

# **New Mexico Association of Counties**

Advancing Counties through Service, Education, Advocacy and Leadership



## **Courts, Corrections and Justice Committee**

### **New Mexico County Jails**

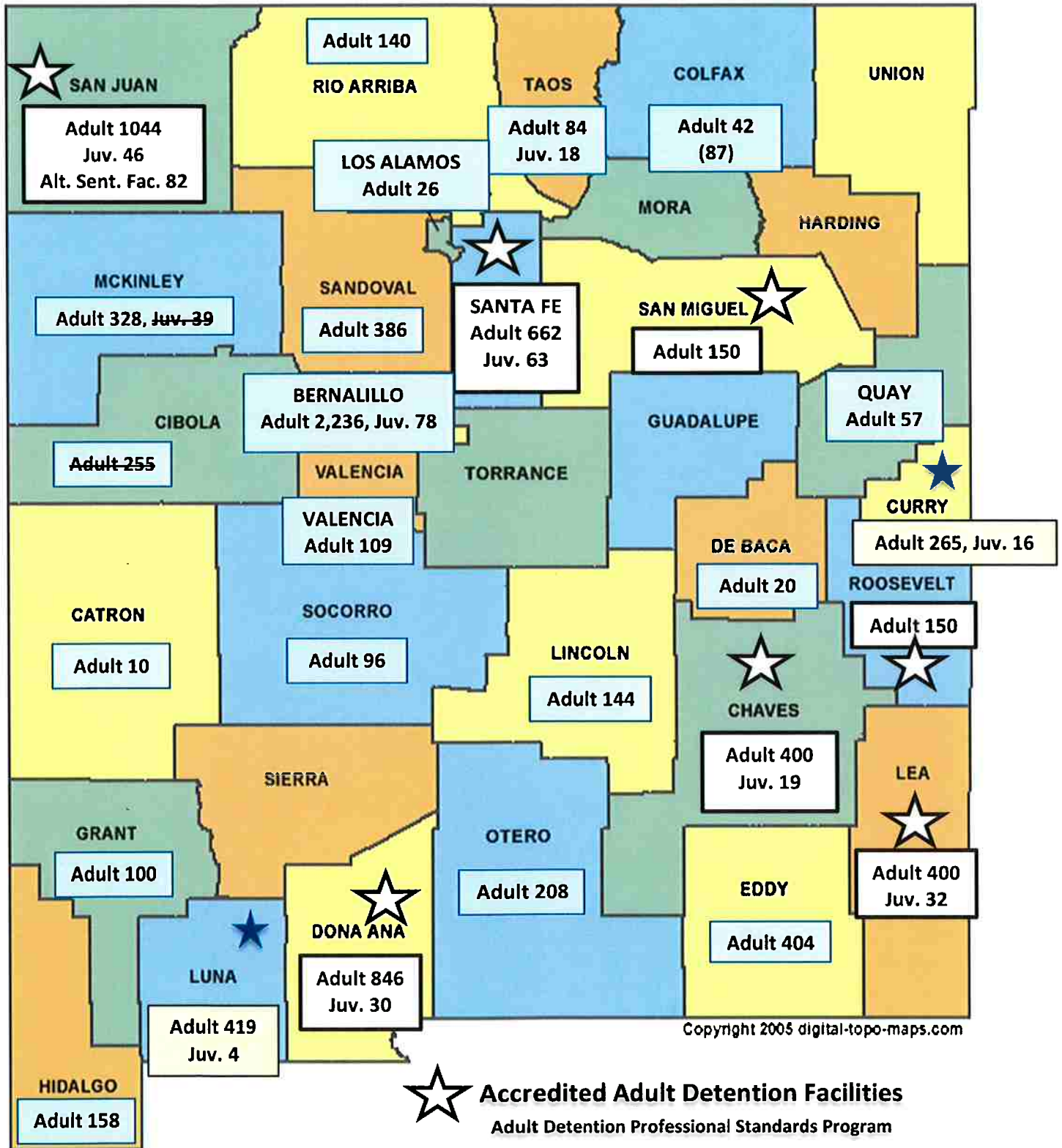
1. County Detention Populations
2. Disproportional length of stay for people living with mental illness
3. Constitutional Amendment/New Court Rules
4. County Detention Reimbursement Act
5. ICE Detainers
6. HB 370

**Presented by Grace Philips, General Counsel**

**July 31, 2017**

New Mexico Association of Counties  
444 Galisteo Street  
Santa Fe, NM 87501  
505.983.2101  
[www.nmcounties.org](http://www.nmcounties.org)

# NM Detention Accredited Facilities & Design Bed Capacity



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★ Accredited Adult Detention Facilities  
Adult Detention Professional Standards Program

★ Accreditation Applications pending for Curry, Luna & Valencia Counties

### NM County Detention Centers List

County Facility	Facility Design Capacity	Facility Average Daily Population	Total Average Daily Population	Administrator	Physical Address & Telephone
<b>Bernalillo (Adult)</b>	2,236	1,258	1,258	Tom Ruiz Interim	100 Deputy Dean Miera Rd. SW Albuquerque, NM 87151 505-839-8706
<b>Bernalillo (Juvenile)</b>	78	55	55	Craig Sparks	5100 2nd St. NW Albuquerque, NM 87107 505-468-7122
<b>Catron</b>	10	2	2	Stacy Dempsey Administrative Assistant to the Sheriff	101 Main St. Reserve, NM 87830 575-533-6222
<b>Chaves (Adult)</b>	400	295	295	Clay Corn	3701 S. Atkinson Roswell, NM 88203 575-624-6580
<b>Chaves (Juvenile)</b>	19	10	10	Clay Corn	119 E. 4th Street Roswell, NM 88203 575-624-6519
<b>Cibola</b>	255 Closing 60-90 days Sept-Oct 2017	195	195	Adrienne Jaramillo	114 McBride Rd., Suite A Grants, NM 87020 505-287-6947
<b>Colfax</b>	42 (45 beds added Sept 2017)	42	42	Rose Bernal	444 Hereford Ave. Raton, NM 87740 575-445-3691
<b>Curry (Adult)</b>	260	218	220	Mark Gallegos	801 Mitchell St. Clovis, NM 88101 575-763-1490 ext. 616
<b>Curry (Juvenile)</b>	16	11	11	Mark Gallegos	700 North Main Clovis, NM 88101 575-763-1490 ext. 616
<b>De Baca</b>	20	13	13	Lynita Lovorn	248 East Avenue C PO Box 240 Fort Sumner, NM 88119 575-355-7870
<b>Doña Ana (Adult)</b>	822	721	721	Chris Barela	1850 Copper Loop Las Cruces, NM 88005 575-647-7616
<b>Doña Ana (Juvenile)</b>	30	16	16	Chris Barela	1850 Copper Loop Las Cruces, NM 88005 575-647-7616
<b>Eddy (Adult)</b>	404	265	265	Billy Massingill	201 N. Main St. Carlsbad, NM 88220 575-887-7556
<b>Eddy (Juvenile)</b>	Closed 4/2015	0	5	Billy Massingill	202 N. Main St. Carlsbad, NM 88220 575-887-7556
<b>Grant</b>	100	89	89	Michael Carillo	320 S. Ridge Road Silver City, NM 88061 575-534-3803
<b>Guadalupe</b>	N/A	N/A	N/A	County does not operate a facility	n/a

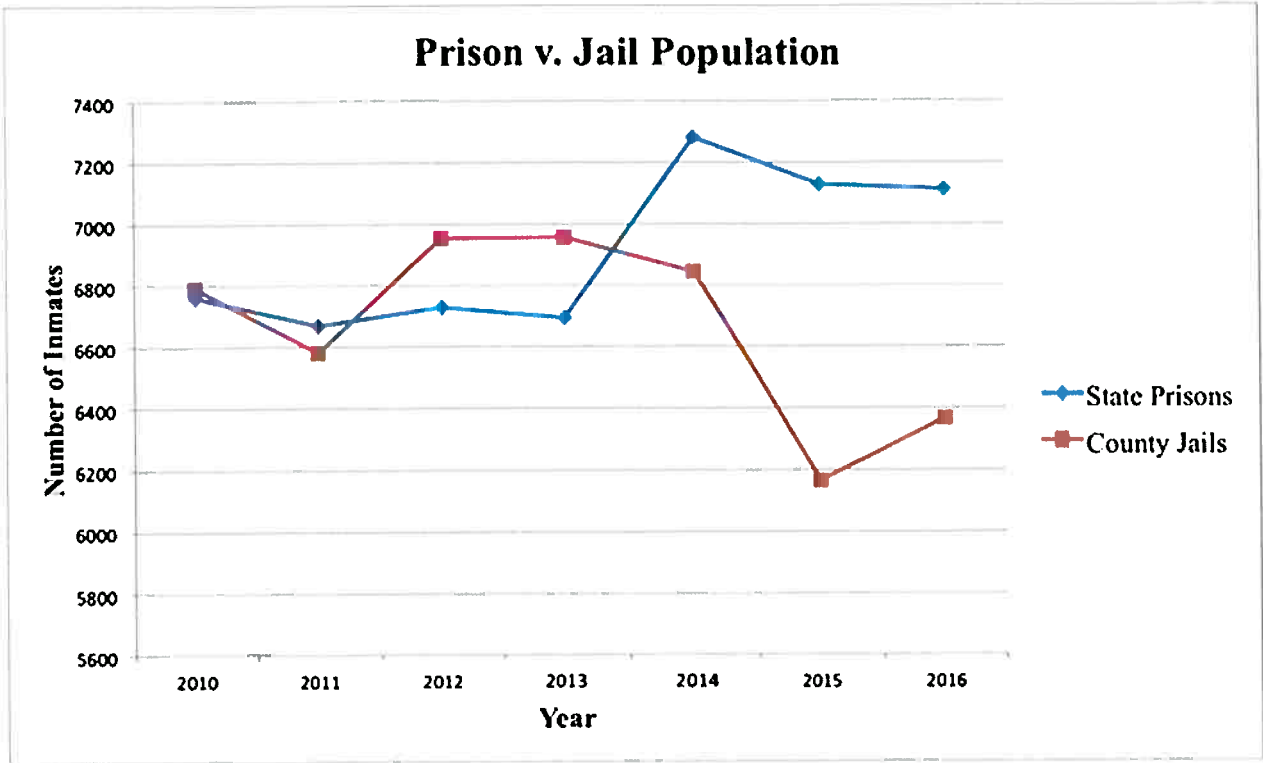
### NM County Detention Centers List

County Facility	Facility Design Capacity	Facility Average Daily Population	Total Average Daily Population	Administrator	Physical Address & Telephone
<b>Harding</b>	N/A	N/A	N/A	County does not operate a facility	n/a
<b>Hidalgo</b>	148	74	74	Interim Bob Hill/ Dolly Ward	83 Old Hwy 70 Lordsburg, NM 88045 575-542-3050 Ext. 201
<b>Lea (Adult)</b>	400	341	341	Ruben Quintana	1401 S. Commercial St. Lovington, NM 88260 575-396-8670
<b>Lea (Juvenile)</b>	32	5	5	Ruben Quintana	1401 S. Commercial St. Lovington, NM 88260 575-396-8678
<b>Lincoln</b>	144	133	127	Arthur Anderson	511 Hangar Lane Carrizozo, NM 88301 575-648-6510
<b>Los Alamos (Adult)</b>	26	21	21	Hilario (Eli) Salinas	2500 Trinity Dr. Los Alamos, NM 87544 505-662-8279
<b>Los Alamos (Juvenile)</b>	0	0	0	Hilario (Eli) Salinas	2500 Trinity Dr. Los Alamos, NM 87544 505-662-8279
<b>Luna (Adult)</b>	419	318	318	Chris Brice	1700 4th St. NE Deming, NM 88030 575-543-6708
<b>Luna (Juvenile)</b>	4	3	3	Chris Brice	1700 4th St. NE Deming, NM 88030 575-543-6700
<b>McKinley (Adult)</b>	328	201	201	Steve Silversmith	255 S. Boardman Ave. Gallup, NM 87301 505-488-8685 (c) 505-726-8961
<b>McKinley (Juvenile)</b>	39 Closing Aug. 6, 2017	13	13	Jason King	2105 Hassler Valley Rd. Gallup, NM 787305 505-726-8249
<b>Mora</b>	N/A	N/A	N/A	County does not operate a facility	n/a
<b>Otero (Adult)</b>	208	234	234	Carolyn Barela	1958 Dr. Martin Luther King Dr. Alamogordo, NM 88310 575-437-6420
<b>Quay (Adult)</b>	57	45	45	Don "TJ" Rich	223 West High Street Tucumcari, NM 88401 575-461-4664 Ext. 2003
<b>Quay (Juvenile)</b>	Closed 7/1/15	0	0	Don "TJ" Rich	223 West High Street Tucumcari, NM 88401 575-461-4664
<b>Rio Arriba</b>	140	110	110	Larry De Yapp	2 Main St. Tierra Amarilla, NM 87575 575-588-7350 ext. 336

### NM County Detention Centers List

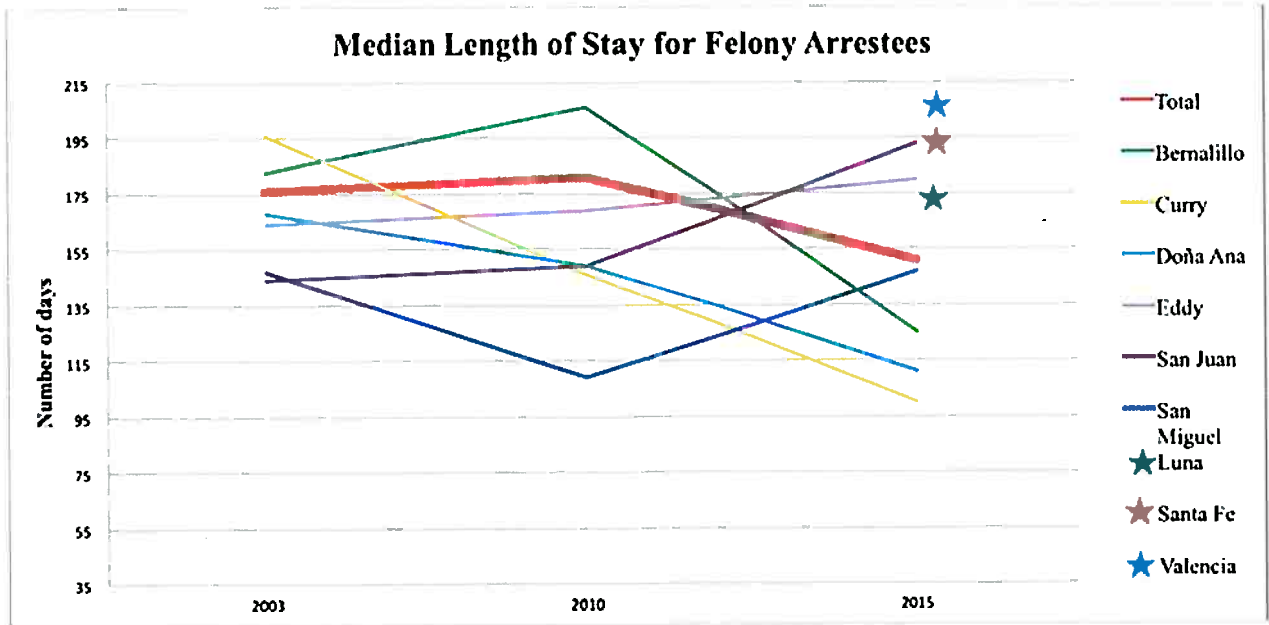
County Facility	Facility Design Capacity	Facility Average Daily Population	Total Average Daily Population	Administrator	Physical Address & Telephone
Roosevelt	150	65	65	Justin Porter	1700 N. Boston Portales, NM 88130 575-356-6871
San Juan (Adult)	1,091	587	High: 662 Low: 537	Thomas Havel	871 Andrea Dr. Farmington, NM 87401 505-566-4504
San Juan (Juvenile)	46	22	22	Traci Neff	851 Andrea Dr. Farmington, NM 87401 505-324-5809
San Juan (Alt. Sentencing)	82	35	35	Jennifer (Miller) Mitchell	1006 Municipal Dr. Farmington, NM 87401 505-325-1720
San Miguel	150	95	95	Patrick Snedeker	26 NM 283 Las Vegas, NM 87701 505-454-7403
Sandoval	478	404	404	Matthew A. Elwell CJM	1100 Montoya Rd. Bernalillo, NM 87004 505-867-5339
Santa Fe (Adult)	612	504	500	Derek Williams	28 Camino Justicia Santa Fe, NM 87508 505-428-3204
Santa Fe (Juvenile)	63	15	15	Pablo Sedillo III	4250 Airport Road Santa Fe, NM 87507 505-424-5620
Sierra	Closed 2014	0	54	Virginia Lee	311 N. Date St. T or C, NM 87901 575-894-2537
Socorro	96	80	80	Ed Sweeney	1001 Grefco Rd. Socorro, NM 87801 575-835-0945
Taos (Adult)	88	70	70	Nelson Abeyta	105 Albright St., Ste. O Taos, NM 87571 575-779-7901
Taos (Juvenile)	18	3	3	Nelson Abeyta	105 Albright St., Ste. P Taos, NM 87571 575-737-6410
Torrance	N/A	N/A	N/A	County does not operate a facility	n/a
Union	N/A	N/A	N/A	County does not operate a facility	n/a
Valencia	109 (145)	150	150	Joe Chavez	436 Courthouse Road Los Lunas, NM 87031 505-565-8900

<b>Total Adult Facility Beds</b>	<b>9,275</b>
<b>Average Daily Total Adult Population</b>	<b>6,600</b>
<b>Total Juvenile Facility Beds</b>	<b>345</b>
<b>Average Daily Total Juvenile Population</b>	<b>158</b>

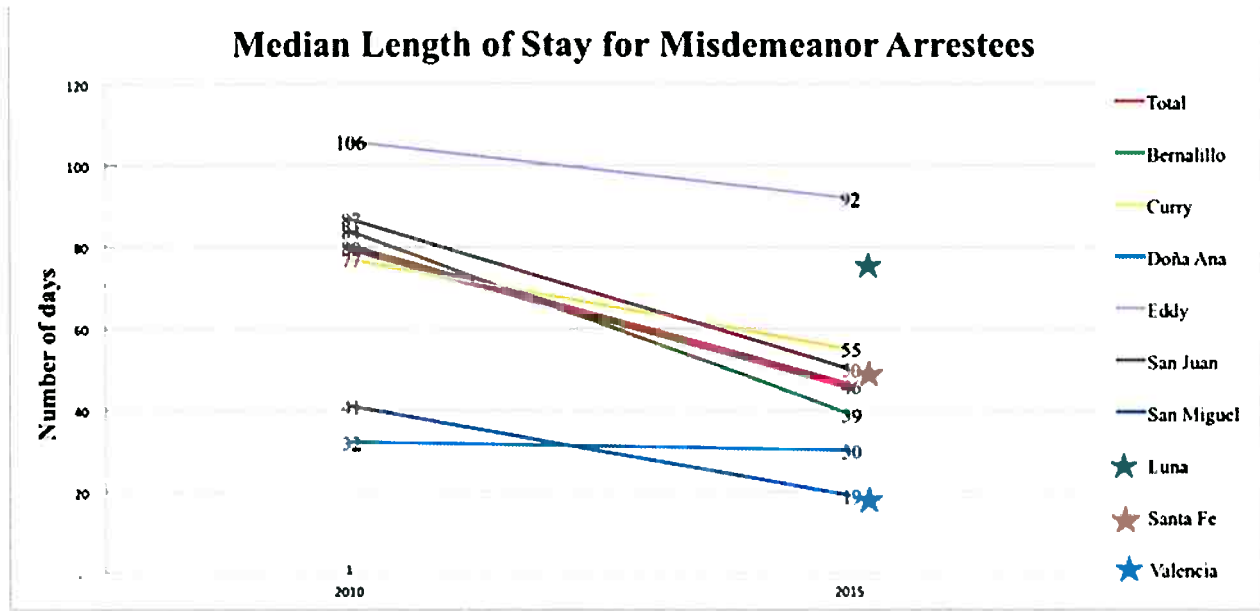


## New Mexico Sentencing Commission Studies

(Analysis of Median Length of Stay in 6-9 County Detention Facilities  
in 2003, 2010 and 2015)







## Bail Reform

### Constitutional Amendment and New Procedural Rules

*In 2016 39% of the county jail population had not posted bond*

#### New Mexico Constitution, Article II, 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 and in situations in which bail is specifically prohibited by this section. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

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. An appeal from an order denying bail shall be given preference over all other matters.

A person who is not detainable on 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. The court shall rule on the motion in an expedited manner. (As amended November 8, 2016.)

## SELECTED MATERIALS RE COURT AUTHORIZATION OF JAILS AND OTHERS TO RELEASE LOW RISK ARRESTEES PRIOR TO FIRST COURT APPEARANCE

### A. Rule 408 – Courts may permit jailers and others to release before first court hearing

5-408. Pretrial release by designee.

A. Scope. This rule shall be implemented by any person designated in writing by the chief judge of the district court under Rule 5-401(N) NMRA. A designee shall execute Form 9- 302 NMRA to release a person from detention prior to the person's first appearance before a judge if the person is eligible for pretrial release under Paragraph B, Paragraph C, or Paragraph D of this rule, provided that a designee may contact a judge for special consideration based on exceptional circumstances. A judge may issue a pretrial order imposing a type of release and conditions of release that differ from those set forth in this rule.

B. Minor offenses; release on recognizance. (1) Persons eligible. A designee shall release a person from custody on personal recognizance, subject to the conditions of release set forth in Form 9-302 NMRA, if the person has been arrested and detained for a municipal code violation, game and fish offense under Chapter 17 NMSA 1978, petty misdemeanor, or misdemeanor, subject to the exceptions listed in Subparagraph (B)(2) of this rule; and is not known to be on probation, on parole, or on other release pending trial, sentencing, or appeal for any offense under federal, state, or local law. (2) Exceptions. A person arrested for any of the following offenses is not eligible for release under this paragraph: (a) battery under Section 30-3-4 NMSA 1978; (b) aggravated battery under Section 30-3-5 NMSA 1978; (c) assault against a household member under Section 30-3-12 NMSA 1978; (d) battery against a household member under Section 30-3-15 NMSA 1978; (e) aggravated battery against a household member under Section 30-3-16 NMSA 1978; (f) criminal damage to property of a household member under Section 30-3-18 NMSA 1978; (g) harassment under Section 30-3A-2 NMSA 1978, if the victim is known to be a household member; (h) stalking under Section 30-3A-3 NMSA 1978; (i) abandonment of a child under Section 30-6-1(B) NMSA 1978; (j) negligent use of a deadly weapon under Section 30-7-4 NMSA 1978; (k) enticement of a child under Section 30-9-1 NMSA 1978; (l) criminal sexual contact under Section 30-9-12(D) NMSA 1978; (m) criminal trespass under Section 30-14-1(E) NMSA 1978, if the victim is known to be a household member; (n) telephone harassment under Section 30-20-12, if the victim is known to be a household member; (o) violating an order of protection under Section 40-13-6 NMSA 1978; or (p) driving under the influence of intoxicating liquor or drugs in violation of Section 66-8-102 NMSA 1978. 1

C. Pretrial release based on risk assessment. A designee shall release a person from custody prior to the person's first appearance before a judge if the person qualifies for pretrial release based on a risk assessment and a pretrial release schedule approved by the Supreme Court.

D. Pretrial release under release on recognizance program. A designee may release a person from custody prior to a person's first appearance before a judge if the person qualifies for pretrial release under a local release on recognizance program that relies on individualized assessments of arrestees and has been approved by order of the Supreme Court.

E. Type of release and conditions of release set by judge. A person who is not eligible for pretrial release by a designee under Paragraph B, Paragraph C, or Paragraph D of this rule shall have the type of release and conditions of release set by a judge under Rule 5-401 NMRA. [Adopted by Supreme Court Order No. 17-8300-005, effective for all cases pending or filed on or after July 1, 2017.]

Committee commentary. — Under NMSA 1978, Section 31-3-1 and Rule 5-401(N) NMRA, the chief judge of the district court may designate responsible persons in writing who are authorized to release certain arrested persons from detention prior to the arrested person's first appearance before a judge. In the past, some courts have used fixed



secured bond schedules tied to the level of the charged offense, rather than any individual flight risk of the arrestee, a practice that has been specifically prohibited by new Subparagraph (E)(1)(d) of Rule 5-401 NMRA (as reflected in the 2017 amendment), and that has constitutional implications. See, e.g., Memorandum and Opinion Setting out Findings of Fact and Conclusions of Law, *O'Donnell v. Harris Cty.*, No. 4:16-cv-01414 (S.D. Tex. Apr. 28, 2017); Opinion, *Jones v. City of Clanton*, No. 2:15-cv-00034-MHT-WC (M.D. Ala. Sept. 14, 2015). The provisions in this new rule provide more detailed guidance for courts for authorizing release by designees, who are generally detention center or court employees, and contains several situations in which release by designees can be authorized, none of them including fixed secured bond schedules. Paragraph B of this rule sets out a statewide standard method of automatic release by designees in cases involving minor offenses, where no exercise of discretion is required on the part of the designee. Subparagraph (B)(2) identifies certain offenses excepted from automatic release under Subparagraph (B)(1), including the misdemeanors and petty misdemeanors listed in the Victims of Crime Act, NMSA 1978, §§ 31-26-1 to -16, and the Crimes Against Household Members Act, NMSA 1978, §§ 30-3-10 to -18, as well as battery, enticement of a child, violating an order of protection, and driving under the influence of intoxicating liquor or drugs. Paragraph C of this rule will independently permit a designee to release an arrestee if specifically authorized to be released through use of a Supreme Court-authorized risk assessment instrument. Paragraph D of this rule provides flexibility for individual courts to operate their own Supreme Court-authorized release on recognizance programs that may rely on individualized discretionary assessments of arrestee eligibility by designees, in addition to the release authority authorized in Paragraphs B and C of this rule, so long as they are exercised within the parameters of Court-approved programs. 2 [Adopted by Supreme Court Order No. 17-8300-005, effective July 1, 2017.]

#### B. Cover memo from AOC re suggested uniform designation order

Judges - Attached is a form that can be used for designations under Rule 5-408B in district court and the similar rules in metropolitan, magistrate, and municipal courts. It is intended to provide clarity and uniformity in the areas that have generated the most frequent concerns for designations, especially designations at detention centers.

I ask the metropolitan, magistrate, and municipal courts to coordinate with the chief judge of their respective district court to provide a consistent designation for the detention center. Conflicting designations by several courts to a single detention center will cause confusion.

In addition, the courts if possible should arrange for the detention center designee to give the defendant a court date in writing upon release. This need not be required in the designation. Giving the defendant a court date will significantly reduce the need to summons the defendant or issue a warrant due to poor contact information if the court attempted to set a court date by mail or other means after release. This was already the practice in many jurisdictions for defendants released under a bond schedule.

Thank you to all of you for the tremendous effort and energy given to implementation of the new pretrial rules. Communication from you is critical to making adjustments to the rules or suggesting consistent practices for issues that the new rules present. Please continue to direct your comments and concerns to me and Jason as indicated in previous emails.

Artie Pepin, AOC Director

#### C. AOC's suggested uniform Rule 408 designation order

[For use with District Court Rule 5-408(B) NMRA,  
Magistrate Court Rule 6-408(B) NMRA,  
Metropolitan Court Rule 7-408(B) NMRA, and  
Municipal Court Rule 8-408(B) NMRA]

STATE OF NEW MEXICO  
[COUNTY OF \_\_\_\_\_]  
[CITY OF \_\_\_\_\_]  
\_\_\_\_\_ COURT

**ORDER  
PRETRIAL RELEASE BY DESIGNATION**

**It is hereby ORDERED** that as [Chief] [Presiding] Judge for the [ \_\_\_\_\_ Judicial District Court] [Bernalillo County Metropolitan Court] [ \_\_\_\_\_ County Magistrate Court] [ \_\_\_\_\_ Municipal Court], I designate the following individual(s) or entities who are authorized to and shall release or direct the release of arrested persons from detention prior to the person's first appearance before a judge as provided in Rule [5-408(B)] [6-408(B)] [7-408(B)] [8-408(B)] NMRA.

\_\_\_\_\_  
\_\_\_\_\_  
(Identification of all designees, such as name and title of individuals or identification of entity such as a detention center)

Release of a person eligible for release under [Rule 5-408(B)] [6-408(B)] [7-408(B)] [8-408(B)] does not require or allow for the exercise of discretion on the part of the designee, but "a designee may contact a judge for special consideration based on exceptional circumstances" when specific court direction is needed, under Rule [5-408(B)(1)] [6-408(B)(1)] [7-408(B)(1)] [8-408(B)(1)]. This court will provide to the designee the contact information necessary for exceptional circumstances consultations.

For purposes of this designation, in compliance with Rule [5-408(B)(1)] [6-408(B)(1)] [7-408(B)(1)] [8-408(B)(1)] a person is "known" to be on probation, parole, or release pending an active case only if the designee has received written notice from a court, law enforcement agency, or government entity responsible for the person's prosecution or supervision.

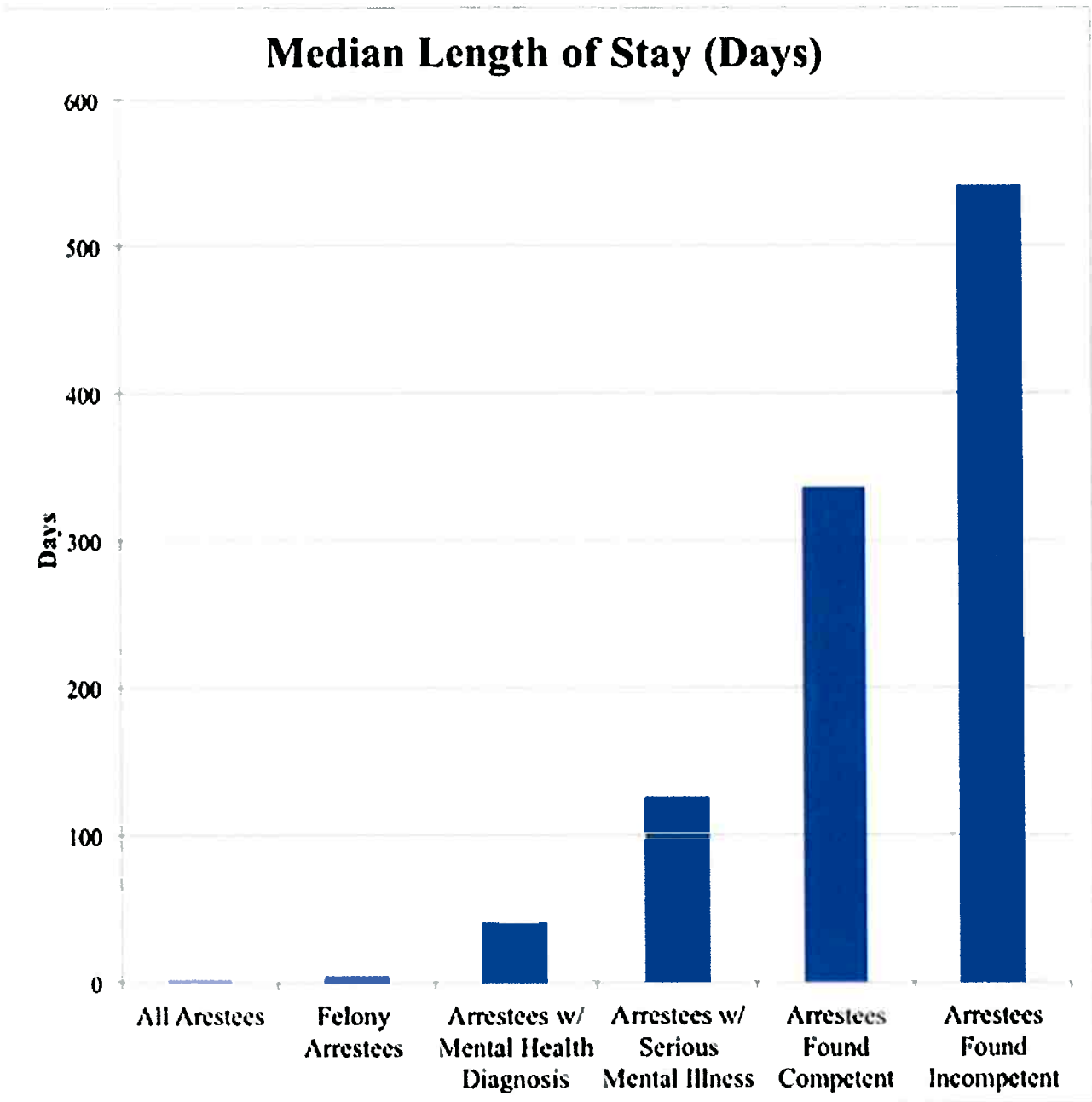
Release shall occur upon completion of required booking and processing and in accordance with the designee's written policies regarding timing of the release of persons under the influence of alcohol or other substances or suffering from any other conditions that indicate the person may temporarily be a danger to self or others.

\_\_\_\_\_  
[Chief] [Presiding] Judge

\_\_\_\_\_  
Date

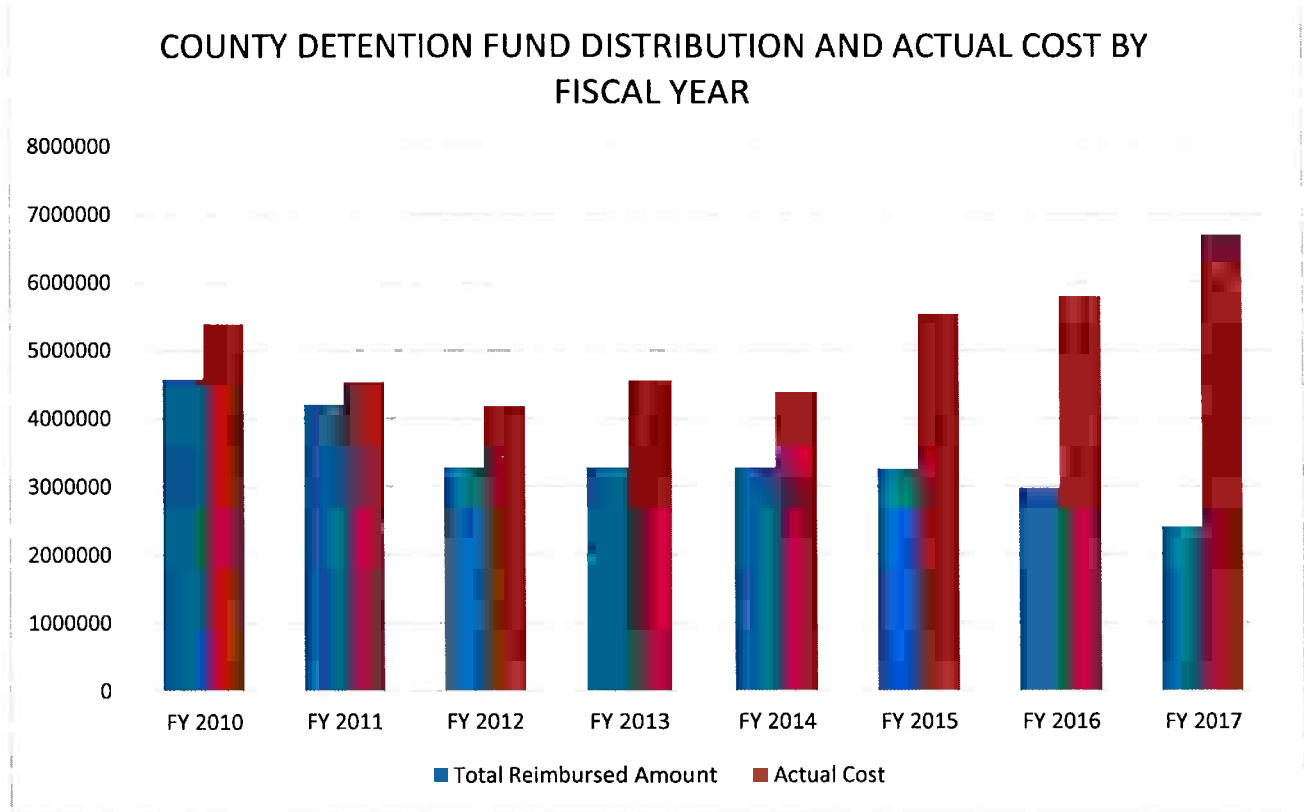
\_\_\_\_\_  
Court

## What Increases Length of Stay?



- 35% of people in county detention (more than 2,557 on any given day) are estimated to be on prescribed psychotropic medication
- 89% of SMI inmates are pretrial
- 58% of SMI inmates are charged with a misdemeanor or nonviolent felony
- 62% of SMI inmates have competency raised

# County Detention Reimbursement Funding is Inadequate and Must be Restored



Current funding is just 36% of estimated cost

## Ice Detainers

*The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people*

## HB 370

Chaves, Colfax, Luna, Rio Arriba, Roosevelt, San Juan, Sandoval, Sierra, and Taos counties volunteered to pilot a Narcan distribution program from their detention facilities. The pilot program is a county state partnership in which the state has set aside \$440,196 for county jails to purchase naloxone.