

# INDEX OF SLIDES

## Pre-2017 Money-Based System

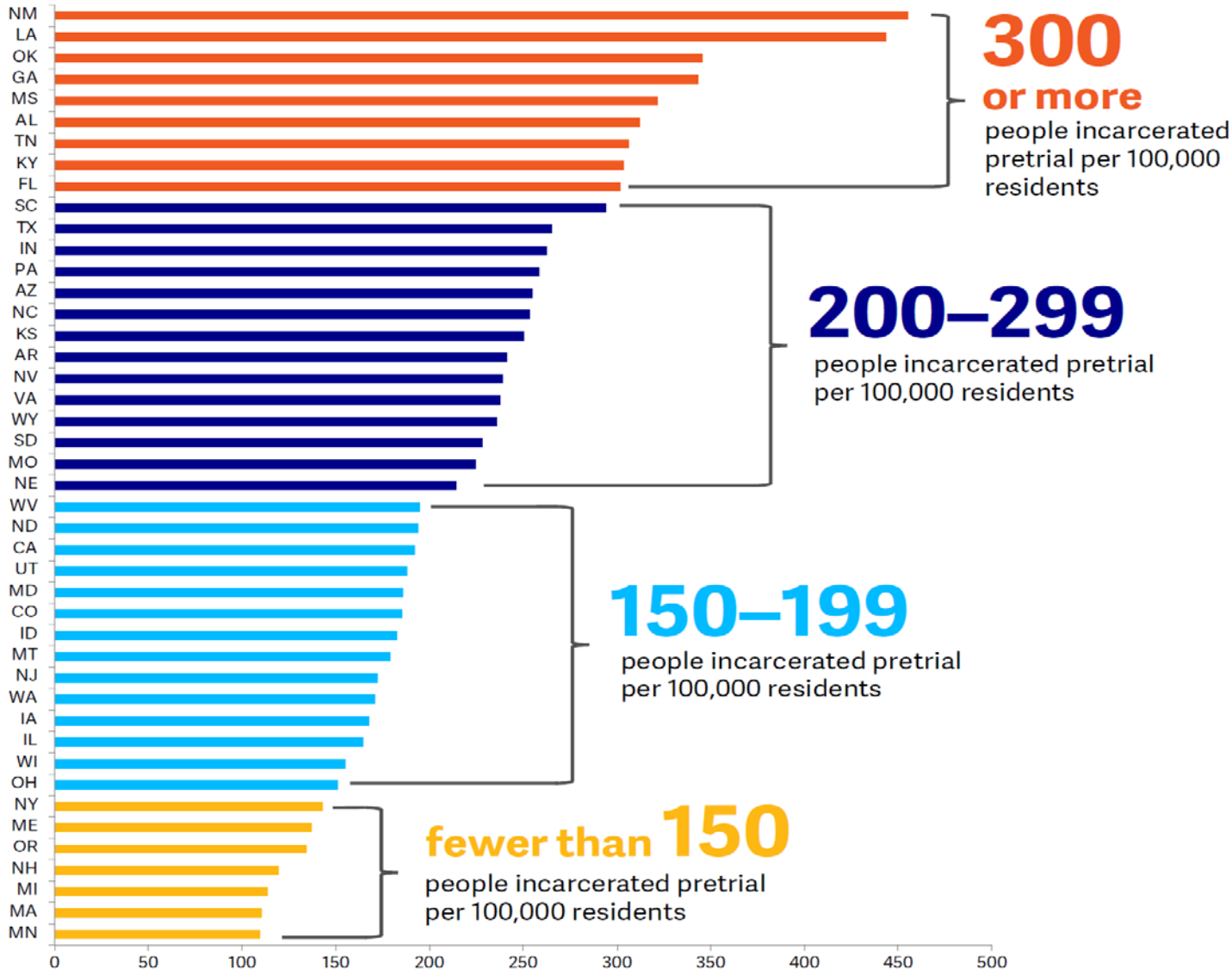
- 2-4 “Catch & Release” Crisis
- 5-9 Constitutional Amendment
- 10 Amended Court Rules

## Post-2016 Programs and Data

- 11-12 ABQ Crime Rates
- 13 ABQ Re-arrest Rates
- 14 ABQ “Money” Detentions
- 15 ABQ “Danger” Detentions
- 16 ABQ Jail Populations
- 17 ABQ Arrests by Category
- 18 NM Detention Motions
- 19-21 ABQ Detention Motions
- 22-25 ABQ Arnold PSA
- 26 ABQ FTA Data
- 27-30 Works in Progress
- 31 Files Submitted to CCJ Staff<sup>1</sup>

# Council of State Govs -- NM Highest Pretrial Incarceration Rate in US

Pretrial Incarceration Rate by State (per 100,000 Residents), 2014\*



**SF NEW MEXICAN Oct. 1, 2015: *Violent Crime Rate Jumps in NM***

“Statewide, there were roughly 5.97 violent crimes per 1,000 people — almost two times the national rate of 3.65.”

“Mayor Richard Berry said local law enforcement leaders need to work with lawmakers and corrections officials to address factors that may be contributing to crime statewide, such as a bail bond system that some have described as broken.”

**ALBUQUERQUE JOURNAL, Aug. 4, 2015:**

## **Judges Limited**

“What critics call New Mexico’s ‘catch and release’ system of justice is driven in part by constitutional limitations on the ability of judges to order defendants held without bail or require high bail, no matter how serious the charges.”

# THE HISTORICAL PROBLEM

NM Constitution, Art. 2, Sec. 13:

“All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great.”

# THE 2017 BAIL REFORMS

Moved From Money-Based  
Release and Detention  
Decision-Making

To Evidence-of-Risk-Based  
Release and Detention  
Decision-Making



## **COURT-PROPOSED CONST. AMENDMENT:**

“Bail may be denied pending trial if, after a hearing, the court finds by clear and convincing evidence that no release conditions will reasonably ensure the appearance of the person as required or protect the safety of any other person or the community.”

“No person eligible for pretrial release shall be detained solely because of financial inability to post a money or property bond.”

## **AMENDED AND PASSED VERSION, Pt. 1:**

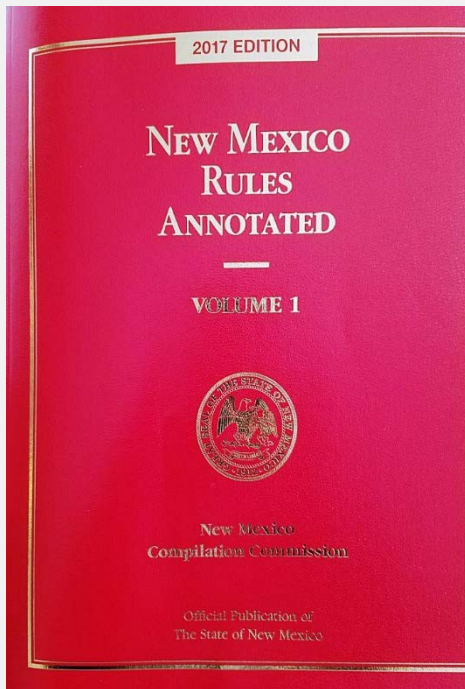
“Bail may be denied by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community.”



## **AMENDED AND PASSED VERSION, Pt. 2:**

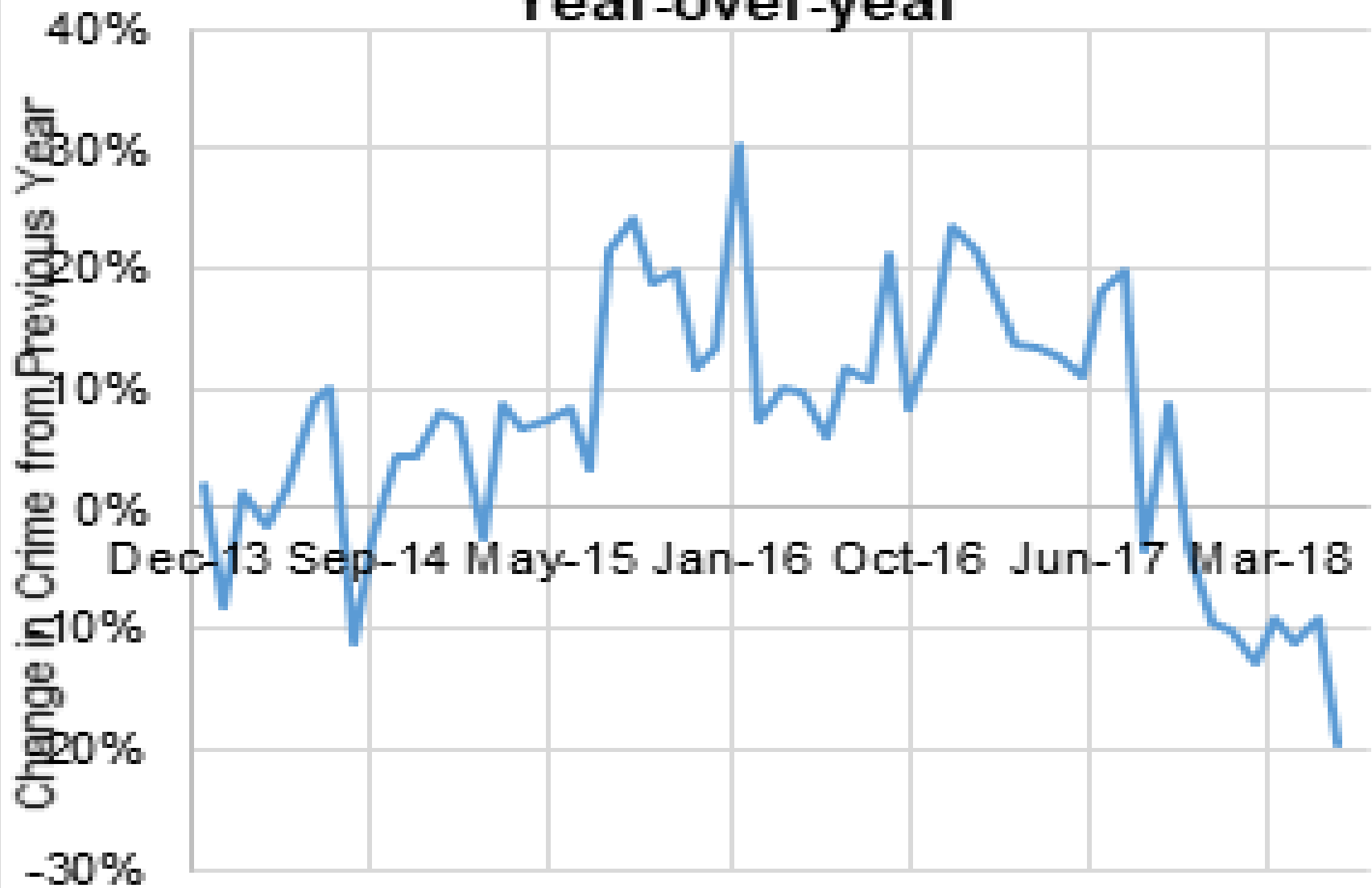
“A person who is not detainable on the grounds of dangerousness nor a flight risk in the absence of bond and is otherwise eligible for bail shall not be detained solely because of financial inability to post a money or property bond. A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property bond may file a motion with the court requesting relief from the requirement to post bond.”

# Court Rule Amendments July 1, 2017



- 5-409 - Created new pretrial detention procedures for dangerous defendants
- 5-403 - Strengthened review and revocation
- 5-408 - Replaced fixed money schedules with individualized early release decisions
- 5-401 - Retained 1972 preference for non-monetary release conditions; retained money bonds where determined necessary; prohibited fixed money schedules; permitted validated risk assessments to assist but not control release and detention decisions; provided review of money-based detentions
- 12-204 - Provided expedited appeals

# Chart 15B. APD Monthly Crime Trend Year-over-year



Source: APD

# ABQ BEFORE AND AFTER CRIME RATES

## ABQ CRIME

First half of  
the year

### ENFORCEMENT

Traffic Stops

### CRIME

Auto Burglary

Auto Theft

Commercial Burglary

Residential Burglary

### VIOLENT CRIME

Homicide

Rape

Robbery

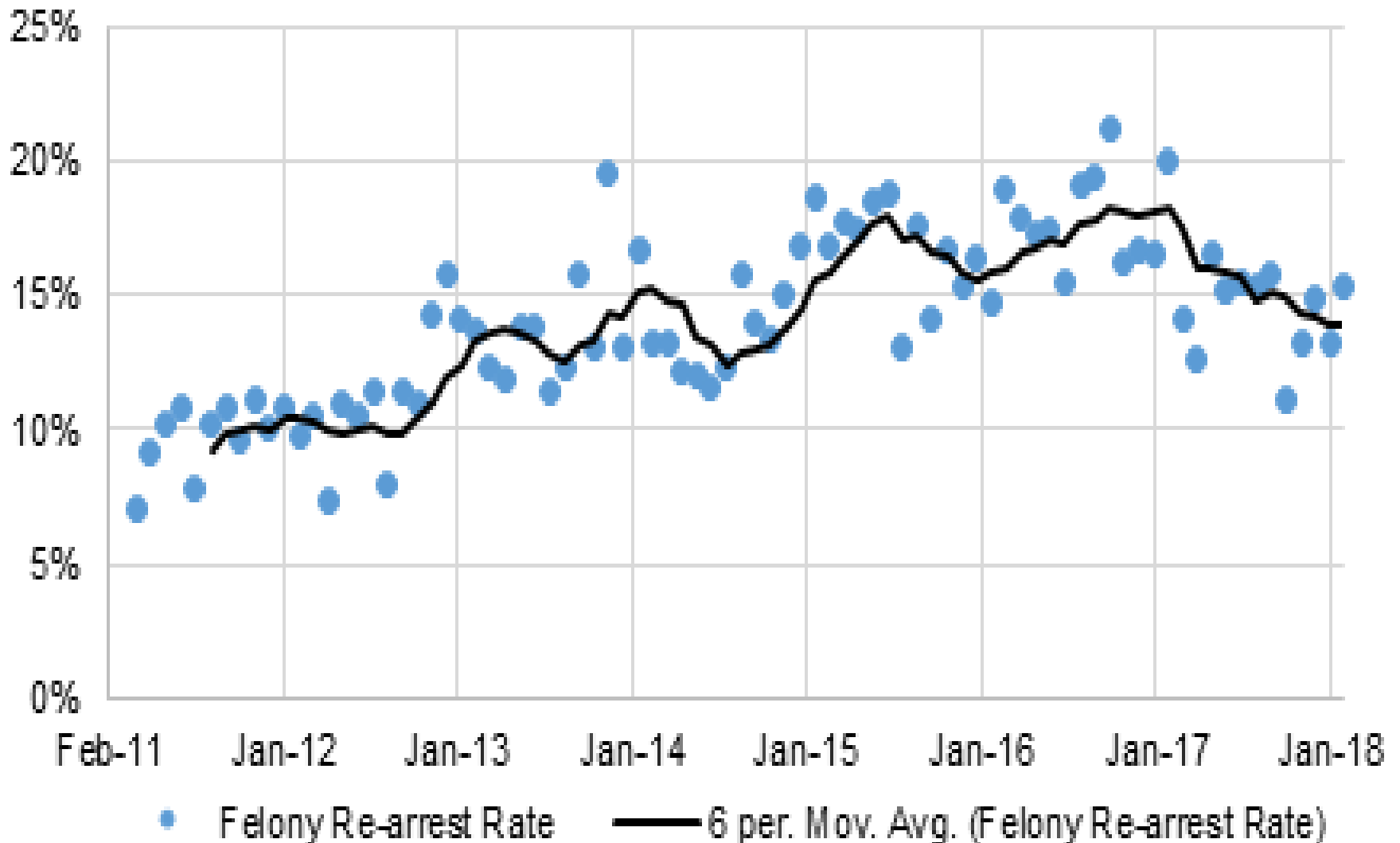
Aggravated Assault

Non-Fatal Shootings

	2017	2018	% change
Traffic Stops	17,376	23,461	+35.0%
Auto Burglary	6,559	4,523	-31.0%
Auto Theft	3,633	3,061	-15.7%
Commercial Burglary	1,183	994	-15.9%
Residential Burglary	2,207	2,075	-5.9%
Homicide	33	39	+18.2%
Rape	236	226	-4.2%
Robbery	1,467	1,012	-31.0%
Aggravated Assault	1,957	1,851	-5.4%
Non-Fatal Shootings	60	63	+5.0%

Source: City of Albuquerque

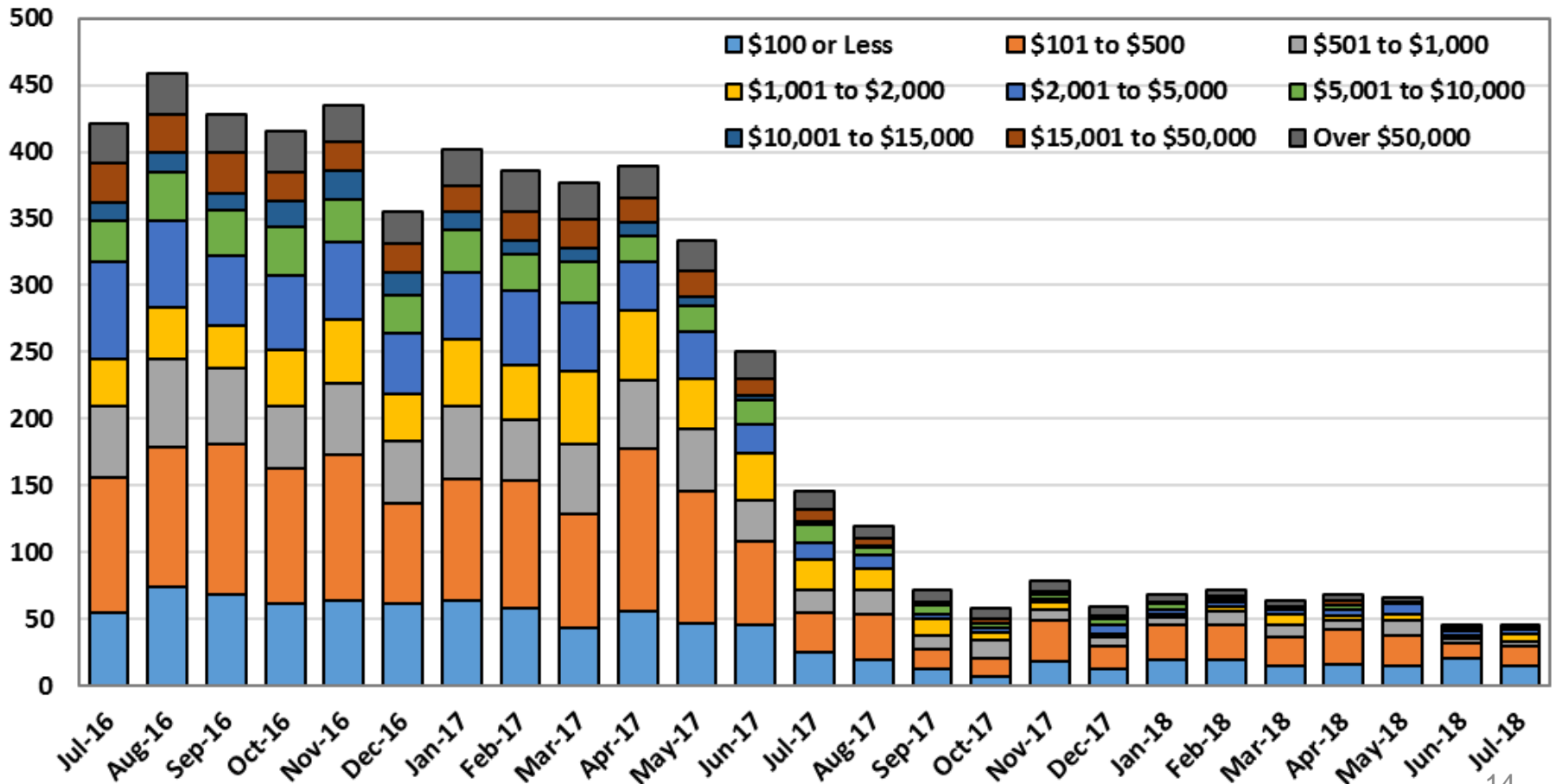
### Chart 13B. New Felony Charge 60 Days Within Defendent's Prior Felony Release



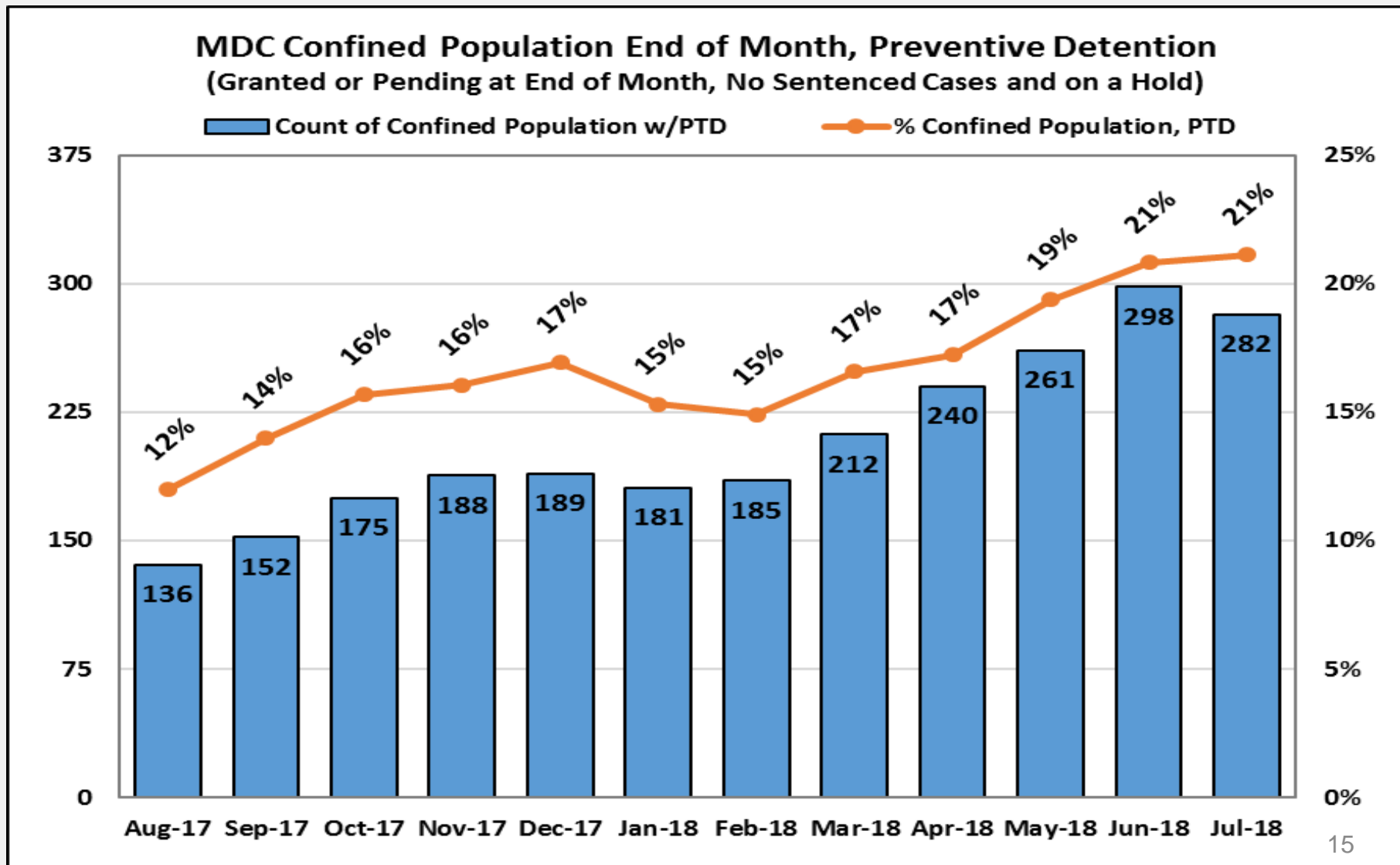
Source: LFC analysis of MDC data

# BernCo Persons Held on Money Bonds

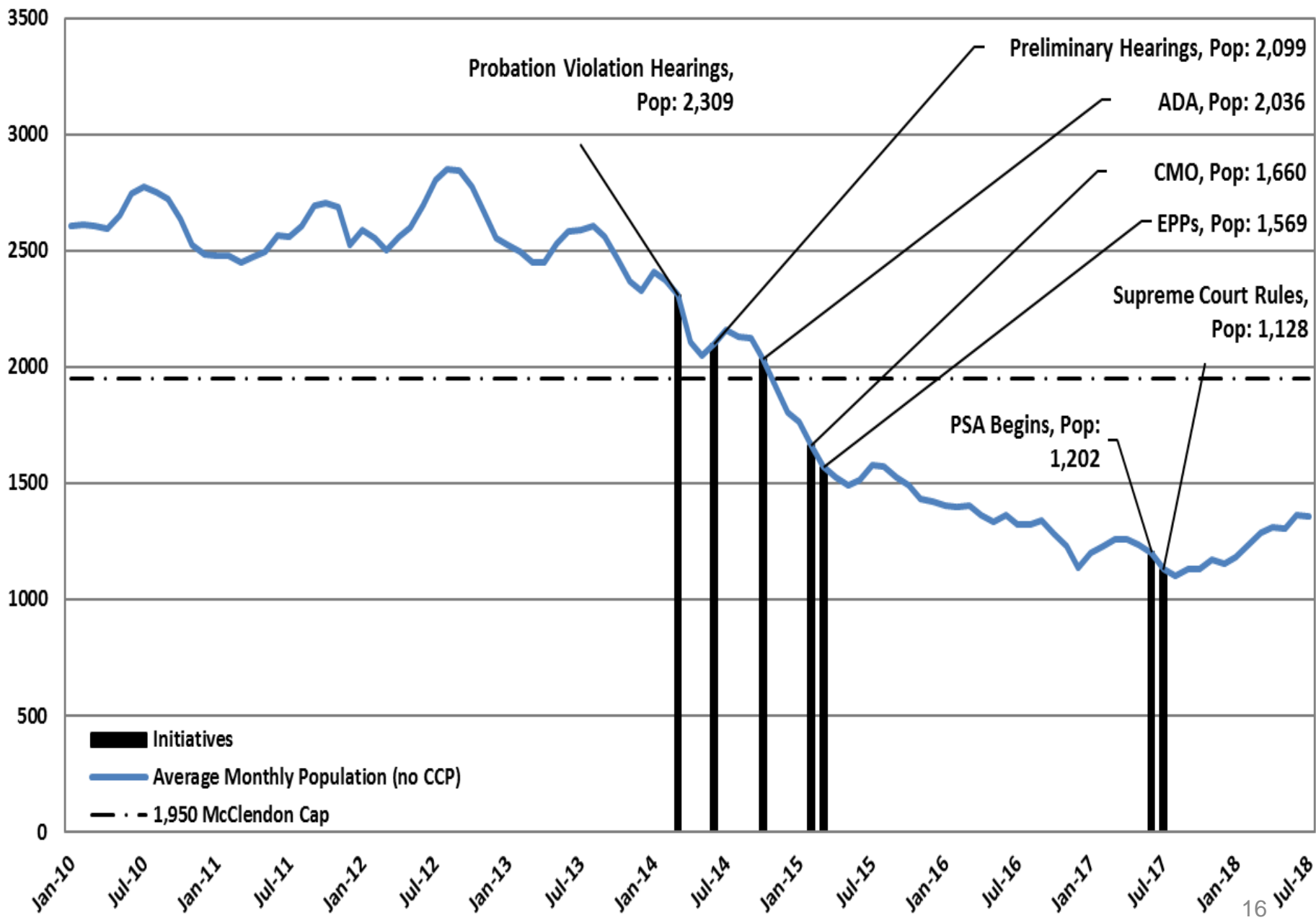
**Bond Category by Month and Year**  
(In Custody >72 Hours, No Sentences or Holds)



# BernCo Persons Ordered Detained Pretrial



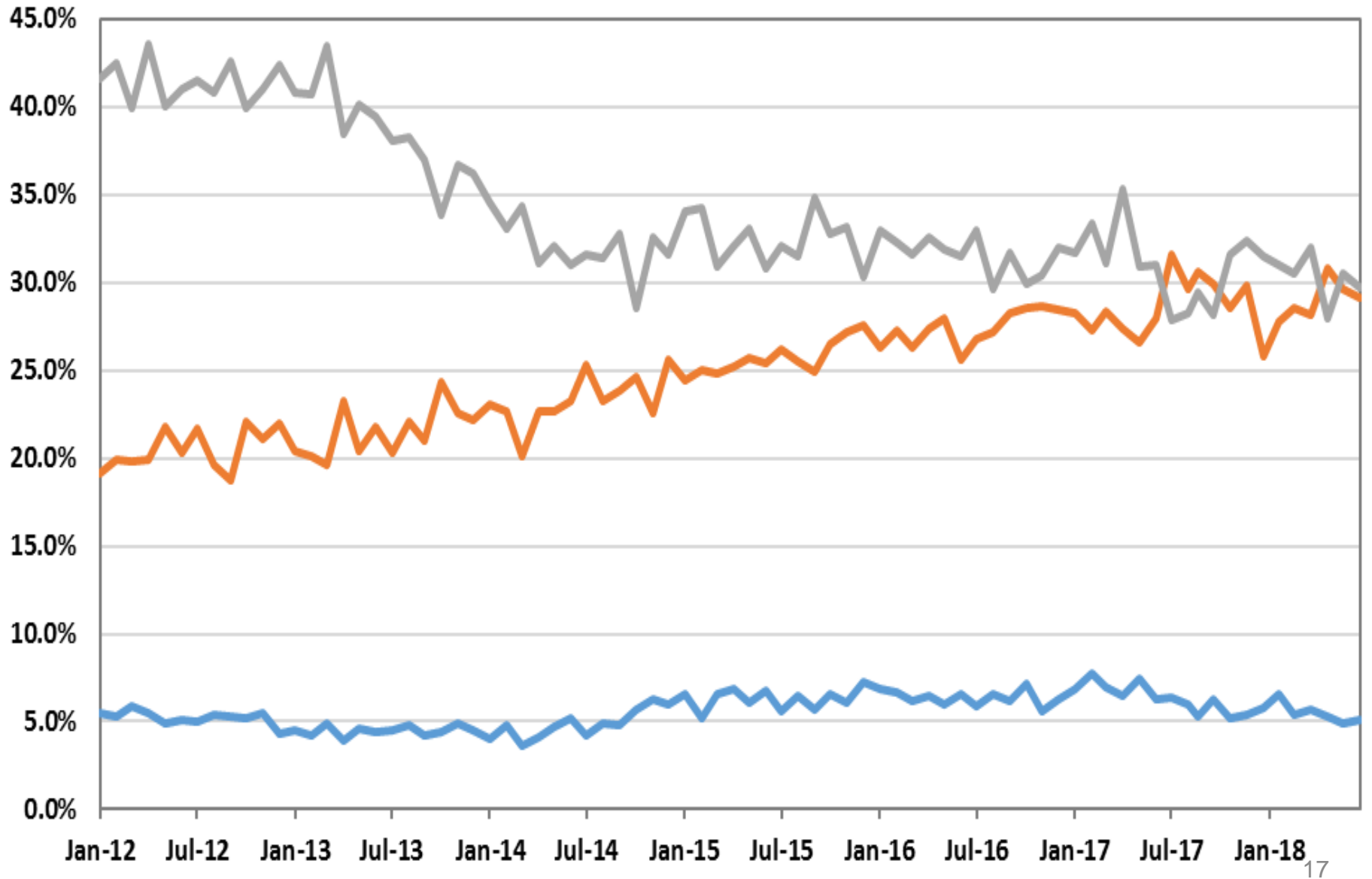
# MDC Population and Initiative Initiation by Month





# Monthly Percents of MDC Bookings by Category

F1 or F2    F3 or F4    MD or PM

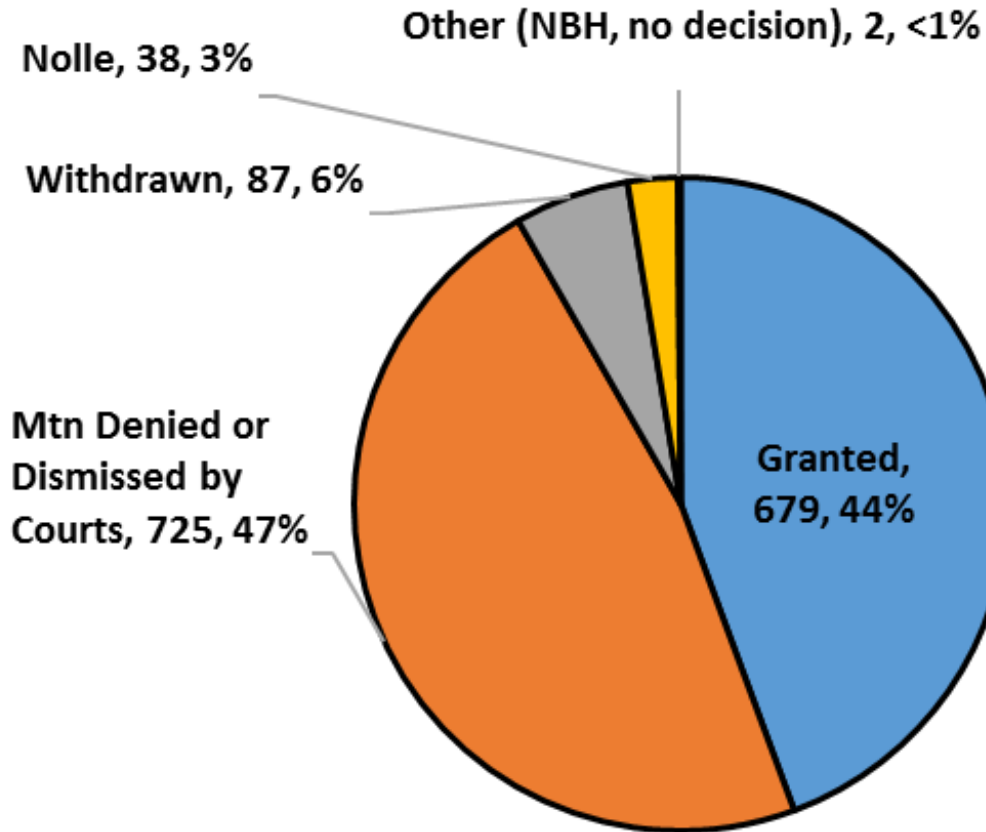


# NM DETENTIONS (EXCLUDING ABQ)

FY 2018			
District	Location	Granted	Denied
1	Los Alamos	1	2
1	Santa Fe	67	14
1	Tierra Amarilla	4	1
3	Las Cruces	16	23
4	Las Vegas	2	1
4	Mora		
4	Santa Rosa		
5	Carlsbad	25	11
5	Lovington	10	2
5	Roswell	9	1
6	Deming	3	1
6	Lordsburg	2	1
6	Silver City	1	
7	Estancia		1
7	Reserve		
7	Socorro		
7	T or C		1
8	Clayton		
8	Raton		
8	Taos		
9	Clovis	12	13
9	Portales	3	2
10	Fort Sumner		
10	Mosquero		
10	Tucumcari	17	5
11	Farmington/Aztec	24	7
11	Gallup		
12	Alamogordo	3	2
12	Carrizozo	1	
13	Bernalillo		
13	Grants		
13	Los Lunas		

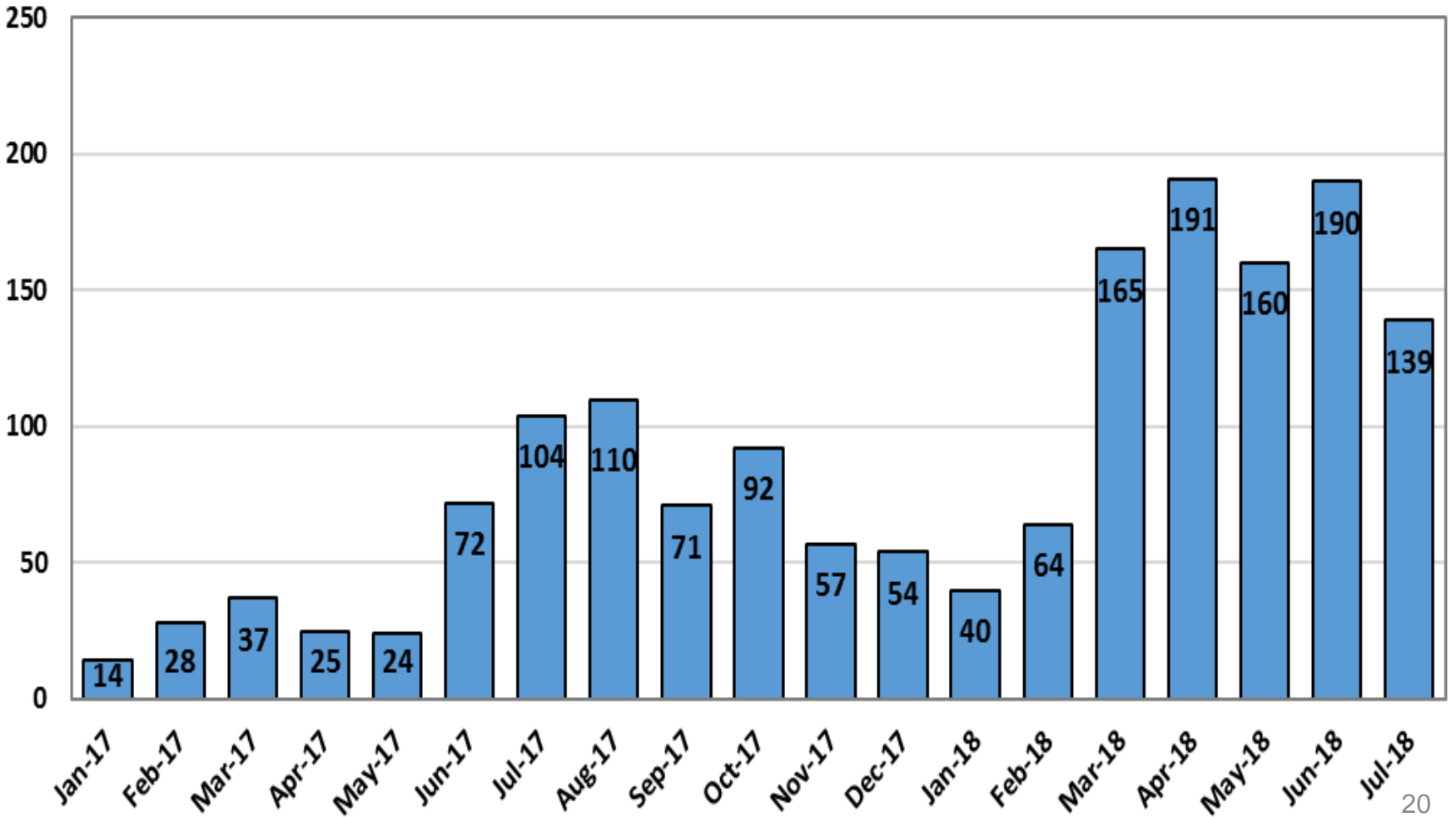
# 2d JD Detention Motion Grants/Denials 2017-2018

**Total Preventive Detention Motion Outcomes**  
January 2017 through July 2018

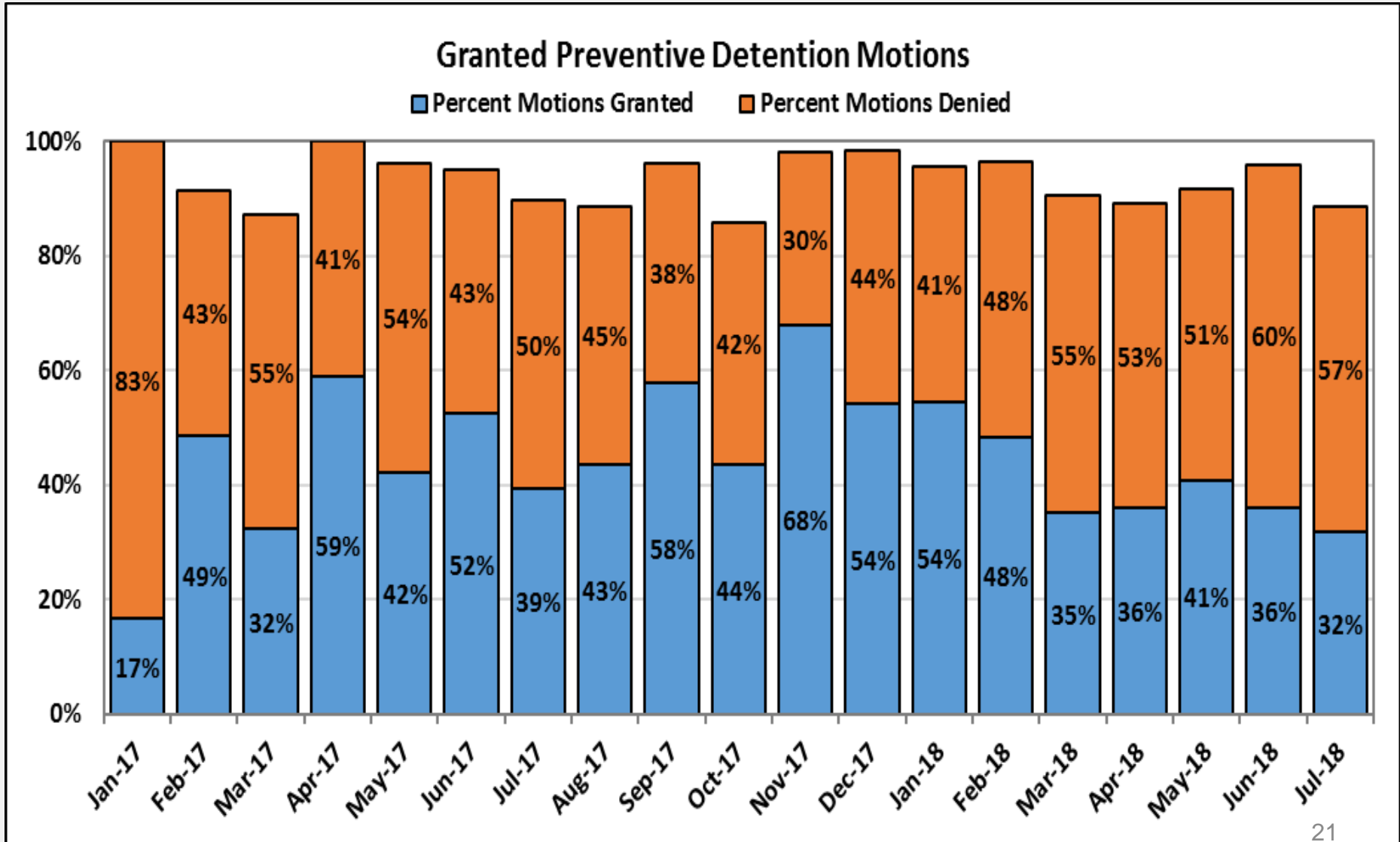


# 2d JD Detention Motions Filed 2017-2018

Preventive Detention Motions Filed by Month



# 2d JD Detention Motions Granted/Denied by Month

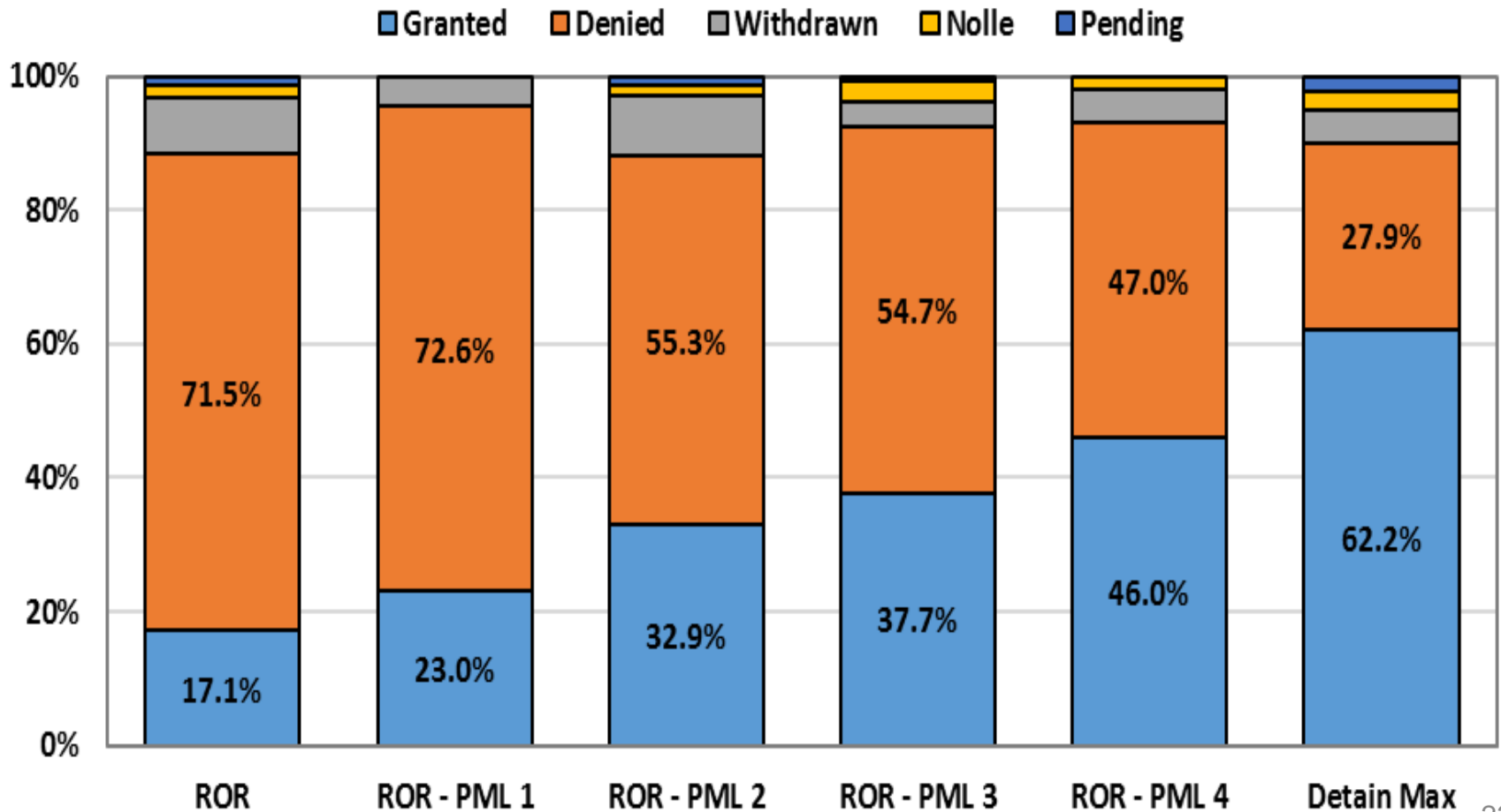


# Arnold Public Safety Assessment Scale

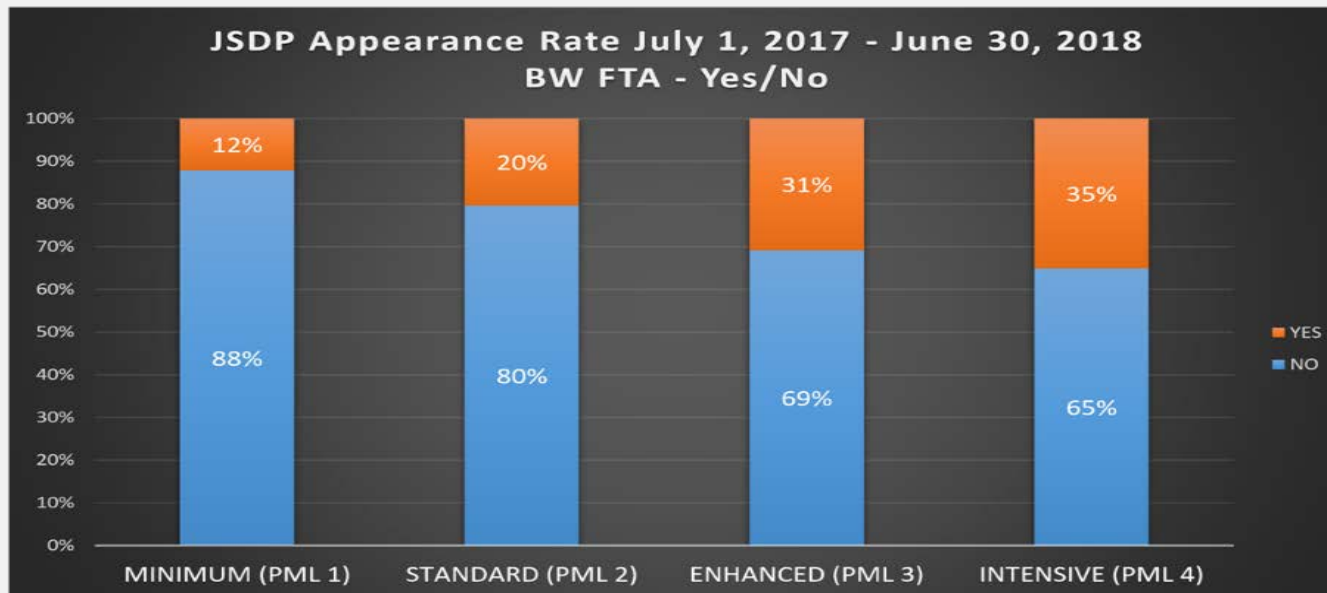
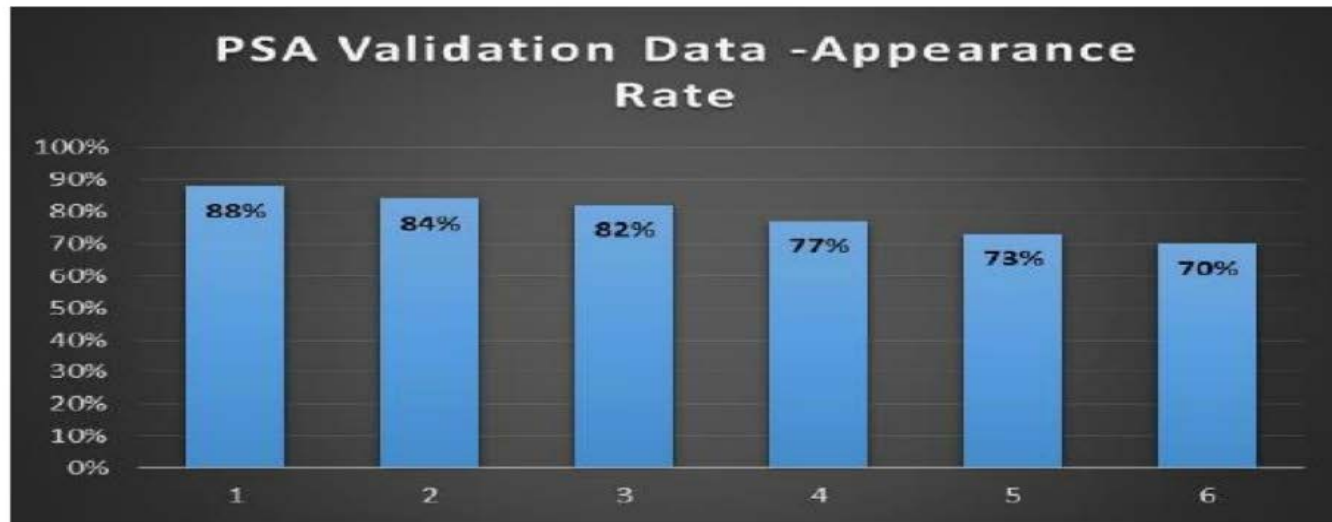
New Criminal Activity Scale							
Failure To Appear Scale	NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6	
	FTA 1	(A) ROR - 30	(B) ROR - 16				
	FTA 2	(C) ROR - 10	(D) ROR - 16	(E) ROR-PML1 - 36	(F) ROR-PML3 - 46	(G) ROR-PML4 - 1	
	FTA 3		(H) ROR-PML1 - 35	(I) ROR-PML2 91	(J) ROR-PML3 - 112	(K) ROR-PML4 - 20	(L) DETAIN if const. reqs. met OR RELEASE with max conditions - 5
	FTA 4		(M) ROR-PML1 - 30	(N) ROR-PML2 - 76	(O) ROR-PML3 - 120	(P) ROR-PML4 - 73	(Q) DETAIN if const. reqs. met OR RELEASE with max conditions - 30
	FTA 5		(R) ROR-PML2 - 9	(S) ROR-PML2 - 54	(T) ROR-PML3 - 199	(U) DETAIN if const. reqs. met OR RELEASE with max conditions - 219	(V) DETAIN if const. reqs. met OR RELEASE with max conditions - 91
	FTA 6				(W) DETAIN if const. reqs. met OR RELEASE with max conditions - 65	(X) DETAIN if const. reqs. met OR RELEASE with max conditions - 64	(Y) DETAIN if const. reqs. met OR RELEASE with max conditions - 275

# PSA Score Compared to Detention Motion Outcome

Figure 6. Percent Motions by Narrow PSA Category and Motion Outcome

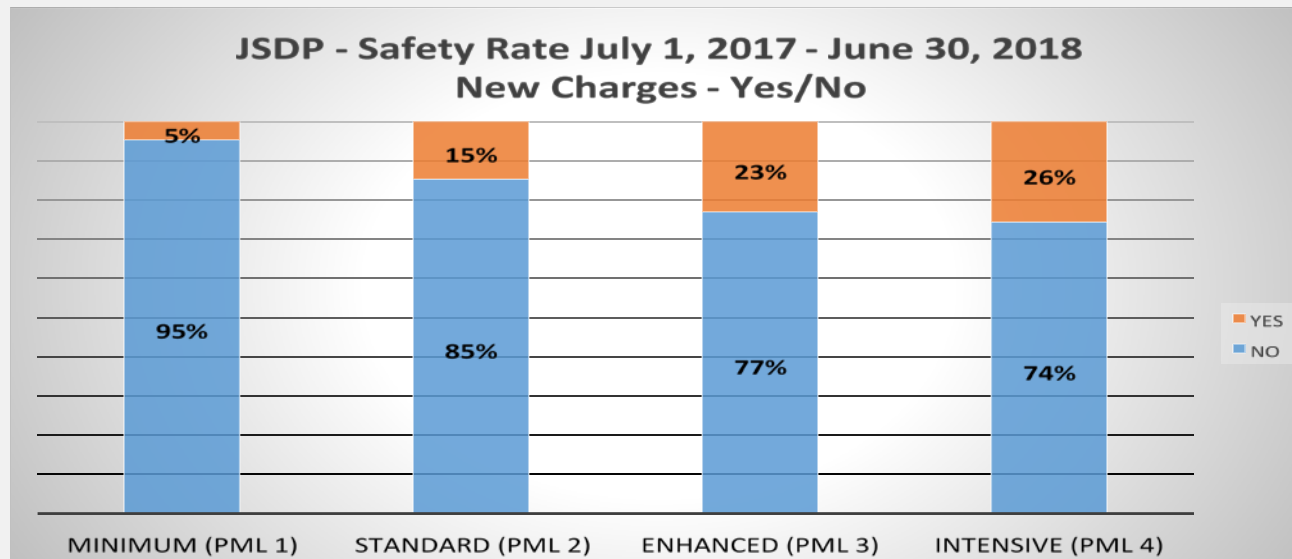


# 2d JD Arnold PSA Validation Data -- Appearance





# 2d JD Arnold PSA Validation Data -- Recidivism



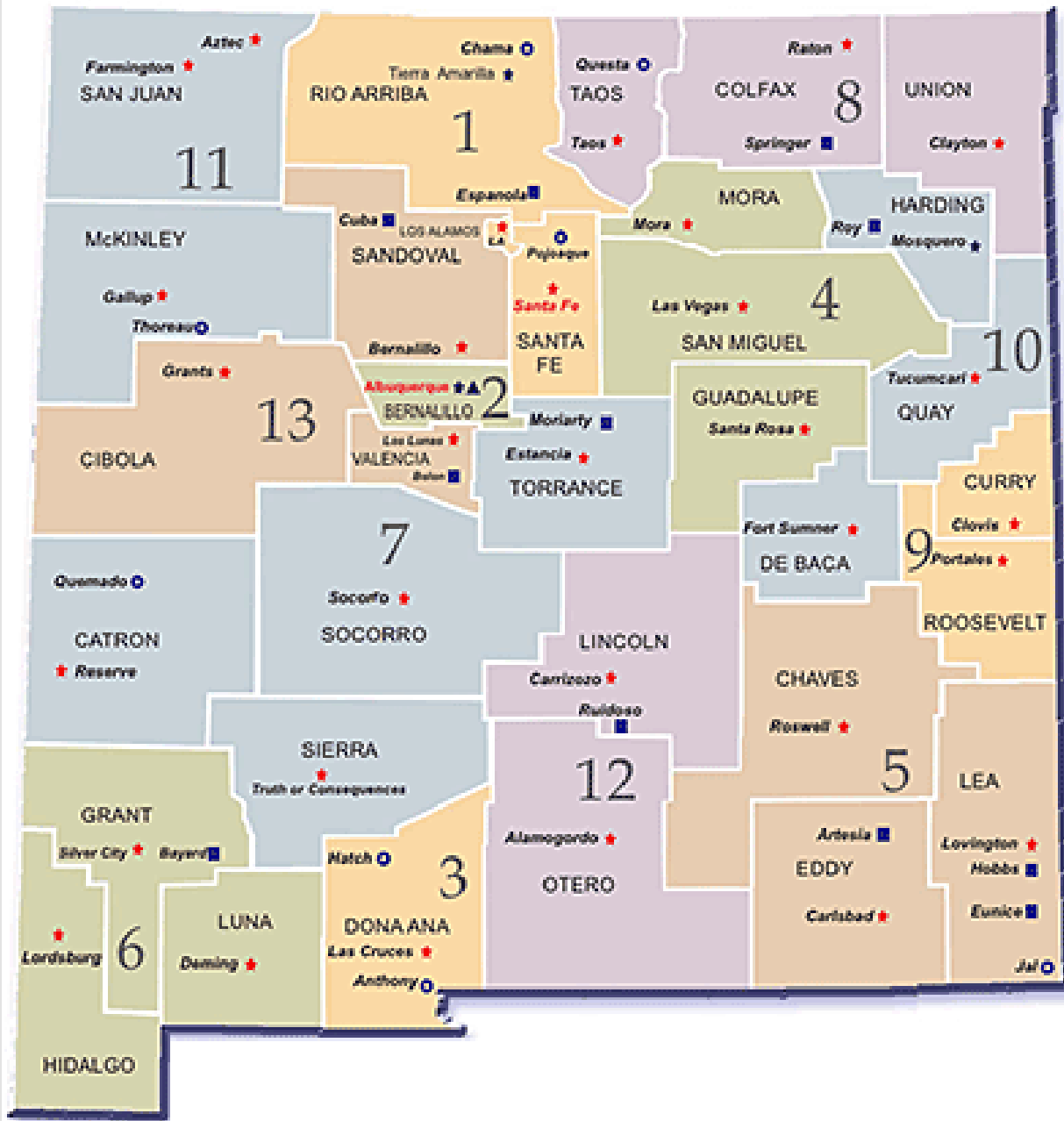
# 2d JD Failure to Appear Occurrences (Raw Preliminary Data)

- FY2015: 2,315
- FY2016: 1,599
- FY2017: 2,175
- FY2018: 2,380

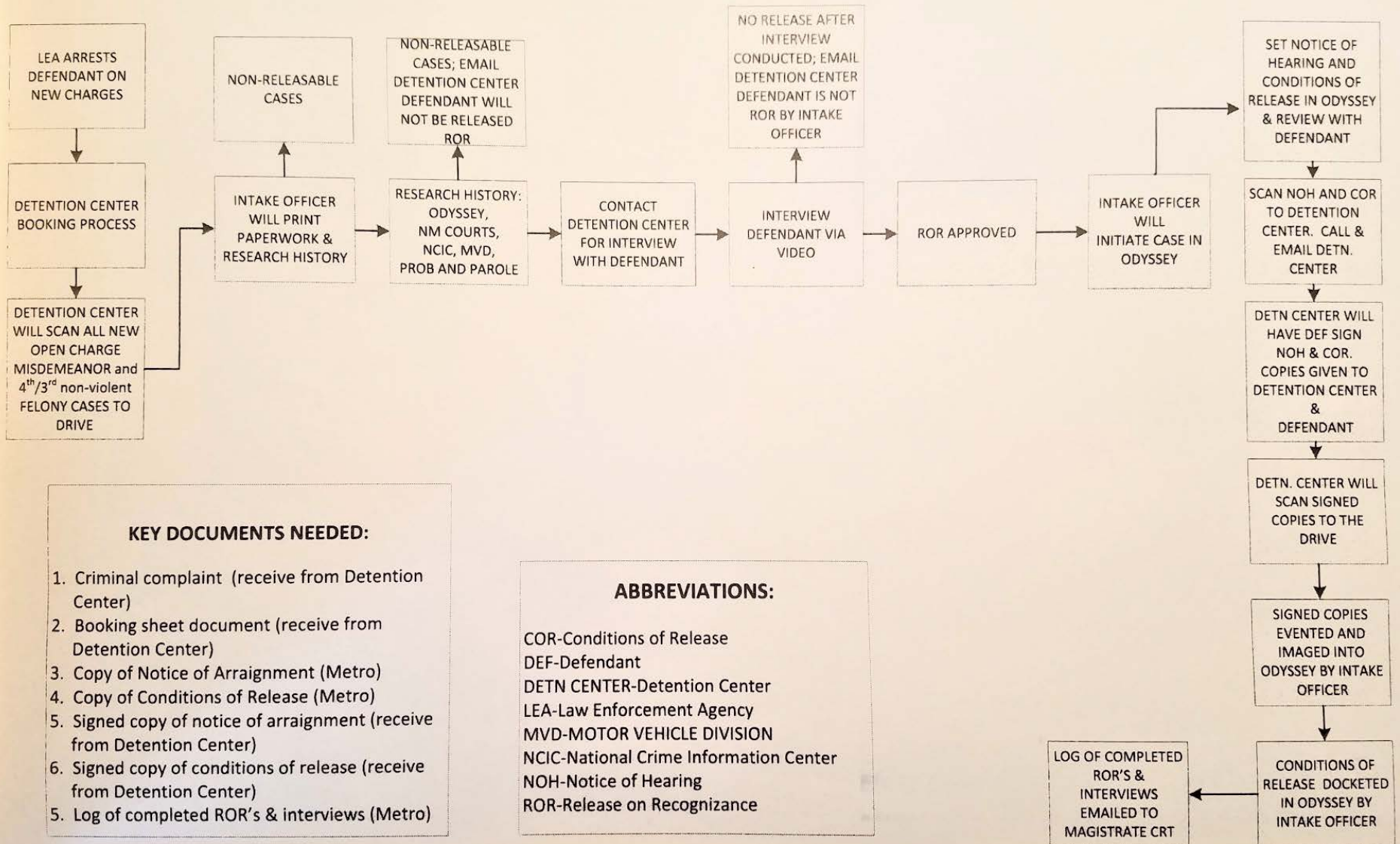
## WORKS IN PROGRESS:

1. Proposed rules amendments vetted by committee and currently being studied by Supreme Court.
2. New AOC statewide release & detention monitor.
3. Pilot project in 2d JD for study of validated Public Safety Assessment tool to assist - not control - judges in making release and detention decisions.
4. Pilot project underway in 5 counties for remotely-administered early ROR grant-denial decisions to use individual evidence instead of money to decide who is released and who is detained before court hearing.

# NEW MEXICO STATE COURTS



# Remote Statewide Arrestee Evaluation Project



# FUTURE POTENTIAL PROGRAMS FOR PRERELEASE RISK ASSESSMENTS AND POST-RELEASE SUPERVISION

1. Create a statewide remotely-administered early ROR grant-denial program for courts and detention centers in all 33 counties to obtain and use evidence of risk of danger and flight to decide who is released and who is detained before first court hearing (to be submitted to 2019 Legislature for consideration).
2. Design and create statewide post-release pretrial services programs to monitor defendants, with check-ins, substance testing, reminders, and more.

# Electronic Files Submitted to CCJ

- Bail Reform Slides for CCJ Sep 2018
- 2018 Bail Committee Recommendations Summary
- 2d JD Detention Hearings Recap
- BernCo 2018 Mid-Year Monthly Population Report
- DPS Clearinghouse Report 2018
- Federal Order Dismissing Challenge to NM Reforms
- Council of State Gvs NM Incarceration Data
- Key NM Release and Detention Rules
- Pretrial Release and Detention Key Facts
- *Brown, Torrez, Groves* Supreme Court Opinions<sup>31</sup>