

National-scope studies of delay in urban trial courts show that the judges, court staff and justice partners of the Arizona Superior Court for Maricopa County in Phoenix have for decades sought to assure that justice is done promptly in the felony and civil matters that come before it.⁴⁰ As a result, it has long been recognized as a court with a long and successful history of managing delay.⁴¹ Presented here are best practices from the successful operation of criminal pretrial conferences in the Maricopa County Superior Court.

³⁶ Unless and until the prosecution has provided suitable discovery to the defense attorney, there can be no meaningful opportunity for plea discussions. To avoid unnecessary multiple rescheduling of criminal pretrial settlement conferences, it is critical for this to be addressed as early as possible in the felony process.

³⁷ A realistic plea offer is one that can be seen by defense counsel and the defendant as being sound on the specific evidence in the case and reflects a reasonable prediction of the likely outcome in the case. Unless a prosecutor is willing to make such offers, defense counsel will maintain that “justice delayed is justice achieved,” and criminal pretrial settlement conferences will fail to achieve early case dispositions.

³⁸ For a model continuance policy, see Appendix D.

³⁹ For the elements of a successful plea cutoff policy, see Appendix C.

⁴⁰ See, for example, Thomas Church, et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (NCSC, 1978); Larry Sipes, et al., *Managing to Reduce Delay* (NCSC, 1980); Barry Mahoney, et al., *Changing Times in Trial Courts: Caseflow Management and Delay Reduction in Urban Trial Courts* (NCSC, 1988); and John Goerd, et al., *Reexamining the Pace of Litigation in 39 Urban Trial Courts* (NCSC, 1991).

⁴¹ See William Hewitt, et al., *Courts That Succeed: Six Profiles of Successful Courts* (NCSC, 1990).

Prior to the Conference

- The **pretrial should be thought of as a process** rather than a conference, because the progression of narrowing the issues, clearly identifying the options, and assessing the arguments culminates in negotiated pleas.
- It is **critical for the court to promote preparation by the lawyers prior to the conference**. The oft mentioned caseflow adage that prepared lawyers settle cases is based on hard evidence and documented fact. The earlier a case is prepared for trial, the earlier it can be resolved by the parties. Counsel preparation is the single most important factor in settlement.
- Since lawyers are more prone to prepare for meaningful events; the **conference must be seen by all as an important significant event**. Not a mere status conference which many meaningless pretrials essentially are where the judge inquires of the parties what they have done, the lawyers explain why things are not moving along as they should, the judge admonishes the lawyers and then another pretrial conference date is set.
- The **conference must be realistically set**; far enough in advance (e.g., 2 weeks prior to the trial date is a common point) to permit preparation, but short enough to stimulate preparation.
- An effective trial management conference **requires that the lawyers be substantially ready for trial**.
- The **lawyers who will try the case and the defendant must be present**.
- Normally, in a criminal management conference, the **assigned trial judge is not the trial conference judge** unless the parties so stipulate.
- Under the NM Supreme Court permitted criminal trial management conference pilot project, the **trial conference judge takes a more active role in presenting information to the defendant**. This requires that the judge be relatively familiar with the nature of the offense, the prosecutor's plea offer, the defendant's criminal history, and defense arguments.
- To ensure the trial management conference is successful, **it would be wise that the court require counsel to prepare certain documents in advance of the pretrial**. Discussion and agreement among public lawyers and the court regarding the exact requirements and documents should be decided in establishing the pilot. The Maricopa Superior Court model, although discretionary, often requires a settlement memorandum be filed.

At the Conference

- **Strict adherence to a plea cut-off date.** Normally, the plea offer should expire no later than 24 hours after the trial management conference. Negotiated dispositions are based on an early, realistic offer that is unlikely to improve substantially with the passage of time. (See Appendix E.)
- **Conference should last no longer than 45 minutes.**
- **Level-headed discussion of major discovery elements, but not in an adversarial manner.** The pretrial is not intended to engender arguments, but to present data and options.
- **Informal setting** at a counsel table in the courtroom, a conference room or jury room, generally with the judge robed.
- Judge explains the **three-fold purpose** of the conference: give information to the defendant, advise the defendant of the evidence, and examine the plea offer.
- Judge reviews the **context in which the pretrial or trial management conference is offered**...it is non-coercive (not trying to force the defendant to enter a plea), it examines the role of the jury regarding conviction and acquittal and it relates the settlement statistics for like criminal cases, indicating that most arrive at a negotiated plea.

APPENDIX D.
MODEL CONTINUANCE POLICY

Appendix D. Model Continuance Policy⁴²

It is the policy of this Court to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. For all of its case types and dockets, and in all of its courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. To protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

Except in unusual circumstances, any continuance motion or request must be in writing and filed not later than [48 hours] before the court event for which rescheduling is requested. Each continuance motion or request must state reasons and be signed by both the attorney and the party making the request.

The Court will grant a continuance only for good cause shown. On a case-by-case basis, the Court will evaluate whether sufficient cause justifies a continuance. As a guide to practitioners, the following will generally *not* be considered sufficient cause to grant a continuance:

- Counsel or the parties agree to a continuance;
- The case has not previously been continued;
- The case probably will settle if a continuance is granted;
- Discovery has not been completed;
- New counsel has entered an appearance in the case or a party wants to retain new counsel;
- Unavailability of a witness who has not been subpoenaed;
- Plaintiff has not yet fully recovered from injuries when there is no competent evidence available as to when plaintiff will be fully recovered;
- A party or counsel is unprepared to try the case for reasons including, but not limited to, the party's failure to maintain necessary contact with counsel;
- The failure to schedule the hearing on a suppression motion on a timely basis unless the prosecution failed to comply with a discovery order;
- A police officer or other witness is either in training or is scheduled to be on vacation, unless the Court is advised of the conflict soon after the case is scheduled and sufficiently in advance of the trial date;

⁴² This model policy was originally developed by David C. Steelman, Principal Court Management Consultant, National Center for State Courts, at the request of the Presiding Judge of the Yamhill County Circuit Court in McMinnville, OR, in 2006, as part of a caseflow management technical assistance program with the Oregon Judicial Department. It has been revised in 2009 as part of a technical assistance project with the Alaska Judicial Department and the Alaska Superior Court for Anchorage, incorporating examples of grounds on which continuances would generally be granted or not granted in substantial reliance on the continuance policy published by the Circuit Court of Petersburg, VA (11th Judicial Circuit)(© Supreme Court of Virginia 2009) (see <http://www.courts.state.va.us/courts/circuit/Petersburg/continuance.html>, as downloaded on June 23, 2009).

- Any continuance of trial beyond a second trial date setting.

The following will generally be considered sufficient cause to grant a continuance:

- Sudden medical emergency (not elective medical care) or death of a party, counsel, or material witness who has been subpoenaed;
- A party did not receive notice of the setting of the trial date through no fault of that party or that party's counsel;
- Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship or possibly miscarriage of justice if the trial is required to proceed as scheduled;
- Unanticipated absence of a material witness for either party;
- Illness or family emergency of counsel.

Any grant of a continuance motion or request by the Court shall be made on the record, with an indication of who requested it and the reasons for granting it. Whenever possible, the Court shall hold the rescheduled court event not later than [7 days] after the date from which it was continued.

Information about the source of each continuance motion or request in a case and the reason for any continuance granted by the Court shall be entered for that case in the Court's computerized case management information system. At least once a quarter, the chief judge and other judges of the Court shall promote the consistent application of this continuance policy by reviewing and discussing a computer report by major case type on the number of continuances requested and granted during the previous period, especially as they relate to the incidence and duration of trial-date continuances. As necessary, the Court shall work with bar representatives and court-related agencies to seek resolution of any organizational or systemic problems that cause cases to be rescheduled, but which go beyond the unique circumstances of individual cases.

APPENDIX E.

**ELEMENTS OF A SUCCESSFUL “PLEA CUT-OFF”
POLICY FOR CRIMINAL CASES**

Appendix E.

Elements of a Successful “Plea Cut-Off” Policy for Criminal Cases⁴³

Introduction⁴⁴

In view of the fact that about 95% of all criminal cases are disposed by plea or other non-trial means, criminal caseflow management should focus on ways to provide for meaningful plea discussions between prosecution and defense counsel, beginning at an early stage of proceedings. Prosecutors should be prepared to make realistic plea offers as early as possible. Defense counsel, in turn, should be prepared to negotiate, balancing the best interests and constitutional rights of their clients.

The court should establish and be prepared to enforce a “plea cut-off” policy. Under such a policy, the court in a scheduling order might establish a date for prosecution and defense counsel to meet to discuss the possibility of a plea, at which the prosecutor’s office would be prepared to make its best offer to the defendant. A plea cut-off date, perhaps a week after that conference and one or two weeks before the scheduled trial date, would be the last date on which the defendant could accept the prosecution’s best offer. If the defendant sought to plead guilty after that date, he or she would have to plead to the original charge filed by the prosecutor. There would be no benefit for the defendant to wait, since the prosecutor’s offer would not “get better” from a defense perspective.

Necessary Features

In order for a plea cut-off policy to be successful, there are certain features that must be present. They are the following:

- The court and the prosecutor’s office must both be committed to making the program work.
- The program must provide an opportunity for a “best-and-final” prosecution plea offer after defense counsel has (a) received sufficient discoverable evidence to assess the strength of the prosecution’s case, and (b) met the defendant enough to have attorney-client credibility in discussion of the prosecution offer.
- The prosecutor’s office must make a best-and-final plea offer that is really a “good offer” – that is, one that is credible based on the evidence and what a reasonable defense attorney would expect to happen if the case went to trial.
- There should be a plea cut-off date after which the prosecution’s best-and-final plea offer is no longer available.
- Even though the court cannot be expected to reject a defendant’s guilty plea, even on the day of trial, the court must be firm in its enforcement of the plea cut-off

⁴³ This document was originally prepared by David Steelman, Principal Court Management Consultant, National Center for State Courts, on September 13, 2008, in response to a technical-assistance request from Suzanne H. James, Court Administrator for the Circuit Court for Howard County in Ellicott City, Maryland.

⁴⁴ David Steelman, with John Goerdts and James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (NCSC, 2004 edition), p. 33.

date. This means that in almost all circumstances, absent unforeseen developments, most or all of the criminal judges must require the defendant to “plead straight up” or “make a naked plea,” without the benefit of the best offer made by the prosecutor.

Other Features Promoting Success

The success of a plea cut-off policy requires that the above features be present. There are other features that can enhance the likelihood of success. These include the following:

- Court capacity to provide credible trial dates.
- Early prosecution screening of cases to assure that charges fit the evidence.
- Early determination of defendant’s eligibility for representation by the public defender or otherwise at public expense.
- Early defense counsel contact with the client to develop a working attorney-client relationship.
- Early prosecution provision of a “discovery package” to defense counsel, with sufficient information to allow defense counsel (a) to identify any potential suppression issues, and (b) otherwise to assess the strength of the prosecution case.
- Timing of the final prosecution-defense plea discussion close enough to the trial date for the defendant to take the prosecution’s best-and-final offer seriously, but enough in advance of the trial date to allow the court scheduling flexibility if the defendant decides to accept the prosecution offer and plead guilty on or before the plea cut-off date.

Appendix G: *Workshop on Reducing Felony Case Delay*

Results
Workshop on Reducing Felony Case Delay
Second Judicial District Court, Bernalillo County, New Mexico
Friday, March 19, 2010

Judges Present: Pat Murdoch, Charles Brown, Kenneth Martinez, Ross Sanchez, Denise Barela-Shepherd, and Reed Sheppard

NCSC Staff Present: David Steelman, Gordy Griller

A wide ranging discussion took place regarding the recommendations in the recent National Center for State Courts' Felony Caseflow Management Study of the Criminal Division. Three flip charts were developed during the workshop and left with Judge Murdoch for reference by the court's leadership and Criminal Division judges, including (a) a listing of proven principles of sound criminal caseflow management, (a) a "reverse telescope" diagram comparing common civil and criminal case disposition points,¹ and (c) a list of priorities regarding all NCSC recommendations ranked in terms of their impact (how significant each would be in reducing delay in criminal cases) and feasibility (how difficult or easy each would be to implement). Overall consensus and agreement among the workshop judges included the following desired initiatives and action plans under the general topics discussed.

1. Early and Continuous Control

Objective: Control the pace of litigation from bind over.

Initiatives: ✓Expand EPP program to include more case;
✓Add a second EPP judge;
✓Process more cases through information / preliminary hearing;
✓Develop a duty judge to screen PD and DA cases early in the process;
✓Insure police report is provided to the defense with the target notice;
✓Promulgate local criteria (standards) for timely case processing;
✓Promote changes via Judge Murdoch and the justice system partners.

¹ The *reverse telescope* depicts major "fallout" or disposition points in the movement of cases from arrest (criminal) or filing (civil) to trial. Research substantiates that in every court, the vast majority of cases never reach trial. They are pled or settled somewhere along the process, usually at a court imposed meaningful event which requires the parties to prepare and discuss, in earnest, the merits of the case. Where these court created opportunities and incentives for early case resolution are significant and consequential, effective bargaining and admissions promote resolution. This is the *Doctrine of Judicial Responsibility*; essentially meaning that the overall pace of litigation and specific points for disposition must be left to a judge as an impartial decision-maker never to the adversaries who have vested interests in the case.

2. Prepared Lawyers Settle Cases; the Court Must Assure Preparation²

Objective: Prompt lawyer preparedness by developing meaningful events and operating in a united fashion as a Criminal Division.

Initiatives: ✓ Draft new criminal rules using the Federal Rules as a guide;
✓ Impose stricter discovery deadlines and exchanges by local rule;³
✓ Develop a strong pretrial scheduling order used by all judges;⁴

3. Identify and Eliminate Inefficiencies in the Process

Objective: Reduce the number of times the court has to touch a case. This can be done by streamlining procedures, developing special/consolidated calendars, and developing a back-up judge program to avoid continuing numerous trials because individual calendars are overset.⁵

Initiatives: ✓ Create a consolidated PV docket during motion weeks;⁶
✓ Ensure all charges against a defendant are set before the same judge;⁷
✓ Create a system of “back-up” judges that curtails disqualifications.⁸

4. Develop a Uniformly Applied Continuance Policy

Objective: Limit the number of postponements by being reasonably arbitrary.

Initiatives: ✓ Adopt a firm, universally followed, written continuance policy;
✓ Track and analyze continuances by reason, requesting party, and judge.

² In criminal matters, lawyer preparation is a key element since over 95 percent of all cases settle prior to trial. It is important to remember the following truths: Lawyers settle cases, not judges. Lawyers settle cases when they are prepared. (Unprepared lawyers shouldn't settle cases). Lawyers prepare for significant events. Significant events are set and upheld by the court. By creating and maintaining expectations that events will occur when scheduled; a culture of predictability will result. Wasted resources are reduced and time is better spent by all.

³ The Chief Judge should, under Rule 5-501, order early discovery before indictment.

⁴ Use as a guide the pretrial scheduling order used by former Taos County District Judge Peggy Nelson.

⁵ All courts must overset trial calendars since cases which languish in the system often settle immediately prior to trial. To promote settlement and “harden” the trial docket, trial date certainty must be a part of the local legal culture. Where a judge has more cases than he/she can try on a particular day, overflow cases must be placed as soon as possible (desirably the same day) with another available trial judge. When there is certainty of trial on the date scheduled, lawyer and defendant gamesmanship is reduced and increasing numbers of cases settle earlier.

⁶ Develop a Hearing Officer position to be funded by Bernalillo County.

⁷ Inefficiencies are caused under the current system when defendants with various charges arising out of different events at different times are assigned to different judges.

⁸ Court and NCSC will encourage the New Mexico Supreme Court to adopt a rule that once a case is set for trial before a specific judge and that judge cannot try it, a reassignment to another judge for trial shall not be subject to a disqualification motion. Should a state rule be unattainable, the Criminal Division may wish to explore a “strike system” whereby lawyers are required to immediately exercise all disqualification motions at the time of reassignment.

5. Continue and Expand Settlement Conferences

Objective: Use both pro tem (retired) judges and sitting Criminal Division judges.

Initiatives: ✓ Request additional pro tem judge help and funding from the County;
✓ Augment pro tem judges with Criminal Division judges

Appendix H: Next Step in the Improvement Efforts by the Second Judicial District to Provide Prompt and Affordable Felony Justice in Bernalillo County

NEXT STEP IN THE IMPROVEMENT EFFORTS BY THE SECOND JUDICIAL DISTRICT TO PROVIDE PROMPT AND AFFORDABLE FELONY JUSTICE IN BERNALILLO COUNTY

WHITE PAPER, JANUARY 5, 2011

Introduction

At the center of criminal caseload management in Bernalillo County is the Criminal Division of the Second Judicial District Court. The Criminal Division has 10 judges, including the Presiding Judge, and is essentially a felony court. The criminal caseload of the Court far exceeds that of the other 12 districts of New Mexico. The pending caseload of the Division has increased by 20% from 2004 to 2009 and only 56.5% of dispositions occurred within the ABA Standard for felony cases – 180 days. A 2006 study revealed that there were 26.2 events per felony case. This has been reflected in the population of the MDC, where over 50% of those incarcerated are pretrial felony detainees. The average length of pretrial detention for a serious felon is 8-9 months. When there is serious overcrowding, some detainees are transported to Santa Fe facilities.

Improvement Efforts to Date

In 2009, with funding from Bernalillo County, the National Center for State Courts (NCSC) completed a study of felony caseload management in the Second Judicial District Court. Highlights of the NCSC study are shown in the appendix. In 2010, Chief Judge Ted Baca and the Second Judicial District Court of New Mexico began to implement felony caseload management improvements in Bernalillo County. In this effort, they have had support from the Administrative Office of the Courts, and the Bernalillo County Commissioners. In addition, they have had the commitment and participation of the County Manager's Office for Bernalillo County; the Bernalillo County District Attorney's Office, the Albuquerque Office of the New Mexico Public Defender Department, the Sheriff's Office and Metropolitan Detention Center (MDC) of Bernalillo County, and the Albuquerque Police Department, as well as the New Mexico Administrative Office of the Courts.

An important step at the commencement of felony proceedings has involved the improved transmission of police information from the Albuquerque Police Department to the District Attorney's Office. The great majority of criminal cases in Bernalillo County are based on arrests made by the Albuquerque Police Department (APD). As a result of the findings and recommendations in the NCSC study, substantial steps are already underway to streamline the transmission of APD case information and the certainty of its prompt receipt by the DA's Office. This should allow for improved early DA screening of felony cases and earlier transmission of discoverable information by the DA's Office to

the Public Defender (PD). This should reduce delay and the number of time-consuming pretrial motions and hearings involving PD discovery requests.

A second improvement step has involved experimentation with post-arraignment settlement conferences. The judges of the District Court's criminal division have received Supreme Court approval to experiment with pretrial settlement conferences, in which a judicial officer other than the judge who would preside at trial sits down with prosecution and defense and contributes an independent and authoritative assessment of the case to help the participants decide whether a disposition by plea is appropriate.

Another approach that the District Court may consider is the adoption of a "plea cutoff" policy, under which the prosecution would give a "best and final" plea offer before trial. After the passing of a cutoff date, that offer would no longer be available; and the Court would allow the defendant to plead guilty, but the outcome would not be as favorable to the defendant as that under the prosecution's best offer.

Critical Next Improvement Step

Before considering whether to introduce a plea cutoff policy, however, the Second District is exploring the introduction of pre-indictment district court felony status hearings. This may have the most dramatic effect on the timeliness and affordability of felony proceedings. Under current practices in Bernalillo County, a defendant granted pretrial release in the Bernalillo County Metropolitan Court may not be indicted for four months or more, after which it may be necessary for the Second District Court to issue a bench warrant for failure to appear. In addition, many persons arrested on felony charges may already be on probation for prior offenses.

To accelerate the processing of cases, the NCSC study recommended that the District Court hold an early pre-indictment triage docket. In other trial courts such as the Arizona Superior Court in Maricopa County (Phoenix) and the New Jersey Superior Court in Essex County (Newark), all felony cases are scheduled for hearing on such a docket no more than 30 days after initial appearance. Experienced prosecutors and experienced public defenders are present, and a "discovery package" is provided to defense counsel, so that the lawyers can assess the cases and decide whether they can be disposed of by a negotiated guilty plea then and there. In Phoenix, about 65% of all felonies are disposed at this early event. If a plea disposition is not appropriate at that point, the prosecution files an "information" as a charging document rather than bringing the case before a grand jury for indictment. If the defendant is present, he can be arraigned then and there on the prosecution charges.

In Bernalillo County, Chief Judge Baca has advised that this early triage event should be termed a "status hearing," and that provide an opportunity for a District Court magistrate to hear cases involving both probation violations and new felony charges. Judge Baca and the County have agreed for the County to fund the positions of one or more magistrates to preside at the status hearings. For accused persons not released from

jail, and for probation violators who have committed new crimes, the hearings would be held in a courtroom at MDC, with adjacent office space for assistant DA and PD attorneys. For defendants granted pretrial release, the magistrates would hold the dockets at a downtown court location.

In the best of all circumstances, the defendants in virtually all felony cases would appear before a District Court magistrate on the docket for this early status hearing. For those disposed by plea, several subsequent court hearings would be avoided, and probably with the same outcome except that it would come many months sooner. Even those not disposed by plea at the status hearing would have the benefit of an earlier district court arraignment and earlier scrutiny by both prosecution and defense counsel to ascertain what must be done to achieve a just outcome.

Conclusion

Judge Baca, his judicial colleagues, and other stakeholders in Bernalillo County thus anticipate that implementing felony case management improvements will mean not only that justice will be done sooner in felony cases, but also that there will be fewer scheduled court events, fewer required court appearances per case for attorneys and law enforcement witnesses, less wasted time for judges, lawyers, police and their support staff, shorter defendant jail time pending adjudication, and reduced prisoner transport costs between MDC and the Court. Since the Second Judicial District Court is the busiest in New Mexico, the implementation of these recommendations could substantially improve the use of current resources in the State's largest trial jurisdiction.

APPENDIX.
**HIGHLIGHTS OF NCSC REPORT ON FELONY CASEFLOW
MANAGEMENT IN BERNALILLO COUNTY (November 2009)**

Chapter I. What the Numbers Show about Felony Case Processing Times

Highlights of Findings:

- District Court’s pending inventory was about 20% higher on 2/28/09 than on 6/30/04.
- For cases with indictment, arrest to indictment averages about 4 months, with one case taking 9 months, and many cases had no indictment 9 months after arrest.
- District Court filing to nontrial disposition averages almost 6 months, and one case took about 29 months.
- District Court filing to jury trial disposition averages almost 20 months, and one case took about 4 ½ years.
- About 60-70% of cases have failures to appear and bench warrants.

Highlights of Recommendations:

- District Court monitoring of felony case processing times should begin at arrest and should include the date of initial appearance and determination of probable cause. Scheduled court events and continuances should routinely be made available from judges’ chambers to the District Court’s central case information system. The Court should continue monitoring felony clearance rates and should routinely monitor how many cases were older than applicable time standards at disposition; how many active pending cases are currently approaching or older than applicable time standards; and how frequently does the trial in a case actually commence on the first-scheduled trial date.

Chapter II. Understanding the Numbers

Highlights of Findings:

- Average length of stay in pretrial detention for serious felons is about 8-9 months.
- Even with electronic records, exchange of information between Metro Center, District Court and other criminal justice partners is largely by paper.
- Initial arrest reports from APD routinely take 30-90 days to be transmitted, and there is a dramatic difference of perspective between APD and other criminal justice partners.
- APD has increased its sworn officers, but it has a shortage of non-sworn staff.
- Sixty-four percent of those booked at MDC are released from jail shortly after initial appearance in Metro Court. Most are charged with minor violations.
- Virtually all felony cases in Bernalillo County are prosecuted by indictment.
- Cases are assigned to individual judges at or soon after arraignment. The exercise of peremptory removal supports at least an appearance of “judge shopping,” and some judges may have significantly fewer active assigned cases, with their approach to dealing with cases being seen as a burden on their colleagues.
- Rule 5-501 provides that unless the Court orders a shorter time, the DA must disclose discoverable evidence to the defendant within 10 days after arraignment or waiver of arraignment. The DA’s Office understands this to mean that there is no entitlement to discovery before indictment.
- Continuing problems in the transmission of police reports and other discoverable information from the APD to the DA’s Office are seen as a source of discovery delay.
- Rule 5-604 provides that a trial must typically commence within six months after arraignment, providing that a case can be dismissed with prejudice if trial is not started within time limits. It appears that this sanction is seldom applied, however. Since almost two-thirds of all cases had at least one bench warrant, it is likely that time extensions are often granted because a defendant had failed to appear.

Chapter II. Understanding the Numbers (continued)

Highlights of Recommendations:

- There should be a coordinated, sustained effort toward integrating and sharing electronic data among the various digitized case management systems in the county.
- The District Court should explore the possibility of assuming responsibility for felony inmate jail monitoring from the County.
- The APD Records Department should be reorganized and staffed more appropriately. Electronic field automation incident reporting should be integrated with Records Department business practices and paper records from other sources.
- Compatibility between BCSO and APD electronic computer report writing systems should be sought. The DA's Office and the Public Defender's Office should adjust business processes and introduce software as necessary to promote efficient electronic receipt of law enforcement reports and discoverable information.
- Serious consideration should be given to ways that more cases can be resolved before indictment.
- A probation violation calendar should be established by the District Court and overseen by a specially-assigned PV judge, who need not be the sentencing judge.
- The DA's Office should consider having many more felonies prosecuted by information rather than by indictment. An ad hoc committee led by the Chief Judge and composed of knowledgeable and high-level prosecutors and defense lawyers should be created to explore earlier discovery exchange geared toward prosecutions by information and early pleas at or before District Court arraignment.
- Consistent with its authority under Rule 5-501 to order earlier discovery, the District Court should encourage the DA's Office to disclose discoverable information before indictment to allow an experienced attorney from the Public Defender's Office to review a case before indictment and engage in discussions with a prosecutor about a possible plea or the most suitable way to proceed on felony charges.
- After communication with the District Attorney's Office and the Public Defender's Office, the District Court should consider the introduction of a plea cutoff policy to promote earlier pleas and greater certainty of trial dates. (See Appendix E for more details.)
- The Criminal Division should adopt a policy limiting unnecessary continuances, reflecting best practices for the management of criminal cases and the need to provide credible trial dates. (See Appendix D for a model continuance policy.) This policy should be applied with reasonable consistency by all the judges of the Criminal Division.

Chapter III. Comprehensive Caseflow Management Improvement Program

Based on their assessment of felony case-processing situation in Bernalillo County, the NCSC project team members offer an overall program for felony caseflow management improvement with the following features:

- There should be consensus and commitment to caseflow management among Criminal Division judges.
- The DA's Office should work with law enforcement on early provision of reports and early discovery exchange.
- C. Defense counsel must have early contact with clients and be conversant with cases at the first pretrial conference.
- There should be established criteria for success in timely case processing.
- Information technology improvements are needed to provide efficient information exchange and effective case status monitoring.
- The District Court and each of its criminal justice partners should take steps to exercise active caseflow management.
- There should be consensus about priorities and implementation steps.

Appendix I: National Center for State Courts Workload and Cost Implications of Implementing Felony Caseflow Management Improvements in Bernalillo County Analysis

October 20, 2010

**National Center for State Courts Workload and Cost Implications of
Implementing Felony Caseflow Management Improvements in
Bernalillo County Analysis**

The County Manager’s Office for Bernalillo County, New Mexico (County), has requested that a consultant from the National Center for State Courts (NCSC) work with researchers from the Institute for Social Research (ISR) at the University of New Mexico to estimate the workload and cost implications of implementing felony caseflow management improvements in Bernalillo County. For this request, the County has the active commitment and support of the Second Judicial District Court of New Mexico (Court), the Bernalillo County District Attorney’s Office (DA), the Albuquerque Office of the New Mexico Public Defender Department (PD), the Sheriff’s Office (Sheriff) and Metropolitan Detention Center of Bernalillo County (MDC), and the Albuquerque Police Department (APD), as well as the New Mexico Administrative Office of the Courts (AOC).

In 2007, the NCSC completed a weighted workload study for courts, prosecution, and defense, working with NDAA/APRI and ISR. This study calculated judicial, DA, and PD demand based on the caseload and operational methods at the time of the study, not necessarily the demand if the court system operated more efficiently. The study established case weights based on case-specific activities, such as hearings summary results,. The conclusion of the workload study was that trial courts needed 31 more judges, District Attorney’s offices needed 31 more prosecuting attorneys, and the State Public Defender needed 41 more defense attorneys. See Appendix A. When the results of the study were presented to a joint budget committee of the New Mexico Legislature, legislators complained that the study did not give sufficient attention to possible waste and inefficiency in the use of current court, prosecution and defender personnel resources.

In 2009, with funding from Bernalillo County, the NCSC completed a study of felony caseflow management in the Second Judicial District Court. Among other things, the NCSC study recommended that steps be taken to improve early transmission of police information from ADP to the DA; an early pre-indictment proceeding for the Court, the DA and the PD to “triage” cases; the use of settlement conferences and other means to promote plea dispositions before trial; and efforts to limit unnecessary trial-date continuances. See Appendix B.

A foreseeable consequence of implementing such recommendations as these is not only that justice would be done sooner in felony cases, but also that there would be fewer scheduled court events, fewer required court appearances per case for attorneys and

law enforcement witnesses, less wasted time for judges, lawyers, police and their support staff, shorter defendant jail time pending adjudication, and reduced prisoner transport costs between MDC and the Court. Since the Second Judicial District is the busiest in New Mexico, the implementation of these recommendations could substantially improve the use of current resources in the State's largest trial jurisdiction, thereby addressing concerns expressed by New Mexico legislators in 2007.

The effort proposed here would allow Bernalillo County and the State of New Mexico to benefit from recent innovative efforts by the NCSC to combine the fruits of workload assessment efforts with those of operational caseflow management improvements. The NCSC has tested a methodology to estimate the cost of time lost by in the Ninth Judicial District of Florida (Orange and Osceola Counties) from not having meaningful court events for felony cases and specifically from time lost on rescheduling preliminary conferences and trial dates. In that study, the NCSC concluded that the full-time equivalent of two Circuit Court judges, ten prosecuting attorneys, ten public defender attorneys, and ten law enforcement officers would be saved by introducing caseflow management improvements that would limit rescheduled court events. See Appendix C.

In this effort, the County, the Court, and their criminal justice partners in Bernalillo County seek to estimate the value of the improved efficiencies resulting from implementing the NCSC recommendations, not just those for county agencies, but also for state-level public treasuries and justice agency budgets in the felony court process before the Court. To support implementation of the recommendations in its felony caseflow management report, the NCSC has begun planning with the County and the ISR, with felony disposition data from the AOC, for the application of this methodology in Bernalillo County. Yet it is not possible without further assistance from the State Justice Institute for that effort to be completed. This type of analysis will be of great value to judges and court managers and to counties that fund part of the justice system, not only in New Mexico, but also for state court systems throughout the country.

Setting

At the center of criminal caseflow management in Bernalillo County is the Criminal Division of the Second Judicial District Court. The Criminal Division has 10 judges, including the Presiding Judge, and is essentially a felony court. The criminal caseload of the Court far exceeds that of the other 12 districts of New Mexico. The pending caseload of the Division has increased by 20% from 2004 to 2009 and only 56.5% of dispositions occur within the ABA Standard for felony cases – 180 days. A 2006 study revealed that there were 26.2 events per felony case. This has been reflected in the population of the MDC where over 50% of those incarcerated are pretrial felony

detainees. The average length of pretrial detention for a serious felon is 8-9 months. When there is serious overcrowding, some detainees are transported to Santa Fe facilities.

The number of hearings is not just a detention problem but requires the participation of numerous public employees, typically judges, court reporters, clerks, security officers, prisoner transport officers, law enforcement officers, prosecutors, defenders, and any staff members assisting judges, prosecutors and defenders. In the Second Judicial District Court, many proceedings involve officers of the Albuquerque Police Department, the agency that makes most criminal arrests. So the City also has a stake in efficiency as well.

Funding

New Mexico has undergone great budget cutbacks that have greatly reduced resources for courts, district attorneys and public defenders. There has been wide use of furloughs and reduction in service. The costs of the MDC mount, so any problems in the state-funded criminal justice agencies impact the County.

Project Description

Overview. The NCSC has developed a methodology for estimating the cost of time lost from not having meaningful case events. First developed for the Ninth Judicial Circuit Court of Florida, it will be refined and modified for application in Bernalillo County. The methodology is relatively simple and does not include all the costs that might be picked up in a more comprehensive study, but it is the premise of the NCSC that a simpler approach is more effective and yields results that are sufficiently reliable to form the basis for decisions by court leaders and government officials. Case weights and time availability data derived from the 2007 workload assessment and statistical data from the ISR study of felony cases recently disposed by the Court, in combination with cost information from the Court and other criminal justice agencies, can be applied in key areas that would be affected by the 2009 NCSC caseflow management recommendations to determine the estimated cost impact of implementing those recommendations. This project represents a step in that direction. The methodology used in Florida can be modified and applied in Bernalillo County to yield an approach with the following ten steps:

1. From data reported to the AOC, determine the total number and specific court docket numbers for felony cases disposed by the Court during the most recent year or 12-month period.
2. Randomly select 350-400 of those cases, creating a sample that in 19 times out of 20 would yield results not varying more than $\pm 5\%$ from what would be learned

from a study of the entire universe of felony cases disposed by the Court in that year.

3. From the AOC record for those sample cases, gather and analyze data on the number of total or specified court events in specified case types. Include data on elapsed time, including that from arrest or first appearance to indictment and from indictment to final disposition, for purposes of comparing the results with those from the caseflow management assessment in the 2009 NCSC report.
4. Determine the typical annual salary and fringe benefit cost for a judge, support staff, and each other typical participant in the court process, including the Bernalillo County DA's, the PD Office, the Sheriff's Office, MDC, and APD. Also include such available cost data as that on MDC jail days, prisoner transport, and execution of bench warrants.
5. From the 2007 NCSC workload study data as now maintained for the New Mexico Sentencing Commission by ISR, determine the total amount of time in minutes that is available for court events each day during the course of a year, as well as the amount of time for each participant in the court process that it typically required for the work under study – here, the average number of scheduled court events per case.
6. Determine the per cent of defendants represented by public defenders as well as the percentage of defendants detained prior to adjudication and then calculate the estimated rescheduling cost per person per year by multiplying the estimated cost per cases by the total number of cases filed per year.
7. Estimate the cost in terms of personnel, facilities, and other expenses of (a) creating an early pre-indictment triage docket having most or all felony charges heard on that docket, (b) creating an expanded program of pretrial settlement conferences, and (c) other new expenditures, such as the addition of pro tempore judges or quasi-judicial officer positions and staff;
8. Estimate the likely impact in terms of required scheduled court events of the following improvements:
 - a. Impact of improved APD transmission of police information to DA for sharing with PD on the subsequent number of pretrial discovery-related events;
 - b. Impact of pre-indictment triage event on timing of guilty pleas and number of post-indictment scheduled court events avoided by having earlier pleas;
 - c. Impact of successful settlement conferences or successful plea cut-off policy on the number of post-indictment scheduled court events avoided by having earlier pleas; and

- d. Impact of more consistently-applied court continuance policy on the number of scheduled court events before trial and the number of scheduled trial dates.
9. Taking the results from steps 1-8, apply them to the entire felony workload for a year to calculate the impact of changes in average scheduled court events per case on full-time equivalent judicial and other staffing, as well as such costs as those for MDC jail days, prisoner transport, and execution of bench warrants.
10. Calculate the estimated full-time-equivalent personnel cost per year by dividing the rescheduling cost per year by the annual personnel cost per person and calculate the estimated annualized cost impact of implementing the NCSC recommendations.

Work Plan. The work plan consists of following six tasks occurring over a six-month period.

Task 1. Coordination of NCSC, ISR and County Manager’s Office with Court and other Criminal Justice Agencies

Task 2. Planning for Gathering of Sample Case Data, Workload Data, and Personnel and other Cost Data

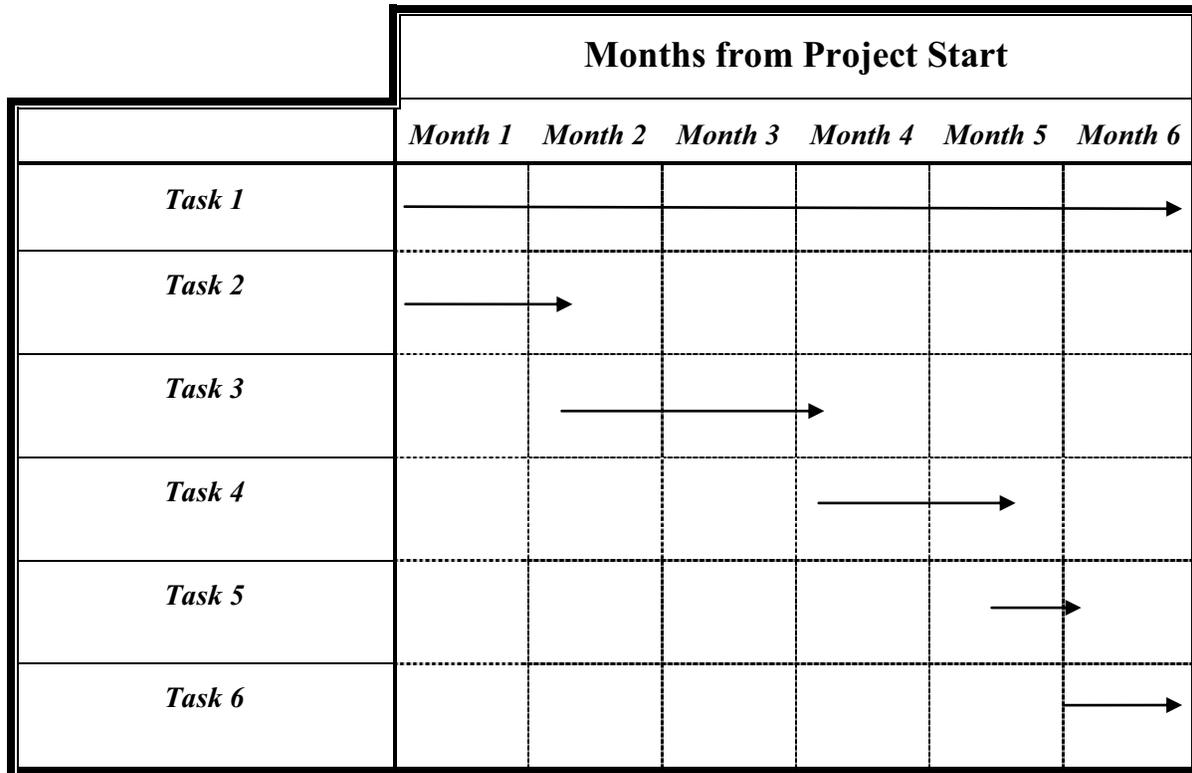
Task 3. Data Collection

Task 4. Analysis of Data and Calculation of Implementation Impact

Task 5. Preparation of Draft Cost Impact Report and Review with Key Stakeholders

Task 6. Completion and Submission of Final Cost Impact Report

Estimated Timeline



End Result and Likelihood of Use

The Commission and the justice agencies will receive a well-grounded cost estimate of costs associated with rescheduling. This is but one aspect of the cost of delay but places the issue of case churning in a monetary setting that quantifies the gravity of the issue. Assuming the validity of the estimates, the study can be used to illustrate the effect of delay on the citizens of Bernalillo County and public treasuries and to heighten the urgency in effecting system improvements. It can also provide a model for the State of New Mexico and the AOC to apply in assessing the impact of possible improvements in other judicial districts.

Consultant Qualifications

The **National Center for State Courts (NCSC)** is a non-profit organization charged with improving judicial administration in the United States and around the world. It functions as a think-tank, library, and nonprofit consulting firm for the courts, advocate for judicial and legislative reform, and a center of education in the field of judicial administration. In its Headquarters in Williamsburg, VA, it has the Research and

Technology Services, Knowledge and Information Services (KIS), Association Management, Communications and Publications, and the Institute for Court Management (Education) divisions. NCSC's library contains the largest known collection of court-administration materials. There are two smaller permanent offices, one in Denver, CO, for the Court Consulting Services Division; and another in Arlington, VA, for the Government Relations and International Programs divisions.

The principal consultant for NCSC will be **David C. Steelman**, who has been with the NCSC since 1974. In 36 years with the National Center, he has led hundreds of projects for courts in three dozen states and eight foreign countries, in such areas as court organization; court performance measurement; trial and appellate court caseload management; drug courts; family and juvenile courts; management of court reporting services; and management of traffic courts. His book entitled, *Caseflow Management: The Heart of Court Management in the New Millennium* (2000, 2002, 2004), has been one of the NCSC's most in-demand publications. He is very familiar with New Mexico, having directed the 2007 statewide weighted caseload study for judges, prosecutors and public defenders (see Appendix A), as well as the 2009 felony caseload management study in the Second Judicial District Court of New Mexico (see Appendix B) and the 2010 Florida Ninth Circuit Court cost impact study (see Appendix C).

A research unit at the University of New Mexico, the **Institute for Social Research (ISR)** conducts high quality research on a variety of local, state, national, and international subjects. ISR employs state-of-the-art, proven research strategies to collect and analyze information used to produce reports, papers, monographs, and books. The critical issues with which ISR works include crime, education, homeland security, terrorism, and health care. As a unit within the university's College of Arts and Sciences, and as an affiliate of the Sociology department, ISR is able to draw upon a large pool of graduate and undergraduate students who provide assistance to its research efforts.

Leading the ISR team will be **Paul Guerin**, who holds a Ph.D. in Criminology and Sociology from the University of New Mexico. He is a Senior Research Scientist with ISR, and he is the director of its Center for Analytical Research and Analysis (CARA). CARA provides evaluation research, basic applied research, training, and technical assistance, with a focus on the criminal justice system. It employs graduate and undergraduate students from a variety of fields, who serve as project managers, interviewers, writers, data collectors/entry, data analysts, and administrative personnel. Recent reports by Dr. Guerin include a process evaluation of the "Second Chance Center" (2008) and an analysis of the impact of earned "good time" on time served in New Mexico prisons (2008).

Budget

The total cost of the project is \$XXXX. The Second Judicial District Court of New Mexico and the Bernalillo County Manager's Office and the Second Judicial District Court of New Mexico are requesting \$XXXX in SJI funds and will provide a cash match of \$XXX and ???????. A line item budget (Form E) and budget narrative are attached, as is our affirmation of support and a letter from the National Center for State Courts affirming their participation.

We are confident that this project will be very beneficial to the Court and the County and would appreciate your consideration of our application.

Sincerely Yours,

APPENDIX A.
SUMMARY OF WORKLOAD ASSESSMENT FOR THE NEW MEXICO TRIAL COURT JUDICIARY, NEW MEXICO DISTRICT ATTORNEYS' OFFICES, AND NEW MEXICO PUBLIC DEFENDER DEPARTMENT (June 2007)

How many judges, prosecutors, public defenders, and support staff are needed to provide justice for the citizens of New Mexico without undue delay and within finite public resources? The State of New Mexico had taken steps in the recent past to answer parts of this question by having separate studies done at different times:

- *Weighted caseload study for trial judges* – done by National Center for State Courts (NCSC) in 1995;
- *Weighted caseload update for trial judges* – done by NCSC in 1998;
- *Workload assessment for district attorneys' offices* – done by the American Prosecutors Research Institute of the National District Attorneys Association (NDAA/APRI) in 2001; and
- *Workload study for trial court clerical staff* – done by NCSC in 2004.

No assessment had been done of attorney and staff resource needs for indigent defense in New Mexico, however; and there had been no comprehensive effort in New Mexico (and indeed few, if any, in any other state) to look carefully at personnel resource needs for judges, prosecutors and public defenders at the same time.

Approach and Activities of Workload Assessment Study Participants

While a comprehensive study of workloads and personnel resource needs like this is a novelty, NCSC and NDAA/APRI have each done many assessments in other states focusing solely on judges, prosecutors, defenders or support staff. From these studies, each organization has developed the following general orientation:

- Effective use of personnel resources should be tied to workload, not just cases;
- It is therefore necessary to translate “*caseload*” into “*workload*;”
- Different types of cases require different amounts of time and attention from judges, prosecutors, defense attorneys, and their support staff;
- Any assessment must be both credible and understandable not only to judges, prosecutors, and indigent defense attorneys, but also (as a matter of critical importance) to state or local funding authorities; and
- It is necessary to use a careful and credible approach that distinguishes “what is” from “what should be.”

To complete this workload assessment with such an orientation, the project team from NCSC and NDAA/APRI worked closely in 2006 and 2007 with NMSC staff members; with an Advisory Committee of judges, prosecutors and defense attorneys; and with work study groups consisting of judges, attorneys, or support staff members.

Findings on Statewide Resource Needs

As part of the activities summarized above, NMSC and the Advisory Committee for this study approved the project design and oversaw (a) the project team's efforts with work study groups, (b) the conduct of a time study and the analysis of its results; and (c) the completion of a time sufficiency study leading to quality adjustments in the time study results. (For a better understanding, see the explanation of methodology that follows.) At the conclusion of the study process, NMSC and the Advisory Committee approved the findings of NCSC and NDAA/APRI about New Mexico's current resource needs for trial court judges, attorneys and staff in district attorneys' offices, and public defender attorneys and staff.

Total Personnel Needs. As reported by NCSC in this report, this workload assessment leads to statewide findings on total judicial need. Under current circumstances, the State of New Mexico requires (a) 136 District Court judicial officers; (b) 23 judges in the Bernalillo Metropolitan Court; and (c) 56 judges in the Magistrate Courts. The report also shows the statewide NDAA/APRI workload assessment for district attorneys' offices. To meet today's workload, New Mexico needs (a) 365 prosecuting attorneys; (b) 59 investigators; (c) 63 victim/witness advocates; and (d) 449 support staff members. Finally, the NCSC workload assessment for public defenders is described in the report. To deal with its current statewide indigent defense workload, New Mexico needs (a) 210 attorneys; and (b) 180 support staff members.

Additional FTE Needs Beyond What is Now Available. How well is the total need for judges, attorneys and support staff now being met, and how many FTE positions must be added to see that the total need is being met? Figure A summarizes the "bottom line" results of this workload assessment.

**Figure A. Additional FTE Needs for the New Mexico Trial Court Judiciary,
District Attorneys and Public Defender Department***

Description	Total Need	Available FTE	Additional FTE Needed
<i>Trial Court Judiciary¹</i>			
District Court	136	112 ²	24 ³
Metropolitan Court	23	19	4
Magistrate Court	56	55	7 ⁴
<i>District Attorneys⁵</i>			
Attorneys	365	324	41
Investigators	59	50	9
Victim Witness	63	60	3
Support Staff⁶	449.5	433	16.5
<i>Public Defenders⁷</i>			
Attorneys	210	169	41
Support Staff⁸	180	135	45

* All FTE counts shown here are as provided by agencies and reflect FY 2006 FTE personnel levels. FTE counts do not include new positions authorized in the 2007 legislative session.

¹ Total judgeship need is based on FY 2006 cases filings. Filing counts include civil and domestic relations cases.

² Includes judges and hearing officers.

³ This calculation counts hearing officers at their whole FTE. When applied by the Administrative Office of the Courts hearing officers are counted at 66% of their FTE in keeping with a decision by the Chief Judges Council. This results in a judicial need of 32.

⁴ Magistrate judge need is adjusted to reflect statutory judgeships.

⁵ Total need in district attorney offices is based on FY 2006 dispositions.

⁶ Excludes FTE counts of financial positions that do not perform case-related work.

⁷ Total need for the defender department is based on FY 2005 open cases. This count reflects only the work of Public Defender Department offices and excludes lawyers in private practice who provide indigent defense services as contract attorneys. (See Appendix 3-A for more on the results of contract attorney participation in the time study for this project.)

⁸ Excludes FTE counts of financial positions that do not perform case-related work.

APPENDIX B.
HIGHLIGHTS OF NCSC REPORT ON FELONY CASEFLOW
MANAGEMENT IN BERNALILLO COUNTY (November 2009)

Chapter I. What the Numbers Show about Felony Case Processing Times

Highlights of Findings:

- District Court's pending inventory was about 20% higher on 2/28/09 than on 6/30/04.
- For cases with indictment, arrest to indictment averages about 4 months, with one case taking 9 months, and many cases had no indictment 9 months after arrest.
- District Court filing to nontrial disposition averages almost 6 months, and one case took about 29 months.
- District Court filing to jury trial disposition averages almost 20 months, and one case took about 4 ½ years.
- About 60-70% of cases have failures to appear and bench warrants.

Highlights of Recommendations:

- District Court monitoring of felony case processing times should begin at arrest and should include the date of initial appearance and determination of probable cause. Scheduled court events and continuances should routinely be made available from judges' chambers to the District Court's central case information system. The Court should continue monitoring felony clearance rates and should routinely monitor how many cases were older than applicable time standards at disposition; how many active pending cases are currently approaching or older than applicable time standards; and how frequently does the trial in a case actually commence on the first-scheduled trial date.

Chapter II. Understanding the Numbers

Highlights of Findings:

- Average length of stay in pretrial detention for serious felons is about 8-9 months.
- Even with electronic records, exchange of information between Metro Center, District Court and other criminal justice partners is largely by paper.
- Initial arrest reports from APD routinely take 30-90 days to be transmitted, and there is a dramatic difference of perspective between APD and other criminal justice partners.
- APD has increased its sworn officers, but it has a shortage of non-sworn staff.
- Sixty-four percent of those booked at MDC are released from jail shortly after initial appearance in Metro Court. Most are charged with minor violations.
- Virtually all felony cases in Bernalillo County are prosecuted by indictment.
- Cases are assigned to individual judges at or soon after arraignment. The exercise of peremptory removal supports at least an appearance of "judge shopping," and some judges may have significantly fewer active assigned cases, with their approach to dealing with cases being seen as a burden on their colleagues.
- Rule 5-501 provides that unless the Court orders a shorter time, the DA must disclose discoverable evidence to the defendant within 10 days after arraignment or waiver of arraignment. The DA's Office understands this to mean that there is no entitlement to discovery before indictment.
- Continuing problems in the transmission of police reports and other discoverable information from the APD to the DA's Office are seen as a source of discovery delay.
- Rule 5-604 provides that a trial must typically commence within six months after arraignment, providing that a case can be dismissed with prejudice if trial is not started within time limits. It appears that this sanction is seldom applied, however. Since almost two-thirds of all cases had at least one bench warrant, it is likely that time extensions are often granted because a defendant had failed to appear.

Chapter II. Understanding the Numbers (continued)

Highlights of Recommendations:

- There should be a coordinated, sustained effort toward integrating and sharing electronic data among the various digitized case management systems in the county.
- The District Court should explore the possibility of assuming responsibility for felony inmate jail monitoring from the County.
- The APD Records Department should be reorganized and staffed more appropriately. Electronic field automation incident reporting should be integrated with Records Department business practices and paper records from other sources.
- Compatibility between BCSO and APD electronic computer report writing systems should be sought. The DA's Office and the Public Defender's Office should adjust business processes and introduce software as necessary to promote efficient electronic receipt of law enforcement reports and discoverable information.
- Serious consideration should be given to ways that more cases can be resolved before indictment.
- A probation violation calendar should be established by the District Court and overseen by a specially-assigned PV judge, who need not be the sentencing judge.
- The DA's Office should consider having many more felonies prosecuted by information rather than by indictment. An ad hoc committee led by the Chief Judge and composed of knowledgeable and high-level prosecutors and defense lawyers should be created to explore earlier discovery exchange geared toward prosecutions by information and early pleas at or before District Court arraignment.
- Consistent with its authority under Rule 5-501 to order earlier discovery, the District Court should encourage the DA's Office to disclose discoverable information before indictment to allow an experienced attorney from the Public Defender's Office to review a case before indictment and engage in discussions with a prosecutor about a possible plea or the most suitable way to proceed on felony charges.
- After communication with the District Attorney's Office and the Public Defender's Office, the District Court should consider the introduction of a plea cutoff policy to promote earlier pleas and greater certainty of trial dates. (See Appendix E for more details.)
- The Criminal Division should adopt a policy limiting unnecessary continuances, reflecting best practices for the management of criminal cases and the need to provide credible trial dates. (See Appendix D for a model continuance policy.) This policy should be applied with reasonable consistency by all the judges of the Criminal Division.

Chapter III. Comprehensive Caseflow Management Improvement Program

Based on their assessment of felony case-processing situation in Bernalillo County, the NCSC project team members offer an overall program for felony caseflow management improvement with the following features:

- There should be consensus and commitment to caseflow management among Criminal Division judges.
- The DA's Office should work with law enforcement on early provision of reports and early discovery exchange.
- C. Defense counsel must have early contact with clients and be conversant with cases at the first pretrial conference.
- There should be established criteria for success in timely case processing.
- Information technology improvements are needed to provide efficient information exchange and effective case status monitoring.
- The District Court and each of its criminal justice partners should take steps to exercise active caseflow management.
- There should be consensus about priorities and implementation steps.

APPENDIX C.
SUMMARY OF REPORT ON STEPS TO ACHIEVE MORE
MEANINGFUL CRIMINAL PRETRIAL CONFERENCES IN THE
NINTH JUDICIAL CIRCUIT OF FLORIDA (July 2010)

Key stakeholders in the Ninth Judicial Circuit of Florida perceive that delays in criminal case processing result from pretrial conferences that are not as meaningful as they should be, so that pretrial conferences and trial dates must often be rescheduled. A court event is “meaningful” when the activities for which it was scheduled actually occur as planned, and when substantial progress is made toward the disposition of the matter before the court.

This is a time when there are severe budget problems for the State of Florida and for county governments. In such an environment, delay and rescheduling of court events are not just a burden on victims and other citizens participating in criminal cases. In fact, they also cause significant wasted time for judges, prosecutors, defense attorneys, law enforcement officers, support staff, and other organizations in the court process. In a time of tight resources for courts and other public agencies, such waste is costly.

A. Cost of Time Lost by Not Having Meaningful Court Events

Using information provided by the Court and court-related organizations, the cost of such wasted time has been estimated by the National Center for State Courts. In Orange County, not having meaningful court dates for pretrial conferences and trials in felony, misdemeanor, and juvenile delinquency cases costs the Court and its justice partners about \$4.2 million worth of wasted personnel time each year. In Osceola County, the wasted time costs about \$3.1 million in personnel expenses each year. See Figures 1 and 2 below for summaries of the cost impact of wasted personnel time on the Court, the State Attorney’s Office (SAO), the Office of the Public Defender (PD), the Clerk’s Office, County Corrections, and law enforcement departments for felony and misdemeanor cases in each of the two counties. For a summary of wasted time in juvenile delinquency cases in each county, see Figure 3.

Figure 1.
Estimated Total Annual Cost of Time Lost Because of Non-Meaningful Felony
Pretrial Conference Dates and Trial Dates in Ninth Judicial Circuit

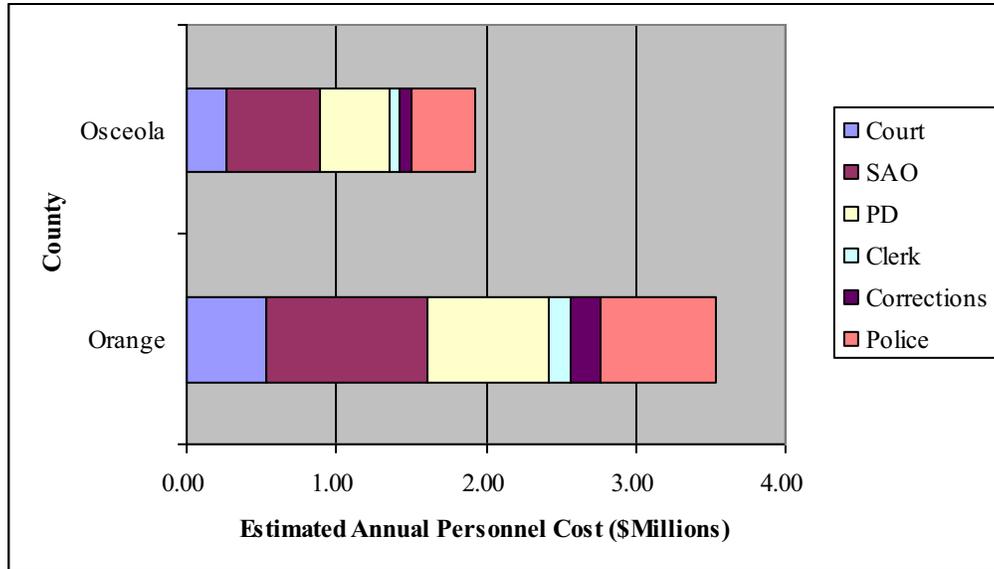


Figure 2.
Estimated Total Annual Cost of Time Lost Because of Non-Meaningful Misdemeanor
Pretrial Conference Dates and Trial Dates in Ninth Judicial Circuit

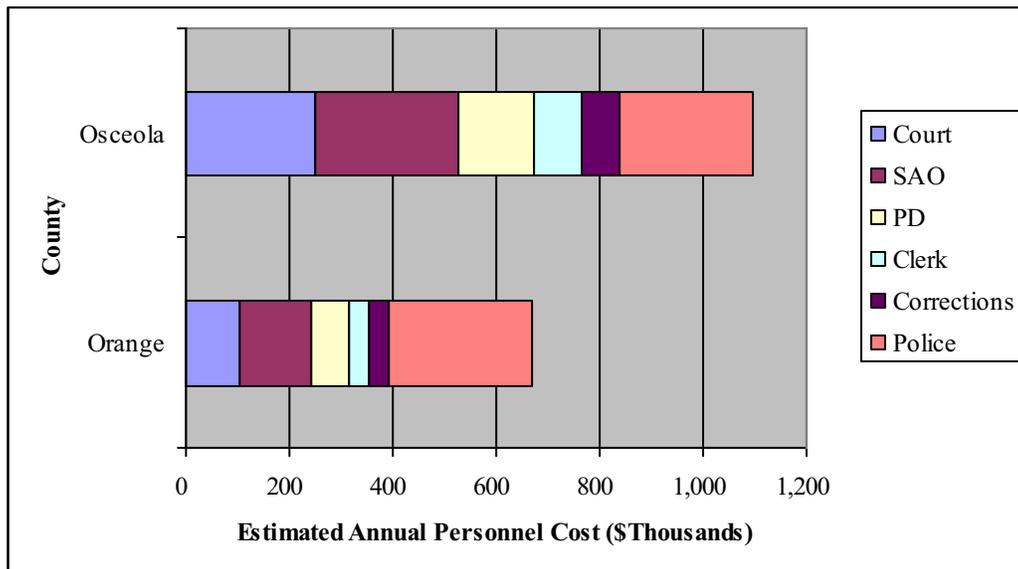
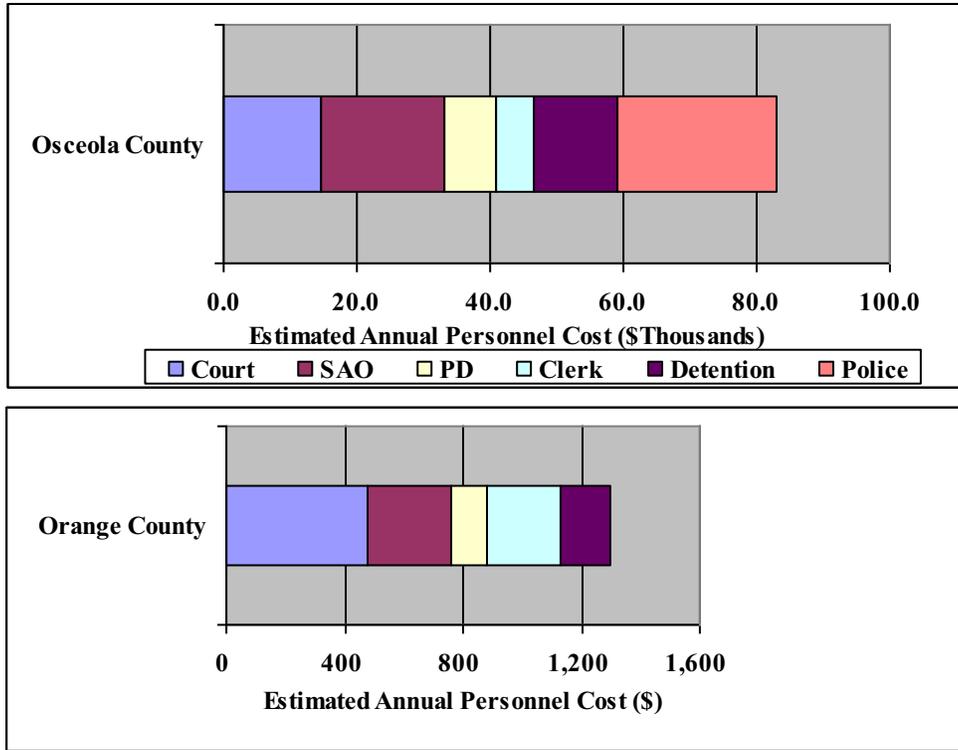


Figure 3.
Estimated Total Annual Cost of Time Lost Because of Non-Meaningful Delinquency
Pretrial Conference Dates and Trial Dates in Ninth Judicial Circuit



B. Results of Having More Meaningful Court Events

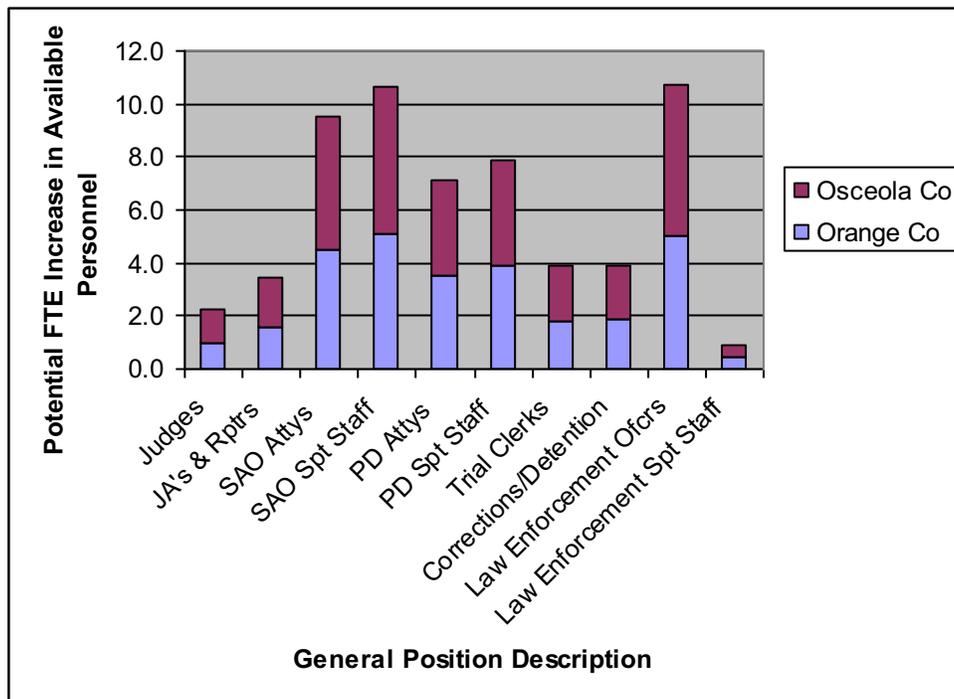
It is important to understand that it is neither possible nor desirable to eliminate all rescheduling of pretrial conference and trial dates. In individual cases, the grant of a continuance and the rescheduling of a court event is a necessary and appropriate step to assure that justice is done.

This is not to say, however, that any court event can be rescheduled without a negative impact on justice and cost to the public. To assure the provision of justice in a prompt and affordable manner, it is critical that pretrial conference dates and scheduled trial dates be credible and meaningful. This is accomplished by a court through the effective exercise of early and continuous control of case progress, so that unnecessary delays and wasted time can be minimized.

If scheduled pretrial conference dates and trial settings were more meaningful, so that there were fewer cases rescheduled, it is important to see what the results would be.

The impact can be viewed most productively in terms of time savings for judges, lawyers and others. The data results in Chapter IV (see Tables 18 and 19) show that having more meaningful court events, as reflected by the absence of any cases with any more than two scheduled pretrial conferences or trial dates, would save so much time for the judges, lawyers and others that it would be the same as having the full-time equivalent⁹ of about 60 additional people without adding anyone to the payroll! For a summary of the impact of having more meaningful pretrial conference dates and trial dates, see Figure 4.

Figure 4.
Potential Yearly Full-Time Equivalent (FTE)¹⁰ Increase in Available Personnel from Having More Meaningful Court Events in Ninth Circuit Criminal and Delinquency Cases



As Figure 4 illustrates, the reduction of wasted time would yield the equivalent of having two more judges, about ten more line prosecutors and ten more assistant public

⁹ “Full-time equivalent” (“FTE”) is a measure of the number of employees that an organization may have or need, taking into account the possibility that it may have part-time employees. It can also be used, as it is in this report, to measure the extent of personnel time savings that would result from avoidance of wasted time from increases in productivity. FTE is determined by dividing working hours (excluding overtime) for all current or needed employees by the standard hours in a full-time work year. See <http://www.iaglimited.info/results/reports/archive/html06/glossary.shtml>.

¹⁰ See note 2 for an explanation of “full-time equivalent” (“FTE”).

defenders, four more courtroom clerks, four more corrections and juvenile detention officers, ten more law enforcement officers, and more support staff for the Court, SAO, the PD and law enforcement agencies.

C. Ten Steps to Promote More Meaningful Court Events

Based on the findings summarized above, NCSC offers ten recommendations for improvement. In brief, they are the following:

- *Actively apply a court management policy to avoid unnecessary delay and waste of personnel resources*
- *Consistently apply a criminal case management policy to reduce unnecessary continuances*
- *Expand pre-booking diversion opportunities*
- *Use differentiated case management (DCM) as a tool for early and continuous court control of case progress*
- *Give early and continuous case management attention to discovery requirements*
- *Consider early judicial settlement conferences*
- *Consider adoption of a plea cutoff policy*
- *Schedule criminal court events for more efficient use of law enforcement witnesses*
- *Provide additional judicial resources for felony cases in Osceola County*
- *Measure performance and include results in published annual reports*

**Appendix J: MDC Honor Pod and Character Building
Program Inmate Handbook**

MDC Honor Pod and Character Building Program Inmate Handbook

This is a secular, residential program dedicated to modifying behavior using a system that integrates discipline and privileges whereby an inmate willingly receives evidence-based programming and education as well as the benefits associated with hard work and good behavior. Inmates interested in participating in the Character Building Program must first submit a completed application to one of the CBP case managers, thereby expressing an interest in being considered for the program. The CBP pods where the participating inmates are housed utilize an infraction system unique to those CBP pods. Privileges are bestowed or revoked, and consequences are given in accordance with the inmates' performance and behavior in the program.

Due to the Character Building Program being a voluntary one, consequences from discipline are not grievable unless they are the result of an administrative infraction. Inmates must volunteer and apply in order to be considered for acceptance into the program. Since the program is completely voluntary, any inmate belonging to the program is free to leave at any time. Inmates wishing to be discharged from the program are free to leave the CBP pod they are housed in whenever they choose, directly upon request. Inmates wishing to leave the program will be reclassified out of the CBP housing. Any inmate requesting to be discharged from the CBP must wait at least one calendar year to be reconsidered for acceptance into the program, unless otherwise authorized by the Chief of Corrections.

Targeted Needs:

In order to facilitate behavioral change in offenders, the program will primarily focus on inmates needing help transitioning into the community and toward responsible living. Inmates will learn:

- Personal Growth
- Responsible Thinking
- Managing One's Life
- Relapse Prevention
- Adapting to Change

Any inmate who has not completed his/her high school diploma (even if they already possess a "GED") must be enrolled in the Gordon Bernell Charter School full time. Unsatisfactory academic progress by the inmate attending the Charter School is grounds for dismissal from the Character Building Program and its corresponding privileged housing. Once the inmate graduates from the Charter School, the inmate may apply for one of the college prep or detail honor pods.

Any inmate possessing a high school diploma and meeting the classification is eligible to apply to participate in a "detail" or "college prep" honor pod, space permitting. Those inmates with high school diplomas who are waiting for a space to become available in a detail pod must await in one of the college prep honor pods and demonstrate appropriate behavior there until such time as space becomes available in a detail honor pod.

As a condition of participation in any "college prep" or "detail" honor pod, inmates will be required to do one or more of the following, depending on the pod and the determination made by the pod's classification committee:

- Be enrolled in continuing education classes. Unsatisfactory academic progress by the inmate taking the continuing education classes may be grounds for dismissal from the Character Building Program and its corresponding privileged housing. (the classes and caseload must be approved by the case manager once the Honor Pod Classification Committee

determines that continuing education classes will form part of the inmate's condition of ongoing eligibility in the Honor Pod)

- Provide tutoring to other inmates attending college prep courses (this is a determination made by the Honor Pod Classification Committee, but the Captain should determine the subject material, time commitment, and inmate students the tutor will apply their skills towards, based upon the inmates Accuplacer score.)
- Perform work detail (the type of work detail and required weekly detail time commitment may either be determined by the Honor Pod Classification Committee, or by the Captain's designee.)

Benefits and privileges will be granted if expectations are met regarding program participation, work performance, behavior, positive pro-social behaviors, attitude, cooperation with staff and other inmates, personal hygiene, and care/cleanliness of the housing unit. Rewards for successful program participation and appropriate behavior are:

- **Basketball; casual and team play**
- **Table tennis ("ping pong"); casual and team play**
- **Basketball and table tennis tournaments**
- **Music/radio privileges**
- **Special meals and/or snacks and desserts**
- **Special beverages (carbonated drinks, shakes, etc.)**
- **Movies and popcorn (demo)**
- **Karaoke (demo)**
- **Additional phone privileges**
- **Additional commissary privileges such as higher spending limits (\$150/week) and the availability of specialty items not available to the rest of the MDC population**
- **Strength training using fitness equipment**
- **Strength and fitness competitions**
- **Additional and expanded visitation privileges such as 40 minute video monitor and 30 minute "window" visits**
- **Guest motivational speakers**
- **Access to the inmate barbershop**
- **Additional microwaves and hot water heaters for beverages**

- **Washers and dryers in the pods**

HONOR DORM MENU

Entertainment				Pretzels & Popcorn			
818	Sony Radio w/Earbuds-Battery not Included		\$ 39.95	301	Snyder's Mini Pretzel	3.5 oz	\$ 1.75
	***Sony Radio requires 1 AA Battery			305	Snyder's Jalapeno Pretzel	2.25 oz	\$ 1.00
820	AA Batteries-Energizer **		\$ 0.93	302	Cheese Popcorn	5.0 oz	\$ 2.25
	***your old batteries must be handed in to receive new batteries			303	Jalapeno Popcorn	1.75 oz	\$ 1.05
821	***AAA Batteries-for clear tune radio		\$ 0.93	304	Crunch and Munch	4 oz	\$ 2.95
804	Washable Watercolor Paints		\$ 4.50	Candy			
819	Replacement Ear Buds		\$ 3.90	219	Milk Chocolate w/Peanuts	5.3 oz	\$ 2.39
Chips				226	Dark Chocolate	5.3 oz	\$ 2.39
386	Hot Fries (Mi Ranchito)	3.5 oz	\$ 1.55	233	Milk Chocolate w/Crisps	5.3 oz	\$ 2.39
382	Hot Cheese Curls(Kettle Creek)	4.5 oz	\$ 1.55	215	Whoppers	5.0 oz	\$ 2.49
331	Cheese Curls (Kettle Creek)	4.5 oz	\$ 1.55	Condiments			
383	Hot Nacho Chips (Mi Ranchito)	6.0 oz	\$ 1.65	195	Mayonnaise	11.5 oz	\$ 2.99
394	Spicy Salsa Tortillas (Mi Ranchito)	3.0 oz	\$ 1.45	1123	Ketchup Single Serve	10 pk	\$ 0.60
380	Chili Lime Churitos (El Super Lion)	4.59 oz	\$ 1.70	1124	Mustard Single Serve	10 pk	\$ 0.52
307	Spicy Pork Rinds (Mi Ranchito)	4.0 oz	\$ 1.95	1337	Ranch Dressing	1.5 oz	\$ 0.65
313	Fried Pork Crackins(Mi Ranchito)	2.25 oz	\$ 1.35	1339	Nacho Cheese Dip/Jalapeno	3 oz	\$ 1.70
334	Chili Cheese Corn Chips(Mi Ranchito)	13 oz	\$ 2.99	Soup & Side Dishes			
381	Cantina Style Tortilla Chips	10 oz	\$ 2.75	104	Cheesy Rice	2 oz	\$ 1.25
337	Cool Ranch Doritos	1.75 oz	\$ 1.10	105	Instant Spanish Rice w/Cheese	2 oz	\$ 1.25
1413	Fritos	2 oz	\$ 1.10	121	Vegetarian Instant Chili & Beans	2 oz	\$ 1.55
1407	Doritos	1.75 oz	\$ 1.10	122	Cooked Bacon	0.78 oz	\$ 3.55
Sodas and Soft drinks				184	Seasoned Salt	4.5 oz	\$ 2.10
527	Pepsi	20 oz	\$ 1.72	326	Beef Sausage	5 oz	\$ 3.00
525	Mountain Dew	20 oz	\$ 1.72	180	Albuquerque Flour Tortilla Company	12 pk	\$ 4.00
522	Rootbeer	20 oz	\$ 1.72	103	Kraft Mac & Cheese Microwave	Single S	\$ 1.00
523	Sierra Mist	20 oz	\$ 1.72	137	Pepperoni Slices	3.5 oz	\$ 3.65
524	Cherry Pepsi	20 oz	\$ 1.72	166	Taco Filling Pouch	11.25 o	\$ 4.25
521	Diet Pepsi	20 oz	\$ 1.72	Fresh Fruit			
528	Aquafina Water	20 oz	\$ 1.52	5301	Apples		\$ 0.69
520	Gatorade (powder drink)	2.12 oz	\$ 1.49	5303	Oranges		\$ 0.50
535	Taster's Choice Coffee	3.7 oz	\$ 8.25	5305	Bananas		\$ 0.50
526	Dr. Pepper	16.5 oz	\$ 1.65	5307	Pears		\$ 0.72
1101	Folgers Coffee	8 oz	\$ 12.99		Seasonal		\$ -
1121	Liquid Coffee Creamer	10 pk	\$ 1.75	Clothing			
Cookies & Pastries				**Subject to availability T-Shirts will be Fruit of the Loom or Hanes			
427	Swiss Rolls 12 pk	13 oz	\$ 3.25	7020	Brand Name T-Shirt	Small	\$ 6.10
438	Animal Crackers	16 oz	\$ 3.30	7021	Brand Name T-Shirt	Med	\$ 6.10
178	Peanut Butter	18 oz	\$ 3.80	7022	Brand Name T-Shirt	Large	\$ 6.10
432	Grape Jelly	20 oz	\$ 3.70	7024	Brand Name T-Shirt	2X-Larg	\$ 8.20
187	Saltines	16 oz	\$ 3.25	7025	Brand Name T-Shirt	3X-Larg	\$ 8.20
433	Snack Crackers (similar to Ritz)	10 oz	\$ 3.50	Personal Care Items			
439	Cheese Crackers (similar to cheez-it)	10 oz	\$ 3.25	611	Suave Shampoo	15 oz	\$ 2.95
1500	Grandma's PB Cookie	2 pk	\$ 0.80	610	Suave Conditioner	15 oz	\$ 2.95
1505	Grandma's Choc. Chip Cookie	2 pk	\$ 0.80	858	Aloe Vera Lotion	18 oz	\$ 2.85
1582	Grandma's Oatmeal Cookie	2 pk	\$ 0.80	833	Colgate Toothpaste	3 oz	\$ 2.65
441	Mrs. Freshley Brownie	2.75 oz	\$ 1.05	867	Close-up Toothpaste	4 oz	\$ 3.10
442	Mrs. Freshley Oatmeal Cream Pie Box	12 pk	\$ 2.85	101	Toilet Paper (Quilted Northern or Charmin)	1 roll	\$ 1.25
443	Mrs. Freshley Buddy Bar Box	12 oz	\$ 3.25	642	Eye Shadow	-	\$ 3.50
Miscellaneous				641	Eye Liner	-	\$ 2.50
969	Insulated Coffee Mug	22 oz	\$ 3.80	636	Mascara	-	\$ 3.70
691	Laundry Detergent	Single U	\$ 1.25	865	Lipstick -Berry	-	\$ 2.50
968	Plastic Pitcher -microwave safe	1 quart	\$ 3.65	667	Lipstick -Brown	-	\$ 2.50
840	Colored Paper-Green	100 ct	\$ 4.00	689	Lipstick-Pink	-	\$ 2.50
844	Colored Paper-Blue	100 ct	\$ 4.00	640	Tampax Non Scented Regular	10 pk	\$ 3.95
845	Colored Paper-Pink	100 ct	\$ 4.00	648	Playtex Super Absorbency	8 pk	\$ 3.95
850	Colored Paper-Lilac	100 ct	\$ 4.00	657	Men's Body Wash	12 oz	\$ 4.35
811	Poker Cards	1 deck	\$ 2.85	653	Lip Balm	-	\$ 1.55
5718	Band -aids	-	\$ 2.65	834	Mouthwash	4 oz	\$ 0.90
812	Pinocle Cards	1 deck	\$ 2.85	678	Suave Advanced Therapy Lotion	10 oz	\$ 3.95
Shoes				5712	Mirror	4x6	\$ 2.50
7005	BLACK HIGHTOP	5	\$ 12.00	832	Womens Clear Deorderant (by Mennen)	2.3 oz	\$ 4.65
7006	BLACK HIGHTOP	6	\$ 12.00	663	Cotton Swabs	100 ct	\$ 1.75
7007	BLACK HIGHTOP	7	\$ 12.00	Hot Foods (Two Max)			
7008	BLACK HIGHTOP	8	\$ 12.00	5500	Black Angus Cheeseburger Meal/w Regular Soda	\$ 7.49	
7009	BLACK HIGHTOP	9	\$ 12.00	5501	Black Angus Cheeseburger Meal/w Diet Soda	\$ 7.49	
7010	BLACK HIGHTOP	10	\$ 12.00	5517	8" Pepperoni Pizza Meal/w Regular Soda	\$ 7.49	
7011	BLACK HIGHTOP	11	\$ 12.00	5518	8" Pepperoni Pizza Meal/w Diet Soda	\$ 7.49	
7012	BLACK HIGHTOP	12	\$ 12.00	5515	Chili Cheese Dog Meal/w Regular Soda	\$ 5.99	
7013	BLACK HIGHTOP	13	\$ 12.00	5516	Chili Cheese Dog Meal/w Diet Soda	\$ 5.99	
Ice Cream (Max of 2)				5508	Boneless Buffalo Wings Meal/w Regular Soda	\$ 5.99	
5401	Snickers Ice Cream Bar	\$ 2.25		5509	Boneless Buffalo Wings Meal/w Diet Soda	\$ 5.99	
5403	Klondike Bar	\$ 2.25		5503	Beef Nachos Grande Meal/Regular Soda	\$ 6.49	
5405	Fudge Bar	\$ 0.90		5503	Beef Nachos Grande Meal/Diet Soda	\$ 6.49	
5407	Ice Cream Sandwich	\$ 1.00		5505	Jumbo Beef Burritos Meal/Regular Soda	\$ 6.49	
5409	Vanilla Ice Cream Cup	\$ 1.00		5506	Jumbo Beef Burritos Meal/Diet Soda	\$ 6.49	

Fresh to You

MDC Honor Level I "Hot Cart" Menu



CANTEEN Correctional Services

Canteen Correctional Services is now offering "Fresh to You," a program for Honor Level I members that offers additional high quality fresh food items for purchase. Each week if an Honor Pod Inmate is an Honor Level I member, they will be able to order up to two of our 6 meal packages listed. These meal items will be delivered once a week on Saturdays between 12pm-1pm.

Fresh To You

Choose Up to Two
of Your Favorites
Today



"Hot Cart" Price List

Entrée Meal Package Price



Black Angus Cheeseburger PLU #5500 \$7.49
1.5oz Bag of Lays Potato Chips
20oz Chilled RC Cola (*either regular or diet*)



8" Pepperoni Pizza PLU #5517 \$7.49
1.5oz Bag of Lays Potato Chips
20oz Chilled RC Cola (*either regular or diet*)



Chili Cheese Dog PLU #5515 \$5.99
1.5oz Bag of Lays Potato Chips
20oz Chilled RC Cola (*either regular or diet*)



Boneless Buffalo Wings PLU #5508 \$5.99
1.5oz Bag of Lays Potato Chips
20oz Chilled RC Cola (*either regular or diet*)



Beef Nachos Grande PLU #5503 \$6.49
1.5oz Bag of Lays Potato Chips
20oz Chilled RC Cola (*either regular or diet*)



Jumbo Beef Burrito PLU #5505 \$6.49
1.5oz Bag of Lays Potato Chips
20oz Chilled RC Cola (*either regular or diet*)



CANTEEN Correctional Services

How the Program Works at the Bernalillo County MDC

Every Thursday those members of the Honor Pods who are also members of Honor Level I will be eligible to participate in this program.

Those members of Honor Level I will be handed a bubble scan sheet to place their order from the "Fresh To You" menu.

Each participating Honor Level I member will fill out the sheet using the commissary PLU numbers provided and hand the sheet back to the officer.

All bubble scan sheets will be collected by 8am Fridays.

Orders will be prepared fresh on Friday and delivered between 12pm-1pm.

If for some reason between the time of the order and the delivery of the product the Honor Level I member is removed from Honor Level I for any reason, they will not be able to receive the food and will **NOT** receive a refund.

All garbage must be disposed of appropriately & immediately.

Only up to two (2) items can be ordered per week.

I.D. badge must be present at time of delivery or no food.

How The Program Works, Bernalillo County MDC

Every Thursday those members of the Honor Pods who are also members of Honor Level I will be eligible to participate in this program.

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Each participating Honor Level I member will fill out the sheet using the commissary PLU numbers provided and hand the sheet back to the officer.

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All garbage must be disposed of appropriately & immediately.

Only up to two (2) items can be ordered per week.

I.D. badge must be present at time of delivery or no food.

Ice Cream Program Price List



2 oz Snickers Ice Cream Bar

\$2.25



Klondike Bar - 4.oz.

\$2.25



Blue Bunny Fudge Bars - 2.5 oz.

\$.90



Fat Boy Ice Cream Sandwich - 5 oz.

\$1.00



4 oz. Vanilla Ice Cream Cups

\$1.00

Indigent Honor Dorm Commissary

The honor pods provide “credits” to inmates who qualify. These credits can be used to purchase items from the honor dorm commissary. In order to qualify for a credit, an inmate must maintain a balance on their trust account of less than \$2.00 for the entire calendar month which is being paid. For example, an inmate must not have a balance above \$2.00 for the entire month of November when that month is paid. In addition, inmates who have received any internet orders during the month will not qualify.

Once an inmate is found to “qualify” for a credit, their demerits for that month which is going to be paid are measured. An inmate who has received no demerits during the calendar month is entitled to up to \$41, which can be used as a credit to order from the honor dorm commissary menu. An inmate receiving between one (1) and nine (9) demerits is entitled to \$30 of credit which they can use to purchase from the honor dorm commissary menu. An inmate receiving between ten (10) and nineteen (19) demerits is entitled to \$20 of credit which they can use to purchase from the honor dorm commissary menu. Inmates receiving more than nineteen (19) demerits will not be entitled to a commissary credit. Below the credits are summarized:

<i>0 demerits</i>	\$41
<i>1 to 9 demerits</i>	\$30
<i>10 to 19 demerits</i>	\$20
<i>20 to 29 demerits</i>	\$0

An inmate must reside in the honor dorm during the entire calendar month in question in order to receive the full credit; however, credits can be pro-rated for those inmates arriving in the honor dorm after the first of the month.

Detail Sacks

Any inmate assigned to work detail will have the opportunity to earn “detail sacks” valued at \$20 each and consisting of a variety of soups, coffees, snacks, etc. The number of detail sacks a detail honor pod inmate is given is dependent upon the amount of time the inmate has worked and the number of demerits earned by the inmate during that same period. Similar to the indigent credits, sacks will be given out at the beginning of every month to inmates who worked the entire month prior.

<i>0 demerits</i>	2 sacks
<i>1 to 9 demerits</i>	1 sack
<i>10 demerits or more</i>	0 sacks

Inmates having worked less than 15 days in a month will be eligible for half of the number of sacks, depending on the number of demerits received.

<i>0 demerits</i>	1 sack
<i>1 to 9 demerits</i>	1/2 sack
<i>10 demerits or more</i>	0 sacks

Public Magazines for Pod

Every pod will receive magazines or other print media on a monthly basis. A librarian will be charged with insuring that the magazines are accounted for and cared for. The following is a list of the magazines and other print media provided to each honor pod:

- | | |
|-----------------------|--------------------------------|
| ○ Euro Tuner | ○ Forbes Magazine |
| ○ People | ○ Field and Stream |
| ○ National Geographic | ○ Smithsonian |
| ○ Popular Mechanic | ○ Popular Science |
| ○ Men's Health | ○ National Geographic Traveler |
| ○ Sports Illustrated | ○ Art in America |
| ○ Camaro Performers | ○ Time |
| ○ Hot Bike | ○ Good Housekeeping |
| ○ USA Today | ○ Martha Stewart |
| ○ The Week | ○ Real Simple |

Honor Levels

An inmate receives different demerit points for different infractions, depending on the severity of the infraction. The inmate also receives a consequence when they commit the infraction. Depending on the number of demerit points an inmate has received, the inmate may be classified into one of four "honor levels," thereby allowing the inmate to receive varying degrees of rewards and privileges, depending on the inmate's honor level. Following is a brief synopsis of the Honor Levels.

Honor Level One

An inmate on level one has not received any demerits in the last 14 calendar days. Inmates on this level receive the most special privileges and benefits of all inmates.

Echo and Fox, Honor Level 1 (0 points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 40 minute video monitor visits each week
Cell Door	Receives open cell door.
Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Hot and Cold Cart	Purchase hot meals or frozen treats from a special menu on Thursday, and purchase will be delivered for consumption on Saturday.
Movies	Can view movies anytime they are shown.
Razors	Daily use of razors.
Extended Recreation Time	After dinner and after any time necessary for homework. Enjoy recreation time from 6pm to 10pm. Those wishing to remain out can volunteer to clean the pod from 10pm to 11pm.
Special Snacks	Able to enjoy pizza, dessert, and other special snack privileges.

Delta, Honor Level 1 (0 points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 40 minute video monitor visits each week

Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Hot and Cold Cart	Purchase hot meals or frozen treats from a special menu on Thursday, and purchase will be delivered for consumption on Saturday.
Phone Privileges	Are permitted to use the phone anytime, 24 hours a day
Movies	Can view movies anytime they are shown.
Razors	Daily use of razors.
Extended Recreation Time	Are permitted to use the yard, dayroom, or T.V. room any time from 8am to 10pm, with the exception of the period of lockdown from 2pm to 4pm.
Special Snacks	Able to enjoy pizza, dessert, and other special snack privileges.

Inmates who have not received ANY demerits in the last 30 days can also enjoy 30 minute window visits each week, as well as additional privileges such as having their pictures taken during certain holidays

Honor Level Two

Inmates have received 1 to 9 demerit points in the past 14 calendar days. These inmates are able to participate in some of the activities and receive some special privileges, but not all.

Echo and Fox, Honor Level 2 (1-10 points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 30 minute video monitor visits each week
Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Razors	Daily use of razors.
Extended Recreation Time	After dinner and after any time necessary for homework. Enjoy recreation time from 6pm to 8pm.

Delta, Honor Level 2 (1-10 points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 30 minute video monitor visits each week
Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Hot and Cold Cart	Are not permitted to order from the Hot and Cold Cart.
Phone Privileges	May only use the phone from 10am to 9pm
Movies	Are not permitted to watch movies
Uniform	Inmate must wear the green uniform inside the pod

Razors	Daily use of razors.
Extended Recreation Time	Are only permitted to use the yard or dayroom, any time from 10am to 9pm, with the exception of the period of lockdown from 2pm to 4pm. Are not permitted access to the movie room. Are considered “locked down” before 10am and after 9pm
Special Snacks	Are not able to enjoy pizza, dessert, and other special snack privileges

Honor Level Three

Honor level three corresponds to inmates who have more difficulty staying out of trouble and have received 10 to 19 demerits in the past 14 calendar days. These inmates receive few extra privileges.

Echo and Fox, Honor Level 3 (11-20 points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 20 minute video monitor visits each week
Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Razors	Daily use of razors.
Recreation Time	After dinner and after any time necessary for homework. Enjoy recreation time from 6pm to 7pm.

Delta, Honor Level 3 (11-20 points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 20 minute video monitor visits each week
Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Hot and Cold Cart	Are not permitted to order from the Hot and Cold Cart.
Phone Privileges	May only use the phone from 10am to 9pm
Movies	Are not permitted to watch movies
Uniform	Inmate must wear the green uniform inside the pod
Razors	Daily use of razors.
Extended Recreation Time	Are only permitted to use the yard or dayroom, any time from 10am to 9pm, with the exception of the period of lockdown from 2pm to 4pm. Are not permitted access to the movie room. Are considered “locked down” before 10am and after 9pm.
Special Snacks	Are not able to enjoy pizza, dessert, and other special snack privileges

Honor Level Four

Honor level four corresponds to inmates who have more difficulty staying out of trouble and have received 20 to 29 demerits in the past 14 calendar days. These inmates are not able to participate in any of the activities or enjoy any special

privileges. The only right these inmates have is to participate in programming, education, and work detail. Inmates who reach 30 demerit points may be subject to expulsion from the honor pod. Any inmate expelled from an honor pod must receive authorization from the Chief of Corrections to be considered for admission again.

Echo and Fox, Honor Level 4 (21+ points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 15 minute visits through video visitation per week.
Commissary	No commissary privileges.
Razors	Use of razors as frequently as the rest of the MDC population.

Delta, Honor Level 4 (21+ points)	
Privilege	Details of Privilege
Visits	Can receive two (2) 15 minute video monitor visits each week
Commissary	Full commissary access plus the Honor Dorm menu and a \$150 spending limit every week.
Hot and Cold Cart	Are not permitted to order from the Hot and Cold Cart.
Phone Privileges	May only use the phone from 10am to 9pm
Movies	Are not permitted to watch movies
Uniform	Inmate must wear the green uniform inside the pod
Razors	Daily use of razors.
Extended Recreation Time	Are only permitted to use the yard or dayroom, any time from 10am to 9pm, with the exception of the period of lockdown from 2pm to 4pm. Are not permitted access to the movie room. Are considered "locked down" before 10am and after 9pm.
Special Snacks	Are not able to enjoy pizza, dessert, and other special snack privileges

The 14-Day Window

The 14 day window corresponds to the amount of time that past discipline problems are taken into consideration. When determining the Honor Level of an inmate, only the past 14 days are reviewed. No matter how much trouble an inmate is in, there is always the possibility to work back up to Honor Level One. At the discretion of the Unit Manager, inmates may earn bonus points in order to remove existing demerits from their current 14 day record.

Program Consequences and Disciplinary Processes

Both consequences and demerit points will be given for rule violations and inappropriate behavior. *Although demerit points may vary based on the rule violation, progressive discipline will be administered for each successive minor or regular infraction*, regardless of the number of demerit points assigned to the infraction. **Demerit points may affect the Honor Level of the inmate receiving the discipline, which will also affect the inmate's eligibility for certain privileges and rewards.** The goal of these consequences and loss of privileges is to encourage pro-social behavior and success within the

program. A serious problem may result in immediate Administrative action and will not use the progressive consequences. **Any behavior that would be considered an administrative infraction (Class I misconducts) must receive a “special consequence,” determined by the unit manager (Captain).** Rule violations and inappropriate behaviors will be addressed immediately by the facility staff or program staff as appropriate. Consequences will be administered as soon as possible after the violation has occurred.

Behaviors that earn consequences include, but are not limited to:

- Failure to follow instructions at work, school, or in pod
- Insubordinate behavior at work, school, or in pod
- Tardiness or absence from work or school
- Displaying disruptive or negative behaviors or attitudes
- Noncompliance with facility/unit rules may result in program discipline in accordance with program guidelines. Actions that may result in program discipline include but are not limited to: horseplay, poor grooming/hygiene, disrespect to staff, disobedience to orders (written or verbal), poor evaluation, poor attitude, and disruptive behavior.
- A facility disciplinary action or misconduct report may result if the severity of the infraction warrants (e.g., battery, menacing, threatening, possession of contraband or any such infraction).

The following progression of discipline will be followed:

Consequence 1, within a 14 day period. The participant will be locked down early (typically 7:45pm).

Consequence 2, within a 14 day period. The participant will be assigned an essay that must be completed in isolation from the inmate’s cell and peers and in plain view of unit staff. The essay must be completed to the satisfaction of the Unit Manager, or designee, before the participant can return to their cell or enjoy free or recreational time. The essay will include at a minimum: A brief description of the incident that prompted the corrective action, the inmate’s thoughts before, during and after the infraction, the reason that the rule was violated by the inmate and the importance of compliance with the rule, the participant’s own perception of their own motivation toward changing the behavior, and an action plan that the inmate will implement to prevent future rule violations.

Consequence 3, within a 14 day period. The participant will be required to explain to the Unit Staff the character qualities they failed to follow, why they were not followed, and what actions they plan to take in the future to avoid future rule violations. If the participant indicates a desire to continue in the program and make the appropriate behavioral changes, he/she will be locked down in their cell during the next period of recreation. If the participant indicates that they have no desire to continue their education or make the appropriate behavioral changes, they will be removed from the program and unable to re-apply for the program without approval by the Chief of Corrections.

Consequence 4, within a 14 day period. The participant will be required to explain to the Unit Staff the character qualities they failed to follow, why they were not followed, and what actions they plan to take in the future to avoid future rule violations. If the participant indicates a desire to continue in the program and make the appropriate behavioral changes, he/she will not be permitted to order from the next commissary offering. If the participant indicates that they have no desire to continue their education or make the appropriate behavioral changes, they will be removed from the program and unable to re-apply for the program without approval by the Chief of Corrections.

Consequence 5, within a 14 day period. The participant will be required to explain to the Unit Staff the character qualities they failed to follow, why they were not followed, and what actions they plan to take in the future to avoid future rule violations. If the participant indicates a desire to continue in the program and make the appropriate behavioral changes, he/she will be given extra duty on the inmates pod or unit. The duty must be completed for the entire duration of the next period of recreation. If the participant indicates that they have no desire to continue their education or make the appropriate behavioral changes, they will be removed from the program and unable to re-apply for the program without approval by the Chief of Corrections.

Consequence 6, within a 14 day period. The participant will be required to explain to the Unit Staff the character qualities they failed to follow, why they were not followed, and what actions they plan to take in the future to avoid future rule violations. If the participant indicates a desire to continue in the program and make the appropriate behavioral changes, he/she will not be permitted to use the phone for 24 hours, except to communicate with their attorney. If the participant indicates that they have no desire to continue their education or make the appropriate behavioral changes, they will be removed from the program and unable to re-apply for the program without approval by the Chief of Corrections. The following is a list of infractions and the number of demerit points associated with each infraction:

Since inmates may elect to be discharged from the CBP pods at any time for any reason, and therefore since their participation in the CBP is entirely voluntary, inmates relinquish any right or ability to grieve consequences or loss of privileges once they are accepted by and housed in a CBP pod, *with the exception of consequences resulting from an administrative infraction.* **Consequences resulting from an administrative infraction continue to be "grievable" actions within the CBP pods.**

Minor Infractions

Code	Points	Minor Infraction
A	1	Treat others in a disrespectful manner.
B	1	Asking for favors.
C	3	Using profanity or using threatening words or gestures.
D	1	Interrupting the person speaking without waiting to be acknowledged.
E	1	Handling supplies and materials inappropriately and irresponsibly.
F	1	Failing to follow instructions and complete own work.
G	1	Failing to sign in for every class or signing in for others.
H	3	Having an unexcused absence from class (principal approval needed for excused absences).
I	1	Failing to adhere to assigned seating.
J	1	Loitering in the corridor between classes.
K	1	Failing to turn in completed homework on time.
L	3	Insubordinate behavior-failing to follow direct orders.
M	1	Failing to follow sign-out procedures for restroom breaks.
N	1	Failing to maintain personal space boundaries (arms-length).
O	3	Touching or having physical contact with any teacher, staff member, student, or guest.
P	3	Vandalism, theft, alteration, or defacing of school or Department property.
Q	1	Unauthorized consumption of food or drink in the classroom or school areas.
R	3	Littering.
S	3	Unauthorized wearing of head covering or headbands.
T	3	Unexcused absence from work detail or scheduled assignment.
U	3	Failing to follow safety or sanitary regulations.
V	1	Being tardy to class

Infractions

Code	Points	Infraction
1	3	Being in an unauthorized area.
2	3	Failure to follow headcount procedure.
3	3	Throwing or projecting any item.
4	3	Failing to be fully dressed when out of room/cell.
5	5	Smoking of a tobacco product.
A	3	Indecent exposure or masturbation.
B	5	Participating in an unauthorized meeting, gathering, or group demonstration.
C	5	Improper, unauthorized, or unsafe use/operation of machinery.
D	3	Gambling, preparing or conducting a gambling pool, or possession of gambling paraphernalia.
E	3	Failing to keep one's person and quarters in accordance with institutional published standards.
F	3	Disassembly of a razor
G	3	Unauthorized use of mail or telephone.
H	3	Unauthorized contacts with the public.
I	3	Correspondence or conduct with a visitor in violation of published regulations.
J	3	Giving or accepting money or anything of value to or from another inmate or his family or friends.
K	5	Interfering with the rights and privileges of other inmates.
L	3	Failing to perform work as properly instructed by a staff member.
M	3	Failing to participate in level sanitation.
N	3	Abuse of library privileges and/or failing to return library materials.
O	5	Threatening to inflict injury to any person or to damage his property.
P	3	Entering the cell of another inmate.
Q	5	Wearing a disguise or mask to avoid identification.
R	5	Tattooing, self-mutilation, or possession of a tattoo device.
S	3	Adulteration of any food or drink.
T	5	Abuse of authorized medication, medication procedures, or faking illnesses.
U	3	Possession of money or currency.
V	3	Possession of property belonging to another person.
W	3	Lending money or anything of value for profit or increased return.
X	5	Possession of contraband (anything not authorized for retention or receipt by the inmate and not Department issued).
Y	3	Refusing to work or encouraging others to refuse to work.
Z	5	Conduct which disrupts or interferes with security or the orderly running of the institution.

Administrative Infractions	
Code	Infraction
1	Assaulting or fighting with any inmate
2	Extortion or blackmail
3	Sexual assault-forced
4	Assaulting or fighting with any staff member
5	Escape
6	Arson
7	Stealing
8	Weapons-possession or introduction into the facility
9	Drugs or Drug Paraphernalia-possession or introduction into the facility
10	Rioting or inciting others to riot
11	Bribery of an official or staff member
12	Kidnapping or taking hostages
13	Destroying, altering, or damaging Department property over \$50.00
14	Violation of any felony criminal statutes
15	Perjury-providing false information to any staff member.
16	Possession of contraband that has the appearance of planning for an escape
17	Tamper/Block ventilation, plumbing, electrical, recreation, or communication systems (alarm, surveillance, locking device)
18	Violating conditions of furlough, CCP, or other court authorized programs
19	Forgery/Reproduction of security or official documents, or articles of identification
20	Attempting/Planning/Aiding another person to commit any Administrative offenses
21	Possession, manufacturing, or use of intoxicants
22	Concealing a tattoo device
23	Sexual intercourse, sexual threats, or sexual proposals toward another person.
24	Possessing a razor of another inmate or possessing any razor outside of the time permitted by the razor exchange program

Progressive Discipline

Regular Consequences (used for Infractions and Minor Infractions)*	Special Consequences (used for Administrative Consequences)**
1. 15-minute early lock down	Consequences 2, 3, and 4 concurrently
2. Essay-see requirements	Consequences 2, 3, 4, and 5 concurrently
3. Lock down during recreation	Consequences 2, 3, 4, 5, and 6 concurrently
4. Loss of next commissary order	23-hour lock down
5. Extra duties in pod during recreation	Consequence 2, 4, and 23-hour lock down
6. Loss of phone for 24 hours	Consequence 2, 4, 6, and 23-hour lock down
7. 30 minute early lockdown and essay	Removal from Honor Dorm program

*** The first consequence is given for the first infraction within the last 14 days, the second consequence is given for the second infraction within the last 14 days, and so on.**

**** Special consequences are selected by the unit manager to be applied to an inmate who has committed an administrative infraction.**

Daily Schedule for Gordon Bernell Honor Pods

Revised November 18, 2011

Monday through Thursday	
7:00 AM	Dayshift start, headcount, inspection
7:15 AM	7:15am to 8:00am, Clear to shower, dress, clean room/make bed
7:30 AM	
8:00 AM	
8:30 AM	8:00am to 10:20am, Charter School, OR inmates may study and do their homework in the dayroom of pod (quiet observed in the dayroom, but recreational reading is permitted)
9:00 AM	
9:30 AM	
10:00 AM	
10:30 AM	
10:30 AM	10:20am to 11:00am, Lunch break in pod (NO PHONES!)
11:00 AM	11:00 am to 2:00pm, Charter School, OR inmates may study and do their homework in the dayroom of pod (quiet observed in the dayroom, but recreational reading is permitted)
11:30 AM	
12:00 PM	
12:30 PM	
1:00 PM	
1:30 PM	
2:00 PM	2:00pm to 3:00pm Bay Orderly Cleanup (facility lockdown)
2:30 PM	3:00pm to 4:00pm Swing shift starts, headcount, inspection (facility lockdown)
3:00 PM	
3:30 PM	
4:00 PM	4:00pm to 5:00pm Dinner in pod, cleaning cells
4:30 PM	5:00pm to 6:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I, II, and III. Level IV locked down.
5:00 PM	
5:30 PM	
6:00 PM	6:00pm to 7:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I and II. Levels IV and III locked
6:30 PM	7:00pm to 10:00pm Religious time in classrooms and recreation time in dayroom or yard for Level I. Levels II-IV locked down. Other activities MIGHT include karaoke, motivational movies/speakers, etc., as permitted by Captain.
7:00 PM	
7:30 PM	
8:00 PM	
8:30 PM	
9:00 PM	
9:30 PM	10:00pm--All levels locked down. Level I inmates who volunteer and are authorized by pod officer to perform detail may do so. (officer discretion)
10:00 PM	
10:30 PM	
11:00 PM	Pod is clean and all inmates are locked down.

Friday, Saturday, and Sunday	
7:00 AM	Dayshift start, headcount, inspection
7:15 AM	7:15am to 8:00am, Clear to shower, dress, clean room/make bed
7:30 AM	
8:00 AM	
8:30 AM	8:00am to 10:30am, Deep Clean of Pod
9:00 AM	
9:30 AM	
10:00 AM	
10:30 AM	
10:30 AM	10:20am to 11:00am, Lunch break in pod
11:00 AM	11:00am to 2:00pm, Religious Services in pod classrooms and Recreation Time in dayroom or yard for all levels.
11:30 AM	
12:00 PM	
12:30 PM	
1:00 PM	
1:30 PM	
2:00 PM	2:00pm to 3:00pm Bay Orderly Cleanup (facility lockdown)
2:30 PM	3:00pm to 4:00pm Swing shift starts, headcount, inspection (facility lockdown)
3:00 PM	
3:30 PM	
4:00 PM	4:00pm to 5:00pm Dinner in pod, cleaning cells
4:30 PM	5:00pm to 6:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I, II, and III. Level IV locked down.
5:00 PM	
5:30 PM	
6:00 PM	6:00pm to 7:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I and II. Levels IV and III locked
6:30 PM	7:00pm to 10:00pm Movie & popcorn for Level I. Levels II-IV locked down. Movie should start PROMPTLY at 7:00pm and may run up to 10:00pm!
7:00 PM	
7:30 PM	
8:00 PM	
8:30 PM	
9:00 PM	
9:30 PM	10:00pm--All levels locked down. Level I inmates who volunteer and are authorized by pod officer to perform detail may do so. (officer discretion)
10:00 PM	
10:30 PM	
11:00 PM	Pod is clean and all inmates are locked down.

No music, No TV, No games, & No other recreation permitted.
Phones permitted except during lunchtime or lockdown.

Music, TV, games, showers, access to yard, and other recreation permitted. Phones permitted except during lockdown or lunchtime.
--

Daily Schedule for College Prep Honor Pods

Revised November 18, 2011

Monday through Thursday	
7:00 AM	Dayshift start, headcount, inspection
7:15 AM	7:15am to 8:00am, Clear to shower, dress, clean room / make bed
7:30 AM	bed
8:00 AM	8:00am to 10:30am, Clean cells (toilet, sink)(sweep/mop floors), make beds (MANDATORY). Religious time in pod classrooms and recreation time in dayroom or yard for all levels.
8:30 AM	
9:00 AM	
9:30 AM	
10:00 AM	
10:30 AM	10:20am to 11:00am, Lunch break in pod (NO PHONES!)
11:00 AM	11:00am to 1:00pm, Religious time in pod classrooms
11:30 AM	
12:00 PM	
12:30 PM	and recreation time in dayroom or yard for all levels.
1:00 PM	1:00 pm to 2:00pm, time to study in the dayroom of the pod (quiet observed in the dayroom, but recreational reading is
1:30 PM	
2:00 PM	2:00pm to 3:30pm (facility lockdown) Bay Orderly Cleanup
2:30 PM	
3:00 PM	Swing shift starts, headcount, inspection (facility lockdown)
3:30 PM	3:30pm to 6:00pm, College prep courses may be taken outside of pod OR inmates may study and do their homework in the dayroom of pod (quiet observed in the dayroom, but recreational reading is permitted)
4:00 PM	
4:30 PM	
5:00 PM	
5:30 PM	5:30pm to 6:00pm Dinner in pod, cleaning cells
6:00 PM	6:00pm to 7:00pm Dinner in pod, cleaning cells
6:30 PM	
7:00 PM	7:00pm to 8:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I and II. Level IV and III locked down.
7:30 PM	
8:00 PM	8:00pm to 10:00pm Religious time in pod classrooms and recreation time in dayroom or yard for Level I. Levels IV, III, & II locked down. Other activities MIGHT include karaoke, motivational movies/speakers, etc., as permitted by Captain.
8:30 PM	
9:00 PM	
9:30 PM	
10:00 PM	10:00pm--All levels locked down. Level I inmates who volunteer and are authorized by pod officer to perform detail may do so. (officer discretion)
10:30 PM	
11:00 PM	Pod is clean and all inmates are locked down.

Friday and Saturday	
7:00 AM	Dayshift start, headcount, inspection
7:15 AM	7:15am to 8:00am, Clear to shower, dress, clean room / make bed
7:30 AM	bed
8:00 AM	8:00am to 10:30am, College prep courses may be taken outside of the pod OR inmates must deep clean inside the pod, Clean cells (toilet, sink)(sweep/mop floors), make beds (MANDATORY).
8:30 AM	
9:00 AM	
9:30 AM	
10:00 AM	
10:30 AM	10:20am to 11:00am, Lunch break in pod (NO PHONES!)
11:00 AM	11:00am to 1:00pm, College prep courses may be taken outside of pod OR inmates may study and do their homework in the dayroom of pod (quiet observed in the dayroom, but recreational reading is permitted)
11:30 AM	
12:00 PM	
12:30 PM	
1:00 PM	1:00pm to 2:00pm, Religious time in pod classrooms and recreation time in dayroom or yard for all levels.
1:30 PM	
2:00 PM	2:00pm to 3:30pm (facility lockdown) Bay Orderly Cleanup
2:30 PM	
3:00 PM	Swing shift starts, headcount, inspection (facility lockdown)
3:30 PM	3:30pm to 5:30pm, College prep courses may be taken outside of pod OR inmates may study and do their homework in the dayroom of pod (quiet observed in the dayroom, but recreational reading is permitted)
4:00 PM	
4:30 PM	
5:00 PM	
5:30 PM	5:30pm to 6:00pm Dinner in pod, cleaning cells
6:00 PM	6:00pm to 7:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I and II. Level IV and III locked
6:30 PM	
7:00 PM	7:00pm to 10:00pm Movie & popcorn for Level I. Levels II-IV locked down. Movie should start PROMPTLY at 7:00pm and may run up to 10:00pm !
7:30 PM	
8:00 PM	
8:30 PM	
9:00 PM	
9:30 PM	
10:00 PM	10:00pm--All levels locked down. Level I inmates who volunteer and are authorized by pod officer to perform detail may do so. (officer discretion)
10:30 PM	
11:00 PM	Pod is clean and all inmates are locked down.

Sunday	
7:00 AM	Dayshift start, headcount, inspection
7:15 AM	7:15am to 8:00am, Clear to shower, dress, clean room / make bed
7:30 AM	bed
8:00 AM	8:00am to 10:30am, Clean cells (toilet, sink)(sweep/mop floors), make beds (MANDATORY). Religious time in pod classrooms and recreation time in dayroom or yard for all levels.
8:30 AM	
9:00 AM	
9:30 AM	
10:00 AM	
10:30 AM	10:20am to 11:00am, Lunch break in pod (NO PHONES!)
11:00 AM	11:00am to 1:00pm, Religious time in pod classrooms
11:30 AM	
12:00 PM	
12:30 PM	and recreation time in dayroom or yard for all levels.
1:00 PM	1:00 pm to 2:00pm, time to study in the dayroom of the pod (quiet observed in the dayroom, but recreational reading is permitted)
1:30 PM	
2:00 PM	2:00pm to 3:30pm (facility lockdown) Bay Orderly Cleanup
2:30 PM	
3:00 PM	Swing shift starts, headcount, inspection (facility lockdown)
3:30 PM	3:30pm to 5:30pm, Religious time in pod classrooms
4:00 PM	
4:30 PM	
5:00 PM	and recreation time in dayroom or yard for all levels.
5:30 PM	5:30pm to 6:00pm Dinner in pod, cleaning cells
6:00 PM	6:00pm to 7:00pm Religious Time in pod classrooms and recreation time in dayroom or yard for Levels I and II. Level IV and III locked
6:30 PM	
7:00 PM	7:00pm to 10:00pm Movie & popcorn for Level I. Levels II-IV locked down. Movie should start PROMPTLY at 7:00pm and may run up to 10:00pm !
7:30 PM	
8:00 PM	
8:30 PM	
9:00 PM	
9:30 PM	
10:00 PM	10:00pm--All levels locked down. Level I inmates who volunteer and are authorized by pod officer to perform detail may do so. (officer discretion)
10:30 PM	
11:00 PM	Pod is clean and all inmates are locked down.

No music, No TV, No games, & No other recreation permitted.
Phones permitted except during lockdown or lunchtime.

Music, TV, games, SHOWERS, access to yard, and other recreation permitted.
Phones permitted except during lockdown or lunchtime.

Daily Schedule for Detail Honor Pods

Revised February 10, 2012

Sunday through Saturday	
7:00 AM	7:00am to 8:00am Dayshift start, headcount, inspection
7:15 AM	
7:30 AM	
8:00 AM	8:00am to 10:00am Honor Level I Inmates Permitted to Use Dayroom, Yard, T.V. Room, Microwave, Hot Water Machine, and Phones. Honor Level I Inmates Permitted to Participate In Scheduled Religious Services in Classrooms
8:30 AM	
9:00 AM	
9:30 AM	
10:00 AM	
10:30 AM	10:00am to 2:00pm Honor Level I, II, III, and IV Inmates Permitted to Use Dayroom, Yard, T.V. Room, Microwave, Hot Water Machine, and Phones. Honor Level I Inmates Permitted to Participate In Scheduled Religious Services in Classrooms
11:00 AM	
11:30 AM	
12:00 PM	
12:30 PM	
1:00 PM	2:00pm to 3:00pm Bay Orderly Cleanup (facility lockdown)
1:30 PM	
2:00 PM	3:00pm to 4:00pm Swing shift starts, headcount, inspection (facility lockdown)
2:30 PM	
3:00 PM	4:00pm to 9:00pm Honor Level I, II, III, and IV Inmates Permitted to Use Dayroom, Yard, T.V. Room, Microwave, Hot Water Machine, and Phones. Honor Level I Inmates Permitted to Participate In Scheduled Religious Services in Classrooms
3:30 PM	
4:00 PM	
4:30 PM	
5:00 PM	
5:30 PM	9:00pm to 10:00pm Honor Level I Inmates Permitted to Use Dayroom, Yard, T.V. Room, Microwave, Hot Water Machine, and Phones.
6:00 PM	
6:30 PM	
7:00 PM	
7:30 PM	
8:00 PM	10:00pm to 11:00pm All levels locked down. Level I inmates who volunteer and are authorized by pod officer to perform detail may do so. (officer discretion)
8:30 PM	
9:00 PM	
9:30 PM	11:00pm Pod is clean and all inmates are locked down.
10:00 PM	
10:30 PM	
11:00 PM	

Sunday through Saturday	
11:15 PM	11:15pm to 12:00pm All inmates locked down
11:30 PM	
11:45 PM	
12:00 AM	12:00am to 7:00am All inmates are locked down, but Level I inmates are permitted to quietly use the phone. All dayroom, yard, kitchen (microwave and hot water machine) access is prohibited.
12:15 AM	
12:30 AM	
12:45 AM	
1:00 AM	
1:15 AM	
1:30 AM	
1:45 AM	
2:00 AM	
2:15 AM	
2:30 AM	
2:45 AM	
3:00 AM	
3:15 AM	
3:30 AM	
3:45 AM	
4:00 AM	
4:15 AM	
4:30 AM	
4:45 AM	
5:00 AM	
5:15 AM	
5:30 AM	
5:45 AM	
6:00 AM	
6:15 AM	
6:30 AM	
6:45 AM	
No music, No TV, No games, No recreation, and ONLY Level I inmates are permitted to use phone.	

228 No music, No TV, No games, No Phones, & No other recreation permitted.

Music, TV, games, phones, showers, access to yard, and other recreation permitted.

Since inmates may elect to be discharged from the CBP pods at any time for any reason, and therefore since their participation in the CBP is entirely voluntary, inmates relinquish any right or ability to grieve consequences or loss of privileges once they are accepted by and housed in a CBP pod, *with the exception of consequences resulting from an administrative infraction. **Consequences resulting from an administrative infraction continue to be “grievable” actions within the CBP pods.***

**Appendix K: Bernalillo County Metro Detention Center
Fiscal Year Report 2010**

Bernalillo County Metro Detention Center Fiscal Year Report 2010

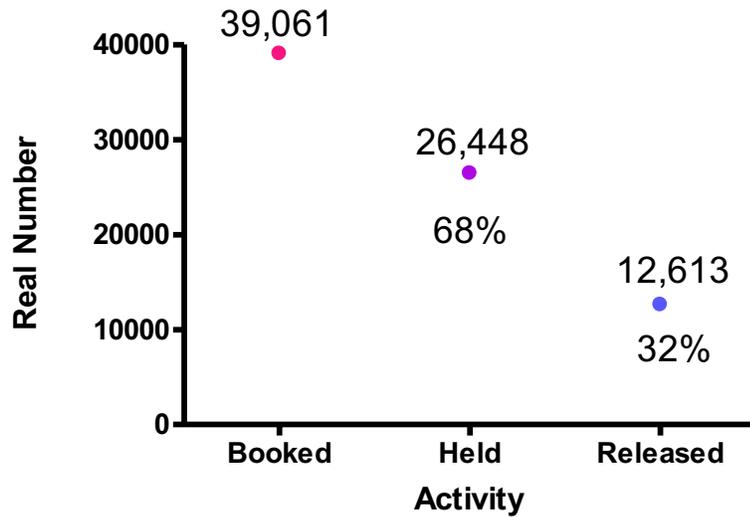
Retroactively Developed January 11, 2011



Submitted to the Deputy County Manager of Public Safety, Thomas E. Swisstack

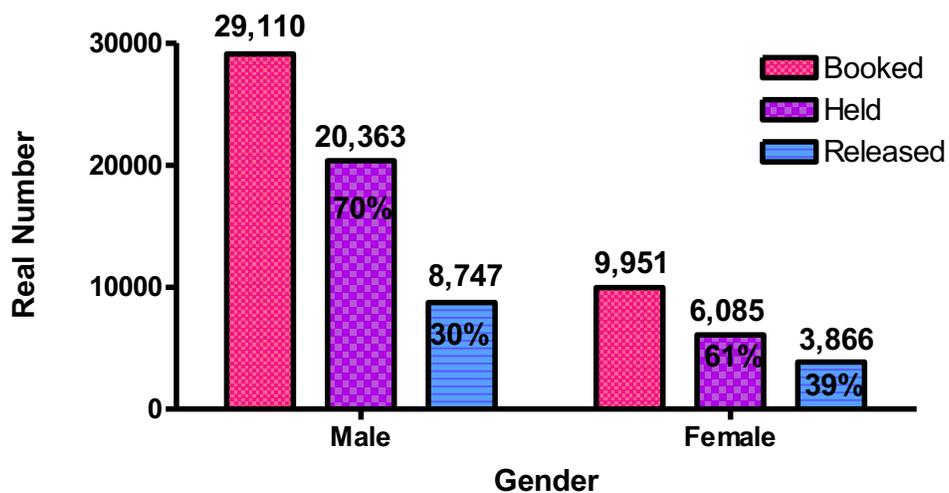
The following data report was generated from newly established booking and release reports gained through the well established Bernalillo County Management Information Detention System, E-Justice.

Overall Detention Center Activity for FY 2010



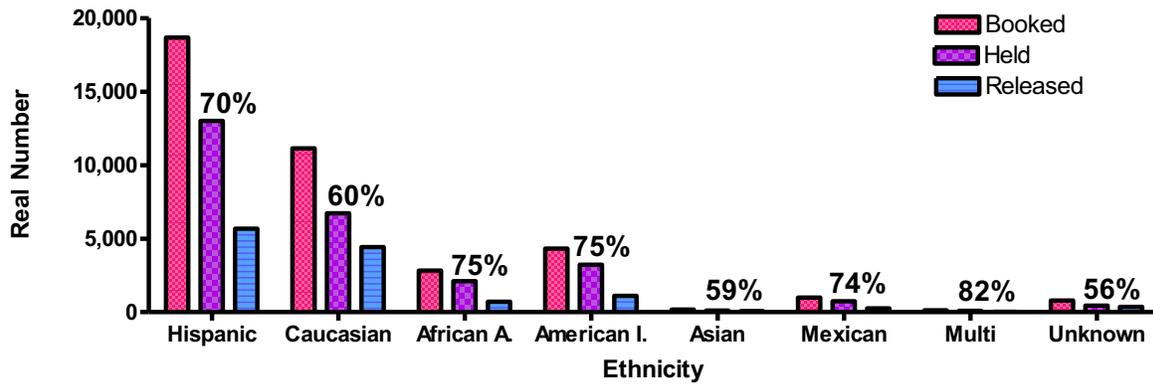
There was a 1% increase in the number of Individuals held as compared to FY 2009 (Held, 67%; 2009 report Appendix B).

Detention Activity by Gender FY 2010



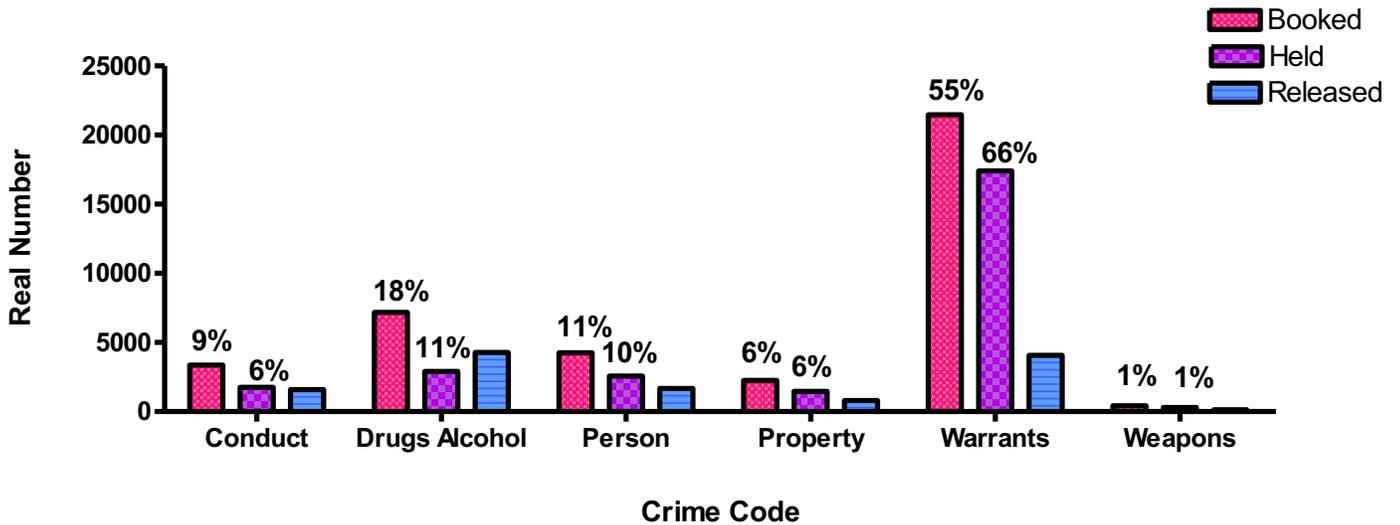
Male held rates increased 1% as compared to FY 2009 and female held rates increased a significant 6%. In other words, males did not have a SIGNIFICANT increase in those held but females did.

Detention Activity by Ethnicity FY 2010



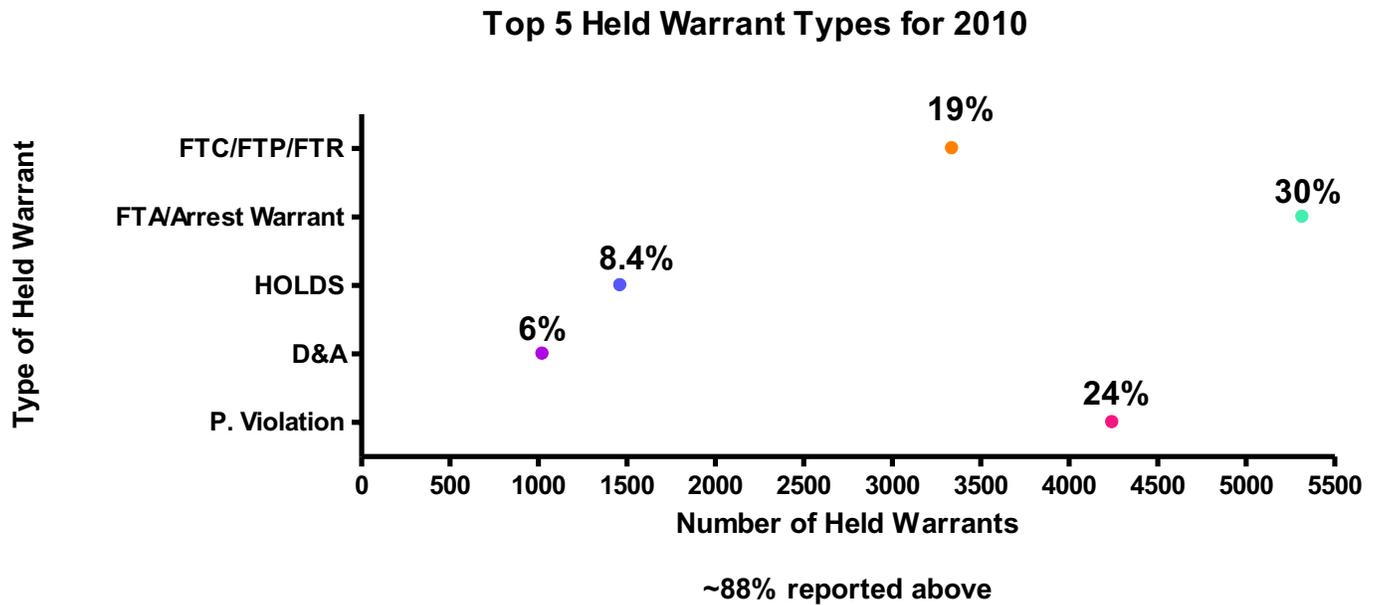
All ethnicities experienced an increase, from 2% - 10%, in number being held at time of booking in 2010 when compared to the 2009 FY.

Detention Activity By Crime Code FY 2010



The chart above depicts those crime categories that were booked, held, and released at MDC during FY 2010. The percent above the bars represent what proportion of the whole that crime category represented in FY 2010. For example, Conduct crimes represented 9% of all crimes booked at the detention center and later represented 6% of all held crimes. Drug and Alcohol crimes represented 18% of all booked crimes while only representing 11% of all those held. Person crimes represented 11% of all those booked and 10% of all those crimes held. Property crimes represented just 6% of all those crimes booked and

held. Warrants represented 55% of ALL bookings and 66% of all those individuals HELD at time of booking.



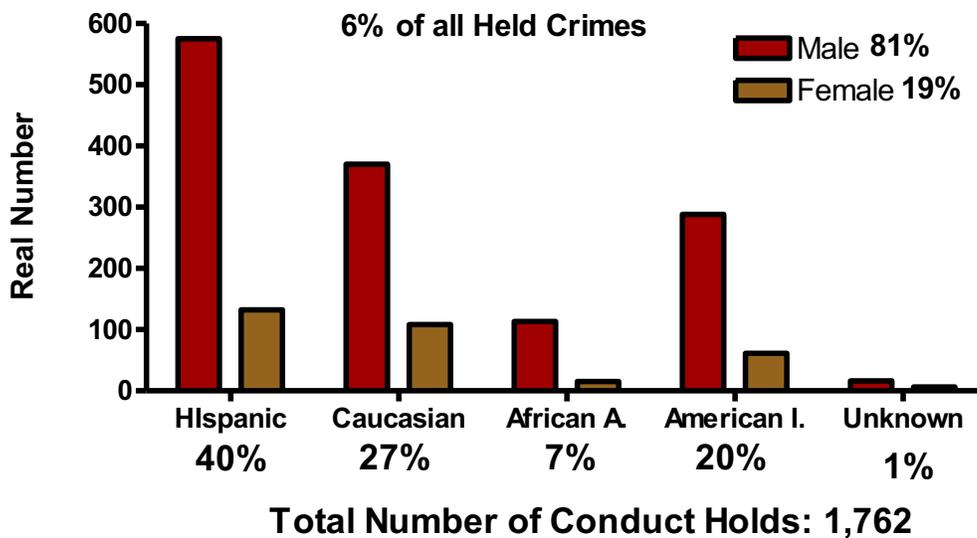
The graph above shows you the percent of TYPE of warrant that was held of all the warrant types that were held. For example, of all the warrants that were held at booking 30% were reported as being FTA (failure to Appear or Arrest Warrants. 24% were reported as P. (probation) Violation, 19% were FTC (failure to Comply)/FTP (Failure to Pay)/FTR (Failure to Report), 8.4% were reported as Hold, and 6% were reported as D&A (drug or alcohol) related.

NOTE: While coding for the above data it was clear that your FTC/FTP/FTR, Holds, and possibly D&A could be called either or. For example, some of the failures to comply were dirty urine; some of your holds were for dirty urine. The same thing can be said for P. Violation, the question is what was the violation? FTAs were all FTAs. Arrest warrants indicated new charges.

If bed days and cost is important to reform first the recommendation would be to 1, Try and find a different way of handling probation violations that do not require detention and the violation was NOT a public safety issue. Second, look into the reasons for FTA, this could be easily resolved simply by verifying if clients received notice to appear. Third, set up a case management system, with existing staff, to case process all the reason for dirty UAs and FTA/FTCs.

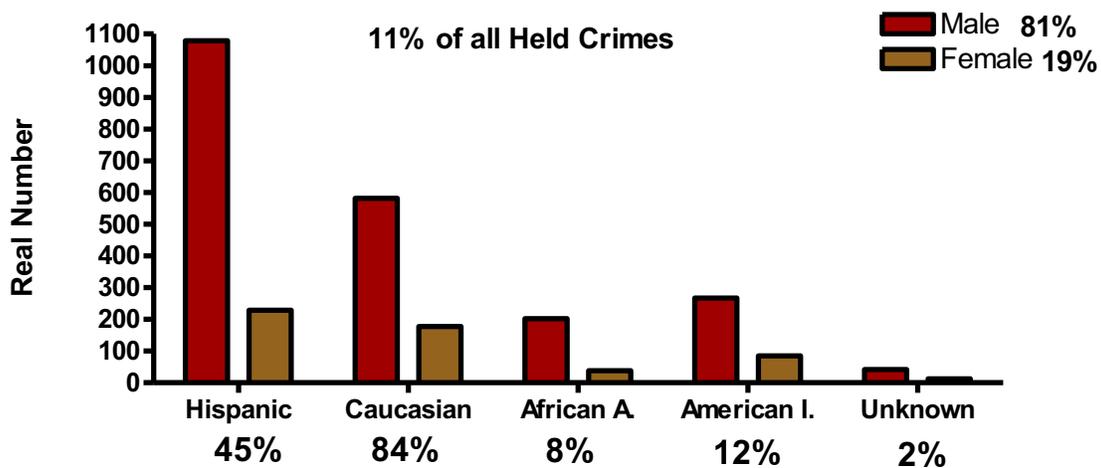
For the following disaggregated data on held crimes only the top holding ethnicities were reported for. For this reason percents will not equal 100%.

Number of Individuals Held on Conduct Crimes by Gender X Ethnicity



Conduct Crimes were 6% of ALL held crimes. The percent related to “male” and “female” in the above graph represents what proportion of the whole each gender represents. For example, of all the Conduct Crimes booked and held at MDC in FY 2010, males made up 81% of those holds while females made up 19% of those holds. The percent under each ethnicity represents the % of the whole group. For example, Hispanics made up 40% of all Conduct holds during the 2010 FY, Caucasians 27%, African Americans 7%, American Indians 20%, and unknown a mere 1%.

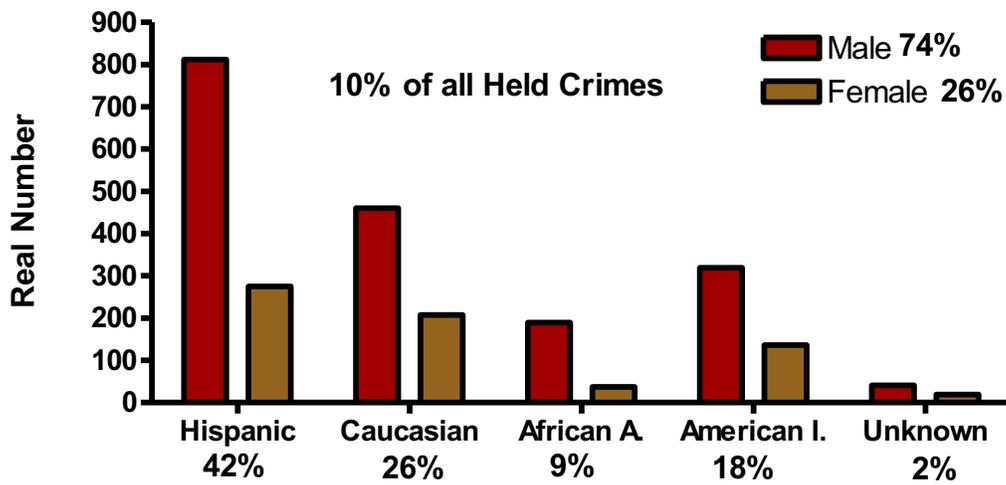
Number of Individuals Held on Drug and Alcohol Crimes by Gender X Ethnicity



Total Number of Drug and Alcohol Holds: 2,906

Drug and Alcohol crimes were 11% of ALL held crimes. The percent related to “male” and “female” in the above graph represents what proportion of the whole the gender represents. For example, of all the Drug and Alcohol Crimes booked and held at MDC in FY 2010, males made up 81% of those holds while females made up 19% of those holds. The percent under each ethnicity represents the % of the whole ethnic group. For example, Hispanics made up 45% of all Drug and Alcohol holds during the 2010 FY, Caucasians 84%, African Americans 8%, American Indians 12%, and unknown 2%.

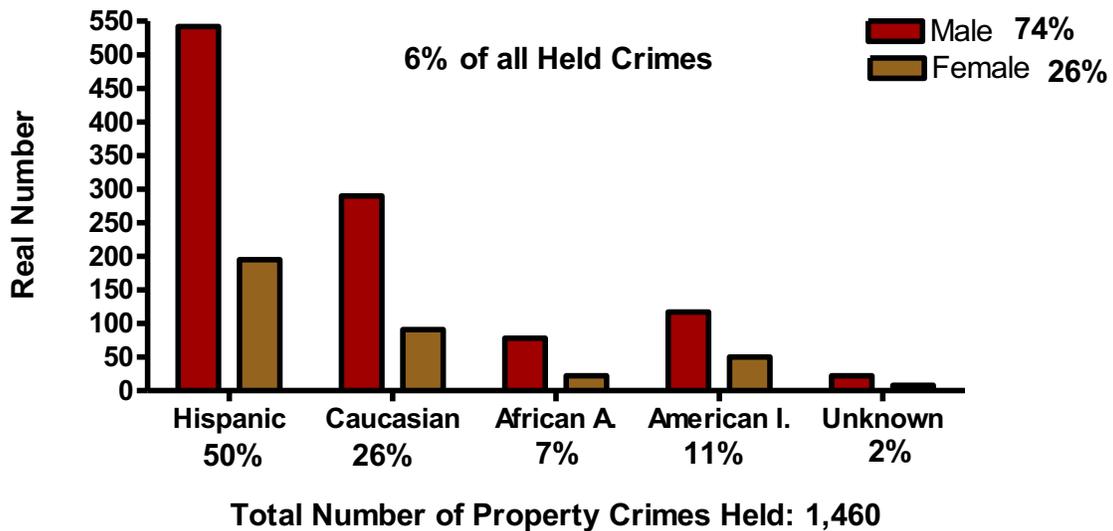
Number of Individuals Held on Person Crimes by Ethnicity X Gender



Total Number of Person Crimes Held: 2,576

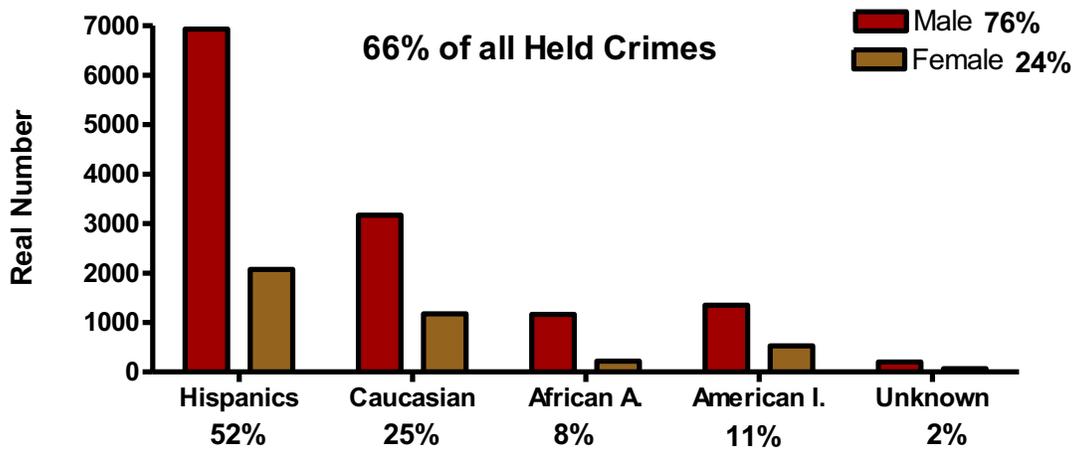
Person crimes were 10% of ALL held crimes. The percent related to “male” and “female” in the above graph represents what proportion of the whole the gender represents. For example, of all the Person Crimes booked and held at MDC in FY 2010, males made up 74% of those holds while females made up 26% of those holds. The percent under each ethnicity represents the % of the whole ethnic group. For example, Hispanics made up 42% of all Person holds during the 2010 FY, Caucasians 26%, African Americans 9%, American Indians 18%, and unknown 2%.

Number of Individuals Held on Property Crimes by Ethnicity X Gender



Property crimes were 6% of ALL held crimes. The percent related to “male” and “female” in the above graph represents what proportion of the whole the gender represents. For example, of all the Property Crimes booked and held at MDC in FY 2010, males made up 74% of those holds while females made up 26% of those holds. The percent under each ethnicity represents the % of the whole ethnic group. For example, Hispanics made up 50% of all Property holds during the 2010 FY, Caucasians 26%, African Americans 7%, American Indians 11%, and unknown 2%.

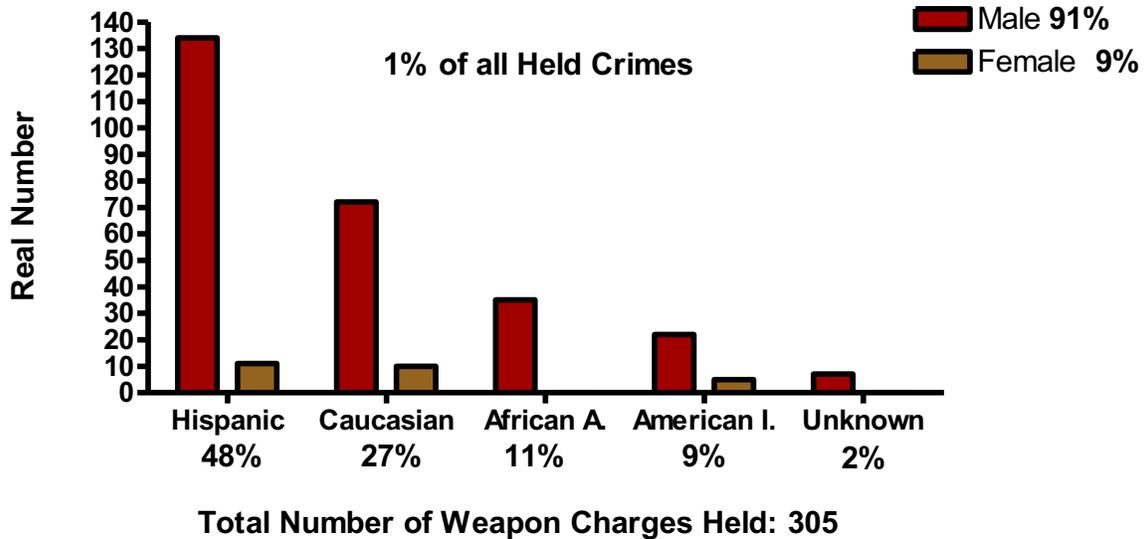
Number of Individuals Held on Warrants by Ethnicity X Gender



Total Number of Warrants Held: 17,405

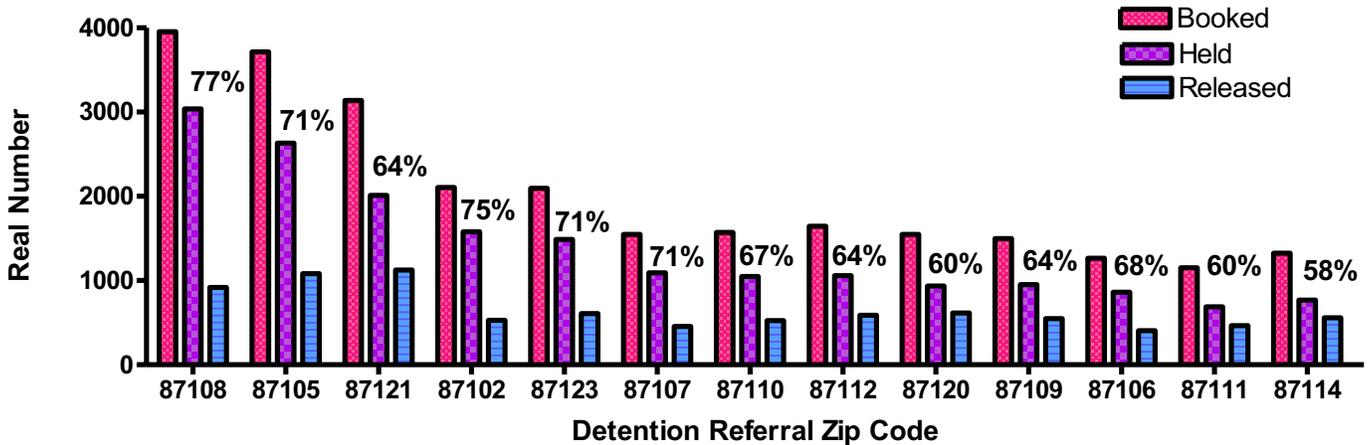
Warrants were 66% of ALL held crimes. The percent related to “male” and “female” in the above graph represents what proportion of the whole the gender represents. For example, of all the Warrants held at MDC in FY 2010, males made up 76% of those holds while females made up 24% of those holds. The percent under each ethnicity represents the % of the whole ethnic group. For example, Hispanics made up 52% of all Warrants during the 2010 FY, Caucasians 25%, African Americans 8%, American Indians 11%, and unknown 2%.

Number of Individuals Held on Weapons Charge by Ethnicity X Gender



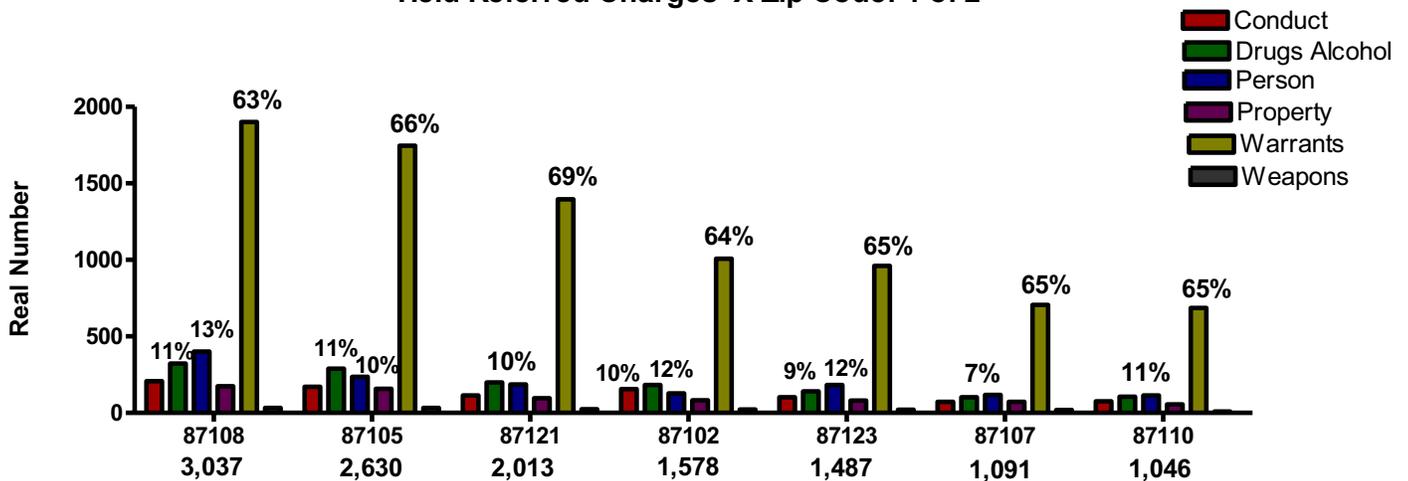
Weapon Charges were 1% of ALL held crimes. The percent related to “male” and “female” in the above graph represents what proportion of the whole the gender represents. For example, of all the Weapon Charges held at MDC in FY 2010, males made up 91% of those holds while females made up 9% of those holds. The percent under each ethnicity represents the % of the whole ethnic group. For example, Hispanics made up 48% of all Warrants during the 2010 FY, Caucasians 27%, African Americans 11%, American Indians 9%, and unknown 2%.

Detention Activity by Zip Code

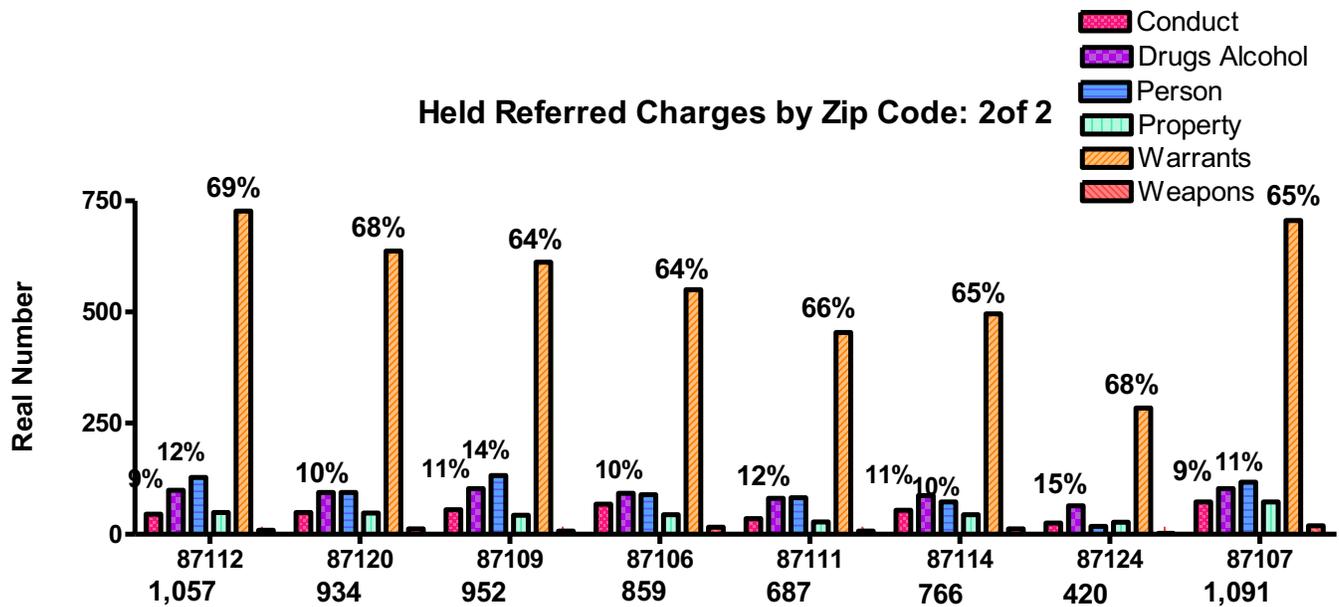


The above graph shows that MDC’s highest three referring zip codes are 87108, 105, and 121. The percent in the graph above the “held” bar indicates the held rate for that zip code. In other words, 77% of all individuals who are referred from 87108 are held at booking.

Held Referred Charges X Zip Code: 1 of 2



The above graph conveys highest referral zip codes by those individuals with charges that were held at the time of booking. The percent above the “charge” bar depicts what percent of all charges that charge represents. For example, Warrants were the highest referral reason from 87108 constituting 63% of all charges from that zip code. Person charges, at 13%, were the second highest referral charge from 87108. The number under each respective zip code conveys TOTAL number of charges from that zip code that was HELD at the time of booking. For example, in FY 2010 the detention center held 3,037 individuals from 87108. Of those 3,037 individuals, 63% were charged with warrants, 13% were charge with a Person crime, and 11% were charged with a drug or alcohol crime.

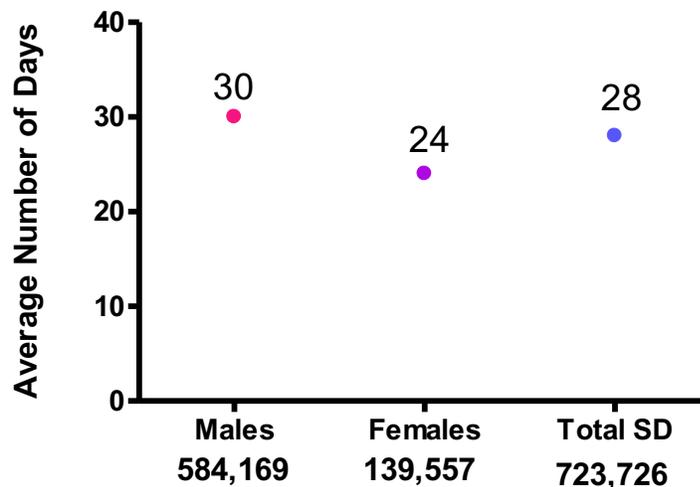


The above graph conveys highest referral zip codes by those individuals with charges that were held at the time of booking. The percent above the “charge” bar depicts what percent of all charges that charge represents. For example, Warrants were the highest referral reason from 87112 constituting 69% of all charges from that zip code. Person charges, at 12%, were the second highest referral charge from 87112. The number under each respective zip code conveys TOTAL number of charges from that zip code that was HELD at the time of booking. For example, in FY 2010 the detention center held 1,057 individuals from 87112. Of those 1,057 individuals, 69% were charged with warrants, 12% were charge with a Person crime, and 9% were charged with a drug or alcohol crime.

Average Length of Stays (ALOS)

A release report was generated for the following data unless otherwise noted. Meaning, all those who were released in the 2010 fiscal year were considered in the following ALOS data. Overall detention “straight” ALOS calculation in 2010 was 44.45 days with a standard deviation of 93.52. This includes all persons held for 1 or more days. This ALOS *does not* consider those who were booked and released and were observed with 0 days. When considering ALOS through the lens of reform we adjust the ALOS using the standard deviation as a guide to rid our data of those individuals who will not benefit from reform (i.e., those who pose a public safety risk and will not be eligible for any alternative programming to detention). Scores (days), and therefore clients, that are outside 2 standard deviations of the mean will not be considered in the following data (all clients staying over 231 days in detention). After removing all scores outside of 2 standard deviations of the mean we are left with 96.6% of the released population that we will consider in the following data. When considering the new definition for ALOS and using the 2 standard deviation rule we now have an ALOS of 28.

Average Length of Stay by Gender for FY 2010



The average length of stay in detention was 28 days, irrespective of charge. Males spent an average of 30 days while females spent an average of 24 days, irrespective of charge. Males utilized 584,169 bed days in total for the fiscal year while females utilized 139,557 bed days. Both Males and Females occupied a total of 723,726 bed days. You will notice the “SD” in the graph that signifies the total number here represents all those bed days within 2 standard deviations of the mean.

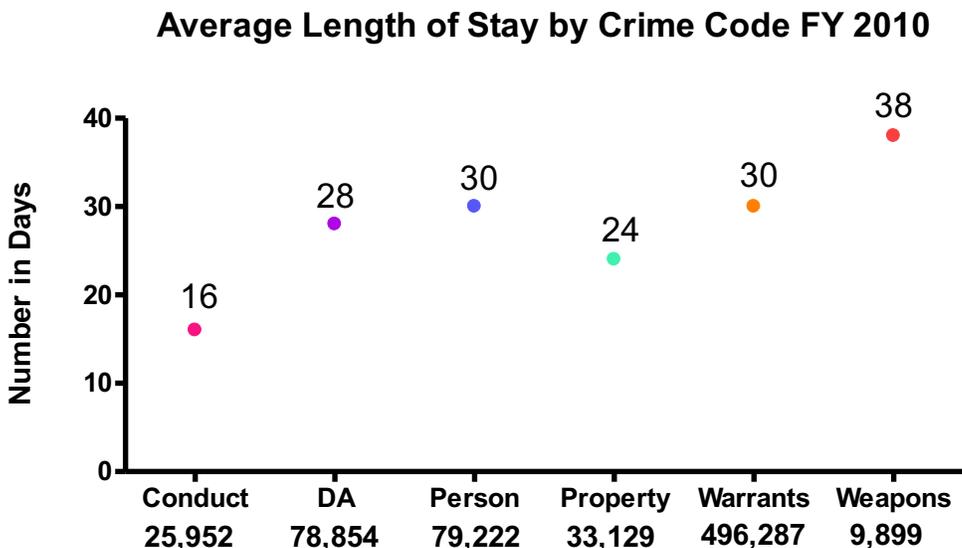
Males – 584,169 x \$80.00 per day = \$46,733,520

Females – 139,557 X \$80.00 per day = \$11,164,560

Total = \$57,898,080

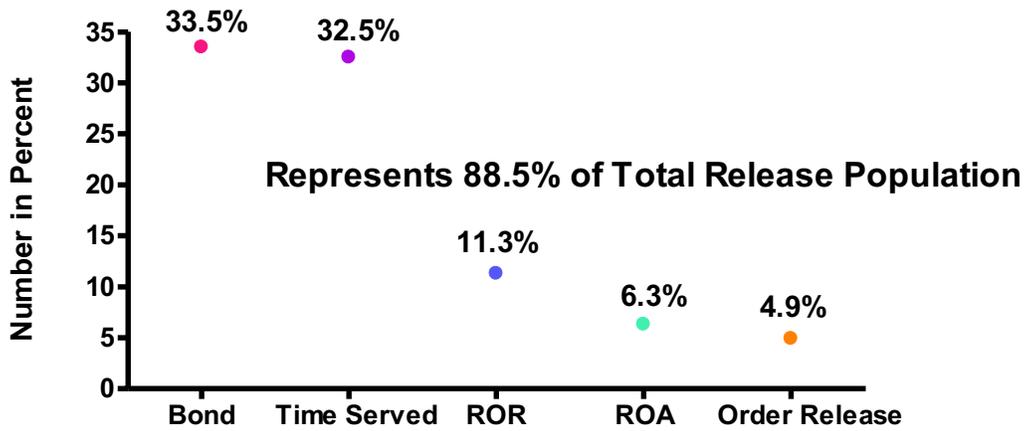
Note: there were several genders missing in the data and for this reason the above ALOS of 28 will not exactly match the total ALOS for ethnicity. The discrepancy yielded a 3 day difference. Not a statistical concern. Booking has been notified and detention aims to improve on this collection variable.

- Cost was figure by total amount to run MDC divided by number of available beds



The above graph depicts the average length of stay for a client as a function of the type of crime she/he was held on. The number below the crime code discloses the total number of detention bed days for that respective crime category. For example, the average number of days one stayed in detention when being held on a conduct crime was 16 days. The total number of bed days occupied for those who were held on a **Conduct charge for the fiscal year was 25,952 (\$2,076,160), Drug and alcohol \$6,308,320, Person \$6,337,760, Property \$2,650,320, Warrants \$39,702,960, and Weapons, 791,920.**

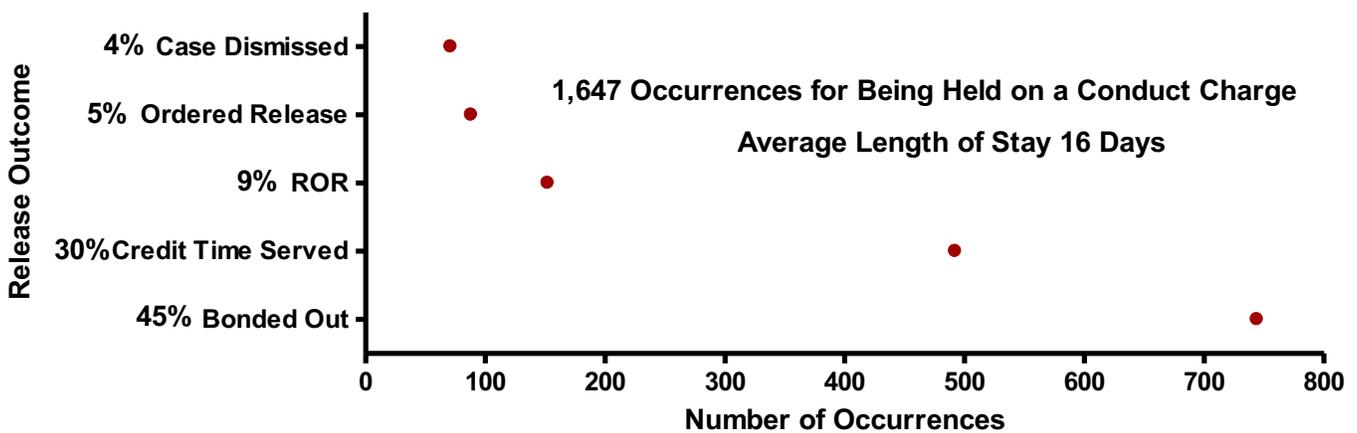
Overall Release Outcomes for 2010



ROR - Release on own Recognizance
 ROA - Released to Another Agency

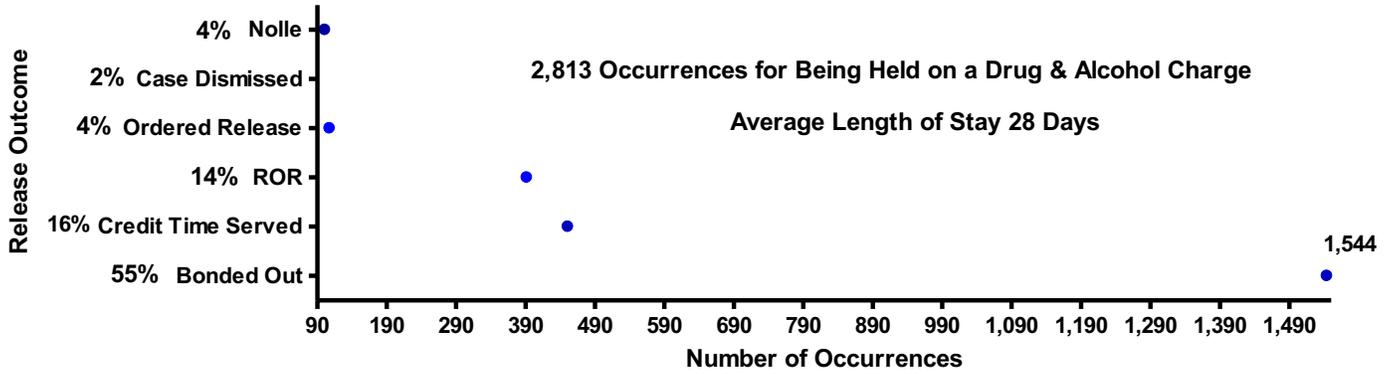
Above you will find the overall top 5 release outcomes for fiscal year 2010, irrespective of charge, ethnicity, or gender. How would Pre-Trial Services mitigate time in detention if used according to its development – its evidence based system, I mean? This may be an accountable funnel to pass all cases through.

Release Outcomes After Being Held on a Conduct Charge



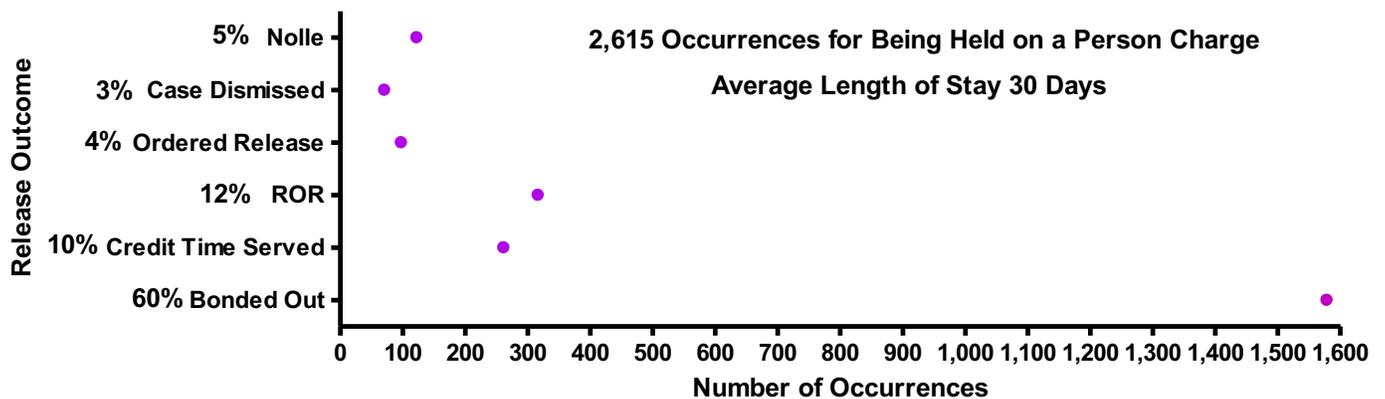
The above release outcome graph shows that after an average length of stay of 16 days in detention cases either “Bonded Out” or released with “Credit Time Served.”

Release Outcome After Being Held on a Drug and Alcohol Charge



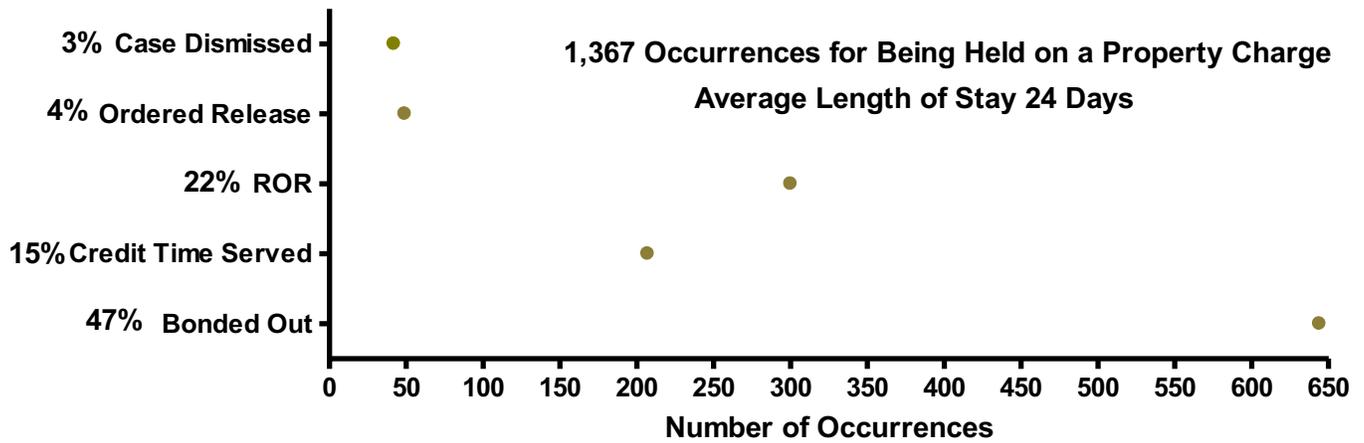
The above release outcome graph shows that after an average length of stay of 28 days in detention cases either “Bonded Out” or released with “Credit Time Served.”

Release Outcome After Being Held on a Person Charge



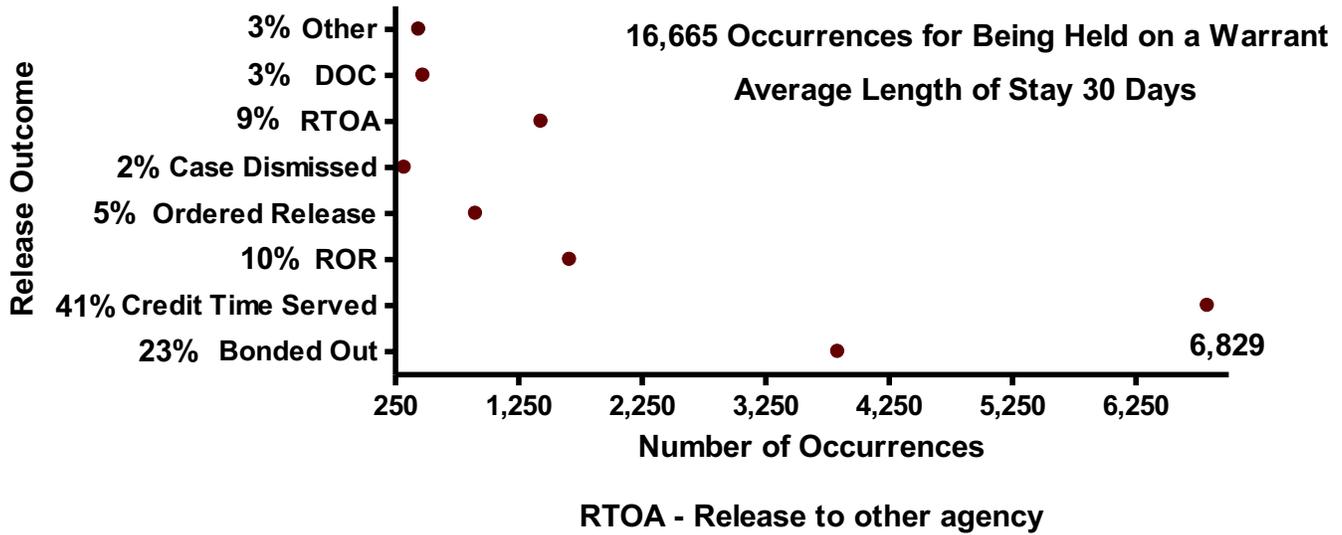
The above release outcome graph shows that after an average length of stay of 30 days in detention cases either “ROR” or released with “Bonded Out.”

Release Outcome After Being Held on a Property Charge



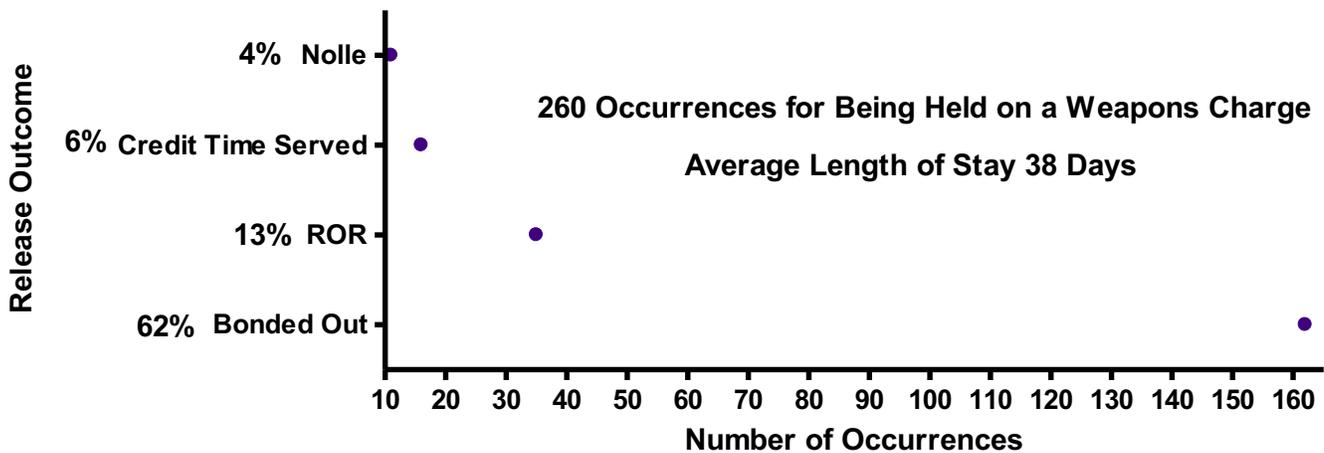
The above release outcome graph shows that after an average length of stay of 24 days in detention cases either “ROR” or released with “Bonded Out.”

Release Outcome After Being Held on a Warrant



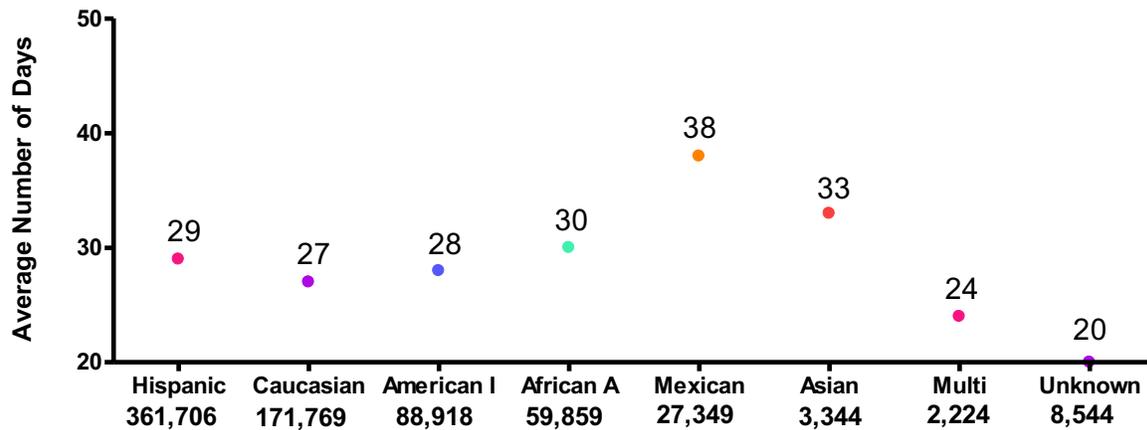
The above release outcome graph shows that after an average length of stay of 30 days in detention cases either “Credit Time Served” or released with “Bonded Out.”

Release Outcome After Being Held on a Weapon Charge



The above release outcome graph shows that after an average length of stay of 38 days in detention cases either “ROR” or released with “Bonded Out.”

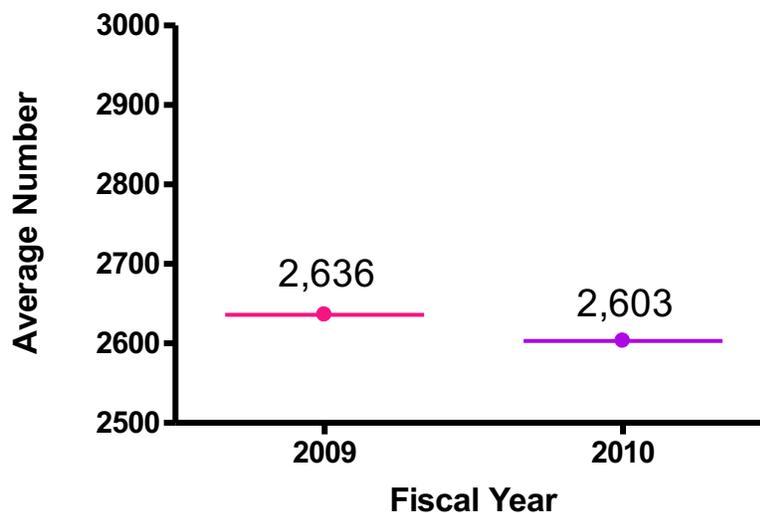
Average Length of Stay by Ethnicity for FY 2010



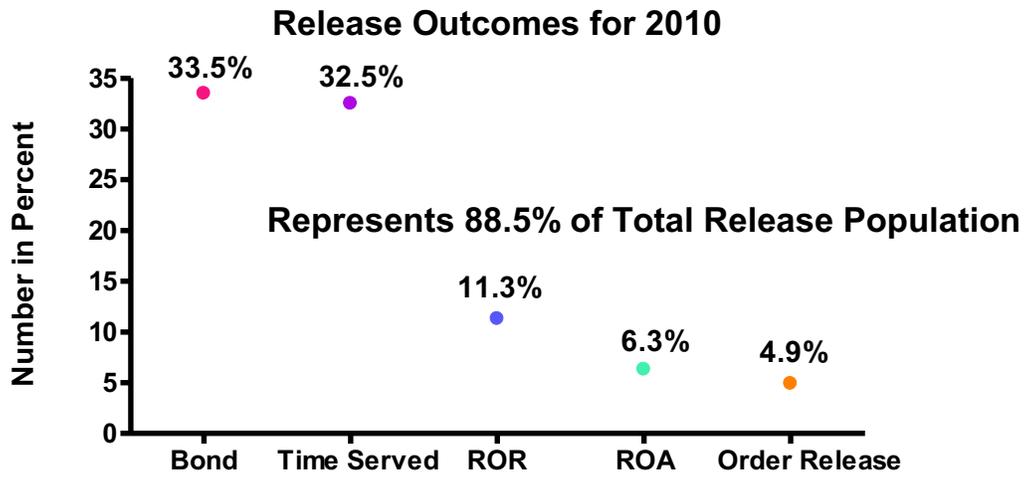
The above graph shows the average length of stay for clients in detention for each ethnicity for fiscal year 2010. The number below the ethnicity depicts those days in total that the respective ethnic group stayed in detention for the fiscal year. For example, Hispanics stayed on average 29 days in detention when held at booking.

Average Daily Populations (ADP)

Average Daily Population Across FY



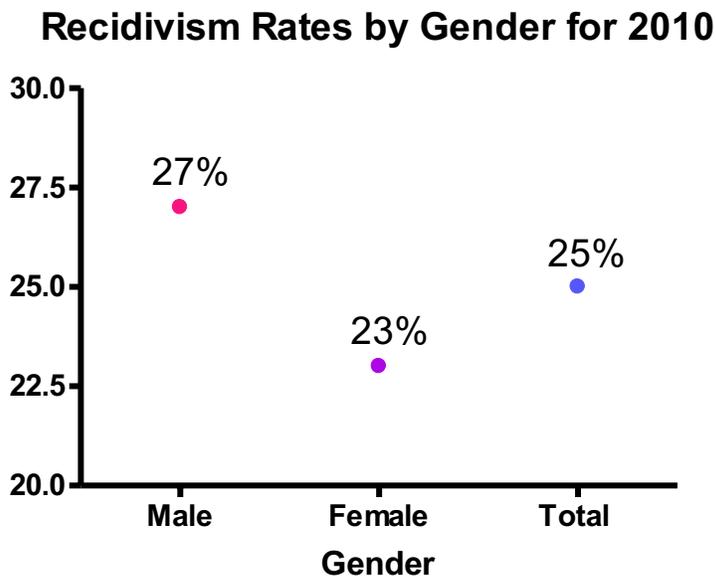
Procedures for reporting ADP have recently been developed since the new research team has been assembled and all future reports will include ADPs disaggregated for Race and Gender.



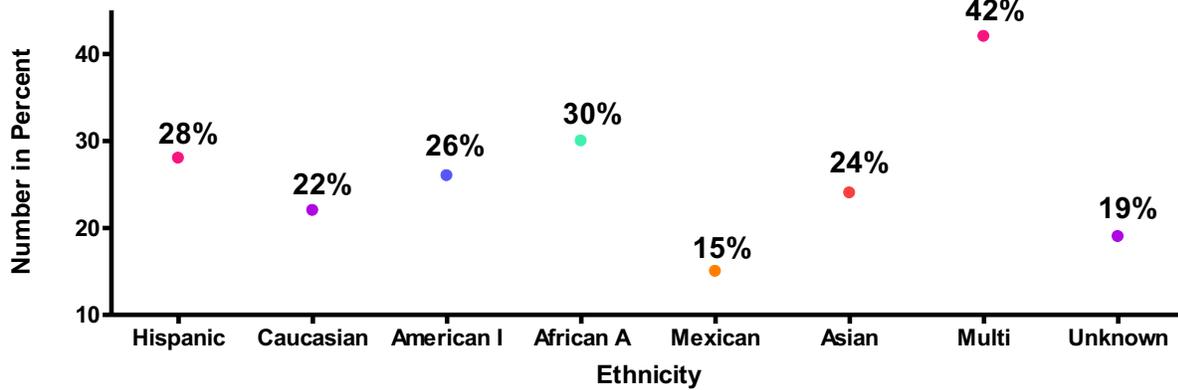
ROR - Release on own Recognizance
ROA - Released to Another Agency

The above graph shows Release Outcomes for clients who served detention stays at MDC during FY 2010. Please observe that the top 5 outcomes have been reported which represents nearly 90% of the held population at MDC. Follow up sub-committee, or the SC, should ask at what point were these outcomes posted? In other words, were 20 – 30 days spent in detention then ROR –pick a scenario? Researchers can code brackets of time and cross tab these bracket codes with release outcome.

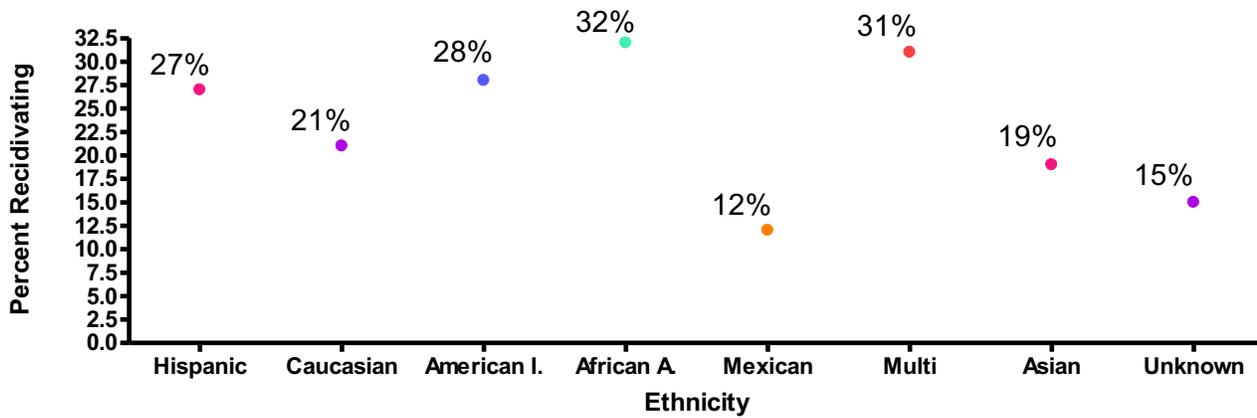
Recidivism



Recidivism Rates by Ethnicity for 2010

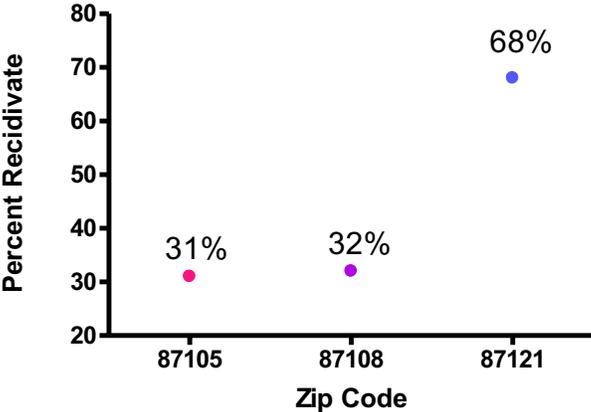


Percent of Ethnic Recidivating Population 2009



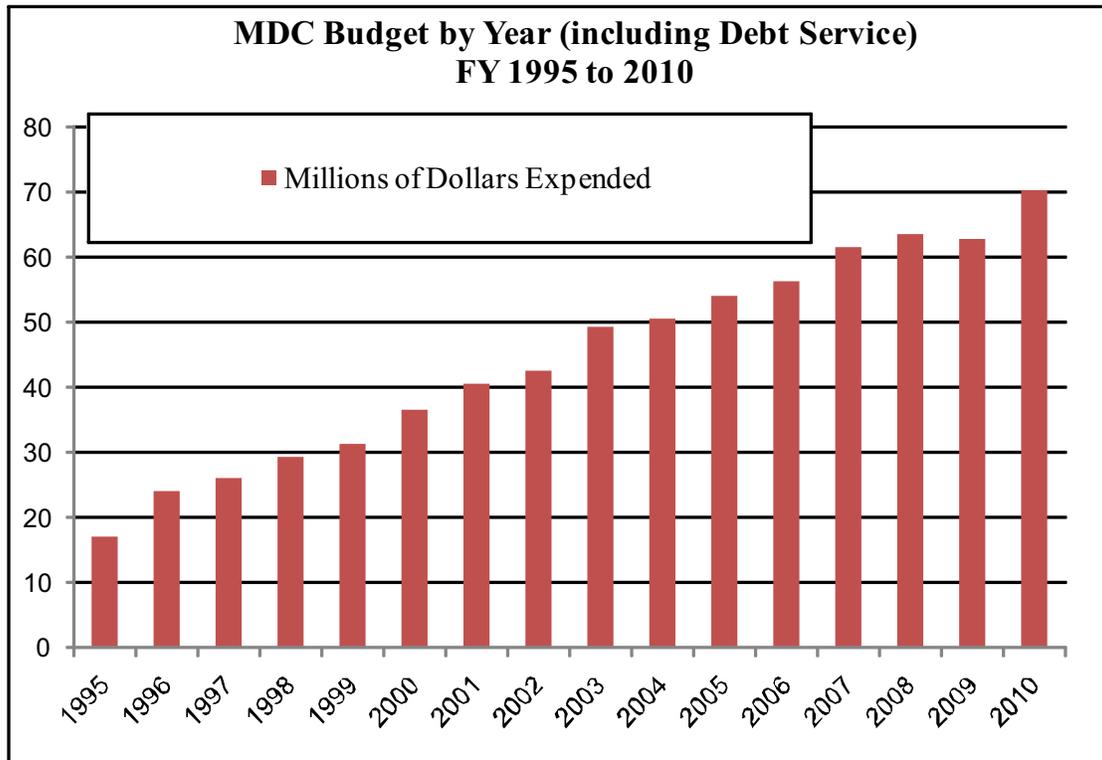
Recidivism rates could not be reported by zip code for this report. Over 3,400 zip codes were missing. They are reported for 2009 below:

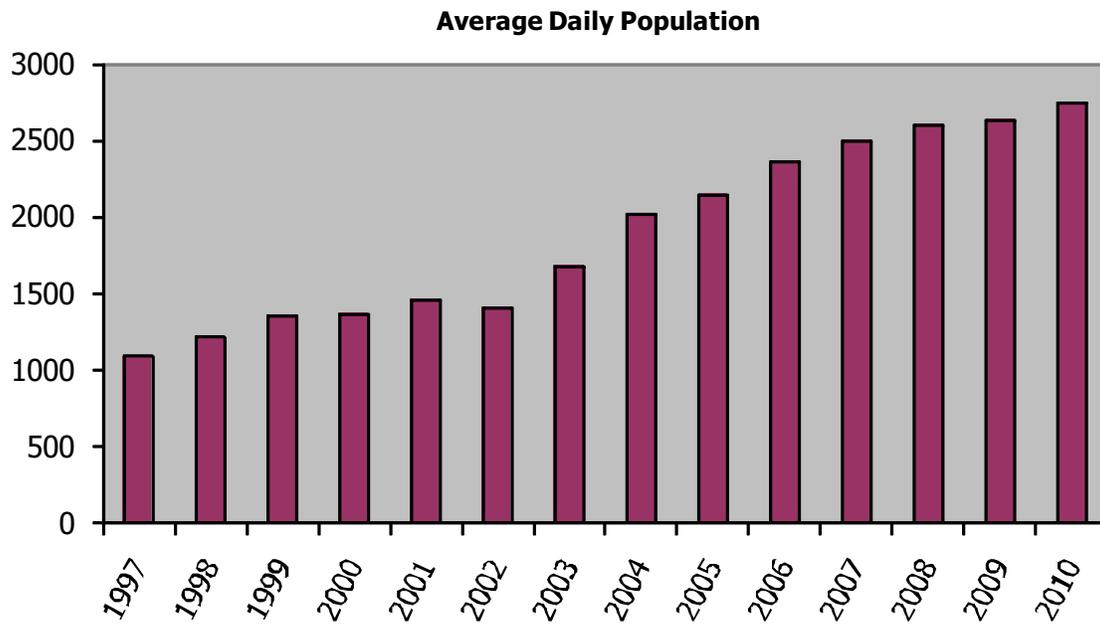
Percent of Zip Code Recidivators 2009



Public Safety Data

Appendix A





Appendix B

Statistical Data Report for the Bernalillo County Metro Detention Center

Fiscal Year 2009

Retroactive Development December 6, 2010

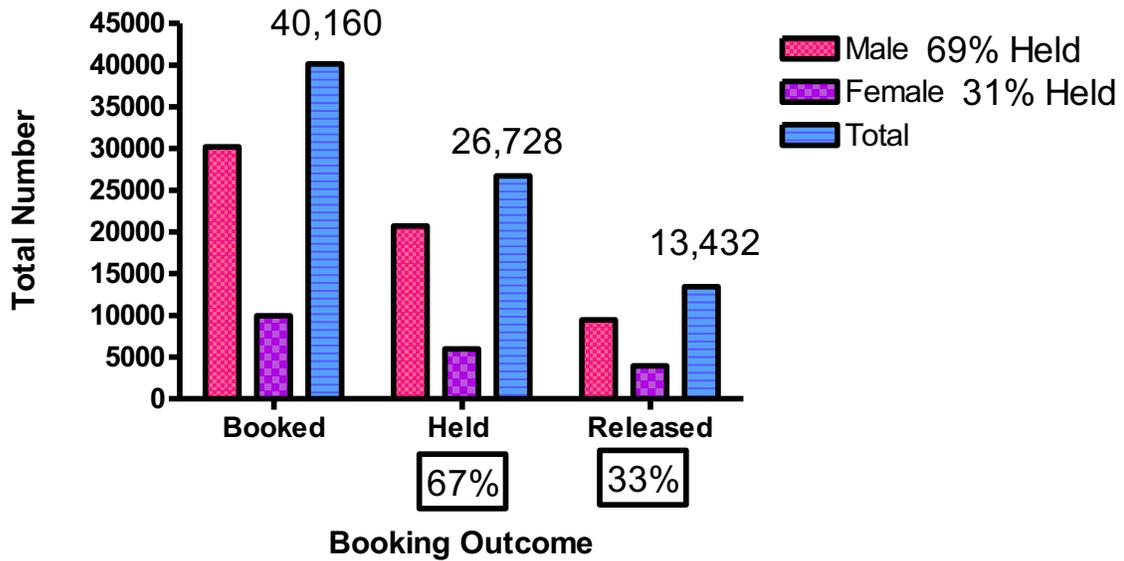


Thomas E. Swisstack,

Deputy County Manager Over Public Safety

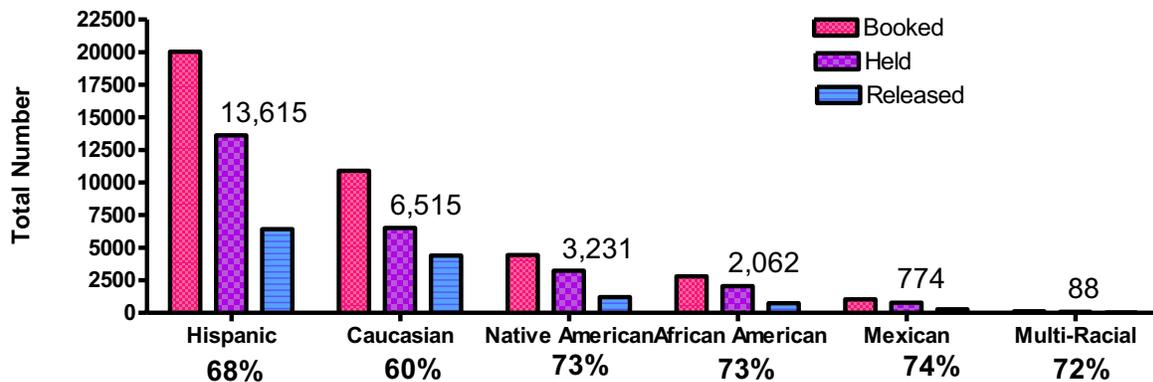
Bernalillo County Metro Detention Center Data Report for FY 2009

Booked, Held, and Release Activity by Gender FY 2009



67% of all who were booked were held at time of booking. Thirty Three percent of persons were released at time of booking.

Booked, Held, and Release Activity by Ethnicity for FY 2009



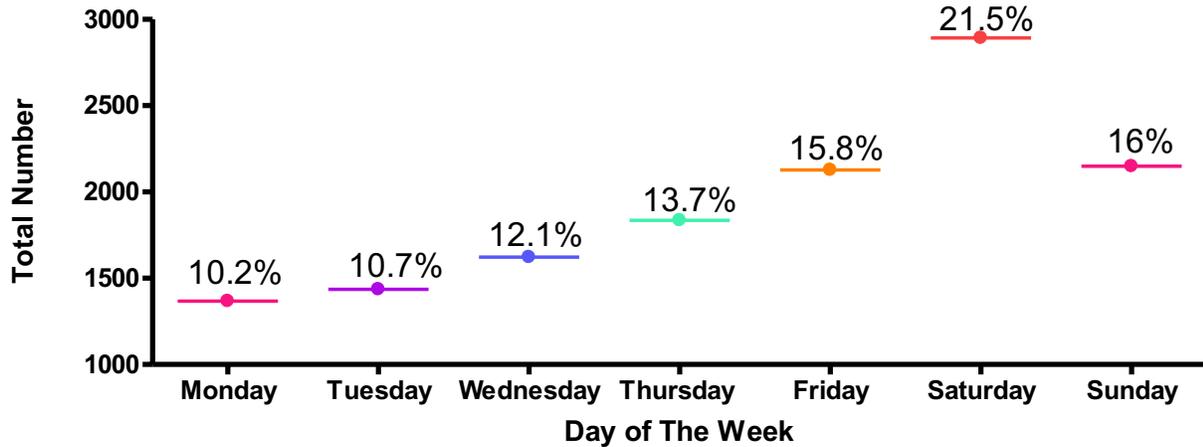
Percents along the X axis represent the percent of that respective ethnicity being held at the time of booking.

Unknown Ethnicity - Booked 606 Released 322

Minority Held 75%

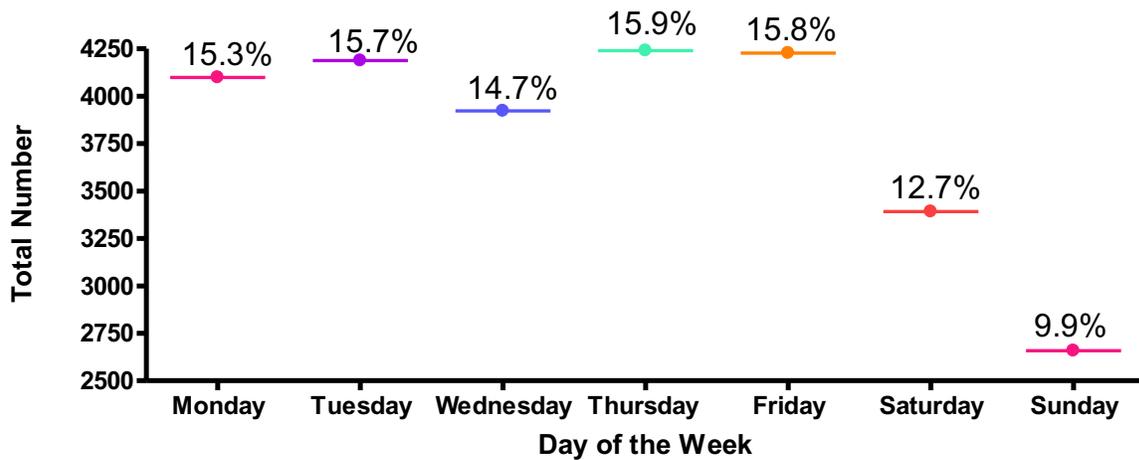
Non-Minority Held 25%

Booked and Release ONLY Activity by Day of The Week

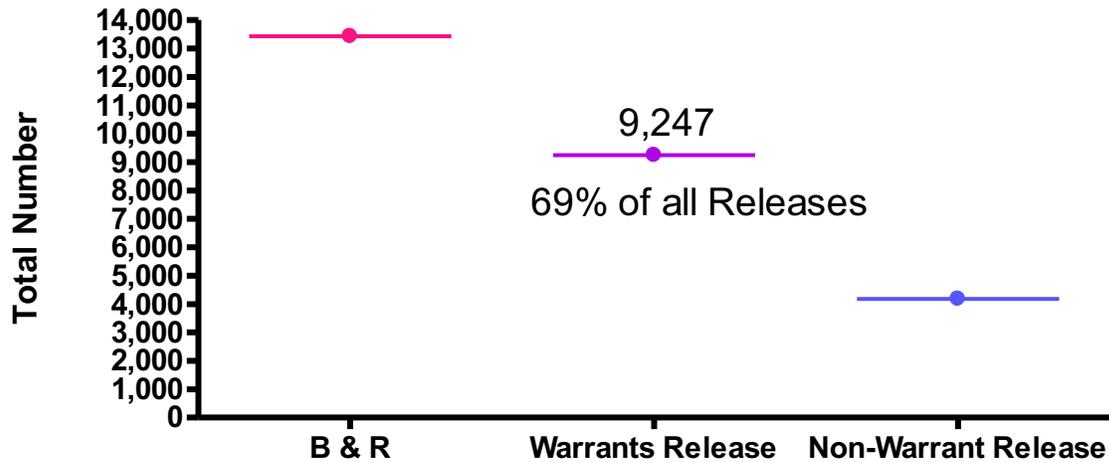


Warrants were evenly distributed for Booking day of the week. No one day was more prevalent for booking of warrants than another. Min-11% on Sunday – MAX 17% on Saturday.

Booked and Held Activity by Day of the Week FY 2009

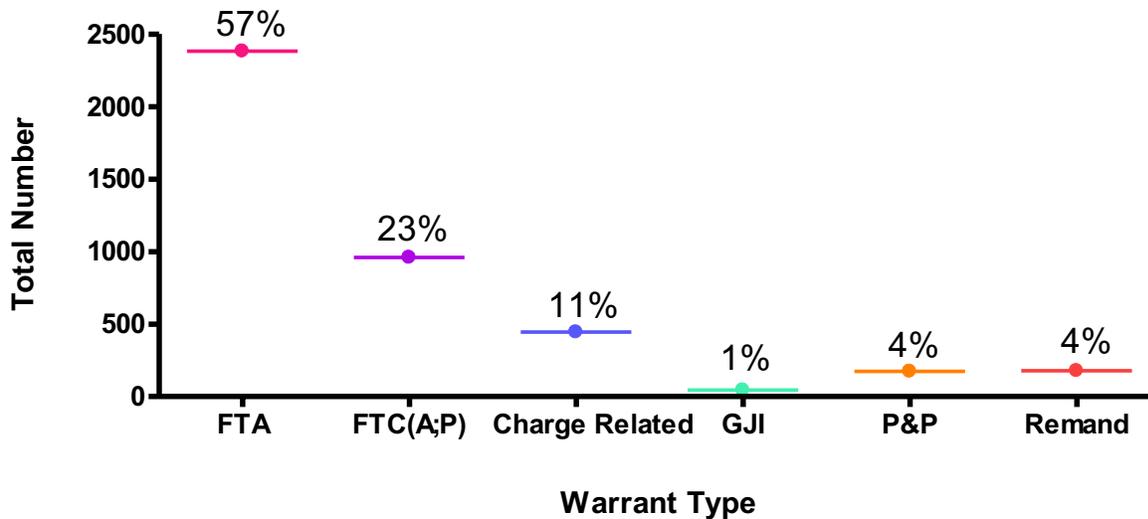


FY 2009 Warrant RELEASE Frequency at Time of Booking



Nearly 70% of all **releases** were warrant related. In other words, 70% of bookings that were immediately released were warrant related.

Warrant Types that Were Booked and RELEASED FY 2009

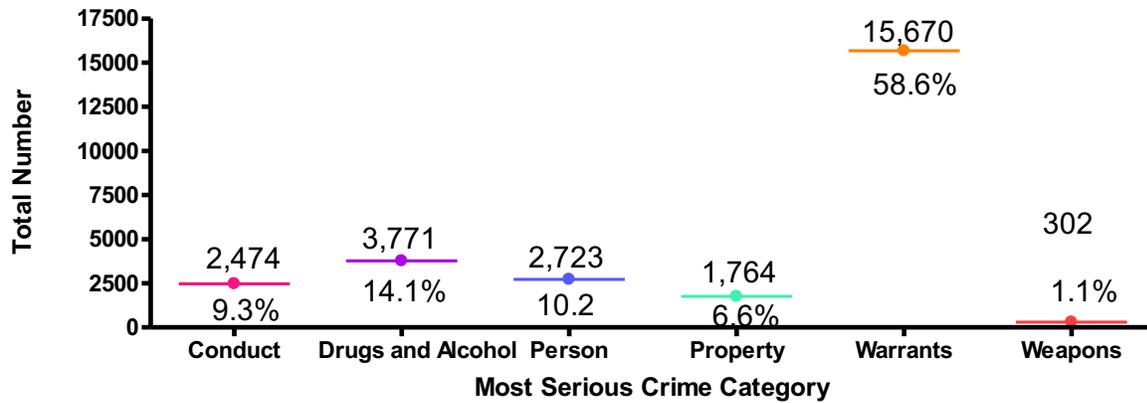


FTA - Failure To Appear
 FTC - Failure to Comply (Attend;Pay)
 GJI - Grand Jury Indictment
 P&P - Parole or Probation

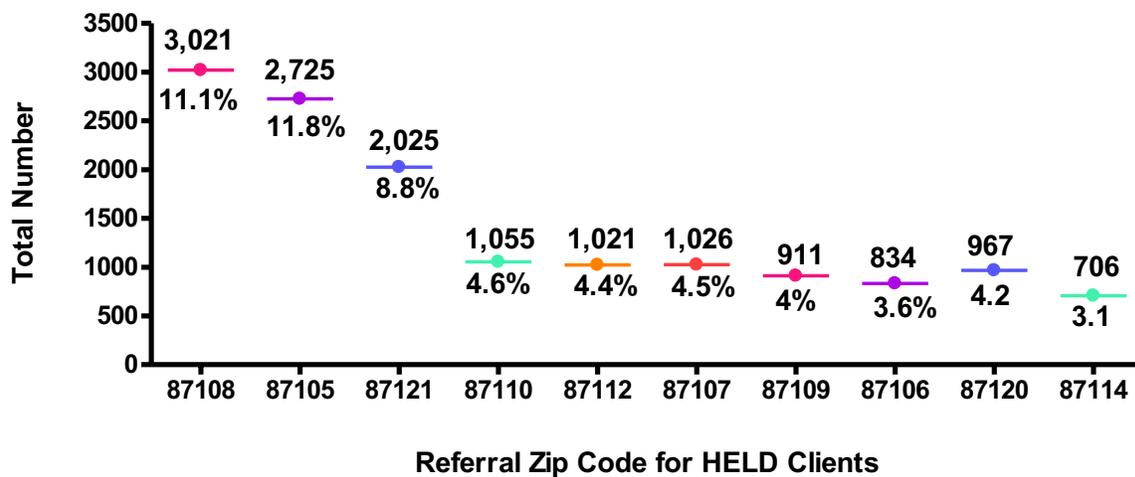
Nearly 60% of all warrants that were booked and release were FTA. The county NEEDS a new FTA protocol. 83% were either FTA or FTC, the county needs to collaborate with Probation to develop protocols, that do not

utilize detention, to address these issues. There was no public safety related reason for these clients to be brought to the detention center.

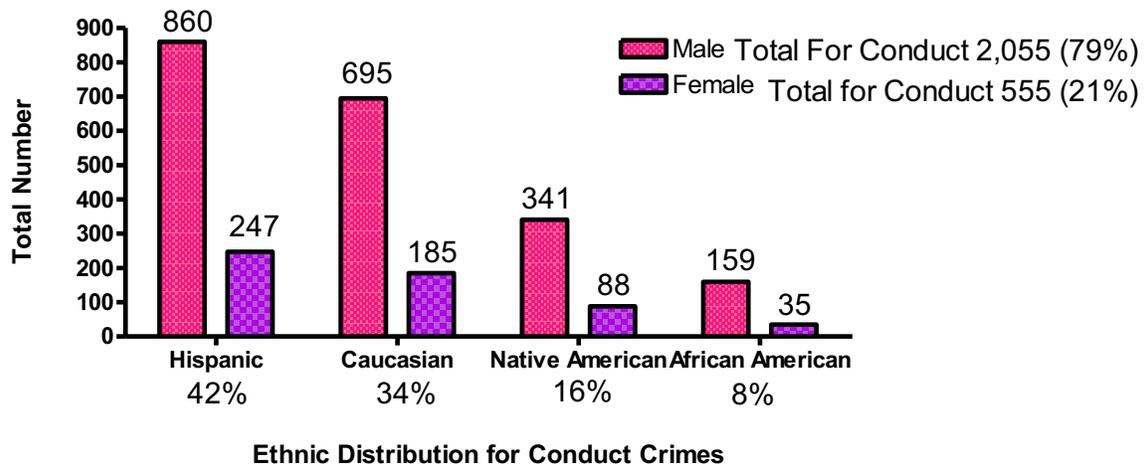
Most Serious Crime Category Activity for Booked and Held FY 2009



Total Number of Held Clients X Top Referring Zip Code

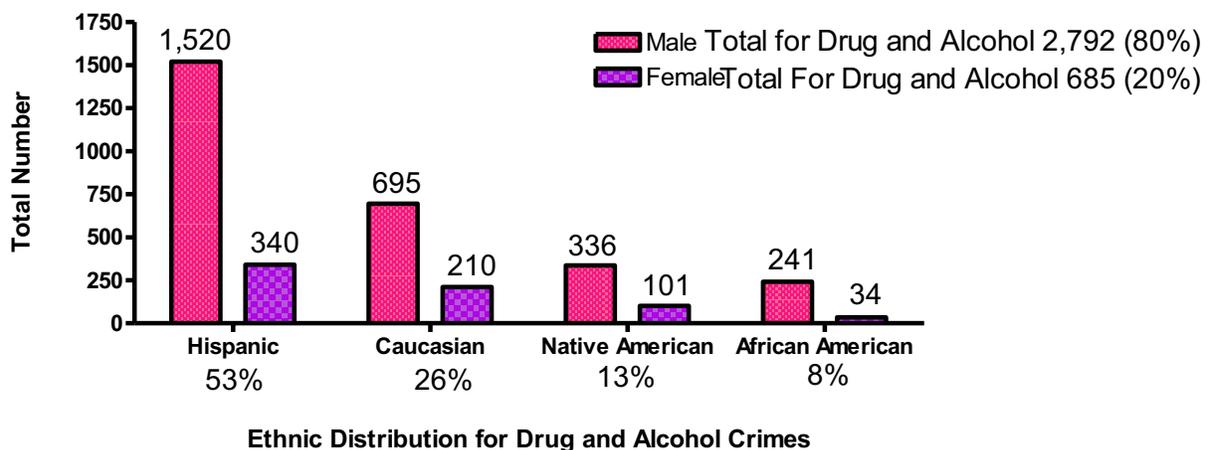


Ethnicity X Gender Distribution for Held Conduct Crimes FY 2009



The percent in the above graph relates to the total number that ethnicity contributed in whole for all held Conduct Crimes. For example, Hispanics represented 42% of all held Conduct Crimes in 2009. All males, irrespective of ethnicity, represented 79% of Held Conduct Crimes while females only represented 21% of all Conduct Crimes.

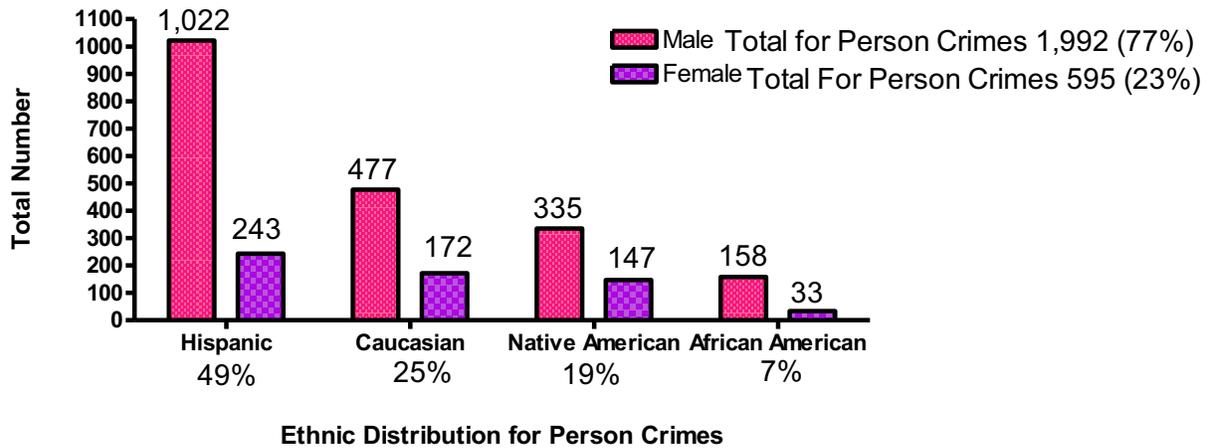
Ethnicity X Gender Distribution for Drug and Alcohol Crimes FY 2009



The percent in the above graph relates to the total number that ethnicity contributed in whole for all held Drug and Alcohol Crimes. For example, Hispanics represented 53% of all held Drug and Alcohol Crimes in 2009. All males,

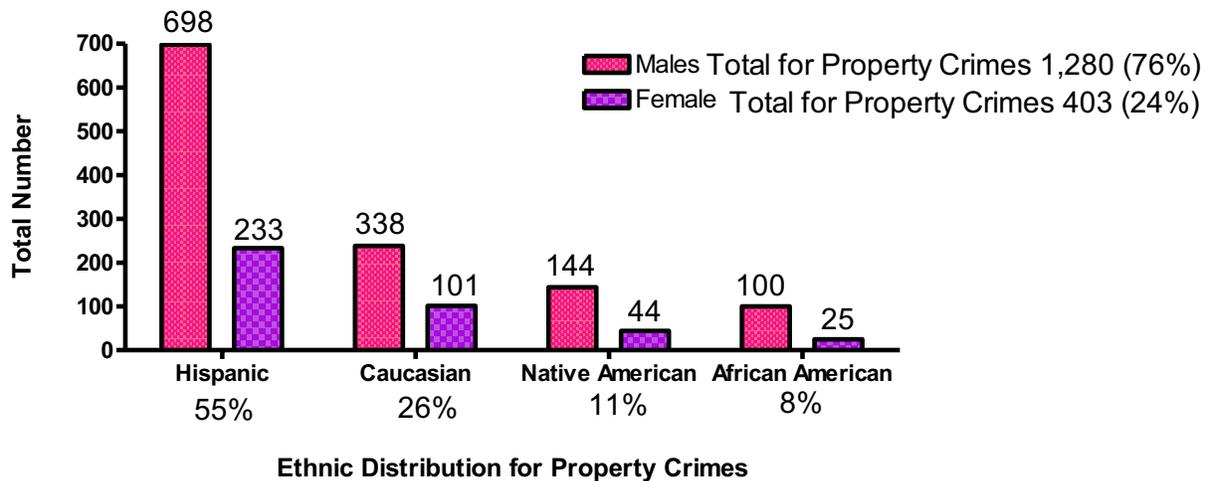
irrespective of ethnicity, represented 80% of Held Conduct Crimes while females only represented 20% of all Drug and Alcohol Crimes.

Ethnicity X Gender Distribution for Person Crimes FY 2009



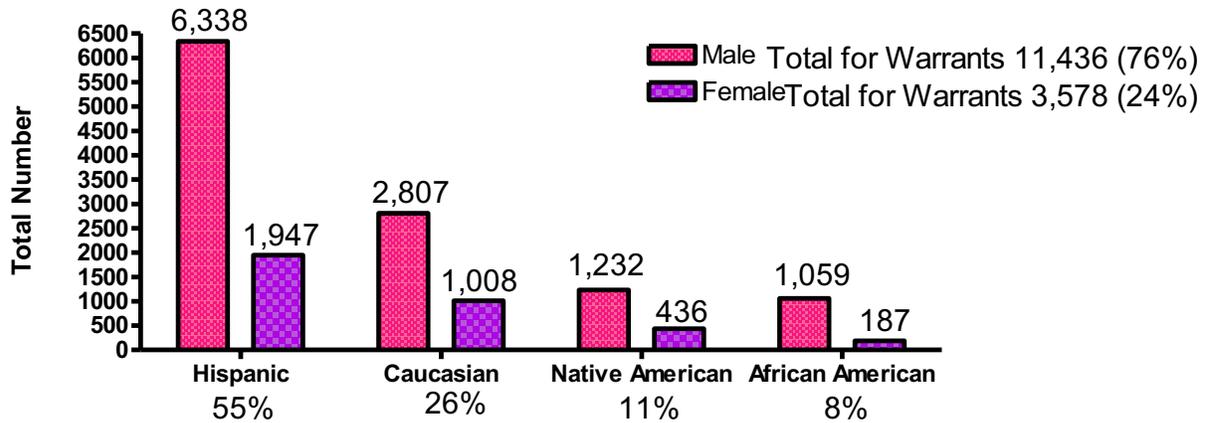
The percent in the above graph relates to the total number that ethnicity contributed in whole for all held Person Crimes. For example, Hispanics represented 49% of all held Person Crimes in 2009. All males, irrespective of ethnicity, represented 77% of held Person Crimes while females only represented 23% of all Person Crimes.

Ethnicity X Gender Distribution for Property Crimes FY 2009



The percent in the above graph relates to the total number that ethnicity contributed in whole for all held Property Crimes. For example, Hispanics represented 55% of all held Property Crimes in 2009. All males, irrespective of ethnicity, represented 76% of held Person Crimes while females only represented 24% of all Person Crimes.

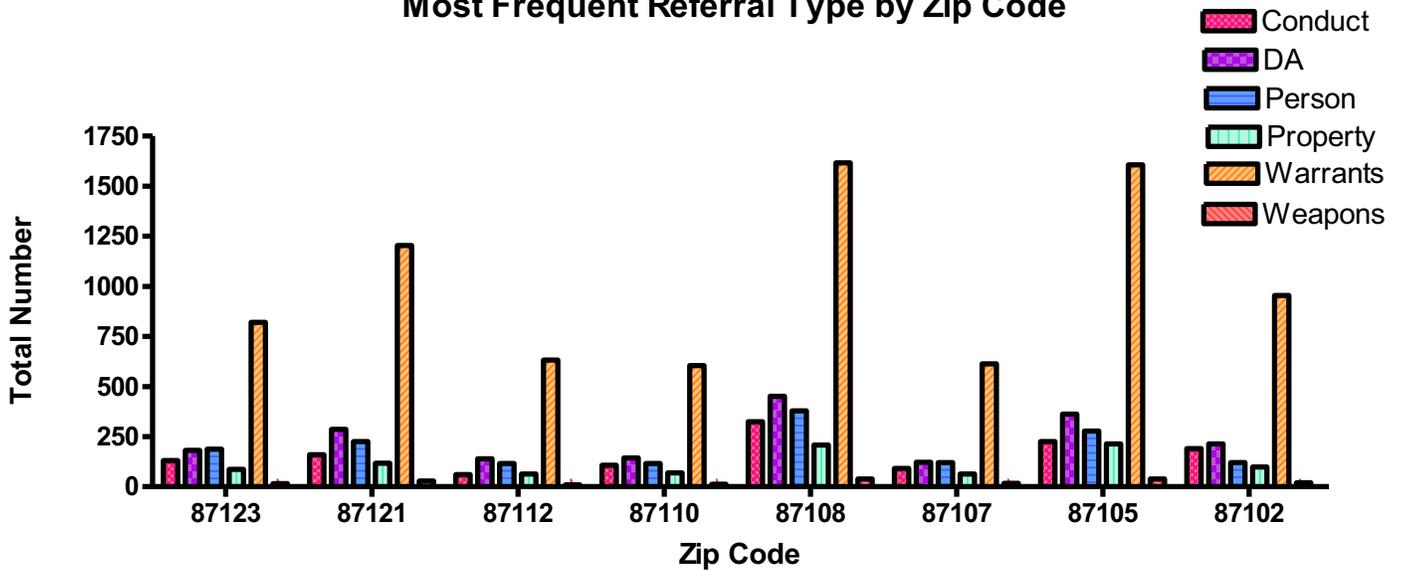
Ethnicity X Gender Distribution for Warrants FY 2009



Ethnic Distribution for Warrants

The percent in the above graph relates to the total number that ethnicity contributed in whole for all held Warrant Crimes. For example, Hispanics represented 55% of all held Warrant Crimes in 2009. All males, irrespective of ethnicity, represented 76% of held Warrant Crimes while females only represented 24% of all Warrant Crimes.

Most Frequent Referral Type by Zip Code



The above graph depicts a cross tabulation of the most frequent occurring client zip code and most frequent referral charge from the respective zip code.

The zip codes listed above were the most frequent occurring zip codes in 2009. Warrants were the top reason for referral in ALL zip codes and ALL zip codes are minority male driven:

87123: 821 Warrants Referred; **58%** of total referrals

87121: 1,204 Warrants Referred; **60%** of total referrals

87112: 632 Warrants Referred; **62%** of total referrals

87110: 605 Warrants Referred; **57%** of total referrals

87108: 1,617 Warrants Referred; **54%** of total referrals

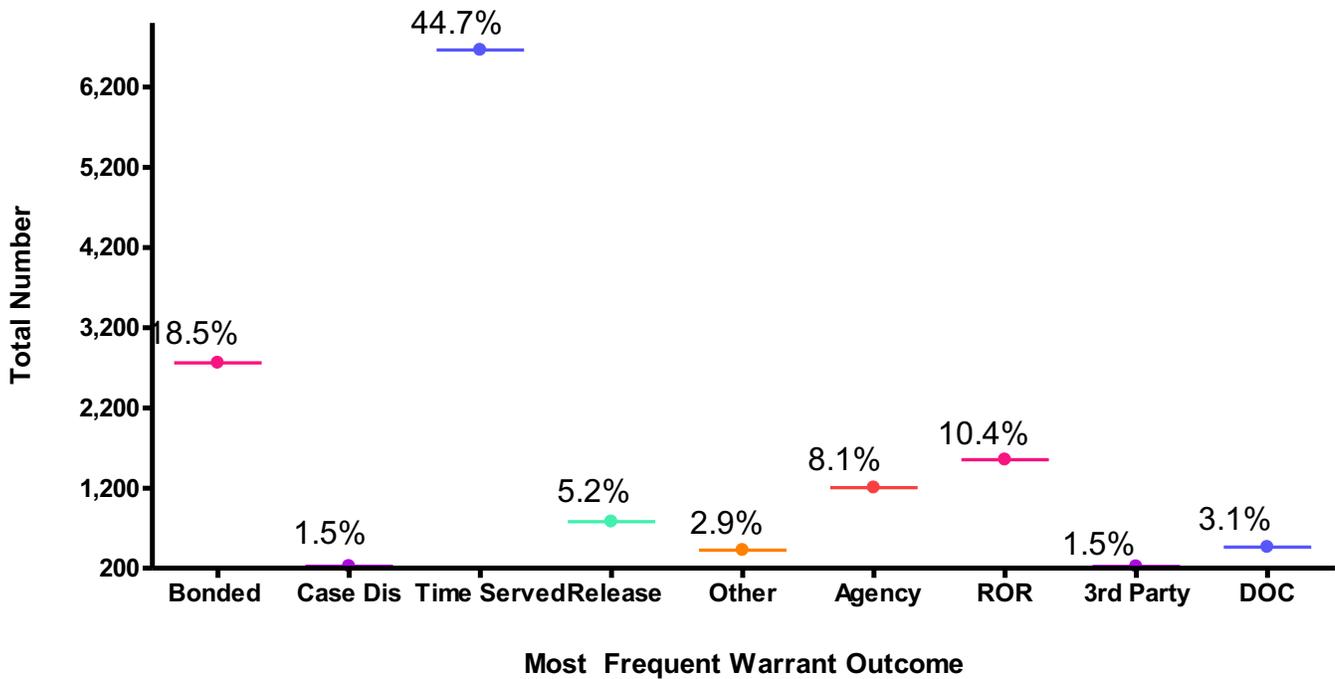
87107: 613 Warrants Referred; **60%** of total referrals

87105: 1,606 Warrants Referred; **59%** of total referrals

87102: 955 Warrants Referred; **60%** of total referrals

Estimated ALOS for Warrants in 2009 was ~26 days – after removing outliers at 2 standard deviations away from the mean (all those over 82 days were removed)

Most Frequent Warrant "Release Type" Outcome FY 2009



Above, when you apply the 2 standard deviation rule for the data above those clients who were released with Time Served spent an average of 17 days in detention prior to release. This ALOS considered 5,800 cases of the total 6,662 clients held. Those clients held between 17 and 20 days for a warrant who were later released with "Time Served" would benefit from any reform effort, a total of 5,800 clients. **NEED COST**

Top 3 Warrant reason for Time Served clients were PVs, FTP (failure to pay and variations thereof), and FTA.

The Warrant's Sub-committee can unpack the other Outcomes. I would recommend tackling the majority and first looking at Time Served Clients who represent almost 50% of this crime category.

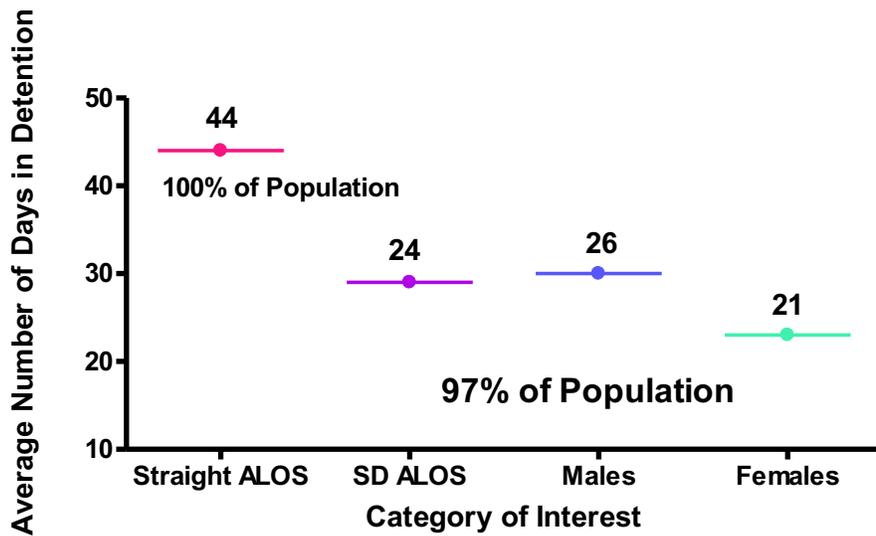
Need to unpack what was labeled "OTHER"

Average Length of Stays (ALOS)

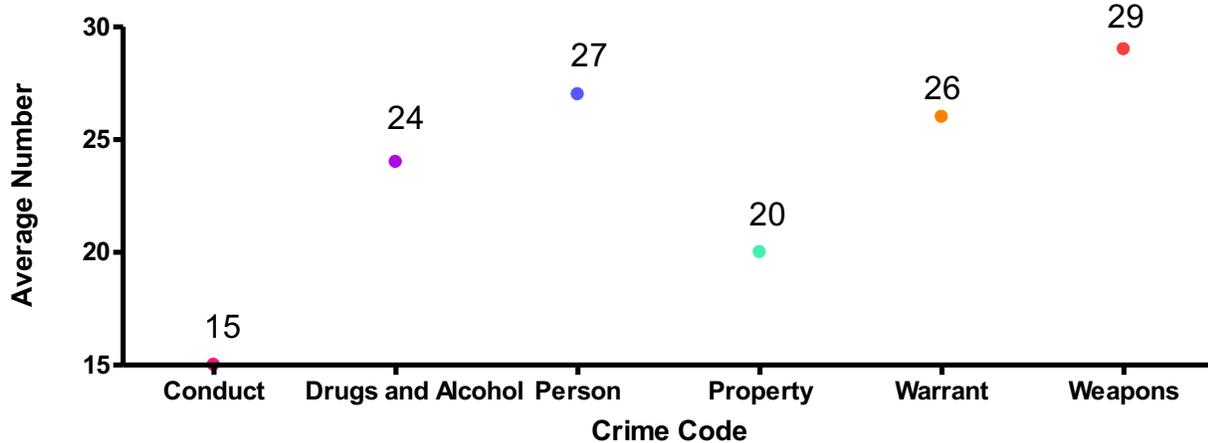
A release report was generated for the following data unless otherwise noted. Meaning, all those who were released in the 2009 fiscal year were considered in the following ALOS data. Overall detention "straight" ALOS calculation in 2009 was 44 days with a standard deviation of 93. This includes all persons held for 1 or more days. This ALOS *does not* consider those who were booked and released and were observed with 0 days. When considering ALOS through the lens of reform we adjust the ALOS using the standard deviation as a guide to rid our data of those individuals who will not benefit from reform (i.e., those who pose a public safety risk and will not be eligible for any alternative programming to detention). Scores (days), and therefore clients, that are outside 2 standard deviations of the mean will not be considered in the following data. After removing all scores outside of 2 standard deviations of the mean we are left with 96.6% of the released population that we

will consider in the following data. When considering the new definition for ALOS and using the 2 standard deviation rule we now have an ALOS of 24.

Average Length of Stay Before and After 2 SD Rule by Category

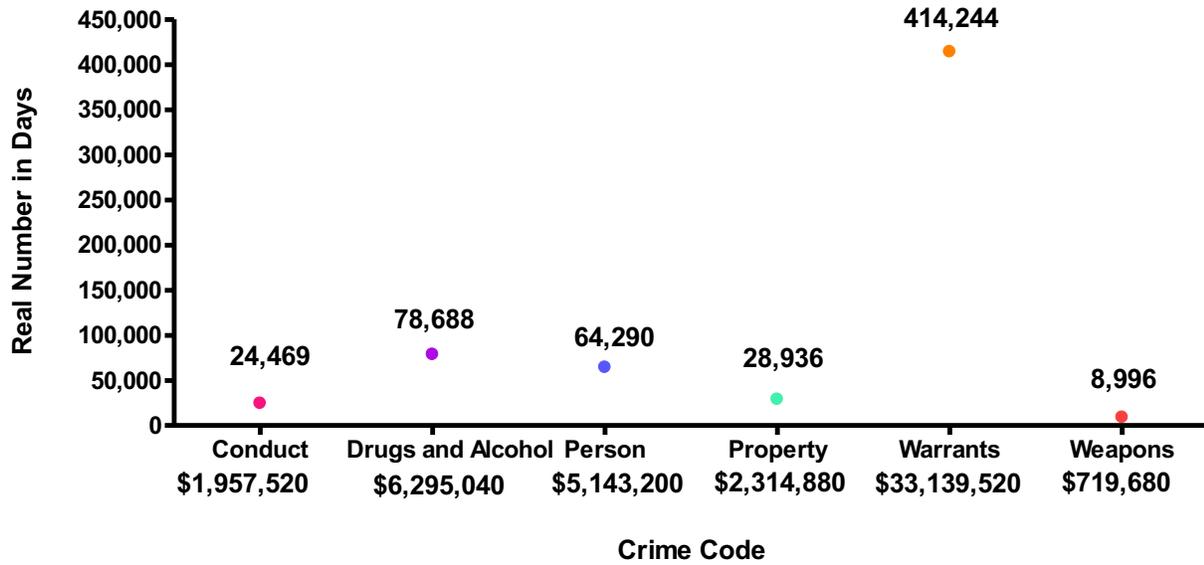


Average Length of Stay by Crime Code FY 2009



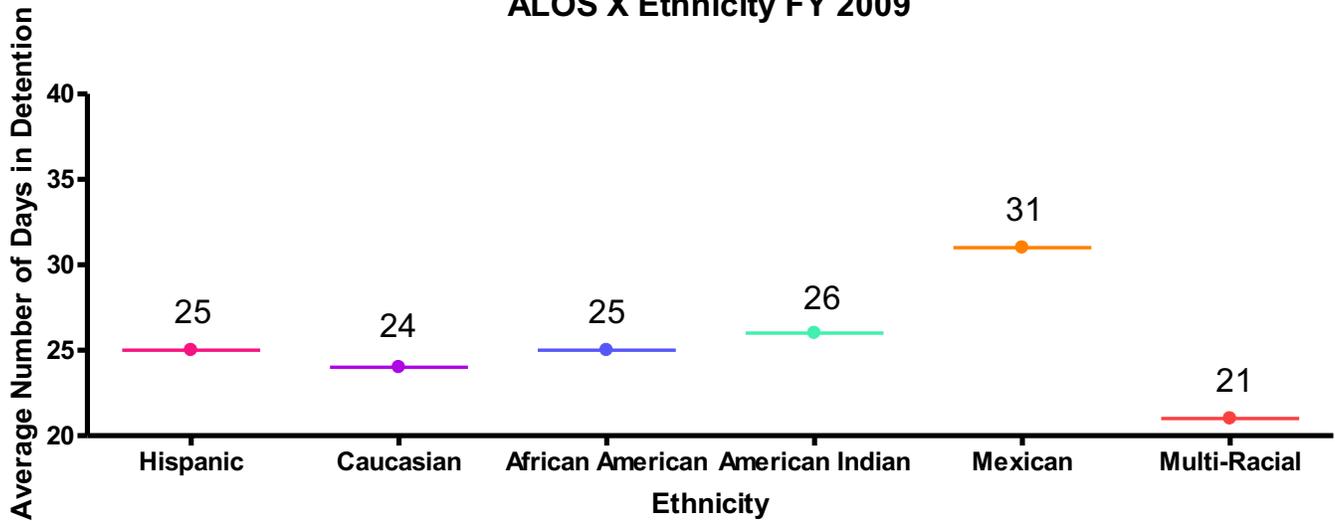
The above average lengths of stays were extracted from a release report with the standard deviation rule applied and no clients with zero days were included in the average.

Number of Bed Days by Crime With Associated Cost



The above Bed Days represent the 2 standard deviation rule and exclude all those clients who served zero days upon booking and were released in the 2009 fiscal year. In other words, the bed days, and thereby cost, represents days and cost for all those clients who were within 2 standard deviations of the mean, were held for 1 plus days, and who were released in fiscal year 2009.

ALOS X Ethnicity FY 2009



Minority ALOS - 26 Days
Non-Minority - 24 Days

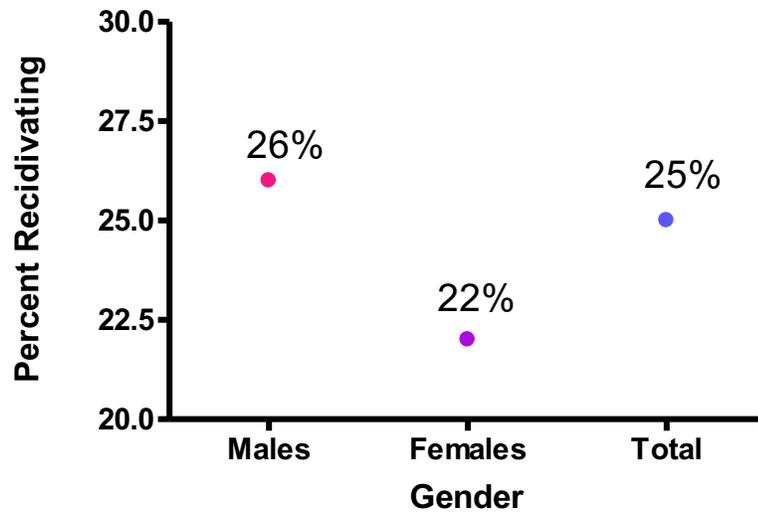
The above graph shows the average length of stay in detention by ethnicity for fiscal year 2009. These data were extracted from a release report with the standard deviation rule applied and no clients with zero days were included in the average. In other words, the above data includes all those clients that were released in fiscal year 2009 that were held for 1 or more days in detention.

Average Daily Populations

ADP – 2636 118% capacity

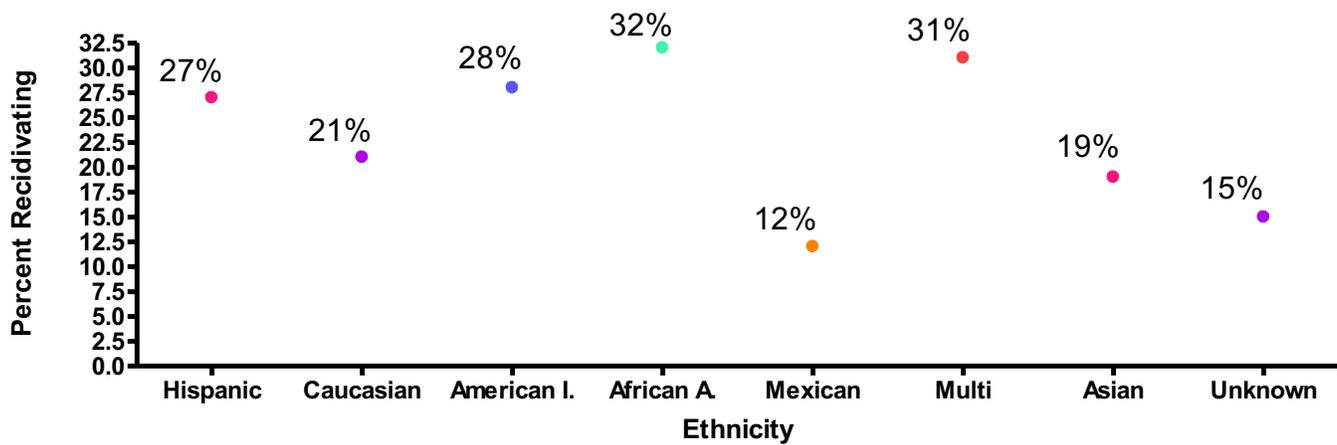
Recidivism Rates

Percent of Recidivating Population FY 2009



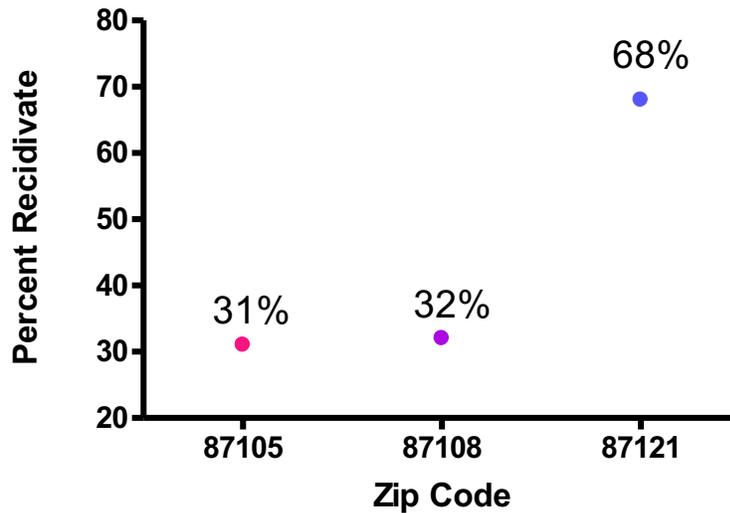
The above recidivism graph shows that recidivating population that was booked and held in the detention center more than 1 time in the same fiscal year, 2+ bookings. For example, 26% of males who were booked and held in the detention center had 2 or more bookings in that same fiscal year.

Percent of Ethnic Recidivating Population



Definition for recidivism is the same in the above graph as used for the preceding graph. For example, 27% of Hispanics who were booked and held in the detention center in FY 09 had 2 or more bookings in that same fiscal year.

Percent of Zip Code Recidivators



The same definition of recidivism applies to the graph above now showing recidivism by zip code. For example, 68% of clients who are booked and held from 87121 WILL RETURN in the same fiscal year.

**Appendix L: Juvenile Detention Alternatives Initiative
(JDAI) Outcomes**

I. Introduction

Why Annual Results Reports?

Juvenile Detention Alternatives Initiative (JDAI) sites began submitting annual results reports in 2004. These reports have two primary purposes: (1) to provide sites with an annual opportunity to assemble and report measures of detention reform progress that can be shared with local system stakeholders, policy makers and the community; and, (2) to generate initiative-wide aggregate measures and inter-site comparisons to deepen our understanding of the overall impact, influence and leverage of the detention reform movement.

This is the first-ever published summary of the annual results reports. It is based upon reports submitted by JDAI sites in September 2009. In previous years, data reported by sites were either insufficiently complete or too idiosyncratic to assemble into an initiative-wide report. The delay in publishing this 2009 summary stems, again, primarily from data-related challenges explained in greater detail below. Still, improvements in the quality of the submitted reports, increased uniformity resulting from changes in the Annual Results Report format, and patient “cleaning” of the data by our consultant, Lisa Garry, and local site personnel now make it possible to produce this summary report. Despite the problems discussed candidly in both this introduction and various sections of the report, we are comfortable that the data summarized here provide a reliable account of progress in JDAI sites. The data shortcomings that are described below will hopefully stimulate all sites to strengthen their data collection and analysis capacities.

The Foundation wishes to express its appreciation to the site personnel (especially the local JDAI coordinators), TA providers and consultants who generously shared their time and expertise to clarify questions and to “clean” the data. We hope that this summary report will be carefully examined by all JDAI stakeholders and that it will generate suggestions for future reports while also stimulating improvements in site reporting.

The Data

The Annual Results Report collects measures of detention reform results in three core areas:

1. **Impact**, which refers to quantifiable changes in detention utilization, post-disposition commitments and placements, public safety and racial and ethnic disparities. The specific variables reported are listed in Table 1.
2. **Influence**, which refers to specific changes in policies, practices and programs implemented by the sites, as well as activities designed to increase awareness of and support for detention reform, such as media coverage, JDAI presentations and

training sessions (in the reporting year). The specific influence activities reported are listed in Table 2.

3. **Leverage**, which refers to dollars invested in the reporting year to support detention reform activities, whether those are local, state, federal or private. The specific leverage categories are summarized in Table 3.

**Table 1:
IMPACT Indicators**

- ADP Baseline
- ADP Recent
- Admissions Baseline
- Admissions Recent
- ALOS Baseline
- ALOS Recent
- Commitment Baseline
- Commitment Recent
- Placement Baseline
- Placement Recent
- FTA Baseline
- FTA Recent
- Re-Arrest Baseline
- Re-Arrest Recent
- JCI Baseline
- JCI Recent
- YOC in ADP Baseline
- YOC in ADP Recent
- YOC Commitment Baseline
- YOC Commitment Recent
- YOC Placements Baseline
- YOC Placements Recent
- YOC Admissions Baseline ^{NEW}
- YOC Admissions Recent ^{NEW}
- YOC ALOS Baseline ^{NEW}
- YOC ALOS Recent ^{NEW}
- Detention Capacity ^{NEW}

**Table 2:
INFLUENCE Indicators**

- Media Coverage
 - Print
 - Broadcast
 - Internet
- Meetings, Conferences and Presentations
- JDAI-Specific Trainings

**Table 3:
LEVERAGE Indicators**

- Leveraged Funds
 - Local Funds
 - State and Federal Funds
 - Other Foundation/Private Funds
 - In-Kind Match

How Grantees Report Annual Results

Each year, an Annual Results Report format and related instructions are sent to all state and local JDAI sites. Results reports are typically prepared at the local level (since few states have centralized databases for tracking detention utilization and related measures sought in the report). In states where JDAI is a state-level initiative, state coordinators work to ensure timely local completion and to assemble the individual reports for all participating sites into a statewide submission.

For each of the impact indicators, two data points are requested: “pre-JDAI” and “most recent 12-month period”. For influence and leverage indicators, sites report measures for the most recent 12-month period only.

As a general rule, “pre-JDAI” or “baseline year” refers to the year immediately prior to the site’s initial implementation of detention reform strategies. For most sites, this means the year before becoming a JDAI site, although a few sites began implementing reform strategies prior to receipt of a grant or official designation as a JDAI site and, therefore, identified an earlier baseline year.

The most recent 12-month period typically covers the calendar year just passed, but sites are allowed to identify the period from which the data derives if their data systems or fiscal years make it easier to report a 12-month period other than the calendar year. For the purpose of this summary report, it is not essential that all sites use the same reporting period. It is important for internal consistency, however, that the sites use the same baseline year and the same recent reporting period each year that they complete the Annual Results Report so that trends can be accurately tracked and are not influenced by potential seasonal variations.

Analysis and Use of Results Data

The reports prepared by the sites are typically reviewed by TA Team Leaders prior to submission to the Foundation. Once they are submitted, Foundation personnel review them for internal inconsistencies (e.g., changes in baseline indicators), omissions, and items requiring clarification.

Though Annual Results Reports are submitted by each participating locality, in this report we aggregate the data from the localities in state-level JDAI sites into single measures for those states to simplify the presentation. For example, the average daily population figures from a state with five participating counties will be aggregated into a single state statistic. Therefore, throughout much of this report, we report on data from 34 grantees, even though it is derived from reports from 102 local sites. Individual reports are summarized in Appendix A, which provides the raw data from all of the impact results reports submitted in 2009.

II. Key Problems with the Annual Results Data

Results Reporting Capacity (2009 vs. 2008)

Because of data problems identified in the 2008 results reports, we conducted an administrative audit of the 2009 data to assess whether sites had strengthened their capacities to report the impact indicators. This review also helped to guide follow-up activities with grantees and TA Team Leaders to resolve ongoing data reporting problems.

A total of 102 local JDAI sites reported results data in 2009, most of which are local jurisdictions participating in state-scale JDAI initiatives. Seven local sites were new to JDAI during the reporting period and, therefore, reported only baseline data in 2009. Their data are not included in the aggregate analyses of results.

The audit of the 2009 results report revealed that while most JDAI sites have increased their capacities to report baseline and recent period data across most of the key impact indicators, there continue to be serious gaps in reporting capacities. (Table 4.)

The most serious data deficiencies are related to the following indicators:

- Failure-to-appear rate;
- Pre-adjudication re-arrest rate;
- Out-of-home placements;
- Youth of color commitments and out-of-home placements.

More than two-thirds of all local JDAI sites failed to report baseline and recent period data for the failure-to-appear and re-arrest indicators. More than one-third of local sites failed to report data for the out-of-home placement indicator. More than one-third of all local sites failed to report baseline and recent period data for the number of youth of color placed out-of-home, and more than 20% of them failed to report the number of youth of color committed to state custody.

Table 4:

Percentage of Local JDAI sites not reporting data by Impact Indicator.

Impact Indicators	Percentage of JDAI Local Sites Not Reporting Data
FTA Baseline	78%
Re-Arrest Baseline	71%
FTA Recent	66%
Re-Arrest Recent	58%
YOC Placements Baseline	42%
Placement Baseline	39%
Placement Recent	36%
YOC Placements Recent	36%
YOC Commitment Baseline	25%
YOC Commitment Recent	21%
YOC in ADP Baseline	17%
JCI Recent	16%
YOC in ADP Recent	15%
JCI Baseline	14%
Commitment Baseline	12%
Admissions Baseline	11%
Admissions Recent	10%
Commitment Recent	10%
ALOS Baseline	9%
ADP Baseline	8%
ADP Recent	8%
ALOS Recent	8%

Interestingly, we noted a significant improvement in these same indicators between the 2008 and 2009 results reports. They still, however, remain overwhelmingly underreported from year-to-year. We provide as an appendix to this summary the numeric and percentage increases in local site reporting of impact indicators between 2008 and 2009 (Appendix B).

Reporting of public safety data regarding failure-to-appear in court and pre-adjudication re-arrest rates remains the greatest single failing in the annual results reports. Part of the problem stems from the fact that most JDAI sites do not have this data prior to beginning detention reform efforts. Assembling these indicators for the baseline year is difficult, if not impossible, for many sites. Absent the baseline figures, it is impossible to measure changes prior to JDAI implementation. However, inability to produce baseline FTA and re-arrest rates does not explain why the reporting rates for these indicators is so low for the most recent period. The Annual Results Report format affords flexibility to sites in reporting FTA and re-arrest rates, allowing sites, for example, to report those rates only for youth placed in alternative-to-detention programs (rather than all released cases) if that simplifies the data collection challenges. Still, an unacceptably high number of sites fail to report even those straightforward (and essential) indicators. Sites must address this shortcoming if they are to credibly claim that their detention reforms do not undermine the integrity of the court process or jeopardize public safety

Problems in Computing Average Daily Population

We identified data consistency issues for some grantees based upon baseline and recent period data reported for ADP, admissions and average length of stay (ALOS). The standard formula for determining ADP is:

ADP = Total Admissions X ALOS/365

Based upon this equation, eleven JDAI grantees reported admissions and ALOS data inconsistent with their reported ADP (Table 5). Of these sites, six are state grantees for which one or more of the local jurisdictions implementing JDAI reported an ADP that fails to meet this test of internal consistency, thereby reducing confidence in the accuracy of the state’s aggregate ADP.

Table 5:
Problems in Computing ADP by Grantee

Grantees Reporting ADP Reductions Higher than ALOS and Admissions Data Suggest:

- Clayton County, GA
- Ventura County, CA
- Rockdale, GA
- Baltimore City, MD

Grantees Reporting ADP Reductions Lower than ALOS and Admissions Data Suggest:

- Bernalillo County, NM
- Washoe County, NV
- Washington State
- Minnesota
- Louisiana
- Harris County, TX

Problems with Internal Inconsistencies

There are also data reporting inconsistencies across JDAI grantees. These issues largely involve variability in the following:

- how grantees define admissions;
- how grantees measure lengths of stay to determine an average;
- how grantees define out-of-home placements; and
- general indicators of public safety, particularly for state grantees in which multiple local jurisdictions report different juvenile crime indicators.

These issues limit potential data analysis across sites, but readers should remember that the results reports were designed primarily to enable sites to assess their individual progress over time, rather than to aggregate across sites. Though the variability across sites inhibits certain aggregate analyses, if sites are consistent over time in the measures they use, we can measure their relative progress by examining percentage changes in the indicators.

Problems with Influence and Leverage Indicators

The influence indicators and activities reported annually have presented challenges that limit interpretation of results. In addition to the difficulty in attempting to aggregate certain influence results given variability in data reported across JDAI grantees, there are questions regarding the quality of data reported as well. These issues include, but are not limited, to:

- Lack of specificity in grantee reports regarding program, policy and practice reforms implemented in the most recent period. For example, a site may report that it is planning an evening reporting program even though it has not yet implemented one. Or, a site may report implementing a practice reform that seems, at best, indirectly related to detention. Because of these shortcomings, this report does not attempt to summarize the range in quantity of reforms implemented by sites during the past year;
- "Guesstimates" regarding the number of people who attend or are influenced by certain outreach activities or reached by media coverage; and,
- Questionable claims of leveraged funds that seem unrelated to detention reform activities.

III. Key Findings

A. Detention Utilization Results

1. Average Daily Detention Population
 - ADP has decreased by one-third across the initiative compared to the baseline year.
 - JDAI grantees reported an average reduction in ADP of 32%.
 - Nearly three-quarters of JDAI grantees (71% or 24 grantees) reported ADP reductions equal to or greater than 25%.
2. Detention Admissions
 - Detention admissions decreased by 30% across all reporting sites compared to the baseline year.
 - JDAI grantees reported an average reduction in admissions of 25%.
 - 41%, or 14 grantees, reported admissions reductions greater than the 25%.
3. Average Length of Stay (ALOS)
 - ALOS in secure detention decreased by 5% across the initiative compared to the baseline year.
 - Three-quarters of JDAI grantees reported a reduction in ALOS.
 - The median reduction in ALOS was 7%.
4. Bed Space Utilization
 - On average, JDAI grantees utilized 53% of total detention beds available.
5. ADP Reductions Based on Time in JDAI
 - JDAI grantees that have implemented JDAI for less than three years reported ADP reductions higher than those that have implemented JDAI for six to nine years.

B. Post-Disposition Results

1. Commitments to State Custody
 - Annual commitments to state youth corrections by JDAI sites decreased by one-third across the initiative compared to the baseline year.
 - JDAI grantees reported a median reduction of 34% in commitments to state custody.
2. Out-of-Home Placements
 - Out-of-home placements decreased by 16% across the initiative compared to the baseline year.

- JDAI grantees reported a 13% average reduction in out-of-home placements.
- Nearly one-third of JDAI grantees (32% or 11 grantees) reported reductions in out-of-home placements equal to or greater than 25%.

C. Public Safety Results¹

- General Juvenile crime indicators reported by JDAI sites decreased by 23% across the initiative compared to the baseline year.
- 80% of JDAI grantees (27 grantees) reported either a reduction or no change in their juvenile crime indicator.
- 21% of JDAI grantees (7 grantees) reported reductions in their juvenile crime indicator equal to, or greater than 25%.

D. Racial and Ethnic Disparities Results

- JDAI grantees reported a 28% average reduction in youth of color in detention ADP compared to the baseline year.
- JDAI grantees reported a 25% average reduction in youth of color committed to state youth corrections.
- JDAI grantees reported a 12% average reduction in youth of color placed out-of-home at disposition.
- Reductions reported for youth of color in detention ADP and detention admissions were lower than reductions reported for the overall youth population for these indicators.
- Reductions reported for youth of color ALOS in detention and commitments to state corrections were higher than reductions reported for the overall youth population for these same indicators.

E. Influence Results

1. Media Coverage
 - JDAI grantees report a total of 171 instances of media coverage of their detention reform activities.
2. Meetings & Presentations
 - JDAI grantees reported conducting 728 meetings and presentations regarding their detention reform activities.
3. Trainings
 - JDAI grantees reported conducting or participating in 327 training events related to detention reform.

¹ Gaps in reporting of Failure to Appear and Re-Arrest results data prevent data analyses to determine change in the indicators for individual grantees and across the initiative.

F. Leverage Results

- JDAI grantees reported a total of \$51 million in leveraged funds to support detention reform.
- JDAI grantees reported that 59% of the leveraged funds supported either alternative-to-detention programming or detention-reform related personnel (e.g., coordinators or expeditors).

IV. Summary of Findings by Indicator

Detention Utilization Results

Changes in Average Daily Population

JDAI grantees report significant reductions in average daily population in detention. 94% of grantees report reductions in ADP; 15 grantees (44%) reported ADP reductions greater than 33%; 24 grantees (71%) reported ADP reductions of at least 25% (Figure 1).

There have been 1,927 fewer youth held in secure detention across JDAI grantees

ADP has decreased by one-third across the initiative, with 1,927 fewer youth being held in secure detention compared to the baseline year. This result is consistent with the one-day count conducted by the Foundation on June 17, 2009, in which JDAI sites reported census counts that were 35% less than the average daily population in these jurisdictions prior to JDAI.

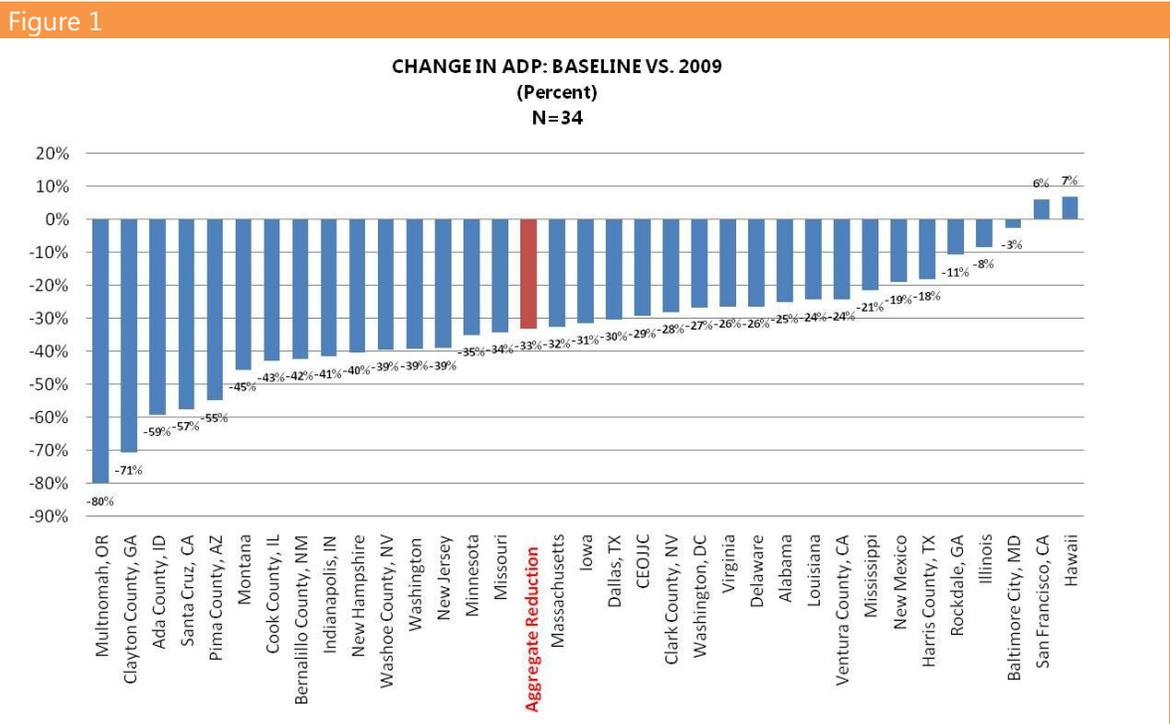
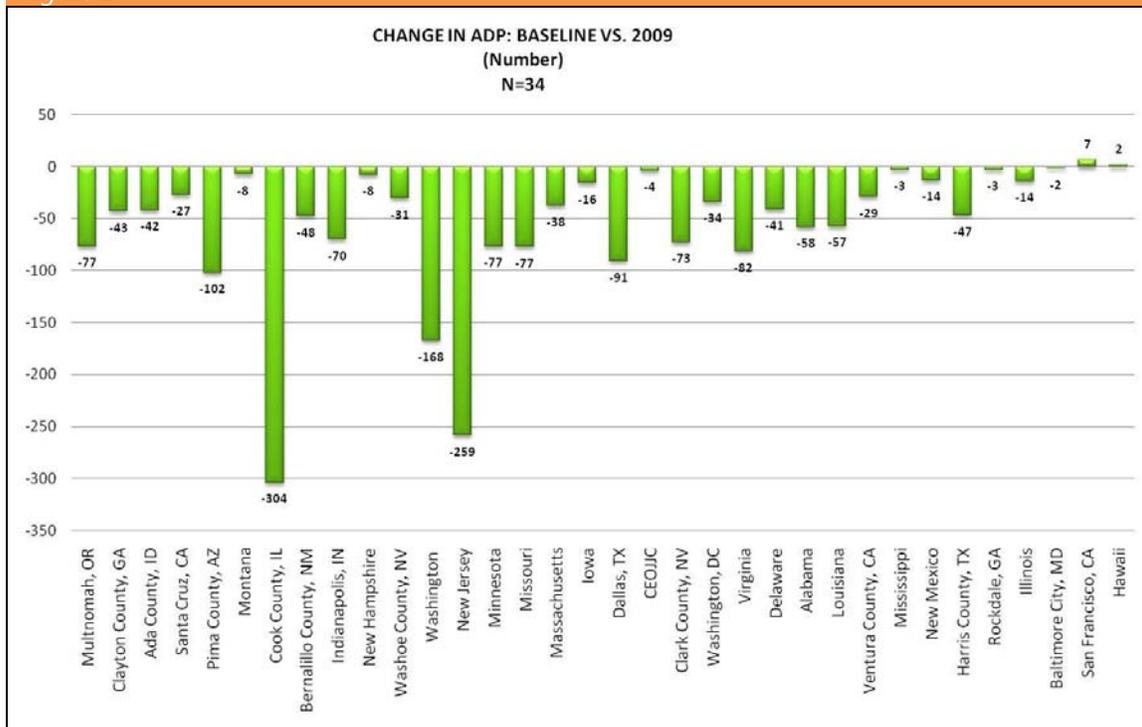


Figure 2



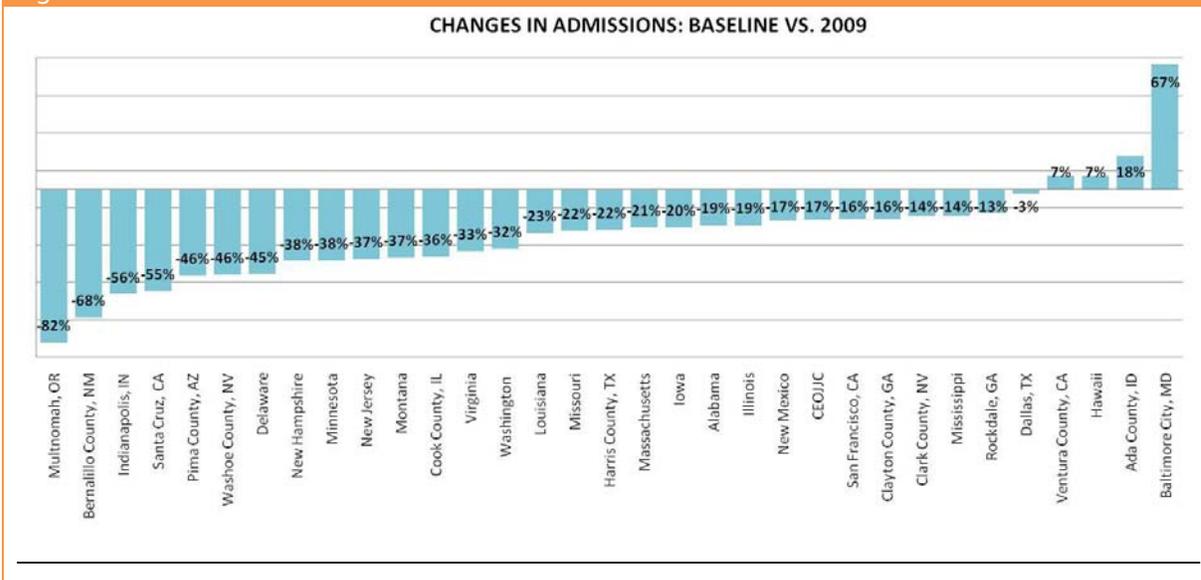
Changes in Detention Admissions

With 97% of JDAI grantees reporting on admissions², 85% (29 grantees) reported reductions in the number of secure detention admissions. The average reduction in detention admissions was 25%, and the median reduction was 22%. The combined reduction in detention admissions initiative-wide was 30%, with 34,317 fewer youth admitted to secure detention across JDAI grantees compared to the baseline year. Fourteen JDAI grantees (41%) reported admissions reductions equal or greater than 25% (Figure 3).

There were 34,317 fewer youth admitted to secure detention initiative-wide than during the baseline year.

² The District of Columbia is the only grantee excluded from admissions data analyses as they have not established a baseline for the indicator

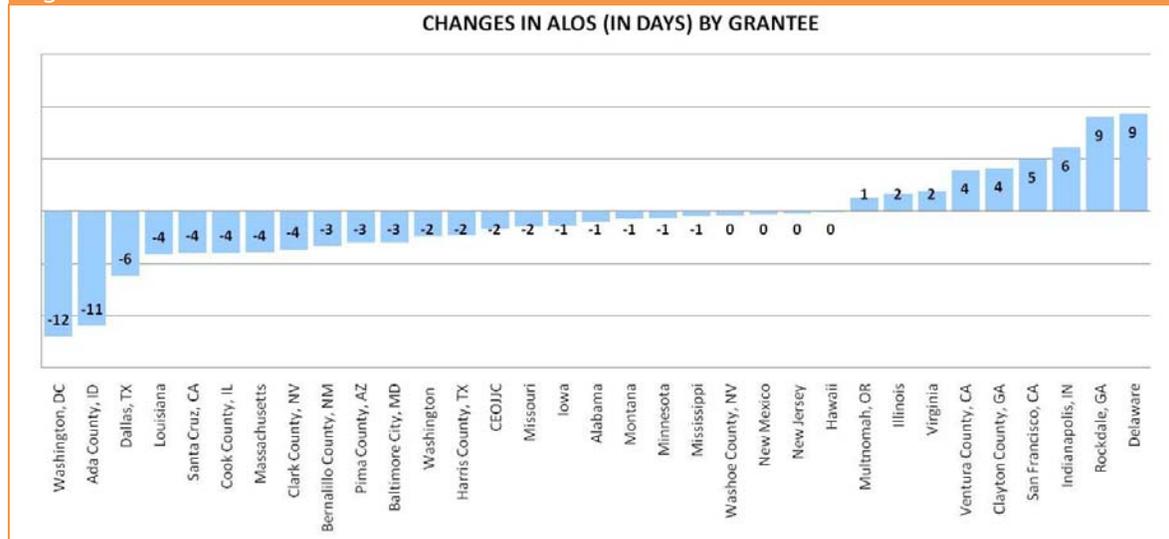
Figure 3



Changes in Average Length of Stay

All JDAI grantees (34) reported baseline and most recent period data for average length of stay (ALOS), with 74% (25 grantees) reporting reductions (Figure 4). The average reduction in ALOS for grantees was 7%. Combined results show that ALOS has only decreased by less than one day, with an aggregate reduction of 5% across grantees reporting. These findings are not surprising. First, ALOS in detention is typically short, so large reductions are unusual. Second, deep reductions in admissions generally occur because sites cease admitting cases with very short lengths of stay. Hence, admissions reductions typically drive overall increases in ALOS because the cases that are admitted generally have longer stays.

Figure 4

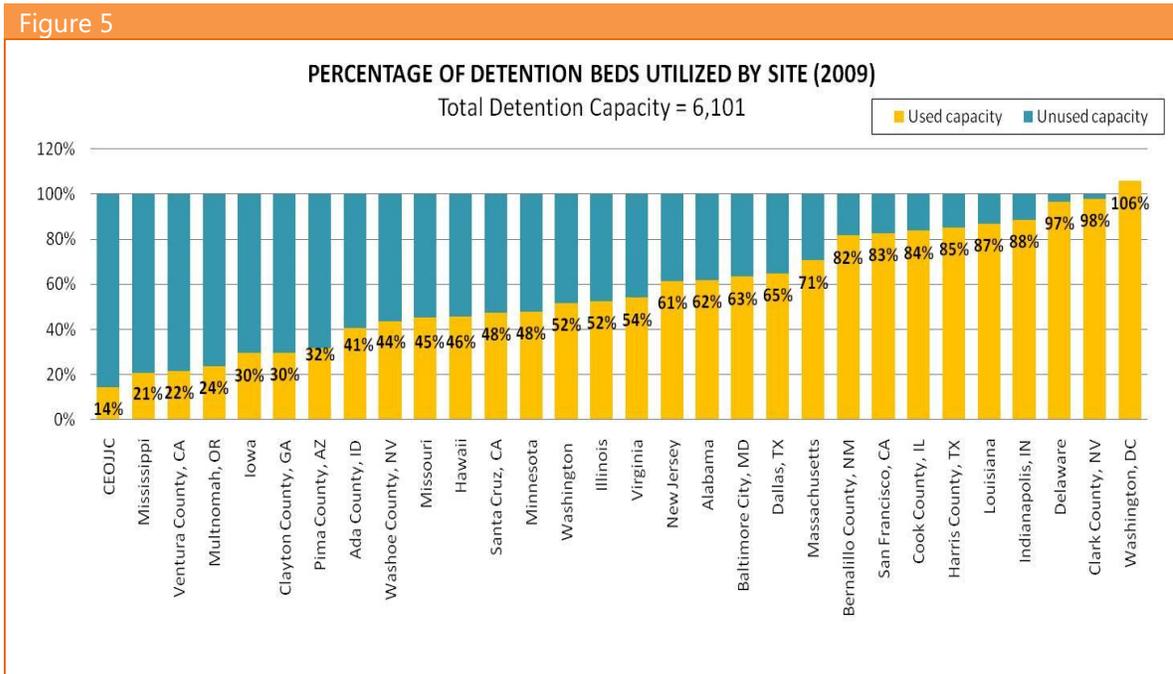


Use of Detention Beds

We began requesting detention facility capacity data in 2009 as a new indicator in the annual results report to determine the percentage of secure detention beds utilized during the recent reporting period, based upon recent period ADP data reported.

On average, JDAI grantees utilize only 53% of available detention bed capacity

Nearly all JDAI grantees (30 grantees, or 88%) reported detention facility capacity data for the first time. Comparing ADP to detention facility capacity, 82% of JDAI grantees (27) reported operating below full capacity (Figure 5).³ Sixteen grantees operated near or below 50% of their total capacity.



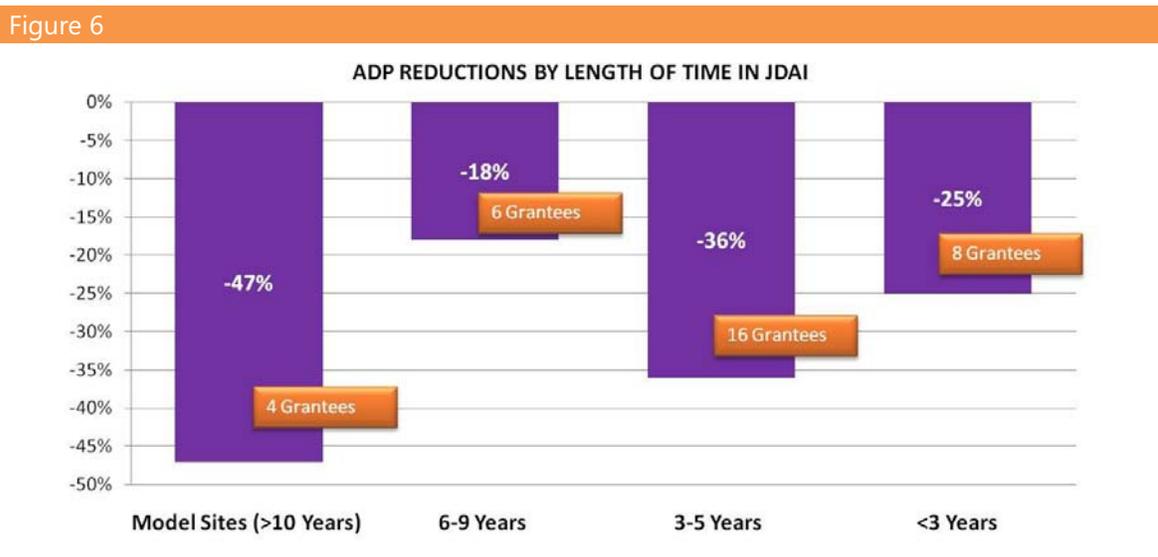
³ We excluded data of two State grantees (Montana and New Mexico) in the detention capacity analysis because the majority of local jurisdictions implementing JDAI in these states did not report detention capacity, and therefore prevented calculation of a reliable aggregate of detention capacity in the state. New Hampshire did not report capacity data and there are validity issues with Rockdale, GA detention capacity data reported.

Average Daily Population and Time in the Initiative

The 2009 annual results show that ADP reductions reported by “younger” JDAI grantees are comparable to or exceed ADP reductions reported by grantees that have been implementing JDAI for a longer period of time (Figure 6). The combined average reduction reported by grantees implementing JDAI for less than three years was 25% and 36% for grantees implementing strategies for three to five years. In fact, the grantees in the latter group reported reductions two times higher than grantees who have been implementing JDAI six to nine years (18%).

Younger JDAI grantees report ADP reductions significantly higher than grantees who have implemented JDAI for longer periods of time

The most likely explanation for this phenomenon is that grantees in the 6-9 year range were among the first group of JDAI replication sites. Our approach to replication was still evolving and support for those sites was far more idiosyncratic than is now the case, when a replication infrastructure (standardized training seminars, the Help Desk, Policy and Practice Guides, developmental milestones) was more firmly established.



New Jersey ADP data included in the aggregate ADP reduction of sites implementing JDAI for three to five years because the data analysis presented in Figure 6 is based upon actual time in the initiative, and not status as a “model site.”

Commitments and Placements

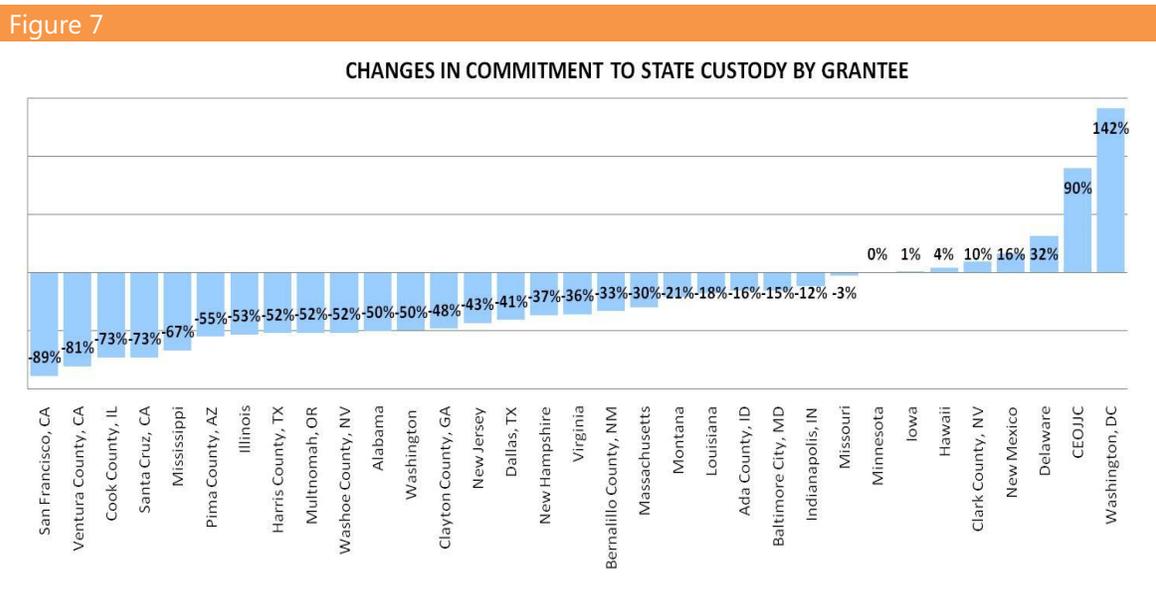
While grantee reporting of commitments to state custody and out-of-home placements data has improved between 2008 and 2009, there remain a number of challenges that limit our analysis of the post-disposition results indicators.

The most significant challenge in reporting of annual commitment and placement data is the blurred definitional lines between commitments to state custody and out-of-home placements. Grantees were better able to count the numbers of youth annually who were committed to state custody. However, because some sites operate local post-dispositional facilities, or because placements in group homes and residential treatment centers may or may not result from commitments to state youth corrections agencies, the out-of-home placement options vary considerably across sites. For these reasons, the results regarding out-of-home placements should be viewed with caution.

Change in Commitments to State Custody

With 100% of JDAI grantees reporting, 74% of grantees (25) reported annual reductions in commitments to state corrections agencies, compared to the baseline year. The average reduction in commitments reported was 15%, but the median reduction much higher, 34%. The large difference between the mean and median reductions is due to large increases in commitments reported by two sites. The combined reduction in commitments to state custody was 33% across the initiative, with 2,932 fewer youth committed to state custody recently, compared to the baseline year. Nineteen JDAI grantees (56%) reported commitment reductions equal or greater than 25% (Figure 7).

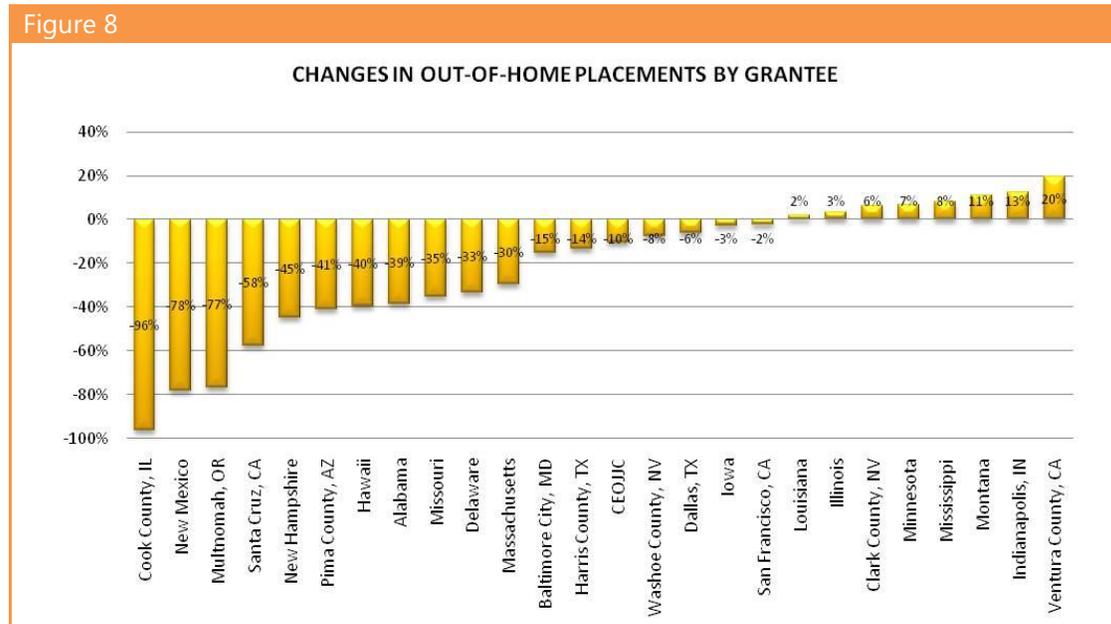
2,932 fewer youth have been committed to state custody across JDAI grantees



Change in Out-of-Home Placements

With 82% (27) of JDAI grantees reporting, the average reduction in the number of out-of-home placements was 13% compared to the baseline year. The aggregate reduction in out-of-home placements was of 16% across the initiative, with 1,830 fewer youth placed. Nearly one-third of JDAI grantees (11 grantees) reported reductions equal to or greater than 25% (Figure 8).

Figure 8



Public Safety

As noted earlier in this summary, grantee reporting of public safety data, especially failure-to-appear and pre-adjudication re-arrest rates, represents the single greatest shortcoming in the annual results report. But analysis of the public safety data is complex for another reason as well. Grantees are also asked to track a single general indicator of juvenile crime to measure overall public safety results. In 2009 the Foundation suggested that, whenever possible, sites report “felony petitions filed” as that measure, and many sites did change to that simple indicator. However, others had the option to—and many did—rely on a different measure, such as total juvenile arrests or total referrals. The different measures reported by sites mean that analyses must largely be restricted to whether the result indicator selected increased or decreased and by how much. Table 6 summarizes relative changes in various general public safety measures across the sites.

While the number of sites reporting FTA or re-arrest rates remains too low to draw firm conclusions, those sites that did report generally experienced reduced rates in these two key measures of pre-adjudication behavior. That is encouraging, but not definitive. A

number of sites reported substantial improvements in FTA rates, largely because of new practices (e.g., court date reminders).

Table 6:
Aggregation of Public Safety Data by Grantee and Indicator

	GRANTEES REPORTING (#)	AVERAGE BASELINE RATE	AVERAGE MOST RECENT RATE	AVERAGE PERCENTAGE POINT CHANGE	AVERAGE PERCENTAGE CHANGE
Failure to Appear Rate	12	11.8%	4.6%	-7.2%	-61%
Pre-Adjudication Re-Arrest Rate	13	26.5%	20.4%	-6.1%	-23%
Juvenile Crime Indicator¹	30	Not Applicable ²	Not Applicable	Not Applicable	-23%

¹ May be defined as juvenile arrests, delinquency petitions, felony petitions, or referrals/complaints

² Juvenile Crime Indicators reported as raw numbers, not rates.

Table 7 groups individual local JDAI sites by the type of general public safety indicator they track. Despite the variability in indicator selected, a clear pattern emerges: JDAI sites experienced lower levels of juvenile crime after implementing detention reforms than during the baseline year. 80% of sites reporting saw either no change or reductions in their measures, be they arrests, referrals and complaints, delinquency petitions or felony petitions.

Table 7:
Aggregation of Juvenile Crime Indicator (JCI) Data by Local JDAI Site and by Indicator Type

JUVENILE CRIME INDICATOR	# OF SITES ¹ REPORTING	AGGREGATE BASELINE	AGGREGATE RECENT	CHANGE (#)	CHANGE (%)
Juvenile Arrests	15	29,885	25,756	-4,129	-13.8%
Referrals/ Complaints	18	170,661	125,220	-45,441	-26.6%
Delinquency Petitions	12	90,595	67,837	-22,758	-25.1%
Felony Petitions	29	53,151	41,402	-11,749	-22.1%

¹ Aggregation of Juvenile Crime data by local JDAI site, instead of grantee, because of variation in the type of indicator sites chose to report

Racial and Ethnic Disparities

While grantee reporting of racial and ethnic disparity data was less problematic in 2009 than in 2008, there are some limitations in determining changes in utilization of detention, commitments and out-of-home placements for youth of color. The most significant shortcoming is that more than one-third of JDAI grantees (12) did not report youth-of-color data for one or more of the five impact indicators for which it was requested (Table 8).

Table 8:
Grantees Missing Baseline or Recent Data for Racial and Ethnic Disparities Data

Grantee (In alphabetical order)	Indicators Missing (Baseline and/or Recent Period)
Ada County , ID	Admissions, ALOS and Placements
Bernalillo County, NM	Placements
Clayton County, GA	ALOS, Commitments and Placements
Hawaii	ADP, Admissions, ALOS and Placements
Minnesota	ALOS
Montana	ALOS
New Hampshire	Commitments and Placement
New Jersey	Placements
New Mexico	ADP, Admissions and ALOS
Virginia	Commitments and Placements
Washington	Placements
Washington, DC	Admissions

Change in Youth of Color in ADP

Thirty-one JDAI grantees reported baseline and recent period data for youth of color in their detention ADP, but only 19 of them reported youth of color in the related admissions and ALOS indicators. The average reduction in youth of color in ADP was 28% for grantees reporting. Across the initiative, the combined reduction was 26%, with 1,075 fewer youth of color in ADP across all grantees reporting.

For the majority of grantees reporting these data, the reduction youth of color in ADP is either lower or only slightly better than the reduction in ADP for all youth.

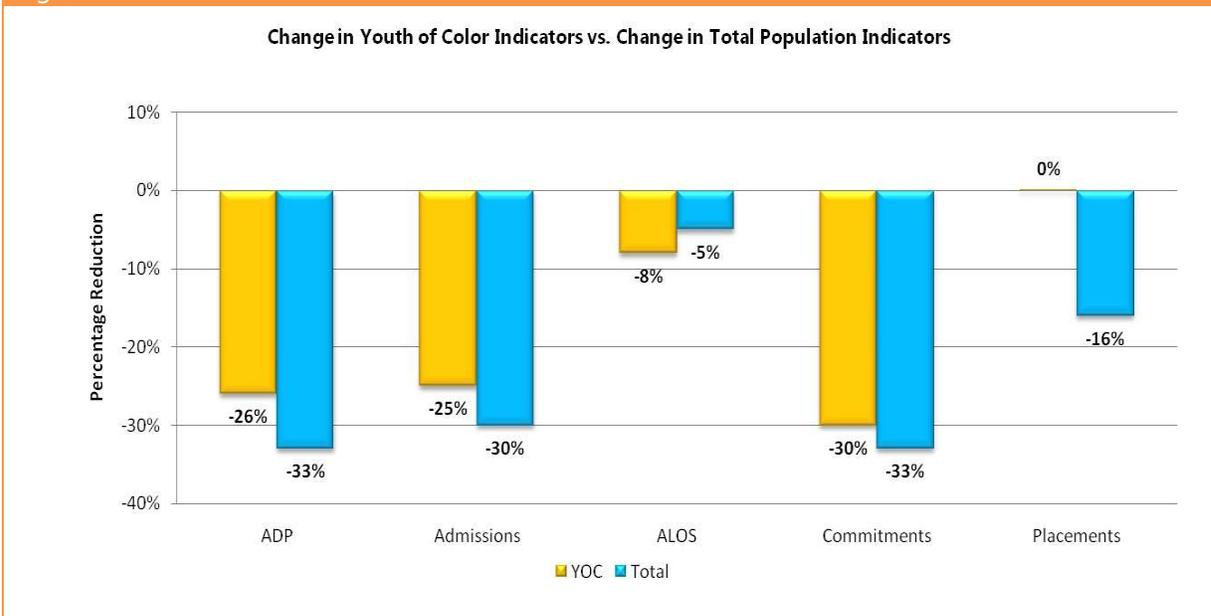
Eight JDAI grantees (24%) reported larger percentage reductions in youth of color in ADP than their overall ADP reduction, and two grantees reported reductions in the number of youth of color in ADP by the same percentage as their overall ADP reduction (Table 9).

While fewer youth of color are being detained, this does not indicate a reduction in racial and ethnic disparities. Reductions in ADP, admissions and commitments for youth of color across the initiative have occurred at lower levels than reductions for the total population of youth. And while out-of-placements for the total population has decreased across the initiative, there has been little change in placements for youth of color, with a slight increase of less than 1%. Average length of stay is the single indicator for which JDAI grantees report reductions at a higher rate for youth of color than the total population (Figure 9).

Table 9:
JDAI Grantees Reporting Larger or Same Percentage Reductions for Youth of Color in ADP

GRANTEE	YOC ADP Reduction	Total ADP Reduction
Ada County, ID	-86%	-59%
Multnomah County, OR	-81%	-80%
Santa Cruz, CA	-59%	-57%
Massachusetts	-36%	-32%
Harris County, TX	-24%	-18%
Pima County, AZ	-55%	-55%
Massachusetts	-36%	-32%
Iowa	-31%	-31%
Dallas, TX	-30%	-30%
Alabama	-25%	-25%

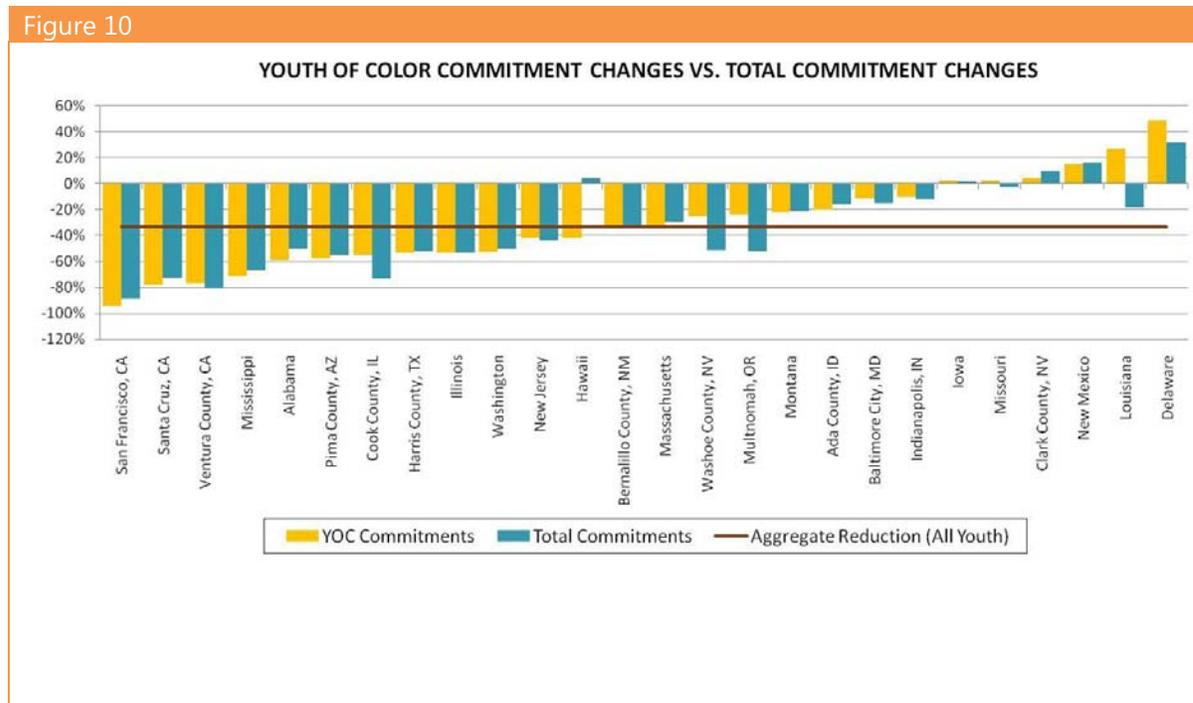
Figure 9



Changes in Youth of Color Committed to State Custody

Twenty JDAI grantees (59%) reported reductions in the number of youth of color committed to state custody. The average reduction reported in youth of color committed to state custody was 25%⁴. The combined reduction in youth of color commitments was 30%, with 2,052 fewer youth of color having been committed across the initiative in the most recent year, compared to the baseline year. Fourteen JDAI grantees (41%) reported reductions in youth of color commitments by 33% or greater. (Figure 10)

Figure 10

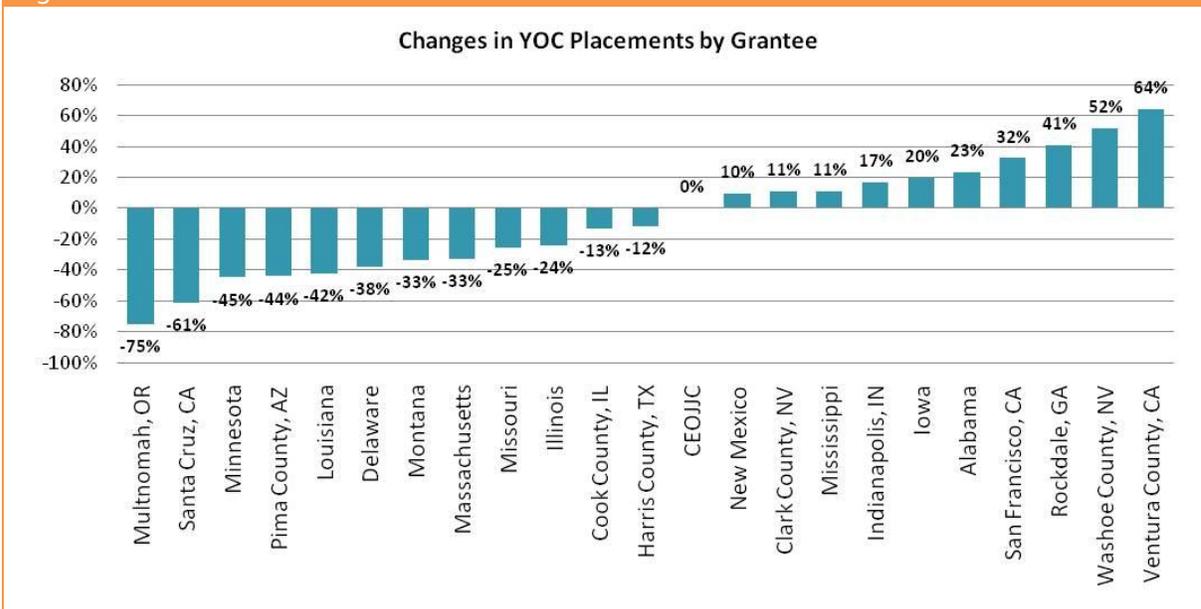


Changes in Youth of Color Out-of-Home Placements

Seventy-one percent of JDAI grantees reported annual results data for youth of color out-of-home placements. Of grantees reporting, 35% (13 grantees) reported either a reduction or no increase in the number of youth of color placed out-of-home (Figure 11). The median reduction in youth of color out-of-home placements was 11.5%.

⁴ Median average reduction used to frame the youth of color and commitment and placement results due to Rockdale County, GA and District of Columbia outlier data.

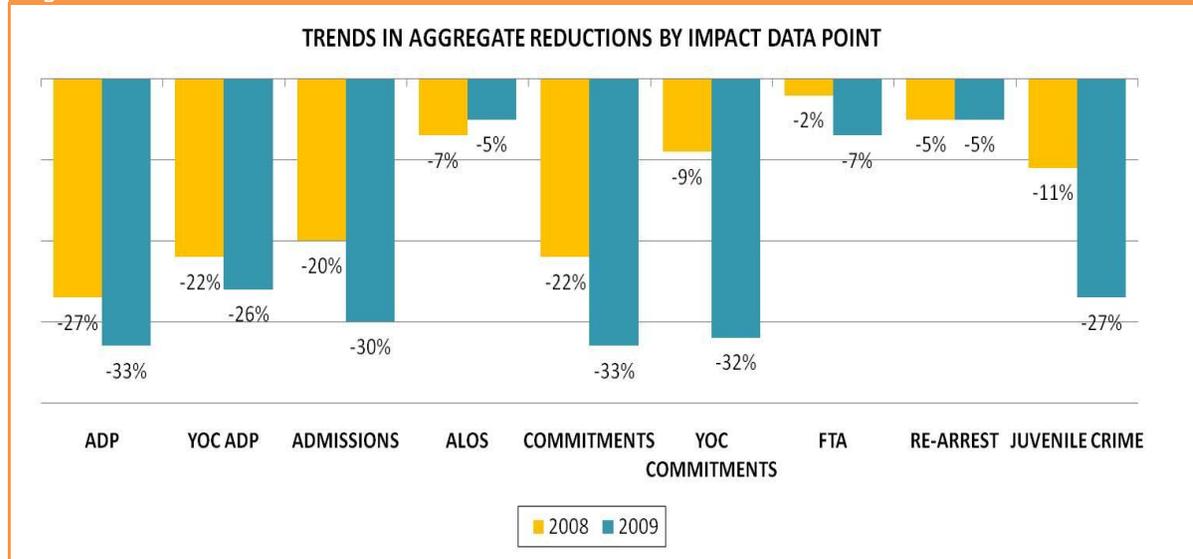
Figure 11



Aggregate Reductions, 2009 vs. 2008

Overall, aggregate reductions in key indicators in 2009 were higher than the 2008 aggregate reductions (Figure 12). This hopefully reflects continued progress across sites, but it may also be a result of improved reporting. The increase in the number of sites reporting, and the increased availability of both baseline and recent period data reported, created a richer data set from which to analyze results in more of the key indicators.

Figure 12



Aggregate Changes for FTA and Re-Arrest rates are percentage point changes, not percentage reductions

Influence

Media, Meetings, and Trainings

Sites report any print or broadcast coverage that their detention reform work received during the most recent reporting period. Influence results reported also include meetings, presentations and trainings about detention reform for stakeholders, constituencies and the general public.

Influence activities are often difficult to quantify, especially estimating the number of people influenced by media coverage or presentations. Moreover, some attendees are present at outreach and training events multiple times throughout the reporting period. Therefore, the number of people "influenced" may be largely overstated in grantee reporting.

Grantee reporting of conference-related influence activities is also distorted because some sites report all conferences attended or conducted by juvenile justice personnel in the site. We analyzed narratives provided by the sites to determine whether conferences attended/conducted linked directly to detention reform, but the number of conferences reported in 2009 is also likely overstated for these reasons.

Table 10:
Aggregate of Media, Meetings, and Trainings as Influence Activities

Media Activities	Total: 171
• Number of Print Media Articles	104
• Number of Broadcasts	44
• Number of Internet Articles	23
Meetings and Presentations	Total: 728
• Number of Special Meetings	400
• Number of JDAI Presentations	209
• Number of JDAI Conferences	119
• Number of People Reached/Influenced	20,816
JDAI Trainings	Total: 327
• Number of Trainings on JDAI Core Principles	261
• Number of Model Site Visits	14
• Number of Miscellaneous Training and T/A	36
• Number of site-to-site TA Sessions across initiative	16
• Number of People Reached/Influenced	11,775

Grantees reported holding meetings and training sessions on JDAI a total of 728 times during the recent reporting period, with more than 20,000 attendees participating in these types of events (Table 10). A total of 327 training events were reported across the initiative.

Leverage

Leveraged funds refer to the dollars spent to support detention reforms (beyond those provided by the Foundation). These funds may include grants provided the State Advisory Group (SAG) for reform activities, private grants secured to enhance or expand detention reform, or local, state or federal funds allocated to support implementation of reform strategies and activities. Narrative explanations provided by sites indicate that the majority of these dollars are used to support alternatives to secure detention or to hire personnel who perform implementation activities or provide oversight (e.g., coordinators).

There are important limitations in the leveraged funds data that grantees reported. Grantees may underreport foundation and private funds leveraged to support or expand detention reform activities, and overstate local in-kind match funds. Another limitation is that grantee explanations of how these funds are related to detention reform are frequently unclear, implying that they may be only indirectly related to JDAI strategy implementation. After careful review, we estimated that as much as 40% of leveraged funds reported may be only indirectly related to specific detention reform programs and operations.

Leveraged Funds

Thirty JDAI grantees (88%) reported \$51.2 million in total leveraged funds to support detention reform. Of this amount, \$29 million were reported as local allocations. The combined total of state and federal funds, \$18.8 million, represents more than one-third of total leveraged funds reported across the initiative (Table 11).

Thirty JDAI grantees (88%) reported leveraged funds in one or more of the four fund types. The median in total leveraged funds reported by grantees across the initiative was \$638,000. Fifteen JDAI grantees (44%) reported total leveraged funds at least twice the average (Table 12).

Table 11: Combined Total Leveraged Funds across Grantees by Type of Fund	
Type of Funds	Reported Leverages
Local Funds	\$29,057,221
State and Federal Funds	\$18,817,392
Other Private Funds	\$1,674,335
In-Kind Match	\$1,706,574
Total Funds Reported:	\$51,255,522

Data were disaggregated by reported use of these funds, based upon a review of narratives that grantees provided. Leveraged funds were used primarily to support staffing (\$14.2 million or 28%) and for operation of detention alternative programs (\$15.9 or 31%). While these two types of uses are not the only means of demonstrating investments that support detention reform, they are important factors in the implementation and monitoring of detention reform strategies (Figure 13).

Figure 13

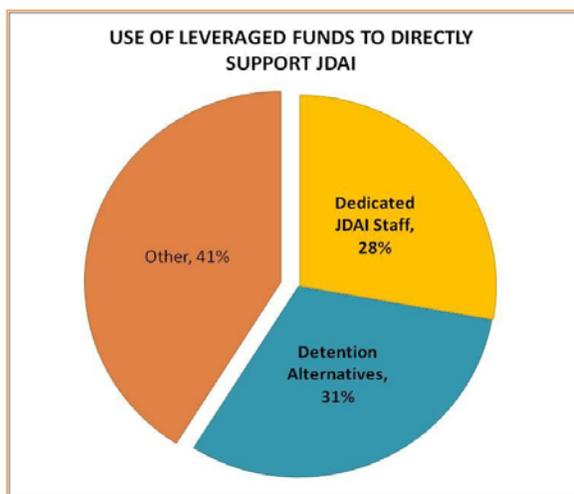


Table 12: JDAI Grantees Reporting Total Leveraged Funds Above the Median Across the Initiative

Cook County, IL (\$7.7 million)
New Jersey (\$5 million)
Alabama (\$4 million)
Bernalillo County, NM (\$3.8 million)
Virginia (\$3.8 million)
Washington (\$3.7 million)
Illinois (\$3.5 million)
Indianapolis, IN (\$2.4 million)
Clark County, NV (\$2.3 million)
San Francisco, CA (\$2 million)
Pima County, AZ (\$1.8 million)
Santa Cruz, CA (\$1.7 million)
Louisiana (\$1.6 million)
Missouri (\$1.4 million)
Baltimore (\$1.3 million)