



NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

Program
Evaluation
Unit

Program Evaluation: Review of the Criminal
Justice System in Bernalillo County

July 19, 2018

Report #18-05



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July 19, 2018

Mr. Arthur W. Pepin, Chair
Bernalillo County Criminal Justice Coordinating Council
237 Don Gaspar
Santa Fe, NM 87501

Dear Chairman Pepin:

The Legislative Finance Committee are pleased to transmit the study, *Review of the Criminal Justice System in Bernalillo County*. The review focused on the role that state and local agencies play in the criminal justice system in Bernalillo County. The review also sought to describe the extent of the increased crime in the Albuquerque area, determine the likely causes, and identify promising solutions including resource allocation recommendations.

The review will be presented to the Legislative Finance Committee on July 19, 2018. Exit conferences were conducted to discuss the contents of the report with the Administrative Office of the Courts, 2nd Judicial District Court, Bernalillo County Metropolitan Court, the 2nd Judicial District Attorney's Office, Law Offices of the Public Defender the City of Albuquerque, Bernalillo County officials, and Albuquerque Police Department, on July 12, 13, and 16, 2018.

We believe this report addresses issues the Legislative Finance Committee asked us to review and I hope Bernalillo County and the state as a whole will benefit from our efforts. We very much appreciate the cooperation and assistance we received from all parties involved.

Sincerely, 

David Abbey, LFC Director

DA:JC:AC:TM/al

CC: Representative Patricia A. Lundstrom, Chair, Legislative Finance Committee
Senator John Arthur Smith, Vice-Chair, Legislative Finance Committee

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EXECUTIVE SUMMARY



Deteriorating Social Conditions Exacerbated System Failures to Hold Offenders Accountable and Address Root Cause

Crime is expensive, and Albuquerque has among the highest crime rates in the nation. Victims pay the highest price, but taxpayers also bear the financial burden of enforcement, prosecution, incarceration, prevention, and intervention. Communities also pay, through lower property values, underperforming schools, broken families, and numerous other social costs. This LFC review of crime and criminal justice in Bernalillo County, where high crime has attracted local concern and national attention, finds a system that suffers from critical gaps between reality and the best practices of law enforcement, jurisprudence, and incarceration.

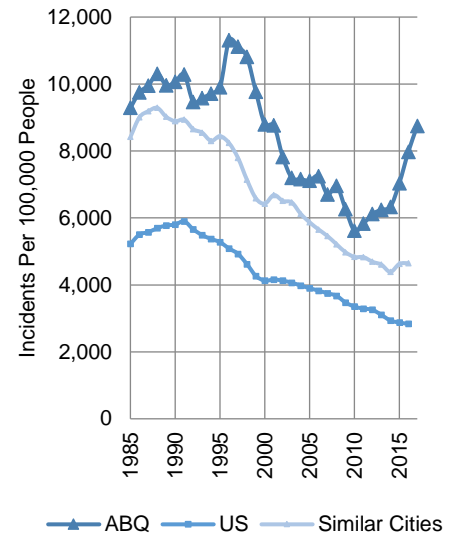
The high incidence of crime in Bernalillo County and the state as a whole prompted the courts and criminal justice agencies to seek significant increases during the 2018 legislative session. The Legislature responded by providing one of the largest expansions in the state to the 2nd Judicial District Attorney. In addition, LFC, which conducted a cursory review of Bernalillo County crime statistics in late 2017, launched a comprehensive evaluation of the Bernalillo County criminal justice system to assess trends and the current situation of crime and systems.

Albuquerque experienced an increase in crime starting in 2011, around when metrics of poverty, homelessness, income inequality, drug use, and gun use all worsened. As social conditions deteriorated, the criminal justice system held fewer and fewer people accountable while crimes continued to increase. Ensuring swift and certain accountability for criminals, along with addressing root causes of crime, are key to public safety. Police must engage in the community and focus on high-risk people and places. Jurisprudence agencies – courts, district attorney’s and public defenders – must focus on timeliness of case resolution and diversion to treatment programs. Incarceration agencies must focus on successful reentry and rehabilitation.

The LFC review found, between 2010 and 2017, the Albuquerque Police Department, the judicial system, and the Metropolitan Detention Center all suffered from problematic –and in some cases unconstitutional – practices. Arrests, indictments, and convictions in the Bernalillo County criminal justice system all declined, while reported crime and recidivism increased. Participation in specialty courts and other diversion programs and work release programs also fell.

Bernalillo County agencies have invested in many reforms in recent years, including some spurred by a U.S. Department of Justice investigation of misconduct at APD. Since the end of 2017, reported crime is decreasing in Albuquerque and, in June of 2018, Albuquerque saw the lowest monthly crime levels since February 2016. However, if reform efforts and cooperation are not improved and maintained, and system performance is not monitored, the potential for failure remains.

**Total Crime Rate
Albuquerque and United
States
(1985-2017)**



Source: APD and FBI Data
Note: BCSO data is excluded from this figure
Similar cities=Population 500 thousand to 1 million

**Processing of defendants through
the criminal justice system**

Measure	2010	2017
APD Crimes Solved	1 in 4	1 in 7
Specialty Court Graduates	272	173
2 nd Judicial District Attorney Felony Conviction Rate	54%	49%
MDC Admits	36,250	24,289
NMCD Bern Co Admits	1,464	1,186

Sources: APD, AOC, MDC, NMCD, NMSC

Key Recommendations

The Legislature should consider legislation:

- To minimize financial burden for specialty court participants;
- The Legislature should consider legislation establishing basic requirements around the use of pretrial services statewide including best practices recommended by agencies cited in this report; and
- The Legislature should consider legislation that encourages sharing and removes barriers around criminal justice data while still complying with data protections put in place by the Federal government.

APD and BCSO should:

- Direct officers to spend uncommitted time using tactics from evidence-based policing strategies focusing on people, hot spots, and problems identified through use of analytical tools such as the Real Time Crime Center. Tool kits for selection of which practices and programs to use in certain tactical environments can be found at the Center for Evidence-Based Crime Policy <http://cebcp.org/evidence-based-policing/>.
- APD and BCSO should implement up to date police staffing studies and APD should put tracking systems to monitor progress to meeting staffing goals. Priority should be given to staffing field services and specific specialized units of detectives to work towards improving clearance rates of key crimes and decrease drug trafficking.

Bernalillo County, 2nd Judicial District Court, and Bernalillo County Metropolitan Court should implement pretrial services universal screening, performance management system, and quarterly reporting to BCCJCC to guide policy and management decisions

The Administrative Office of the Courts should increase current oversight efforts to include adopting and reporting on evaluation requirements for all specialty courts.

The Administrative Office of the Courts, the Law Office of the Public Defender, the SJDA's Office, the 2nd Judicial District Court, and Bernalillo County Metropolitan Court should explore specialty court options that could increase utilization of these courts.

Bernalillo County should work to implement procedures that facilitate successful release of inmates into the community including the following components:

- Amend their contract with their behavioral health service provider to include requirements to implement a valid and reliable risk needs assessment and screening to be universally administered to inmates at intake. The requirement should also include transmission of this information to staff at the resource reentry center for use upon release;

-
- Work to increase the number of inmates released during business hours;
 - Making key staff at the resource reentry center and MDC available on a 24 hour basis to facilitate connection of former inmates to resources including prescription medication and transportation;
 - Defining, measuring and promoting use of evidence-based (and promising) programming in jails, prisons, and the community while still allowing room for home grown innovative and effective programs.
 - Develop improved performance measures for the Metropolitan Detention Center including recidivism, percent of inmates signed up for Medicaid, and percent of inmates connected to services upon reentry.

BHSD should continually work with stakeholders to identify and address Medicaid reimbursement needs for evidence-based behavioral health treatment programs.

Bernalillo County and the City of Albuquerque should consider permanently staffing the BCCJCC, including data analysts, in order to provide additional support to criminal justice partners.

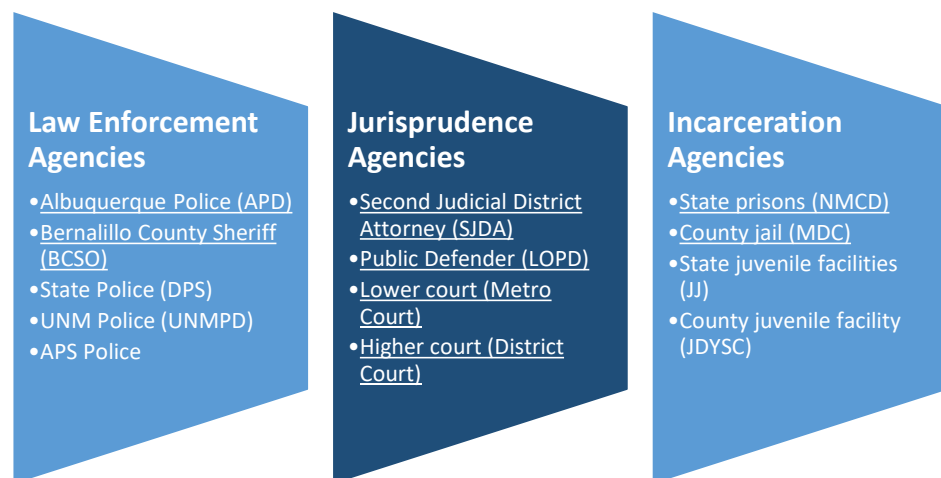
The BCCJCC should

- Develop a set of performance metrics to better track the Bernalillo County criminal justice system performance;
- Foster the use of evidence-based practices throughout the Bernalillo County criminal justice system;
- Coordinate unified use of resources including the real time crime center at APD to work toward common goals of focusing on people and places through evidence based practices

The Bernalillo County Criminal Justice System

The combined criminal justice system in Bernalillo County consists of over a dozen independent federal, state, and local law enforcement agencies, jurisprudence agencies, and incarceration. In general, law enforcement initiates criminal proceedings with arrests, jurisprudence agencies process defendants through the court of law, and incarceration agencies detain and supervise those found guilty. In practice, each of these stakeholders have much more complex roles to play in the system. Law enforcement protects the public and often tries to prevent crime, by engaging with the community and focusing on hot spots of criminal activity. Jurisprudence agencies also help enforce the law by seeking accountability for crimes, safeguarding constitutional rights, and connecting defendants with services to address root causes of crime (e.g. drug court). Incarceration agencies protect the public by securely holding or supervising criminals and providing services aimed at rehabilitation. This review focuses on the agencies that have the most appreciable impact on the criminal justice system in Albuquerque (underlined in Figure 1).

Figure 1. Simplified View of the Bernalillo County Criminal Justice System: State and Local Agencies Focused on for this Review are underlined



In addition to the agencies listed in Figure 1, a number of targeted boards, councils, consortiums, and committees from the City of Albuquerque and Bernalillo County also focus on parts of the criminal justice system, as seen in Table 1. These entities meet regularly to address select problems within the criminal justice system in Bernalillo County and Albuquerque. These include issues related to mental health, substance use, police oversight, community policing and behavioral health.

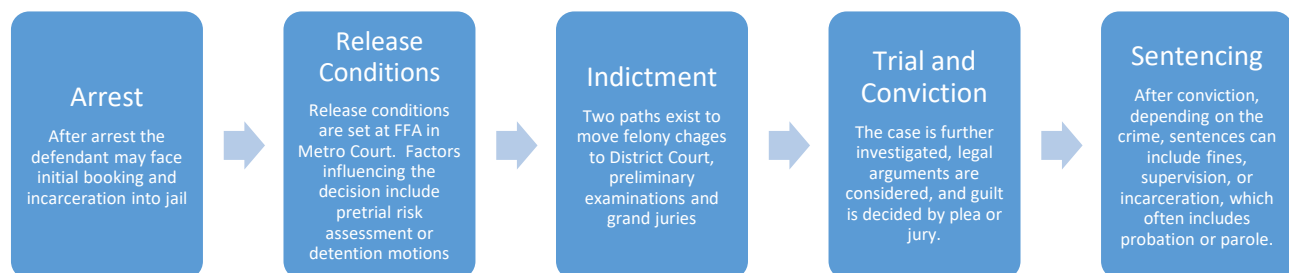
Table 1. Listing of Bernalillo County Focused Boards, Councils, Committees, and Consortia

Albuquerque Bernalillo County Government Commission (includes steering committee and four subcommittees)
Bernalillo County Addiction Treatment Advisory Board
Bernalillo County Criminal Justice Coordinating Council (includes subcommittees and other working groups)
Bernalillo County Detention Facility Management Oversight Board
Bernalillo County DWI Planning Council
City of Albuquerque Civilian Police Oversight Agency
City of Albuquerque Community Policing Councils (6 total)
City of Albuquerque Forensic Intervention Consortium
City of Albuquerque Mental Health Response Advisory Committee
City of Albuquerque Police Oversight Board

Source: City of Albuquerque and Bernalillo County

The criminal justice process involves all of these players and can be complex. Figure 2 shows a simplified version of how a typical felony case might flow through the system from arrest to conviction. After a defendant is arrested they might face initial incarceration in county jail and receive conditions of release at their first felony appearance (FFA). At the FFA, often in Metro Court, the district attorney might also seek pretrial detention for defendants considered a danger to the community. The district attorney then seeks indictment through either a preliminary examination or grand jury. If the case proceeds, the court imposes scheduling deadlines, attorneys collect and review more evidence, and the case may then go to trial which could result in a conviction. Depending on the crime and the conviction the defendant may face a number of penalties including but not limited to supervision or incarceration in jail or prison. Note that a number of alternatives to the flowchart in Figure 2 exist including diversion, pleas, dismissals, and other outcomes (see Appendix B for a more detailed flowchart on the sequence of a felony case).

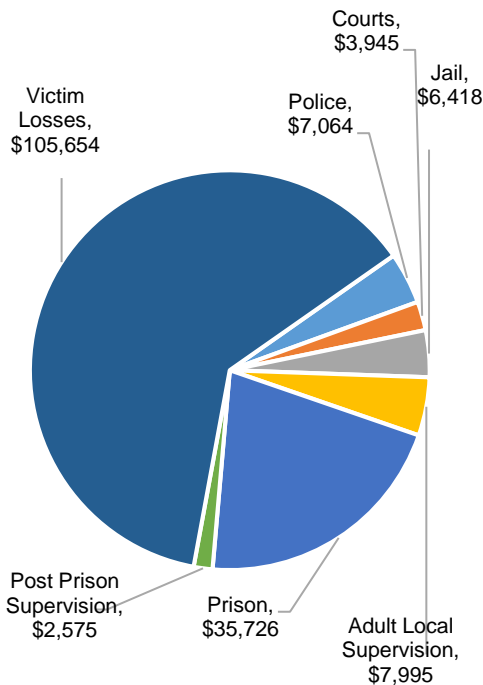
Figure 2. Simplified Version of a Felony Case Resulting in Conviction



The average cost of a felony crime resulting in a conviction in New Mexico is \$169 thousand dollars.

Crime is expensive in terms of social costs and actual monetary costs to victims and taxpayers. As shown in Chart 1, much of the cost of crime is to the victim with differing costs at each level of the criminal justice system. This estimate was developed through the New Mexico Results First Approach by developing actual average cost estimates of crime at different levels of the system and to victims. Crime can also have a significant social impact.

Chart 1. Average Cost of a Felony Crime & Conviction In New Mexico
Total: \$169 thousand



Research suggests children living within proximity to violent crime do worse on standardized tests and tend to have lower economic mobility compared with children living in safer places. Researchers also found that children exposed to recent local violence regress the equivalent of going back two years in school. While national crime rates remain historically low, some major cities and counties are experiencing increased reported crime as measured by Uniform Crime Reporting (UCR) statistics.

The criminal justice system in Bernalillo County has received increased funding in recent years.

Local and state governments spent \$490 million in FY18 on agencies directly involved in the criminal justice system in Bernalillo County to address the costs associated with public safety. In FY18, there were 53 thousand total reported crimes and 2,441 felony convictions. Chart 2 and 3 show the allocation of these resources by source and agency budget. Expenditures increased by \$60 million, or 15 percent, over that time frame. The agencies identified consist of four law enforcement agencies (Albuquerque police (APD), Bernalillo County sheriff (BCSO), state police (DPS), and UNM police (UNMPD)), four incarceration agencies (state prisons at the New Mexico Corrections Department (NMCD), county jail (MDC), state juvenile facilities (JJ), and county juvenile facility (JDYSC), and four jurisprudence agencies (Second Judicial District Attorney (SJDA), public defender (LOPD), lower court (Metro Court), and higher court (District Court)). There are also agencies that treat behavioral health and substance abuse issues that often interact directly with justice-involved populations, but the extent to which that is the case is unknown and is not presented here.

Source: NM Results First Model

Chart 2. Local and State Government Direct Spending on Criminal Justice in BernCo Increased from \$430M in FY10 to \$490M in FY18
(OpBuds in millions)

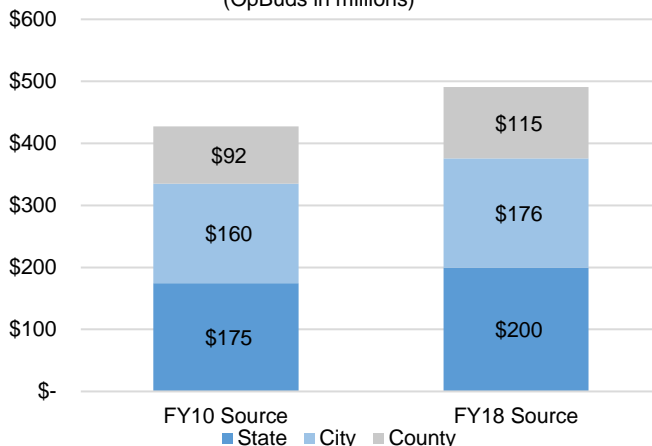
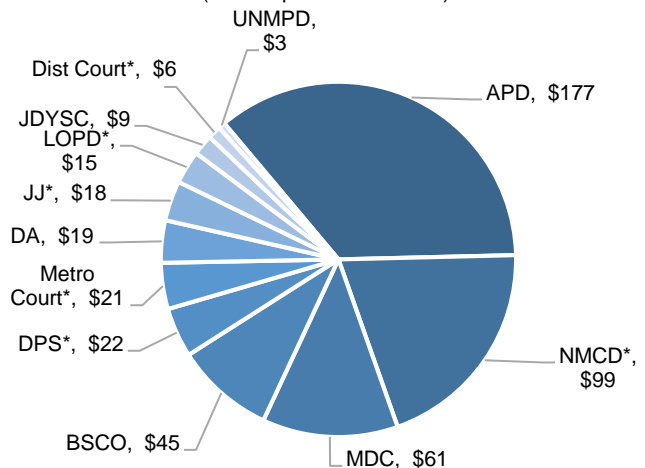


Chart 3. Local and State Government Direct Spending on Criminal Justice in BernCo - \$490M
(FY18 OpBuds in millions)



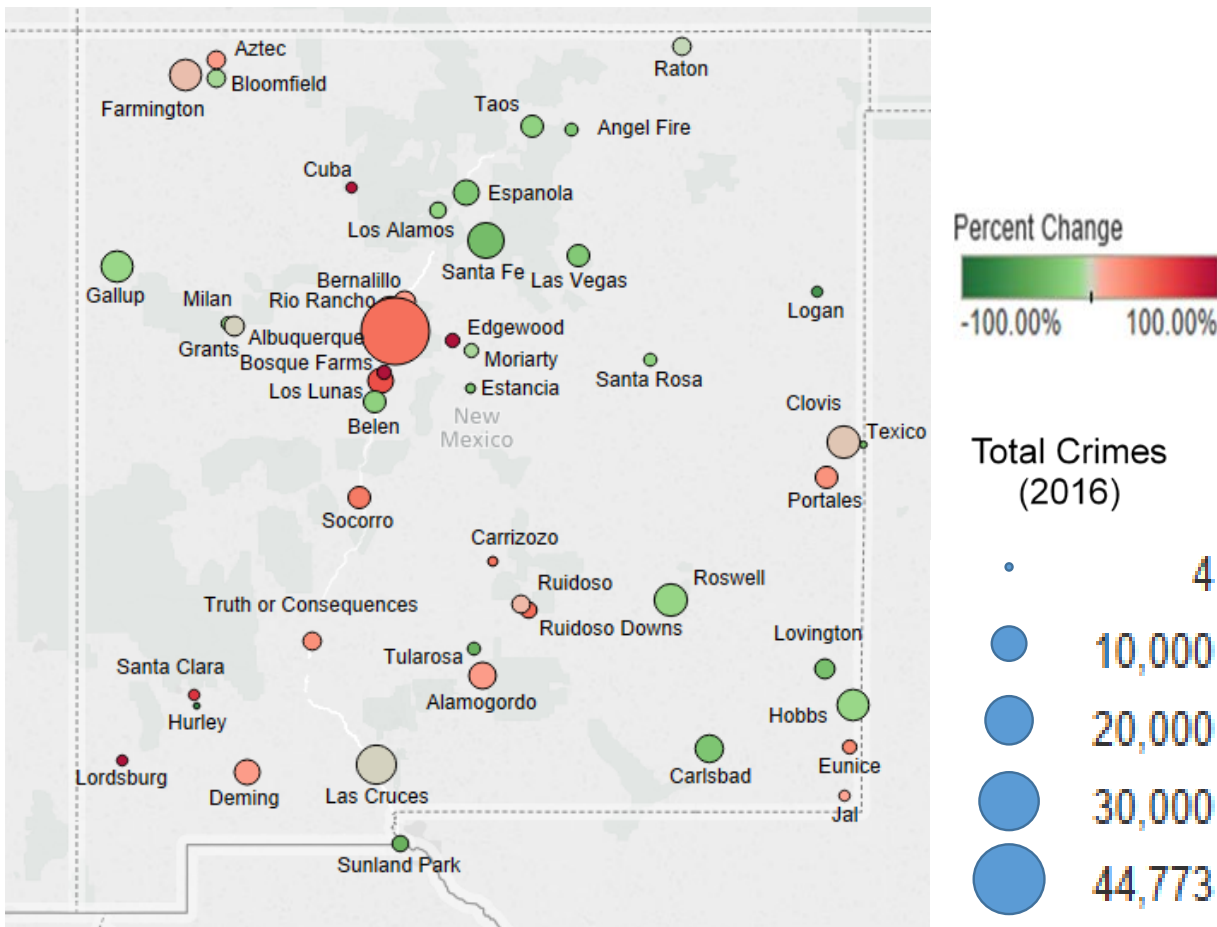
Source: City of Albuquerque, Bernalillo County, State of New Mexico budget documents; *NMCD and JJ spending estimated by fraction of admissions from Bernalillo county. LOPD and DPS spending estimated as fraction of FTE stationed in Bernalillo county. District and metro court spending estimated by fraction of criminal cases opened. Doesn't include spending on behavioral health or other criminal justice initiatives by the County, City, or State

In FY18, law enforcement received 50 percent of the total funding, incarceration 38 percent, and jurisprudence 12 percent. Local government

contributed 60 percent of the funding, \$290 million, and state government contributed 40 percent, \$200 million. The only two agencies outside of healthcare receiving more direct state recurring funding in Bernalillo County are public schools at \$826 million, and higher education, at \$330 million.

Albuquerque makes up the largest share of reported crimes of any city in the state. From 2010 to 2016, while some other New Mexico cities experienced a larger percentage increase in crime, Albuquerque experienced the highest increase in total reported crime.

Figure 3. Percent Change and Total Number of Criminal Offenses Per 100 Thousand Persons From 2010-2016



Source: FBI UCR Data

Notes: New Mexico cities do not include county agencies. Some small cities experienced crime increases or decreases greater than 100 percent over the 2010-2016 period and those figures have been limited to 100 percent in the figure above for purposes of scaling. UCR 2010-2016 numbers are reported here, as UCR 2017 numbers are not yet publicly available.

Albuquerque has the highest total reported crime in the state, and has seen a significant increase in recent years. Overall, the crime rate in New Mexico cities dropped by 1.5 percent between 2014 and 2016, but rose by 26 percent in Albuquerque over the same time (**Chart 4**). However, the cities of Belen, Taos, Gallup, and Espanola had higher total crime rates than Albuquerque in 2016.

Chart 4. Total crime rate per 100,000

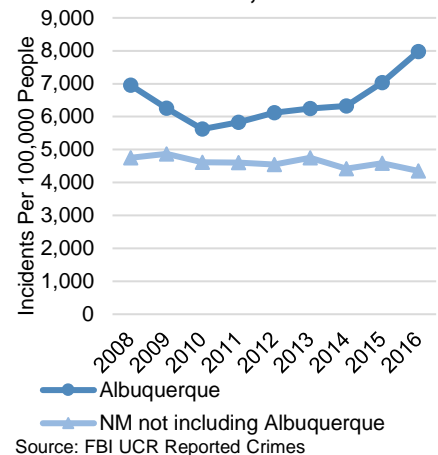


Table 2. NM Cities With Highest Crime Rates Per 1,000* (2016)

City	Violent Crime	Property Crime	Total Crime
Belen	17.1	75.3	92.5
Taos	9.9	78.7	88.6
Gallup	17.3	70.0	87.3
Espanola	26.7	55.5	82.3
Albuquerque	11.1	68.6	79.7

Source: FBI UCR Part 1 Reported Crimes; *Crime per 1,000 is used here in place of crime per 100,000 in order to make crime rates of cities with populations under 100,000 more meaningful

The Uniform Crime Reporting (UCR)

Program collects statistics on property crime and violent crime. **Part 1 crimes** consist of eight crimes; murder and non-negligent homicide, rape, robbery, aggravated assault, burglary, motor vehicle theft, larceny-theft, and arson. The offenses were chosen because they are serious crimes and occur with regularity in all areas of the county, and they are likely to be reported to the police and result in felonies.

Part II crimes only include arrest data for less serious crimes most benchmarking and data reported here are UCR Part 1 crimes unless otherwise specified.

As of 2016, the Albuquerque crime rate ranks highest for all crime and for property crime compared to the 30 largest cities in the United States, and second highest for motor vehicle theft. At the peak of the crime rate in Albuquerque in 1996, the crime rate ranked 5th for all crime, 2nd for property crime, and 6th for motor vehicle theft. Most strikingly, Albuquerque has climbed from 12th to 5th in violent crime when compared to 1996. Albuquerque reported crime trends are discussed more in a later chapter.

Table 3. Albuquerque Crime Rate Rankings Among 30 Largest US Cities

	1996	2006	2016
All Crime	5th	9th	1st
Violent	12th	13th	5th
Property	2nd	9th	1st
Murder	14th	27th	14th
Motor Vehicle Theft	6th	10th	2nd

Source: Brennan Center for Justice

UCR Property Crimes:

- Motor Vehicle Theft
- Burglary
- Larceny-theft
- Arson

UCR Violent Crimes:

- Homicide
- Rape
- Aggravated Assaults
- Robbery

Reported crime is an under representation of total crime as many crimes go unreported. According to the National Crime Victimization Survey (NCVS), people report certain crimes at higher rates, such as motor vehicle theft, likely due to insurance purposes. Other crimes such as rape may go unreported up to 77 percent of the time.

Table 4. Selected UCR Part 1 Crimes Reported and Reporting Rates with an Extrapolation to Total Crime Counts in Albuquerque

	Murder*	Rape	Robbery	Aggravated Assault	Burglary	Larceny*	Motor Vehicle Theft
2016 UCR Reported Crime in Albuquerque	61	381	1,957	3,846	6,236	24,582	7,710
2016 Percent of Crime Reported to Police (NCVS)	100.0%	22.9%	54.0%	58.5%	49.7%	41.0%	79.9%
Total Albuquerque Crime Counts Based On NCVS	61	1,664	3,624	6,574	12,547	59,956	9,650

Source: DOJ National Crime Victimization Survey, FBI UCR data for APD, methodology from WSIPP

Note: *In this analysis the assumption is made that all murders will be reported to police; unreported larceny figures are from previous years' surveys 2006-2010, arson is not included in NCVS

Caution should be used in interpreting these extrapolations as the two data sources track similar crime categories but they are not identical, see https://www.bjs.gov/content/pub/pdf/ntcm_2014.pdf

According to FBI UCR trends, reported crime in Albuquerque started rising in 2011, with a sharper increase starting in 2014. This triggered growing public alarm, and in the months leading up to the 2018 Legislative session, the Legislature started received requests for additional funding for agencies and local governments in Bernalillo County and Albuquerque that cited the increased crime rate and need for additional resources. Legislative Finance Committee staff assisted in analyzing a number of these requests, and the Committee put a review of the Bernalillo County criminal justice system on its work plan.

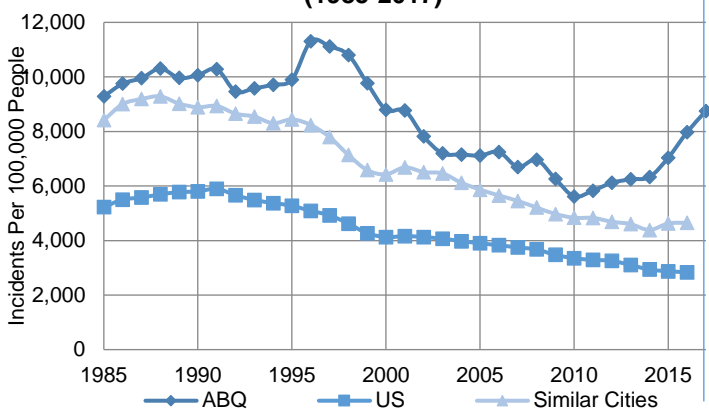
The goal of this evaluation review is to identify potential factors influencing the recent increases in crime, evaluate how crimes are processed in the Bernalillo County criminal justice system, and recommend improvements to the system that may help to effectively address and reduce crime in Bernalillo County.

FINDINGS AND RECOMMENDATIONS



Deteriorating Social Conditions and Criminal Justice System Performance Likely Contributed to the Bernalillo County Crime Increase

Chart 5. Total Crime Rate Albuquerque and United States (1985-2017)



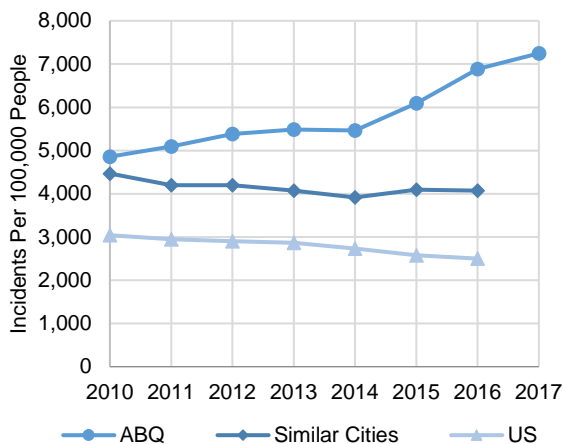
Source: APD and FBI Data

Note: BCSO data is excluded from this figure as UCR data is missing in some years
Similar cities=populations between 500 thousand and 1 million

In 2010, the Albuquerque area experienced the lowest crime rate in modern history. Reported crime peaked in 1996 with continual declines evident in most years through 2010. Starting in 2011, Albuquerque began to see increases in the crime rate. The increase was gradual with a sharper increase starting in 2015.

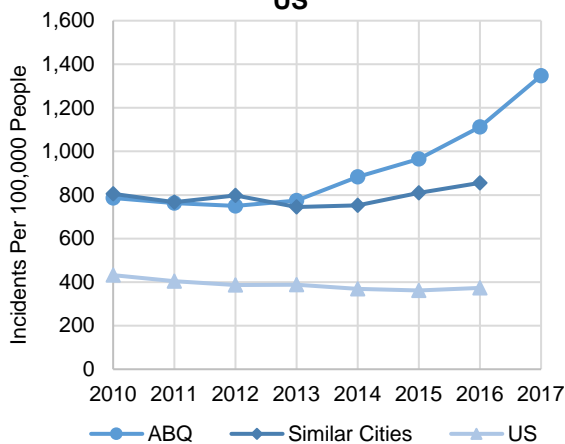
The property crime rate in Albuquerque is higher than similar cities and the United States. However, since 2014, the property crime rate increased at a higher pace, with a 33 percent increase from 2014 to 2017. The violent crime rate kept pace with similarly sized cities until 2014, and then increased by 53 percent between 2014 and 2017.

Chart 6. Property Crime Rate For Albuquerque, Similar Cities and the US



Source: FBI UCR and APD

Chart 7. Violent Crime Rate For Albuquerque, Similar Cities and the US



Source: FBI UCR and APD

Social and economic conditions deteriorated in the aftermath of the great recession affecting some parts of the city more than others.

Determining causality of crime is challenging, and academics have trouble agreeing over what caused the great nationwide crime decline over the last twenty years. Poverty, lack of education, inaccessibility of housing, unemployment, lack of services for the mentally ill, and many other systems have the potential to impact crime rates.

Since 2010, Bernalillo County experienced increases in some poverty measures, which research associates with crime. A number of studies have found that poverty is significantly associated with violent crime. This is not to say that poverty causes violence, but rather the two are often linked with one another. Violence is also linked to urban inequality. Besides having causal effects on lowering children's cognitive functioning and academic performance, violence can also impact individual and business investment in communities. Additionally, children that grow up in violent counties have less upward mobility as adults.

Since 2010, Albuquerque has experienced increases in the poverty rate of families with children, families receiving public assistance, and residents living in high poverty neighborhoods. Measures of income inequality have also increased. According to a recent study of Albuquerque by PolicyLink and the Program for Environmental and Regional Equity (PERE), poverty and working-poverty rates in the region are consistently higher than national averages. Albuquerque ranks 59th among the largest 100 cities in terms of income inequality, reflecting a growing lower-income class and shrinking middle class. Albuquerque has experienced a 63 percent increase in chronically homeless people since 2013 according to the New Mexico Coalition to End Homelessness.

The highest crime area in the state also saw the largest increase in families living in poverty. Poverty and crime have intensified in micro areas of Bernalillo County. For example, although the poverty rate for families has only risen a few percent for the county overall, there are neighborhoods in Albuquerque that have experienced enormous changes in the percent of families in poverty. Figure 4 shows census tract 21, which experienced a 46 percent increase in poverty from 2010 to 2016, the highest increase in families in poverty of any census tract in Albuquerque. Census tract 21 also has the highest crime index in the state of New Mexico. Crime in census tract 21 is 585 percent higher than the US average. There is also a significant correlation between the change in families living in poverty and the overall crime index in Albuquerque at the census tract level.

Between 2010 and 2017 Albuquerque has experienced increases in

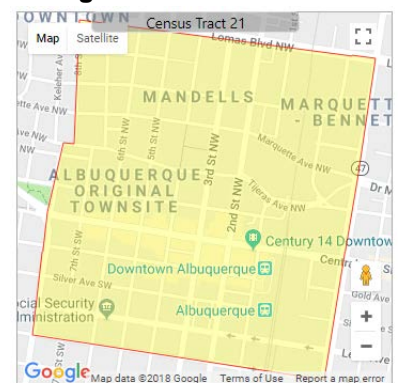
- **Families in poverty**
- **Families receiving public assistance**
- **Income inequality**
- **Child maltreatment rates**
- **Number of homeless**
- **Negative outcomes related to substance use**
- **Percent of population outside the labor force**

Table 5. Bernalillo County Poverty Indicators

Measure	2010	2016
Poverty Rate for Families	11.8%	14.5%
Poverty Rate for Families with Children	18.9%	23.1%
Families Receiving Public Assistance in Past 12 Months	26.9%	31.4%
Albuquerque residents living in high poverty neighborhoods*	2.9%	10.7%
GINI Index of Income Inequality	0.453	0.471

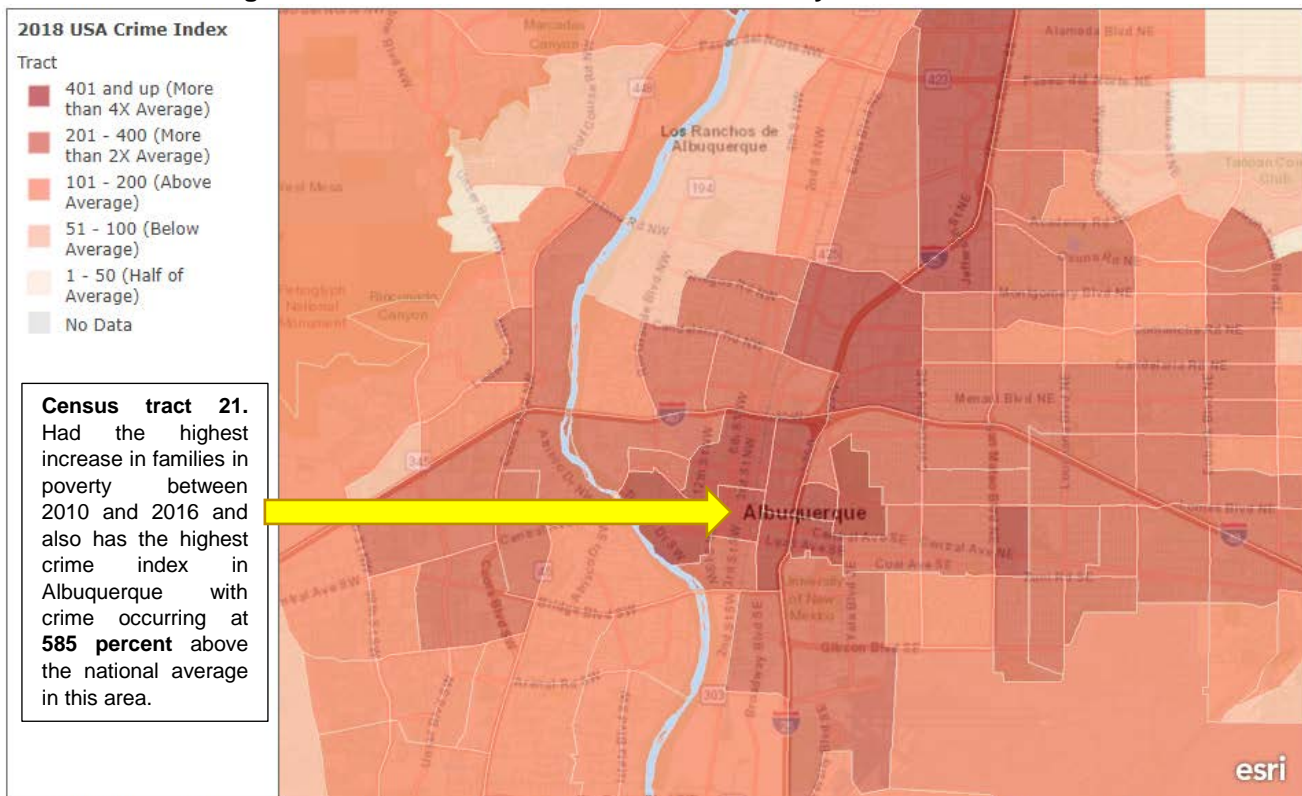
Sources: US Census, USA Today*
Note: Public assistance includes SSI, cash public assistance income, or SNAP benefits

***Figure 4. Census Tract 21**



Census tract 21 (Pop. = 1,887) covering downtown Albuquerque from Lomas to Coal and Broadway to 8th Street, experienced a 46 percent increase in the number of families living in poverty between 2010-2016, the largest increase in the county. It also has the highest crime index in the state with crime occurring in this area at 585 percent above the national average.

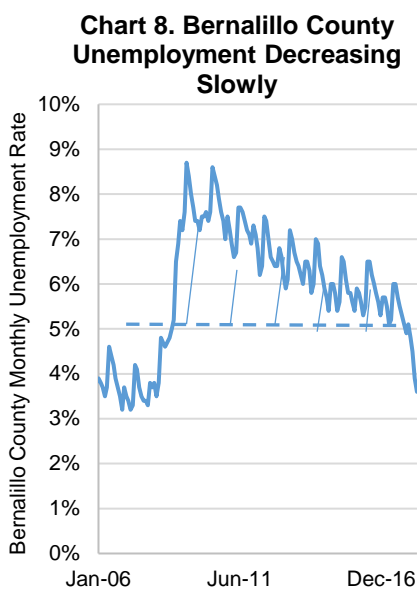
Figure 5. 2018 Crime Index for Bernalillo County at the Census Tract Level



This layer shows the total crime index in the U.S. in 2018, by state, county, ZIP Code, tract, and block group. ArcGIS Online subscription required.

Esri, AGS | City of Albuquerque, Bureau of Land Management, Esri, HERE, Garmin, NGA, USGS, NPS

Figure 5. shows index values select Bernalillo County census tracts. A value of 100 represents average crime for the country. A value of more than 100 represents higher crime than the national average, and a value of less than 100 represents lower crime than the national average. For example, an index of 120 implies that crime in the area is 20 percent higher than the US average; an index of 80 implies that crime is 20 percent lower than the US average.



Source: U.S. Bureau of Labor Statistics

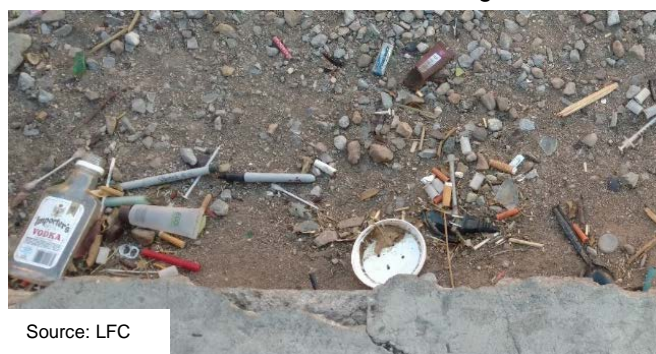
Sustained levels of unemployment in Bernalillo County correspond with the crime increase. Sustained levels of unemployment have been shown to raise crime rates on the county level. Unemployment has been decreasing in Bernalillo County since the recession, but at a slower rate than the national average. While the U.S. returned to what the Federal Reserve considers full employment, 5.2 percent, in July 2015, Bernalillo County did not experience a return to full employment until November 2017, around the time when crime in Bernalillo began to decrease. The sustained level of unemployment in Bernalillo County lasted for a decade, illustrated by the shaded in area in Chart 8.

Evidence suggests increased prevalence of illegal drug use and gun use. New Mexico is experiencing a significant surge in methamphetamine use. According to the National Institutes of Health (NIH), methamphetamine is a stimulant drug with long-term effects of dental problems, paranoia, hallucinations, and violent behavior. Rosenfeld et al (2017) recently completed a study (which included Albuquerque) hypothesizing expansions in illicit drug markets potentially contributing to the overall homicide rise in large cities.

A common theme that emerged from interviewing stakeholders across the Bernalillo County criminal justice system is rapid growth in the use of methamphetamines and difficulties in dealing with chronic users. Data from

the Department of Health (DOH) shows that between 2010 and 2016 amphetamine-related emergency department visits more than tripled in Albuquerque (DOH notes the most recent year of data may be impacted by changes in reporting requirements). Although there do not seem to be many effective treatments to address amphetamine use, analysis from the New Mexico Results First model lists brief cognitive behavioral intervention for amphetamine users as having a positive return on investment. The program is a standalone treatment consisting of weekly sessions of cognitive-behavioral therapy (see Appendix I).

Figure 6. Used Needles and Empty Alcohol Bottle near Intersection of Central and Washington



According to the Council of State Governments, New Mexico also continues to have one of the highest drug overdose death rates in the nation. Additionally, emergency department visits for amphetamine poisoning, opiate poisoning, and self-harm visits are all trending upwards. Other substance use measures are worsening in Albuquerque, including opioid-related deaths and alcohol-related deaths. UNM and Bernalillo County have identified gaps that exist in available drug treatment despite increases in Medicaid enrollment.

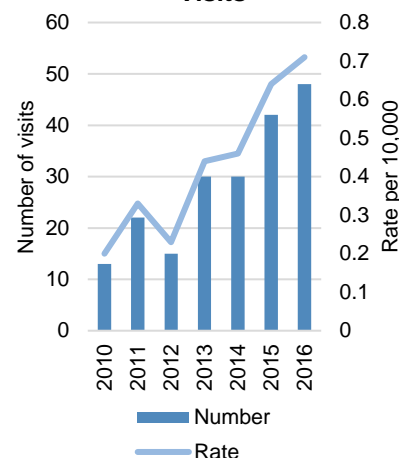
Figure 7. LFC staff encountered multiple scenes of residents that were homeless and/or identified as active drug users



Gun violence has also increased significantly in Bernalillo County and Albuquerque since 2010. There appears to be a relationship between the concentration of extreme poverty in Albuquerque and reports of shootings and shots fired.

Amphetamine poisoning ED visits have more than tripled since 2010

Chart 9. Bernalillo County Amphetamine Poisoning Emergency Department Visits



Source: DOH
Note: Emergency departments changed from ICD-9-CM to ICD-10-CM reporting in October 2015. This change in reporting will impact trends and any changes between 2015-2016 should be interpreted with caution. Data reflect all ED visits among Bernalillo County residents to non-federal hospitals.

Figure 8. Map of Albuquerque Showing Concentration of Shootings and Shots Fired Calls For Service (2017)

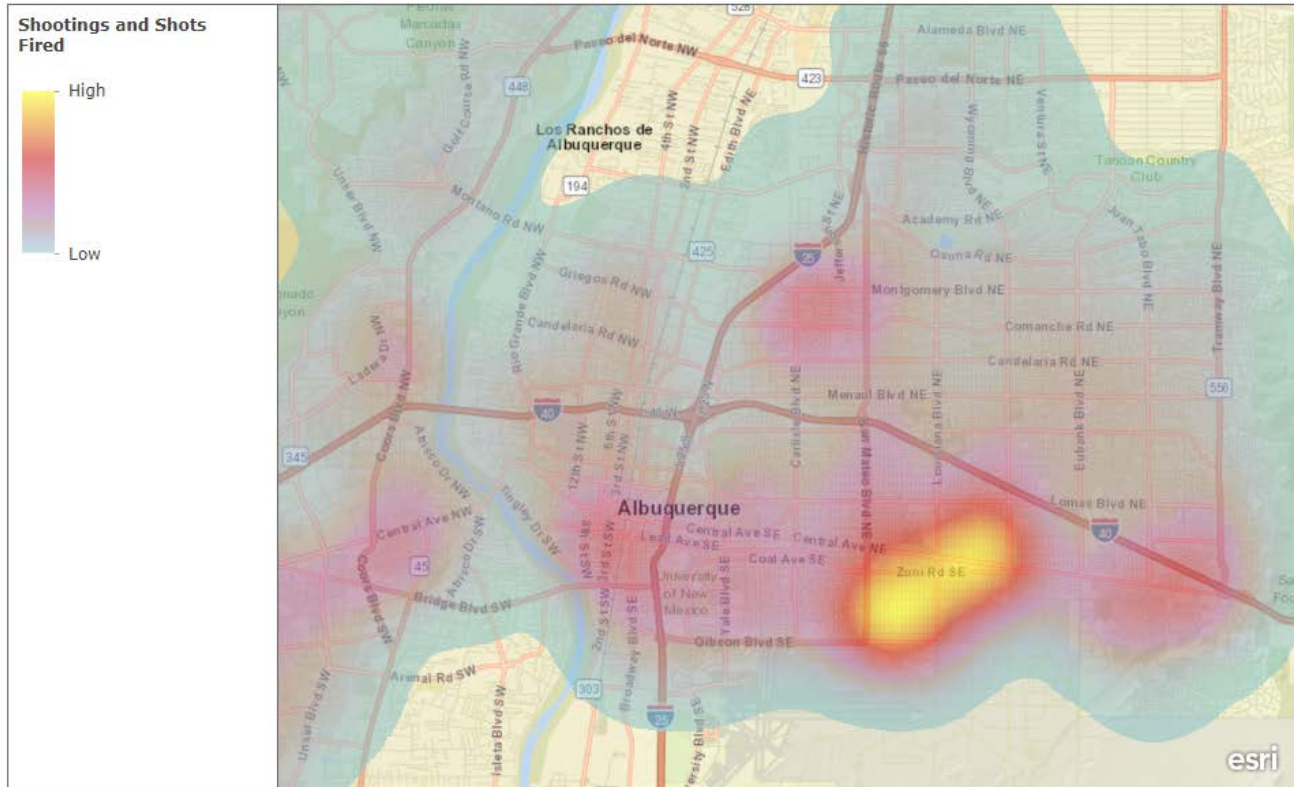
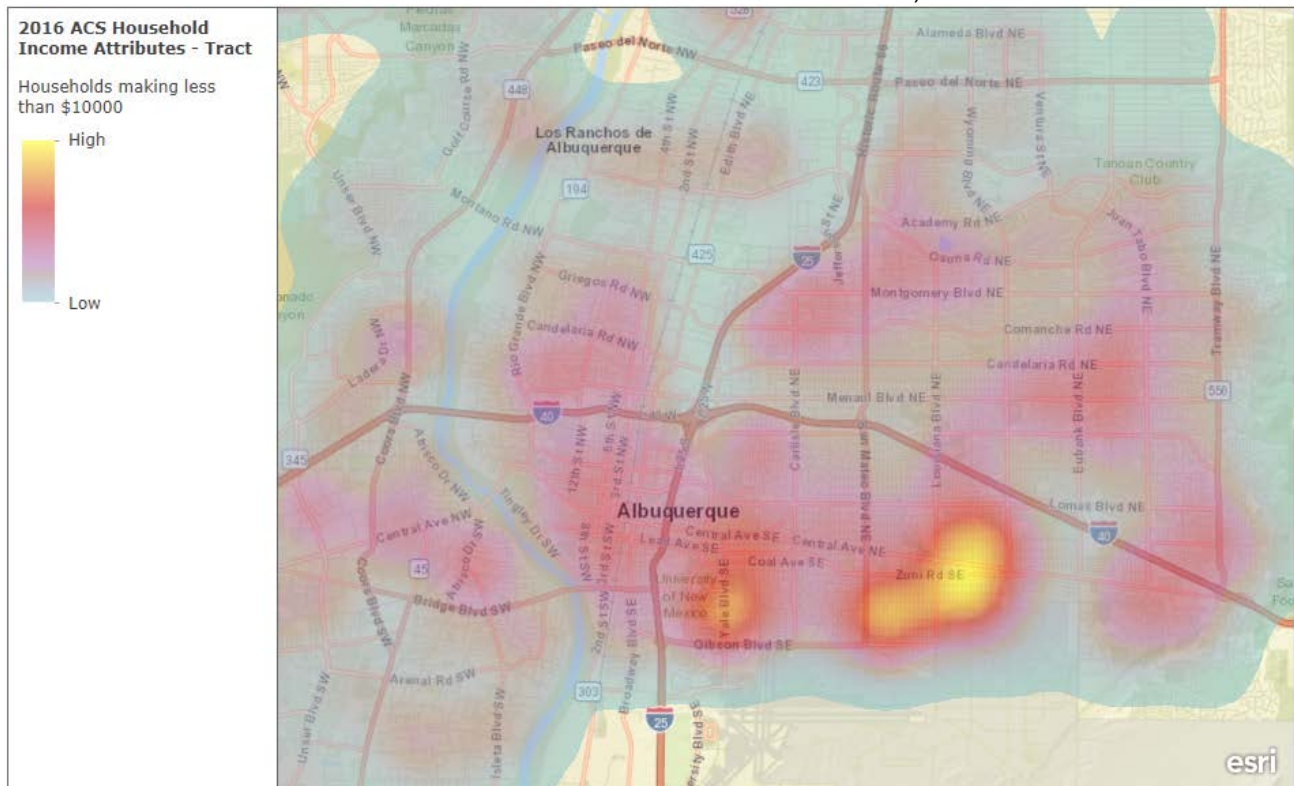


Figure 9. Map of Albuquerque Showing Concentration of Extreme Poverty in Albuquerque (measured as households with income under \$10 thousand)



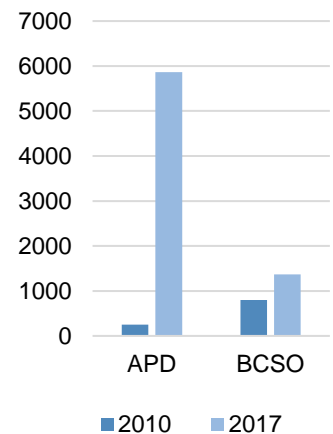
Analysis of APD calls for service (CFS) data also shows that between 2010 and 2017, shootings and shots fired designations have increased by over 2,000 percent, from 250 CFS to 5,867 CFS. APD analysts have confirmed to LFC staff that the increase is not due to errors in reporting. Analysis of BCSO CAD data shows a smaller, but still significant, increase of 71 percent, from 801 CFS to 1,371 CFS over the same time period. Between 2010 and 2017 APD reports a 43 percent increase in the use of firearms in the commission of a homicide.

Criminal justice system performance did not keep pace with increased crime, particularly in and after 2015.

As crime increased, criminal justice stakeholders struggled to maintain processing of defendants while released individuals accumulated new charges at higher rates. A gap between the numbers of reported crimes and defendants processed in the criminal justice system started to grow in 2011 increasing even more in 2015 (Chart 11). The criminal justice system plays a key role in helping to address root causes of crime through programming and rehabilitation, along with deterrence of crime through swift and certain accountability for criminals. As crime started increasing in 2011, and continued to increase through 2017, processing of defendants in the criminal justice system remained consistent or in some cases declined. New felony arrests started falling behind historic levels and percentages of crimes solved (clearance rates) declined. The district attorney and courts play a key role in providing diversion programs for offenders (e.g. drug court) and sentencing convicted criminals to supervision or incarceration. Jails and prisons also play a key role in ensuring successful reentry of convicted criminals. However, system processing of indictments, convictions, and incarcerations did not keep pace with increases in reported crime. These metrics showed little to no growth, and in some cases declines. Indictments, specialty court participation, and convictions fell between 2010 and 2017 as reported crimes continued to surge. Although, convictions spiked in 2015 when the courts implemented a new case management order to speed up the justice system, conviction rates fell again in 2016 and 2017. The spike represented a clearing out of many older cases. The jail population has declined dramatically and admissions to NMCD from Bernalillo County have also fallen since 2010.

As crime began increasing in 2011, police leadership, philosophy and relationships with the courts and district attorney's office changed. Investigations by the county and the U.S. Department of Justice (DOJ) into excessive use of force by police occurred through 2014. The DOJ investigation found that APD engaged in practices of excessive force that violated the United States Constitution and federal law. A court approved settlement agreement (CASA) between the city of Albuquerque and the DOJ was reached in November of 2014.

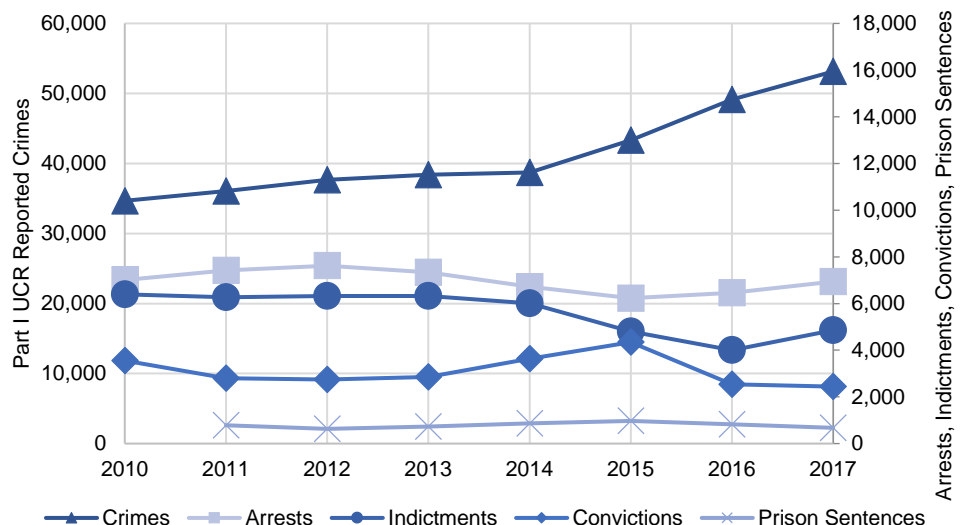
Chart 10. APD and BCSO CAD data on Shootings and Shots Fired (Combined)



Source: LFC Analysis of APD and BCSO CAD data

A gap between the numbers of reported crimes and defendants processed in the criminal justice system started to grow in 2011 increasing even more in 2015.

Chart 11. ABQ/Bernalillo CJ System - Felonies

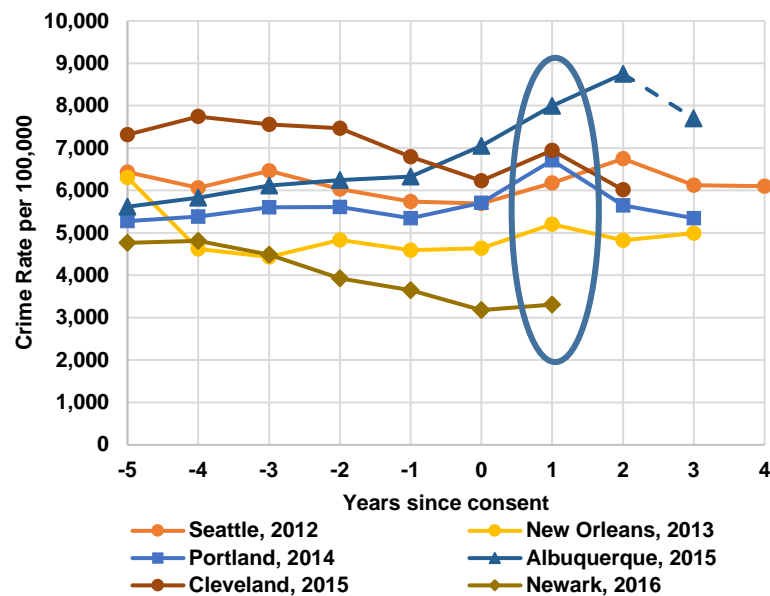


Source: APD, BCSO, UNMPD, NMCD, AOC, NMSC

Crime rates increased 12 percent to 20 percent over previous levels in all DOJ Consent cities

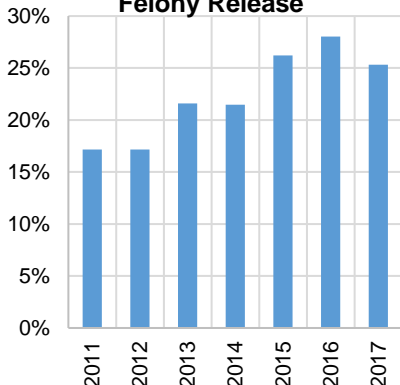
Crime increased the year after signing a DOJ consent decree in every major police jurisdiction that has done so in the last several years. Chart 12 shows the crime rate for all major continental U.S. cities that signed a consent decree since 2003, excluding Baltimore as they signed in 2017 and don't have post-consent data yet. Every city experienced one or two years of total crime rate increase the year after consent is signed, followed by a decrease. Albuquerque fits this pattern as well, including a decline after two years according to data from APD on reported crime through June 2018, shown as the dashed line in Chart 11. The change in crime rate varied from a 12 percent to 20 percent increase over previous levels. Most cities then see a general return to pre-DOJ crime trend expectation levels after a couple years. The exact reason for this increase is unclear, as is whether or not DOJ intervention might be causal to the increase. Possibilities include, but are not limited to, increased crime reporting by the public due to publicity from DOJ consent decrees, changes in police tactics or procedures that might affect reported crimes, or other intervening factors that these cities have in common that have not been identified, but do not have anything to do with DOJ consent decree

Chart 12. Crime Rate in DOJ Consent Cities



Source: FBI UCR data and local agency reports

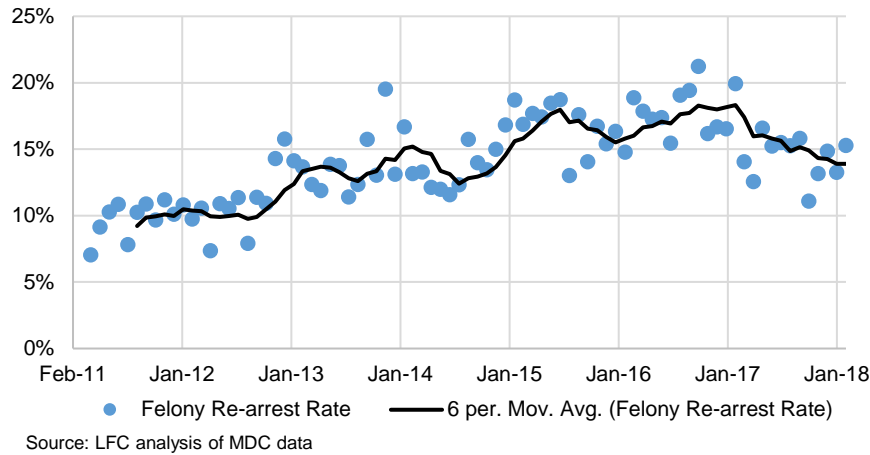
Chart 13A. New Felony Charge Within 180 Days From Defendant's Prior Felony Release



Source: LFC analysis of MDC data

What some stakeholders refer to colloquially as the “revolving door” doubled in Bernalillo County between 2011 and 2016. The percent of felony defendants released each month from MDC that pick up a new felony charge within 60 days doubled from an average of 9 percent in 2011 to an average of 18 percent in late 2016, peaking at 21 percent in October of that year as shown in Chart 13. The felony re-offense rate, which is based on new bookings, has since declined to an average of 13 percent as of the first two months of 2018. Annual re-offense rates for different time ranges and severity of crime show a similar pattern of sharp 2015 increase and 2017 decline, though re-offense rates began to climb before major jail, pretrial service, and court reforms began in 2015.

**Chart 13B. New Felony Charge 60 Days Within
Defendant's Prior Felony Release**



The sharp increase in re-offense rates in 2015 corresponds with the sharp increase in crime that year, though what is not clear is whether forces affecting the re-offense rates drive the crime increase or if forces affecting the crime increase drive the re-offense rates. Chart 14 shows how there is a general correlation between the re-offense rate and the overall crime rate.

The system did not fully implement best practices in concert with other reform efforts, hampering attempts to stem crime increases.

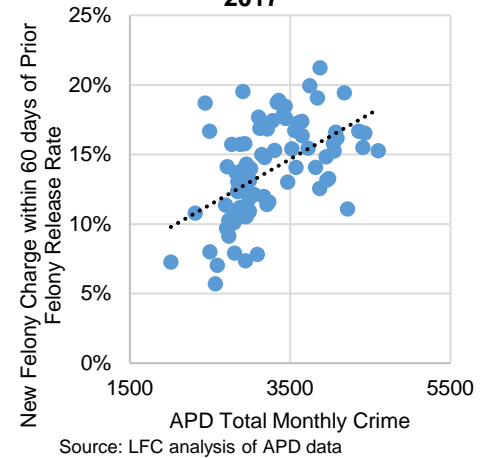
The Bernalillo County criminal justice system has undergone a number of reforms and significant events since 2010. In 2010 many parts of the system were problematic and some procedures were found to be unconstitutional. Challenges have included a number of high profile shootings, payment suspension to New Mexico behavioral health providers in 2013, slow case processing times in the courts, and a period of overcrowding at the jail. A number of reforms were initiated in response to these challenges including intervention at APD by the Department of Justice, new revenue and programming in behavioral health at Bernalillo County, initiatives to speed up case processing times, and a number of initiatives focused on pretrial justice and jail population reduction.

As referenced in Chart 15, most criminal justice system reforms occurred years after the crime increase started. There is little evidence that these changes or reforms increased the crime rate. In fact, since November of 2017 the crime rate has been declining. LFC staff projects a crime decrease for Albuquerque in 2018. If this projection holds true it would be the first decline in the city's crime rate since 2010.

Swiftness, certainty, and addressing root causes are key for crime reduction.

One of the oldest and most well studied theories of reducing crime involves deterrence. The National Institute of Justice (NIJ) summarizes research findings around deterrence theory identifying swiftness and certainty of being caught as impactful in deterring certain types of crimes. These points taken in partnership with other potential causes of crime suggest that a twofold approach could potentially lower the chances of crime: first, improving the swiftness and certainty of being caught, and second, addressing the root causes of crime.

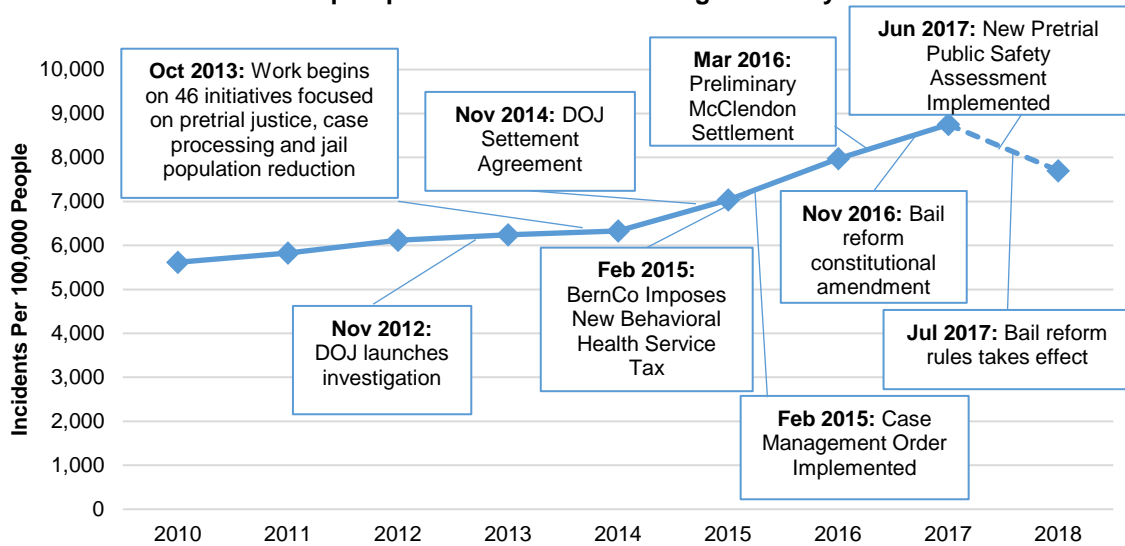
**Chart 14. Crime Monthly Rate
and Re-offense Rate, 2011-
2017**



NIJ: Five Things About Deterrence

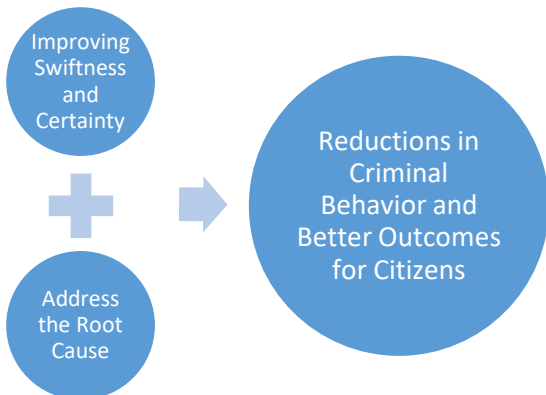
- The certainty of being caught is a vastly more powerful deterrent than the punishment;
- Sending an individual convicted of a crime to prison isn't a very effective way to deter crime;
- Police deter crime by increasing the perception that criminals will be caught and punished;
- Increasing the severity of punishment does little to deter crime; and
- There is no proof that the death penalty deters criminal

Chart 15. Albuquerque total crime rate and significant system events



Source: LFC analysis, APD. The 2018 crime rate is projected from APD crime numbers through June 2018

Figure 10. Model of Strategies to Reduce Crime



Source: LFC

Police were not implementing evidence-based practices, data driven management, or prevention consistently. Research indicates that proactive behavior and engagement with the community are key in effective policing. Evidence-based practices that did exist during the period such as community policing were not well implemented. Other evidence-based practices such as law enforcement assisted diversion (LEAD) did not exist at the time. At APD, turnover, staffing challenges, and high profile use of force cases also undermined performance and led to resource reallocation through the DOJ consent decree. BCSO does have community policing policies in place in their standard operating procedures. Detailed information on police performance and recommendations are presented in the policing chapter.

The legal system was not committed to swift resolution and did not fully utilize programs aimed at addressing root causes. Research on effective practices for courts, district attorneys and public defenders is somewhat lacking. However, research that does exist points toward use of diversion programs such as drug court, pretrial services, and resolving cases in a timely manner. Many defendants were likely not held accountable over this time period due to issues with evidence and witness cooperation. Pretrial service programs were changed multiple times with two different risk assessments implemented since 2015. Pretrial service programs were implemented with incomplete fidelity to best practice models. Felony prosecution outcomes in Second District began to deteriorate compared to the rest of the state in 2009. Evidence-based specialty courts, such as drug court, have been under-utilized, with fewer appropriate referrals, even as reported crime was increasing. Cases were not being disposed in a timely manner which led to reforms such as the 2015 Case Management Order (CMO). Detailed information on legal system performance, reforms, and recommendations are presented in a later chapter.

Jails and prisons were not preparing inmates for reentry into the community.

Best practices for jails and prisons include preparing inmates for reentry as 95 percent will be released eventually. State and county run incarceration facilities release thousands of inmates into Bernalillo County each year. MDC did not use a validated screening tool and had issues with overcrowding, criticisms of behavioral health delivery in jail, and difficulties in successfully preparing inmates for release and connecting them with services in the community. Bernalillo County started work on a number of initiatives aimed at reducing the jail population at MDC. However, jail population reductions happened at the same time that MDC felony recidivism rates began to climb. Additionally, an increasing number of state corrections inmates are being released into Bernalillo County where their recidivism rate is higher than the rest of the state. LFC released three reports on the Corrections Department between 2012 and 2013 finding significant issues with reentry and programs being run in and out of prison. The Corrections Department has made significant progress since then and LFC will be conducting a study on reentry practices and other issues in the fall of 2018. Detailed information on jail and prison performance and recommendations are presented in a later chapter.

Coordination across the criminal justice system was also lacking.

Coordinating bodies, such as criminal justice coordinating councils (CJCCs), are a means for system-based policy reform in criminal justice communities. However, the Bernalillo County Criminal Justice Coordinating Council (BCCJCC) was not established until relatively recently, existing in some form since 2013, and has met without having all of the criminal justice system partners consistently represented. Data sharing, coordinated planning, and working toward common solutions continue to be issues across the system. Detailed information on coordination and data sharing along with recommendations are presented in a later chapter.

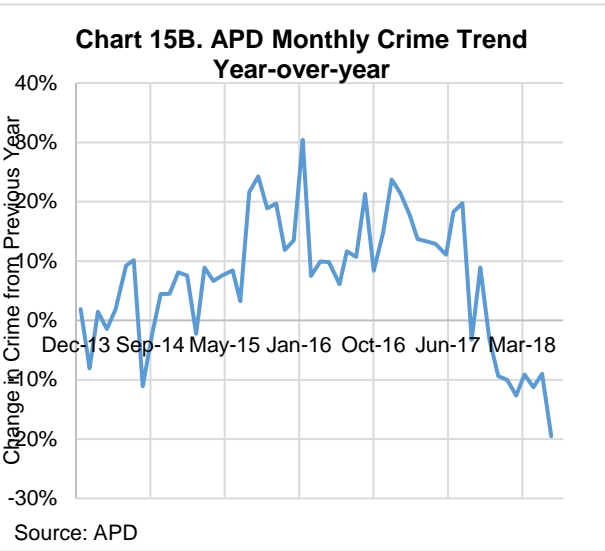
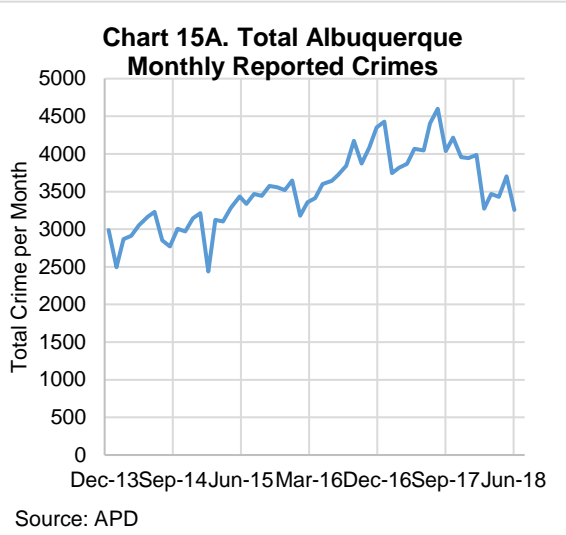
Recent changes in practice hold promise for system improvement and lower crime.

The Bernalillo County criminal justice system is working towards improving swiftness and certainty of catching and holding criminals accountable. Crime peaked in August 2017 and is now trending downward. Unemployment numbers are improving. In 2016, nearly 25 thousand Bernalillo County residents accessed behavioral health treatment through Medicaid expansion. Recidivism for former MDC inmates is also trending downward. There is increased police presence and activity, and police are focusing more on people and places through warrant round ups, auto theft operations, and identification of and briefings on most wanted criminals. Proactive police behavior also appears to be increasing through traffic stops and greater community involvement due to their community policing initiative and commitment to problem oriented policing. There is also a commitment to increase the size of force at APD. Police have also improved response to people with behavioral health needs and are examining additional evidence-based programs such as LEAD.

The jail population reduction happened at the same time that MDC felony recidivism rates began to climb.

Data sharing, coordinated planning, and working toward common solutions continue to be issues across the system.

In 2016, nearly 25 thousand Bernalillo County residents accessed behavioral health treatment through Medicaid expansion



With the assistance of the Arnold Foundation, Bernalillo County pretrial service programs implemented an evidence-based risk assessment tool to assist judges in deciding if defendants should be released or detained. Court and attorney performance has also improved in recent years with the time to disposition of cases improving significantly and meeting national standards since the implementation of the case management order (CMO) and other procedural reforms. Bernalillo County has enacted a number of initiatives aimed at improving behavioral health outcomes, some initiatives being specific for inmates including the opening of a new Resource Reentry Center, where inmates are processed upon release. Transition planners, behavioral health staff, and other resources will be made available through the center. Coordination is also improving with greater BCCJCC participation, and discussions around data sharing are in process.

These recent reforms, along with improving economic conditions in Albuquerque, may be impacting crime rates in a positive light. Albuquerque's crime rate has been declining since November of 2017 through June of 2018. LFC staff have projected an overall decline in the crime rate for 2018. However if reform efforts and cooperation among agencies is not improved and maintained, there is the potential for a failure in recent improvements. There is a need to monitor system performance to ensure continued success. Recommendations addressing these issues follow in subsequent chapters.

Chart 15C. Crimes by Type Change from Peak in August 2017 to Most Recent Data in June 2018

	17-Aug	18-Jun	Change
Murder	7	4	-43%
Rape	52	39	-25%
Robbery	239	165	-31%
Aggravated Assault	401	305	-24%
Burglary	639	435	-32%
Larceny	2,445	1,832	-25%
Auto Theft	810	415	-49%
Arson	7	11	57%
Total Part I Crimes	4,600	3,206	-30%

Source: APD Data

Improved Staffing and Implementation of Best Practices Would Aid in Crime Prevention and Policing

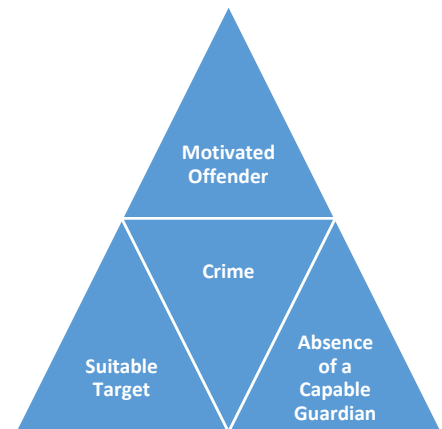
Helping establish public safety is among local government's fundamental obligations to its community.

Police have a mission of protecting the community and police departments can use a number of different strategies to accomplish this mission. Effective reduction of crime can be explained through Routine Activities Theory (RAT). According to RAT, three elements need to be in place for crime to occur: a motivated and likely offender, a suitable victim or target, and the absence of a capable guardian who could prevent the crime from happening. The elements displayed in the problem triangle in **Figure 11** provide a good phenomenological description of what needs to be in place for crime to occur. Police can play a role in crime prevention through focusing on high risk people or places.

The standard model of policing is the dominant model of policing in the United States. The standard model of policing is a reactive model that includes patrols, responding to calls for service, and subsequent criminal investigations. The approach is often individual-focused and procedures-oriented. A great deal of training is focused on actions needed for responses to calls for service including arrest, use of force, and dispute resolution. Officers may receive general briefings about problem people or places, but the focus is often on individual cases or arrests. According to Lum and Koper (2017) two typical characteristics of the reactive model are responding quickly to calls for service and applying discretion, proper legal rules, accepted procedures, and agency policies to resolve the call. Uniformed officers also tend to have non-committed time when not responding to calls that can make up anywhere from 25 percent to 80 percent of a shift. How this non-committed time is spent varies among police departments but typically falls to officer preference. Patrol officers normally have very little supervision of non-committed time, and although many police units tend to have locators, they are typically unsupervised.

There is a national movement toward supplementing the standard model of policing with evidence-based approaches. Evidence-based approaches reflect a number of characteristics proven to result in better outcomes for police and the community. Execution of the four principles listed in the callout box to the right should increase the likelihood of crime reduction success. A number of evidence-based policing strategies encompass one or more of these principles. As of June 2018 the National Institute of Justice (NIJ) lists 54 effective or promising police practices and 417 promising or effective programs, all of which should lead to better outcomes. However, for police to be most effective, they must work collaboratively within the criminal justice system and with other social and governmental systems, including community organizations, mental health systems, public health and emergency medical systems, school systems, business communities, and juvenile justice systems. Many of these strategies also reflect the idea that proactive policing focusing on specific people or places helps to prevent or reduce crime. The National Academies of Sciences, Engineering, and Medicine found evidence that proactive policing practices are successful at reducing crime. However, it is likely that police need to be proactive with strong values of equity and justice

Figure 11. Routine Activities Theory Problem Triangle



Source: Cohen and Felson (1979)

Evidence-based crime reduction strategies for law enforcement

Police should:

1. Be proactive, not just reactive
2. Focus on places, not just on people
3. Tailor actions to identifiable problems
4. Facilitate civilian trust and confidence

-Lum & Koper (2017)

as some proactive policing strategies (e.g. stop and frisk) have been criticized to have the potential for racial profiling to be used.

Evidence-based policing strategies are not mutually exclusive

For example, an officer might be directed to spend his down time in areas of the community experiencing recent high rates of auto theft (**hot spots policing**). The officer could be directed to engage members of the community (**community policing**) and share strategies for deterring auto theft through the use of anti-theft devices (**target hardening**). The department can monitor the auto theft rates over time and adjust strategies accordingly (**problem oriented policing**).

Strategies to institutionalize new practices

- Professional development systems;
- Tactical directives for non-committed time that address specific problems;
- Use of performance management systems for effective supervision and strategic monitoring; and
- Analytic systems using large amounts of data to identify patterns and relationships among people and places.

-Lum & Koper (2017)

Examples of select models that supplement the standard model of policing (see Appendix G for more information). Law Enforcement Assisted Diversion (LEAD): LEAD is a pre-booking diversion program to divert low-level offenders away from costly jail and prosecution and into case management or treatment services.

Problem Oriented Policing (POP): in the POP model, police systematically analyze problems in a community, look for solutions to the problems, and evaluate the impact of these efforts.

Community policing: community policing is the systematic use of partnerships to proactively address public safety issues through problem-solving techniques. It should include the use of officer downtime to strengthen relationships and build trust with citizens through activities like community meetings and personal follow-up visits so that law enforcement receives feedback from those most directly affected by problem areas.

Hot spots policing: hot spots policing strategies focus on small geographic areas of places and people where crime is committed and concentrated.

Implementation of policing best practices can be challenging. The standard model of policing is ingrained in police training and culture. Introduction of supplementary or different approaches should be institutionalized into existing systems or practice including policies, procedures, tools, and accountability mechanisms. This can be a difficult task and may be met with resistance. Also, police departments might attempt to create small specialized units that specialize in one or more of these models, however according to Lum and Koper (2017), this leaves most officers continuing to operate under the standard model and may signal to other officers that new approaches are not “real” policing.

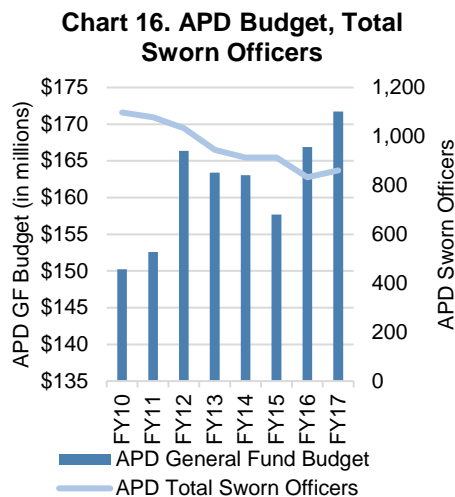
Lum and Koper (2017) offer a number of solutions that could help institutionalize new practices. Training is the primary approach to translate research into police practice, however if training efforts are not sustained with accountability measures, police will likely defer back to the standard model of policing. Additionally, some jurisdictions might want to employ certain evidence-based models that might not translate to another jurisdiction (e.g. hot spots policing might be more suitable to urban areas than very rural areas).

The police force in Bernalillo County consists of a number of agencies.

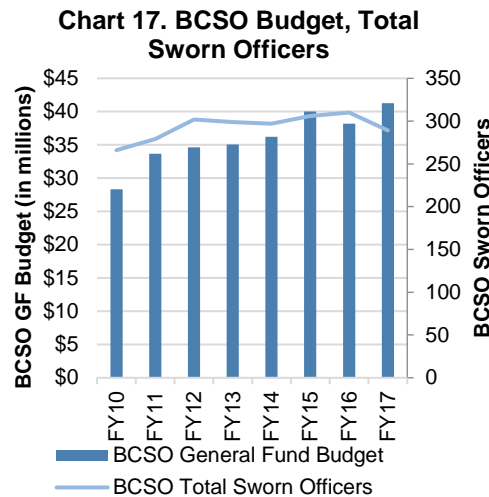
Bernalillo County law enforcement agencies include the Albuquerque Police Department (APD), Bernalillo County Sheriff’s Office (BCSO), Albuquerque Public Schools Police Department, and the University of New Mexico Police Department. A fraction of the New Mexico State Police work in Bernalillo County as well. Several federal agencies such as the Federal Bureau of Investigation, the United States marshals, Department of Homeland Security, and the Bureau of Alcohol, Tobacco, Firearms and Explosives also work within Albuquerque. This review focuses on the two largest local agencies, APD and BCSO. Police departments have objectives to prevent, control, and deter crime and disorder. According to Lum and Nagin (2017), the primary

metric for judging police success should be crimes averted instead of other metrics commonly used such as arrests.

Bernalillo County law enforcement agencies, excluding UNM and APS police departments, spent \$219 million in FY17 to address 634 thousand total calls for service (CFS). APD received a general fund budget increase of 16 percent from \$150 million to \$174 million between FY10 and FY17, while the BCSO received a 61 percent increase in their operating budget, from \$28 million in FY10 to \$45 million in FY17. The following charts show the trend in budget and sworn officers from 2010 to 2017. APD has about four times the budget and number of sworn officers as BCSO. The total number of sworn officers at APD declined from 1,100 filled positions in FY10 to 860 in FY17, while the total number of sworn officer filled positions increased from 270 to 300 at BCSO over that time period.



Source: City Budgets, APD



Source: Bernco Biennial Budget Documents and BCSO

APD did not implement best practices on a consistent or robust basis during most of the study period.

Towards the beginning of the study period (2010), APD had a number of internal policies related to community policing. However, a 2014 DOJ investigation found that APD was not implementing these policies adequately. Among the findings of the 2014 DOJ report:

- “Deficiencies relate to the department’s inadequate tactical deployments and incoherent implementation of community policing principles;
- Inadequate community policing contributes to the department’s pattern or practice of unconstitutional force;
- The department’s leadership does not prioritize community policing, has not communicated its importance throughout the agency, and tolerates a culture that is hostile to community partnerships. These deficiencies have led to a mutual distrust between officers and the residents they encounter. It has contributed to the pattern or practice of excessive force;

A 2014 DOJ investigation found that APD was not implementing community policing adequately.

Officers can receive useful information that aids in crime investigation from relationships they've formed in the community

- Despite references to community policing in its policies and officer evaluations, the department does not consistently support the concepts of community policing; and
- Officers should also receive more training on community policing—which is widely embraced by the field as effective at building community trust in police departments and in ensuring public safety. As noted below, officers at all levels of the chain of command seemed to have a poor understanding of what community policing is or how it can improve their encounters with civilians and better protect the public. Any efforts the department takes to adopt a true community policing model should include robust training on what community policing is and how it should impact officers' work."

Based on these findings, the DOJ settlement agreement has several staffing and training requirements related to implementation of evidence-based practices that APD has committed to and is in the process of implementing:

Scanning, analysis, response, and assessment (SARA), is one strategy police can employ to address problem crime areas

- APD will provide 16 hours of training on community and problem-oriented policing (POP) methods and skills to all officers including use of problem-oriented tactics such as the SARA model.
- APD has developed a standard operating procedure around problem oriented policing.
- APD created Community Policing Councils for area commands tasked with reviewing policy development and POP projects among the community and incorporating their feedback.
- APD is developing a new crime statistics website so the public can view crime data for each area command.
- Police and Community Together Teams (PACT) are now operational in all area commands and develop proactive, community policing plans to address quality of life issues.

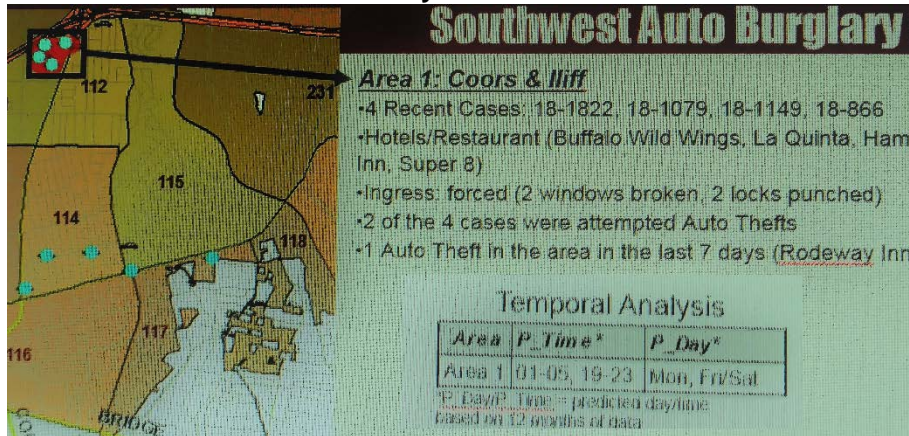
The Real Time Crime Center has a number of capabilities and data analyses that are underutilized.

However, many reforms associated with the DOJ settlement agreement are still in process or have not been implemented to fidelity. For example, the Northeast Community Policing Council submitted recommendations to APD regarding inadequate staffing in June 2015, prior to a staffing study conducted in response to the DOJ investigation. The council found there was not a standardized form for submittal of these recommendations nor was there a tracking procedure in place. The council did not receive a response from APD until almost two years later. Other Community Policing Councils, some in high crime areas of the city (Southeast, Southwest, and Foothills), have no record of submitting recommendations on APD's website.

A September 2017 APD report on DOJ settlement agreement progress shows that APD is making on implementing evidence-based practices including problem-oriented policing (POP). APD has trained all officers on the use of POP and is developing their first-ever standard operating procedure for POP. APD has also developed in-service training for POP. APD has also created procedures within the department to help managers track officers working on POP projects. APD has also created Police and Community Together Teams (PACT) in each of their six area commands. PACT teams are meeting once a month and are developing proactive community policing plans.

The real time crime center (RTCC) has a number of capabilities and data analyses that go underutilized. APD's RTCC is able to map crime and identify hotspots using predictive analytics and real time camera footage. The public is also able to register cameras with APD to help build out the system in their location. The RTCC director was dismissed during the evaluation and the position has remained vacant. Sandia National Laboratories completed a study examining the efficacy of the RTCC in 2015. While Sandia listed anecdotal examples of use of mapping data to inform police operations, LFC site visits to command briefings and ride alongs saw predictive analytic and hotspot identification capabilities go unused.

Figure 12. Screenshot showing RTCC capabilities to map micro areas and crime (hot spot analysis) and provide empirical analytics for where crime will likely occur in the future.



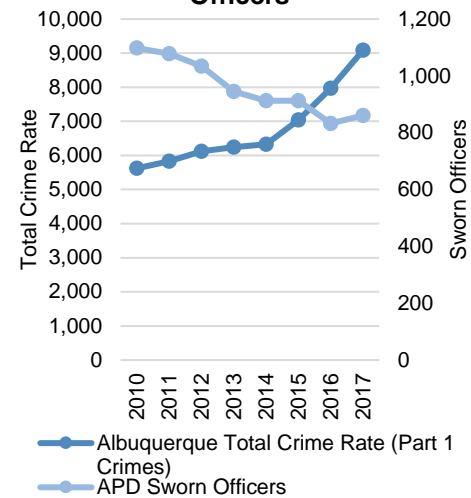
Source: LFC

APD lacks sufficient staffing to effectively implement some evidence-based policing.

As crimes reported to APD increased, staffing decreased. Chart 18 shows the change in reported crimes and APD sworn officers over time. University of New Mexico's (UNM) Institute for Social Research (ISR) analysis benchmarking officer-to-citizen ratios shows Albuquerque has fewer officers per citizen than most peer cities in recent years. APD commissioned a 2015 staffing study that concluded the department would be adequately staffed at the level of 1,000 sworn personnel. Staffing levels at APD dropped below 1,000 sworn personnel in FY13 and continued to decline in subsequent years, with 860 sworn officers in FY17. The DOJ settlement agreement has also introduced staffing challenges because of additional resources required to address DOJ findings centered around needs for additional training, oversight and accountability functions, and compliance monitoring. In 2017, APD was 140 officers below the recommendations of the 2015 staffing study.

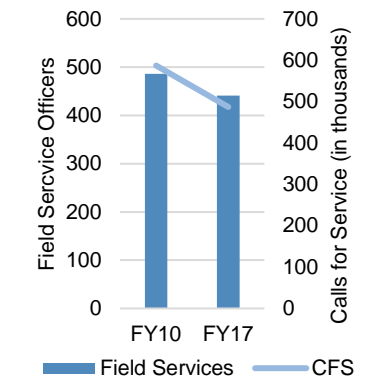
In an effort to more effectively address DOJ settlement requirements, APD created a new Compliance Bureau led by a Deputy Chief. However, the most recent independent monitor's report (November 2017) notes continued issues with supervision and staffing. Staffing shortages likely also increase overtime costs. Overtime started to rise in 2012 and continued to rise as the number of sworn officers declined. Overtime increased from just over \$8 million in 2011 to over \$14 million in 2017.

Chart 18. APD Total Crime Rate and Total Sworn Officers



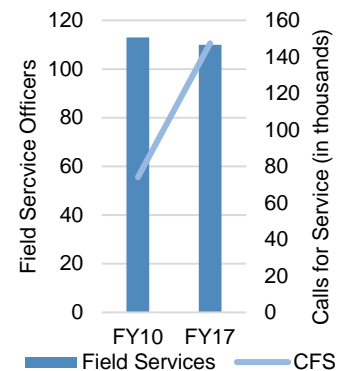
Source: FBI UCR and CABQ Budget

Chart 19. APD Calls for Service Declined from FY10 to FY17



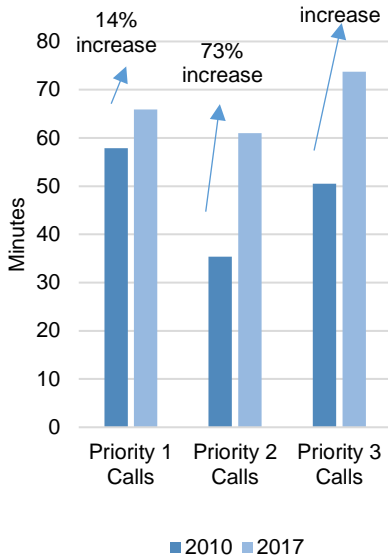
Source: LFC Analysis of APD, BCSO data

Chart 20. BCSO Calls for Service Doubled from FY10 to FY17



Source: LFC Analysis of APD, BCSO data

Chart 21. APD Time Between Creation and Close of Priority 1-3 Calls For Service



Source: LFC analysis of APD CAD data

The calls for service (CFS) workload per field service officer declined slightly at APD and increased at BCSO between 2010 and 2017. Field service officers at BCSO remained flat at around 110 from 2010 to 2017, but calls for service doubled from 70 thousand to 140 thousand over that time period. Most of the increase can be attributed to increasing traffic stops from 3 thousand to 31 thousand and increasing CFS inside Albuquerque city limits from 7 thousand to 36 thousand, according to analysis of BCSO data. The increase in BCSO CFS in Albuquerque was mostly in the categories of traffic stops, disturbances, and responding to 911 hang up calls. Meanwhile, field service officers and CFS declined at APD from 2010 to 2017. The workload for field service officers at APD declined slightly from 3.3 to 3 CFS per officer per day from 2010 to 2017 and doubled at BCSO from 1.7 to 3.5 CFS per officer per day. This analysis does not take into account that all officers do not work every day of the year, nor the variation of hours worked each week.

APD overall response times have increased by more than 50 percent, but once officers arrive on scene they are typically clearing calls more quickly. When a call is received it takes time to create a call, dispatch the call, and for an officer to arrive on the scene. Depending on the call type, it takes APD officers a certain amount of time to close a call. It is generally taking longer for officers to arrive on scene, however officers are clearing calls more quickly. In 2010 it took an average of 42 minutes from creation of a call to close, in 2017 it took over an hour. BCSO data for 2010 was unavailable.

Table 6. APD Calls For Service Response Times (hours)

	2010	2017	Percent Change
Create to Close	0:42:28	1:04:23	52%
On-scene to Close	0:35:24	0:32:23	-9%

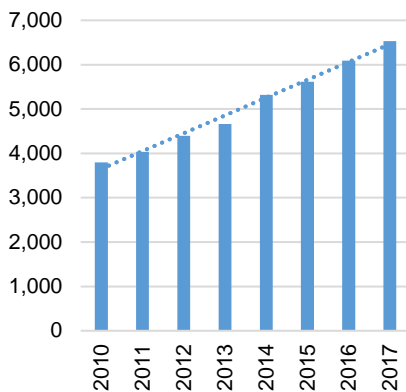
Source: LFC Analysis of APD CAD data

The increase in response times varies by type of call for service. APD prioritizes calls on three main levels. A priority 1 call includes a reported felony that is in progress or an immediate threat to life or property. A priority 2 call does not include immediate threat to life or property, but typically involves misdemeanor crimes in progress. A priority 3 is any call in which a crime has already occurred with no suspects at or near the scene. Routine events, and calls where there is no threat to life or property are also priority 3 calls. Priority 1 calls have seen a 14 percent increase in response time, priority 2 calls a 73 percent increase, and priority 3 calls a 46 percent increase.

Overall response times for different calls for service have also seen changes at APD. Most types of calls for service have increased, ranging from 8 percent for traffic accidents to 39 percent for disturbance calls (Table 7). Response times for three types of calls for service have decreased: shootings, robberies, and suicide. The lower response times for suicide may be related to APD efforts to improve responses to people who have behavioral health issues.

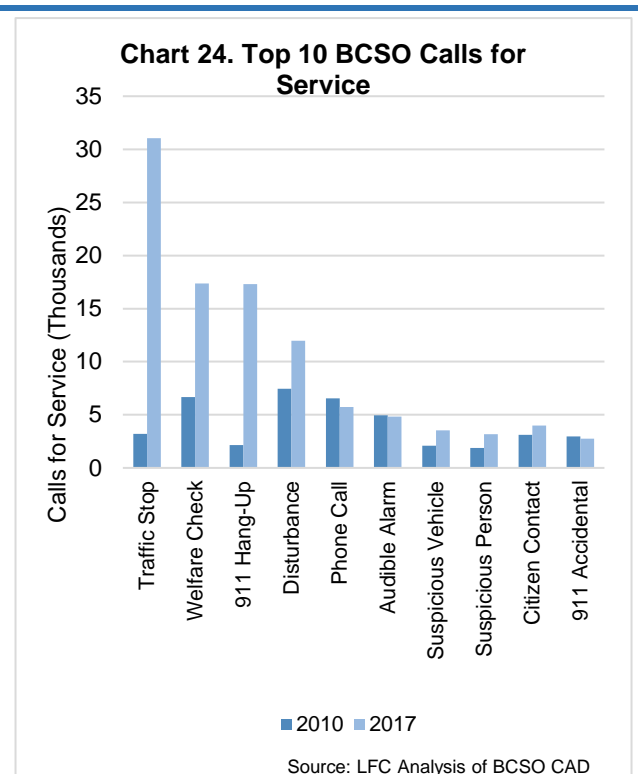
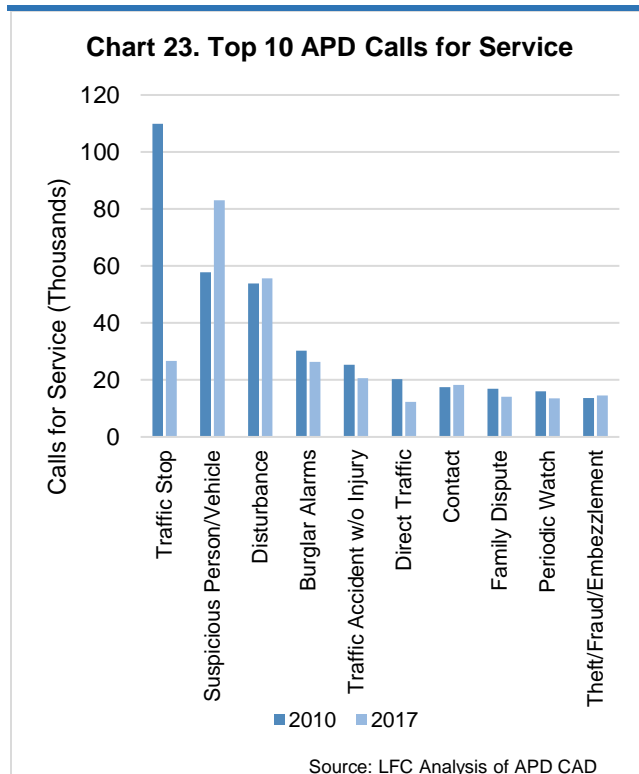
APD has followed recent national trends to improve responses to people with behavioral health needs in criminal justice systems by establishing Crisis Intervention Units. APD has experienced a 72 percent increase in behavioral health related CFS between 2010 and 2017 (Chart 22).

Chart 22. APD Behavioral Health Related CFS



Source: APD CIU Winograd, 2018

The nature of calls for service has changed to more reactive police responses. Charts 23 and 24 illustrate the top 10 CFS that APD and BCSO received in 2010 and 2017. Types of CFS are defined in Appendix O. APD experienced a significant decrease in the number of traffic stops between 2010 and 2017 while seeing an increase in suspicious persons and vehicle calls for service. Some of this might be explained by changes in internal practices around classification of calls.



There are limitations to the Computer Aided Dispatch (CAD) data provided to the LFC by APD in measuring police proactivity. Wilson (1968) suggests that “traffic enforcement is one way to prevent accidents, but also a proactive opportunity to discover fugitives, stolen merchandise, illegal weapons, and stolen cars.” APD proactive activities as measured by traffic stops and other activities has declined since 2010. Traffic stops are not the sole measure of police proactivity. Other proactive CFS include periodic watch, citizen contact, suspicious person/vehicle, traffic accidents both with and without injury, and others. One limitation in the CAD data is there are no flags for officer initiated calls to distinguish from when they are dispatched to a call.

Working toward DOJ compliance, and new policies around use of force, may significantly impact workload and staffing. The use of force policy was revised corresponding to the DOJ settlement agreement. Any use of force requires investigation even if it is low level and routine. Should force be used, the involved officers must not engage in policing during the investigation, meaning the workload for that shift must be spread out among remaining officers, resulting in a temporary force reduction. LFC staff participated in a ride along where use of force was used by APD officers and observed the procedural requirements for reporting and investigating use of force which took three officers out of the field for approximately three hours. This likely increased the reactive workload of their fellow officers in the field during that timeframe, reducing their opportunities for proactive or evidence-based policing. The independent DOJ monitor’s own report attributes strained staffing levels to compliance requirements:

“In the professional opinion of the monitoring team, the increased responsibilities placed on personnel assigned to these Units strained staffing levels given the [settlement agreement’s] imposed deadlines and quality requirements...”

Table 7. APD Response Times Increased for Most Types of Calls (Calls For Service Creation to Close Percent 2010-2017)

Call for Service	2010-2017 Change
Auto Theft	21%
Burglary Auto	30%
Disturbance	39%
Family Dispute	20%
Mental Patient	17%
Narcotics	21%
Periodic Watch	20%
Robbery	(41%)
Shooting	(16%)
Shoplifting	19%
Suicide	(19%)
Suspicious Person/Vehicle	35%
SWAT	41%
Traffic Accident w/Injury	8%
Traffic Stop	13%

Source: APD

Clearance Rate: A law enforcement agency reports that an offense been “cleared” when at least one person has been arrested, charged or turned over to the court for prosecution of a crime.

-DOJ Independent Monitor November 2017 Report

Additionally, neither APD nor BCSO have current staffing studies. The most recent staffing study for APD was performed in 2015 and did not take into consideration new policies and procedures implemented, many as a result of the DOJ settlement agreement which may impact workload and further increase the number of officers needed.

Most crimes go unsolved and a lower percentage of crimes are being solved at APD in 2017 versus 2010.

APD was solving 1 in 4 crimes in 2010, which declined to 1 in 7 crimes solved in 2017. Clearance rates are one way to measure the percentage of crimes that are solved. APD has seen the largest percentage drop in cases solved or “cleared” in murder. In 2010, 90 percent of murders were cleared compared to 50 percent in 2017. Similarly, APD clearance rates for rape, aggravated assaults, robbery, burglary, larceny, auto theft and overall crime has declined since 2010. APD arrests for less serious crimes (UCR Part II Crimes) also declined from 2010 to 2016 with the largest declines being in arrests for prostitution (89 percent decrease), narcotics and drug offenses (66 percent decrease), driving under the influence (49 percent decrease), disorderly conduct (49 percent decrease), sex offenses (45 percent decrease), and weapons offenses (32 percent decrease).

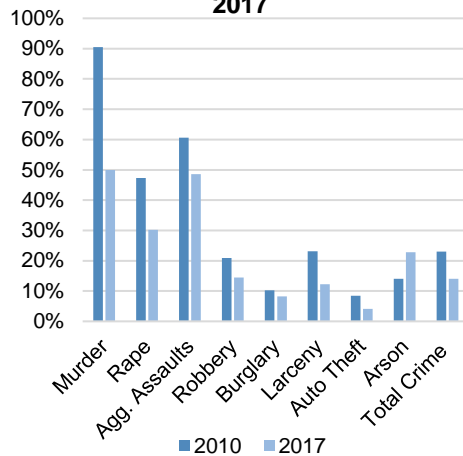
BCSO’s overall clearance rates have remained stable for all crimes with police solving about 1 in 5 crimes in 2010 and 2017. However, serious crimes such as murder and rape have seen clearance rates decline since 2010. The BCSO’s clearance rates for murder, rape, robbery, larceny, and auto theft have also declined since 2010. The clearance rate for homicide was 71 percent in 2010, and then dropped to 60 percent in 2017.

Some specialized unit caseloads have climbed significantly which corresponds to knowing less about a case. For example, the number of suspects with an unknown relationship to a victim of homicide has increased by 417 percent from 6 unknown offenders in 2010 to 31 unknown offenders in 2017. This may be due to the increase in number of homeless individuals killed in 2017 compared to prior years. This may also be a function of the increased caseload that APD homicide detectives have experienced between 2010 and 2017. In 2010 the APD homicide caseload was 5 per detective, and increased to 14 per homicide detective in 2017. The 174 percent increase in caseload between 2010 and 2017 for homicide detectives may be related to the increase in the number of unknown individuals that have committed a homicide between 2010 and 2017.

Opportunities exist to continue to improve police effectiveness.

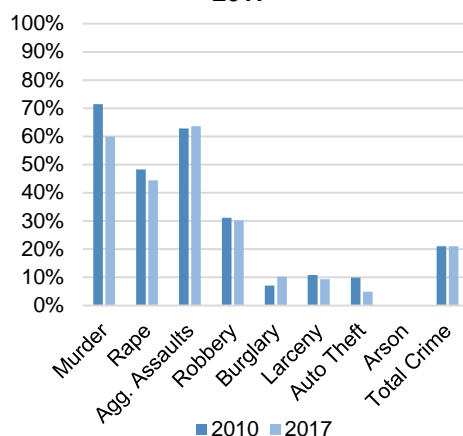
APD has shown a commitment to increase staffing and improve training. The City of Albuquerque is using a number of actions to address staffing at APD. Recently, the city shared plans to use new recruitment strategies to attract new officers, lateral hires, and to improve retention of existing officers.

Chart 25. APD UCR Clearance Rates 2010 vs. 2017



Source: LFC Analysis of APD UCR Data

Chart 26. BCSO UCR Clearance Rates 2010 vs. 2017



Source: LFC Analysis of BCSO UCR Data

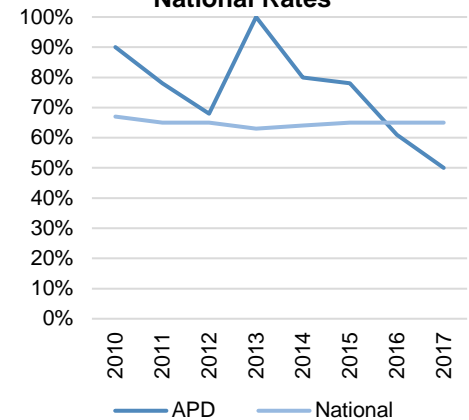
* Note: There were no arsons reported in 2010 or 2017.

APD and BCSO could further improve the implementation of evidence-based practices through proven programs like LEAD and Hot spots policing (see **Appendix O for heat maps and hot spot analysis for APD calls**). New programs should be implemented with fidelity and measures to ensure practices are achieving desired outcomes. Based on analysis from the New Mexico Results First approach, there are several programs identified as best practices for police that would likely result in positive outcomes and a positive return on investment (see **Appendix I for Results First analyses**). For example, every deployment of one additional officer performing policy as usual should result in about a \$4 to \$1 return on investment (ROI). However deploying that officer using evidence-based practices (hot spots policing) boosts benefits by about 25 percent raising the ROI to \$5 to \$1. Implementing mobile crisis response shows benefits outweighing the cost by \$5 to \$1. In 2018, the Legislature appropriated \$400 thousand to establish the evidence-based LEAD program in Bernalillo, Santa Fe, and Dona Ana Counties, however the appropriation was vetoed by the Governor.

Coordinated efforts between APD and BCSO to conduct joint patrols and outreach in hot spots should be examined. APD and BCSO have been improving efforts to focus on people, places, and problems. Examples include multi-agency efforts to address car thefts, warrant roundups, and the use of general information about problem-people and places at command briefings. Reported crimes are not evenly distributed across the city of Albuquerque, but rather heavily concentrated among relatively few offenders, happening to relatively few victims, occurring in relatively few places, and involving relatively few target types. Investing in data collection and analysis tools to identify repeat offenders, repeat victims, hot spots, and property most likely to be stolen can help police focus their attention effectively (See Appendix Q for heat maps of select 2017 calls for service).

Centralized, unified use of the Real Time Crime Center (RTCC) would benefit all parties. APD currently has crime analysts employed at the Real Time Crime Center (RTCC), which provides officers in the field with information about people in real time. In 2017, the RTCC created the Analysis Led Recidivism Reduction Team (ALeRT) that notifies police and prosecutors when someone with a long history of arrests or convictions gets booked on new charges or is released from custody. Tactical plans are developed from information provided by the RTCC to address crime in the short term, but based on LFC staff observations of APD weekly command staff briefings, long term planning is not being done. Additionally, LFC staff found no evidence that analytical information from the RTCC such as occurrence of crime in micro areas, or tools available in the RTCC that employ predictive capabilities for crime, are being distributed to the field within APD or across other agencies. APD, BCSO, and the Second Judicial District Attorney (SJDA) all have shared interests in increasing focus and analysis on people, places and patterns that would benefit from sharing information. More discussion regarding coordination and use of data is found in a later chapter.

Chart 27. APD Murder Clearance Rates Below National Rates



Source: APD and FBI UCR

In 2018, the Legislature appropriated \$400 thousand to establish the evidence-based LEAD program in Bernalillo, Santa Fe, and Dona Ana Counties, however the appropriation was vetoed by the Governor.

Figure 14. Picture of BCSO Unit that crashed into a fence at a private residence during a high speed chase



Source: LFC

Figure 15. BCSO Deployed Tracking Device



Figure 15 shows a tracking device deployed by BCSO during pursuit of three suspects that fled from police during a LFC staff ride along on a joint APD/BCSO warrant roundup operation. The suspects in this vehicle were successfully apprehended by police. That day, BCSO and APD made 48 total arrests and recovered 4 stolen vehicles.

Source: LFC

Figure 15b. BCSO Metro Air Support



Source: LFC

High speed police pursuits have the potential to result in negative outcomes, and APD and BCSO have taken measures to address fleeing individuals using alternative methods. A 2017 report by the Los Angeles County Superior Court found that 1 in 6 police pursuits end in accidents and 1 in 10 end in injury to civilians. During an LFC staff ride along with BCSO, a sheriff cruiser crashed through a wall into the inner courtyard of a private residence causing damage to private property, as seen in Figure 14. As national attention has focused on reexamining police practices in recent years, alternatives to high speed pursuit have begun to emerge as a best practice. In 2016, APD revised their police pursuit policy to become significantly more restrictive, partially in response to a DOJ consent decree compliance report at the time, meaning the number of eligible instances where a patrol car can actively engage in a high speed pursuit has decreased. Additionally, BCSO recently purchased a tracking dart system called Star Chase that shoots out of the front of their patrol car to attach onto the backside of the fleeing vehicle. The dart transmits GPS information that officers can use to fall back and follow the suspect at safe and hidden distances. BCSO successfully deployed the tracking device during an LFC staff ride along which aided in the successful apprehension of three suspects (see Figure 15). An illustrative graphic of the mechanism of this technology can be seen in Figure 16.

According to information gathered during field visits, some law enforcement officers are concerned about the effect of new pursuit policies on effective police techniques. For instance, APD officers reported in interviews that the number of fleeing vehicles has skyrocketed as a result of officers no longer being allowed to engage in pursuit, and that this has created a culture of lawlessness in the community. Indeed, data from BCSO's Metropolitan Air Support Unit show that Metro Air involvement in high speed pursuit has increased almost 400 percent, from 26 in 2013 to 100 in 2017 (2017 numbers are extrapolated from data through October 2017). Additionally, LFC staff witnessed multiple instances of vehicles fleeing from police on every single patrol ride along they participated in, including three pursuits within two fly alongs with Metro Air, illustrated in Figure 15b. However, because of the clear dangerousness of police pursuit, it is likely appropriate to limit pursuit as much as possible and to continue to employ and develop alternative methods like BCSO's use of Star Chase technology and air support. APD also utilizes air support, and according to APD documents on standard operating procedures, the department is reviewing implementing a tracking device system like the one utilized by BCSO, and reviewing pursuit policy later this year.

Recommendations

APD and BCSO should increase the use of evidence-based policing strategies focusing on places and people and promote proactive policing methods from these models through more explicit and formal emphasis on policies, training, practice and leadership.

APD and BCSO should work to maintain good community relationships through use of survey instruments and community involvement and monitor and measure impact outcomes.

APD and BCSO should direct officers to spend uncommitted time using tactics from evidence-based policing strategies focusing on people, hot spots, and problems identified through use of analytical tools such as the Real Time Crime Center. Tool kits for selection of which practices and programs to use in certain tactical environments can be found at the Center for Evidence-Based Crime Policy <http://cebcp.org/evidence-based-policing/>.

APD and BCSO should consider incorporating and promoting approaches to harden targets to reduce the number of suitable targets for crime with citizens. These efforts should be coordinated among law enforcement agencies.

Existing efforts by APD and BCSO to identify and address high priority suspects should be incorporated into an evidence-based approach such as focused deterrence.

Existing efforts by APD and BCSO to identify and address high-risk micro areas should be incorporated into an evidence-based approach such as Hot Spots policing.

APD and BCSO should implement up to date police staffing studies and APD should put tracking systems to monitor progress to meeting staffing goals. Priority should be given to staffing field services and specific specialized units of detectives to work towards improving clearance rates of key crimes and decrease drug trafficking.

APD should evaluate and consider the use of technology to aid in alternative pursuit policies.

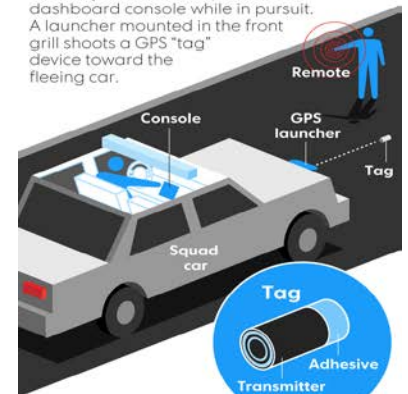
Figure 16. Illustration of StarChase

AN OPTION TO HIGH-SPEED CHASE

New pursuit management technology by StarChase is helping law enforcement officers limit the risk of injury or death as a result of a high-speed chase. How it works:

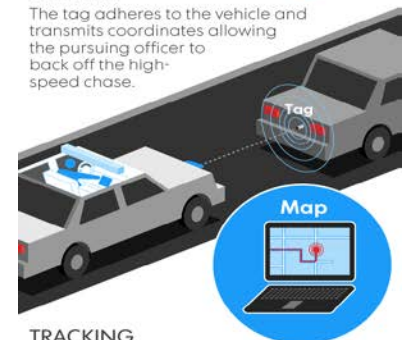
SPECIAL EQUIPMENT

Officers confronting an offender's vehicle can aim and deploy a tracking device, remotely if outside the police car, or via dashboard console while in pursuit. A launcher mounted in the front grill shoots a GPS "tag" device toward the fleeing car.



DELIVERY

The tag adheres to the vehicle and transmits coordinates allowing the pursuing officer to back off the high-speed chase.



TRACKING AND CAPTURE

Police dispatchers and patrol officers track the vehicle's movement, in real time, on a secure web-based mapping program, allowing prompt apprehension of the offender under less dangerous conditions without a high-speed chase.



The Bernalillo County Legal System Has Closed Gaps with Best Practices

Best practices for the legal system include disposing of cases in a timely manner, use of diversion programs (e.g. drug court), and pretrial services.

The mission of jurisprudence agencies includes ensuring access to justice, enforcement of the law, and holding people accountable for their actions. Defendants can also access treatment, typically through social workers and diversion programs such as drug court. Research on how to best accomplish this includes information around timeliness of hearings, diversion programs and access to pretrial services. Timeliness of the legal system is required by the U.S. Constitution and is linked to improved outcomes. The Sixth Amendment guarantees the right to a speedy and public trial. Numerous courts have written on the harm that results from unnecessary delays, including higher caseloads, decreased case quality, and accuracy of judgment. Additionally, a great deal of research exists on the effect of time on eyewitness memory; witness ability to recall specific information about events deteriorates over time and intervening events lead to new information that might change the memory. Research on case outcomes as a function of time finds that conviction rates decrease significantly the longer it takes to disposition.

Diversion programs can avoid costly incarceration and address some of the root causes of crime. Specialty courts produce better outcomes for select criminal justice-involved populations. Specialty courts serve as an alternative to the traditional legal process for certain populations of offenders with specific treatment needs. Offenders are provided with treatment and other services while being closely supervised by the court. Problem-solving courts include drug courts, DWI courts, mental health courts, veteran's treatment courts, family dependency courts, juvenile drug courts and tribal healing courts. The Legislature has recognized the potential value of specialty courts by enacting legislation on pre-prosecution programs and funding these types of courts.

More than 1,500 adult drug courts and 400 juvenile drug courts are in existence in the United States. Research shows treatment is the most effective way to break the cycle of crime and incarceration for offenders with drug abuse and addiction issues, but less than 20 percent of inmates who need treatment receive it. Drug courts are a way to provide these types of offenders with appropriate and effective treatment, while still holding them accountable for their behavior, though with significantly better outcomes for graduates versus non-graduates. According to a National Institute of Justice (NIJ) study, the recidivism rate of drug court graduates is 9 percent versus 41 percent for those expelled from the program. LFC Results First benefit-cost analysis have shown an expected return on investment of \$4 for every \$1 spent on drug courts when properly implemented (see Appendix I).

Pretrial services can conduct individual risk assessments and inform judicial decisions on whether to release, supervise, or detain defendants awaiting trial. Best practices for pretrial services include universal screening, use of treatment for select defendants, and performance management. The National Institute of Corrections (NIC), the National Association of Pretrial Services

92%

Conviction rate for cases taking between **one and four appearances**.

48%

Conviction rate for cases taking **17 or more appearances**.

-University of Chicago Law Review

The Pretrial Justice Institute identifies six core functions of a pretrial services agency:

1. Impartial universal screening;
2. Verification of information;
3. Recommendations to the court;
4. Reviews of defendant failures;
5. Accountable and appropriate supervision of those released;
6. Reporting on process and outcome measures to stakeholders.

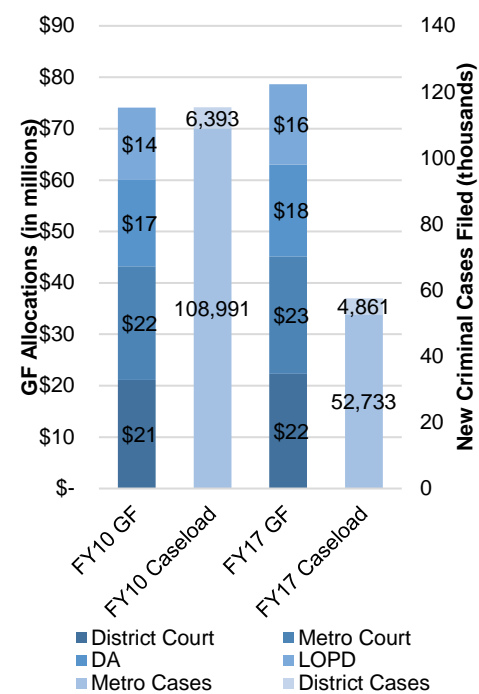
Agency (NAPSA) and the American Bar Association (ABA) support universal assessment occurring prior to or in conjunction with first appearance. According to the Laura and John Arnold Foundation, the adoption of a public safety assessment in some jurisdictions have led to good outcomes for participants. For example, the Arnold foundation credits the adoption of their public safety assessment (PSA) with a 15 percent reduction in crime for defendants on pretrial release. NAPSA standards list one of their best practices as assistance for defendants released prior to trial in securing employment and in obtaining any needed medical, mental health or legal services that would increase the chances of successful compliance with conditions of pretrial release. The federal government's pretrial services program offers guidance and training on directing defendants to services to help them, including substance abuse or mental health treatment, medical care, training, or employment assistance as ordered by the court. The ABA defines the role of the pretrial services agency in their standards on pretrial release as including the defendant's eligibility for diversion, treatment, or other alternative adjudication programs such as drug court or other treatment court. In Washington D.C., defendants under pretrial release are assessed for substance use disorders and mental health needs and connected with employment, housing and other social services. California's pretrial detention reform workgroup has also recommended screening for referral to appropriate services as a part of their statewide pretrial system. The NIC has developed 14 suggested measures for pretrial service agencies to measure their programs' outcomes and performance. Some jurisdictions, including Colorado, have incorporated these performance measures into law.

The Bernalillo County legal system consists of two courts, the district attorney, and the public defender.

Although a number of other partners interact with the Bernalillo County legal system, for the purposes of this report LFC staff concentrated on four agencies; Bernalillo County Metro Court (Metro), 2nd Judicial District Court (District Court), Second Judicial District Attorney (SJDA), and the Law Offices of the Public Defender (LOPD). Generally speaking, the mission of the New Mexico Judiciary is to protect the rights and liberties of the people of New Mexico guaranteed by the Constitution and laws of the state, to resolve legal disputes fairly, and to ensure justice for all.

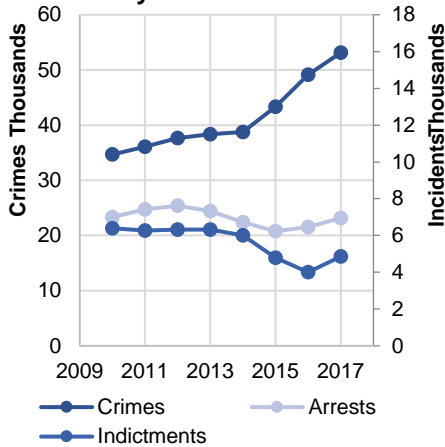
The Bernalillo County legal system received a combined general fund operating budget of \$79 million in FY17 (\$60 million for criminal caseloads), and processed a total of 58 thousand adult criminal cases. Chart 28 shows the FY10 and FY17 allocation of general fund resources for all four state and local agencies as well as the number of new adult criminal cases opened in both District and Metro court. General fund allocations increased by \$5 million, or 6 percent, while adult criminal caseloads decreased by 58 thousand, or 49 percent over that time period. It should be noted that the two courts process civil cases as well; civil caseloads remained relatively even near 20 thousand per year for each court from FY10 to FY17. The SJDA received one of the largest budget expansions in the state (percentage wise) in the 2018 legislative session, not shown here, which included funding for a crime strategies unit (CSU), a practice with some evidence of effectiveness (see **Appendix E for an LFC analysis of CSU's**).

Chart 28. Bernalillo County Justice System Resource Allocation and Adult Criminal Caseloads



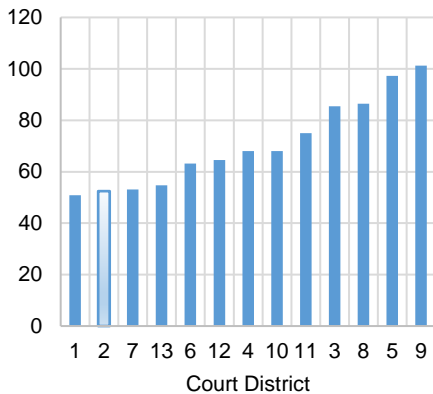
Source: LFC files, AOC. *Courts use GF listed here for civil cases as well as criminal cases. Re-opened cases and total hearing workloads are not included here.

Chart 29. ABQ/Bernalillo CJ System - Felonies



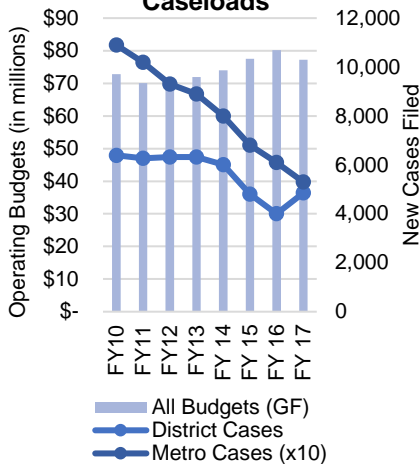
Source: APD, BCSO, UNMPD, NMCD, AOC, NMSC

Chart 30. FY17 Felony Prosecutions per Attorney by DA



Source: AOC and LFC Files

Chart 31. Justice Agency Budgets and Criminal Caseloads



Source: LFC files, AOC

While there was some fluctuation in the total number of attorneys on the SJDA's staff during the January 2017 transition to a new administration, the total number has remained relatively flat at around 100 attorneys over the study period. In FY17, the SJDA had the second highest average number of attorneys per felony prosecution in district court and an average amount of funding per felony prosecution compared to all other district attorneys in FY17.

While crime spiked, felony arrests and indictments fell. Chart 29 shows the change in felony crime, arrests, and indictments from 2010 to 2017. Around 2014, felony crime began to increase over 10 percent per year, but felony arrests and indictments decreased at even greater rates from 2014 to 2016, though it should be noted that felony arrests and indictments increased in 2017. Chart 31 shows the trend in agency funding and adult criminal caseloads broken out for each year from FY10 to FY17. New cases filed at Metro Court have declined steadily over the years, from 109 thousand to 53 thousand. This corresponds well with the decrease in APD traffic stops, calls for service, and misdemeanor arrests. Meanwhile, new felony caseloads at district court remained steady at around 6 thousand per year until a dip towards 4 thousand in FY16. This corresponds well with a spike in the processing of old cases that occurred over the same time period likely due to new Supreme Court rules (CMO) meant to reduce time to disposition, discussed in more detail later in this chapter.

Felony prosecution outcomes in Second District began to deteriorate compared to the rest of the state well before the CMO, the DOJ, the crime wave, or any other recent event.

Felony prosecution outcomes in second district began to deteriorate compared to the rest of the state around 2009. Chart 32 shows the overall dismissal rate for felony cases introduced in Second Judicial District Court compared to all other district courts throughout the state (dismissals are used in this report to mean failed prosecutions for any reason, though there are often times good reasons why cases are dismissed by the SJDA or by the court). Felony dismissals have been increasing statewide until peaking in FY15. Compared to the rest of the state though, dismissals have increased at a greater rate in second district. Dismissals were 40 percent more common in second district in FY12, before the onset of the CMO, DOJ, or jail reforms. The SJDA began to close the gap in FY18.

Chart 32. Felony Dismissal Rates for 2nd District Court and Rest of State

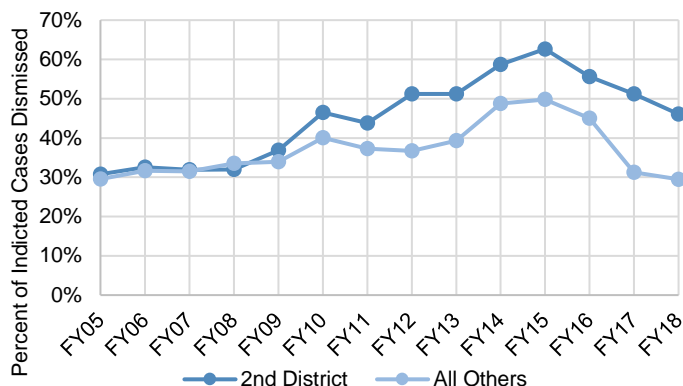
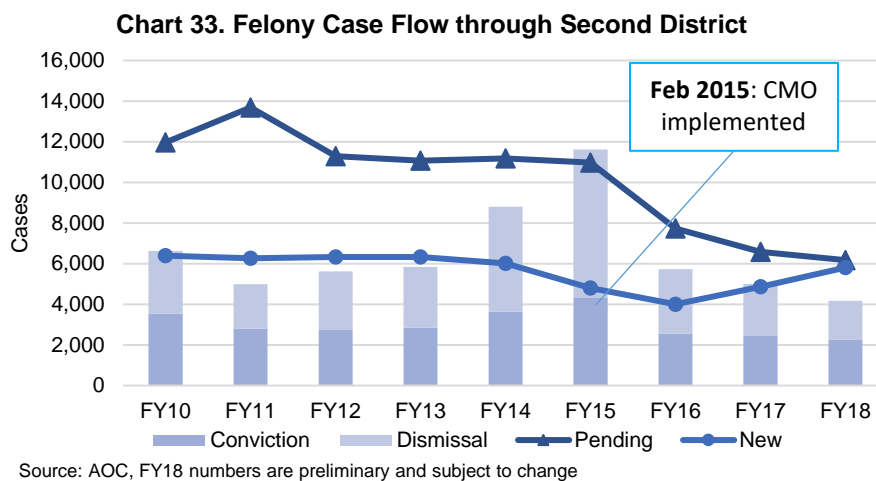


Chart 33 shows the criminal felony case flow through Second Judicial District Court, from new cases filed each year through disposition, including the number of pending cases left over each year. The chart shows that, historically, the number of pending cases more than doubled the new ones brought into the system. Several reports on second district case flow from the National Center for State Courts from 2009 to 2015 concluded that the backlog of pending cases was not aligned with best practices on timeliness of justice. The reports, and further analysis by the district court, highlight instances where defendants were kept in jail awaiting trial for hundreds of days without ever receiving a conviction, as well as instances of cases being needlessly dismissed due to witnesses dying or losing contact over the course of the overly long pretrial periods. In order to more closely align with national standards, the Supreme Court implemented a case management order (CMO) in February 2015 that put in place strict time requirements for each stage of legal proceedings after a case is brought in district court. Chart 33 shows how this rule triggered dispositions for thousands of pending cases in 2015, reducing their total number to be equitable with the amount of new cases entering the system in the following years. The CMO also corresponds with a dip in the number of new cases filed in district court, implying that it may have caused a decline in the SJDA's ability to prosecute new cases for FY15 to FY17, though new felony prosecution numbers fully recovered to pre-CMO levels in FY18.



Recent reforms are likely partly responsible for FY18 uptick in outcomes. The SJDA's office did not have a reliable method to intake case referrals from law enforcement. According to the DA, attorneys would sometimes even receive case assignments after critical deadlines had already expired. In July 2017, the SJDA reformed office procedure and created an intake division that interfaces with police, triages defendants into a tiered priority system, and streamlines case management, attorney assignment, and hearing schedules (See full descriptions in Appendix P). The SJDA has continually updated these procedures, creating "The Bridge" shown in Figure 18 earlier this year to further facilitate the intake process.

Chart 34. Misdemeanor Case Flow through Metro Court

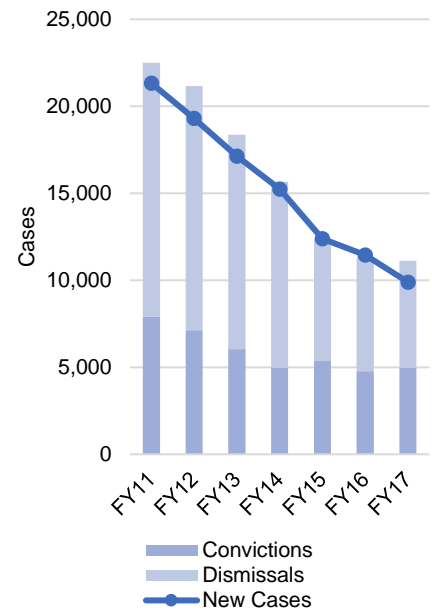


Chart 35. CMO Reduces Felony Time to Disposition to National Standard

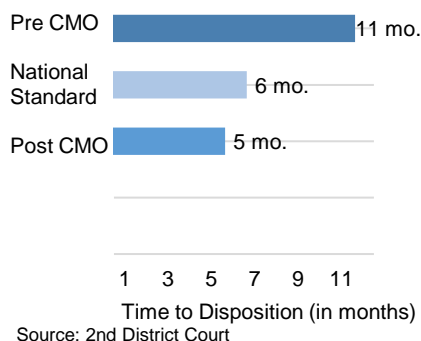


Chart 36. Majority of 2016 Preliminary examinations that were Held Lead to Pleas

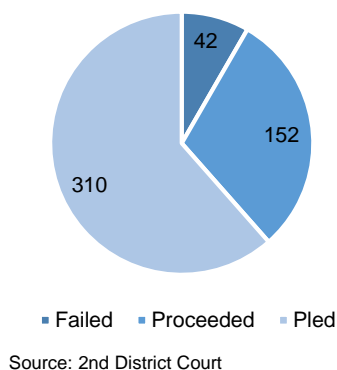
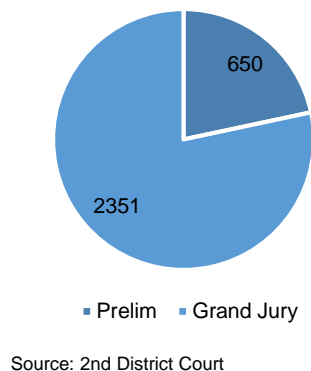


Chart 37. DA Mostly Uses Grand Juries over Preliminary examinations (2017)



Timeliness of disposition in the legal system has significantly improved

Chart 35 shows the time to disposition for felony cases before and after implementation of the CMO as well as national time standards, according to the National Center for State Courts. The time that defendants await a disposition was reduced by 50 percent from 11 months to 5 months according to Second Judicial District Court, and has come into alignment with national time to disposition standards since implementation of the CMO. District court calculated time to disposition for the pre-CMO period from 2010 to 2014.

Improving the timeliness of the legal process is in line with best practices, but may have created some challenges. Chart 33 shows how the dip in new felony cases filed at district court corresponds with the CMO. It is likely that the SJDA's ability to prosecute new charges was reduced while adjusting to the CMO, though it has recovered as of FY18, though FY18 numbers are still preliminary and subject to change.

Second district court produced a report in 2017 assessing the reason for dismissals of felony cases. The report found that up to 438 dismissals in 2016 could be attributed to being caused by failure to comply with the CMO. This represents 8 percent of all felony cases filed in district court that year, or 14 percent of all dismissals that year.

The SJDA's Office published a 2017 report assessing the impact of the CMO on the criminal justice system in Bernalillo County. The report suggested a variety of revisions to the rules. Stakeholders held numerous meetings between the SJDA's Office, the District Court, and LOPD and the Supreme Court implemented several changes to the CMO as a result, including relaxing deadlines for discovery collection and pretrial interviews.

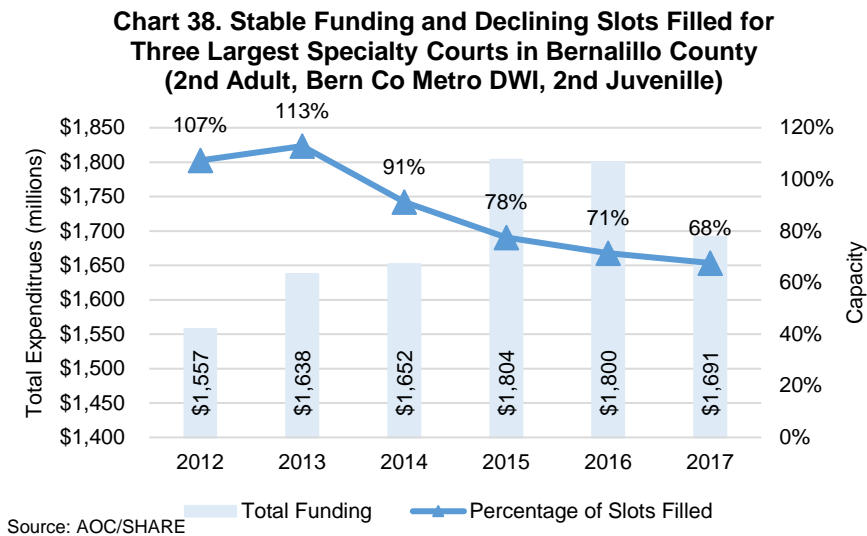
Of the 504 felony preliminary examinations held and completed in 2017, 310 resulted in a plea at the hearing. This is in line with timeliness of justice because it means the case is concluded at that time, usually within 60 days of the original charge, and the SJDA no longer has to allocate resources toward the prosecution of that case. However, it is easier to obtain an indictment through the grand jury process because the rules of evidence are less strict. The SJDA proceeds with the vast majority of felony cases through grand jury rather than preliminary examination. It is not possible for a grand jury to result in a plea because it is a secret procedure and the defendant is not present.

Two reports by the National Center for State Courts in 2009 and 2015 point out the use of grand juries in second district and recommend that the SJDA consider having more felonies prosecuted through preliminary examination. The SJDA points out that preliminary examinations are ideal when their evidentiary and witness attendance requirements can be met, but these requirements can create challenging shifts in workload.

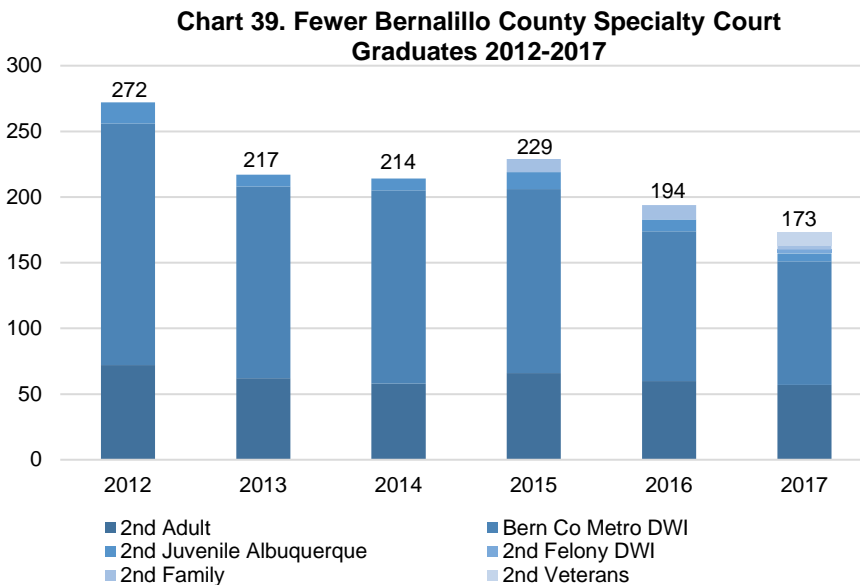
Specialty courts in second district are successful at producing low recidivism rates, but participation has plummeted in recent years

Bernalillo County specialty courts are some of the largest in the state with some of the lowest recidivism rates. Recidivism among graduates in adult drug court was less than 8 percent in FY17. However, overall participation has declined over recent years, resulting in fewer overall graduates. Additionally, the graduation rate and graduate recidivism rate at the two largest specialty

courts, the 2nd Judicial District drug court and the Metro DWI court has deteriorated since 2012. Chart 38 shows the participation rates for the three largest specialty courts, (2nd Judicial District Adult Drug Court, Metro DWI, and Juvenile Drug Court). In 2012, all three courts reported being at or above capacity, decreasing to 68 percent capacity in 2017, despite having slightly increased funding over that time period.



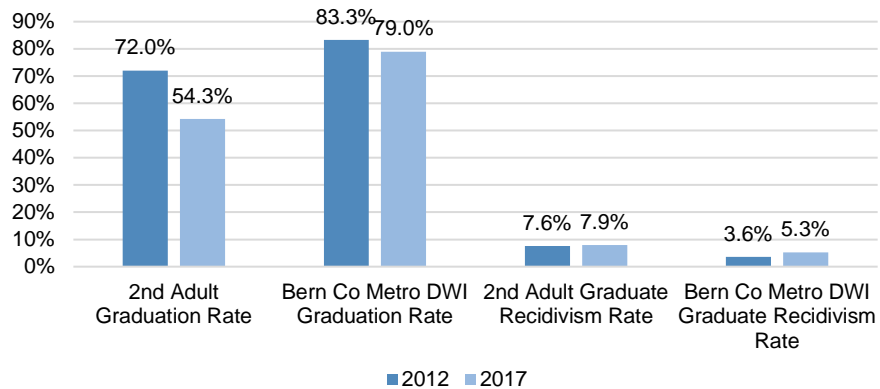
The number of specialty court graduates has fallen in concert with the decline in participation rates. Six combined specialty courts had 99 fewer graduates in 2017 compared to 2012 as shown in Chart 39.



Graduation rates and recidivism rates fell in the two largest specialty courts in the state, the 2nd Adult and the Bernalillo County Metro Court between 2012 and 2017. The graduation rates at both courts was lower in 2017 than in 2012 with an 18 percent drop in the 2nd Judicial District drug court and a 4 percent

drop at the Bernalillo County Metro DWI court. Both courts also saw slight increases in graduate recidivism rates.

Chart 40. Lower Graduation Rates and Higher Recidivism Rates in Bernalillo County's Two Largest Specialty Courts



Source: AOC

One potential reason given by staff from the Public Defender's Office for fewer referrals being made to specialty courts involves concerns with fidelity and effectiveness of these courts as the number of specialty courts has continued to grow. Some stakeholders also indicated financial burden of paying for specialty courts could be a disincentive for participation. AOC does not collect information on all specialty courts or programs, some of which they indicate are not based on the drug court model. In 2016, District Court created a program manager of treatment courts, though oversight of specialty courts could be improved in some instances.

The 2nd Judicial District and Bernalillo County Metro court have more specialty courts compared to 2012 with plans to add more courts. In recent years, family court, a veteran's court, and a felony DWI court have been opened. AOC provided LFC staff with performance information about specialty courts, listed in Chart 39, but reported that not all specialty courts provide data to AOC nor does AOC have an accounting of how many specialty courts are in existence across the state. For example, AOC lists and collects data for four specialty courts at Metro Court, but Metro Court advertises at least eleven different specialty courts and programs aimed at diversion for different populations and is considering adding another specialty court dealing with auto theft.

Some states have established requirements for problem solving courts to become certified and ask courts to meet certain standards for compliance. In Georgia, standards are tied to state funding and reviewed every three years. Standards are sometimes changed to incorporate the most evidence-based research. Some states have established statewide committees charged with developing governing rules for such courts. Research shows good evidence for effectiveness of drug courts and mental health courts; less evidence exists for other specialty courts (see Results First Analysis in Appendix I).

Pretrial services began implementing best practices in 2015, but not in conjunction with MDC and NMCD re-entry services

Pretrial services at Metro and District Court have changed multiple times since 2010, including implementation of two different risk assessments since 2015 with varying success. Also, both courts implement supervision of pretrial

services separately and do not utilize the same best practice standards. Starting in 2013, Bernalillo County collaborated with District and Metro Pretrial Services departments to assist in using evidence-based practices to reduce the jail population. According to the New Mexico Sentencing Commission (NMSC), a validated risk assessment was not used by the District Court until 2015, while Metro Court used a risk tool that had not been scored or validated. In a 2014 study, the NMSC assessed the 2nd District Court Pretrial Services program and found a number of gaps in the best practices used over the study period, including:

- Lack of a validated risk assessment
- Lack of routine output and performance measures
- Lack of screening all defendants in custody prior to initial appearance
- Lack of notification of clients for court hearings until October of 2013.

NMSC concluded the Second Judicial District Court Pretrial Services Division was not a best practice pretrial services program, but provided a number of recommendations including use of a validated risk assessment, use of performance metrics, and universal screening. Since the report, District Court has made significant changes to the pretrial program, first transitioning to the Kentucky Revised Risk Assessment (RAI) in September 2015. Whether RAI was working as intended is unknown as it was not locally validated before the court switched their pretrial services risk assessment again in June 2017 to the Arnold tool, which is a nationally validated tool and is currently used in both District and Metro Court. The Arnold Tool was implemented by a committee comprised of the Metro Court, District Court, SJDA, Second PD, Bernalillo County, and Law Enforcement. In most jurisdictions, the decision making framework of the tool is supplemented by other criteria, usually not for evidence-based reasons, though not in the second judicial district. However, there are aspects of the legal system that are unique to second district compared to the rest of the country that may improve the effectiveness of the tool through an evidence-based evaluation of its effectiveness. Meaning, the stakeholders could retroactively assess if there are common elements of their pretrial defendants that correspond with them accruing new charges while under supervision.

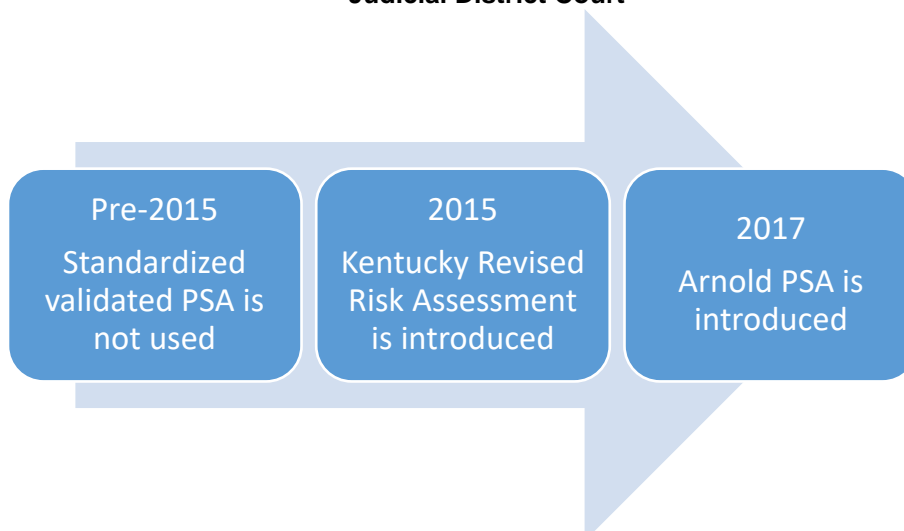
The Arnold Tool predicts increased risk when defendants have pending charges at the time of a new arrest.

However, the majority of new felony cases in second district are not indicted within 10 or 60 days.

The Arnold Tool predicts increased risk when a defendant has prior convictions.

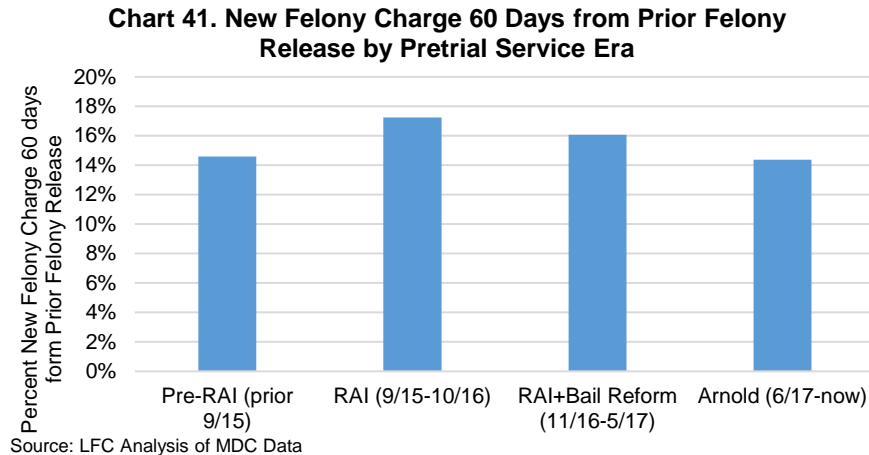
However, felony cases in second district have the lowest conviction rate in the state.

Figure 17. Timeline of Pretrial Services Assessment Evolution in 2nd Judicial District Court



Source: LFC

Chart 41 shows the felony re-offense rate within 60 days of release from detention from a prior felony charge for the various pretrial services eras. The re-offense rate increased after implementation of RAI but then saw a decrease with the introduction of bail reforms and the implementation of Arnold corresponds with an additional decrease.



FY17 New Criminal Caseload in Second judicial District:

7,000 Felonies

10,000 Misdemeanors

In Bernalillo County, only 40 percent of all criminal cases receive a risk assessment for pretrial services. Universal screening with a pretrial assessment is deemed a best practice. However, District and Metro court assess all felony defendants in detention but no misdemeanor defendants receive a risk assessment anywhere in the system. While felony defendants are alleged of committing more serious crimes and therefore are more appropriate to focus assessment of risk on, misdemeanor defendants are more numerous and receive no assessment

Pretrial services use an evidence based risk assessment but not validated needs assessment. Judges may order defendants to seek treatment as a condition of release, but pretrial services do not evaluate needs and refer defendants to treatment in a systematic way.

The county and courts lacked ongoing performance data to monitor the effectiveness of pretrial services. Pretrial services at District and Metro Court recently began collecting performance data internally. However, this information is not yet published or shared with key stakeholders, such as BCCJCC. Pretrial services agreed to reevaluate the decision making framework used with the Arnold tool once outcome data was available and assessed for validation by UNM ISR. Additionally, because two separate pretrial services programs exist in Bernalillo County (district and Metro Court), felony defendants will be assigned to one set of supervision conditions at metro court (usually for 10 or 60 days) and then switch to a separate set of conditions at district court after they are indicted. Tracking performance measures for unique defendants across both courts is difficult to do in the current system as each court uses separate case numbers that do not automatically link.

While pretrial services has moved to more evidence-based practices and validated risk assessments in recent years, this was not done in conjunction with similar reforms in incarceration re-entry services. As a result, most defendants have been released at awkward night times without a warm hand

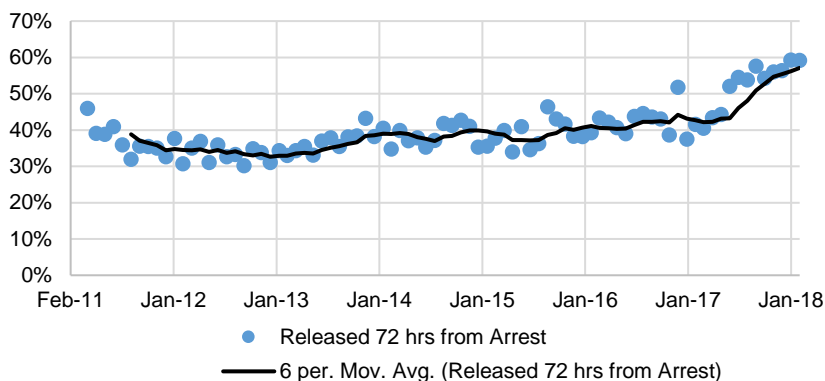
off or a connection to services and without the pretrial services office even being open (discussed in more detail in a later chapter).

Reducing pretrial detention corresponds with a reduction in defendants reoffending. MDC bookings data indicates a strong relationship between length of initial jail stay on a felony arrest and likelihood of picking up another felony arrest. Chart 42 shows the 60-day re-offense rate (percent of inmates released that pick up a new felony arrest within 60 days of release from a prior felony arrest) as a function of their time spent in jail. The likelihood of incurring a new felony arrest consistently increases for each extra day spent in jail until it levels off after about 5 days. New arrest likelihood generally doubles for inmates staying longer than 5 or more days as compared to inmates staying less than 1 day. This relationship holds regardless of severity or type of crime of initial arrest or length of rap sheet of individual. It is highly unlikely that the various forces responsible for a defendant's length of initial jail stay are such a perfect predictor, down to the day, of their likelihood of incurring a new arrest. Rather, it is more likely that the impact of longer jail stays increase the likelihood of picking up new charges. In fact, this relationship is a well-documented phenomenon that occurs across the country, according to a May 2018 report on pretrial incarceration by the Texas Public Policy Foundation. The report summarizes research from multiple jurisdictions nationwide that have found that pretrial incarceration actually increases the odds of re-arrest for all but the highest-risk defendants. Researchers suggest this is linked to the loss of the defendants' stability-providing structures while incarcerated, like employment, housing, family and community relationships.

The number of pretrial detention motions filed by the SJDA greatly increased after the SJDA issued new pretrial detention procedures in March. Stakeholders have suggested that about 40 percent are granted, for an effective detention rate of 13 percent. The SJDA is in the process of assessing the new policies.

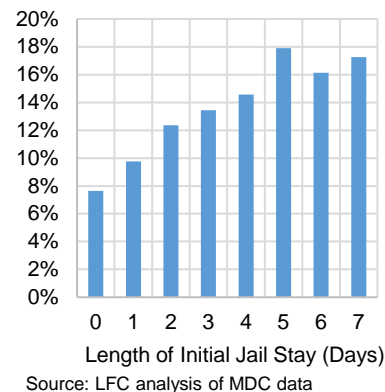
Chart 43 shows the percent of jail inmates released within 72 hours (quick release) each month. There are two clear stages where quick releases are stepped up: 2014-2015 when the RAI risk assessment was introduced and in June 2017 when the Arnold PSA was introduced. The RAI assessment corresponds with an increase in quick releases by about 4 percentage points while the Arnold tool increased them by about 20. As more defendants return to the community faster, the criminal justice system will need to monitor re-offense rates closely to ensure rates stay down or continue to decline.

Chart 43. New Felony Defendants Incarcerated < 72 Hours Upon Initial Arrest



Source: LFC Analysis of MDC Data

Chart 42. New Felony Arrest within 60 Days of Release from prior Felony Arrest, 2011-2017



13%

Average rate of pretrial detention filed on all new felony charges July 2017 to February 2018

33%

Rate of pretrial detention filed on all new felony charges in April 2018

Shifting the initial length of stay of 20 percent of jail inmates to quick release should reduce the 60-day re-offense rate by about 1 percent if the relationship shown in Chart 42 holds.

Recommendations

The Administrative Office of the Courts should increase current oversight efforts to include adopting and reporting on evaluation requirements for all specialty courts.

The Administrative Office of the Courts should expand certification procedures for problem-solving courts and prescribe these courts to demonstrate compliance.

The Legislature should consider legislation to minimize financial burden for specialty court participants.

The Legislature should consider legislation establishing basic requirements around the use of pretrial services statewide including best practices recommended by agencies cited in this report.

Bernalillo County, 2nd Judicial District Court, and Bernalillo County Metropolitan Court should implement a pretrial services performance management system using a core set of performance metrics and report quarterly to BCCJCC to guide policy and management decisions.

BCCJCC and relevant stakeholders should self-validate the Arnold tool to identify additional risk factors that may be critical and unique to Bernalillo County, meaning that a retroactive evaluation of the performance can identify factors that correlated strongly with increased risk. The self-validation should determine if the following factors contribute to an evidence-based risk assessment, and if so, they should be incorporated into the DMF moving forward:

- Felony charge within the last six months
- Multiple felony charges over recent years
- Other areas that retroactively show evidence for predicting risk

The Law Office of the Public Defender, the SJDA's Office, the 2nd Judicial District Court, and Bernalillo County Metropolitan Court should continue to identify barriers to timeliness of justice and work to address them together.

The Administrative Office of the Courts, the Law Office of the Public Defender, the SJDA's Office, the 2nd Judicial District Court, and Bernalillo County Metropolitan Court should work together to re-evaluate the fidelity and need for all specialty courts and increase utilization of evidence-based court programs including drug court and mental health court as appropriate.

The Law Office of the Public Defender and the SJDA's Office should report on internal referrals/offers to diversion and specialty courts.

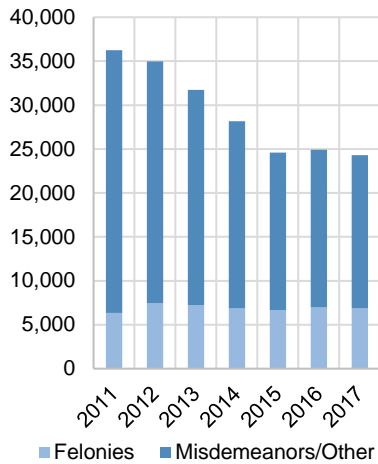
The Administrative Office of the Courts, the Law Office of the Public Defender, the SJDA's Office, the 2nd Judicial District Court, and Bernalillo County Metropolitan Court should explore specialty court options that could increase utilization of these courts including pre-plea (pre-prosecution specialty courts).

2nd District Court and Metro Court should consider including a universal screening tool in their pretrial services process and better connect clients to services to increase likelihood of success based on needs.

2nd District Court and Metro Court should continue improving implementing their pretrial assessment based on best practices including all recommended performance measures and universal screening.

Most Failed Cases Are Due to Issues with Evidence Collection and Witness/Victim Cooperation

Chart 44. MDC Bookings



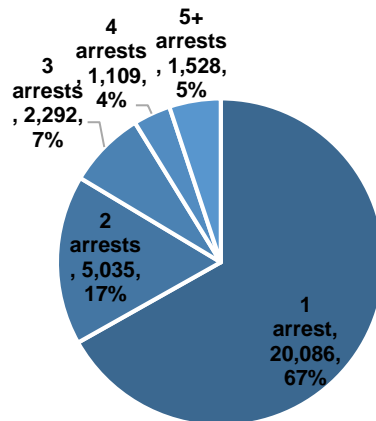
Source: MDC data

Relatively few defendants are responsible for most felony arrests

Between 2011 and 2017, law enforcement made 205 thousand arrests of 84 thousand unique people, including 51 thousand felony arrests of 30 thousand unique people. Chart 44 shows how new felony arrests per year have remained relatively consistent at around 7 thousand, but misdemeanor and other arrests have reduced by about half from 2011 to 2015.

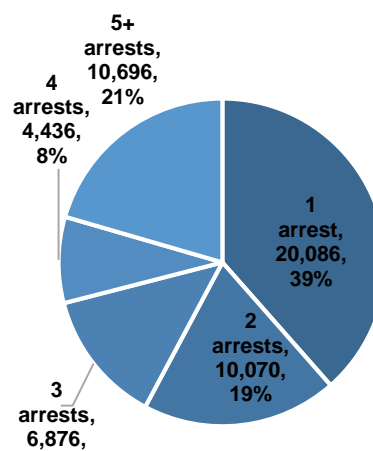
Chart 45 on the left shows the total number of people arrested on felony charges from 2011 to 2017, sorted by the frequency with which unique individuals were arrested over that time frame. A large majority of people (67 percent) receive only one felony arrest and no more. Chart 46 on the right shows the total number of felony arrests from 2011 to 2017, sorted by the frequency with which unique individuals are arrested. Unique individuals with several arrests make up a small percentage of the total individuals involved in the justice system but are responsible for a larger percentage of all arrests. It should be noted that this analysis undercounts those with multiple arrests, because those booked in 2011 have had more time to accrue charges than those booked in 2017. LFC staff selected a random sample of all individuals with four or more felony arrests from this distribution, and analyzed system processes for each case in order to determine what aspects of the system were unable to address these multiple offenders. The following is a description of the system processes as well as the results of the analysis on the random sample.

Chart 45. Felony Arrests per Person (2011-2017)



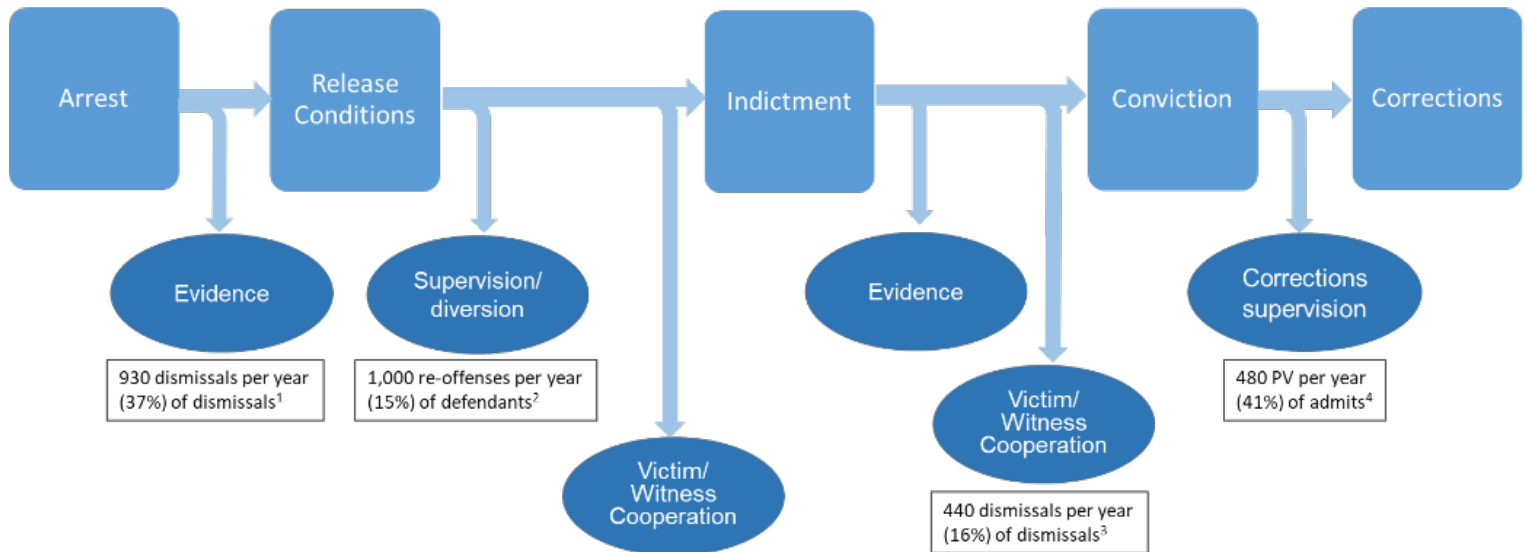
Source: LFC analysis of MDC data

Chart 46. Felony Arrest Share per Person (2011-2017)



Source: LFC analysis of MDC data

Figure 18. Simplified Felony Process through the Legal System and Where Cases Fall Out



Source: 1,3: LFC analysis of 2017 2nd District Court report on 2016 case dismissals (it's assumed that cases never prosecuted are due to a lack of evidence, though this won't always be true), 2: Percent of felony defendants charged with new felony 60 days from prior felony release 2011-2017, 4: Sentencing Commission analysis on FY17 NMCD admissions (PV = parole and probation violations) with Bernalillo estimated as 30 percent of total admissions

A simplified flow through the criminal justice system starts when law enforcement gathers evidence on a crime, makes an arrest, and the defendant is placed in detention. The SJDA then initiates prosecution in Metro Court, potentially offering an early plea deal, a defense attorney is assigned, and the court sets the conditions of release from the detention facility. The defendant is placed on pretrial services, who monitor compliance with conditions of release and report violations. The SJDA collects initial evidence from police, shares it with the defense, and determines the strength of the case. The SJDA will then attempt to indict the defendant on the charges that it can prove with probable cause to have been committed and makes a plea offer to the defendant based on the strength of the case and the potential penalties faced by the indicted charges. If the plea is rejected, the case proceeds to trial, where deadlines are imposed on collecting and sharing further evidence and additional plea negotiations can commence. If the defendant is found guilty by a jury beyond a reasonable doubt, they are sentenced by a judge in the case and could be sent to incarceration or conditional probation, where they are monitored by the Department of Corrections for compliance.

Figure 18 illustrates this process. At each stage, the legal system must operate to ensure the defendant's rights are protected, that the best interest of justice is served, and that those convicted are held accountable. As such, there are places where a case or accountability for a defendant can drop out:

- Evidence collection
- Supervision/diversion
- Victim/witness cooperation
- Database integration
- Corrections supervision

The vast majority of multiple felony offenders are sent to prison, but it often takes several alleged offenses before they are fully prosecuted and convicted

Evidence Collection:

LFC staff witnessed a case in court where a defendant was released after allegedly shooting at and striking a random car, his third shooting charge in months, in part because there was no evidence presented of bullet casings collected at the scene matching the gun and no pictures of the bullet holes in the vehicle.

Database Integration:

In one case, a defendant was held in jail for 39 days because of multiple failures to correctly file and execute a transport order for their court hearing, ultimately resulting in a dismissal.

-LFC analysis of 2017 2nd District Court Dismissal Report

In order to evaluate how individuals can accrue multiple felony arrests in short periods of time in the criminal justice system, LFC staff analyzed a random statistically representative sample of 100 out of 2,445 individuals who were charged with four or more separate felonies within the Bernalillo County criminal justice system from 2011 to 2017. Court records detailed varying reasons why individuals cycled through the system with such frequency, with varying levels of accountability. In the sample, 86 percent of unique individuals eventually received a felony conviction (74 percent were sentenced to prison), deferred sentence, or are pending trial. Of the remaining 14 percent never receiving a conviction or pending trial, three have not been convicted of any crime due to being ruled incompetent and 11 had their cases dismissed due to either a lack of evidence, discovery suppression, or uncooperative victims and/or witnesses. Because this analysis was conducted on a statistically significant sample, it can be extrapolated that 342 individuals with four or more felony arrests from 2011 to 2017 were never convicted of their alleged crimes.

Four percent of individuals in the survey had cases dismissed due to being ruled incompetent. The number of defendants whose cases were dismissed because of incompetency or mental retardation likely equals about 100 individuals with four or more felony charges extrapolated from the sample's figure of 4 percent. Determination of competency is an extensive and complex process requiring a more thorough analysis than was possible in this study. At least two rules and two statutes apply to determination of competency in Bernalillo County. Several stakeholders indicated the competency process is complex and needs improvement.

Generally, whenever a defendant's competency to proceed in a criminal case is questioned, case proceedings are suspended, and the defendant is professionally evaluated by a qualified professional and the findings are reported to the court. The court then holds a hearing to determine defendant's competency and, when the defendant is found incompetent, dangerousness. Dangerousness has a statutory definition that the court is required to apply. If there is no finding of dangerousness, the case is dismissed, and the district attorney may then seek involuntary commitment under the Mental Health and Developmental Disabilities Code. The defendant may be held for a limited period of time in order for the district attorney to commence those proceedings.

If there is a finding of dangerousness, the options moving forward are varied and depend on the likelihood that the defendant may become competent in the future with treatment. Those who are amenable to treatment may be held in a secure facility and provided treatment until competency is reached and trial may commence. Those who are not amenable to treatment or who, after a period of treatment are determined not to be making progress toward competency may, for certain offenses, be detained in a secure Department of Health facility for a period of time equal to the maximum sentence which they would have been subjected.

If a defendant is incompetent, but not considered to be dangerous pursuant to the statute, the individual cannot legally stand trial for the charges. In these

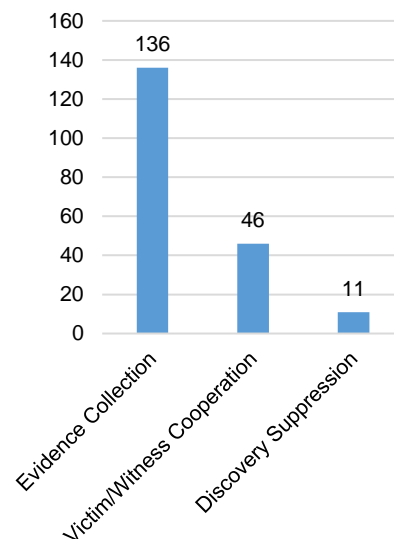
circumstances, the law permits the DOH to seek involuntary civil commitment, which is a cumbersome statutory process.

Defendant A from the sample is one individual who has a lengthy criminal history and has repeatedly been found to be incompetent. He had eight felony arrests between 2011 and 2017 (aggravated assault, burglary, possession of deadly weapon, aggravated indecent exposure, and aggravated battery), and was indicted in five of the eight arrests, but ruled incompetent in four and found not guilty in one. Sufficient evidence has not been presented to establish his dangerousness and no efforts have been made to pursue involuntary civil commitment proceedings. Individuals like Defendant A would likely benefit from treatment, yet it appears all efforts at treatment have ended upon a finding of incompetency and dismissal of the case. The issue of competency is an example of a broader public health issue. Solving this problem requires multiple stakeholders to work together to propose real, humane, and just community-based and criminal justice system approaches (See Appendix F for LOPD's approach for addressing competency)

Most felony case dismissals are because of evidence collection problems.

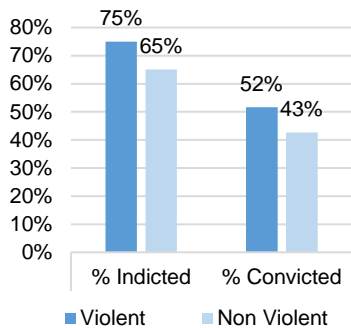
Staff further analyzed the reasons for case dismissals throughout the sample by three categories: evidence collection, victim/witness cooperation, and discovery suppression. Dismissals were counted for every felony case introduced into the system at the Metro Court level onward. The exact reason for case dismissals is not always explicitly stated in the court records that were available for the analysis, so staff developed a categorization rubric. Generally, if records indicate that the SJDA dismissed cases immediately or “in the best interest of justice”, or did not proceed with prosecution, it was assumed that this was due to a lack of evidence that a crime could be proved to have occurred; if domestic and family violence crimes were dismissed or hearings were not held because witnesses did not appear to testify, it was assumed that this was due to a lack of victim/witness cooperation; if the defense filed successful discovery suppression motions or cases were dismissed on technicalities caused by database communication issues, it was assumed that this was caused by discovery issues resulting in suppression. These estimates may miscategorize the actual reason for case dismissals. For instance, there may not be evidence or victims/witnesses may not be cooperative because a crime was not committed. However, documents made available for this analysis do not explicitly capture this information and so simplified estimates are necessary for process analysis. Chart 47 illustrates how these reasons are distributed among cases that were not indicted or convicted in the sample. Evidence collection was the primary reason why cases were not indicted or convicted.

Chart 47. Reasons for Any Felony Charge Dismissed in the Sample



Source: LFC Analysis of AOC Odyssey data, MDC Data

Chart 48. Percentage Indicted and Convicted for Violent and Non Violent Crime in Sample



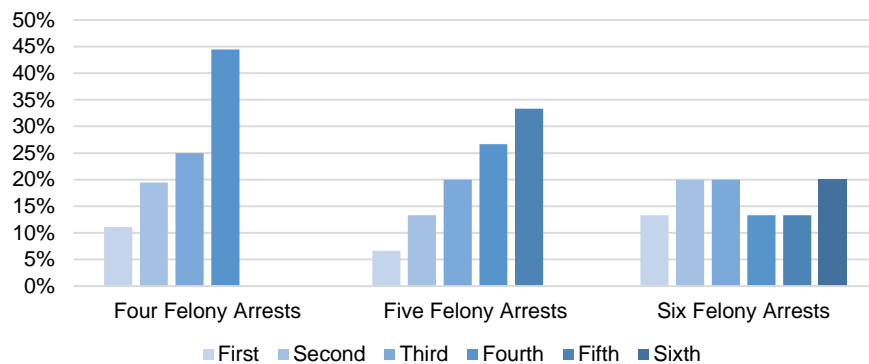
Source: LFC Analysis of MDC Data

A greater percentage of violent felonies led to indictments and/or convictions when compared to nonviolent felonies. Of the 517 offenses in the sample, 15 percent were violent felonies. Seventy-five percent of violent felonies were indicted, compared to only 65 percent of non-violent felonies. Fifty-two percent of violent felonies ultimately ended in a conviction, compared to only 43 percent of non-violent felonies. These results further suggest that the criminal justice system is focusing more on violent offenders, rather than non-violent offenders.

The percentage of violent felonies increased for each subsequent arrest for individuals with four and five felony arrests between 2011 and 2017, as shown in Chart 49. For individuals charged with four felonies, only 11 percent of the charges stemming from the first arrest were violent. For the second arrest, 19 percent were violent. For the third arrest, 25 percent were violent, and for the fourth arrest, 44 percent were violent. Similar increases were found for individuals with five felony arrests, although less dramatic as those with four arrests. For individuals with six or more arrests, fewer of the charges were violent and there was no pattern of crimes becoming subsequently more violent. The one individual in the sample with eleven felony charges had no violent felony charges. This suggests that the legal system is focusing more on those with violent felonies.

Chart 49. Percentage of Violent Crimes for each Subsequent Arrest in Sample

(for Individuals with four, five, and six felony arrests)



Source: LFC Analysis of MDC Data

For example, Defendant B and Defendant C are two individuals from the sample who both had four separate felony charges over the five year time period. Both exemplify how the criminal justice system can work more quickly to convict more violent offenders. Defendant C's first arrest in October 2016 related to stolen vehicles, but his subsequent three arrests in February, June and July 2017 were all violent crimes: kidnapping and two incidences of armed robbery. In December 2017 he was convicted in three of the four charges and sentenced to prison. He was not indicted in the kidnapping charge due to an uncooperative victim.

Defendant C's first two arrests in December 2012 and 2013 were both non-violent. He was indicted in both but only convicted in one and sentenced to probation in 2013. His following two felony arrests in June of 2017 both included violent felony charges: kidnapping, aggravated assault, child abuse,

and attempted murder. He was indicted quickly in both, convicted, and sentenced to prison in April 2018.

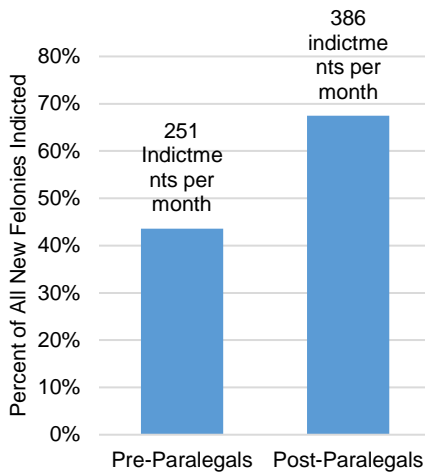
Defendant D and Defendant E are two individuals from the sample who were charged with ten and eleven non-violent felonies, respectively. Of Defendant D's ten charges, half were drug related. He had additional charges for commercial burglary, receiving and transferring a stolen vehicle, forgery, and larceny. His first arrest was in April 2014, and in June 2016 he was sentenced to prison following a conviction on his ninth arrest. Only four of the cases were indicted in district court, and six of the cases were dismissed by *nolle prosequi* by the SJDA before being brought to District Court. One of the four indicted cases was dismissed by the court for discovery violations. He was partially convicted by a jury in a second case but his sentence was suspended. The third case was dismissed by the SJDA because the victim could not be located, and in the final case, he was convicted by a jury and sentenced to prison.

Defendant E with eleven felony charges also had a handful of drug related crimes, but also had three charges related to stolen vehicles and two for burglaries. His first arrest was in April 2011, and in February 2014 he was sentenced to prison following convictions on eight of his eleven cases.

These four case studies illustrate the possible prioritization of violent offenders over non-violent offenders. While this focus is intuitive, the triage likely fails to account for individuals who continue to accumulate non-violent charges that are not fully prosecuted until a violent charge is introduced. The case studies also show the inability to adequately address and help individuals who are accused of violent felonies but are repeatedly found to be incompetent.

While these four case studies highlight how the criminal justice system may prioritize violent offenders, there are still scenarios where individuals never receive a conviction for various reasons. Defendant F was first arrested in July 2016 for aggravated assault and kidnapping. The SJDA dismissed the case because it was not timely indicted, and charges were not re-filed. In December 2016, a warrant was issued for an open count of murder in first degree and robbery from an August 2016 incident. The warrant was served in February 2017, he was indicted in March and charged with second degree murder. A motion for preventative detention was denied. Another warrant was served in March 2017 for his alleged participation in a confrontation that resulted in a stabbing. The state again filed for preventative detention but it was denied, in part because of the SJDA's *nolle* dismissal in the first case. He was given bond with pre-trial services and an ankle bracelet instead. However, video and witness evidence call into question the timeline of events. The state stipulated the dismissal of this case due to its failure to complete pre-trial interviews. This case serves as a reminder that although this case may appear to be an example of a violent offender not receiving timely justice, individuals should be presumed innocent until proven guilty. A jury trial is pending the second degree murder charge.

Chart 50. Indictments Increase after APD hires Paralegals to Compile Discovery

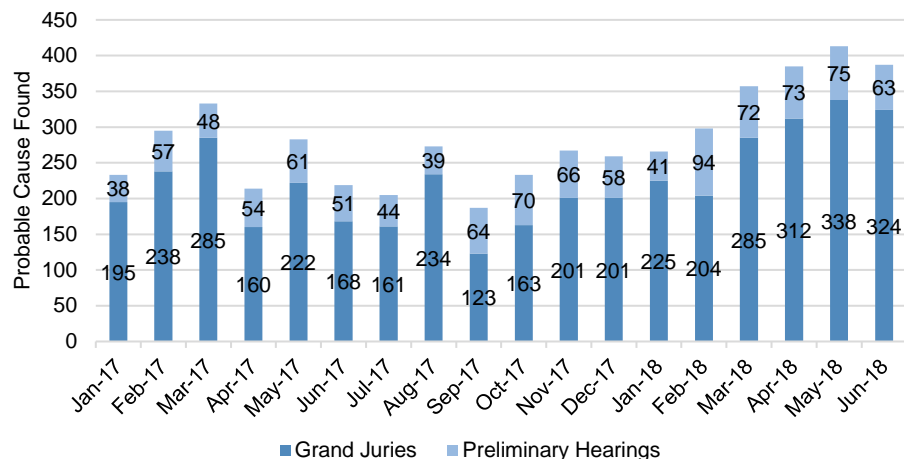


Source: LFC analysis of 2nd District Court data

Felony indictments increased at the same time that APD hired paralegals to compile discovery and the SJDA reformed procedures. Because of evidence collection practices resulting in nonintegrated evidence databases, APD hired a team of paralegals to compile discovery for the SJDA on felony cases. The paralegals work on felony cases where the arrest was made by a field officer, as opposed to by a detective, starting in February 2018. For March and April 2018, there were about 1,100 felonies charged in Bernalillo County, and the APD paralegal team turned in approximately 600 completed discovery packets for the SJDA, a little more than half of the total felony cases in the district. Since the APD paralegal team began work, the percent of new felonies successfully indicted by the SJDA increased from 50 percent to 80 percent, a statistically significant increase. Additionally, of the cases that the SJDA filed preventative detention motions on, 44 percent were granted (51 of 117) when worked on by APD paralegals versus 37 percent (62 of 168) for all other felony cases over that period. It is highly likely that some of this success is attributable to the work of the APD paralegals, although improvement or changes in other processes could also have contributed. For instance, reforms by the SJDA in 2017 and ongoing, mentioned in the previous chapter, include creating a tiered priority system to allocate resources towards high priority cases, improving victim advocacy by employing volunteers and engaging victims within 24 hours, and other internal policy changes. Because these reforms by APD and the SJDA recently started, it is too soon to have data on the status of convictions. Indictments are only an intermediate outcome of prosecution.

The number of felony cases indicted by the SJDA doubled in the past several months. From January 2017 to January 2018, the SJDA averaged approximately 251 indictments per month (counting grand jury indictments, bind overs, and pleas at preliminary examinations). After APD employed their paralegal team, indictments increased to 386 per month, more than twice as much as the low point of 187 indictments in September 2017.

Chart 51. 2nd District Felony Indictments Doubled



Source: Second District Court Data

Recommendations

APD should expand their paralegal team to compile discovery for all felony cases.

The SJDA should continually work with the police, perhaps liasoning with the APD paralegal team, to communicate clearly what evidence collection is required to successfully prosecute felony cases in second district.

The SJDA should collect performance measures on their victim advocacy program to determine the frequency of victim attendance at critical hearings and use that information to improve outcomes.

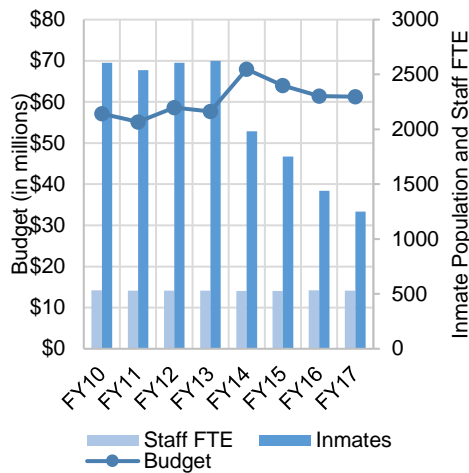
The SJDA should continue to revise their pretrial detention policy to improve outcomes.

The Legislature should consider convening a statewide task force or committee comprised of representatives from the Department of Health, mental and behavioral health experts, representatives from the courts, district attorney's and public defender's offices to evaluate current statutory provisions related to competency and mental health and offer revisions that would achieve the goals of community safety and treatment of this population.

The BCCJCC should convene a committee comprised of select representatives to evaluate current local rules and provisions related to competency and mental health and offer revisions that would achieve the goals of community safety and treatment of this population. BCCJCC should explore treatment options for individuals found incompetent as well as alternatives aimed at providing ongoing assistance and encouraging long-term success.

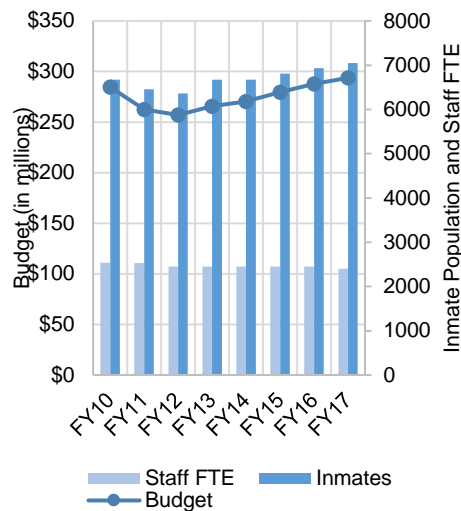
The Metropolitan Detention Center (MDC) and New Mexico Corrections Department (NMCD) Lack Best Practices Although Improvements Are Underway

Chart 52. MDC Budget, FTE, Average Daily Pop



Source: Bernalillo County budget documents

Chart 53. NMCD Budget, FTE, Average Daily Pop



Source: NMCD budget documents

MDC hold defendants awaiting trial and MDC and NMCD house inmates convicted of crimes.

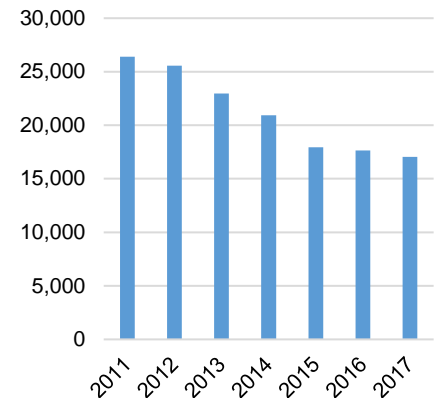
Some exceptions to defendants being incarcerated include those receiving citations, those released awaiting trial, those being supervised (probation or parole), or those being sent to federal prison, however, the focus of this review is on state and local facilities for adults. The missions of jails and prisons involve protecting public safety, but through the years these facilities are increasingly relied on to provide services to inmates and defendants including medical treatment, behavioral health treatment, and rehabilitation services such as employment training or life skills training.

In Bernalillo County, MDC and NMCD spent approximately \$160 million in FY17 to incarcerate an average 1,200 inmates per day in county jail and 2,205 inmates per day in state prison. The 2,205 inmates represent Bernalillo County's share of the state prison population, which is 30 percent of 7,350, the total average population per day in state prisons. CYFD juvenile justice (JJ) facilities spent \$18 million and county juvenile facilities (JDYSC) spent \$9 million in FY17. The expense of statewide facilities (NMCD and JJ) to address Bernalillo county inmates is estimated as the fraction of inmates admitted through a Bernalillo county judicial court.

Chart 52 shows the annual budget, average daily inmate population, and total staff FTE at MDC since 2010. Since 2010 the MDC budget has increased by \$4 million dollars and the number of full time equivalent (FTE) positions has remained constant. The largest change at MDC has been the drop in population from over 2,600 in FY10 to 1,251 in FY17. The cost per inmate varies widely among states. Costs can range from \$15 thousand to \$54 thousand per year among southwest states. New Mexico cost per inmate is above average among peers at \$41.3 thousand per inmate. Chart 53 shows the annual budget, average daily prison population, and all staff of the New Mexico Corrections Department (NMCD). Since 2010, the budget has increased by \$9 million dollars and the three year recidivism rate has increased from 44 percent in FY10 to 50 percent in FY17. In FY17, the average daily population in state prisons was 7,350 inmates, a 1 percent decrease, and the first year in the last five years the population fell. Approximately 30 percent of inmates in NMCD facilities are admitted from Bernalillo County.

MDC and NMCD had over 18 thousand releases of defendants and offenders into Bernalillo County in 2017. In step with the reduction in jail population, fewer inmates are being released from MDC and fewer total releases are occurring recently compared to 2010. There were 17,033 unique individuals released from MDC in 2017. NMCD had 1,464 releases into Bernalillo County in 2017. In recent years, NMCD is releasing more inmates into Bernalillo County than they admit from Bernalillo County. In the most recent year for which data are available, 1,192 inmates were admitted from Bernalillo County whereas 1,464 total inmates were released to Bernalillo County. One possible reason for this is that Bernalillo County has more services for former inmates compared to most parts of New Mexico. In order for an NMCD inmate to be released on parole, they need an approved parole plan which might include a place to live, treatment services, or employment. Albuquerque likely has more of these resources than other alternative options for inmates being released from NMCD. As previously mentioned the drop in MDC population can mostly be attributed to decline in misdemeanor bookings. APD arrest data reflect large decreases in part 2 arrests which explains some of these declines. APD saw a 34 percent decrease on part 2 arrests between 2010 and 2016.

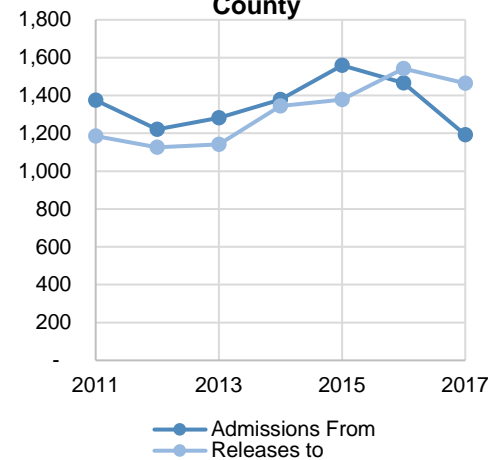
Chart 54. MDC Unique Persons Released



Source: MDC and UNM ISR

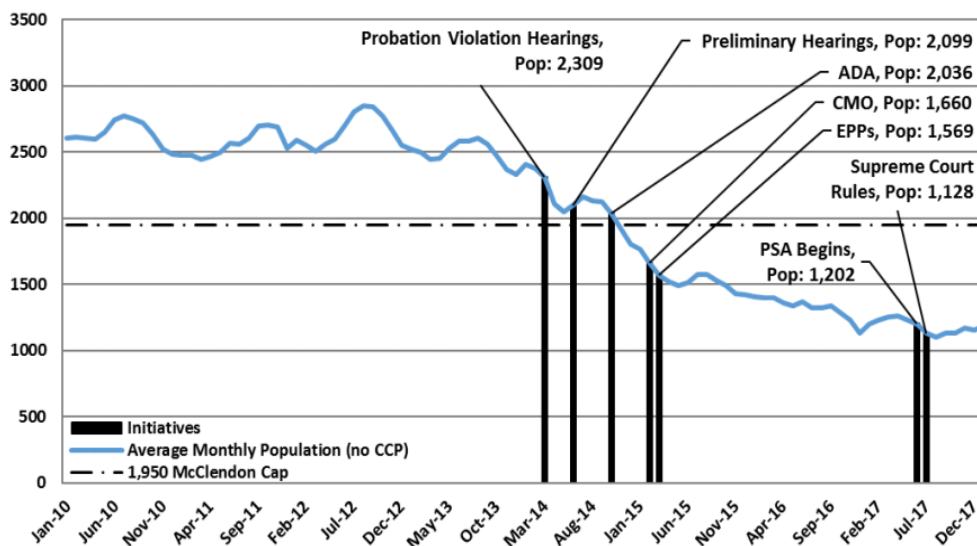
The Bernalillo County Criminal Justice Review Commission and Bernalillo County implemented a number of inmate population control measures. In October 2013 a working group of criminal justice partners began targeting specific initiatives for implementation. According to the 2nd Judicial District Court, as many as 46 initiatives have been implemented, mostly focused on pretrial justice and case processing. According to the Vera Institute, the average daily jail population at MDC was highest amongst peer cities in 2010. Jail reforms contributed to a reduced MDC population to align with peers in 2015, the latest date for which such comparison data is available. The MDC jail population has declined an additional 30 percent since 2015, putting it at the level of the lowest populations per resident among peer cities (assuming peer city population levels have not changed since 2015). A number of reforms likely contributed to the decline in population as referenced in Chart 56. Average length of stay also dropped in half from a high of about 40 days in 2014 to about 18 days in 2017.

Chart 55. NMCD Admissions and Releases to Bernalillo County



Source: New Mexico Sentencing Commission and NMCD

Chart 56. MDC Population and Initiative Initiation by Month



Source: UNM ISR

The APIC Model

Assess **A**ssess the inmate's clinical and social needs, and public safety risks.

Plan **P**lan for the treatment and services required to address the inmate's needs.

Identify **I**dentify required community and correctional programs responsible for postrelease services.

Coordinate **C**oordinate the transition plan to ensure implementation and avoid gaps in care with community-based services.

Source: Osher, Steadman, and Barr (2002)

Best practices for jails and prisons include assessing risk and needs of inmates and connecting them to evidence-based services. Almost every inmate incarcerated in jail or prison will reenter the community. However, most will also continue to exhibit criminal behavior. According to the Bureau of Justice Statistics, almost 80 percent of inmates released from prison will be rearrested within five years and, in New Mexico, more than half will return to prison within three years. One of the most significant challenges faced by federal, state, and local governments is to ensure that inmates are prepared to reenter the community with the tools and treatment they need to be successful and to avoid reoffending. One of the most widely accepted reentry models, referenced by a 2008 Urban Institute Jail Administrator's Toolkit for Reentry is the Assess, Plan, Identify, and Coordinate (APIC) model which includes four key elements in the reentry process: assess, plan, identify, and coordinate.

Identifying needs and addressing potential root causes of crime is essential to successful reentry, including addressing behavioral health needs, employment needs, or other social services. Nationally, more than half of all prison and jail inmates have a mental health problem and more than two-thirds are dependent on or have abused alcohol or drugs. According to the Treatment Advocacy Center, 20 percent of inmates in jails have a serious mental illness (SMI) and 15 percent of inmates in state prisons have an SMI. New Mexico identification rates are within these ranges. In FY17, 14 percent of the NMCD population was diagnosed with an SMI. At MDC, 18 percent of males and 27 percent of females have an SMI diagnosis, according to MDC data.

These statistics reflect the need to accurately assess incoming inmates and match them with effective services in jail and access to continuing community-based care when released. Evaluating inmates and matching them with needed services in jail and in the community can be particularly difficult for jails considering that many inmates are in jail for a very short time, contrasted with prison where inmates stay for several months or even years. According to Bernalillo County, approximately 56 percent of releases are individuals with length of stays less than 72 hours long.

Bernalillo County has not experienced cost savings despite a 52 percent decrease in inmates at MDC.

Since 2010 the Metropolitan Detention Center experienced a 52 percent decrease of inmates and a 7 percent increase in budget. Such a population drop should result in declining marginal costs from savings realized from reducing burden on day to day operations including food, health care costs, and transportation with the potential for long-term savings resulting from closing pods and reduced staffing. The Washington State Institute for Public Policy estimates short-term marginal costs of jails to be 12 percent of the average cost, and long-term marginal costs of jail to be 74 percent of the average cost. Bernalillo County expected to see cost savings from the drop in the jail population from a reduction of marginal costs for housing inmates under contract as a result from closing pods. Cost savings should have also been

"The research on reducing recidivism is clear: focusing supervision time, treatment, and programming resources on people who are at a high risk of reoffending can decrease their likelihood of reoffending, while focusing those resources on people who are at a low risk of reoffending can increase their likelihood of reoffending"

- CSG Justice Center

realized from discontinuing the housing of inmates at other facilities (MDC's 2018 budget book refers to the need to house inmates at other facilities due to overcrowding: "This additional, unplanned expense, cost the county upwards of \$9 million dollars in fiscal year 2014 and fiscal year 2015.") The county was spending upwards of \$35 thousand per inmate per year to house inmates in other facilities, sometimes out of state.

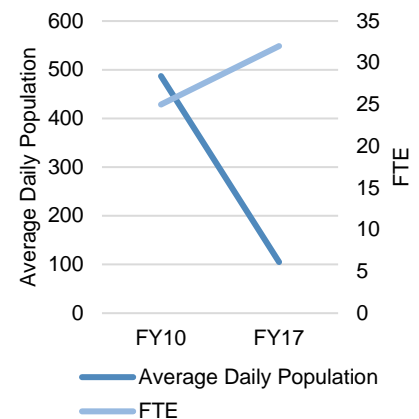
However, the MDC budget has grown from \$57 million in FY10 to \$61 million in FY17. The number of staff is almost unchanged with 532 in FY10 to 531 in FY17. Overtime costs at MDC also range from \$6 to \$9 million each year which may have been related to overcrowding. However, as of July 15, 2018, fifty-eight MDC employees already earned more than their annual salary through overtime.

Bernalillo County budget documents indicate that rising food and medical contracts, along with overtime and programming initiatives, are partly responsible for the budget not dropping in conjunction with the decreasing MDC population. In meetings, Bernalillo County officials also pointed toward additional costs associated with a June 2016 federal decision in the McClendon lawsuit. However, county budget documents seem to contradict at least some of these reasons. For example, the FY17 CAFR states that large decreases in expenditures were seen in some categories at MDC from renegotiated contracts due to the dropping population of the jail. The CAFR also states that MDC was able to decrease monitoring costs as a result of the 2016 McClendon lawsuit, a 21-year-old class action lawsuit against the county over living conditions at MDC. However, total costs have not declined and MDC continues to claim they are short staffed. In December 2017, the County Commission added an additional 9 FTE to MDC and converted 76 MDC positions that had been added in 2012 from term to permanent positions.

MDC officials continue to tackle potential abuse of leave taken through the Family and Medical Leave Act (FMLA) by MDC employees. According to Bernalillo County Commission meeting minutes, in December 2017 about a sixth of total FTEs at MDC (about 130 employees) were on FMLA. In July 2017 a special audit released by Bernalillo County found a lack of controls to ensure FMLA information was entered correctly, a lack of controls for FMLA hours reported, and inaccurate reporting of FMLA, among other issues.

Some programming within the jail has also seen decreases in participation but increases in resources. The community custody program (CCP) within MDC is founded on the concept of community-based supervision and treatment. Through court approval, inmates are removed from detention and placed in their home in an attempt to successfully reintegrate the inmate into the community. Since 2010 CCP has experienced a 78 percent drop in participation and a 28 percent increase in employees.

Chart 57. Community Custody Program Population Decline and FTE Increase

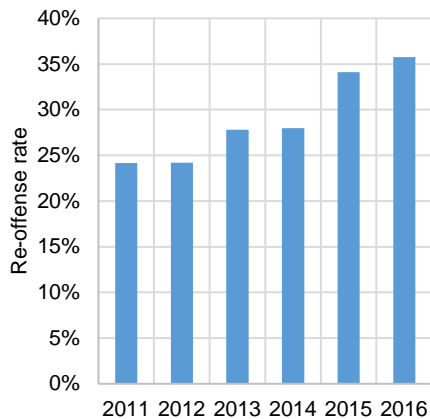


Source: Bernalillo County Budget Book and CAFR

As of July 15, 2018, fifty-eight MDC employees already earned more than their annual salary through overtime.

About a sixth of total FTEs at MDC were on FMLA

Chart 58. New Felony Charge 1 Year within Defendant's Prior Felony Release From MDC



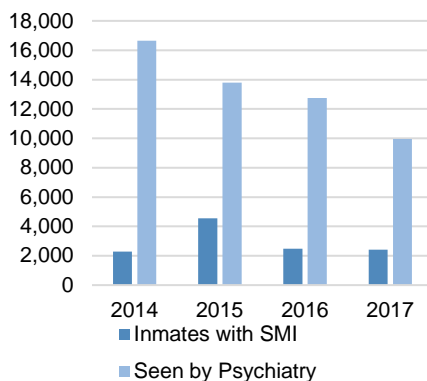
Source: LFC analysis of MDC data

MDC re-entry processes need improvement but recent changes are encouraging.

Rearrests are on the rise for MDC inmates. At MDC the percent of inmates booked on a felony that receive a new felony charge within a year of release has increased from 24 percent in 2011 to 36 percent in 2016, as seen in Chart 58. When LFC staff examined the same measure over a shorter period (e.g. 60 days), there is evidence of recent improvement in this metric.

Many of MDC's processes for screening, treating, and preparing inmates for reentry have not been in line with best practices. Best practices for successful reentry include finding out what risks and needs inmates have in order to properly match these with available treatment in jail and prison and in the community. Best practices indicate up to three types of valid screenings should occur for jail inmates: a program to identify suicidal inmates, a behavioral health screening upon admission, and a behavioral health assessment within two weeks of jail entry. Although MDC does conduct screening for inmates, MDC has not utilized a validated risk needs assessment in recent history. MDC has worked with the UNM ISR to develop a validated screening form, however the instrument was not implemented at the time of LFC site visits in early 2018. According to county officials, one hurdle is implementing an electronic version of the form so that risk needs information is available to staff at the resource reentry center. MDC does have a draft transition planning flowchart that seems to be in step with some best practices, however some of these processes were not in place during LFC site visits (See **Appendix C for a draft diagram of transition planning at MDC**).

Chart 59. MDC Inmates Diagnosed with a Serious Mental Illness (SMI) or seen by Psychiatry



Source: MDC

Note: MDC indicates data prior to 2014 is unavailable from their contractor and that the contractor did not start tracking if inmates were seen by mental health professionals until late 2015

Additionally, best practices call for training jail staff so that they can identify symptoms of behavioral health conditions and adequately interact with inmates with such issues. Federal district court ordered MDC to train MDC officers who are assigned to psychiatric service posts to possess a minimum level of specialized skills and training. However, a November 2016 court filing suggests that correction officers were attending to inmates without adequate behavioral health training due to requirements of their Collective Bargaining Agreement and MDC administrator direction.

When an inmate is received at MDC they should receive a screening that will flag the need for a mental health evaluation. An inmate may receive a number of behavioral health related services while at MDC, including being signed up for Medicaid, receiving a mental health diagnosis, and being seen by mental health professionals. According to data from MDC the number of inmates diagnosed with a SMI has remained relatively consistent over the years except for a spike in 2015. The number of inmates seen by a psychiatrist has declined over the years (although the proportion of inmates seen is consistent or higher given the jail decline). The jail did not start tracking the number of inmates seen by mental health professionals until late 2015. These numbers have remained consistent between 11 and 12 thousand inmates seen a year.

There is evidence that enrolling inmates in Medicaid in jail reduces recidivism for people with severe mental illnesses. However, MDC reports that approximately one-quarter of inmates are currently being released too quickly for staff to attempt to sign them up for Medicaid.

MDC runs a community-based methadone maintenance program referred to as medication assisted treatment (MATs) which is associated with significant

decreases in inmate recidivism. MDC is a national leader in implementing the program and is currently examining the possibility of expanding this program to take on a more central role.

Over the study period MDC inmates were often released without being connected with services in the community. At least two gaps exist for connecting inmates exiting jail with services in the community. The first gap is the need for additional behavioral health services and places to access services. The second gap is connecting former jail inmates with services that are available. According to a Bernalillo County Healthcare Task Force report:

“There is little or no connection of care within MDC with follow-up care after release-in effect, MDC acts in isolation from the community, rather than as a part of the community.”

“There is little or no connection of care within MDC with follow-up care after release-in effect, MDC acts in isolation from the community, rather than as a part of the community.”

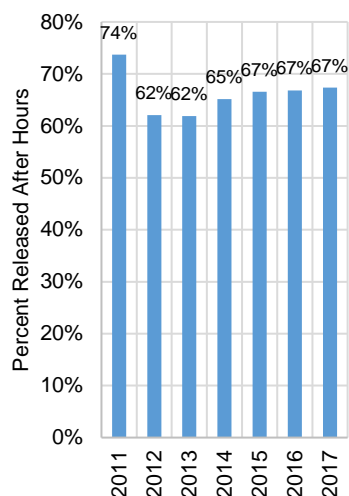
Bernalillo County’s recent efforts in behavioral health are beginning to address this issue, but there has not been a resource for inmates exiting MDC to connect them with services in the community until June of 2018. One potential bridge to this gap was seen in a Molina Healthcare care coordination pilot project for Medicaid enrollees at MDC beginning in June 2016. The goal was to engage members in care coordination prior to release so they would have more timely access to health services once released. Molina care coordinators worked with MDC staff and inmates at the facility to complete health risk assessments (HRAs) and comprehensive needs assessments (CNAs), and also educate inmates about the services available to them and assist with coordination of those services. The pilot project was suspended by MDC officials, in order to evaluate how to move into the next phase of bringing MCOs to the table in Centennial Care 2.0 and the upcoming opening of the Resource Reentry Center. Bernalillo County officials indicated in meetings that efforts were made to restart the program to no avail. LFC staff described early outcomes from the project as promising in a January 2018 report though staff were unable to confirm results including decreased costs and utilization for participants.

- ***Bernalillo County Healthcare Task Force Report***

Bernalillo County and the City of Albuquerque are in the process of implementing a number of reforms that should improve outcomes for jail inmates. MDC jail reforms have reduced the jail population, the jail is making progress on requirements from the McClendon lawsuit, and MDC has passed their accreditation. Additionally, MDC is working to sign up inmates for Medicaid with one statistic showing up to 80 percent of inmates are enrolled in Medicaid. In February 2015 Bernalillo County voters approved a gross-receipts tax generating up to \$20 million a year to address the need for a system of behavioral health care. A joint city-county commission is overseeing the initiative and a contractor, Community Partners, Inc. (CPI) is consulting in the development of the behavioral health system. Stakeholders have identified several areas of need, including programs currently funded by the initiative and others, like supportive housing, crisis triage and stabilization, group homes/residential care, inpatient substance abuse treatment, suboxone, intensive case management, etc. **A listing of currently approved programs is in Appendix P.** All programs should seek to implement evidence-based practices and leverage Medicaid dollars as much as possible.

Bernalillo County has also contracted with the UNM ISR to evaluate the behavioral health initiative.

Chart 60. Percent of Inmates Charged With Felonies That Are Released After Hours



Source: MDC

Two-thirds of MDC inmates were released in downtown Albuquerque during non-business hours.

Between 2011 and 2017, approximately two-thirds of MDC inmates were released in downtown Albuquerque during non-business hours. According to Bernalillo County, 64 percent of all inmates are released at the intersection of 4th Street and Roma Avenue between the hours of 4:00pm and 8:00am. County officials have been working on making releases timelier so they can occur during business hours, but historically, MDC inmates have been released during non-business hours, with little access to resources such as transportation, housing, or handoff to services. In 2017, 17 thousand unique inmates were released from MDC with many inmates being released multiple times as the total number of releases for the year was 24 thousand. Using the 64 percent figure, 11 thousand inmates had 15 thousand releases during non-business hours in 2017. LFC staff analyzed MDC data and found that 67 percent of accused felons were released after 5:00pm but before 8:00am since 2015, although this number is lower than it was in 2011 at 74 percent.

Figure 17. Nine MDC Inmates Released at 4th St and Roma Ave in June 2018



Source: LFC

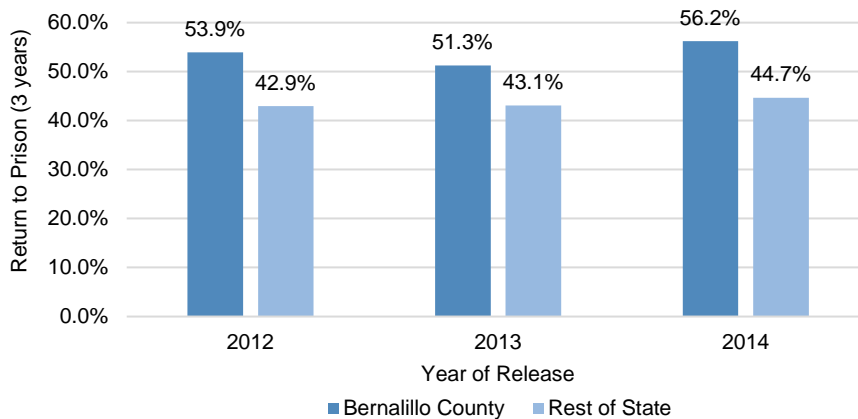
LFC staff talked with a number of MDC inmates immediately following their release. Some former inmates indicated they did not have a place to stay or transportation. One inmate indicated that while in jail, their family lost a number of resources including their car. In June of 2018, Bernalillo County opened the Resource Reentry Center (RRC). When inmates are released MDC, they now walk through the center where they can be connected with services or other resources.

Recidivism of NMCD offenders is increasing and is higher for those released in Bernalillo County.

Overall recidivism for inmates released from NMCD, defined as return to prison for any reason within three years, has deteriorated. Over half of inmates released from NMCD facilities return within three years, although FY18 data show some recent improvement.

Former NMCD inmates released in Bernalillo County also tend to recidivate at a higher rate compared to the rest of the state. Recidivism, as measured by return to prison for any reason, is over 10 percent higher for inmates released in Bernalillo County according to data supplied by the New Mexico Sentencing Commission. NMCD explains inmates released to Bernalillo County may recidivate at a higher rate because they may have higher needs for services. Many of these services only exist in Bernalillo County. Recidivism rates for inmates released across the state have also climbed over the last three years. It is possible that these inmates are also at higher risk to recidivate.

Chart 62. NMCD 3 Year recidivism rates are increasing and are higher in Bernalillo County

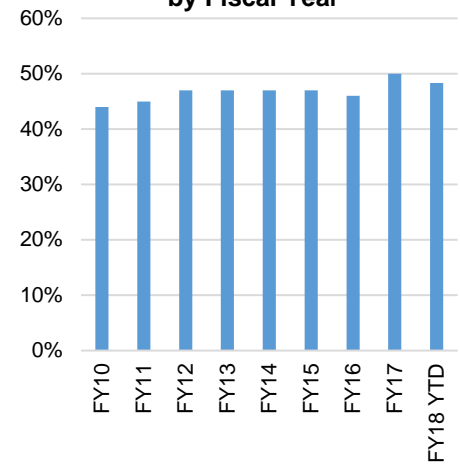


Several reentry reforms have occurred at NMCD. A 2012 LFC study of the NMCD found that reentry practices were not in line with best practices. Since that time NMCD has promulgated policies that include using a validated risk needs assessment, matching inmates with services based on that assessment, and helping inmates find continuing services in the community. According to NMCD, programs are mostly evidence based, and internal performance measures show more inmates are receiving programming such as vocational and educational training compared with several years prior. The LFC has on its work plan an evaluation that includes examining these reforms which will be presented later this year.

Bernalillo County should focus on effective drug treatment services for offenders and defendants.

Medicaid's Centennial Care 2.0 should improve connecting defendants with behavioral health services. Centennial Care 2.0 proposed contract requirements for justice-involved populations include a number of reforms that should increase the number of people signed up for Medicaid and improve connection to services. Additionally, Centennial Care 2.0 would expand coverage to certain behavioral health services including short-term inpatient services at institutions for mental disease, and increased coverage for initiatives including comprehensive community support services (CCSS).

Chart 61. Recidivism Rate by Fiscal Year

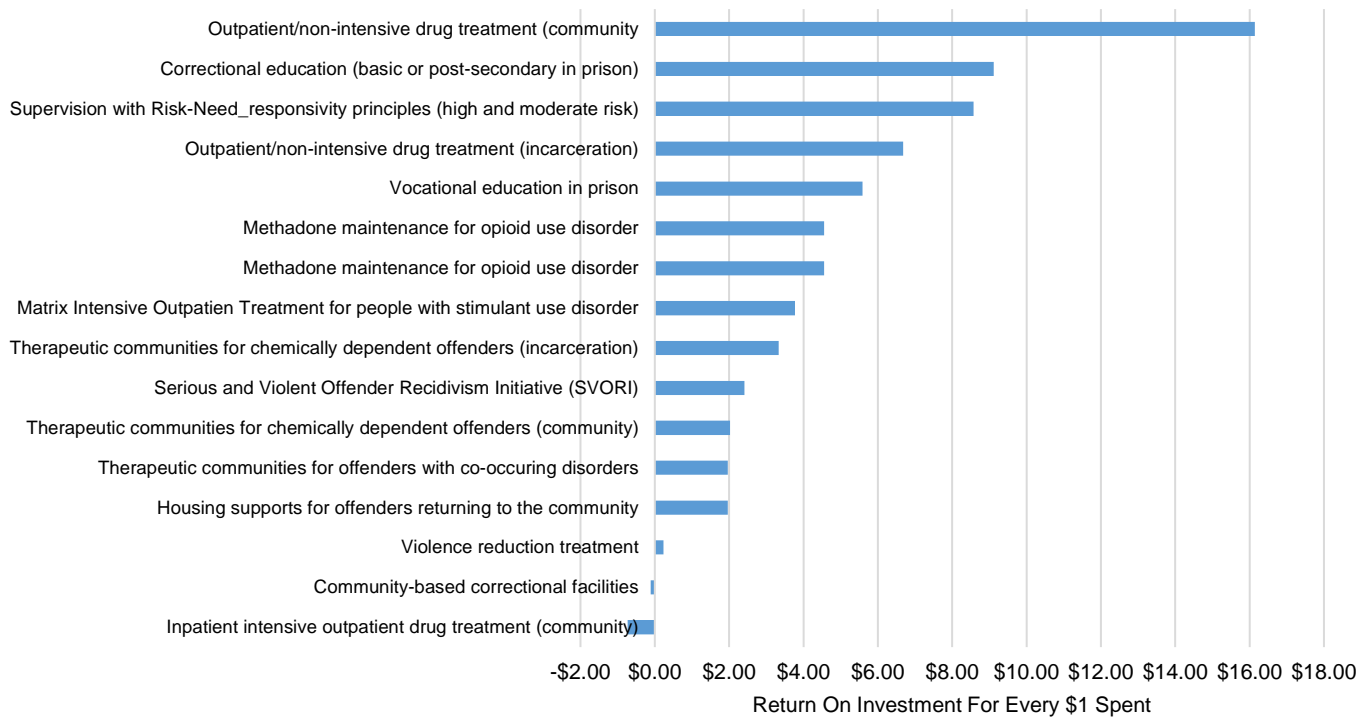


Source: LFC files

Bernalillo County, MDC, and NMCD should continue efforts to sign residents up for Medicaid. As previously mentioned signing inmates up for Medicaid can lead to reductions in recidivism assuming they access effective care that ameliorates potential root cause issues such as substance use disorders. Additionally, Medicaid expansion has decreased the percentage of people that are uninsured and has increased overall utilization of behavioral health services for adults. Bernalillo County has an opportunity to stand up evidence-based drug treatment using local funding, which can then ideally be billed to Medicaid.

A number of evidence-based programs exist for incarceration, as shown in Chart 63 and **Appendix I**. Many have a positive return on investment according to LFC Results First cost benefit analysis. MDC and NMCD officials should dedicate increasing resources to effective evidence-based programming. Additionally, MDC should increase efforts to identify cost savings from jail population reductions for programming to reduce recidivism.

Chart 63. New Mexico Pew-MacArthur Results First Initiative Evidence-Based Program Analysis: Behavioral Health and Incarceration



Source: LFC Results First

Recommendations

The Legislature should consider legislation that removes barriers from researchers using behavioral health data to align New Mexico with federal law on data protections.

Bernalillo County should work to implement procedures that facilitate successful release of inmates into the community including the following components:

- Work to increase the number of inmates released during business hours;
- Implementation of a validated risk needs assessment at intake to jail;
- Making key staff at the resource reentry center and MDC available on a 24 hour basis to facilitate connection of former inmates to resources including prescription medication and transportation;
- Defining, measuring and promoting use of evidence-based (and promising) programming in jails, prisons, and the community while still allowing room for home grown innovative and effective programs.

Bernalillo County should immediately amend their contract with their behavioral health service provider to include requirements to implement a valid and reliable risk needs assessment/screening to be universally administered to inmates at intake. The requirement should also include transmission of this information to staff at the resource reentry center for use upon release.

Bernalillo County should develop improved performance measures for the Metropolitan Detention Center including recidivism, percent of inmates signed up for Medicaid, and percent of inmates connected to services upon reentry.

BHSD should continually work with stakeholders to identify and address Medicaid reimbursement needs for evidence-based behavioral health treatment programs.

Coordination Among Criminal Justice Partners is Key to Improving Public Safety

Coordinating groups such as criminal justice coordinating councils (CJCCs) are reemerging as a means for system based policy reform in criminal justice communities.

Best practices for CJCCs:

- Having public citizen members who don't necessarily have involvement with a justice system entity but are interested in goals of the council serve as members;
- Providing staff to the CJCC to support legal and data analytics;
- Developing ways to assess performance of the criminal justice system including but not limited to performance management measures;
- Promoting use of evidence-based practices at all levels of the system; and
- Developing the capability to shape budget and resource allocation decisions in a neutral and credible fashion.

-Justice Management Institute

A CJCC is a body of criminal justice system leaders that convene on a regular basis to coordinate systemic responses to justice problems, with a director and sometimes additional staff paid for by the city or county. The concept of CJCCs emerged in the early 1970s as a vehicle to administer grant funds. Research on CJCCs shows that effective leadership and shared power in decision making are key in order for these groups to attain their goals. According to the Justice Management Institute, these councils typically include:

- representatives from three branches of government;
- multiple levels of government (city, county, state, etc); and
- allied stakeholders from various other governmental entities such as education or health and human services, community based organizations, service providers and citizens.

The Bernalillo County Criminal Justice Coordinating Council (BCCJCC) meets without having all of the criminal justice system partners consistently represented. The BCCJCC was established by the Supreme Court in 2015 and replaced the Bernalillo County criminal justice review commission. The BCCJCC is charged with developing recommendations to improve the criminal justice system in Bernalillo County. LFC staff attended several BCCJCC meetings and reviewed meeting minutes and found that some agency members did not consistently show up to BCCJCC meetings, or sent designees that observed meetings but did not participate. The BCCJCC would also benefit from adopting a number of best practices identified by organizations such as the Justice Management Institute.

Opportunities exist to use coordination and cooperation to improve decisions around pretrial release. For example, one of the major reforms that has come from the CJCC includes the roll out of a new risk assessment tool to help judges decide which defendants to detain before their trial from the Arnold foundation. Through this tool, pretrial staff provide an objective risk assessment score for judges to consider when making release decisions based on criminal history. Apart from this tool, the SJDA's Office issued a memo instructing office staff to automatically seek pretrial detention on "Tier 1 Defendants".

These two approaches to determining if a defendant should be held while awaiting trial significantly differ in criteria used. The BCCJCC could lead an effort to research pretrial release decisions in two areas. First, validate the current tool being used. Second, research whether certain parts of pretrial detention criteria are predictive of failure to appear or recidivism which could potentially be incorporated into the pretrial release decision making framework.

Some agency members did not consistently show up to BCCJCC meetings.

BCCJCC lacks staff to perform agency analysis and provide system metrics to inform decisions.

BCCJCC does not always have access to data analysts on an ongoing basis nor does BCCJCC or stakeholder agencies use a performance management system to monitor overall criminal justice system performance (note that some agencies do have internal individual performance metrics). This can lead to stakeholders using separate ad hoc studies to show how the system is functioning. Along these lines, Bernalillo County and other stakeholders have engaged in contract studies (often with UNM researchers) which are used by the committee. While these studies are informative, it exhibits the lack of a unified performance management system at BCCJCC or other entities or agencies (note that some agencies do have internal individual performance metrics). This can lead to stakeholders using separate ad hoc studies to show how the system is functioning. The BCCJCC would also benefit from adopting a number of best practices identified by organizations such as the Justice Management Institute. Furthermore, across agencies there is an inability to pull data quickly and efficiently from multiple systems. Some agencies have addressed this issue by adding staff to put together information for different purposes. Criminal justice agencies in Bernalillo County have troves of data that can inform stakeholders about the risks and needs of people in Bernalillo County. However, data systems often are not connected, even within agencies, creating difficulties for agencies to build a complete picture. For example, APD has over a dozen databases, some of which are located in different places and siloed. APD and the SJDA have noted the difficulties in building complete cases for prosecution by pulling information from multiple databases. The BCCJCC would also benefit from adopting a number of best practices identified by organizations such as the Justice Management Institute.

Across agencies there is an inability to pull data quickly and efficiently from multiple systems.

At some agencies additional staff have been used as a solution to putting together information from siloed databases. In 2018, APD hired a number of paralegals tasked with putting evidence from cases together from multiple, often siloed databases. In another example of staff addressing lack of automation among databases, in August 2015, the New Mexico Supreme Court's Ad Hoc Pre-Trial Release Committee recommended the state develop a centralized data clearinghouse for criminal histories, created by Laws 2016, Chapter 10. The goal of the database was to allow judges to more quickly assess risk during arraigning and sentencing from multiple agencies, including federal databases, district attorneys, public defenders, the Department of Public Safety (DPS), the Corrections Department, Children, Youth and Families Department, and district courts. In the 2016 legislative session, DPS was appropriated \$600 thousand to develop and maintain the database. Currently, 22 of 33 counties are served by the clearinghouse, which is not automated. Instead 6 full-time employees at DPS are tasked with pulling data from individual databases as needed.

APD and the SJDA have noted the difficulties in building complete cases for prosecution by pulling information from multiple databases.

Yet another example of the efforts that must be put into pulling information from separate databases is at the SJDA's Office. As a part of their process for preparing cases, the office has what they refer to as "The Bridge" where multiple staff (e.g. attorneys, leadership, pre-prosecution program staff), discuss cases on the docket for the day and apply rubrics to decide whether the office should seek pretrial detention. Staff simultaneously searched multiple databases to find out information about cases to prepare for court.

Figure 18. 2nd District Attorney's Bridge Process



Figure 18 shows 2nd District Attorney Office staff examining cases on the court docket for the day. Staff simultaneously look for information from multiple databases to learn more about the case history and other associated cases. Four separate, siloed databases are represented on the four screens above.

Source: LFC

At the SJDA, ten separate databases must be queried to proceed further with a case after indictment or else the evidence may be suppressed.

Discovery can also pose issues for staff at the SJDA's office. The following table lists the number of database sources that the SJDA's office is required to check for discovery on each felony crime case. At the SJDA, ten separate databases must be queried to proceed further with a case after indictment or else the evidence may be suppressed. These requirements create a resource burden and in some instances the dismissal of otherwise convincing cases. Note that APD put together a paralegal team in February 2018 to help compile discovery before handing over files to the SJDA and since, successful felony indictments have increased significantly (see Chapter on case flow and process).

Table 9. List of Databases SJDA Checks for Discovery

Reports/Paper Discovery
Detective Supplemental Reports
Field Officer Reports
Forensic Interview (FI) Reports
SWAT Reports
K9 Reports
Tow Sheets
Search Warrants (vehicles, residence, DNA, major case prints, latent, etc.)
Photo Line-Up
Victim/Witness Statements
ATF Reports
NIBIN Hit Reports
Computer Aided Dispatch (CAD) Print Outs
Receipts
Documents from victims with listed property and value (valuation reports for/from insurance companies)
All related case numbers (accident reports, out of state theft reports, license plate reports, gun reports, vehicle reports)
Audio/Video
Surveillance footage
Lapels
Interviews
Search Warrant Audio (DNA, major case prints)
911 Audio
Air Support Video
Photos
Real Time Crime Center (RTCC)
Electronic Communications

Source: 2nd District Attorney's Office

Multiple databases are ineffective, create a burden on successful prosecution, and pose numerous challenges:

- MDC Records Processing does not always receive court ordered inmate release notifications electronically and cannot fully clear inmates for release automatically, impacting when inmates are released.
- Metro court and district court use different case numbering systems for the same actual case. Higher level users like Judges and law enforcement have access to features that link one case number to another, but this system results in additional manual hours for researchers searching criminal histories and the inability to automatically track how multiple cases progress in the legal system at once.
- Tracking incidents from calls for service, to arrest, to files charged, to failures to comply, to disposition explanation, to sentence, to parole/probation violation is essentially impossible to do automatically as each measure is contained in a separate database that doesn't link to the others. LFC staff spent hundreds of hours identifying defendants with multiple felony arrests and collecting information on their outcomes like indictments, probation violations, convictions, sentences, etc. throughout the criminal justice system, and even then were only able to do so for a small sample size of cases and without complete information.

Multiple agencies cited concerns with state law when discussing sharing of behavioral health data.

Cross-agency sharing of data is hampered by concerns around confidentiality, resources, and reporting requirements. Multiple agencies cited concerns with state law when discussing sharing of behavioral health data. Agencies have interpreted state law to be more restrictive than federal law in restrictions put in place around behavioral health information. Federal regulation allows access to individual identifiable health information under certain conditions (e.g. research purposes); however state law (NMSA 43-1-19) is more restrictive about disclosure of such information and does not allow exceptions for research. Another statute limits the ability to share personally identifiable information on websites, but not documents (NMSA 14-2-1B).

Previous projects seeking to merge data across agencies have been short lived. For example, the City of Albuquerque led an initiative funded by Bloomberg Philanthropies that included data from Bernalillo County, APD, BCSO, the Department of Public Safety and the New Mexico Sentencing Commission. Sharing of data required a number of agreements to be put in place among these agencies and other partners, including the University of New Mexico and Virginia Tech University. Tens of thousands of dollars were spent just to merge datasets, in part because New Mexico does not have a common numbering system for criminal justice involved individuals. LFC staff requested access to these data, however the request was denied because the existing agreements have since lapsed and these data are not currently available to be analyzed by any of the partners. Access to the data would require new agreements, which the LFC also requested of the City of Albuquerque and Bernalillo County to no avail. Additionally, UCR data from some law enforcement agencies are incomplete. For example, neither the FBI nor the Department of Public Safety have reported UCR data for some agencies in some years. The Department of Public Safety has indicated that the state of New Mexico is not required to report UCR data on any particular timeline by statute.

Until 2018, New Mexico was one of thirteen states in which no agencies submitted crime and arrest data through the National Incident-Based Reporting System (NIBRS). According to the FBI, NIBRS was implemented to improve crime data quality and include all offenses and improved elements (compared to UCR reporting) including event, location, time of day, and whether the incident was cleared. The Department of Public Safety indicated to LFC staff that they plan to be NIBRS compliant by 2020 as they have received a grant to complete system upgrades. This timeline will be particularly important to national reporting as the FBI has a goal to transition the UCR program to a NIBRS only data collection by 2021. BCSO transitioned fully in 2018 and APD is in the process of transitioning to NIBRS reporting.

New Mexico is one of twelve states that does not consistently use a unique state identification number for each person in the criminal justice system. According to the Council of State Governments, eighteen states use a state identification number across all criminal justice systems, enhancing those states' abilities to examine criminal histories across multiple systems and measure certain outcomes such as recidivism. Another 20 states have a state identification number, but that number is not used across all criminal justice data systems. New Mexico is in the minority of states that do not have a unique state identification number for criminal justice involved populations.

Bernalillo County is exploring the benefits of integrated data systems:

- **Predictive analytics:** using data to identify higher-risk populations to target resources;
- **Observational analysis:** examining root causes of problems and resource use;
- **Intervention testing and evaluation:** evaluating results of new programs and policies; and
- **Business process improvement:** day to day performance management.

Nationally, criminal justice agencies are using data in sophisticated ways to address risks and needs of the criminal justice community. Agencies are increasingly using data to assist their efforts in public safety. Often these efforts bring multiple data sources together for operational use. Bernalillo County is exploring benefits of integrated data systems in at least four categories where unified data sets can be beneficial. Merging of data systems or the creation of an "integrated data system" is not necessary for these policies to succeed, but can assist in providing a better picture of certain problems.

Existing efforts to make better use of data should be coordinated. According to Lum and Koper (2017) there is benefit from police partnering with other organizations including prosecutors, probation and parole authorities, juvenile justice officials and social services providers to do crime analyses. These benefits come from development of coordinated approaches to managing high-risk people and places through law enforcement and prevention services. There are multiple existing efforts that are starting to examine how to better make use of data and implement new data analytic strategies. However, these efforts need to be coordinated by a body such as the BCCJCC (for Bernalillo) or other entities (for statewide efforts) to ensure no duplication of effort, and to be able to measure outcomes and promote what is working.

- BCSO recently launched a new records management system and has crime mapping capabilities along with options for the public to register cameras for use in law enforcement. Crime mapping available to the public and the camera database are currently separate from APD.
- APD's real time crime center (RTCC) has a number of capabilities to map crime, use predictive analytics, real time camera footage and for the public to register cameras. Mapping camera data are separate from BCSO and predictive analytic capabilities were unused during LFC site visits. The RTCC director was dismissed during the evaluation and the position has remained vacant for several months.
- SJDA's office is building a crime strategies unit (CSU) based on similar units in other jurisdictions (e.g. New York, San Francisco). During a site visit the SJDA gave LFC staff a tour of the CSU's room and equipment. The CSU will use data to identify defendants of interest, analyze criminal

networks, and utilize camera footage for evidence. The SJDA is currently working with DPS rather than APD or BCSO to access data systems and does not have access to either APD or BCSO camera registration systems. The SJDA is also exploring ways to automate and connect databases across system (see **Appendix D** for a more detailed analysis of the CSU proposal from LFC staff).

- Bernalillo County is exploring ways to automate and connect databases across systems.
- A Public Safety and Criminal Justice Task Force convened by the state legislature is exploring ways to automate and connect databases across systems.

Recommendations

Bernalillo County and the City of Albuquerque should consider permanently staffing the BCCJCC, including data analysts, in order to provide additional support to criminal justice partners.

The BCCJCC should develop a set of performance metrics to better track the Bernalillo County criminal justice system performance.

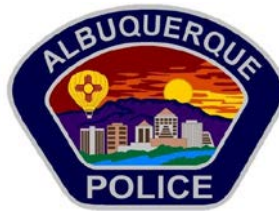
The BCCJCC should foster the use of evidence-based practices throughout the Bernalillo County criminal justice system.

The BCCJCC should help coordinate unified use of resources including the real time crime center at APD to work toward common goals of focusing on people and places through evidence based practices.

The Legislature should consider legislation that would assist agencies in connecting datasets and databases using a range efforts.

- In the short term, the Legislature should consider:
 - Requiring state and local government agencies to use a common ID numbering system to assist in linking of data systems and data analyses;
 - Developing reporting standards and requirements for criminal justice data (including UCR and NIBRS data) that would ensure accurate and timely reporting of data to DPS and the public;
 - Requiring law enforcement agencies to become NIBRS compliant by 2020;
 - Legislation to increase data use and data sharing by bringing state law into agreement with federal law and other states regarding personally identifiable information;
 - Expanding responsibilities of the New Mexico Sentencing Commission to include added powers of obtaining data and reporting those data independent of state and local agencies that collect those data.

AGENCY RESPONSES



The report highlights the significant amount of effort and resources required to deal with the identified challenges and provides thoughtful recommendations designed to address public safety in the Metro Albuquerque area. Under the leadership of the new administration, we are working to reshape the Albuquerque Police Department (APD) and attack crime from all sides. We are changing the culture and investing in a new APD that embraces accountability and constitutional, community policing.

As noted in the LFC report, the years before the new administration took office were difficult ones for Albuquerque. Property crime increased by 33-percent from 2014 through 2017. Violent crime increased by 53-percent during the same time period. While many factors played a role, the report recognizes the impact of poverty over this period, noting the Albuquerque neighborhoods with the highest crime in the state also saw the largest increases in families living in poverty. The report bolsters our view that there is a long road ahead, and it will take our community to come together as one Albuquerque to do what is necessary to meet these challenges.

Mayor Keller made public safety his top priority when he took office in December 2017. While we are only six months into 2018, we are seeing encouraging trends in response to our renewed commitment to fighting crime. While homicides continue to be too high, we reported the following decreases in several categories of crime:

- Auto Burglary is down 32-percent
- Auto Theft is down 18-percent
- Commercial Burglary is down 13-percent
- Residential Burglary is down 11-percent
- Robbery is down 31-percent
- Rape is down 4-percent
- Aggravated Assault is down 5-percent

To enable the necessary reforms and implement effective crime-fighting strategies, Mayor Keller enacted the most extensive restructuring of APD in recent history. We have new leadership and a more streamlined organization that allows us to engage in real community policing, while holding officers and supervisors accountable. We are also rebuilding our recruiting process and the police academy to ensure constitutional, community policing is built into everything we do as a department. Furthermore, we have changed the City's approach to the U.S. Department of Justice and the monitoring team to treat them as partners in transforming APD.

Working with the City Council, we made the case for a substantial investment in additional revenue to fund our plan to add as many as 400 new officers to the force over the next four years. We are implementing a plan that utilizes more robust recruitment of new officers and retention of experienced officers. We currently have 18 new officers who are completing on-the-job-training, 36 cadets in our current academy, and we expect more than 30 officers from other agencies to enter our lateral class next month. We are also forming a partnership with Central New Mexico College to assess our instruction and testing at the academy, and to create a virtual academy on the CNM campus that will help us educate and train the next generation of APD officers.

As we began to overhaul the police department to put more resources into communities, we recognized the paralysis that resulted from the poor relationship in the past between APD and other institutions that play pivotal roles in the justice system. We took immediate steps to engage our partners and repair those relationships. For example, when the Bernalillo County District Attorney (DA) alerted us to problems accessing information from APD, we hired a team of paralegals to work with field officers and deliver discovery packets to the DA's Office for felony arrests. As a result, the DA's Office is better prepared to successfully indict suspects. As the LFC report highlights, the APD paralegal team turned in about 600 completed felony cases for March and April. Of those, 80-percent were successfully indicted. That's up from 50-percent before the paralegal team was hired by APD.

The report points to a significant surge in methamphetamine use and gun violence in recent years. These factors are contributing to the surge in violent crime. We are utilizing evidence-based policing to track these crimes and address the underlying factors in an attempt to prevent a progression toward violent crimes. For example, we have aggressively pursued auto theft because we know most thieves are stealing cars to traffic meth and engage in other criminal activity. We also expanded the use of the National Integrated Ballistic Information Network (NIBIN), which is run by the Bureau of Alcohol, Tobacco, Firearms and Explosives, to link guns and shell casings to other crimes. So far this year, 72 leads from the program have been linked to 11 firearms and 169 different shooting events.

We have also dramatically increased traffic stops throughout the city, which gives officers additional opportunities to discover fugitives. The report notes that traffic stops declined since 2010 during the period that the report covered. But in the first six months of 2018, our officers have engaged in more than 6,000 additional traffic stops over the same period last year, or a 35-percent increase.

Finally, our comprehensive approach to address crime extends beyond traditional law enforcement tools and practices, including:

- \$1 million investment in youth programs
- Better coordination among mental health programs
- A renewed focus on homelessness with the creation of a new deputy director position to oversee these efforts
- Initiatives to clean up needles from parks and other public spaces
- Expanding community partnerships with businesses, the faith community, neighborhood leaders and schools
- Bringing back mini-substations and bike patrols to foster more interaction between officers, residents and business owners
- Increasing participation in Community Policing Councils

Despite our progress and the additional resources from Albuquerque taxpayers to pay for more officers, we have a long way to go. We are still constrained by aging infrastructure and understaffing throughout the department. There are many areas in which we need legislative support for modern technology for better coordination with the DA and the courts; additional vehicles to meet the demand as we train more officers; and new tools like gun shot detection equipment, a helicopter to help us provide air support while tracking fleeing fugitives, and mobile video trailers to help us monitor neighborhoods and business districts that are hot spots for crime.

We look forward to working with the Legislature, along with our local partners in the criminal justice system, as we strive to make our communities safe.

Michael J. Geier
Chief, Albuquerque Police Department



**OFFICE OF THE DISTRICT ATTORNEY
SECOND JUDICIAL DISTRICT
STATE OF NEW MEXICO**

**RAÚL TORREZ
DISTRICT ATTORNEY**

July 19, 2018

Jon R. Courtney, Ph.D.
Program Evaluation Manager
New Mexico Legislative Finance Committee
State Capitol North
325 Don Gaspar - Suite 101
Santa Fe, NM 87501

Re: Second Judicial District Attorney Response to Review of the Criminal Justice
System in Bernalillo County | LFC Report # 18-05

Dear Dr. Courtney:

The Second Judicial District Attorney (DA) thanks the Legislative Finance Committee's Program Evaluation researchers and analysts for their report, Review of the Criminal Justice System in Bernalillo County, and for focusing much-needed attention on this critically important topic. More than any previous review by any individual stakeholder, the LFC report thoroughly discusses significant recent criminal justice milestones and reform efforts.

As we discussed during our working meetings with you and your staff, there are issues presented in your report that we believe need further examination by the legislature and the various criminal justice stakeholders. The following response, though not exhaustive, is intended to highlight some of those issues and provide additional context to our office's reorganization, initiatives, budgeting, and suggestions for continued system improvement. Above all this response is intended to show the DA's willingness to support the LFC in its effort to understand and improve criminal justice and protect public safety in Bernalillo County and throughout New Mexico.

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LFC RECOMMENDATIONS ALIGN WITH THE DA'S HIGHEST PRIORITIES AND OFFICE INITIATIVES

Many of the LFC report's findings have been well-known to the current DA administration since its inception and have informed why and how the DA has made sweeping changes to office practices and philosophy. In particular, the DA thanks the LFC for renewing the public focus on the following significant issues.

Swiftess of Response and Certainty of Punishment Deter Crime

The LFC report echoes the DA's belief that among the best deterrents to crime are the swiftess of law enforcement's response to the commission of a crime and the certainty that crime will be punished. In recent years, however, neither of these deterrents has been reliably part of the criminal justice system in Bernalillo County. In order to improve this element of the system, the DA has prioritized rapid and consistent case management, particularly at the earliest stages, to ensure that the State's response to crime is rapid, consistent, and certain. Nevertheless, there are significant procedural aspects of the criminal justice system in Bernalillo County – particularly the relative inefficiency of felony case initiation – that must be addressed in order to improve the speed and certainty of the system and maximize the overall deterrent effect.

Lack of Data-Informed Decision Making Hinders Effective Criminal Justice

Throughout the report the LFC highlights the separate and disparate nature of the various stakeholders' data management systems and how this leads to inefficient and often under-informed decision making. In recognition of this problem the DA has undertaken sweeping reforms of its own data management and created the state's first Crime Strategies Unit (CSU) to utilize a data-driven approach to identifying and prosecuting repeat offenders and high impact criminal networks in Bernalillo County. In support of that effort, the DA has established real-time links to the statewide district attorney case management system (CMS) as well as databases managed by the Albuquerque Police Department, Bernalillo County Sheriff's Department, and the Metropolitan Detention Center.

IMPACT PROSECUTION WORKS AND MAKES THE BEST USE OF LIMITED RESOURCES

The LFC Report accurately shows a recent reversal in some of the negative crime trends and system problems. Among these are a decrease in overall crime beginning in

the Fall of 2017, a decrease in the re-offense rate, and a significant increase in the number of felony case initiations by the DA.

The Importance of Looking at Outcomes for Individual Defendants Not Just Individual Cases

While the crime rate is still alarmingly high and DA processes are still evolving to address these problems, these trends demonstrate that the DA's impact prosecution model is beginning to work. As noted in conversations with your team, the current administration inherited nearly 8,000 un-indicted felony cases when it came into office in January 2017. Since that time, the DA has spent a significant amount of time locating, organizing and prioritizing those cases based on the relative risk posed by individual defendants. Indeed, in the Fall of 2017, we identified over 200 defendants who were collectively responsible for 1,681 felony cases since January 1, 2014, and systemically processed them for priority prosecution. Already, 79 of those priority defendants have been convicted and sentenced to more than 300 years of incarceration collectively.

It is important for LFC to note, however, that the DA focuses its efforts on people rather than cases, and places a premium on removing high impact defendants from the streets of Albuquerque. For that reason and given the inordinately high number of repeat offenders in our historical backlog, the office seeks to secure swift and certain outcomes for a higher number of priority defendants rather than formally proceeding on every available case for a smaller number of defendants. While this strategy helps conserve limited prosecutorial resources and has a greater overall impact on aggregate crime, it will present analytical challenges in the near term as we work to eliminate the backlog. As such, we encourage the LFC to not only examine the case conviction rate but also the defendant conviction rate, thus incentivizing the speedy disposition of more high impact defendants.

In a similar fashion, we also encourage your team to specifically account for the growing number of defendants who are intentionally dismissed from the state court system and referred for prosecution by one of our cross-designated attorneys in federal court. As you know, we realize significantly higher rates of pre-trial detention, as well as higher conviction rates and longer sentences for defendants taken into the federal system. However, in order to make a federal referral we must first dismiss the existing state case which may give rise to the mistaken impression that none of those defendants are being effectively prosecuted. By adopting a defendant specific metric that extends beyond just the state system, as we do inside the DA's Office, the LFC will be able to recognize that our conviction rate for these defendants in federal court is currently 100%.

The Increase in Case Felony Filings is a Result of a New Intake and Screening Process

As the LFC report shows in Chart 51, the DA has significantly increased the number of felony cases initiated in the jurisdiction. This is a direct result of our newly created Intake Division which began in the Summer of 2017 and was subsequently redesigned over the last several months. By assigning dedicated personnel, compressing the case assignment process and experimenting with a new scheduling model we have dramatically improved our case initiation efficiency. For example, in order to minimize cancellations of grand jury presentations due to witness appearance problems, in early 2018 the DA's Office began to "stack" or double book many of its grand jury settings; in that way, if one presentation is not ready to proceed, there is another presentation ready to utilize the grand jury. To further maximize grand jury efficiency, the DA Intake Division is currently developing procedures to provide grand jury target letters to defendants at felony first appearances.

The LFC report mistakenly attributes the increased case initiation rate to the recent hire of paralegals by the Albuquerque Police Department. Although the increased grand jury efficiency is unrelated to recent APD improvements in delivery of initial discovery to the DA, better coordination with law enforcement on grand jury scheduling does guard against the likelihood of an early dismissal of the case for procedural reasons.

PRELIMINARY HEARINGS REQUIRE MORE RESOURCES AND ARE LESS RELIABLE AS A CASE INITIATION PROCESS THAN THE GRAND JURY

As LFC report Chart 36 indicates, the DA utilizes the grand jury process to initiate cases much more often than the preliminary hearing process. Grand jury settings provide more reliable, predictable, and faster outcomes than preliminary hearings while at the same time serving the same important gatekeeping function of assuring probable cause exists to support felony charges.

Grand jury time can be scheduled on a case-by-case basis, which ensures a more discrete period of time for the appearance of prosecutors and witnesses. In addition, fewer witnesses are needed for a grand jury presentation because the Rules of Evidence do not apply. The grand jury process also rarely requires the participation of a judge, and once grand jury time has been allotted by the court there are few scheduling conflicts that prevent a case from being presented to the grand jury. This process is procedurally streamlined without sacrificing the substantive constitutional protection against

unwarranted charging. As a result, initiating felony proceedings by indictment advances the twin goals of swiftness and certainty that are essential to deterrence.

In contrast, preliminary examinations are far more administratively and financially burdensome, especially under New Mexico's current Rules of Criminal Procedure. Unlike the federal courts and the majority of state courts in the country, our rules require a full evidentiary presentation to make a probable cause determination through preliminary hearing. It is unclear why the procedural requirements would vary substantially from the grand jury process which results in the same probable cause determination, but the practical effect is that rather than making a short testimonial presentation with one or two key witnesses, if the State initiates a case by way of preliminary hearing it must make an extended presentation and assure the appearance of most of the key witnesses it intends to call at trial. This is particularly problematic in the context of APD's acute staffing crisis because it means that if any officer involved in a critical aspect of the case is unavailable because of other duties, the preliminary hearing cannot proceed.

Moreover, it is the defendant's choice whether to have or waive a preliminary examination, and neither the courts nor the State know in advance whether any particular preliminary examination will be held. As a result, attorneys, staff, and witnesses must be present longer periods of time. In addition, it is common for criminal defendants and their attorneys to request a continuance of the preliminary examination, often doubling or tripling the drain on resources and witness time. For law enforcement witnesses, their presence in court for extended periods of time impacts their ability to perform their duties in the community. This is particularly detrimental for the Albuquerque Police Department, which is already severely understaffed; time waiting in court means less time for community policing and other public service.

Our data also show the relatively low percentage of preliminary hearing settings that actually result in a completed probable cause determination or plea. From January to June 2018, 56% of preliminary hearings in the District Court have failed to reach the question of probable cause or otherwise dispose of the case. Because of the relative inefficiency of preliminary hearings and the profound resource implications for the DA's Office and our law enforcement partners who are frequently subpoenaed to multiple hearings simply to initiate a case, we strongly encourage LFC to dedicate additional funding for the grand jury as a means to quickly and efficiently initiate felony cases.

The Inefficiency of Felony Case Initiation is Adversely Affecting Public Safety

Failed settings are particularly costly to the criminal justice system. The loss of the work required to prepare for a hearing is borne by all of the criminal justice agencies. There are also extraordinary opportunity costs for law enforcement and the community. Witnesses waste time away from jobs and school. The court wastes time that could be used for other hearings. Police officers waste time that could be dedicated to community policing and answering calls for service. Prosecutors and defense counsel waste time that could be used to prepare for other settings, screening cases, or helping victims. As such, each failed setting represents multiple losses for all of the parties involved.

As the report notes, preliminary examinations result in fair number of cases being resolved by plea agreement, but these pleas do not prevent the delay associated with failed settings and, in any event, largely occur in relatively simple cases that would be resolved quickly with any type of charging. Given the greater number of procedural hurdles associated with preliminary examinations, the judicial system simply does not have the resources or personnel necessary to handle a greater number of cases being charged through the preliminary examination process.

On multiple occasions the DA has requested additional grand jury panels from the Second Judicial District Court. Each time the court has declined this request. The DA will continue to work with the court to expand the use of grand jury panel time as the most efficient way to improve the case initiation rate to the point where all cases referred to the DA office from law enforcement are screened and addressed in a timely manner.

ANALYZING THE COSTS ASSOCIATED WITH UNCOMMON PROCEDURAL FEATURES

During our meetings with you and your staff we stressed the importance of evaluating the fiscal impact of Bernalillo County's local rules, which differ in significant ways from the rest of the state and the rest of the nation. As we have repeatedly noted in the BCCJCC, these rules have created substantial unrecognized and unreimbursed costs to the system.

In an effort to provide an appropriate baseline against which a cost comparison can be undertaken, we have initiated a national survey of the procedural rules governing the criminal justice system in all fifty states and the federal system in order to better inform policy makers about various rules and their overall impact on resources and efficiency. Though we anticipate the survey will take several months to complete, I would note that we have already discovered a number of interesting points of comparison. Perhaps the

most compelling is the fact that after contacting all fifty states and our federal partners, *we have not found a single jurisdiction in the country that mandates pre-trial witness interviews and imposes mandatory sanctions for failing to complete those interviews within the timeframe set forth in the CMO.* Indeed, we have identified only 8 states where such interviews are even conducted and none where the onus for completing them is placed on the State rather than defense counsel.

Again, I encourage the LFC to bear in mind that without addressing the unreimbursed cost associated with “reforms” that have been implemented here but nowhere else in America, many of the larger questions of why the system is not operating correctly will never be addressed.

CONCLUSION

Thank you again for your comprehensive analysis and report on the criminal justice system in Bernalillo County. The DA office remains unequivocally committed to improving its own processes and working with its criminal justice partners to protect public safety in a fair and efficient system. Please contact me if we can provide any additional information to assist the LFC’s review.

Sincerely,



Raúl Torrez
District Attorney

To: Legislative Finance Committee
From: Second Judicial District Court
Date: July 19, 2018
Re: LFC Review of the Criminal Justice System in Bernalillo County

The Second Judicial District Court (“SJDC” or the “Court”) would like to thank the Legislative Finance Committee for allocating its resources to comprehensively studying the criminal justice system in Bernalillo County. The Court would also like to specifically thank LFC’s policy analysts for their hard work, thorough review, and cooperation in working with the Court to address concerns and suggestions. The criminal justice system is extremely complicated; LFC’s policy analysts spent many hours talking to the various stakeholders about the data and their diligence is appreciated.

SJDC offers only two comments in its formal response.

I. Funding Concerns.

The LFC Report includes a number of recommendations for system improvement. SJDC notes that only one of the judicial agency stakeholders—the Second Judicial District Attorney—received a substantial funding increase during the last legislative session. That lopsided increase has impacted all parts of the judicial agencies. Since January of 2018, the number of arraignments in District Court has risen approximately 40% and appears to be continuing to climb. Those cases set for arraignment will start to come to trial early this fall. SJDC is extremely concerned about its ability to hear those cases, especially with the considerable number of pretrial detention motions being filed by the District Attorney—since January 2018, District Court has already heard close to 900 detention motions and we expect that number to be around 2,000 by the end of this year. District Court also notes that several of the recommendations in the Report suggest the collection and analysis of additional data. The SJDC’s ability to maintain best practices and continue to implement the suggested improvements requires sufficient funding to discharge its primary mission, adjudicating cases, while also continuing to address the systemic needs and challenges. Similarly the LFC Report seeks greater data and reporting from the SJDC. The SJDC does not have a data/policy analyst on staff and does not have the funding to hire one. In sum, the SJDC asks the Legislature to be mindful of the fiscal impact of any additional requirements it places on the Court.

II. Universal Needs Assessment is Not Best Practices in a Pretrial Program

In its section on PTS, LFC’s Report suggests that all pretrial services defendants should undergo a needs assessment. The SJDC asserts that such a universal needs assessment is not best practices in a pretrial services program (pre-adjudication), though it is a best

practice in a probation (post-adjudication) model. While pre-screens have been determined to be useful, universal, mandatory needs assessment is constitutionally problematic in a pre-adjudication pretrial services program. Such universal needs assessments have also been viewed as an inappropriate use of resources in pretrial services programs (versus post-adjudication probation programs) because the goal of pretrial supervision is limited to ensuring court appearance and that a defendant does not pick up a new charge—the goal of a PTS program is not to change long term behavior or reduce recidivism, unless those activities are related to court appearance or new charges.

The SJDC has worked closely with a variety of pretrial organizations as it has moved to a best practices model. The Court's Pretrial Services Director sits on the National Institute of Corrections Pretrial Executives Board; the Director also participates in the NAPSA Southwest Region meetings. The Court is therefore aware of the current best legal and evidence-based best practices for pretrial services programs.

The NAPSA 2004 standards were written prior to the research and creation of the 4th generation pretrial risk assessments. The practice and standards of pretrial supervision has changed to meet legal and evidence practices for a pretrial population. Defendants are innocent until proven guilty; pretrial services must therefore be careful in requiring defendants to engage in treatment just because they have a need. Instead, PTS looks specifically to whether any need an individual may have is related to the defendant's appearing for court hearings or new charge activity. All referrals are voluntary; PTS cannot require defendants to participate in treatment unless specifically ordered by the judge.

The new NAPSA standards, which will be release in the next couple of months, will specifically state that mandatory conditions aimed at punishment or rehabilitation are prohibited. If there are any conditions that are required of a defendant, such as treatment, that are not directly tied to FTA and NCA, then conditions seen are not least restrictive and are likely not constitutional. The chart below identifies the differences in goals between pretrial services programs and probation (post-conviction) models.

PTS Supervision vs Probation Roles and Goals- National Institute of Corrections

PTS Supervision	Probation
<ul style="list-style-type: none"> Assess and Supervise a <u>defendant</u> to: Reasonably ensure his/her appearance in court through disposition of case. Reasonably ensure the safety of community. No new arrests through case disposition. 	<ul style="list-style-type: none"> Assess and Supervise an <u>offender</u> to: Reduce areas of risk related to future criminal activity: Recidivism and change behavior Completion of court ordered obligations Accountability- Public Safety
Court appearance and no re-arrest during pretrial phase	Recidivism Changing long term behavior

In the District Court, consistent with best practices, the following screening procedures are followed:

- All defendants ordered to PTS to complete an Intake Screening.
- This pre-screening is used to determine if someone may have needs which could increase the risk of failure to appear (FTA) or new charge activity (NCA).
- If a defendant is identified as possibly having additional needs from the pre-screening, they are referred to the PTS Court Clinician who is a licensed LPCC.
- During the latter screening, the clinician screens for needs such as housing, employment, medical, mental health, substance use/abuse, benefits such as SSI, ID needs, and other information that may be helpful.
- If the clinician determines needs may impact FTA, NCA, or supervision, the PTS Officer is notified; PTS may request additional conditions from the court such as behavioral health assessment from a community provider. In addition, PTS would request the defendant follow recommendations of the treatment provider.
- If the needs do not appear to impact NCA and FTA but the defendant is seeking services, the clinician and PTS Officer will assist the defendant with referrals to appropriate providers.

PTS refers defendants to a variety of services based on needs and requests. Examples of some of the providers defendants are referred to include:

- Healthcare for Homeless
- Albuquerque Behavior Health
- First Nations
- Bernalillo County Department of Behavior Health Department
- MATS Detox
- UNM Psych Services
- UNM Forensic Case Management

-
- UNM COPE clinic
 - Sage Neuroscience
 - Serenity Mesa
 - Perfectly Imperfect
 - Crossroads for Women
 - NM CAL
 - Workforce Solutions
 - CNM- Vocational Programs
 - ASAP
 - Duke City Tool Box
 - Endorphin Power
 - Community Connections Supportive Housing
 - High Utilizer Supportive Housing
 - Four Winds
 - Turquoise Lodge
 - Men's Recovery
 - St. Martin's
 - Engender
 - New Mexico Solutions
 - Rio Grande Counseling
 - New Awakenings
 - Alivier
 - Outcomes Inc.
 - Turning Point Recovery
 - Walsh Counseling
 - Juntos Podemos Inc.
 - Infinite Possibilities
 - PB & J
 - Evolution Group



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July 31, 2018

Dr. Jon Courtney, Program Evaluation Manager
New Mexico Legislative Finance Committee
State Capital North
325 Don Gaspar – Suite 101
Santa Fe, NM 87501

Dear Dr. Courtney:

On behalf of the Bernalillo County Board of County Commissioners, the Metropolitan Detention Center (MDC), and our behavioral health initiative, I want to thank you and your staff for preparing and presenting the Review of the Criminal Justice System in Bernalillo County to the LFC on July 19. We appreciated the opportunity to comment on the draft, as well as to respond to questions and comments from the LFC.

Some additional comments are part of this correspondence. Please see the attached addendum for detailed comments from Lisa Simpson that address an array of items from the report that she made after the LFC hearing.

Accounting staff at the MDC are preparing a detailed response about their budget relative to the decrease in inmates. You will be receiving this information no later than August 10, 2018.

Bernalillo County would like the LFC to understand the following about pretrial services. Currently, Bernalillo County annually subsidizes Metro Court and Second Judicial Court for pretrial services at \$2.83 million, with \$1.16m going to Metro Court and \$1.67m going to Second Judicial Court. This funding in combination with other reforms contributed to the MDC inmate population reduction from an average daily count of 2,650 in FY 2013 to 1,250 in 2017, which benefited Bernalillo County. However, equally important, this funding, as recognized by the LFC, allowed a move to best practices in risk assessment and pretrial supervision that contributes to crime reduction and provides a model for statewide implementation. Pretrial services are funded in some jurisdictions at the state level in Kentucky, New Jersey, and Delaware among others because of the importance of these goals to each state as a whole. State funding allows the state to mandate standards and reporting consistent with best practices. Additional resources could further improve pretrial programs. The LFC report noted the need for universal screening which the County has not had the funds to support.

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COUNTY MANAGER

Julie Morgan Baca

In addition, with the increased funding to the District Attorney, the other facets of the criminal justice system are being overwhelmed. Additional supervision resources are growing exponentially because of new cases and the requests for pretrial detention, which result in high levels of supervision. Both Second Judicial Court and Metropolitan Court are at capacity with their respective pretrial caseloads. Since future expansion of pretrial services is anticipated, Bernalillo County can no longer carry this disproportionate financial obligation and seeks an equitable funding arrangement.

Bernalillo County supports the following measures at the legislature during the 2019 session, and intends to include these in a forthcoming Administrative Resolution for Commission consideration and approval that will outline 2019 policy priorities.

1. Bernalillo County will pursue legislation in 2019 that proposes a funding partnership with the State of New Mexico for pretrial services;
2. Legislation is needed to promote data sharing and remove barriers while still complying with data protections;
3. The Criminal Justice Coordinating Committee should be statutorily authorized to give them more teeth, promote coordination, and spread the cost of its operation;
4. Statewide appropriation for Law Enforcement Assisted Diversion (LEAD) is needed;
5. State of NM funding the public defender office and courts at a similar level to the Second District Attorney is also needed;
6. State should pursue Medicaid reimbursable funding to leverage the federal 4:1 match;
7. Integrated criminal justice and behavioral health databases are needed statewide.

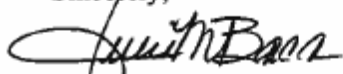
Additionally and procedurally, I also offer the following recommendations to LFC to keep next steps at our collective forefronts:

- The next agenda of the BCCJCC should include a review of the LFC study and responses from the parties involved, perhaps led by appropriate LFC staff members.
- In order to implement the report's recommendations, we will have to develop an ongoing working partnership with the state and LFC, due to the multi-jurisdictional nature and the multiple agencies involved because coordination and follow-up will be paramount.
- Given that one of the analytical tools underlying the report is the application of "Results First" methodology and modeling, Bernalillo County would be very interested in utilizing this tool in further developing, implementing and evaluating several of the recommendations presented in the report to assess the potential and actual ROI of each action in Bernalillo County. Our goal is to use the LFC report to realize improvements and measure results. Toward this end, we encourage the LFC to continue to work with us and assist us as we all move forward to improve the criminal justice system.

On a related note, Bernalillo County will be hosting members from the Institute of Crime Science and the Corrections Institute at the University of Cincinnati August 8-10. They will be in Albuquerque and Santa Fe to provide joint services for the New Mexico Criminal Justice Task Force and key stakeholders, specifically toward identifying what it will take to achieve a comprehensive new data analytics and visualization platform that will capture and analyze information beyond traditional criminal justice indicators. An actionable report will be produced

by September 30, 2018 that will evaluate both statewide and Albuquerque / Bernalillo County-specific criminal justice data systems, recommend next steps toward a real-time data sharing infrastructure, and identify the costs to clean up, link, and merge data sources. Bernalillo County hopes this report will gain traction and funding support from the State of New Mexico.

Sincerely,



Julie Morgas Baca
Bernalillo County Manager

C: Legislative Finance Committee
Board of County Commissioners
Ken Martinez, Bernalillo County Attorney
David Abbey, LFC Director
Dan Weeks, Shoats & Weeks

Bernalillo County Response – Lisa Simpson

- The County is pleased that the LFC report validates the County efforts to achieve evidence based best practices in the criminal justice system that improve public safety, reduce the burden of that system on taxpayers, address underlying causes of incarceration and recidivism and improve fairness and efficiency in the criminal justice process.
- The report identifies the many ways in which County funded and County supported initiatives have effectively moved the community towards nationally recognized best practices that accomplish these goals.
- Among other implemented best practices identified in the LFC report are the use of a risk assessment tool in pretrial release decision making, the shift to risk-based decision making as opposed to wealth-based decision making that was the case with the use of bail bonds, the use of pretrial supervision to promote public safety, and the Case Management Order which has contributed to making consequences swift and certain.
- The use of the Arnold Foundation Public Safety Assessment (PSA) has been criticized by some persons and that criticism has been repeated in the press. However, the PSA is considered the “gold standard” in pretrial risk assessment practice. The County had to apply and be accepted (after initially being rejected) to be able to use it. The PSA is the most researched, data driven, and sophisticated tool available in pretrial decision-making practices. The Arnold Foundation also provides national technical support which is a rare opportunity to have national experts providing local support.
- To the extent there is a suggestion that consideration should be given to modifying the use of the PSA with mechanical rules based on a history of lack of prosecution of felony cases, the County would recommend that a nationally recognized data driven instrument should not be altered because of lack of local prosecution. This decreases the predictive value of the tool. Such information can always be presented to and considered by the judge.
- An extremely important finding based on national and local research is that the incarceration of low and moderate risk individuals dramatically increases recidivism and, as a result, the over incarceration of those individuals as we have done in the past contributes to an increased crime rate.
- Related to this finding but not stated clearly in the report is that the use of preventive, pretrial detention needs to be carefully scrutinized. It has not uncommonly been requested for individuals who are low risk individuals. Even if denied, those individuals spend on average 11 days in jail which based on the research cited in the report increases their risk of recidivism by 55%-thereby increasing the crime rate as opposed to reducing it. The use of pretrial detention motions should be carefully scrutinized so as not to overburden the court system and contribute to a rise in crime.
- As an observer, the County notes that the DA received significant increased funding in the last legislative session. The criminal justice system has often been described as a three-legged stool. The system cannot function without all three legs being equally funded. The legislature must look at funding the public defender office and the courts with a similar level of needed funding in order for the system to function well.

- The County also strongly aligns with the LFC findings that health and economic factors contribute to, if not drive, the crime rate. The importance of re-entry planning and connection to services upon discharge from MDC had been identified by the County and has been targeted by County funding. The LFC report acknowledges the importance of the programs implemented or currently being implemented by the County in that regard including the Re-Entry Resource Center, the discharge planning team, the Medicaid enrollment initiative, the Medication Assisted Treatment initiative, and the Managed Care Organization in-reach program.
- In this area, the County passed and presented to the voters the adoption of a behavioral health tax that was overwhelmingly approved showing strong public support for increasing these services. However, the funds that can be generated by this local effort are limited compared to the need. State participation in this effort is essential both for Bernalillo County and the state as a whole. The state plan for Medicaid reimbursable services must be expanded to more effectively leverage federal dollars to provide much needed services in New Mexico and Bernalillo County and the state must invest in much needed services that cannot be funded through Medicaid dollars such as jail-based re-entry services and supportive housing. This also includes funding for specialty courts that allow the criminal justice system to directly divert individuals into treatment related settings.
- The County also concurs in and appreciates the recommendations of the report to recommend consistent participation and support of the CJCC by all the criminal justice stakeholders. The County has supported the CJCC through staff support and data analysis provided through contract with the Institute for Social Research of the University of New Mexico. In addition, the County has consistently participated by high level County officials at CJCC discussions. The County strongly believes that collaboration of criminal justice partners is essential for improving the criminal justice system including decreasing crime, decreasing recidivism, improving outcomes for victims, providing fairness for accused and addressing individuals with behavioral health issues. Support for the CJCC by all criminal justice stakeholders is critical to identifying and implementing best practices and addressing critical issues in our community. Hopefully, the recommendations in this report will encourage those partners who have not engaged in the CJCC to participate in this collaborative effort that will improve outcomes for our community.
- The County strongly concurs in the recommendations for an integrated criminal justice and ultimately a combined criminal justice and behavioral health data base. This is essential to being able to effectively identify system improvements, address inefficiencies in the system, and address underlying criminogenic factors. Despite efforts to address this issue over the last several years, no progress has been made and this impacts both efficiency in the criminal justice system and the ability to better address the needs of people in the system who are really people in need of behavioral health services. Funding for creating an integrated system has been a barrier and state level funding for a statewide problem should be a high priority.

-
- Most encouraging is the information made available to the community that the County efforts combined with the efforts of all the criminal justice stakeholders appear to be contributing to a significant drop in the crime rate. Identifying the cause for a drop in crime can be as mystifying as identifying the cause for an increase in crime. However, this is consistent with the criminal justice partners all moving towards best practices. A drop in crime rate is consistent with other communities who have adopted risk-based decision making and bail reform. Policing reforms have also been adopted. We must, however, remain dedicated to the cooperation of all the criminal justice partners to continue to move towards best practices so that this very encouraging trend can be sustained.



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August 24, 2018

Dr. Jon Courtney, Program Evaluation Manager
New Mexico Legislative Finance Committee
State Capital North
325 Don Gaspar - Suite 101
Santa Fe, NM 87501

Dear Dr. Courtney,

Bernalillo County respectfully submits a supplemental response to LFC Report #18-05 that is centered around the Metropolitan Detention Center staffing, inmate count, and budget. Please add this correspondence to the first response I sent to you on August 1. We appreciate the opportunity to provide additional data that may not have been available to the LFC analysts. We hope that this response will improve understanding of these important issues and contribute to their resolution.

As you and the LFC will see in the following pages, a deeper dive into the data reveals a more nuanced picture and clarifies some of the issues identified in the report. For example, the report finds that MDC expenditures and staffing have not declined in tandem with reductions in the inmate population. While this statement is accurate, the LFC report does not factor understaffing prior to the inmate decline and inclusion of funding for non-MDC items in the MDC budget.

Three statements from the report that will be better understood with additional context are the basis for this supplemental response. Explanations of pay increases for Correctional Officers, turnover rates and vacancies, unavoidable overtime, inmate population relative to staffing levels, and operational budgets versus total budget since 2010 are integrated into these responses.

1. ***"Since 2010 the MDC Budget has increased by \$4 million dollars and the number of full-time equivalent (FTE) positions has remained constant."*** (p.52)

The budget increases did not accrue to the jail, but went instead to programs included in the MDC budget that are external to the jail. In fact, MDC's **remaining operational budget** has ***decreased*** by 57.6% since 2010. See Table 1 on page 2.

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JMB134

Since 2010, MDC's operational budget has included funding for external programs and services that were not a part of MDC operations. From FY 2015 to FY 2017, MDC's budgets included \$1,384,180 in supportive housing funding. Over the last nine fiscal years, MDC's operational budget has also included \$27,311,224 in funding for court initiatives that were also not part of MDC operations. Funding for court initiatives has increased by 273.2% since 2010 while the budgets for FY17 and FY18 have remained constant. MDC's FY 19 budget includes salary and compensation increases for court initiative staff employed by the State of New Mexico.

Since 2010, the number of Correctional Officer budgeted positions has fluctuated between 332 and 435 when the number of inmates exceed 1,950. The number of budgeted Correctional Officers has remained constant at 411 since FY 2017.

Table 1: Budget Analysis of MDC 2010- 2018

Fiscal Year	MDC Budget	Court Initiatives 1	Supportive Housing 2	Remaining Budget	Salaries & Benefits 3	Overtime 4	Remaining Operational Budget 5	Food/ Laundry 6	Medical Contract 7
2010	57,161,334	1,081,200	-	56,080,134	30,182,705	4,887,041	21,010,388	3,700,000	13,320,530
2011	57,443,596	2,185,317	-	55,258,279	30,502,430	5,389,807	19,366,042	3,700,000	11,992,685
2012	57,443,596	2,014,126	-	55,429,470	30,513,285	5,378,952	19,537,233	3,828,000	12,736,926
2013	57,714,118	2,893,281	-	54,820,838	38,882,924	4,342,446	11,595,468	3,035,337	15,338,378
2014	57,714,118	3,560,960	-	54,153,158	36,433,219	4,725,749	12,994,190	3,385,339	15,107,924
2015	57,998,335	3,611,742	231,548	54,155,045	37,512,799	2,674,900	13,967,346	3,151,782	14,568,441
2016	57,998,335	3,877,642	1,115,828	53,004,865	36,719,805	6,562,648	9,722,412	3,151,782	13,491,169
2017	61,245,632	4,043,478	36,804	57,165,350	41,868,007	6,418,339	8,879,004	2,900,000	11,356,570
2018	61,245,362	4,043,478	-	57,201,884	41,868,007	6,418,339	8,915,538	2,400,000	11,477,991
% Change	7.14%	273.98%		2.00%	38.33%	31.33%	-57.57%	-35.14%	-13.83%

¹ Court Initiatives include State of NM Metro Court, State of NM District Court, Pro Temp Judges, Public Defender Paralegal services, Court clerk and Monitors, District Attorneys and the Metro Court prosecuting Attorneys. This Budget funds the salary and benefits for the State employees. In FY20 the budget for these initiatives will be moved from MDC's Budget.

² The Supporting Housing Initiative was originally funded with MDC's budget, but was moved to the Housing Department in FY17.

³ Union Contracts dictate salaries and longevity pay, resulting in increased budgets.

⁴ McClendon has mandated additional trainings.

⁵ The Remaining Operational Budget has decreased by \$12,094,850, or 57.57%, since 2010.

⁶ The Food Contract Budget has decreased by \$1.3M since 2010.

⁷ The Medical Contract Budget has decreased by \$1.8M since 2010, due to contract renegotiations. Behavioral Health Classifications have evolved over time increasing the need for more Mental Health Professionals at the MDC.

Chart 1 shows pay increases for correctional officers since 2010. Members of Correctional Officers Union received increases in hourly rates and longevity bonus (based on years of service) in 2010, 2015 and 2018. Pay increases by local law enforcement agencies and correctional institutions elsewhere, combined with a limited pool of workers qualified

in New Mexico and willing to be Correctional Officers, puts strong upward pressure on compensation at MDC and creates a bidding war among the various state and local agencies.

Overtime: Why?

Detention centers operate and function with safety and service provisions that only qualified and trained personnel can provide. The combination of community expectations and operational requirements create a unique situation for every facility. The staffing vacancies, the operational needs and staffing level requirements placed on MDC by various laws, consent decrees, and the medical/mental health needs of inmates has created the need for unavoidable overtime. There will always be some level of overtime assignments at MDC because of operational staffing needs that cannot be “planned” (staff posts) due to the fluctuation of the need to place staff coverage for hospital two-on-one coverage/breaks, union contracts, and the mental health observation assignments to ensure inmate safety. Therefore, MDC’s goals are to maintain a low vacancy rate and to eliminate the need for forced overtime versus volunteered overtime. This should increase Correctional Officer retention, so staff can balance work and home life successfully.

A majority of Correctional Officer posts must be filled at all times. When an officer takes leave of any kind, the post he fills has to be filled with another officer (back filling). Since there are not enough officers to create staffing for relief (the ability to backfill), the back filling occurs using overtime. The types of leave that require back-filling include planned vacations, personal holidays, training requirements that take correction officers off the line, bereavement leave, military leave, sick leave, FMLA leave and worker’s compensation. There are posts that do not have to be backfilled either due to the shift (graveyard) or a post that has a lower priority (perimeter of property) to back-fill when a Correction Officer is not available to work. Supervisors use these lower priority posts as an opportunity to fill higher priority posts prior to calling for volunteer or forced overtime.

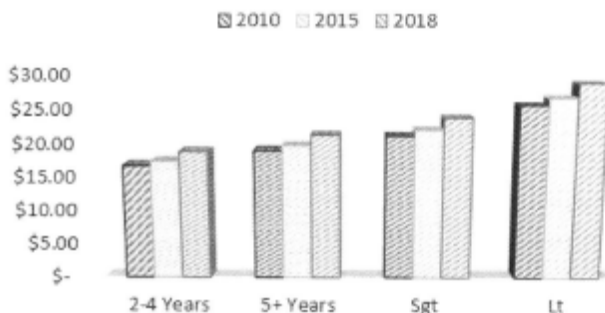
Inmate Population, Staffing Levels, and POD Closures

The MDC has 36 pods and each POD can house approximately 60 inmates. Due to the decline in inmate population, MDC closed four PODs in the general population units. The eight PODs in segregation and the four PODs in the PAC units must remain intact. The other remaining pods must remain open due to inmate classification.

The MDC is a direct supervision facility, meaning at least one correctional officer must be located within each housing unit. The four pods that were closed resulted in only four fewer posts or 16.6 fewer FTEs.

Since the MDC has vacancies, the 16.6 FTEs were redeployed to fill vacancies in other open PODs. If salaries and staffing had remained consistent, then theoretically the MDC would have captured salary savings. However, the Union contracts mandate increases in salaries and longevity pay. Finally, inability to fill vacancies mandates the need for overtime.

Chart 1: Correctional Officers and Supervisors Pay Increases



Some variable costs savings did result from the closure of four pods. Food cost increased from 2010 to 2018 by \$.42 per inmate meal. The current cost is \$1.50 per inmate meal. The total food/laundry costs with an inmate population of 2,700 would be \$4,695,602 and the food/laundry costs with an inmate population of 1,300 would be \$2,396,102; therefore, the FY18 food and laundry budget was \$2,400,000.

Variable costs = \$1.50 per meal = \$4.50 per day/per inmate = \$1,642.50 per year/per inmate. An inmate population reduction of 1,400 results **\$2,299,500** food cost savings.

Total Marginal Cost Savings = \$2,299,500

The following pie charts represent the MDC's total budget, various other expenditures and the remaining operational budget with the percentage of change over year. Salaries and benefits compared to the MDC's total budget have increased from **53%** in 2010 to **68%** in 2018, while the remaining operational budget has decreased from **37%** in 2010 to **15%** in 2018.

When programs and services are included with the MDC's budget (that do not directly impact the operational costs for MDC and are removed from the equation), it becomes apparent that the reported **7%** (**\$4M**) budget increase from 2010 to 2018 can be attributed to the court initiatives year over year since that budget has increased of **273.98%**.



2. "Since 2010 CCP has experienced a 78% drop in participation and a 28% increase in employees." (page 55)

Chart 2 shows that the Correction Officer FTE for CCP decreased from a high of 23 to our current staffing level of 13 Correction Officers assigned to CCP.

Chart 2: Community Custody Program (CCP) Population decline and FTE Decline

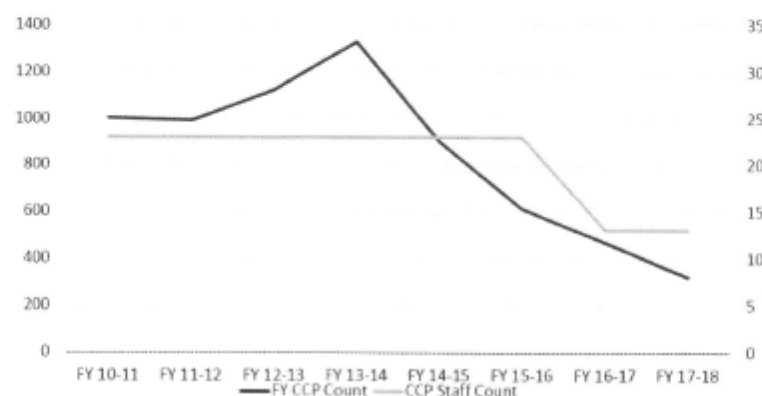


Chart 3 shows that turnover rates for correctional officers ranged from 12% to 20% between 2010 and 2017. The vacancy rate spiked in 2011 and, after a low year in 2013, has steadily climbed to 10%.

Since October 2017, MDC has emphasized recruitment and retention with the goal of lowering the annual vacancy rate to a maximum of 5%. These efforts include the development of an MDC recruiting website and email marketing campaign; the hiring of two full-time professional recruiters and two full-time administrative support personnel; hiring an on-staff consultant with recruiting experience in both the military and private sectors; and increased community outreach and public relations initiatives. Retention efforts include reducing forced overtime as more officers are hired, revising the Sergeant and Lieutenant promotion processes, and fostering a culture of leadership, discipline, teamwork and personal responsibility.

Chart 3: Vacancy and Turnover Rates



The turnover rate is expected to increase in FY 2018/2019 due to changes in management expectations of staff as well as upcoming retirements. The nature of Corrections Officers duties, the competition for hiring in the law enforcement areas, and the pay levels all contribute to a fluctuating turnover rate. In 2020, turnover rates are expected to decline annually to 10% or lower due to the MDC's recent recruitment and retention efforts. Table 2 shows the status of security staff vacancies. In 2016, Corrections Officers vacancies were critically high causing the Community Custody Program to be capped at 110 active participants. This resulted in some CCP Corrections Officers being reassigned to the MDC. In December 2017, the County Commission approved an additional nine FTE to fill administrative positions that were being covered by Correctional Officers. The Correction Officers were reassigned to security posts. The conversion of 76 Correction Officer positions from Term to Permanent was approved to minimize the turnover rate. Permanent full-time regular status provides full benefits and union representation. Additionally, the increase in cadets and academies are reducing the vacancy and turnover rates. Hiring cadets as full time regular Correction Officers, rather than Term, improves employee retention. In 2017, the MDC averaged between 95-115 Correction Officer vacancies and in 2018 they averaged between 64-85.

Table 2: MDC Security Staff Status as of August 9, 2018

Categories	Authorized	Filled	Vacancies
CADETS		24	-24
TERM CO (TB)	0	0	0
PERM CO (FR)	411	346	65
SERGEANTS	30	22	8
LIEUTENANTS	26	26	0
CAPTAINS	8	8	0
TOTAL VACANCIES			73
TOTAL FILLED		402	
TOTAL AUTHORIZED	475		

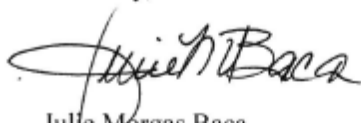
MDC has authorized funding to hire 475 Security Staff. MDC is currently creating a staffing plan that will provide an accurate staffing number that will include additional "relief factor" employees.

3. *“Many of MDC processes for screening, treating, and preparing inmates for reentry have not been in line with best practices”* (Page 56)

The MDC’s McClendon-mandated requirements for screening, treating, and preparing inmates for re-entry are best practices and are being met. A validated screening tool was not a requirement of McClendon, but was initiated through other sources and is being implemented. The 2016 court filing suggests Corrections Officers attend behavioral health training, which has been implemented. When Correction Officers bid for a post to the PAC Unit, they are mandated to attend specialized behavioral health training. The Mental Health Director provides this training which was implemented a few years ago and since 2011, all academy cadets receive 40 hours of specialized behavioral health training. Court-appointed experts deemed this training adequate.

Finally, the LFC recommendations on page 61 are consistent with county action to implement a valid risk needs assessment with the medical and mental health contractor. Currently, MDC and Correct Care Solutions (CCS) have already created a new risk assessment/intake screening form that a committee of community and Bernalillo County stakeholders developed. Information from this form is entered into the CCS’s Electronic Report Manager (ERM). The implementation team is now working on the data-sharing processes for transition planners, medical staff, and social service coordinators’ use in assisting inmates and is being coordinated with the Resource Reentry Center.

Sincerely,



Julie Morgas Baca
County Manager

cc: Legislative Finance Committee
Board of County Commissioners
Ken Martinez, Bernalillo County Attorney
Greg Rees, MDC Chief
David Abbey, LFC Director
Dan Weeks, Shoats & Weeks

Appendix A: Evaluation Scope and Methodology

Evaluation Objectives.

- Describe the current situation of crime and the criminal justice system in the Bernalillo County;
- Identify potential causes responsible for driving an increase in crime; and
- Evaluate potential solutions to the current increase in crime.

Scope and Methodology.

- Visited and interviewed staff at the Albuquerque Police Department (APD)
- Visited and interviewed staff that the Bernalillo County Sheriff's Office (BCSO)
- Visited and interviewed other criminal justice stakeholders, including the Law Office of the Public defender, Metropolitan and 2nd Judicial District Court judges and staff, and other national experts.
- Conducted numerous ride alongs and site visits with criminal justice system stakeholders.
- Reviewed relevant performance measures, administrative data, and related documents.
- Reviewed existing research on traditional crime drivers, cost savings, and best practices.
- Reviewed national best practices.
- Reviewed and analyzed Computer Aided Dispatch (CAD) data from APD, and BCSO.
- Reviewed and analyzed jail booking data from the Metropolitan Detention Center (MDC)
- Reviewed and analyzed court disposition data from the 2nd Judicial District Court
- Reviewed and analyzed Bernalillo County and Albuquerque City budget documents
- Reviewed statutes and rules associated with Bernalillo County Criminal Justice System
- Reviewed data on social factors and crime

Evaluation Team.

Dr. Jon Courtney, Program Evaluation Manager/Project Lead

Dr. Travis McIntyre, Program Evaluator

Amir Chapel, Program Evaluator

Nathan Eckberg, Esq, Program Evaluator

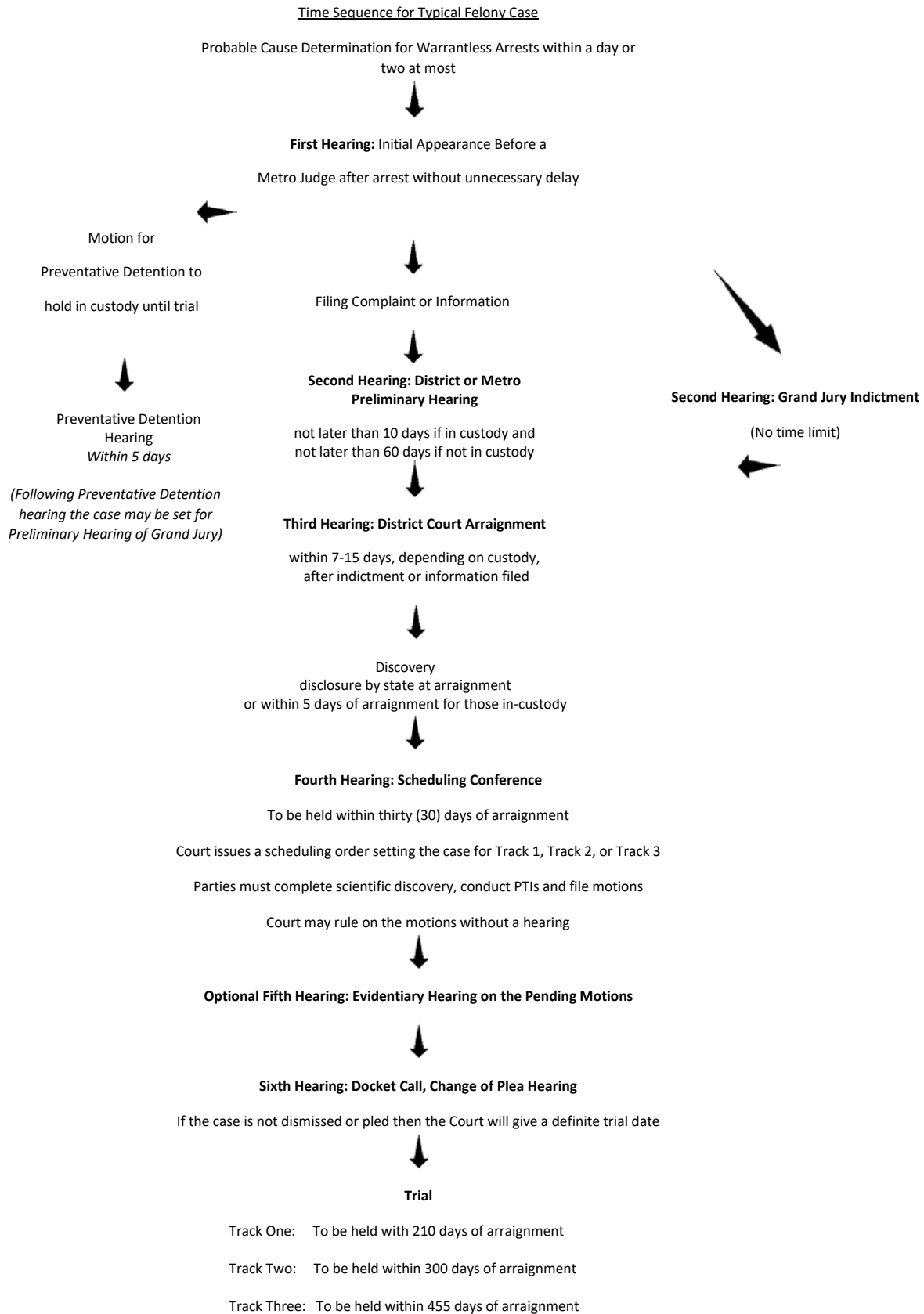
Paige Knight, LFC Intern

Authority for Evaluation. LFC is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions; the effects of laws on the proper functioning of these governmental units; and the policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state laws.

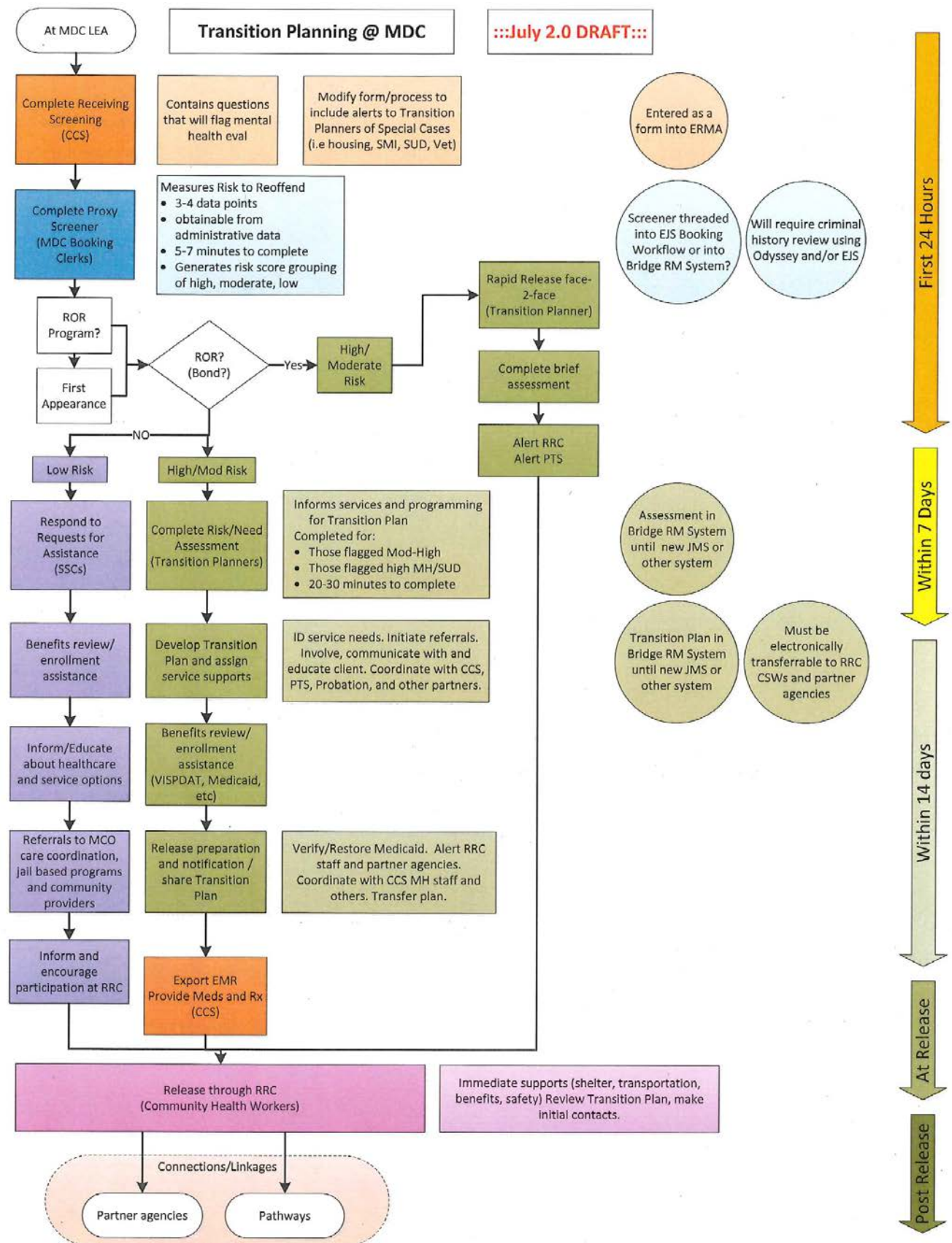
Report Distribution. This report is intended for the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.



Appendix B: Time Sequence for Typical Felony Case



Appendix C: Draft Transition Planning Flow Diagram From MDC



Appendix D: LFC Memo on Crime Strategies Unit

Representative Patricia A. Lundstrom
Chairwoman

Representative Paul C. Bandy
Representative Randal S. Crowder
Representative George Dodge, Jr.
Representative Jimmie C. Hall
Representative Larry A. Larrañaga
Representative Nick L. Salazar
Representative Jim R. Trujillo

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Senator Carroll H. Leavell
Senator Howie C. Morales
Senator George K. Munoz
Senator Steven P. Neville

November 15, 2017

TO: Legislative Finance Committee Members

THRU: David Abbey, Director, Legislative Finance Committee

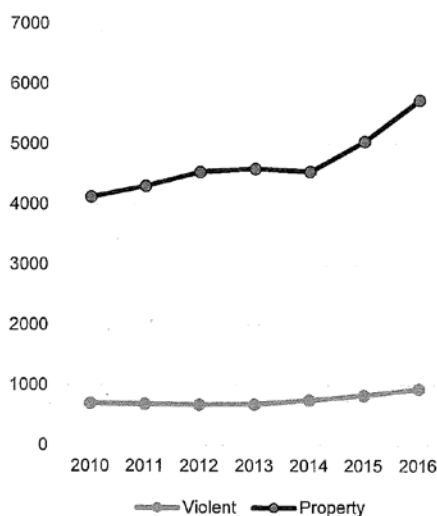
FROM: Dr. Jon Courtney, Program Evaluation Manager, Legislative Finance Committee
Ismael Torres, Fiscal Analyst, Legislative Finance Committee
Theresa Edwards, Fiscal Analyst, Legislative Finance Committee

RE: **Bernalillo County District Attorney's Office Request to fund a Crime Strategies Unit**

Purpose. The Office of the Second Judicial District Attorney is pursuing the implementation of an intelligence-driven strategy of crime reduction, more commonly referred to as Intelligence-Driven Prosecution (IDP) through the establishment of a Crime Strategies Unit (CSU). The implementation is partially in response to the increased crime rate in Bernalillo County and the City of Albuquerque (see Chart 1). The Office requested \$4.1 million for 19 FTE for the unit, which would make it the most heavily staffed CSU in the nation. This memo provides information on how similar models and units function nationwide, and provides information around potential start-up costs for such a unit in the Office of the Second Judicial District Attorney. Using national benchmarks the memo shows a fully staffed CSU in Bernalillo County should consist of between 4 and 11 staff funded from multiple sources, not just state general fund.

Background. IDP focuses on reducing crime and improving prosecutorial decision-making through identification of defendants disproportionately driving crimes, timely information sharing and close

Chart 1. Bernalillo County Crime Rates per 100,000¹



Source: LFC Analysis of FBI UCR data

coordination with law enforcement and other stakeholders.ⁱ The approach is heavily reliant on data gathering and sharing which includes, but is not limited to, security camera interactive mapping, arrest alert systems, license plate readers, monitoring of communications, criminal pattern analysis, identification of priority crime drivers/offenders, community outreach, and location-based crime assessments. The approach is an extension of earlier community prosecution efforts from the 1980s and 1990s.

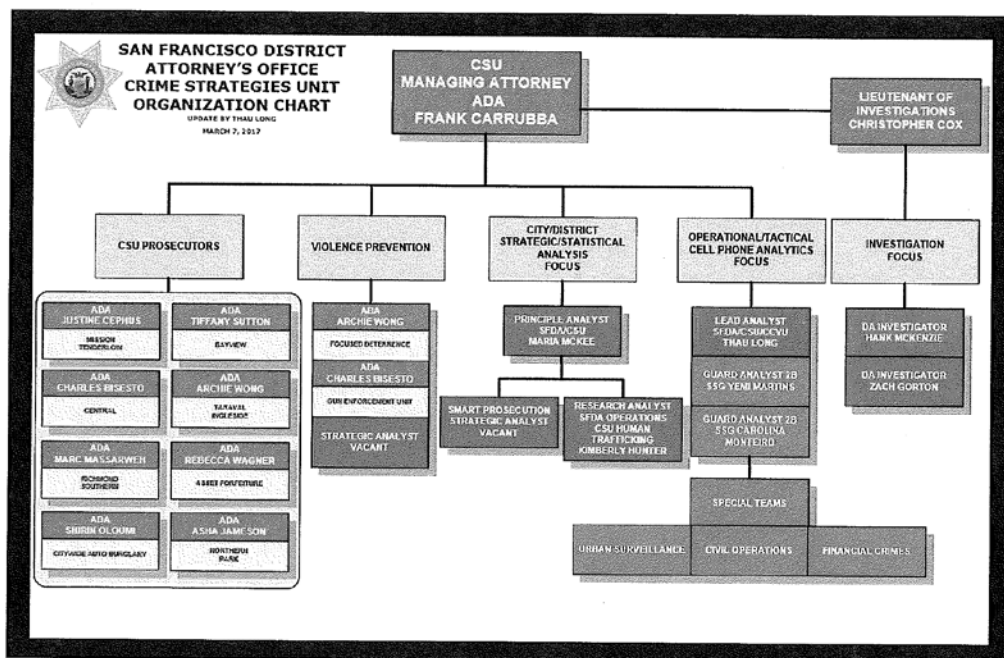
To implement this approach, jurisdictions typically create new units within their District Attorney's office, often referred to as a CSU. At least four such units exist in the United States. The New York County District Attorney's (DA) office started the first CSU, with others subsequently formed in the city of San Francisco, CA, the Parish of East Baton Rouge, LA, and the city of St. Louis, MO. These units consist of prosecutors assigned to geographic areas, who work with investigators and analysts to convert data into useable criminal intelligence. Two Legislative Finance Committee (LFC) members and one staffer were part of a delegation visiting the San Francisco District Attorney's office in July to learn about their experience with intelligence-driven prosecution. Staff from the San Francisco office shared tools and strategies of their CSU. The San Francisco District Attorney's CSU, established in 2014, uses cellular phone data, mapping software, software that visualizes patterns of criminal networks, and other tools to investigate and prosecute criminals. The CSU used numerous case studies to show the effectiveness of the approach in identifying criminals and their networks. Other information obtained from that visit follows.

Effectiveness and impact of IDP. Although effectiveness of the overall IDP model has not been extensively studied, some practices used within the model are considered evidence-based or promising, and initial evidence of overall effectiveness of IDP looks promising. Regarding practices associated with IDP, the National Institute of Justice's clearinghouse identifies a number of practices as promising or evidence-based including use of data to identify hot spots of criminal activity, problem-oriented policing, focused deterrence strategies, and use of surveillance cameras.ⁱⁱ Other practices associated with IDP have yet to show systemic effects to deter or reduce crime (e.g., license plate recognition technologyⁱⁱⁱ), although there are anecdotal accounts of effectiveness. Regarding effectiveness of the IDP model overall, the New York County District Attorney's Office contracted with the Center for Court Innovation to conduct an evaluation on their CSU. The evaluation found "the IDP Model achieved modest, quantifiable changes in prosecution outcomes related to bail decisions, charging at disposition and length of custodial sentences."^{iv} Additionally, after the San Francisco CSU started in 2014, San Francisco saw a 1.5 percent decline in their 2015 violent crime rate while most other California counties saw increases in violent crime rates. Although, without an impact evaluation, this decline is not directly attributable to the IDP model. It should also be noted that San Francisco continues to have some of the highest crime rates in California^v.

Resources for IDP. Regarding staffing, CSU's typically consist of prosecutors assigned to geographic areas combined with investigators or analysts with strong technology skills who assist prosecutors in building cases. Distribution of these staff vary by office. In their implementation guide, the New York County District Attorney's office indicates that IDP can help an office fulfill its mission without placing unrealistic demands on resources. District Attorney's offices that have started a CSU to support IDP tend to find resources from multiple places in the form of staffing, grants, and software. For example, the San Francisco District Attorney's office indicated startup costs of their CSU were minimal, starting with two staff members. The unit now has 19 filled FTE with significant resources coming from repurposing staff, using student interns, external grants from VERA and the Department of Justice, donation of software from the federal government, and four staff working as analysts from the National Guard (see Figure 1). The Baton Rouge CSU has eight total staff, which includes two analysts from the National Guard and a repurposed federal prosecutor. The East Baton Rouge District Attorney also collaborated with Louisiana State University for support, which includes seven student interns.

District Attorney's offices that have started a CSU to support IDP tend to find resources from multiple places in the form of staffing, grants, and software.

Figure 1. San Francisco District Attorney CSU Org Chart



Regarding other resources, some tools are already in use by law enforcement agencies with CSUs, utilizing data from these tools in their mission. For example, automatic license plate readers, cellular phone surveillance, and the LEAP network are tools already in use by much of law enforcement. CSUs have developed or attained other tools from universities or the federal government. For example, San Francisco acquired an analysis tool from the Department of Defense's (DoD) Defense Advanced Research Projects Agency called Memex. San Francisco also used student interns to help develop a security camera interactive map containing information of privately used cameras, who owns them, how long the operator retains video, and pictures of cameras.

"Often cell phone data, both from the carrier and from the device itself, holds valuable evidence relevant to a criminal investigation. In this case, the SFDA Crime Strategies Unit analyst utilized the Memex tool proved invaluable in identifying relevant links between the traffickers and their victims."

Frank Carrubba, Assistant District Attorney, San Francisco District Attorney's office

IDP in Bernalillo County. The Office of the Second Judicial District Attorney is pursuing the implementation of IDP through a CSU with the added goal of implementing a data-driven risk assessment to focus office resources on high-risk offenders and to divert low risk offenders to behavioral health treatment. The Office has requested a \$4.1 million special appropriation to fund 19 staff, software, and other equipment for FY18 and FY19. The Office of the Second Judicial District Attorney's request for 19 staff for the 677 thousand Bernalillo County residents would make it the most heavily staffed CSU in the nation.

Based on a four state analysis of CSU's across the nation, Bernalillo County should have between 4 and 11 FTEs in their CSU. The low staffing number of 4 is based on the average population to staff ratios of the 4 states whereas the high number of 11 is based on the median population to staff ratios of existing CSU's across the nation (see Table 1). Three of four CSU's identified in this memo have staffing levels that equate to a population to staff ratio of one CSU staffer per 46 thousand to 63 thousand residents, except New York, which has a much higher ratio of one staff per 534 thousand residents. If these four cities staffing and population medians are used as benchmarks, a Bernalillo County CSU would consist of 11 total staff.

The Office of the Second Judicial District Attorney's request for 19 staff for the 677 thousand Bernalillo County residents would make it the most heavily staffed CSU in the nation.

Table 1. CSU Staffing, Jurisdiction Populations and Population to Staff Ratios in Four Jurisdictions and Potential Bernalillo County CSU

	New York	San Francisco	East Baton Rouge	St. Louis	Prospective 2 nd DA CSU Based on 4 state mean/median	2 nd DA Request for CSU
Total CSU FTE*	16	19	8	5	4 to 11 ^a	19
Population	8,537,673	870,887	447,037	311,404	676,953	676,953
Population to CSU Staff Ratio	533,605 to 1 CSU staff	45,836 to 1 CSU staff	55,880 to 1 CSU staff	62,281 to 1 CSU staff	Between 59,080 and 174,000 to 1 CSU staff ^b	35,629 to 1 CSU staff

Source: Staffing data from DA websites or personal communications. Population from US Census

*Includes supervisor position.

^aBased on the mean and median staffing ratios of New York, San Francisco, East Baton Rouge and St. Louis and Bernalillo county population

^bBased on the mean and median staffing ratios of New York, San Francisco, East Baton Rouge and St. Louis and Bernalillo county population

Although other jurisdictions have more resources per citizen, the New York CSU is the only unit with an evaluation showing outcomes. The Office of the Second Judicial District Attorney's CSU staff should be split among prosecutors assigned to geographic areas and investigators/analysts to assist with information gathering and analysis. Under a scenario at the high end, assuming that the supervisor position already exists in the office, and that at least one position would be covered by another source (e.g., DA Torrez indicated to LFC that one National Guard analyst has already been obtained), the remaining nine staff would cost between \$500 and \$600 thousand. This scenario estimate uses current averages for staff currently employed in the office and assumes attorneys and investigator/analyst positions are evenly split (as they are in the New York CSU). One potential method to fund the effort would be for the state to fund up to half of the expansion (\$250 thousand to \$300 thousand), with the remaining scale up to be covered by other sources including Bernalillo County, the City of Albuquerque, and potential federal and private grant funding.

The distribution of staff among prosecutors and investigators/analysts in the Office of the Second Judicial District Attorney's request, differs from other CSUs across the nation. The Office's proposal includes nine prosecutors, a managing attorney, a chief investigator, five investigators and three data analysts. Compared to the request, CSUs typically have fewer prosecutors (San Francisco has 8, New York 5, and other offices have 3), fewer investigators (San Francisco has 2), and more analysts (San Francisco has 6). Note that prosecutors are typically more costly to fund than investigators/analysts. The addition of a data-driven risk assessment would likely include the use of a screening tool to assess risk and need. Bernalillo County has contracted with Northpointe to implement a tool called COMPAS, which could be used for this purpose. In

their 2012 strategic plan, the Second Judicial District recommended that Bernalillo County provide COMPAS access to any interested criminal justice partners^{vi}.

Representatives from the Office of the Second Judicial District Attorney have been reaching out to potential stakeholders that could play key roles in an IDP model including the City of Albuquerque, the Department of Public Safety, the Bernalillo County Sheriff's Office, Bernalillo County, Sandia National Laboratory, the University of New Mexico, New Mexico Tech, the United States National Guard, local business leaders, and others. The Office also requested language for the General Appropriations Act to allow up to \$1.5 million in budget increases reflecting ongoing efforts to secure grants from state and local governments. Cooperation of such stakeholders is key to the success of intelligence-driven prosecution as the New York County District Attorney's Office states "the foundation to the success of the IDP model in Manhattan has been the close partnerships the District Attorney's Office has fostered with the NYPD, other law enforcement agencies and the communities we serve"^{vi}. According to the Office of the Second Judicial District Attorney, the office has secured one staff member from the National Guard. The Office could also seek to leverage additional resources consistent with the IDP model including the crime mapping and statistics function at the City of Albuquerque, the Crime Analysis Unit at the Bernalillo County Sheriff's Department, and researchers at the University of New Mexico. Leveraging of existing data collected in the law enforcement community is essential to success of the IDP model, and the pilot should ensure existing resources are leveraged and duplicative functions are not created.

Part of the pilot would be coordinating with existing data-driven law enforcement efforts in New Mexico. Some entities likely already have work that can be used in this effort including crime mapping, data analytics, and statewide databases^{vii}. For example, location based crime assessments can be based on CompStat reports and other evidence. Researchers at the University of New Mexico and the University of Virginia have been working with the City of Albuquerque to develop such location based reports and that work could likely be leveraged in this effort.^{viii}

Challenges and Next Steps. Regarding resources, as previously mentioned, a number of CSUs have expanded with staff and resources provided by partners or outside entities. The San Francisco CSU was able to scale up relatively quickly from a staff of two in 2014 to a current staff of 20 with little need for general fund expansions. The Office of the Second Judicial District Attorney should continue to build support for the IDP model with stakeholders and seek resources through potential partners mentioned previously. One potential method to fund the effort would be for the state to fund up to half of the expansion (\$250 thousand to \$300 thousand), with the other half to be funded by other sources made up from local governments (city and county), federal sources (e.g., National Guard and DoD), and private sources (grants).

Regarding evaluation, the Office of the Second Judicial District Attorney has noted that an intention of the initiative is to "pilot the project for at least fiscal years 2018 and 2019 to determine the cost and benefit of the model in Bernalillo County." However, the request does not include funding or planning for an evaluation or cost benefit analysis of the initiative.

Regarding a statewide IDP model, there is not a known, statewide implementation of the IDP model. An initial approach could be to use the Bernalillo County effort as a pilot project. After evaluation of the effectiveness of the pilot the model could potentially be scaled up to a statewide level.

Regarding privacy, with increased use of personal data comes privacy concerns. As previously mentioned, many of the tools associated with IDP are already in use by public safety personnel. The American Civil Liberties Union (ACLU) recently sought information on the use of how license plate readers track and record movements. The ACLU also recently sued the City of Albuquerque to obtain information on their potential use of cellular phone surveillance equipment^{ix}. The ACLU cites concerns with collection of

personal data, concerns with how those data are used, and concerns regarding what protections are in place for preventing misuse or abuse of data⁴. A Bernalillo County based CSU would have to be aware of such concerns and help ensure adequate privacy protections are in place.

⁴ Intelligence-driven prosecution an implementation guide. New York County District Attorney. Available at <http://pccinc.org/wp-content/uploads/2015/06/Reducing-Crime-Intelligence-Driven-Prosecution-An-Implementation-Guide.pdf>

⁵ <https://www.crimesolutions.gov>

⁶ <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=318>

⁷ The Intelligence-Driven Prosecution Model. A Case Study in the New York County District Attorney's Office. Center for Court Innovation. Available at http://www.courtinnovation.org/sites/default/files/documents/IDPM_Research_Report_FINAL.PDF

⁸ Crime Trends In California. Public Policy Institute of California. Available at <http://www.ppic.org/publication/crime-trends-in-california/>

⁹ New Mexico 2nd Judicial District Criminal Justice Strategic Plan. Available at

https://www.berneo.gov/uploads/FileLinks/33e0766212d24ba7a61e6d4557817134/Bernalillo_County_Criminal_Justice_Strategic_Plan.pdf

¹⁰ The Department of Public Safety (DPS) and the Administrative Office of the Courts (AOC) are currently working to implement a criminal justice clearinghouse statewide, created by Laws 2016, Chapter 10 and a \$600 thousand appropriation. The clearinghouse aims to centralize current and comprehensive data for access by law enforcement agencies and the courts for risk assessments and is hosted at DPS. Only DPS has legal authority to access to federal databases like National Crime Information Center (NCIC). Currently, the data is available only to the 1st judicial district and data is consolidated into a report manually upon request via email. The current estimate to complete the project bring the project statewide is \$430 thousand with annual maintenance of \$36 thousand.

¹¹ Breaking the Crime Cycle. A study on the characteristics and criminal activity of arrestees in Bernalillo County, Phase 1. Available at https://docs.wixstatic.com/ugd/68fb1b_11afc6bd322e4c6986d47674aff3dbc3.pdf

¹² The United States Supreme Court recently heard a case to determine whether the warrantless seizure and search of historical cellphone records revealing the location and movements of a cellphone user is permitted by the Fourth Amendment (*Carpenter v. United States*). A decision on the case is expected in the spring of 2018. https://www.supremecourt.gov/oral_arguments/argument_transcripts/2017/16-402_3f14.pdf

¹³ ACLU of New Mexico. Available at <https://www.aclu-nm.org/en/press-releases/aclu-files-lawsuit-demanding-city-albuquerque-disclose-cell-phone-surveillance>

Appendix E: LOPD's Suggestions for Addressing Competency

Addressing Competency within the Criminal Justice Arena

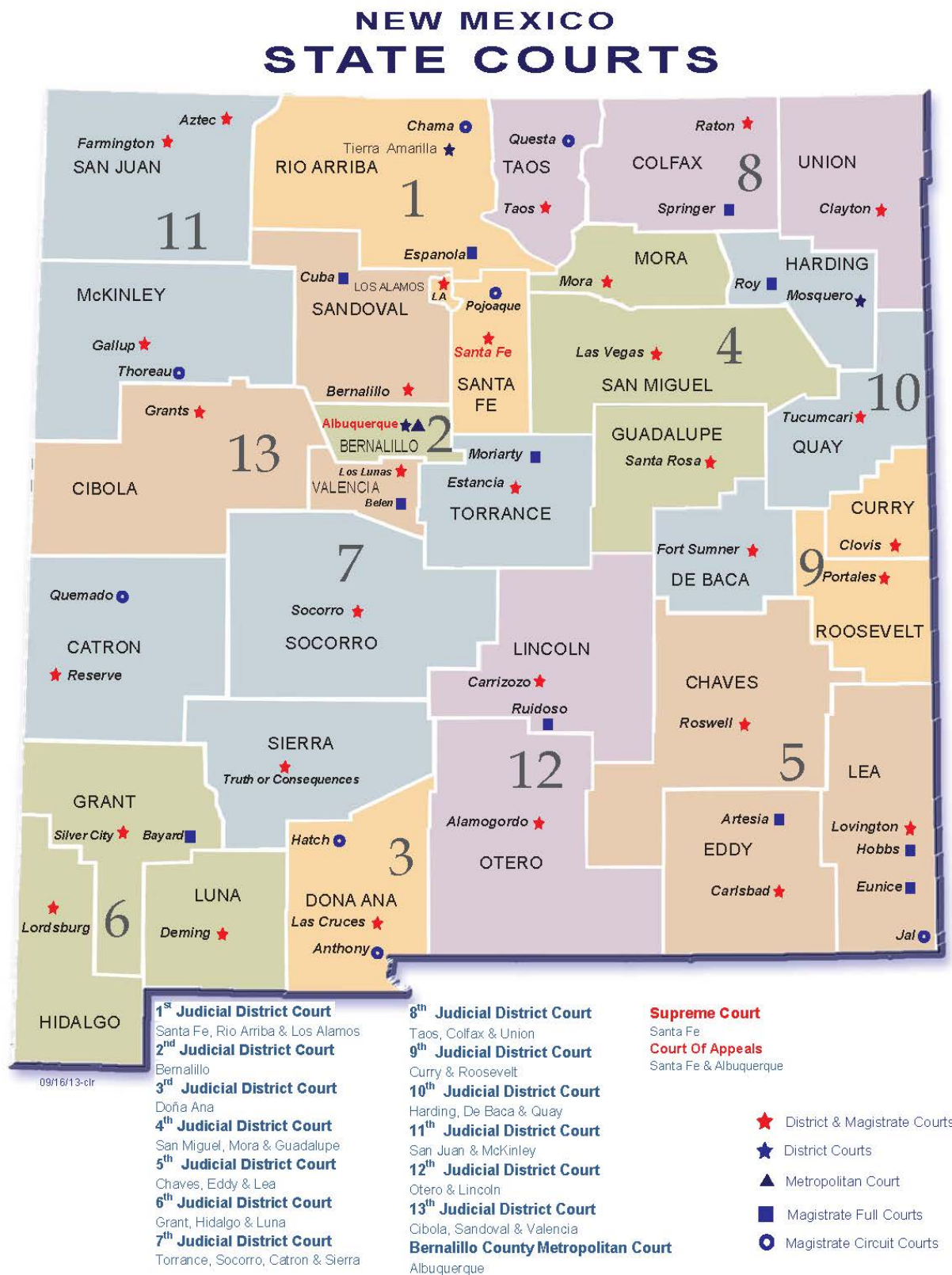
People who live with psychiatric disorders are disproportionately represented among people arrested for crimes. It proves to be a challenge for the criminal justice system to ensure that these individuals are treated with dignity and afforded the full panoply of constitutional rights. The system is charged with two important goals: (1) effectively process the individual through, or divert them from, the adjudicative system; and (2) ensure the individual has access to a more healthy community environment. There is an array of approaches that have been implemented in a variety of locations to try to achieve these goals. The outcomes achieved - and the problems identified - through each these approaches can be used as New Mexico moves toward successfully meeting the two goals. The evidence indicates that the more a community achieves the second goal of placement in a healthy and supported setting, the less likely any individual is to have the repeated contacts with the criminal justice system that implicate goal one. A comprehensive, community approach to this issue must be devised.

This should not be viewed only through a criminal justice lens, however. Doing so creates the danger of considering only punitive or corrections-based approaches. Rather, we must understand that the critical component in solving the problem lies within the public health and public housing arenas. There is nothing the criminal justice system can do to prevent, address, or reduce future criminal acts when those acts result from, or are, the symptoms of a person's mental health disorder. The criminal justice system's basic tool is incarceration or the threat of it. Not only is this ineffective in the context of impoverished people who are under-treated for these serious disorders, it is inhumane. When a person relapses in the course of cancer, or other chronic medical conditions we don't blame or punish them, we ask what we can do to alleviate their suffering. Yet even though we know that involuntary psychiatric symptoms often play a major role in behavior that is considered criminal, blame and punishment is the main prescription offered through the criminal justice system. Starkly put, the tool of locking individuals in a cage is not applicable to a public health crisis.

The criminal justice system is charged with ensuring that people who come before it are competent to stand trial yet this proves to be an elusive and misapplied concept. At its base, this means that the person charged with a crime understands the proceedings and can participate in his or her defense. The idea - based in a higher sense of humanity and compassion - is that it is fundamentally unfair to prosecute an incompetent person. But this often conflicts with a combination of ignorance about psychiatric disorders and a baser desire to punish any and all criminal behavior, regardless of the origin of the behavior and the efficacy of punishment. So people initially found incompetent after a forensic evaluation and court hearing might be sent to the State facility to be "restored to competence." This is all too often a legal fiction that results in much of the incarceration of people who are seriously psychiatrically ill. On the other hand, some found incompetent have their criminal charges dismissed, but are released to the same unhealthy, unsupported environment from which they came. Almost inevitably, these individuals re-offend because they remain ill and symptomatic with little or no support. This cycling through the system in turn results in the public calling for harsher penalties and "reform" of the competency protocols so that ill people are locked up longer. This ill-starred solution is in fact just the opposite of what's needed and only exacerbates the problem.

Solving this problem in New Mexico requires multiple stakeholders coming together to forge real, humane, and just community-based and criminal justice system approaches through a task force with a real mandate for wise change. Community-based participants include representatives and advocates from the realms of health care, supportive and public housing, public benefits, and training and educational programs. Criminal justice participants should include defense attorneys, prosecutors, judges, and law enforcement and probation officers. These stakeholders would be charged with assessing the status of the issue at present and the variety of options that could be put into place utilizing evidence of successes and failures of extant programs. We can reap the benefit of those experiences to determine our own best practices. Then this group would devise a plan to put those practices into place, including educating the community and the implementing public officials. What must not happen is that these two arenas of action - community-based and criminal justice - are kept separate. Instead, they must be fully integrated as a seamless, cohesive whole. This is not an insurmountable problem and we need not re-invent any wheels. Solutions are readily hand if we have the political will and foresight to implement them.

Appendix F: Judicial District Map of New Mexico



Appendix G: Supplemental Information on Policing Best Practices (Lum & Koper, 2017)

Execution of four principles should increase the likelihood of crime reduction success.

1. Generally, officers can be more effective when they are proactive, not reactive. Addressing causes for patterns of crime rather than responding to single crimes with tools such as crime analysis, surveys, or geolocation information. Non-committed time of officers can account for 25 percent to 80 percent of any given shift, how to use this time is key to crime prevention. Focusing on people and places is paramount, without a suitable target, crime is not possible. Activities and models may include visiting repeat offenders and probationers to create a deterrent effect. Also focusing on problem areas where crime is high or predicted to occur through analysis can also be effective.

2. Police can be very effective if they focus on places, not just on people. As previously mentioned, crime occurs when a suitable target is present. National research and research done in New Mexico, shows that most crime tends to be concentrated in pockets throughout cities. Some researchers have concluded that crime is more predictable by places than by people. Focusing police activity and patrols on high-risk small areas generally have good success rates if information about where crime is occurring is accurate and of high quality.

3. Officers are more effective when they tailor their actions to identifiable problems. The standard model of policing tends to encourage reactive procedures in terms of responding to calls and being offender oriented instead of tailored and problem oriented. Addressing underlying problems contributing to crime in the community using preventative and enforcement strategies as appropriate can also lead to good results. Problem solving models such as SARA (scanning, analysis, response, assessment), are considered best practice to use with some policing models that focus on problems.

4. Citizens' reactions matter. Research shows that citizen trust and confidence may facilitate police effectiveness in preventing crime. Citizens also have a role in not only reporting crime, but also assisting with prevention efforts. Citizen efforts to help reduce the likelihood of suitable targets, and working with police officers to assist in observation (e.g. registering their CCTV police departments) can help prevent crime or provide investigators with important information to help solve crimes.

A number of evidence-based policing strategies encompass one or more of these principles. As of June 2018 the National Institute of Justice (NIJ) list 54 effective or promising police practices and 417 promising or effective programs all of which should lead to better outcomes. An abundance of academic research evidence has shown that many of local government's responses to crime and disorder include things like hiring more police officers, and deploying them in conventional patrol and investigative modes are of less value than commonly believed (National Research Council, 2004). However, for police to be most effective, they must work collaboratively not only within the criminal justice system, but with other social and governmental systems, which not at all exhaustive, but include community organizations, mental health systems, public health and emergency medical systems, school systems, business communities, and juvenile justice systems.

Examples of models that supplement the standard model of policing. Law Enforcement Assisted Diversion (LEAD): LEAD is a pre-arrest diversion program to divert low-level offenders away from costly jail and prosecution and into case management or treatment services. An evaluation of lead showed LEAD participants were less likely to be rearrested compared to a control group.

Problem Oriented Policing (POP): In the POP model, police systematically analyze problems in a community, look for solutions to the problems and evaluate the impact of these efforts. These methods are then used by police to develop crime prevention and reduction strategies. A large study by Weisburd (2008) that reviewed outcomes from 10 different studies found problem oriented policing led to a modest but significant decrease in crime.

Focused Deterrence: Focused deterrence strategies fall under the umbrella of problem oriented policing strategies in that they target specific criminal behavior committed by a small number of chronic offenders. The strategy is

carried out through interventions with these select groups. Research suggests that focused deterrence strategies are associated with crime reduction.

Community policing: Community policing is based on the idea that police should work closely with citizen, and businesses, both public and private to address public safety concerns. Nearly all modern policing reforms include some component of community policing. The DOJ Community Oriented Policing Services (COPS) division defines community policing as consisting of many strategies that support the systematic use of partnerships and problem-solving techniques to proactively address public safety issues including the use of officer downtime to strengthen relationships with citizens through activities including community meetings, follow-up visits with victims, or addressing quality of life programs. These approaches can also be inclusive of other evidence-based strategies. For example, target hardening, an approach in which security devices are promoted and used in residential properties could be used in partnership with community policing.

Intelligence led policing: Intelligence led policing is an evidence based best practice that allows police to better use crime and intelligence data to direct police resources and investigations aimed at disrupting organized crime networks and activities. Policing cannot be intelligence-led when the data is not collected, recorded and analyzed to support the intelligence needed to develop comprehensive strategies to address crime. Good intelligence may lead to improved outcomes in addressing hotspots of crime throughout the city.

Compstat (Computer or Comparative Statistics): Compstat is a performance management system that is used to reduce crime and achieve other police department goals¹⁰. Compstat emphasizes information-sharing, responsibility and accountability, and improving effectiveness. There are 4 primary components:

1. Timely or accurate information or intelligence;
2. Rapid deployment of resources;
3. Effective tactics; and
4. Relentless follow-up.

The most widely recognized element of Compstat is its regularly occurring meetings where department executives and officers discuss and analyze crime problem and the strategies used to address those problems¹⁰. At the crux of any Compstat program is effective crime analysis. Crime analysis provides the information and findings that should guide Compstat meetings. Studies have sometimes found mixed effects for the ability of Compstat to reduce crime or enhance public safety but other studies have shown that Compstat programs can lead to crime decreases up to 15 percent.

Hot spots policing: Hot spots policing strategies focus on small geographic areas of places and people where crime is committed and concentrated. Law enforcement agencies can focus limited resources in areas where crime is most likely to occur. In Philadelphia Pennsylvania police used hot spot strategies to increase foot patrols in dangerous street intersections which corresponded to a 23 percent drop in violent crimes. Additionally, Braga et al (2012) conducted a review of 10 randomized control trials and showed that hot spots policing has a modest but significant effect on reducing crime.

Appendix H: FBI Uniform Crime Reporting Description of Cleared Cases

In the FBI's Uniform Crime Reporting (UCR) Program, law enforcement agencies can clear, or "close" offenses in one of two ways: by arrest or by exceptional means. Even if an agency administratively closes a case, it does not necessarily mean that the agency can clear the offense for UCR purposes. To clear offenses within the UCR program's guidelines, the reporting agency must adhere to criteria set forth by the UCR program.

An offense is considered cleared by an arrest when three specific criteria are met. The three conditions are that at least one person being: arrested, charged with the commission of an offense, or turned over to the court for prosecution. The arrest of one person may clear several crimes, and the arrest of many individuals may clear only one offense. Agencies may also clear offenses in a particular calendar year that may be related to offenses committed in prior years.

In some situations, variables beyond law enforcement's control prevent the agency from clearing an offense by an arrest or formally charging the perpetrator. When this happens, the law enforcement agency can clear the offense exceptionally. The following conditions must be met to clear an offense by exceptional means. They include: offender must be identified, enough evidence has been gathered to support an arrest, and make a charge, known location of the offender, and a circumstance that has happened outside the control of law enforcement that prohibits arrest, charging and prosecution of the offender. Some examples of an offense being cleared by exceptional means include the death of an offender, and the victim's refusal to cooperate with the prosecution.

Appendix I: New Mexico Results First Initiative Evidence-Based Program/Practice Analysis

Table 10. Policing

Program	Estimated Cost	Benefits To Taxpayers	Total Benefits	Return on Investment (ROI)	Likelihood of a positive ROI
Deploy one additional police officer with hot spot strategies	\$96,526	\$89,367	\$534,020	\$5.53 to \$1	99%
Deploy one additional police officer with statewide average practices	\$92,059	\$67,989	\$407,955	\$4.43 to \$1	99%
Mobile crisis response	\$1,195	\$3,561	\$6,348	\$5.31 to \$1	88%
LEAD: Police diversion for low-severity offenses (pre-arrest)	-\$556	\$2,140	\$4,363	\$4,363 to \$1	84%

Source: Pew-MacArthur Results First Initiative Results First Model

Table 11. Courts and Attorneys

Program	Estimated Cost	Benefits To Taxpayers	Total Benefits	Return on Investment (ROI)	Likelihood of a positive ROI
Drug court	\$4,944	\$9,099	\$18,323	\$3.71 to \$1	99%
DUI courts	\$15,463	\$4,754	\$9,711	\$.63 to \$1	10%
Mental health court	\$31,111	\$3,144	\$7,937	\$2.55 to \$1	91%
Restorative justice conferencing	\$1,112	\$1,591	\$3,242	\$2.92 to \$1	63%

Source: Pew-MacArthur Results First Initiative Results First Model

Table 12. Behavioral Health and Incarceration

Program	Estimated Cost	Benefits To Taxpayers	Total Benefits	Return on Investment (ROI)	Likelihood of a positive ROI
Brief cognitive behavioral intervention for amphetamine users	\$211	\$703	\$8,921	\$42.28 to \$1	99%
Community-based correctional facilities	\$8,377	-\$350	-\$883	-\$0.11 to \$1	Less than 1%
Correctional education (basic or post-secondary in prison)	\$1,198	\$4,330	\$10,927	\$9.12 to \$1	99%
Electronic monitoring (parole)	-\$1,138	\$36	\$95	\$1,233 to \$1	99%
Electronic monitoring (probation)	-\$1,138	\$85	\$228	\$1,366 to \$1	99%
Housing supports for offenders returning to the community	\$2,976	\$2,765	\$5,837	\$1.96 to \$1	84%
Inpatient intensive outpatient drug treatment (community)	\$888	\$312	-\$649	-\$0.73 to \$1	40%

Matrix Intensive Outpatient Treatment for people with stimulant use disorder	\$1,281	\$197	\$4,825	\$3.77 to \$1	56%
Methadone maintenance for opioid use disorder	\$3,762	\$795	\$17,116	\$4.55 to \$1	99%
Methadone maintenance for opioid use disorder	\$3,762	\$795	\$17,116	\$4.55 to \$1	99%
Outpatient/non-intensive drug treatment (community)	\$767	\$5,591	\$12,376	\$16.14 to \$1	99%
Outpatient/non-intensive drug treatment (incarceration)	\$749	\$1,853	\$5,004	\$6.68 to \$1	98%
Serious and Violent Offender Recidivism Initiative (SVORI)	\$14,522	\$14,926	\$35,019	\$2.41 to \$1	99%
Supervision with Risk-Need responsivity principles (high and moderate risk)	\$1,370	\$5,294	\$11,738	\$8.57 to \$1	99%
Therapeutic communities for chemically dependent offenders (community)	\$3,781	\$1,841	\$7,619	\$2.02 to \$1	82%
Therapeutic communities for chemically dependent offenders (incarceration)	\$2,195	\$1,838	\$7,313	\$3.33 to \$1	89%
Therapeutic communities for offenders with co-occurring disorders	\$5,109	\$3,119	\$10,026	\$1.96 to \$1	78%
Violence reduction treatment	-\$3,954	\$446	\$1,209	\$.23 to \$1	20%
Vocational education in prison	\$1,496	\$3,092	\$8,361	\$5.59 to \$1	96%
Work release	-\$504	\$710	\$1,923	\$2,427 to \$1	99%

Source: Pew-MacArthur Results First Initiative Results First Model

Appendix J: Glossary of Term/Acronyms

Glossary of Terms

ABA – American Bar Association
ACLU – American Civil Liberties Union
ALeRT – Analysis Led Recidivism Reduction Team
AOC – Administrative Offices of the Courts
APD – Albuquerque Police Department
APIC – Assess, Plan, Identify, and Coordinate
ATF – Alcohol, Tobacco and Firearms agency
BCCJCC – Bernalillo County Criminal Justice Coordination Council
BCCJRC – Bernalillo County Criminal Justice Review Commission
BCSO – Bernalillo County Sheriff's Office
BH – Behavioral Health
BJA – Bureau of Justice Assistance
BJS – Bureau of Justice Statistics
CAD – Computer Aided Dispatch
CAFR – Comprehensive Annual Financial Reports
CASA – Court Approved Settlement Agreement
CCP – Community Custody Program
CFS – Calls for Service
CJCCs – Criminal Justice Coordinating Councils
CMO – Case Management Order
CNA – Comprehensive Needs Assessment
COMPAS – Risk assessment instrument
Compstat – Computer or Comparative Statistics
COPS – Community Oriented Policing Services
CPI – Community Partners, Inc.
CSG – Council of State Governments
CSU – Crime Strategies Unit
CYFD – Children, Youth and Families Department
DOH – Department of Health
DOJ – Department of Justice
DPS – Department of Public Safety (see NMSP)
FBI – Federal Bureau of Investigation
FI – Forensic Interview
FMLA – Family and Medical Leave Act
FTE – Full Time Employee
HRA – Health Risk Assessment
HSD – Human Services Department
IDP – Intelligence-Driven Prosecution
ISR – Institute for Social Research
JDYSC – Juvenile Detention and Youth Services Center (Bernalillo County)
JJ – Juvenile Justice Services/Facilities (state)
LAPD – Los Angeles Police Department
LEAD – Law Enforcement Assisted Diversion
LOPD – Public Defender
MAT – Medication assisted treatment
MDC – Metropolitan Detention Center (Bernalillo County)
NAPSA – National Association of Pretrial Services Agency

NCVS – National Crime Victimization Survey
NIBIN – National Integrated Ballistic Information Network
NIBRS – National Incident-Based Reporting System
NIC – National Institute of Corrections
NIH – National Institute of Health
NIJ – National Institute of Justice
NMCD – New Mexico Corrections Department (state prisons)
NMSC – New Mexico Sentencing Commission
NMSP – New Mexico State Police (see DPS)
PERE – USC’s Program for Environmental and Regional Equity
PJI – Pretrial Justice Institute
POP – Problem Oriented Policing
PSA – Pretrial Services Assessment
PTS – Pretrial services
RAI – Kentucky Revised Risk Assessment
ROI – Return on Investment
RRC – Resource Reentry Center
RTCC – Real Time Crime Center
SARA – scanning, analysis, response, assessment
SJDA – Second Judicial District Attorney
SOP – Standard Operating Procedures
SWAT – Special Weapons and Tactics
UCR – Uniform Crime Reporting
UNMPD – University of New Mexico Police Department

Appendix K: Glossary of Term/Acronyms

Calls for Service Descriptions

Auto Theft: A call related to someone reporting that their vehicle was stolen
Burglary Auto: A call related to someone reporting that their vehicle was broken into and burglarized
Burglar Alarm: A call related to a silent or audible burglar alarm being set off
Contact: A call related to an officer making a self-initiated contact with a citizen or a citizen making contact with an officer
Direct Traffic: A call related an officer having to direct traffic
Disturbance: A call related to a verbal or physical disturbance; civil disorder or disobedience
Family Dispute: A call related to a report of domestic violence, verbal, physical, or both. Family dispute
Mental Patient: A call related to an individual(s) that is in need of behavioral health services and is having a behavioral health episode
Narcotics: A call related to a narcotics investigation or complaint of narcotics sales occurring or just having occurred
Periodic Watch: A call related to a request for an officer to drive by a person's home if they are on vacation or the officer is checking to see if an individual with a warrant is at the residence or location in between calls
Robbery: A call related to the unlawful taking of property by force or threat or a robbery in progress
Shooting: A call related to a shooting of a person having occurred
Shoplifting: A call related to a individual(s) having shoplifted
Suicide: A call related to someone in the process of or having committed suicide
Suspicious Person/Vehicle: A call related to a "suspicious" person/vehicle to be checked out by an officer
SWAT: A call related to a Special Weapons and Tactics Team to be deployed to a hostage situation, barricaded individual(s) and other high-risk situations
Theft/Fraud/Embezzlement: A call related to the occurrence of theft/fraud/embezzlement, i.e. bad checks
Traffic Accident w/Injury: A call related to a traffic accident with injury
Traffic Accident w/out Injury: A call related to a traffic accident without an injury
Traffic Stop: A call related to a traffic stop
Welfare Check: A call related to an officer inquiring about the well-being or safety of an individual(s) due to a citizen's request to do so
911 Hang Up: A call related to someone calling 911 and then hanging up, whether it be accidental or otherwise

Source: APD and BCSO

Appendix L: Legal System Process Definitions

Evidence collection refers to law enforcement investigation before charges are filed and follow up investigation by the DA afterward. Enough evidence needs to be collected to effectively prosecute (bullet casings, witness statements, bloodwork, crime scene photographs, etc). For instance, LFC staff witnessed a case where a defendant was released after shooting at and striking a random car, his third shooting charge in months, because there was no evidence presented of bullet casings collected at the scene matching the gun and there were no pictures of the bullet holes in the vehicle.

Supervision/diversion refers to how the system addresses offender after initial arrest based on an assessment of their risk. For instance, the DA can argue to hold defendants they are able to prove are dangerous with clear and convincing evidence or offer diversion treatment as an early plea offer to defendants with less serious criminal histories. These options are best practices for the most and least dangerous defendants, respectively, to be addressed in a way that holds them accountable and provides the best outcomes for the safety of the public. Additionally, pretrial services (PTS) at both Metro and District court can supervise defendants in the middle: released defendants that are found to have a higher probability of re-offending according to a risk assessment tool. PTS have a variety of techniques available for supervision, including scheduled meetings, urinary analysis, breathalyzer requirements, and GPS monitoring. PTS may also attempt to connect defendants with services that address their underlying issues, although a needs assessment is not currently utilized in Bernalillo County.

Victim/witness cooperation refers to how victims and witnesses need to cooperate with prosecution and actually appear to testify during relevant hearings. For instance, staff analysis of case proceedings found instances where police officers were sometimes absent from key hearings, resulting in a dismissal. Interviews with officers discovered that there are multiple, likely valid reasons for police absences including illness, emergencies, planned vacations, graveyard duty, and others. Analysis also indicates that domestic and family violence victims often refuse to cooperate with prosecutors, resulting in the dismissal of those types of cases.

Database integration refers to the many disparate databases within the criminal justice system that must all effectively communicate with each other in order to comply with all legal rules and timelines required like sharing discovery, transporting detainees, notifying defendants of proceedings, etc. For instance, staff analysis found occurrences where a case was dismissed for a failure to transport a defendant from detention to court even though a transport order was filed.

Corrections supervision refers to the probation and parole of convicted defendants who are released into the community following or in lieu of incarceration. Community supervision is operated by NMCD, and seeks to improve public safety through criminal supervision and recidivism reduction programs like housing and job placement, however recidivism from New Mexico prisons is over 50 percent.

Appendix M: Results First Approach

The Washington State Institute for Public Policy (WSIPP) has utilized a cost-benefit model to inform decisions of policy makers so they can invest in evidence-based programs that deliver the best results for the lowest cost. WSIPP has attributed a number of positive outcomes to the use of the approach on which Results First is based, including a savings of \$1.3 billion per biennium and improved outcomes in the state of Washington.



Source: Adapted from the Pew Charitable Trusts

Cost-Benefit Analysis of Evidence-Based Programs. The result of the cost-benefit analysis conducted in this report indicates New Mexico could obtain favorable outcomes for behavioral health consumers, if the state successfully implements evidence-based programs. The cost-benefit estimates were constructed conservatively to reflect the difficulty that can be encountered when implementing programs at scale. Likewise, well-run behavioral health service programs can achieve reported or better results.. Poorly run programs will not. Some of these programs are currently implemented in New Mexico and the results of this study present the outcomes these programs should be producing based on rigorous research. Several factors need to be considered when interpreting findings. Our analysis is based on an extensive and comprehensive review of research on program outcomes as well as an economic analysis of the benefits and costs of investments in evidence-based programs. The results indicate that New Mexico can obtain favorable outcomes if it can substantially and successfully increase its use of several evidence-based programs. The predicted costs, benefits, and return on investment ratios for each program are calculated as accurately as possible but are, like all projections, subject to some level of uncertainty. Accordingly, it is more important to focus on the relative ranking of programs than small differences between them; some programs are predicted to produce large net benefits and represent ‘best buys’ for the state while others are predicted to generate small or even negative net benefits and represent neutral or poor investment opportunities.

Evidence-Based Program Implementation in Other States through Results First. States have made substantial progress in their implementation of Results First over the past year and their use of the process to inform and strengthen policy and budget decisions. These efforts have resulted in millions of dollars in targeted funding, cost-savings, and cost-avoidance that will improve long-term outcomes for citizens. States have identified many lessons learned that can help all teams maximize the value of their work, and Results First will use this feedback to develop new tools over the coming year to help states collaborate and share these best practices. Results First is also working to expand the scope of the cost-benefit analysis model and bring additional tools to states to support evidence-based

polymaking. Collectively, this work can be instrumental in helping states live within their means while improving their ability to achieve critical goals, such as reducing recidivism, strengthening families, and preparing children for the future. The number of states participating in Results First has grown to 14 over the past year. Most states have completed initial implementation of the Results First model's criminal justice component. Oregon has used the analysis broadly to determine whether a long-standing (10-year) statutory mandate directing agencies to invest in evidence-based programs has been cost-effective. New Mexico, along with a number of other participating states, plans to expand Results First into additional policy areas along with integrating the results of the analysis within the state's performance-based budgeting work.

Appendix N: SJDA Intake Division Description

Intake Division

When DA Raul Torrez took office in January 2017, the Second Judicial District Attorney's Office did not have a reliable method to intake case referrals from law enforcement. What was then called the Records Division was behind by more than five months in opening investigative case referrals from law enforcement. For arrest cases with defendants in custody, attorneys would routinely receive case assignments after critical deadlines, such as target notice deadlines, had already expired; resulting in significant failures to simply initiate cases.

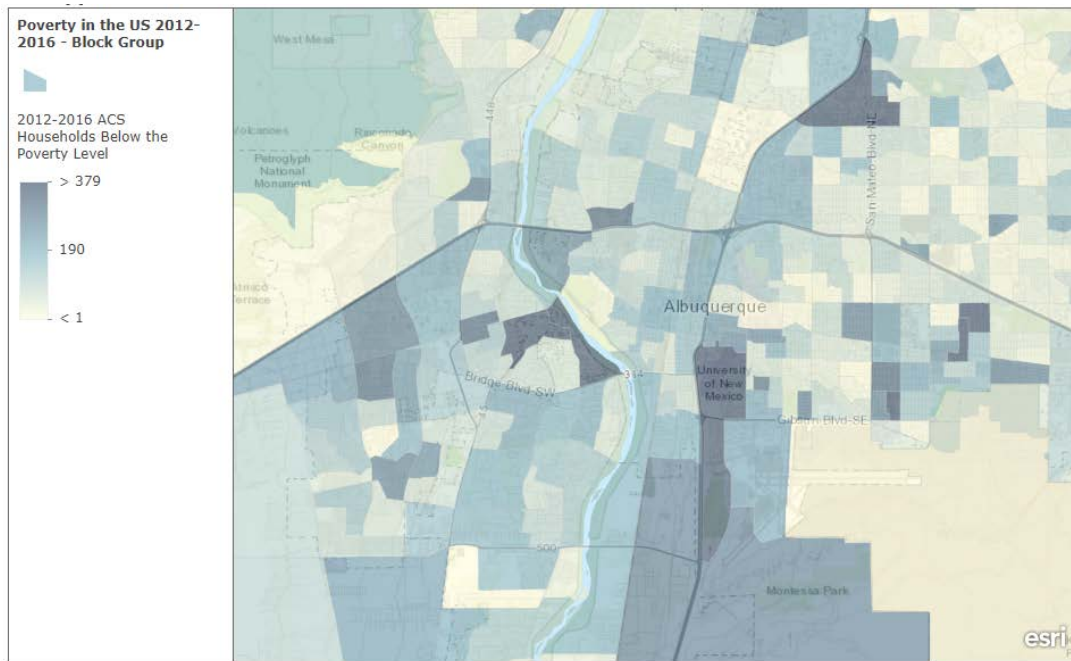
To address these critical failures, DA Torrez directed the creation of a new Intake Division. The Intake Division is the initial interface between law enforcement and the DA's Office and is the focal point for important criminal justice reforms. The Intake Division:

- receives felony case referrals and initial discovery from law enforcement partners. Prior to the Intake Division, case referrals were delivered and received haphazardly by multiple divisions within the office, and access to discovery commonly took several weeks. Now the vast majority of cases referrals arrive electronically. Cases with in-custody defendants are delivered to assigned to attorneys with initial discovery within one to two business days. This aspect of the Intake Division interfaces with APD's paralegals.
- triages all arrestees to identify priority defendants and file preventative detention motions. The Intake Division reviews every arrestee in Bernalillo County, conducts an initial screen of the case, evaluates the defendant's priority and establishes the case handling methodology. For defendants identified as Tier 1, the Intake Division files a preventative detention motion by the defendant's Felony First Appearance (FFA) and prepares a preventative detention evidence packet for the preventative detention hearing.
- open cases correctly in the DA case management system. DA Torrez has placed heavy emphasis on accurately entering data into the DA case management system. Previously, multiple profiles were created for the same defendant making it virtually impossible to have a comprehensive understanding of a defendant's criminal history. Furthermore, the previous Records Division entered only minimal information when opening a case, leaving critical information to be opened by other Divisions which led to inconsistencies and lack of critical information. The Intake Division ensures that defendants are correctly opened and that previously incorrectly opened cases are consolidated.
- assigns cases directly to attorneys. Cases flow directly from the Intake Division to specific attorneys. Because multiple profiles were created before the establishment of the Intake Division, defendants were often assigned to multiple attorneys. It was common for the same defendant to have open cases with different attorneys resulting in haphazard and disparate adjudication of cases. The Intake Division is working to assign all of a defendant's cases to the same attorney to ensure all of a defendant's cases are factored into resolutions.
- schedules grand jury and preliminary hearings for case initiation. The Intake Division now schedules grand jury settings to optimize utilization of available grand jury time. To minimize cancellations of grand jury presentations due to witnesses who fail to appear, grand jury settings are double-booked; in that way, if a one presentation is not ready to proceed, there is a another presentation ready to utilize the grand jury. This has resulted in an increase in both the number and speed of case initiations. To further maximize grand jury utilization efficiency, the Intake Division is currently developing procedures to provide grand jury notifications to targets at FFAs.
- initiates all grand jury cases for in-custody defendants. Duty attorneys for the Intake Division present grand jury cases for the General Crimes Division to ensure timely initiation of their cases.

These reforms have greatly contributed to the increased speed and volume of felony case initiation by the Second Judicial District Attorney's Office.

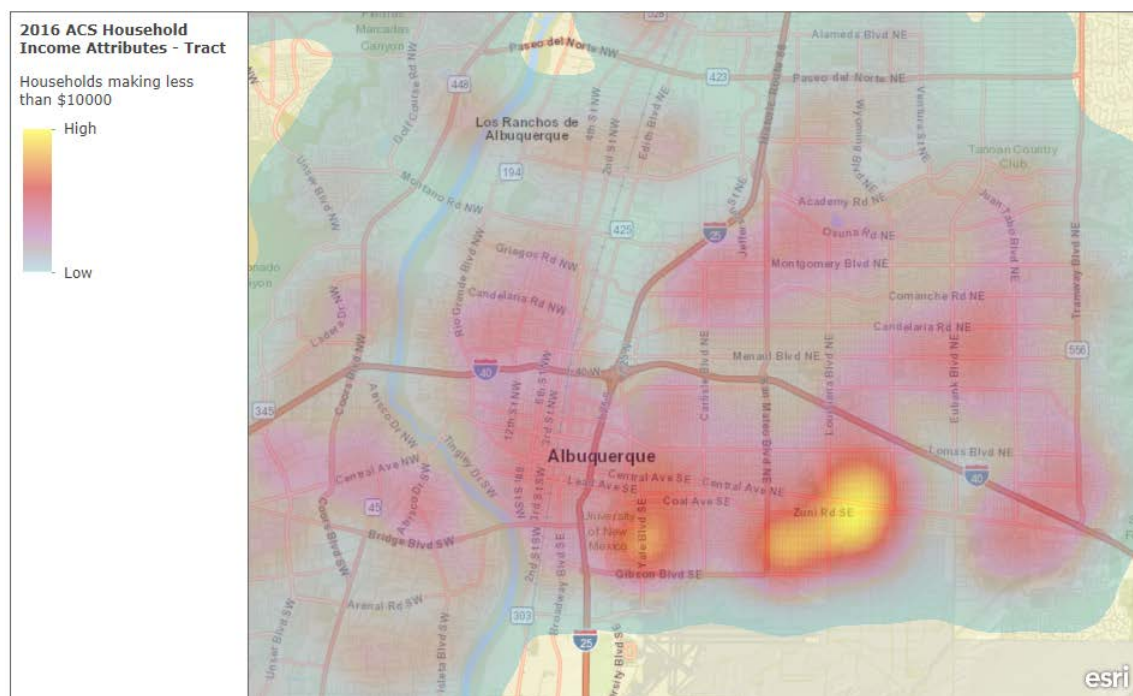
Appendix O: Mapping of Poverty and Select APD Calls for Service With Hot Spots Analysis

Figure A. Number of Households Below the Federal Poverty Level (Census ACS 2012-2016)



CDC/ATSDR/Division of Toxicology and Human Health Sciences/Geospatial Research, Analysis & Services Program | City of Albuquerque, Bureau of Land Management, Esri, HERE, Garmin, USGS, NGA, EPA, USDA, NPS

Figure B. Concentration of Households with Income Below \$10 thousand (Census ACS 2012-2016)



City of Albuquerque, Bureau of Land Management, Esri, HERE, Garmin, NGA, USGS, NPS

Figure C. Concentration of 2017 APD Armed Robbery Calls For Service

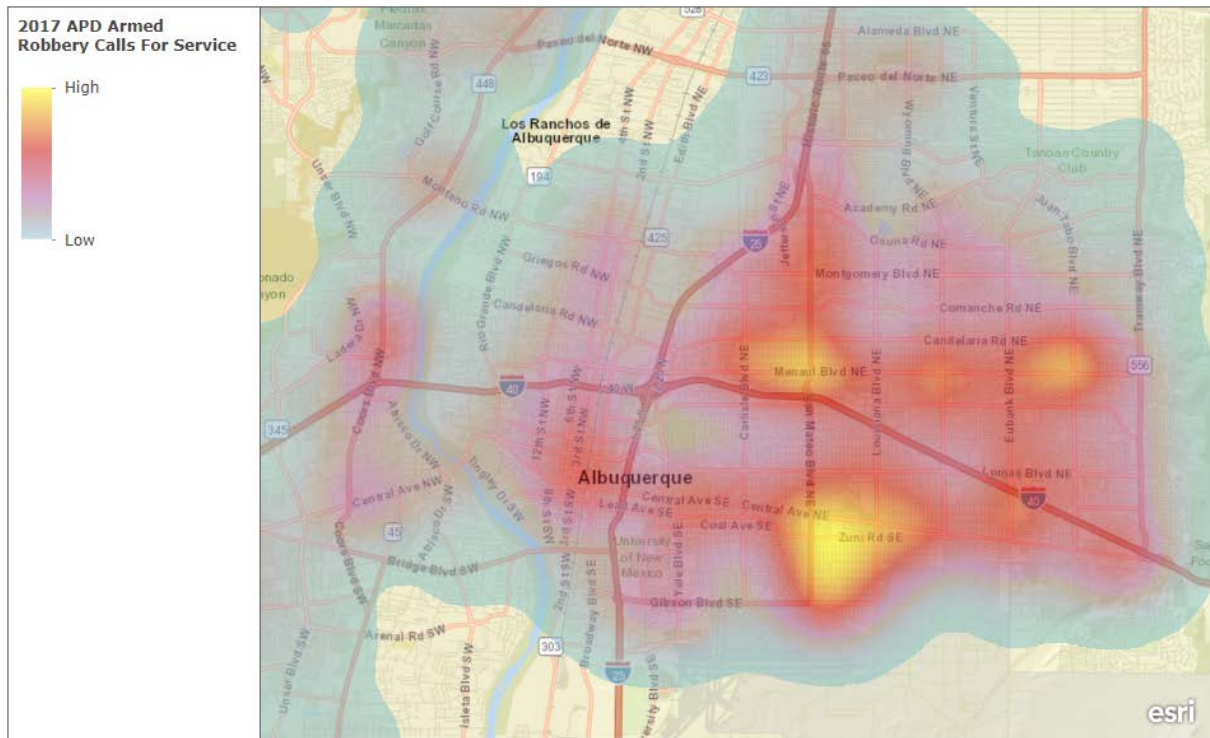


Figure D. Concentration of 2017 APD Auto Theft Calls For Service

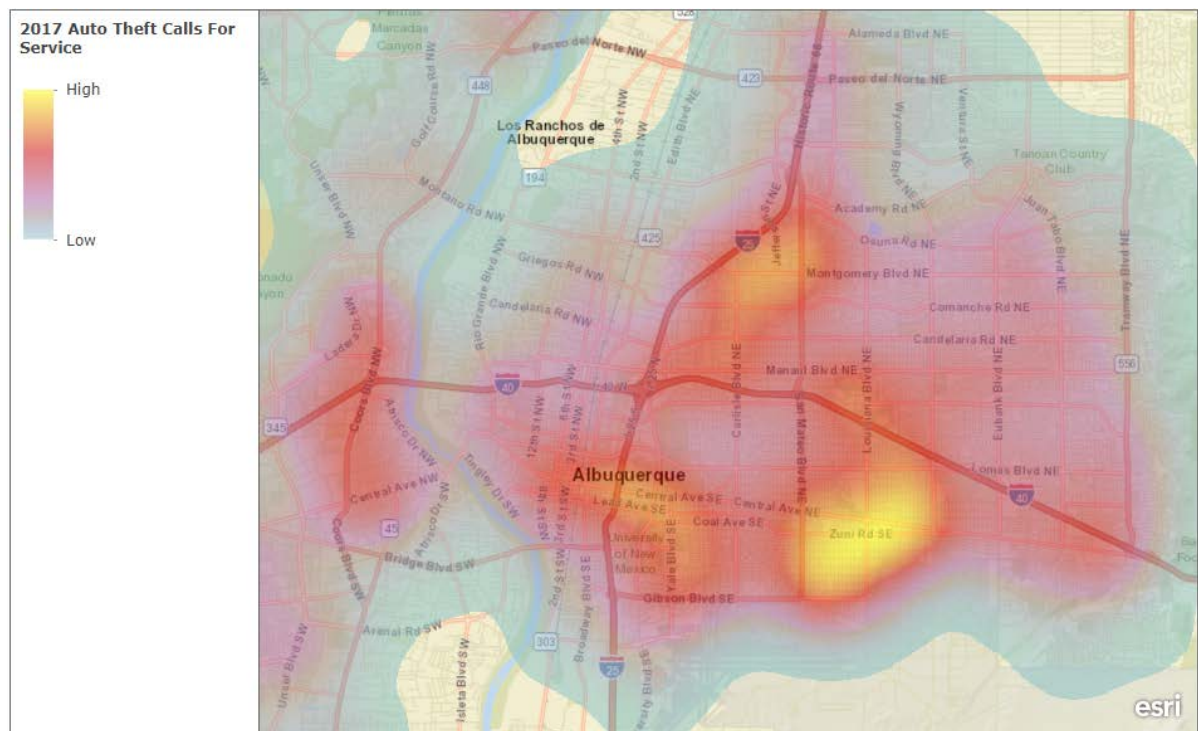


Figure E. Concentration of 2017 APD Shootings and Shots Fired Calls For Service

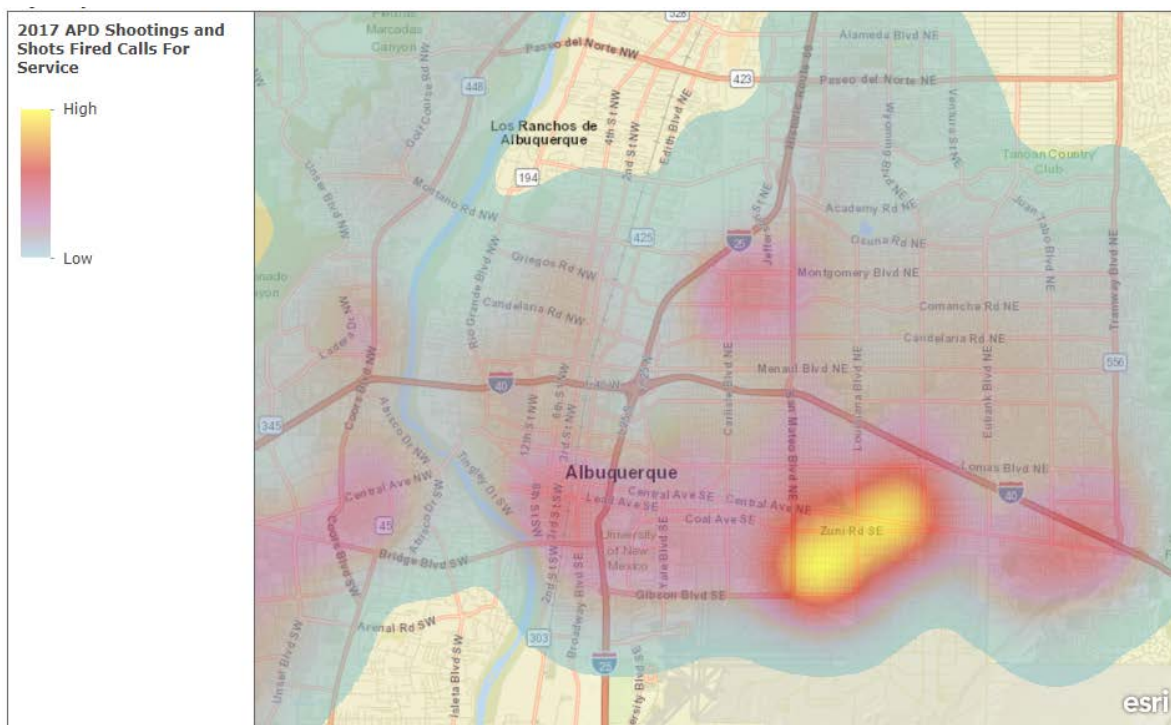
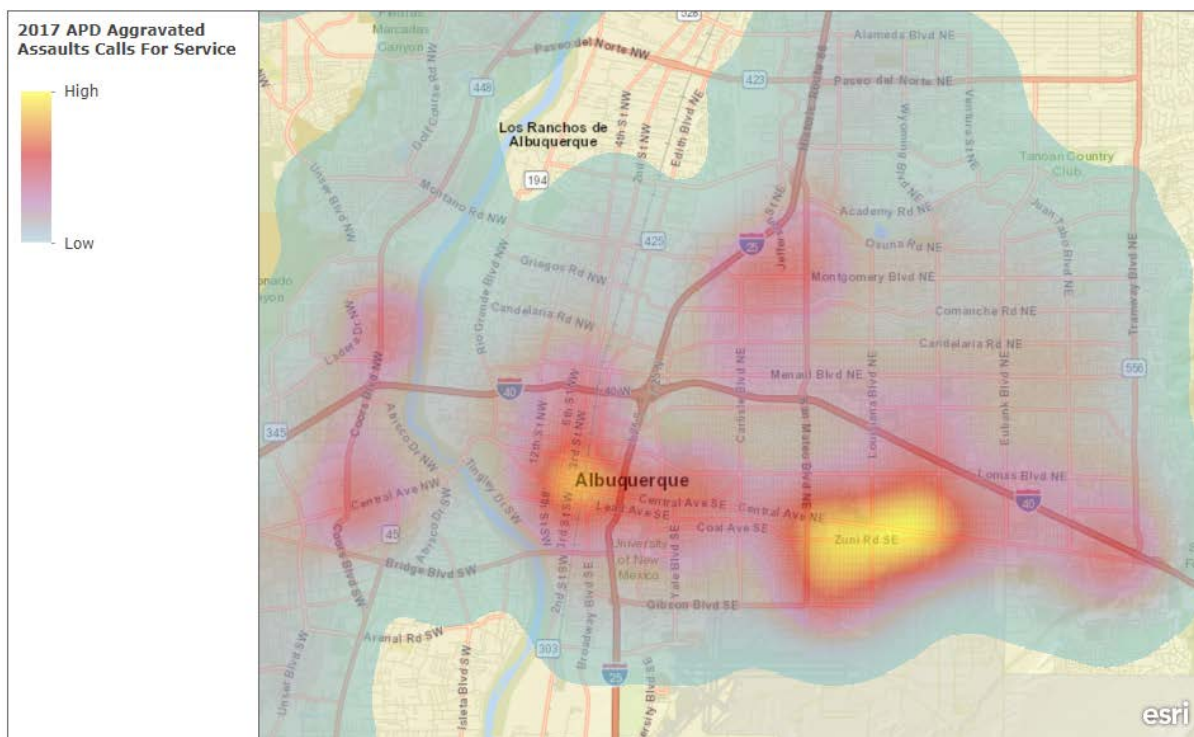


Figure F. Concentration of 2017 APD Aggravated Assaults Calls For Service



As mentioned earlier in the report, hot spots policing strategies focus on small geographic areas or places where crime is concentrated. This may include intersections, businesses, residential addresses, schools and micro locations. The APD knows about different hot spots throughout the city. In the LFC analysis, some hot spots have been identified by area command. Locations were considered hot spots for purposes of the analysis if the location received 300 or more (almost 1 per day) total calls for service, regardless of type, to that location in a given year. When excluding traffic stops, traffic accidents both with and without injuries, and be on the lookout calls for service, there were 73 locations in the Albuquerque metropolitan area that had 300 or more calls for service in 2010, decreasing to 71 locations in 2017. The hot spots identified vary from commercial businesses, residential apartment complexes, and intersections.

Approximately half of the places that were identified as hot spots in 2010 for aggravated assaults, robberies, and shootings and shots fired, remained the same hot spots in 2017, while others have changed over time. If APD implemented specific hot spots policing strategies in 2010 in the identified hot spot areas, it may have had an effect in reducing the hot spots identified in the analysis that were the same in 2010 and 2017. An example of the fluctuation in hot spot activity is illustrated in a residential location in 2010 that had 440 total calls for service, but then reduced to 338 total calls for service in 2017, a 23 percent decrease. An example of a business location experiencing worsening conditions is reflected in 985 total calls for service in 2010, increasing to 1,472 total calls for service in 2017, a 49 percent increase. In one other case a specific intersection had 0 shots fired in 2010, but this increased to 13 shots fired in 2017.

The table below lists some other examples of a subset of hot spots around the city that have violent calls for service to that location.

Table XX. Violent Hot Spot Locations around Albuquerque: Descriptions of Calls for Service to the Locations

Location	2010	2017
Hot Spot A (intersection)	Description (1 aggravated assault, 1 armed robbery, 13 fights in progress, 4 sex offenses)	Description (18 aggravated assaults, 5 armed robberies, 22 fights in progress, 1 shooting, 8 shots fired, and 2 stabbings)
Hot Spot B (business)	Description (11 aggravated assaults, 1 criminal sexual penetration, 4 fights in progress, 5 armed robberies, 1 sex offense, 4 stabbings)	Description (26 aggravated assaults, 5 armed robberies, 1 criminal sexual penetration, 27 fights in progress, 1 sex offense, 9 shots fired, 4 stabbings)
Hot Spot C (Residential Complex)	Description (5 aggravated assaults, 1 criminal sexual penetration, 3 fights in progress, 3 armed robberies, 1 stabbing)	Description (7 aggravated assaults, 2 fights in progress, 1 sex offense, 8 shots fired)

Source: LFC Analysis of APD CAD data

Appendix P: Behavioral Health Initiative Approved Projects

BHI Approved Projects

Together, the City of Albuquerque and Bernalillo County have approved more than \$19 million in annual allocations for Behavioral Health Initiative projects.

Community Connections Re-entry Supportive Housing – \$1.3 Million per year BernCo/\$500,000 CABQ

Provides intensive case management and services linked with scattered site housing to a target population of homeless or precariously housed persons with mental illness or co-occurring disorders or other disabilities and whose lack of community based services have resulted in criminal justice system involvement. The program provides high quality intensive wrap-around services and housing subsidies to support individuals.

Subcommittee: Supportive Housing

Status: Implemented October 2016

Community Connections Supportive Housing Expansion for Frequent Utilizers – \$1.2 million per year

The program expansion focuses on individuals with behavioral health issues who are homeless or precariously housed and are frequent utilizers of emergency room and other services. The expansion provides for 55 scattered housing vouchers with case management services.

Subcommittee: Supportive Housing

Status: Implemented May 2017

Reduction of Adverse Childhood Experiences (ACEs) – \$3 million per year

Bernalillo County is supporting at risk children and their families across the full continuum of services including primary prevention, identification, early intervention, support and treatment, harm reduction, outreach, and services in children's homes and within the community. (The funding pays for services and family supports not currently reimbursed by Medicaid or third party payers.)

Subcommittee: Prevention, Intervention, Harm Reduction

Status: Implemented June 2017

Mobile Crisis Teams – \$1 million BernCo/\$456,291 CABQ

Mobile Crisis Teams are a City of Albuquerque and Bernalillo County collaboration that responds to individuals experiencing a nonviolent behavioral health crisis that necessitates a 911-response. There will be four teams formed, with each consisting of a crisis intervention unit deputy paired with a masters' level, behavioral health clinician.

Subcommittee: Crisis Services

Status: Implemented February 2018

Youth Transitional Living (YTL) – \$800,000 per year

YTL services are for at-risk youth who are precariously housed or homeless with a mental health or addiction diagnosis. The funding provides youth transitional housing and services for clients who are not currently under any state Children Youth and Families Department, Bernalillo County or other third party-funded program. This initiative also provides a housing bridge to youth, who would otherwise would continue to be detained at YDC due to lack of safe transitional housing.

Subcommittee: Supportive Housing

Status: Contract negotiations in process

Community Engagement Teams – up to \$1 million per year

Community Engagement Teams (CETs) help people and their families voluntarily cope with the effects of mental illness and substance abuse disorders in the comfort of their homes and communities pre and post crisis. The CET helps individuals avoid the criminal justice system and emergency hospital visits, and employs a recovery-focused approach that promotes wellness, self-management, personal recovery, natural supports, coping skills, self-advocacy, and development of independent living skills. (Individuals or family members who could benefit from the CETs will be referred through crisis and warm lines, such as the New Mexico Crisis and Access Line [1-855-NMCRISIS], as well as the local law enforcement Crisis Intervention Team database and case management systems.)

Subcommittee: Prevention, Intervention, Harm Reduction

Status: Implementation by February 2018

Peer Driven Drop-in Support Services – \$300,000 per year

Peer driven drop-in support services provide a place where fellow participants support one another and receive services in order to assist each other in maintaining their current level of care in the community. Peer support is delivered in-person at a center, by phone or over the Internet. (Centers could be located in community centers, libraries, schools, or churches.)

Subcommittee: Community Supports

Status: RFP in process

Peer Case Management – \$620,000 per year

This intervention is a peer case management approach to help individuals 14 or older with a primary diagnosis of mental illness. This proposal draws from Strengths-based Case Management and Peer Case Management.

Subcommittee: Community Supports

Status: RFP in process

Case Management for Substance Abuse Disorder – \$750,000 per year/CABQ funded

Provides intensive case management (ICM) services for individuals with substance use disorders to help navigate a complex service system and to obtain access to treatment and services that support and sustain recovery.

Subcommittee: Community Supports

Status: RFP in process

Single-site Permanent Supportive Housing – up to \$4 million Capital Investment; \$1 million for vouchers/services

The joint city/county project provides 40 to 60 individual housing units with on-site services for single adults aged 18 or older who are homeless or precariously housed; who have a diagnosable mental, behavioral or emotional disorder, substance abuse disorders, and/or serious mental illness; and experience significant behavioral health challenges that require a more intensive level of services to maintain stability. The building will be staffed 24-hours a day, with security cameras both inside and outside of the building and the vouchers will be project-based.

Subcommittee: Supportive Housing

Status: RFP in process

Education and Training – \$3 million over three years

This effort provides education and training targeting behavioral health awareness, community training, such as Mental Health First Aid and train-the-trainer programs, to raise awareness, understanding, and skills to deal with behavioral health issues. The target population includes individuals with direct contact with populations that navigate behavioral health needs, individuals who have direct contact due to their professions, and the general public.

Subcommittee: Prevention, Intervention, Harm Reduction

Status: RFP in process

Transition Planning and Re-entry Resource Center – \$1,341,188 in year one; \$1,041,188 annually thereafter

The Metropolitan Detention Center (MDC) releases individuals back to the community who suffer from a variety of mental illnesses and substance abuse disorders. This project includes supports transition planners at MDC and creates a Re-entry Resource Center (RRC) for an effective front door to a network of services. (A one-time renovation cost is allocated to the RRC, which is located at the Public Safety Center, 401 Roma NW, Albuquerque.)

Subcommittee: Crisis Services

Status: Renovations underway/Opening by May 2018

UNM's Institute for Social Research (UNM/ISR) – \$246,553 per year

Data analysis and evaluation to help identify target populations and best practices of services, as well as measures on the effectiveness of implemented services.

Subcommittee: Steering Committee

Status: Implemented July 2016

Behavioral Health Advisor – \$140,000 per year

Provides guidance on the development and implementation of a behavioral health system and the overall behavioral health initiative, including written standardization of the governance and subcommittee structure, data analysis service evaluations, reports, best practices and targeting and changing new initiatives to continue to meet the needs of priority populations.

Subcommittee: Steering Committee

Status: Implemented July 2017