

National Center for State Courts

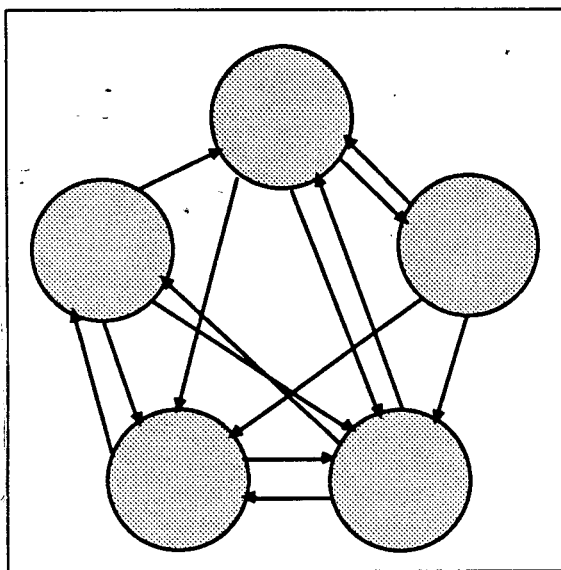


3 4185 00014374 2

of the Western Regional Office and the  
in Mental Disability and the Law of the  
NATIONAL CENTER FOR STATE COURTS  
300 Newport Avenue  
Williamsburg, Virginia 23187-8798

# Mentally Ill and Developmentally Disabled Offenders in Bernalillo County, New Mexico

NCSC  
KFN  
3691  
I5  
K4  
1987  
c.2



Final Report, July 8, 1987

By Ingo Keilitz,  
Sheila D'Amico, and Billie Alameda,  
with the assistance of  
Cheryl Marteney

Based on a study  
jointly commissioned by  
Bernalillo County and the  
City of Albuquerque,  
Department of Human  
Services

Overseen by the Committee  
on Mentally and Developmentally  
Disabled Offenders, Honorable  
Theresa M. Baca, Chairperson

NCSC  
KFN  
3691  
I5  
K4  
1987  
c.2

MENTALLY ILL AND DEVELOPMENTALLY  
" DISABLED OFFENDERS  
IN BERNALILLO COUNTY, NEW MEXICO /

Ingo Keilitz  
Sheila D'Amico  
Billie Alameda

With the Assistance of  
Cheryl Marteney

*Rec'd 11-19-87*

Based on a Study Jointly Commissioned by  
Bernalillo County and the City of Albuquerque,  
Department of Human Services, and Overseen by the  
Committee on Mentally and Developmentally Disabled Offenders,  
Honorable Theresa M. Baca, Chairperson

A Project of the Western Regional Office and  
the Institute on Mental Disability and the Law of the  
NATIONAL CENTER FOR STATE COURTS  
300 Newport Avenue  
Williamsburg, Virginia 23187-8798

Library  
National Center for State Courts  
300 Newport Ave.  
Williamsburg, VA 23185

MENTALLY ILL AND DEVELOPMENTALLY  
DISABLED OFFENDERS  
IN BERNALILLO COUNTY, NEW MEXICO\*

Ingo Keilitz  
Sheila D'Amico  
Billie Alameda

With the Assistance of  
Cheryl Marteney

NATIONAL CENTER FOR STATE COURTS

A Report based on a Study Jointly Commissioned by  
Bernalillo County and the City of Albuquerque,  
Department of Human Services, and Overseen by the  
Committee on Mentally and Developmentally Disabled Offenders,  
Honorable Theresa M. Baca, Chairperson

EXECUTIVE SUMMARY\*\*

INTRODUCTION

Today, in Albuquerque, and throughout the Nation, an increasing number of transient, poor, homeless, and mentally disabled individuals are straining the resources of the justice, mental health, public safety, and social service systems. Many are afflicted by multiple problems which are often exacerbated by alcohol or other drug abuse. The charges that bring many of these individuals into contact with the criminal justice system are typically minor (e.g., trespassing, being drunk in public, or failing to pay for a meal). The mental health treatment, care and related social services that these individuals need are often grossly disproportionate to the seriousness of the misdemeanor offenses committed by them. To make matters worse, the limited mental health and social services that exist are enmeshed in a confusing network of legal mandates, definitions, eligibility requirements, rules, regulations, policies, and procedures. Such services are fragmented, inadequately funded, and crisis-oriented. Coordination and cooperation among existing programs are often inconsistent, when they exist at all. Lack of money is a constant problem as professionals battle over who shall control limited dollars and resources.

It would be difficult to find knowledgeable people in Albuquerque and elsewhere who are satisfied with the justice, mental health, public safety, and social service systems' interactions in dealing with mentally

---

\* A Project of the Western Regional Office and the Institute on Mental Disability and the Law of the National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187-8798.

\*\*This is a summary only. Interested readers should refer to the full report for important details.

disabled offenders whose many needs do not easily fit the categories that define these systems. Even if resources were adequate to address the needs, how best to arrange and deliver them in an equitable, effective, and efficient manner that is acceptable to the community remains a vexing problem.

The City of Albuquerque and Bernalillo County in May 1986 commissioned the National Center for State Courts, through its Institute on Mental Disability and the Law and its Western Regional Office, to conduct a study of mentally ill and developmentally disabled offenders in Bernalillo County. Major questions to be addressed by the study included the following: Who are the mentally ill and developmentally disabled offenders who come in contact with the justice, mental health, public safety, and social service systems in Bernalillo County? How many of these individuals are there in Bernalillo County who fall into this category? What are their characteristics and needs? How have they come into contact with the justice, mental health, public safety, and social service systems? When and how do they enter and leave these systems? How can and should these systems respond? How can the systems be made more effective, efficient, and equitable, as well as satisfactory to the public? How can the systems be made more accountable?

The full, 155-page report summarized here is divided into three parts. PART ONE describes the structures and operations of the five major components of the justice, mental health, public safety, and social service systems in Bernalillo County with responsibilities for mentally disabled offenders as they existed in the fall of 1986. Its purpose is premised upon the common-sense notion that it is first necessary to fully understand a system and how it is structured and administered before it can be properly assessed and, if necessary, changed and improved. Regardless of how useful and accurate the descriptions in PART ONE prove to be, the information needs to be updated fairly regularly. The knowledge conveyed by the descriptions is not fixed and unchanging. What was known about the operation of a particular component of the systems responsible for mentally disabled offenders in Bernalillo County yesterday may not be relevant today. PART TWO presents a model for monitoring and measuring the numbers and characteristics of mentally disabled offenders in Bernalillo County. It describes the model, its advantages and limitations, and the results of its application on a trial basis. The careful descriptions in PART ONE and PART TWO provide a common language, a base of reference, and, it is hoped, a common understanding among concerned individuals and groups. PART THREE makes 12 specific recommendations to the Committee on Mentally and Developmentally Disabled Offenders, the City of Albuquerque, and the County of Bernalillo for improving further the common language and base of reference provided by PART ONE and PART TWO.

It is important to emphasize that this report is meant to be descriptive and not necessarily evaluative. That is, while the descriptions of the structures and operations in PART ONE and the results of the application of the model monitoring and measurement system reported in PART TWO certainly can be a basis of judgments regarding



sufficiency and adequacy of program capacities, they cannot be the sole basis for judging the worth or the value of a program. Such program evaluation is not the intent of this study. It is, however, a shared enterprise that the members of the Committee should consider in the future.

## THE JUSTICE, MENTAL HEALTH, PUBLIC SAFETY, AND SOCIAL SERVICE SYSTEMS

### The Public Safety System

Throughout the country, law enforcement agencies perform a pivotal function in relation to mentally disabled persons. They are available on a 24-hour basis and are called upon whenever "something . . . ought not to be happening and about which someone had better do something now." The public is accustomed to calling on law enforcement officers for assistance with mentally disabled persons, public inebriates, and other persons perceived to be problems because law enforcement officers generally provide free, around-the-clock service; because they are mobile and respond quickly; and because they have the legal authority to remove the person by means of criminal arrest or emergency, protective custody.

Interactions with officers of the Albuquerque Police Department (APD), a 700-member law enforcement agency that answers over 50,000 calls for service each month, often constitute the first contacts mentally disabled persons in Albuquerque make with the justice, mental health, and social service systems. Generally speaking, APD officers can take one of three courses of action after apprehending persons they believe to be mentally disabled: (a) arrest, (b) protective custody or emergency detention, or (c) informal disposition. The nature and severity of a person's suspected mental impairment, the type of incident and circumstance that prompted the police officer's intervention, the legal rules and standard operating procedures of the police, the police officer's discretion, and practical considerations dictate which of these three courses of action an officer will take in a particular case and also what specific procedure he or she will follow once having decided upon a particular course of action.

The Bernalillo County Sheriff's Department (BCSD) renders two services involving mentally disabled persons in Bernalillo County: (1) emergency assistance provided to mentally disabled persons or public protection in incidents involving such persons pertaining to persons with suspected mental disorder, developmental disabilities, or alcoholism; and (2) transportation of mentally disabled persons requested by justice system officials. Generally speaking, the former involves actions after BCSD apprehends persons believed to be mentally disabled similar to those taken by APD officers pursuant to the Mental Health and Developmental Disabilities Code. BCSD responds to emergency incidents outside of the City of Albuquerque, whereas APD will respond within the City limits. This is not to say that BCSD and APD officers will not respond to emergency situations that are not "officially" within their jurisdiction; indeed, they do if needed.

The Bernalillo County Correction and Detention Center (BCDC) is located across the plaza from the building housing the Bernalillo County Metropolitan Court. BCDC, built in 1976, consists of six housing levels with bed space for approximately 660 people. Its 48 "pods" hold 100 residents per floor. One floor exclusively for women houses up to 96 residents. BCDC also has a satellite unit located on 4th and Mountain Streets in Albuquerque. Residents housed in the satellite unit are mostly "low-risk" residents in work-release programs or residents serving short-term sentences.

Persons transported to BCDC may be under arrest or detained under protective custody because they present a harm to themselves or others. Statutes authorizing protective custody due to a mental disability place restrictions on the "temporary shelter" of persons in "detention facilities," including a 24-hour time limit on detention, prohibition against placement in a cell with prisoners, prohibition of identification on records reserved for prisoners, and special protection from suicide attempts. Statutes also require that the detainee be treated with the dignity and respect "due every citizen who is neither accused nor convicted of a crime." Statutes authorizing protective detention due to alcoholism include similar restrictions (e.g., a limit on detention of 12 hours).

The Psychiatric Services Unit (PSU) is a short-term mental health intervention unit in the Bernalillo County Correction and Detention Center (BCDC). Staff members evaluate and treat defendants (residents) who have serious mental disabilities. PSU is designed to provide a therapeutic atmosphere within a maximum-security setting. It is considered only a "quasi-inpatient" facility because it does not provide around-the-clock mental health care. The mental health services provided to residents at BCDC by PSU are delivered by means of a contractual arrangement between BCDC and the University of New Mexico Mental Health Center.

According to most observers, mental health services provided in the Nation's jails, where many acute mental health problems arise, are not adequate to meet needs. Inpatient facilities within large metropolitan jails are a new treatment phenomena in the United States. PSU stands as an innovative and progressive service for mentally disabled offenders. It is the only service unit of its kind in New Mexico and among only a handful in the Nation.

Located on the fifth floor of BCDC (the newest part of the jail), PSU is operated by the University of New Mexico Mental Health Center (UNM/MHC) under a contract with BCDC. PSU consists of two administrative offices, a visiting room, one seclusion cell, a padded cell (or "rubber room"), and 13 rooms with 22 beds for the housing of residents. A 12-bed continuous suicide watch unit also exists within PSU. PSU is contracted to employ a full-time psychiatrist, a program administrator/coordinator, three-and-one-half (full-time equivalent) registered nurses, eight-and-one-half counselors, a social worker, and a staff assistant. Its bed space for 34 residents is usually fully occupied.

## The Judicial System

Mentally disabled offenders first come into contact with the judicial system in Bernalillo County through the Bernalillo County Metropolitan Court. Generally speaking, the offenders who are the focus of this study--persons who commit minor crimes or engage in dangerous non-criminal conduct--have their only court appearance in the Metro Court. Even those mentally disabled offenders who are charged with more serious crimes make an initial appearance in Metro Court before being released or indicted by the grand jury for presentment in District Court.

Pretrial Services is a unit of the Metro Court with responsibility for screening defendants to determine their eligibility for release on their own recognizance (ROR) and their eligibility for representation (misdemeanants) by the public defender. Out of every 100 persons arrested, Pretrial Services spokespersons estimate that 95% are interviewed for conditions of release, representation by the public defender, or both. BCDC residents under protective custody are not served by Pretrial Services. Mentally disabled persons ordinarily do not meet the eligibility requirements for ROR, nor do they qualify for cash bail or surety bond since they typically have no money. In most cases, Pretrial Services cannot identify a person to take responsibility for the defendant or to take him or her home. According to one Pretrial Services spokesperson, family members may be "sick and tired" of dealing with the defendant, and jail becomes a substitute for respite care. For those defendants who do qualify for release, Pretrial Services staff sets their arraignment time (during "swing" and "graveyard" shifts) in cooperation with Metro Court's Criminal Division.

A defendant's first appearance before a Metro Court judge for a misdemeanor offense is at arraignment, a preliminary hearing at which the defendant is informed of the charges against him or her. Eleven judges serve in Metro Court with duties, including that of custody arraignment, rotated among them.

During custody arraignment, a Metro Court judge considers the type of release recommended by Pretrial Services and, as a result, may order a defendant released pending trial. Credit for time served (CTS) may be given to a defendant. If a defendant pleads "not guilty," the judge will also consider conditions and terms of release. A defendant may also be held pending trial, or held pending an examination to determine competency to stand trial. Persons brought to BCDC by law enforcement officials under protective custody do not undergo a court proceeding. They are released when BCDC believes they are fit for release or upon the expiration of the statutory limit of protective custody (i.e., 24 hours for mentally disordered persons, and 12 hours for alcoholics or intoxicated persons). The court is not notified of their custody or release.

To help them make sentencing decisions, Metro Court judges may request that the Probation Division conduct a presentence investigation of defendants who plead guilty or are found guilty after trial.

Presentence investigations are conducted in an effort to find alternatives to jail sentences. Probation officers may recommend that a defendant receive a jail sentence, a suspended sentence, supervised probation, or a combination of these. In some cases, they may recommend that suspected mentally disabled defendants who are not in PSU receive some jail-time in PSU. If the person is given probation, his or her supervision is handled in the same manner as a case not involving mental aberration.

Legal representation for mentally disabled offenders is generally provided by the Public Defender Department. The Department has the responsibility of representing indigent criminal defendants at trial and all in-custody defendants at arraignment. Often mentally disabled defendants remain in custody after arrest. The Public Defender Department's social services unit interviews residents at BCDC. At this time, the unit determines whether the resident has been arraigned, whether he or she may be a danger to self or others, and how long the resident has been in BCDC. According to a spokesperson, the major aim of the social services provided to PSU residents is to "prevent people from falling through the cracks" of the criminal justice system. A staff person alerts the legal staff of the Department to those residents in BCDC who have not yet been arraigned.

A mentally disabled offender may be represented by a private attorney. A private attorney may be appointed in cases where representation by the public defender may result in a conflict, but, according to spokespersons, the typical involvement of the private bar is by appointment by the court to represent a person subject to involuntary civil commitment.

The district attorney normally does not appear in court for criminal misdemeanor custody arraignments. He or she may, however, get involved if a question of competency is raised. Spokespersons reported that a mental disability may be recognized at arraignment but, unless the defendant "acts out" or the court or attorneys are already aware of the disorder, this occurs infrequently. In cases in which a defendant is arrested on felony charges, the competency issue is rarely raised in Metro Court because of the fear that the case may be "lost in limbo." Reportedly, it is generally believed that competency is better raised in District Court. Cases not involving criminal offenses may come to the attention of the District Attorney's Office by the submission of an application, or a petition alleging that the person to be committed is a danger to self or others as a result of mental disorder. The application, which must be accompanied by a doctor's letter, requests that the subject of the application be committed under the emergency mental health statute. Family members, friends, or acquaintances of the "respondent" (the subject of the petition) may bring the application for involuntary civil commitment to the district attorney who must respond within 72 hours.

## The Mental Health System

By all accounts, the major provider of public mental health services in Bernalillo County and surrounding areas is the University of New Mexico Mental Health Center. Although mentally disabled offenders may be served by any of the programs of UNM/MHC, they are most likely to come into contact with the Psychiatric Emergency Services and the Forensic Evaluation Services.

Akin to the emergency room in a medical hospital, Psychiatric Emergency Services, the crisis unit of UNM/MHC, provides around-the-clock mental health evaluation and treatment services to any and all individuals or families experiencing a mental health crisis. Services are designed to provide immediate intervention in order to restore the individual or the family to acceptable levels of functioning. According to a Psychiatric Emergency Services spokesperson, anywhere from 550 to 600 persons enter through the doors of the unit each month; approximately half of these are new patients. During the two-week period beginning September 1, 1986, a total of 252 persons was admitted, an average of 19.4 patients per day. Referrals come from a variety of sources: (1) self-referrals or "walk-ins"; (2) families; (3) physicians; (4) law enforcement agencies, including the Albuquerque Police Department, the Bernalillo County Sheriff's Department (see Section A in this Part), the University of New Mexico Campus Police, the New Mexico State Police, the Federal Bureau of Investigation, and other federal agencies; (5) the Veteran's Administration Hospital; (6) other psychiatric facilities in Bernalillo County; (7) nursing homes; (8) transitional living centers; and (9) the Bernalillo County Correction and Detention Center (BCDC).

Depending on the results of the evaluation by the Psychiatric Emergency Services, a mentally disabled offender may be admitted to one of the acute inpatient units of UNM/MHC (including a 20-bed alcohol detoxification unit)\*, or one of the outpatient and aftercare services provided by four "outstationed" multi-disciplinary teams of UNM/MHC (Central Cities, Northwest Valley, Southwest Valley, and Heights). After a brief period of hospitalization, no more than 5% to 10% of involuntary patients initially admitted by UNM/MHC are transferred to the State Hospital in Las Vegas. The greater percentage is treated by UNM/MHC.

Alternatively, a patient may be referred to Transitional Living Services, Inc. or Casa Ayuda (see below). The person may also be referred (or returned) to BCDC for booking or criminal custody. If a patient is referred to BCDC, crisis unit personnel may request that the patient be evaluated by the Jail Psychiatric Unit (PSU) or returned to the crisis unit for re-evaluation prior to release from BCDC. In accordance with established UNM/MHC procedures, if the crisis unit attempts to evaluate a person accompanied by a law enforcement officer, but is unable to do so because the person is under the influence of alcohol or drugs (or for any other reason), the crisis unit will request that the person be transported to BCDC and detained for the purpose of custody or evaluation. Instructions accompanying the request form note that "[every] effort will be made to forward the form to the jail

psychiatric unit promptly, and if possible, the jail psychiatric unit will evaluate the individual prior to release." Again, according to procedures noted on the request form, BCDC will make an effort to return the person to the crisis unit prior to release from custody. It is noted that when such a procedure is legally prohibited, the individual or "significant other" should be advised to return to the UNM/MHC Psychiatric Emergency Services on a voluntary basis.

Forensic Evaluation Services (FES) provides evaluative services to the trial courts and attorneys in Bernalillo County. Evaluations conducted by FES include psychological screening, evaluation, and determinations of criminal responsibility (sanity), specific criminal intent, competency to stand trial, identification of factors relevant to sentencing and disposition such as amenability to treatment, and determination of other issues that may be raised by attorneys and officers of the courts. The results of the forensic mental health evaluation performed by FES are reported to the Criminal Department of Metro Court. Whereas Metro Court officials were of the impression that FES examinations are conducted within one or two days of the request of the examination, a FES spokesperson indicated that it may take 30 days or longer to file a report of an examination with Metro Court. Reportedly, defendants in custody are given priority.

#### The Community Social Service System

In Bernalillo County, community social services can encompass a wide range of services potentially available to the people who are the subjects of this study. Community mental health centers provide a variety of programs, including inpatient and outpatient care, for persons with mental disabilities for whom treatment and care in an inpatient psychiatric hospital is unnecessary or inappropriate. Adult residential shelter care homes accept ambulatory or mobile non-ambulatory residents who have physical or mental disabilities. These homes may require periodic professional nursing care provided by staff, by visiting nurse services, or by an outpatient facility. County boarding homes are licensed to accept adults who, because of diminished mental or physical capacity, find it difficult to care for themselves in their own residences, and choose to arrange for food, supervision, and limited services from a provider of board and care. Such boarding homes must be able to provide supervision of residents' meals, medication, appointments, and activities on and off the premises. Finally, transitional living facilities are state licensed mental health facilities for adults who have a severe or persistent mental disability that impairs their daily functioning but for whom care in a psychiatric hospital is unnecessary or inappropriate. These facilities must be operated on a 24-hour basis and must be able to provide assistance with daily living activities regarding the whereabouts and activities of the residents. Additionally, they are responsible for case management and coordination of all programatic services directly or by contract, such as, but not limited to: mental health, medical, and dental care; rehabilitation, social, and recreational activities; and educational, legal, housing, employment, and placement services.

The directory of social services published by United Way lists eight shelters in Bernalillo County where the homeless might find a temporary abode. According to shelter spokespersons, Albuquerque has approximately 300 "shelter beds." All of the shelters, most of which are run by religious groups or organizations, are well known to law enforcement officers and may be places where mentally disabled persons are brought or referred. A spokesperson for one shelter noted that the existence and location of the shelters are well known by those in the homeless community. Although serving a need, the shelters do not provide a long-term stable living situation, nor do they provide, for the most part, a place where mentally disabled offenders can receive necessary care. All the shelters limit the time a person may spend there and most are not open during the day.

Casa Ayuda, a part of UNM/MHC, is a transitional living program for mentally disabled persons located in a commercial area not far from Interstate Highway 25. It is one of Albuquerque's two halfway houses for mentally disabled persons. This transitional living program is located in 20 rooms of a refurbished motel and, according to a statement of goals, provides sheltered living while teaching basic living skills to persons with a history of mental disability who show potential for independent or semi-independent living. Criteria for admission are simple. Residents must have a history of mental disability and must show that they are controllable, i.e., they must have been non-violent during the last year and, if they are taking medication, they must show that they independently take such medication. The majority of referrals to Casa Ayuda come from UNM/MHC or from its satellite clinics. They also come from the parents of people served by local mental health clinics and the State Hospital in Las Vegas.

According to a spokesperson, Casa Ayuda is a program designed to stop the revolving door in which many mentally disabled persons are caught. The program is not designed to help all mentally disturbed persons, however. Casa Ayuda does not provide a long-term, open-ended living program for those who will probably need some level of care for their entire lives.

Transitional Living Services, Inc. (TLS), a 19-bed facility located at 2525 Central Avenue, N.E., in Albuquerque, is the other of the two residential living centers designed to serve the mentally disabled population in the community. The goal of TLS is to provide a temporary living situation to allow the residents to accommodate themselves to semi-independent living until they are able to move out to a more independent life. TLS's referrals come from UNM/MHC, from the State Hospital in Las Vegas, and from PSU. According to the terms of a contract with BCDC, TLS always has two beds available for referrals from PSU, but it may accommodate more than two if necessary. Referrals to TLS also come from shelters, from families, and from private hospitals.

## A MONITORING AND MEASUREMENT SYSTEM

The model monitoring and measurement system described in the full report has four basic components corresponding to the "portals" through which mentally disabled offenders generally must pass to enter the mental health-justice system in Bernalillo County: (1) the Psychiatric Emergency Services of the University of New Mexico Mental Health Center (UNM/MHC); (2) the Bernalillo County Correction and Detention Center (BCDC); (3) the Psychiatric Services Unit (PSU) of BCDC; and, finally, (4) the Bernalillo County Metropolitan (Metro) Court, its departments, and allied agencies. The component representing the Psychiatric Emergency Services of UNM/MHC, the primary mental health "portal," is the centerpiece of the model complemented by the other three components.

The development of the monitoring and measurement model began with the identification of all potential measurement points in the processes used to "handle" mentally disabled offenders in Bernalillo County. This first step entailed: (1) identifying all routine data collection done by the various components as described in PART ONE; (2) assessing the actual availability of the data collected to responsible potential users such as the members of the Committee (data collection procedures may be in place but data may be inaccessible for various reasons); and (3) assessing the data collection capacity for gaining more or better information about mentally disabled offenders at every identified measurement point without the requirement of significant additional resources. This last qualification is an important one. No doubt, a legion of researchers with unlimited resources could satisfy every need to know. Bernalillo County has no such fortunes at its disposal. Consequently, the objective of this first step was to develop, test, and recommend a monitoring and measurement model that did not depend upon the indefinite continuation of this Project and its resources, but instead could be implemented by the Committee on an ongoing basis with few, if any, additional resources not already a part of the justice, mental health, public safety, and social service systems in Bernalillo County.

Highlights of the application of the methods of the model over the six-month period ending June 30, 1987 include the following results:

- o A total of 303 cases was referred to the UNM/MHC crisis unit by law enforcement agents and agencies over the six-month period, representing 8.6 percent of a total of 3,544 cases referred to the crisis unit.
- o Two-thirds of these referrals were former patients of UNM/MHC or one of its affiliated programs.
- o 56.4 percent of the referrals were males and 41.9 percent were females.
- o The Albuquerque Police Department made most of the referrals to the crisis unit, contributing almost one-half of the total; the Office of the District Attorney and the Sheriff's Department



together accounted for about one-fifth of the referrals pursuant to involuntary civil commitment; BCDC referred 13 percent of the cases, and other law enforcement agents or agencies contributed 21 percent.

- o Most (62.0 percent) of the mentally disabled offenders referred to the crisis unit by law enforcement agents or agencies exhibited serious mental disorders including psychosis, organic brain syndrome, bipolar disorder, and major depression; a significant proportion (16.0 percent) of the referrals exhibited substance abuse disorders; 15.0 percent exhibited impulse or adjustment disorders; and only five cases (about 3 percent) exhibited developmental disabilities usually first evident in infancy, childhood, or adolescence.
- o Most of the law enforcement cases (36.0 percent) referred to the UNM/MHC crisis unit resulted in involuntary civil commitment of the referred individual; the next most frequent disposition was referral to one of the UNM/MHC outpatient clinics (20.8 percent), followed by voluntary admission to UNM/MHC inpatient facilities (7.3 percent), protective custody in BCDC (5.6 percent), alcohol treatment programs (5.0 percent), community shelters (1.3 percent), and a variety of other programs (24.1 percent).
- o Consistent with the general approach taken throughout the country of limiting involuntary civil commitment procedures to persons exhibiting serious mental disorders, most of the law enforcement referrals to UNM/MHC crisis unit who were admitted as involuntary inpatients were diagnosed as having psychotic, organic, or serious affective disorders.
- o Totals of 1,190 and 888 residents in the general inmate population of BCDC during FY 1986 and FY 1987, respectively, were treated by the Psychiatric Services Unit (PSU) of BCDC.
- o Totals of 441 BCDC residents in FY 1986, and 405 residents in FY 1987, were treated on an inpatient basis in PSU; the average daily census of that unit was 19.5 in 1986 and 17.2 in 1987.
- o The average age of the 27 PSU inpatients during the three sample days was 35.1 years with the youngest being 20 and the oldest 54 years of age.
- o Criminal charges ranged from such minor crimes as public nuisance, disorderly conduct, and refusing to obey a police officer to first degree murder.
- o Twelve of the residents were Hispanic, nine were Caucasian, five were Black, and one was an American Indian.

- o Only four of the PSU inpatients were jailed pending a proceeding in Metro Court; the great majority (21) was charged with offenses under the jurisdiction of the Second District Court.
- o A total of 17 inpatients in PSU, almost two-thirds of the PSU residents during the three sample days, suffered from major affective disorders; nine were classified as having psychotic disorders; two residents suffered from alcoholism; and two residents were given a dual diagnosis.
- o A total of 40 cases was referred to FES by Metro Court; among the study sample of 26 of these cases, 20 were referred for competency evaluations and six were referred for presentence evaluations.
- o Referrals ranged in age from 19 to 59 with an average age of 34 years; males outnumbered females four-to-one; Hispanics outnumbered all other ethnic groups two-to-one; most of the individuals were charged with relatively minor crimes including driving while intoxicated, shoplifting, criminal trespass, and concealment of identification; the most serious charges included breaking and entering, battery, and simple battery.
- o Ten of the offenders were in custody at the time of the examination; the remaining offenders were released to the community on their own recognizance, in the custody of a third party after filing a bond or under a suspended sentence with conditions imposed by the court (probation).
- o Most of the sample of 26 offenders referred for forensic mental health evaluations were diagnosed by FES as having serious mental disorders including eight individuals reportedly suffering from psychotic disorders, five from major affective disorders, and three from organic brain syndromes; a total of 11 offenders exhibited substance abuse disorders with alcohol dependence or abuse being the most prevalent diagnosis; finally, ten individuals were given a dual diagnosis (e.g., alcoholism and bipolar disorder).
- o Of the 20 offenders referred for competency evaluations, nine were determined to be competent to stand trial by FES, and 11 were determined to be not fit to stand trial.

## RECOMMENDATIONS

Because the manner in which mentally disabled offenders are handled in Bernalillo County is, generally speaking, fragmented and uncoordinated, the recommendations summarized in this section encourage continuity and better coordination of the processes administered by the various components of the justice, mental health, public safety, and social service systems. Further, the recommendations urge increased

communication and cooperation among the individuals, agencies, and groups responsible for managing the processes and influencing their outcome. It is hoped that the results of the descriptive studies reported in PART ONE and PART TWO of the full report set the stage for this to occur.

The recommendations are directed to the Committee on Mentally and Developmentally Disabled Offenders. The Committee is considered the initial change agent for the purposes of implementing the recommendations. When a specific action is recommended to be taken by a particular program, agency, group, or individual, an action that cannot be taken by the Committee itself, the recommendation is nonetheless directed to the Committee under the assumption that it would stimulate, encourage, influence, and shape that action.

RECOMMENDATION 1. THE ALBUQUERQUE COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS SHOULD BE MAINTAINED AND STRENGTHENED.

The existence of the Committee is demonstrable evidence of the concern for the plight of mentally disabled offenders in Bernalillo County. Even without action, the Committee stands as a symbol demonstrating that perceived problems have been publicly recognized and that action is forthcoming. More importantly, the Committee is the vehicle by which recommended solutions could be implemented.

RECOMMENDATION 2. COMMITTEE MEMBERSHIP SHOULD INCLUDE REPRESENTATIVES OF SELF-HELP, MENTAL HEALTH SERVICES CONSUMER, AND ADVOCACY GROUPS.

Absent from the Committee until shortly before this writing were representatives of the very people who are served by the justice, mental health, public safety, and social service systems and those who advocate on their behalf, including ex-patient groups, consumer groups, self-help groups, family advocacy groups, elected officials, and others representing the interests of persons suffering from mental illness, mental retardation, and other mental disorders, disabilities, or handicaps. It makes eminent sense to include such groups in the membership of the Committee. To exclude them would undermine the credibility of the Committee.

RECOMMENDATION 3. AN APPROPRIATE AGENCY OR GROUP, UNDER THE DIRECTION OF THE COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS, SHOULD PREPARE AND REGULARLY UPDATE A COMPREHENSIVE GUIDE TO MENTAL HEALTH AND RELATED SOCIAL SERVICES AVAILABLE TO MENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY.

The development and preparation of a guide to services available to mentally disabled offenders are important practical steps toward continuity and coordination of whatever services may be available in Bernalillo County. A number of directories, such as the one developed by United Way, are already available and should be relied upon during the

development of the recommended guide. Importantly, such a guide will facilitate better communication and cooperation among those responsible for delivering these services.

RECOMMENDATION 4. FURTHER RESEARCH AND EVALUATION OF THE FUNCTIONING AND OUTCOMES OF THE HANDLING OF MENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY SHOULD BE STRONGLY ENCOURAGED AND SUPPORTED BY THE COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS.

The accumulation of reliable and valid information and knowledge about the functioning and consequences of the processes used to handle mentally disabled offenders in Bernalillo County is impeded by the complex nature of those processes and the fragmentation of the components of the justice, mental health, public safety, and social service systems responsible for their administration. To the extent that the results of careful research and evaluation are made available for public knowledge and discussion, needed improvement could be facilitated.

RECOMMENDATION 5. A MODEL MONITORING AND MEASUREMENT SYSTEM FOR ASSESSING THE CHARACTERISTICS OF MENTALLY DISABLED OFFENDERS AND THEIR HANDLING IN BERNALILLO COUNTY SHOULD BE IMPLEMENTED ON AN ONGOING BASIS.

This recommendation is, for the most part, self-explanatory. The advantages and disadvantages of the four primary components of a model monitoring and measurement system are described in PART TWO of the full report.

RECOMMENDATION 6. THE INITIAL STEP TAKEN IN THE IMPLEMENTATION OF A MODEL MONITORING AND MEASUREMENT SYSTEM SHOULD BE ESTIMATING THE NUMBER OF MENTALLY DISORDERED AND DEVELOPMENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY.

It is doubtful that any social problem will be addressed meaningfully until the magnitude of the problem is known. Given the fragmentation of the systems with responsibility for mentally disabled offenders in Bernalillo County, an actual "head count" would not be feasible, if not impossible. However, if certain assumptions are made, a workable estimate may be developed. The full report recommends five data elements for the development of such an estimate. The elements represent the primary "portals" in Bernalillo County--BCDC and the crisis unit of UNM/MHC--through which most mentally disabled offenders enter the mental health-justice system of the County.

RECOMMENDATION 7. TRAINING PROGRAMS AND MATERIALS DEVOTED TO IDENTIFICATION AND APPROPRIATE HANDLING OF MENTALLY DISABLED PERSONS SHOULD BE DEVELOPED AND PROVIDED TO OFFICERS OF THE ALBUQUERQUE POLICE DEPARTMENT AND THE BERNALILLO COUNTY SHERIFF'S DEPARTMENT.

Law enforcement officers are often the first to make contact with mentally disabled individuals in the community. The identification of, and responses to, mentally disabled persons and the necessary interaction with mental health and social service providers present special problems for law enforcement officers. Accordingly, RECOMMENDATION 7 urges that officers be provided with training programs and materials regarding (1) how to recognize and handle mentally disabled persons, (2) the assistance available from the mental disability and social services agencies in their jurisdictions, and (3) applicable principles, policies, and procedures. The intent of this recommendation is not to make law enforcement officers into mental health or social work professionals. Rather, it is to assist officers in carrying out their duties as effectively as possible and to help ensure that persons requiring emergency services receive them quickly and with the least limitation of liberty.

RECOMMENDATION 8. OFFICERS OF THE ALBUQUERQUE POLICE DEPARTMENT AND THE BERNALILLO COUNTY SHERIFF'S DEPARTMENT SHOULD, ON A ROUTINE BASIS, RECORD ON A STANDARD "OFFENSE AND INCIDENT REPORT" ALL ENCOUNTERS WITH THOSE PERSONS WHOM THEY BELIEVE TO BE MENTALLY DISABLED.

RECOMMENDATION 8, if implemented, would constitute an expansion of the model monitoring and measurement system recommended in PART TWO of the full report include mentally disabled offenders' first encounters with law enforcement agencies.

RECOMMENDATION 9. THE ALBUQUERQUE POLICE DEPARTMENT AND THE BERNALILLO COUNTY SHERIFF'S DEPARTMENT SHOULD ESTABLISH CLEAR CRITERIA FOR THE DISPOSITIONAL OPTIONS AVAILABLE FOR CASES INVOLVING SUSPECTED MENTALLY DISABLED OFFENDERS, INCLUDING ARREST, PROTECTIVE CUSTODY IN JAIL, TRANSPORTATION TO THE UNM/MHC CRISIS UNIT, AND INFORMAL DISPOSITION. THE CRITERIA SHOULD BE ESTABLISHED IN COOPERATION WITH THE BERNALILLO COUNTY CORRECTION AND DETENTION CENTER AND THE UNIVERSITY OF NEW MEXICO MENTAL HEALTH CENTER.

Faced with a mentally disabled person who has engaged in an unlawful act or is exhibiting dangerous behavior, law enforcement officers in Bernalillo County may take him or her into protective custody and transport him or her to BCDC or, alternatively, to the crisis unit of UNM/MHC (see PART ONE, Section A). The officer may, in some instances, handle the case informally by transporting the person to some other suitable place. Although law enforcement officers may, as a practical matter, know quite well who goes where under what circumstances, clear criteria have not been established and communicated to the various components of the justice, mental health, and social service systems that interact with law enforcement agencies. If nothing else, discussion about such criteria among the representatives of the various components of the justice, mental health, public safety, and social service systems in Bernalillo County should highlight, in practical terms, the "entry" into the mental health-justice system of mentally disabled offenders each year.

RECOMMENDATION 10. PERSONNEL OF THE BERNALILLO COUNTY CORRECTION AND DETENTION CENTER AND ITS PSYCHIATRIC SERVICES UNIT (PSU) SHOULD, ON A ROUTINE BASIS, COMPILE DATA ON THE NUMBER AND CHARACTERISTICS OF MENTALLY DISABLED RESIDENTS ACCORDING TO THEIR LEGAL STATUS.

Understandably, security is the major concern (though, not the only concern) of the staff of the Bernalillo County Correction and Detention Center (BCDC), much as judicial administration is the major concern of the courts and as mental health is the concern of UNM/MHC. Thus, it is not entirely surprising that Project staff had difficulties ascertaining the legal status of BCDC residents receiving mental health evaluation or treatment by BCDC's Psychiatric Services Unit (PSU). How many PSU outpatients (i.e., in the BCDC general inmate population) and inpatients are sentenced and serving their time in BCDC? How many are sentenced? How many are awaiting transfer to the state penitentiary? How many are pretrial detainees awaiting the next step in the criminal proceedings (e.g., arraignment, competency to stand trial examination, competency determination, trial, and so forth)? To what extent is one system holding up the other? For example, is resolution of the issue of a defendant's competency to stand trial contributing to trial delay? Or the person's incarceration impeding treatment?

Data to answer these questions is compiled, though not readily available or easily coordinated and applied to mentally disabled persons in jail. Some of the data is in court files, some in PSU, and perhaps some with individual attorneys representing the residents. Some of these data are reported in PART TWO of the full report as part of the preliminary results of the application of the model monitoring and measurement system. More needs to be compiled, coordinated, and organized to answer questions such as those noted above.

RECOMMENDATION 11. THE TWO PRIMARY RESIDENTIAL FACILITIES CURRENTLY PROVIDING TRAINING AND COMMUNITY-BASED CARE IN BERNALILLO COUNTY (CASA AYUDA AND THE TRANSITIONAL LIVING CENTER) SHOULD BE DEVELOPED AND STRENGTHENED. ADDITIONAL COMMUNITY RESOURCES SHOULD BE IDENTIFIED AND DEVELOPED FOR MENTALLY DISABLED OFFENDERS WHO NEED SUPERVISED LIVING ARRANGEMENTS OR TRANSITIONAL LIVING SERVICES.

By all accounts, the resources of the Bernalillo County Correction and Detention Center and its Psychiatric Services Unit, as well as the Psychiatric Emergency Services of UNM/MHC, are overburdened by the mentally disabled offenders (see RECOMMENDATION 6 above) that these facilities must serve per year. Many mentally disabled offenders, perhaps most, may be better served (largely because of minor charges against them) in a setting other than the jail or the inpatient hospital unit at UNM/MHC. Still others are not appropriately served by outpatient treatment and care that does not include close supervision and aggressive case management. At present, Casa Ayuda and the Transitional Living Center have the staff, resources, and space to serve only a fraction of

the mentally disabled offenders in Bernalillo County who need the type of supervised residential care and transitional living training that these two programs provide.

RECOMMENDATION 12. LOCAL GOVERNMENT SHOULD PROVIDE AN INTEGRATED CONTINUUM OF MENTAL HEALTH AND RELATED HEALTH AND SOCIAL SERVICES TO MENTALLY DISABLED OFFENDERS. THE RANGE OF THIS CONTINUUM SHOULD ENCOMPASS A BROAD ARRAY OF COORDINATED COMMUNITY SERVICES, INCLUDING TRANSITIONAL LIVING SERVICES AND PROGRAMS SERVING TO DIVERT MENTALLY DISABLED OFFENDERS FROM THE CRIMINAL JUSTICE SYSTEM, AS WELL AS INPATIENT HOSPITAL SERVICES.

The mental health-justice system in Bernalillo County, like most throughout the country, has yet to develop a spectrum of services to match the wide range of needs of the persons presented to it. RECOMMENDATION 12 urges not just detailed planning, development, and statutory expression of a comprehensive system of care for mentally disabled offenders, but also the affirmative implementation of such a plan.

# COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS

Theresa M. Baca, Chairperson  
Judge, Bernalillo County Metropolitan Court

Maria Caldwell  
Judge  
Metropolitan Court

Frank Horan  
Attorney  
Bernalillo County Sheriff's  
Department

Pat Cassidy  
Commissioner  
Bernalillo County

Susan Day Lewis\*  
Attorney  
Private Practice

Mark Christian\*  
Patrolman  
Albuquerque Police Department

Michael E. Martinez  
Judge  
Second Judicial District Court

Peter Cubra\*  
Protection and Advocacy System

Jose Mondragon\*  
University of New Mexico Mental  
Health Center

Barbara J. deWeever  
Assistant District Attorney  
Civil Commitment Unit

Bruce Newton  
Association for Retarded Citizens

Marilyn Finkelstein  
Director  
Transitional Living Services, Inc.

Marge Rita  
Downtown Merchants Association

Steve Gallegos  
Councillor  
City of Albuquerque

Margaret Ryan  
Director  
Forensic Evaluation Services

Alfredo Garcia  
Coordinator  
Psychiatric Services Unit  
Bernalillo County Correction and  
Detention Center

Ed Snow  
Assistant Public Defender

Michael F. Hanrahan\*  
Director  
Bernalillo County Correction and  
Detention Center

Kermit Stuve  
Association for Retarded  
Citizens

Douglas Henson  
Assistant District Attorney

Kathryn Wissell  
Attorney  
Private Practice

---

\* Member of the Executive Subcommittee





# MENTALLY ILL AND DEVELOPMENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY, NEW MEXICO

## Contents

	<u>Page</u>
EXECUTIVE SUMMARY	
COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS .....	iii
PREFACE .....	xi
GENERAL INTRODUCTION .....	1
Statement of the Problem .....	1
The Study .....	3
A Note on Definition .....	7
PART ONE – THE JUSTICE, MENTAL HEALTH, PUBLIC SAFETY, AND SOCIAL SERVICE SYSTEMS	15
A. Law Enforcement Agencies .....	19
1. The Albuquerque Police Department .....	19
a. Arrest .....	20
b. Protective Custody and Emergency Detention ....	24
c. Informal Disposition .....	25
d. Offense and Incident Report .....	26
2. The Bernalillo County Sheriff's Department .....	27
a. Emergency Apprehension and Protection .....	28
b. Transportation and Escort Services .....	31
B. The Bernalillo County Correction and Detention Center .....	35
1. Receiving and Discharge .....	37
a. Intake Procedures .....	37
b. Examination by Paramedic .....	38
2. Procedures Before and After Arraignment .....	41
3. The Psychiatric Services Unit .....	43
C. The Courts .....	49
1. Pretrial Services of the Metropolitan Court .....	51
2. Bernalillo County Metropolitan Court .....	54

## Contents (continued)

	<u>Page</u>
C. The Courts (continued)	
3. Metropolitan Court Probation Services .....	59
4. Legal Representation .....	62
a. Public Defender Department.....	62
b. Private Bar .....	65
c. Office of the District Attorney .....	65
D. The University of New Mexico Mental Health Center .....	71
1. Psychiatric Emergency Services .....	73
2. Forensic Evaluation Services .....	76
E. Community Services .....	81
1. Shelters .....	82
2. Residential Services .....	85
a. Casa Ayuda .....	85
b. Transitional Living Services, Inc. ....	88
PART TWO - A MONITORING AND MEASUREMENT MODEL	91
A. Introduction to the Model .....	93
1. Development of the Model .....	94
2. Rationale for the Model .....	96
B. The Mental Health System Portal: The Crisis Unit of UNM/MHC .....	99
1. Methods .....	99
2. Results .....	100
3. Discussion .....	108
C. Mentally Disabled Offenders in Jail .....	111
1. General Inmate Population .....	111
2. Jail Inpatients .....	115
D. Mentally Disabled Offenders in Court .....	123
E. Summary of Model and Preliminary Results of Its Application .....	133

Contents (continued)

	<u>Page</u>
PART THREE - RECOMMENDATIONS	137
Recommendation 1. The Albuquerque Committee on Mentally and Developmentally Disabled Offenders Should Be Maintained and Strengthened .....	138
Recommendation 2. Committee Membership Should Include Representatives of Self-Help, Mental Health Services Consumer, and Advocacy Groups .....	139
Recommendation 3. An Appropriate Agency or Group, under the Direction of the Committee on Mentally and Developmentally Disabled Offenders, Should Prepare and Regularly Update a Comprehensive Guide to Mental Health and Related Social Services Available to Mentally Disabled Offenders in Bernalillo County .....	140
Recommendation 4: Further Research and Evaluation of the Functioning and Outcomes of the Handling of Mentally Disabled Offenders in Bernalillo County Should Be Strongly Encouraged and Supported by the Committee on Mentally and Developmentally Disabled Offenders .....	142
Recommendation 5: A Model Monitoring and Measurement System for Assessing the Characteristics of Mentally Disabled Offenders and Their Handling in Bernalillo County Should Be Implemented on an Ongoing Basis .....	143
Recommendation 6. The Initial Step Taken in the Implementation of a Model Monitoring and Measurement System Should Be Estimating the Number of Mentally Disabled and Developmentally Disabled Offenders in Bernalillo County .....	143
Recommendation 7. Training Programs and Materials Devoted to the Identification and Appropriate Handling of Mentally Disabled Persons Should Be Developed and Provided to Officers of the Albuquerque Police Department and the Bernalillo County Sheriff's Department .....	147

## Contents (continued)

	<u>Page</u>
Recommendation 8. Officers of the Albuquerque Police Department and the Bernalillo County Sheriff's Department Should, on a Routine Basis, Record on a Standard "Offense and Incident Report" all Encounters With Those Persons Whom They Believe to be Mentally Disabled .....	148
Recommendation 9. The Albuquerque Police Department and the Bernalillo County Sheriff's Department Should Establish Clear Criteria for the Dispositional Options Available for Cases Involving Suspected Mentally Disabled Offenders, Including Arrest, Protective Custody in Jail, Transportation to the UNM/MHC Crisis Unit, and Informal Disposition. The Criteria Should Be Established in Cooperation with the Bernalillo County Correction and Detention Center and the University of New Mexico Mental Health Center .....	150
Recommendation 10. Personnel of the Bernalillo County Correction and Detention Center and Its Psychiatric Services Unit Should, on a Routine Basis, Compile Data on the Number and Characteristics of Mentally Disabled Residents According to Their Legal Status .....	151
Recommendation 11. The Two Primary Residential Facilities Currently Providing Training and Community-Based Care in Bernalillo County (Casa Ayuda and the Transitional Living Services, Inc.) Should Be Developed and Strengthened. Additional Community Resources Should Be Identified and Developed for Mentally Disabled Offenders Who Need Supervised Living Arrangements or Transitional Living Programs .....	152
Recommendation 12. Local Government Should Provide an Integrated Continuum of Mental Health and Related Health and Social Services Available to Mentally Disabled Offenders. The Range of this Continuum Should Encompass a Broad Array of Coordinated Community Services, Including Transitional Living Programs to Divert Mentally Disabled Offenders From the Criminal Justice System, as well as Inpatient Hospital Services .....	152

## Contents (continued)

### Page

## REFERENCES

154

## LIST OF FIGURES

Figure 1. Idealized "Flow" of Mentally Disabled Offenders through the Major Components of the Justice, Mental Health, Public Safety, and Social Service Systems in Bernalillo County, New Mexico .....	16
Figure 2. Interactions of the Justice, Mental Health, Public Safety, and Social Service Systems in their Dealings with Mentally Disabled Offenders .....	17
Figure 3. Schematic Overview of Bernalillo County Law Enforcement Agencies' Handling of Mentally Disabled Offenders .....	21
Figure 4. Schematic Overview of the Bernalillo County Correction and Detention Center's Processing of Mentally Disabled Offenders .....	36
Figure 5. Schematic Overview of the Handling of Mentally Disabled Offenders by the Bernalillo County Judicial System .....	50
Figure 6. Schematic Overview of Referrals, Evaluation, and Disposition of Mentally Disabled Offenders by the Psychiatric Emergency Services of the University of New Mexico Mental Health Center .....	72
Figure 7. Schematic Overview of Community Services Available to Mentally Disabled Offenders or Ex-Offenders in Albuquerque .....	83

## LIST OF TABLES

Table 1. Cases Referred to the UNM/MHC Psychiatric Emergency Services by Law Enforcement Agents During the Six-Month Period Beginning January 1, 1987 and Ending June 30, 1987 .....	102
Table 2. Psychiatric Emergency Services (UNM/MHC) Cases According to Referral Source, Patient Status, and Sex of Patient .....	102
Table 3. Major DMS-III Diagnostic Classifications of Cases Referred to the UNM/MHC Psychiatric Emergency Services by Law Enforcement Agents During the Six-Month Period Beginning January 1, 1987 and Ending June 30, 1987 .....	104

Contents (continued)

Page

LIST OF TABLES (CONTINUED)

Table 4.	Disposition of Cases Referred to the UNM/MHC Psychiatric Emergency Services by Law Enforcement Agents During the Six-Month Period Beginning January 1, 1987 and Ending June 30, 1987 .....	106
Table 5.	Disposition of Psychiatric Emergency Services (UNM/MHC) Cases According to Major DSM-III Diagnostic Categories .....	107
Table 6.	Bernalillo County Correction and Detention Center (BCDC), Psychiatric Services Unit (PSU), Annual Caseload Summaries for Fiscal Years (FY) 1986 and 1987 .....	112
Table 7.	Characteristics of Residents in the Psychiatric Services Unit (PSU) of the Bernalillo County Correction and Detention Center (BCDC) on May 11, 20, and 22, 1987 .....	116
Table 8.	Characteristics of Defendants and Offenders Referred by Metropolitan Court for Evaluations of Competency to Stand Trial or by its Probation Department for Presentence Evaluations, July 1, 1986 - March 31, 1987	125
Table 9.	Recommended Data Elements for the Development of Estimates of Mentally Disordered and Developmentally Disabled Offenders in Bernalillo County .....	144

## PREFACE

This is a three-part report, preceded by a general introduction, describing mentally ill and developmentally disabled offenders in Bernalillo County, New Mexico. It reports the results of a study commissioned jointly by the City of Albuquerque and Bernalillo County and conducted by the National Center for State Courts through its Institute on Mental Disability and the Law and its Western Regional Office. The goal of the study was "to provide a better understanding of the current processes for dealing with mentally ill and developmentally disabled offenders in the Second Judicial District by analyzing the current processes and providing findings and recommendations to concerned agency officials." Responsive to this goal, this report attempts to provide a basic reference, a common language, and a common understanding by which answers, sound policies, and appropriate programs for mentally ill and developmentally disabled offenders in Bernalillo County will be developed.

This careful descriptive study is premised on the common-sense notion that it is absolutely crucial to fully understand the components of the systems that deal with mentally ill and developmentally disabled offenders, as well as how they are structured and administered, before they can be assessed and, if necessary, changed and improved. It is important to caution readers that while the information conveyed in this report may indeed provide answers to many heretofore unanswered questions, this report does not (no research report can) provide ultimate answers and final



solutions. The latter must be left to the members of the Committee on Mentally and Developmentally Disabled Offenders and the people of Bernalillo County. This report is the first step.

PART ONE describes the structures and operations of the major components of the justice, mental health, public safety, and social service systems in Bernalillo County that regularly come into contact with mentally disabled offenders. The major focus is on the roles and responsibilities, actions, and interactions of these components.

PART TWO describes a model for the measurement of the quantitative nature and magnitude of the problem that mentally ill and developmentally disabled offenders constitute and the impact they make on the justice, mental health, public safety, and social service systems in Bernalillo County. The model has four basic components corresponding to the "portals" through which mentally disabled offenders in Bernalillo County typically must pass to enter the mental health-justice system of Bernalillo County: (1) the Psychiatric Emergency Services of the University of New Mexico Mental Health Center (UNM/MHC); (2) the Bernalillo County Correction and Detention Center (BCDC); (3) the Psychiatric Services Unit (PSU) of BCDC; and, finally, (4) the Bernalillo County Metropolitan Court, its departments, and allied agencies.

PART THREE concludes the report with observations, conclusions, and 12 recommendations for the improvement of the administration, procedures, and practices of these systems in dealing with mentally ill and developmentally disabled offenders. Though several of the recommendations are aimed at the improvement of organizational structures and services, the primary focus of most of the recommendations in PART

THREE is on mechanisms for monitoring this special population of patients, defendants, and offenders and for measuring their impact on Bernalillo County.

The authors acknowledge with gratitude their debt to the present and past members of the Committee on Mentally and Developmentally Disabled Offenders, especially the Honorable Theresa M. Baca, Chairperson, and Ms. Susan Day Lewis (the former Chairperson); to the Executive Subcommittee; to Bernalillo County and to the Department of Human Services of the City of Albuquerque and its staff, especially Ms. Anne Yegge, Director, Ms. Debra Rhinehart-Sorenson, Contracts Manager, and her predecessor, Ms. Sally McCabe, who contributed substantially to the organization of the study upon which this report is based. The current membership of the Committee on Mentally and Developmentally Disabled Offenders is set forth at the beginning of this report.

The authors also acknowledge with appreciation the following individuals, including former members of the Committee, who gave generously of their time, thoughts, and writings during the conduct of the study: Richard Altman, Mary Louise Baca, Vince Barnett, Richard W. Becker, John Brenna, Barbara Brown, Yolanda Castillo-Anaya, Dan Cathey, William Chambreau, Bonifacio Chavez, Dorothy Danfelson, Joe Diaz, Caroline Everington, Darlene Fajardo, Peggy Fisher, Marlene Foster, Lorenzo Garcia, Herman Halliburton, Stanley D. Handmaker, Joyce Harkwell, Rupert Hernandez, Robert Hughes, Cherie Hymes, Jim Jones, Diane Larkin, Donna Lerch, Pat Lopez, Joe Lucero, Larry Lundy, Mike Mason, Mary Lynn McGrath, Phil Nelson, Mary Ellen Ortiz, Sheryl Paloni, John A. Price, Gary Purvines, Ronald G. Reeves, Claudia Reiter, Louis P. Romero, Thomas J. Ruiz, Teri C. Samora, Robert Shaffer, Jim Shelton, William Sibrava,

Danny Smith, Susan Strand, Bob White, Kenneth E. Williams, Walter W. Winslow, and David Yarber. Special recognition is given to Frederick M. Russillo, Court Administrator, Bernalillo County Metropolitan Court, for his extraordinary interest in and support of the Project, and to Katie Blea, UNM/MHC Psychiatric Services Unit, for her untiring assistance to the data collection effort described in PART TWO of this report.

# GENERAL INTRODUCTION

## Statement of the Problem

Today, in Albuquerque and throughout the Nation, an increasing number of transient, poor, homeless, and mentally disabled individuals are straining the resources of law enforcement agencies, the courts, and all of the other human services (Keillitz, 1981; Lamb, 1984; Monahan & Steadman, 1983; Richardson, 1986; Romanik & Gentry, 1985).<sup>\*</sup> More often than not, the charges or complaints that bring these individuals into contact with the criminal justice system are minor (e.g., trespassing, being drunk in public, or failing to pay for a meal). The great need for an array of social services for these individuals (e.g., mental health treatment, drug rehabilitation, food and shelter) typically is grossly disproportionate to the seriousness of the misdemeanor offenses committed by them. To make matters worse, available services are enmeshed in an intricate and confusing network of legal mandates, definitions, eligibility requirements, rules, regulations, policies, and procedures. Needs dwarf available resources. Services are fragmented, inadequately funded, and crisis-oriented. Coordination among existing programs is inconsistent (when it exists at all). Lack of money is a constant problem, but it is not the whole reason behind fragmented and

---

<sup>\*</sup> Unfortunately, no standard has yet been set that reconciles the various styles used in writings about mental health and the law. References and citations in the text, and in the alphabetical reference list at the end of this report, are a compromise between legal and social science reporting styles suggested in Harvard Law Review Association's A Uniform System of Citation (14th edition, 1986) and the American Psychological Association's Publication Manual (3rd edition, 1983).

inefficient systems. Professional battles over who shall control the available dollars and resources are also to blame.

Indeed, it would be difficult to find knowledgeable people in Albuquerque and elsewhere who are satisfied with the justice, mental health, public safety, and social service systems' interactions in dealing with mentally ill and developmentally disabled offenders whose many needs do not easily fit the categories that define these systems. For example, an individual may be apprehended by police, and booked and charged with a minor crime. Society's response to the offending behavior would be relatively straightforward were it not for the fact that the individual may also exhibit one or more symptoms of mental disability, drug abuse, or malnutrition. He or she may have no residence and no visible means of support. Even if the resources of the community were adequate to address all of this individual's needs, how best to arrange and deliver them in an equitable, effective, and efficient manner that is acceptable to the community remains a vexing problem.

At the heart of our judicial system is a set of formal procedures and values that are very often at cross-purposes with the needs of mentally disabled offenders. Needed services must be provided by means of flexible, cooperative arrangements in which various agencies work together. Such collaborative arrangements are frequently at odds with the adversary system that characterizes our judicial system and that emphasizes process, fixed and final decisions, rather than results and the ever-changing needs of mentally disabled persons. Yet, an American Psychiatric Association group recently noted:

Despite the inherent difficulties of the judiciary in providing the kinds of actions that the chronically mentally ill need, the power of the court remains an important element in serving the chronically mentally ill. The ideal role for the judiciary in serving the mentally ill would be as an instrument for making a fixed decision when such a decision is needed (Peele, Gross, Arons, & Jafri, 1984, p. 263).

### The Study

With the following statement of goals and objectives, the City of Albuquerque and Bernalillo County in June 1986 jointly commissioned the National Center for State Courts, through its Institute on Mental Disability and the Law and its Western Regional Office, to conduct the study described in this report.\*

The goal of this study is to provide a better understanding of the current processes for dealing with mentally ill and developmentally disabled offenders in the Second Judicial District by analyzing the current processes and providing findings and recommendations to concerned agency officials. Specifically, the study will address the following objectives:

- o to provide a basis for better communication among involved agency officials;
- o to provide a model for improved processing of these offenders;
- o to provide a model for continued evaluation of the agencies' processing of these offenders;

---

\* On June 30, 1986, the Albuquerque City Council approved the contract with the National Center for State Courts to conduct the study in accordance with the National Center's proposal, "A Study of the Processing of Mentally and Developmentally Disordered Offenders in the Second Judicial Court District in Bernalillo County, New Mexico," submitted in response to a request for proposals (RFP 86-109-DM) by the Department of Human Services, City of Albuquerque.

- o to provide a basis for improved data collection and analysis techniques for future studies; and
- o to provide recommendations for improvements in the current processes and treatments for the offender population.

Major questions to be addressed by the study included: Who are these mentally ill and developmentally disabled offenders who come in contact with the justice, mental health, public safety, and social service systems in Bernalillo County? How many are there? What are their characteristics and needs? How have they come into contact with the justice, mental health, public safety, and social service systems? When and how do they enter and leave these systems? How can and should these systems respond? How can the systems be made more effective, efficient, and equitable, as well as satisfactory to the public? How can the systems be made more accountable?

In his 1928 book Public Opinion, the journalist and social critic Walter Lippman observed that "we do not first see, and then define, we define first and then see." Aggressive legal advocacy on behalf of mental patients during the 1960s and 1970s involved clashing ideologies that defined the paradigms for what we "saw." Logic, reason, and rhetoric were applied to self-evident native principles of freedom, privacy, and human dignity on the one hand, and the ideals of helping others, general welfare, and needs of an organized society on the other. These values and ideologies defined and made us see what ought to be. At the heart of this clash of philosophies, values, and professional ideologies were questions about the proper balance between the need for stringent legal safeguards against improper treatment of mental patients

(which may delay and complicate treatment) and the need to allow justice, mental health, public safety, and social service professionals enough discretion and autonomy in their decisionmaking and actions (which may endanger the civil liberties of mental patients). Most observers agreed that the law on the books needed to be reformed to eliminate obvious abuses and to curtail the mistreatment of mental patients.

This paradigm focusing on legal analysis and reform of "law on the books" dominated the confluence of mental health and the law through the 1970s. Many academic psychiatrists, psychologists, and sociologists joined ranks with legal scholars in analyzing substantive and procedural law governing the rights and entitlements of mental patients involved with the civil and criminal justice systems. Often mental health program directors, mental health professionals, mental patients and their families with less of an ideological bent deferred to contending medical and legal professionals whose positions were dictated by ideology and colored by territorial interests.

The utility of this paradigm, which centered on abstract principles, legal doctrine, and ideology, began to be questioned in the early 1980s. First, successful litigation and legal reform had spawned a host of "second-generation" issues that did not yield easily to the use of this paradigm. Ideology was seen as largely irrelevant to the wide gap between the "law on the books" and the "law in practice" (Shah, 1981). Second, the paradigm did not fit well the realities facing the public mental health system including: (1) a dramatic decline in the number of patients residing in large public hospitals; (2) the "transinstitutionalization" of mentally ill patients from hospitals to other



"institutions" including local jails, temporary shelters, and nursing homes; (3) a burgeoning homeless population including many former mental patients; (4) an increase in the number of chronically mentally ill persons who are poor, uninsured, or "underinsured"; (5) a critical shortage of adequate community-based mental health care and related social services; (6) escalating costs of all human services at a time of increased pressure to control expenditures; and, finally, (7) continued fear, prejudice, and misunderstanding of mentally disabled persons.

The predominant question "What ought to be?" began to give way to the more practical and empirical questions "What is?" and "What can be?" Ideology, doctrine, and theory yielded to pragmatism and empiricism. Not only does this shift alter the questions that are asked, it brings into the conversation the great majority of professionals in the justice, mental health, public safety, and social service systems who are not lawyers, legislators, legal scholars, or social philosophers. This study is consistent with this shift.

### A Note on Definition

The focus of this report is on mentally disabled offenders who, because of their mental and developmental disabilities, threaten public safety (including their own) by the commission of minor crimes or by dangerous, non-criminal conduct. The focus is not on, though it does not necessarily preclude, consideration of mentally disabled persons who are charged with or convicted of serious crimes.

As a matter of convenience, the term "mental disability" is used in this report to encompass all mental impairments referred to by such terms as "mental illness," "developmental disabilities," "emotional disturbance," and "mental retardation," as well as the diagnostic categories (e.g., psychosis, depression, and cognitive dysfunction) to which they may refer. This is not to suggest that these terms, as well as their distinctions and the diagnostic categories to which they refer, are unimportant. Indeed, invalid psychodiagnosis and the failure to place mentally disabled persons into specific diagnostic categories (e.g., developmental disability, schizophrenia, or depression) may make it difficult, if not impossible, to identify the services and specialized procedures available to meet their needs (Malgady, Rogler, & Costantino, 1987). This is especially true for mentally retarded persons and other developmentally disabled persons because they are identified primarily by lower levels of adaptive functioning that pose fewer diagnostic problems than mental disorders with functional or psychological etiologies (Brakel, Parry, & Weiner, 1985; Ellis & Luckasson, 1985). As discussed below, the use of the generic term "mental disability" rather than specific diagnostic categories acknowledges the reality that the

categories overlap considerably in their definitions and are rarely applied to offenders with any certainty until offenders have become the responsibility of mental disability professionals for more than a few days or even weeks (Persons, 1986).

The New Mexico Mental Health and Developmental Disabilities Code defines "mental disorder" as a "substantial disorder of the person's emotional processes, thought or cognition which grossly impairs judgment, behavior or capacity to recognize reality." N.M. Stat. Ann. § 43-1-3N (1984). According to the Code, "developmental disability" means a "disability of a person which is attributable to mental retardation, cerebral palsy, autism or neurological dysfunction which requires treatment or habilitation similar to that provided to persons with mental retardation." Id. at § 43-1-3H. The Code does not define mental illness.

The Developmental Disabilities Community Services Act (N.M. Stat. Ann. §§ 43-1A-1 to -12 (1984)) further defines developmental disabilities. The Act "authorize[s] the health and environment department to plan and coordinate developmental disabilities community services in the state and to declare that priority shall be given to the development and implementation of community-based services for developmentally disabled minors and adults." N.M. Stat. Ann. § 43-1A-2 (1984). The definition of developmental disability in the Act expands the definition provided in the New Mexico Mental Health and Developmental Disabilities Code quoted above. The Act defines "developmental disability" as follows:

[A] severe chronic disability of a person which is attributable to a mental or physical impairment or a combination of mental and physical impairments; is manifested before the

person attains age twenty-two; is likely to continue indefinitely; results in substantial functional limitations in areas of major life activity; and reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are individually planned and coordinated. Persons who are diagnosed as mentally retarded, cerebral palsied, epileptic or autistic and who have at least one functional limitation in an area of major life activity shall be considered developmentally disabled.

Id. at § 43-1A-3D.

Unfortunately, mental disability and other terms used to define mental impairments have no clear referent in reality. Again, this does not mean that they should not have such a clear referent (Persons, 1986). Indeed, a mentally retarded individual, for example, who has a limited ability to learn and a mentally ill individual who experiences disturbances in thought and emotions represent different problems. They are often confused in the criminal justice setting (Ellis & Luckasson, 1985).

A major reason the laws relating to mental disorder reflect uncertainty in direction, scope, and objective is the ambiguity of the concept of mental disorder itself (Brakel, Parry, & Weiner, 1985). The American Psychiatric Association acknowledges this ambiguity in its introduction to the Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R) (3rd ed.-Rev. 1987) noting that "[a]lthough this manual provides a classification of mental disorders, no definition adequately specifies precise boundaries for the concept 'mental disorder' (this is also true for such concepts as physical disorder and mental and physical health)." Id. at xxii. The fact that the American Psychological Association has plans to develop its own alternative diagnostic and

behavioral manual not tied to DSM-III-R speaks for itself (Landers, 1986). The United States Supreme Court, in the case of Addington v. Texas, 441 U.S. 418, 430 (1979), acknowledged the uncertainties inherent in the identification and definition of mental disorder:

The subtleties and nuances of psychiatric diagnosis render certainties virtually beyond reach in most situations. . . . Psychiatric diagnosis . . . is to a large extent based on medical "impressions" drawn from subjective analysis and filtered through the experience of a diagnostician. This process often makes it very difficult for the expert physician to offer definite conclusions about any particular patient.

In addition, a number of complexities accentuate the difficulties of making accurate, consistent, and useful identifications of mentally disabled offenders and placing their disabilities in appropriate diagnostic categories. First, the definitions themselves invite confusion. For example, using the broad legal definitions in the Mental Health and Developmental Disabilities Code noted above, under what circumstances is a mentally retarded individual suffering from "substantial cognitive disorders" considered "developmentally disabled" and when is he or she considered "mentally disordered" as those terms are defined by the statute? An individual with cognitive impairments could, without additional information available, be categorized as mentally disordered or developmentally disabled.

Second, despite separate and distinct legislative treatment of mentally disordered, developmentally disabled, alcoholic, and drug addicted persons, many (perhaps most) mentally disabled offenders suffer from multiple afflictions. A recently completed study commissioned by the Federal Alcohol, Drug Abuse and Mental Health Administration (ADAMHA)

disclosed that at least 50% of the 1.5 million to 2 million Americans with chronic mental illness abused illicit drugs or alcohol, compared with about 15% in the general population ("Bad Trips," 1987). Many developmentally disabled persons have emotional and mental disabilities that accompany or result from their developmental disabilities. At any one point in time, a number of diagnostic labels associated with various types of social deviancy, substance dependency, or "alternative" lifestyles could be applied to a mentally disabled offender. The ADAMHA study of persons who suffer the double jeopardy of chronic mental illness and chemical dependency revealed that dual diagnosis virtually guarantees a "hard fall through the cracks of the system" ("Bad Trips," 1987).

A third complexity that accentuates the problem of applying precise diagnostic labels to mentally disabled offenders is that such labels rarely can be applied before a mentally disabled offender is "processed" by and has "penetrated" a number of the components of the justice, mental health, public safety, and social service systems. Mentally disabled offenders more often than not are "in the system," rightly or wrongly, before they are correctly labelled. The identification of mental disability is usually a judgment based on an interview or other behavioral observations in the absence of objective measures or tests (Albee, 1986). Indeed, it may be unreasonable to expect law enforcement and corrections officers, for example, to accurately identify and define mental disabilities, especially when precise diagnostic labels continue to elude theorists and practitioners alike. In sum, precise diagnostic identification, unfortunately, is simply beyond the reach in most situations involving mentally disabled offenders.

Ambiguities and uncertainties about the concept of mental disability notwithstanding, it is possible, and in some situations quite easy, to describe mentally disabled offenders. That is, it is often less difficult (and more appropriate) to describe symptoms as opposed to diagnostic categories (Persons, 1986). One observer (Meloy, 1986) has characterized the general patient "type" with which this study concerns itself:

The . . . type is called the "sunshine chronic," an individual who is schizophrenic, has a lengthy but misdemeanor criminal history, and is often booked on charges such as trespassing, petty theft, or defrauding an innkeeper. This individual has a long history of noncompliance with medication and is usually quite content to live as a transient. He has slowly drifted to the bottom of the socioeconomic ladder, but knows how to "survive on the street." He is most likely to abuse alcohol. When the inpatient program has first contact with him, he is usually psychotic, gravely disabled, and harmless. He has no contact with family or relatives, and has usually never been married (pp. 382-385).

Clearly, some operational meaning must be given to the term "mentally disabled offenders" to make this report understandable and useful to policymakers, administrators, and practitioners of the justice, mental health, public safety, and social service systems in Bernalillo County. Mentally disabled offenders, their characteristics and numbers, will be defined by the "operations" of the various components of these systems performed on behalf of such persons. For example, at the point of police apprehension, mentally disabled offenders are all those individuals who are apprehended by law enforcement officers and who are:

- (1) transported to the University of New Mexico Mental Health Center; or

- (2) transported to the Bernalillo County Correction and Detention Center and referred to the Psychiatric Services Unit of the Center; or
- (3) transported (or referred) to other mental health facilities or community services with some documentation made by law enforcement officers that the individuals are suspected to be mentally disabled (e.g., notation in an Offense and Incident Report) (see Section A.1.d. in PART ONE).

While such operational definitions do not necessarily identify persons who are "truly" mentally disabled and while they do not distinguish between diagnostic categories defined by certified professionals, they allow counting and characterizing suspected mentally disabled persons who actually make contact with the justice, mental health, public safety, and social service systems. Officials in various parts of the systems may disagree with the numbers and characteristics of persons so identified, but they will be in a position to "operationalize" their disagreement. Hence, change and improvement do not hinge on consensus about definitions and determinations of mental and developmental disabilities, a consensus that has eluded (and will probably continue to elude) theorists and practitioners in New Mexico and throughout the country. To demand that the identification and characterization of the problem posed by mentally disabled offenders in Bernalillo County await the capabilities and inclinations to place individuals into precisely defined diagnostic categories invites an all too familiar, paradoxical dilemma: despite a virtual consensus that the problem exists and should be addressed, it is not addressed because the boundaries of the diagnostic categories either cannot or will not be precisely drawn.





# PART ONE

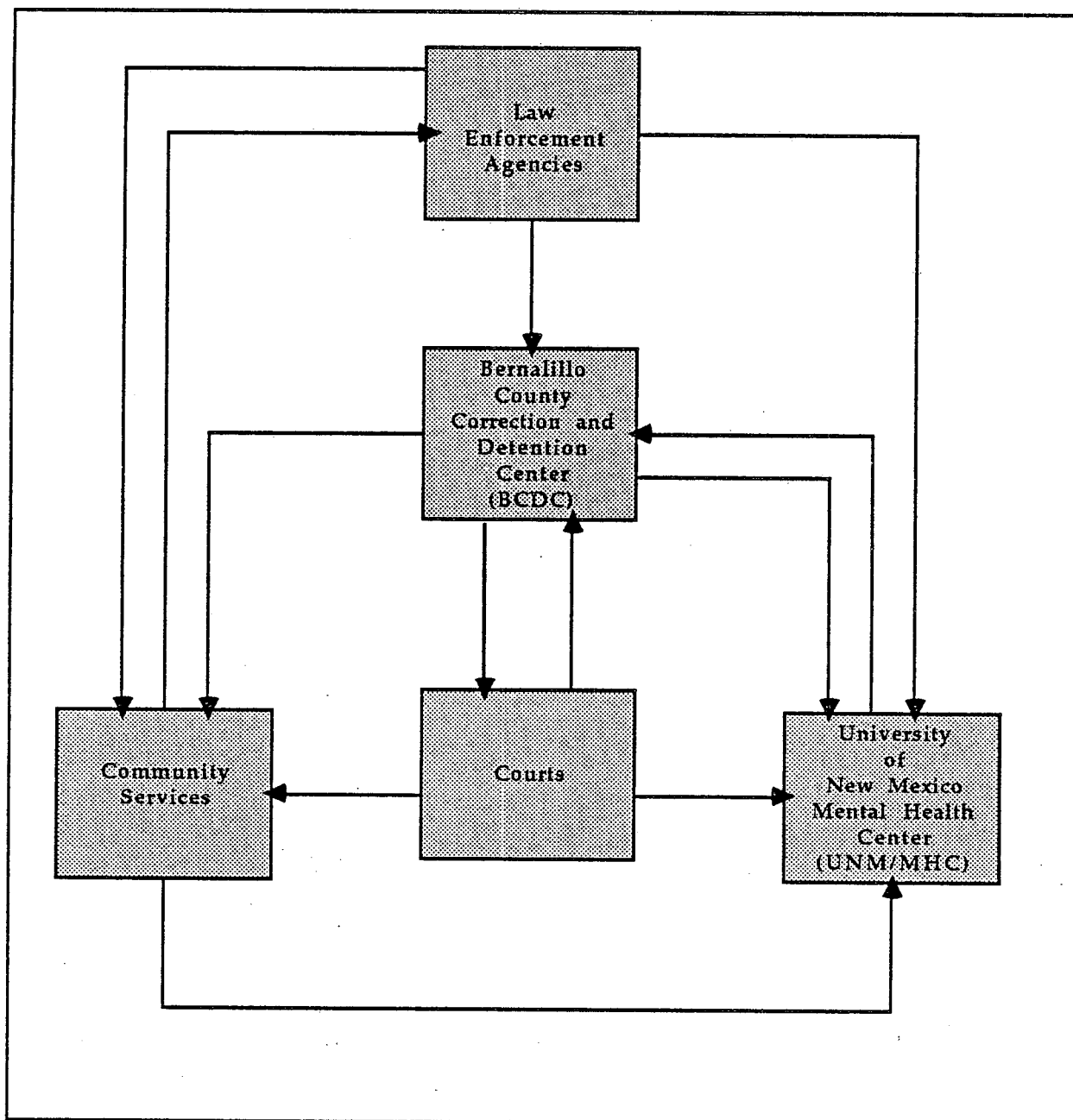
## THE JUSTICE, MENTAL HEALTH, PUBLIC SAFETY, AND SOCIAL SERVICE SYSTEMS

This Part describes the structures and operations of the five major components of the justice, mental health, public safety, and social service systems in Bernalillo County with responsibilities for mentally disabled offenders as they existed in the fall of 1986.\* These five components--law enforcement agencies, the Bernalillo County Correction and Detention Center (BCDC), the courts, the University of New Mexico Mental Health Center (UNM/MHC), and community services--and the "flow" of mentally disabled offenders among these components is schematically depicted in the two figures on the following pages. Figure 1 depicts the idealized "flow" of mentally disabled offenders from the point of apprehension by law enforcement agencies, through the jail and the courts, to UNM/MHC, and ultimately to community services with various short-cuts and exits along the way. Figure 2 suggests the circularity and multi-directionality of this flow.

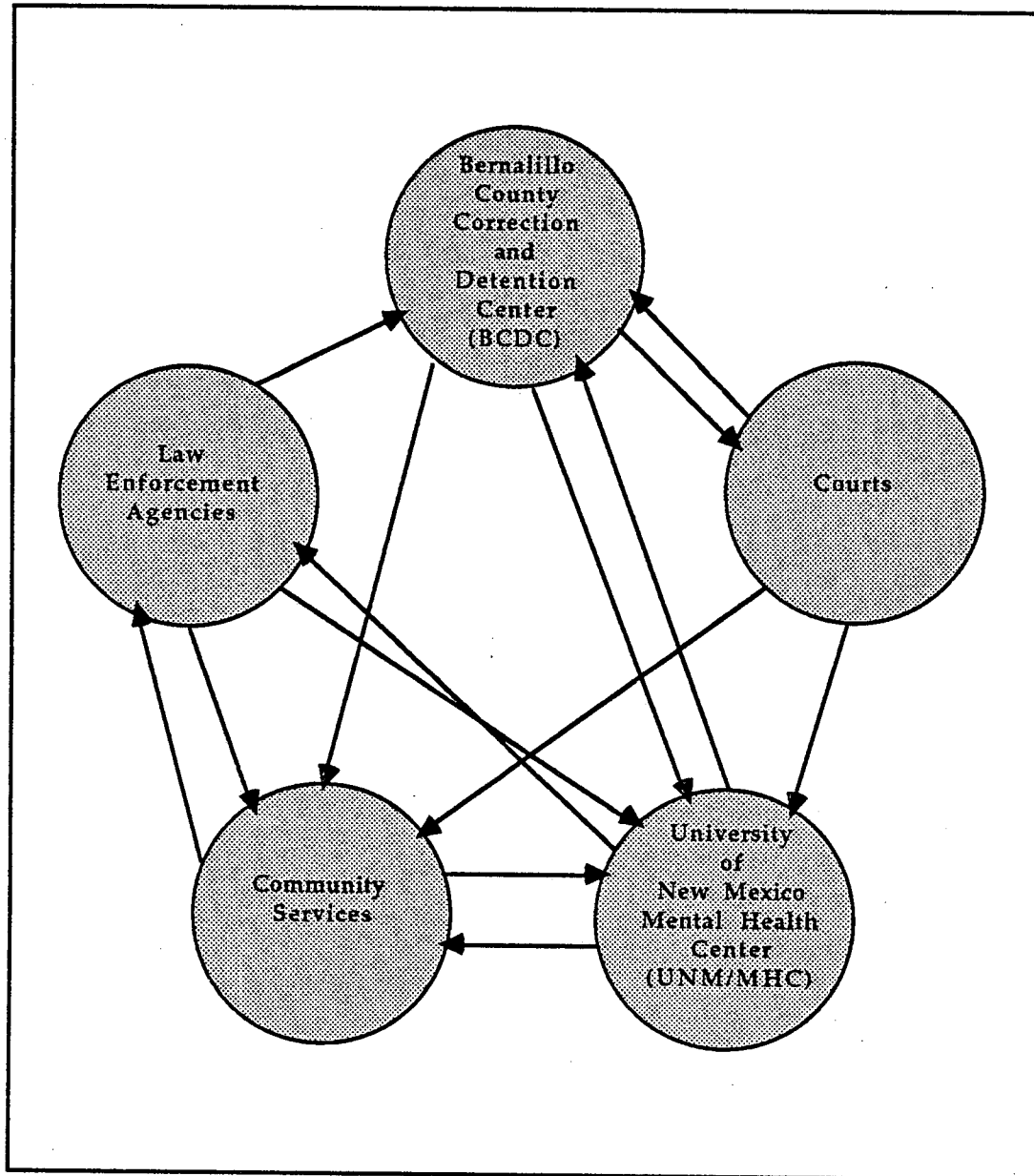
---

\* When it is reported that certain structures and operations exist or that certain events occur in Bernalillo County, it should be understood that this means that the authors were told this by those they interviewed. Thus, PART ONE presents the reports of the judges, attorneys, mental health professionals, social service providers, administrators, and others (including members of the Committee on Mentally and Developmentally Disabled Offenders) who are the daily participants in the operations of the major components of the justice, mental health, public safety, and social service systems with responsibilities for mentally disabled offenders. In order to achieve greater accuracy, Committee members and many of the other individuals (identified by name in the PREFACE) who provided the information in PART ONE were given the opportunity to review the report before its final release, to detect errors, and to suggest revisions.

**FIGURE 1**  
**Idealized "Flow" of Mentally Disabled Offenders**  
**through the Major Components of the Justice, Mental Health, Public**  
**Safety and Social Service Systems in Bernalillo County, New Mexico**



**FIGURE 2**  
**Interactions of the Justice,**  
**Mental Health, Public Safety and Social Service**  
**Systems in their Dealings with Mentally Disabled Offenders**



It is important to note that the failure to mention a particular program or service in the description in PART ONE does not suggest that such a program or service has no role in the treatment or care of mentally disabled offenders in Bernalillo County. Indeed, there are many programs and services that impinge on the lives of mentally disabled offenders that are not described in this report. For example, in the description of law enforcement agencies that follows in the next section, little mention is made of the University of New Mexico Campus Police or the New Mexico State Police, even though both have significant contact with mentally disabled offenders. Their contact is, however, much less extensive than that of the Albuquerque Police Department (APD) and the Bernalillo County Sheriff's Department (BCSD), the two agencies described in detail. According to the records of the Bernalillo County Correction and Detention Center (BCDC), in the 13-month period ending April 30, 1984, APD made 15,820 arrests and BCSD made 4,620 arrests, constituting 96% of the 21,382 total arrests made during that period.\* Therefore, only APD and BCSD are described as making up the bulk of the law enforcement component of the justice, mental health, public safety, and social service systems; and, generally speaking, PART ONE describes only the major units of the components that have the most extensive contact with mentally disabled offenders in the greater Albuquerque area.

---

\* Memorandum by James Shaffer, BCDC Records Supervisor, to Director Michael Hanrahan, May 25, 1984.

## A. LAW ENFORCEMENT AGENCIES

Throughout the country, law enforcement agencies perform a pivotal function in relation to mentally disabled persons. They are available on a 24-hour basis and are called upon whenever "something . . . ought not to be happening and about which someone had better do something now" (Bittner, 1971; Murphy, 1986; Teplin, 1984). Most jurisdictions throughout the country, who believe that immediate mental health intervention is necessary to protect a person or others from harm, allow law enforcement officers to take a person into custody and transport him or her to a mental health facility or a detention center. The public is accustomed to calling on law enforcement officers for assistance with mentally disabled persons, public inebriates, and other persons perceived to be problems because law enforcement officers generally provide free, around-the-clock service; because they are mobile and respond quickly; and because they have the legal authority to remove the person by means of criminal arrest or emergency, protective custody. In emergency situations, especially where swift action may be justified to prevent serious harm, custody and involuntary detention of a person by law enforcement officers usually precedes any thorough, formal review of the legal grounds for apprehension and detention. Common sense and expediency typically prevail at the point of first contact.

### 1. The Albuquerque Police Department

Interactions with officers of the Albuquerque Police Department (APD), a 700-member law enforcement agency that answers over 50,000 calls for service each month, often constitute the first contacts mentally

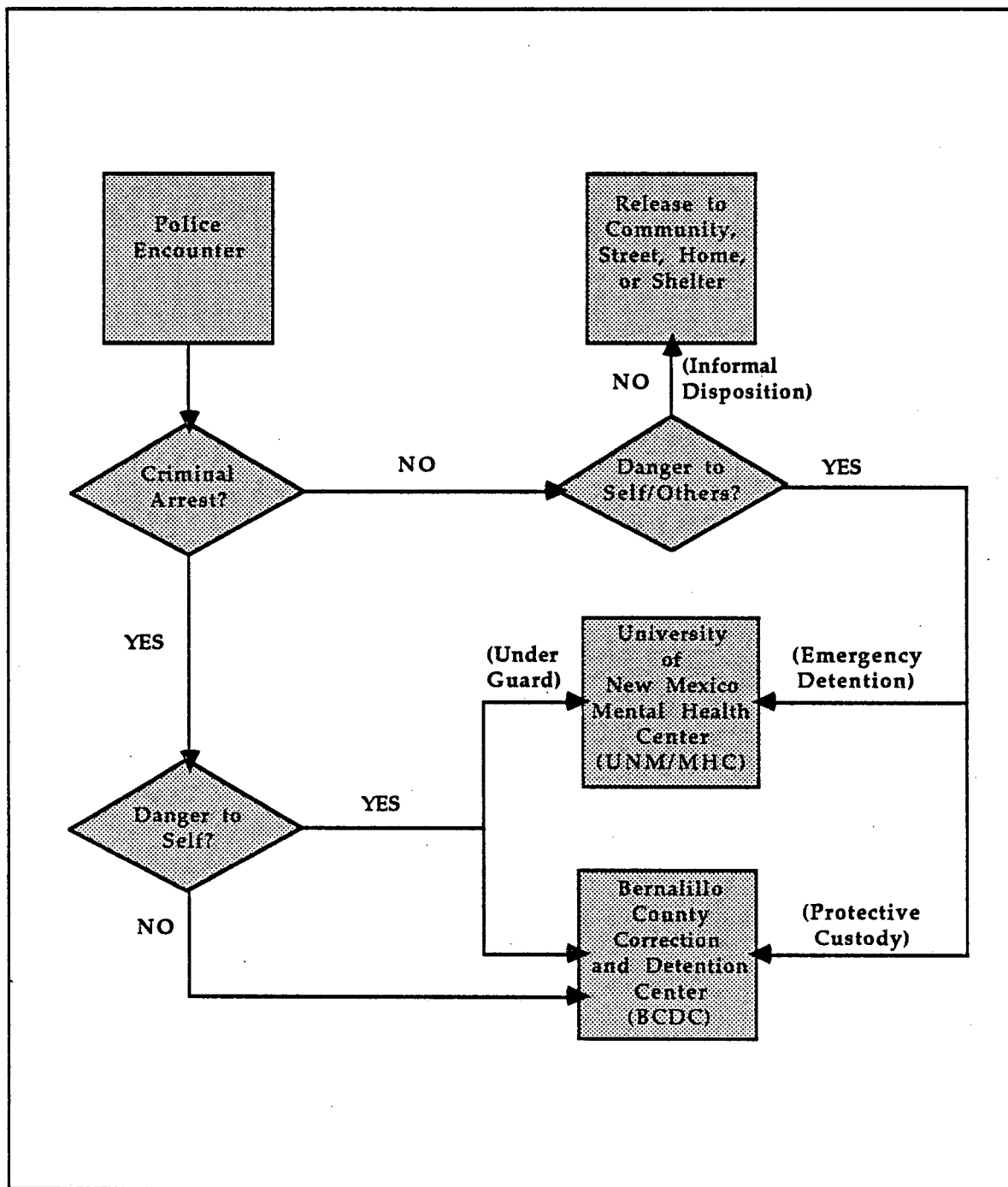
disabled persons in Albuquerque make with the justice, mental health, public safety, and social service systems. Generally speaking, APD officers can take one of three courses of action after apprehending persons they believe to be mentally disabled: (a) arrest, (b) protective custody or emergency detention, or (c) informal disposition. Figure 3 is a schematic overview of the handling of mentally disabled offenders by APD and other law enforcement agencies in Bernalillo County. It depicts only emergency actions and does not reflect the transportation of mentally disabled persons by law enforcement agencies in response to court orders. The nature and severity of a person's suspected mental impairment, the type of incident and circumstance that prompted the police officer's intervention, the legal rules and standard operating procedures of the police, the police officer's discretion, and practical considerations dictate which of these three courses of action an officer will take in a particular case and also what specific procedure he or she will follow once having decided upon a particular course of action.

Police contact with mentally disabled persons in the community becomes a part of formal police records only when an officer pursues either of the first two courses of action. Informal contacts between police and a mentally disabled person may, however, become part of formal records when those interactions are noted in the records of subsequent formal police actions involving the same person, e.g., when an officer apprehends a person for the third or fourth time under similar circumstances.

a. Arrest

Suspected mentally disabled persons under arrest may be taken immediately to the Bernalillo County Correction and Detention Center

**FIGURE 3**  
**Schematic Overview of Bernalillo County Law**  
**Enforcement Agencies' Handling of Mentally Disabled Offenders**





for booking or to the University of New Mexico Mental Health Center (UNM/MHC) for emergency mental health examination or care depending upon the severity of the symptoms or manifestations of mental impairment exhibited by the arrestee. If the person is brought to BCDC by the police, he or she is handled as any other arrestee would be except that the police officer may notify the booking officer or supervisor at BCDC that the person has exhibited signs of mental disorder. In some cases, the police officer may recommend that the person be brought to the immediate attention of the Psychiatric Services Unit (PSU) of BCDC.

According to APD spokespersons,\* suspected mentally disabled persons under arrest are taken to BCDC if the arresting officer believes that the person does not require immediate attention by UNM/MHC or the person is not "obviously mentally ill." Section 3-25-8 of the Standard Operating Procedures of APD states that BCDC "will not accept prisoners who are obviously mentally ill until they have been evaluated at the Mental Health Center." A person's aberrant behavior and demeanor observed by police officers during apprehension and transportation to BCDC commonly are brought to the attention of BCDC. The arresting officer's notification or recommendation that the person be brought to the attention of PSU may or may not be recorded in official police

---

\* The description of events and procedures in PART ONE is based on the opinions of judges, attorneys, mental health professionals, administrators, and others who are the daily participants in those events and procedures. If specific sources of information are not cited, it can be assumed that this information was reported consistently by virtually all those who were interviewed. All sources are reported either as "spokespersons" or as generic categories of people, such as judges, attorneys, mental health professionals, and so forth. Specific names are not used because we have attempted to maintain the confidentiality of the information that was provided.

records. However, one APD sergeant said he routinely instructed all officers under his command to record such notifications or recommendations in the narrative section of APD's Offense and Incident Report (see Section A.1.d. below).

As noted above, an officer may transport a suspected mentally disturbed person under arrest directly to UNM/MHC. Police spokespersons indicated that arresting officers use the legal criteria of whether persons are "a danger to themselves or to others" to determine whether to take them to UNM/MHC. New Mexico mental health laws pertaining to involuntary civil commitment procedures authorize police to detain a person for emergency mental health evaluation and care if "the person is otherwise subject to lawful arrest." N.M. Stat. Ann. § 43-1-10A(1) (1984).

APD has promulgated standard operating procedures for arresting officers to follow when a suspect is in need of medical and mental health treatment. Section 3-25-7 states that an officer, once he or she has transported a suspected mentally disabled person under arrest to UNM/MHC, should remain with the person until he or she has been evaluated by the staff physician. If the person has been arrested for an alleged felony, the arresting officer should, according to prescribed procedures, notify the "on-duty area supervisor" at the mental health center to take appropriate security measures. According to APD spokespersons, arresting officers will typically remain at the center to assist mental health professionals in subduing persons who are "acting out." APD police officers may be assigned to guard suspects detained at the mental health center. APD Standard Operating Procedure § 3-25-3. Should the mental health center fail to have the facilities to accommodate a mentally

disabled person who is particularly violent and has criminal charges pending, the person may be sedated by a physician at the mental health center and transported by the arresting officer to BCDC. APD Standard Operating Procedures § 3-25-8C.

Whether or not UNM/MHC admits the person, booking procedures will proceed. When a mentally disabled person under arrest is ready for release from UNM/MHC, the APD communications supervisor will be notified and an officer will transport the person to the booking facilities at BCDC. APD Standard Operating Procedures § 3-25-2.

b. Protective Custody and Emergency Detention

Under the authority of the New Mexico Mental Health and Developmental Disabilities Code, a law enforcement officer may initiate the emergency commitment of a person to a hospital or a mental health center if the officer believes that because of mental disorder the person is likely to cause injury to self or to others if not immediately taken into protective custody. N.M. Stat. Ann. § 43-1-10A(3) (1984). The person need not be subject to lawful arrest, but may be detained under involuntary civil commitment statutes. The officer need only have "reasonable grounds to believe that the person, as a result of a mental disorder, presents a serious harm to himself or others, and that immediate detention is necessary to prevent such harm." Id. As a matter of practice, if a person under protective custody is taken to BCDC, the person is booked as a person under arrest would be except that the officer does not file a formal complaint.

The Code authorizes an officer to transport a suspected mentally disabled person either to UNM/MHC or to BCDC. N.M. Stat. Ann. § 43-1-10C (1984). According to APD Standard Operating Procedures § 3-25-5,

suspected mentally disabled persons will be transported to UNM/MHC. Once there, the transporting officer completes and signs an application for emergency hospitalization which is typically provided by the mental health center (see Section D in this Part). According to APD's Standard Operating Procedures, the officer's application should include "all facts that a well-written report would include." It should not, however, serve as a substitute for the Department's Offense and Incident Report which is completed in all cases in which an officer transports a suspected mentally disabled person.

New Mexico law authorizes the police to take a person subject to involuntary civil commitment to a detention facility, though the law urges that, whenever possible, a mentally disabled person be taken immediately to a mental health facility for emergency mental health evaluation and care. "Detention facilities shall be used as temporary shelter for such persons only in cases of extreme emergency for protective custody, and no person taken into custody under the provisions of the code shall remain in a detention facility longer than necessary and in no case longer than twenty-four hours." N.M. Stat. Ann. § 43-1-10C (1984). If a detention facility is used as temporary shelter, the statute prohibits the identification of the person on records used to indicate custody of prisoners. Id.

c. Informal Disposition

Just as the booking of inebriated persons is considered by APD as a last resort (i.e., officers are instructed to take inebriated persons not operating motor vehicles to their homes if possible (APD Standard Operating Procedures § 3-25-9)), APD officers encountering confused, agitated, or suspected mentally disabled persons will transport

such persons to their homes or other suitable places (e.g., shelters) whenever possible. One APD officer said he would take persons who appear mentally disturbed and who do not constitute a danger to themselves or to others to their homes or to "any place that will take them" (e.g., shelters) (see Section E in this Part).

Informal dispositions are not regularly recorded in the Offense and Incident Report (see below) unless the person subsequently becomes the subject of an arrest or protective custody. In such cases, the officer may note that he or she has encountered the person on previous occasions without taking the person into custody.

d. Offense and Incident Report

As a practical matter, accurate data about suspected mentally disabled offenders at the point of police contact is not available. Although APD officers complete various forms and applications related to the arrest and protective custody of suspected mentally disabled persons (e.g., the criminal complaint and the application for emergency admission to UNM/MHC), only the Offense and Incident Report becomes a regular part of official police records. The report does not require, though it does not preclude, the identification or description of a suspected mentally disabled person. Interestingly, retarded and handicapped victims are identified in the form. It utilizes the Uniform Crime Report (UCR), a nationwide coding system that does not provide a code to identify mentally disabled persons.

Although, according to APD spokespersons, apprehension and transportation of suspected mentally disabled persons to UNM/MHC is always noted in the narrative section of the Offense and Incident Report, notations of the transportation of a mentally disabled person to BCDC is

not routinely made. One APD sergeant said that he instructed all officers to note in the narrative any recommendations made to the booking officer at BCDC regarding the special handling or treatment of suspected mentally disabled arrestees. Only the standard UCR codes and a two-line synopsis (generally indicating probable cause) are entered from the report into the computer files, however; the narrative remains on the paper record only.

An informal review of Offense and Incident Reports in 46 protective custody cases and 40 domestic violence cases--cases in which one might suspect a greater incidence of mental impairment--revealed very little that would indicate officers' suspicions of mental disability. In only six of the cases did officers record any information in the narrative section of the report or under "Person Information" that might suggest that the arrestee was mentally disabled. None indicated that the officer had taken any actions, such as informing the BCDC booking officer or transporting the person to UNM/MHC, in response to any suspected mental disability.

## 2. The Bernalillo County Sheriff's Department

The Bernalillo County Sheriff's Department (BCSD) renders two services involving mentally disabled persons in Bernalillo County: (1) emergency assistance provided to mentally disabled persons or public protection in incidents involving such persons (see N.M. Stat. Ann. §§ 43-1-1 to -3-7 (1984) pertaining to persons with suspected mental disorder, developmental disabilities, or alcoholism); and (2) transportation of mentally disabled persons requested by justice system officials. Generally speaking, the former involves actions after BCSD apprehends persons believed to be mentally disabled similar to those

taken by APD officers pursuant to the Mental Health and Developmental Disabilities Code, N.M. Stat. Ann. § 43-1-10A (1984). BCSD responds to emergency incidents outside of the City of Albuquerque, whereas APD will respond within the City limits. This is not to say that BCSD and APD officers will not respond to emergency situations that are not "officially" within their jurisdictions; indeed, they do if needed.

Presumably, the bulk of the transportation services provided by BCSD derives legal authority from a section of the Mental Health and Developmental Disabilities Code, N.M. Stat. Ann. § 43-1-11E (1984). As further described below, the statute authorizes a court to order a proposed involuntary patient to be detained if that patient fails to appear at a judicial hearing on a petition for involuntary civil commitment. A petition may be initiated by any "interested person who reasonably believes that an adult is suffering from a mental disorder and presents a likelihood of serious harm to himself or others, but does not require emergency care." Id. (In New Mexico, any "interested person" who believes that an adult is suffering from a mental disability and presents a likelihood of serious harm, but doesn't require emergency care, may request that the Office of the District Attorney initiate involuntary civil commitment. N.M. Stat. Ann. § 43-1-11E (1984).)

a. Emergency Apprehension and Protection

Not unlike APD's involvement with mentally disabled offenders within the limits of Albuquerque, interactions with officers of BCSD often constitute the first contacts mentally disabled persons in the County make with the justice, mental health, public safety, and social service systems. Such contact is initiated either by a telephone call or

emergency apprehension "on the street." The Support Services Division of BCSD receives most of the telephone calls, as many as 700 per day. About one-half of the calls require dispatching officers to the scene. A portion of the calls originates from an "interagency hot-line request," a direct line of communication among such agencies as the New Mexico State Police, the Albuquerque Fire Department, and the Bernalillo County Fire Department.

The seriousness of the situation described by the caller is first assessed by the Communications Equipment Operator (CEO) receiving the call. Emergency 911 calls from outside of the City received by APD are routinely routed to the CEO. He or she typically assesses if the situation described by the caller constitutes an emergency as reported, i.e., if life or property is threatened. Reportedly, the CEO will question the caller about the reported circumstances, including physical violence, substance abuse, the presence of firearms, and any bizarre behavior exhibited by persons involved in the incident or incidents which precipitated the call. Information received is noted on a "radio card." In addition to the caller's name, address, telephone number, and the time the call was received, the CEO will note any significant details of the call. Suspected mental aberration of persons involved in the incident is noted by the code "S-22" (the origin of which was unknown to the BCSD spokesperson interviewed). In cases deemed by the CEO to be emergencies, he or she immediately will give the completed "radio card" to a dispatcher who in turn contacts a BCSD patrol unit. In non-emergency cases, the CEO may advise the caller to contact appropriate legal, mental health, medical, or social services other than BCSD.



A dispatcher assigns a log number to cases which the receiving patrolman enters into the "Bernalillo County Sheriff's Department Offense and Incident Report." Except for the title, this form is identical to the Offense and Incident Report used by APD (see Section A.1.d. above).

If an incident involving a mentally disabled person is first observed by a BCSD patrol officer, he or she will initiate the "radio card" processing by alerting the dispatcher by radio. Much like APD, BCSD officers may also dispose of a case in an informal manner (e.g., a confused or agitated person may be taken to his or her home or to an appropriate shelter) if no charges are made and no protective custody or immediate medical intervention is required. Radio cards, which are retained by BCSD for three months before disposal, are the only record of such informal dispositions of cases by BCSD.

Suspected mentally disabled persons may be transported to BCDC or the crisis unit of UNM/MHC (see Section D.1. in this Part) if the apprehending officer determines that the person is a danger to self or others. No formally fixed criteria determine whether a suspected mentally disabled person is taken to BCDC or UNM/MHC. At the extremes, the nature and degree of a person's behavior will be determinative. According to one BCSD spokesperson, unless a suspected mentally disabled person's behavior is clearly "bizarre," most apprehending officers will take the person to BCDC instead of UNM/MHC because the jail and its procedures generally are more familiar to the officers, and staff of the crisis unit of UNM/MHC may require the apprehending officer to remain with the person for an hour or more.

If the apprehending officer transports a mentally disabled person to BCDC, whether or not an arrest is made, he or she will complete a form, the "Pre-Booking Information Report," which is given to the BCDC intake officer. Information about a person's suspected mental disability may be reported on this form or communicated orally to the BCDC intake officer. Any bizarre or unusual behavior witnessed by the officer may also be recorded in the narrative section of the Offense and Incident Report which is microfilmed as a permanent record in BCSD.

b. Transportation and Escort Services

The instrument initiating BCSD's involvement as a transport service for suspected mentally disabled persons is typically a court order from the District Court authorized by a provision of the Mental Health and Developmental Disabilities Code, N.M. Stat. Ann. § 43-1-11E (1984). Orders to detain a person pursuant to involuntary civil commitment, referred to as "pick-up" orders by the District Attorney, must be signed by a District Court judge. (The Bernalillo County Metropolitan Court is not authorized to issue such "pick-up" orders for involuntary civil commitment.) The order authorizes and directs BCSD to locate the suspected mentally disabled person and accompany him or her to a mental health facility for examination. If the person will not or is unable to go voluntarily, the order authorizes the BCSD officer to take the person involuntarily, transport the person to the designated mental health facility, and provide any necessary assistance to "secure" the person at the facility.

In addition to "pick up" orders to detain a person pursuant to an application for involuntary civil commitment, BCSD responds to requests for transportation in other matters, including requests to transport persons subject to involuntary civil commitment to a judicial

hearing, requests to transfer persons from UNM/MHC to BCDC or the reverse, court orders to detain and transport alleged alcohol abusers to the UNM/MHC alcohol treatment program, and other requests to transport suspected mentally disabled persons to various service facilities throughout Bernalillo County.

Less frequently, BCSD may be involved in extradition cases requiring transportation of mentally disabled offenders within and outside New Mexico. Other assignments include recovering escapees from the State Hospital in Las Vegas or other state institutions. BCSD may also be asked for assistance by other sheriffs' departments in the state, requests which might involve transportation of violent patients or inmates through Bernalillo County. In all such cases, BCSD would be notified by a requesting agency by telephone or radio call which would then be followed up by teletype communications including court order numbers, the name of judicial officers issuing the order, and other pertinent information. Teletyped communication would accompany the BCSD paperwork that is subsequently given to the receiving agency. Regardless of the origin and the nature of the case, transportation requests are referred to the intake desk in the Court Services Division of BCSD.

An "Application for Involuntary Evaluation," alleging that a person is mentally disabled and likely to do serious harm to self or others, accompanies a court order. A copy of the application is presented to the person by the BCSD officer. Another copy is presented to the receiving facility designated in the court order. Attached to the transportation order is the "Return of Service," a document completed when the transferring officer has "delivered his charge." This document

is returned to BCSD and is subsequently submitted to the Office of the District Attorney.

Typically, transport orders involving suspected mentally disabled persons are assigned to the "MI" (mentally ill) unit of BCSD. If no officer in the MI unit is available, the transport order and accompanying documents are handled by another unit in the Court Services Division. According to BCSD spokespersons, because of limited worker-power (an average of 15 officers are on duty per shift) and because of other priorities (e.g., homicide cases), assignment to transportation requests, which usually requires two transportation officers, may often be determined on an ad hoc basis. Reportedly, if the transportation order is marked "hold until called" by the Office of the District Attorney, the order is not executed until the person requesting the detention (i.e., the petitioner under N.M. Stat. Ann. § 43-1-11E (1984)) calls BCSD and provides detailed information about the suspected mentally disabled person's current whereabouts and condition.

A completed Docket Sheet, a document which may include the BCSD officer's comments or observations about the behavior of a person being transported, is entered into computer files maintained for retrieval by BCSD for 18 months, or longer upon special requests. The paper copy of the Docket Sheet is placed in storage indefinitely after it has been executed and returned by the officer to the disposition desk of BCSD.



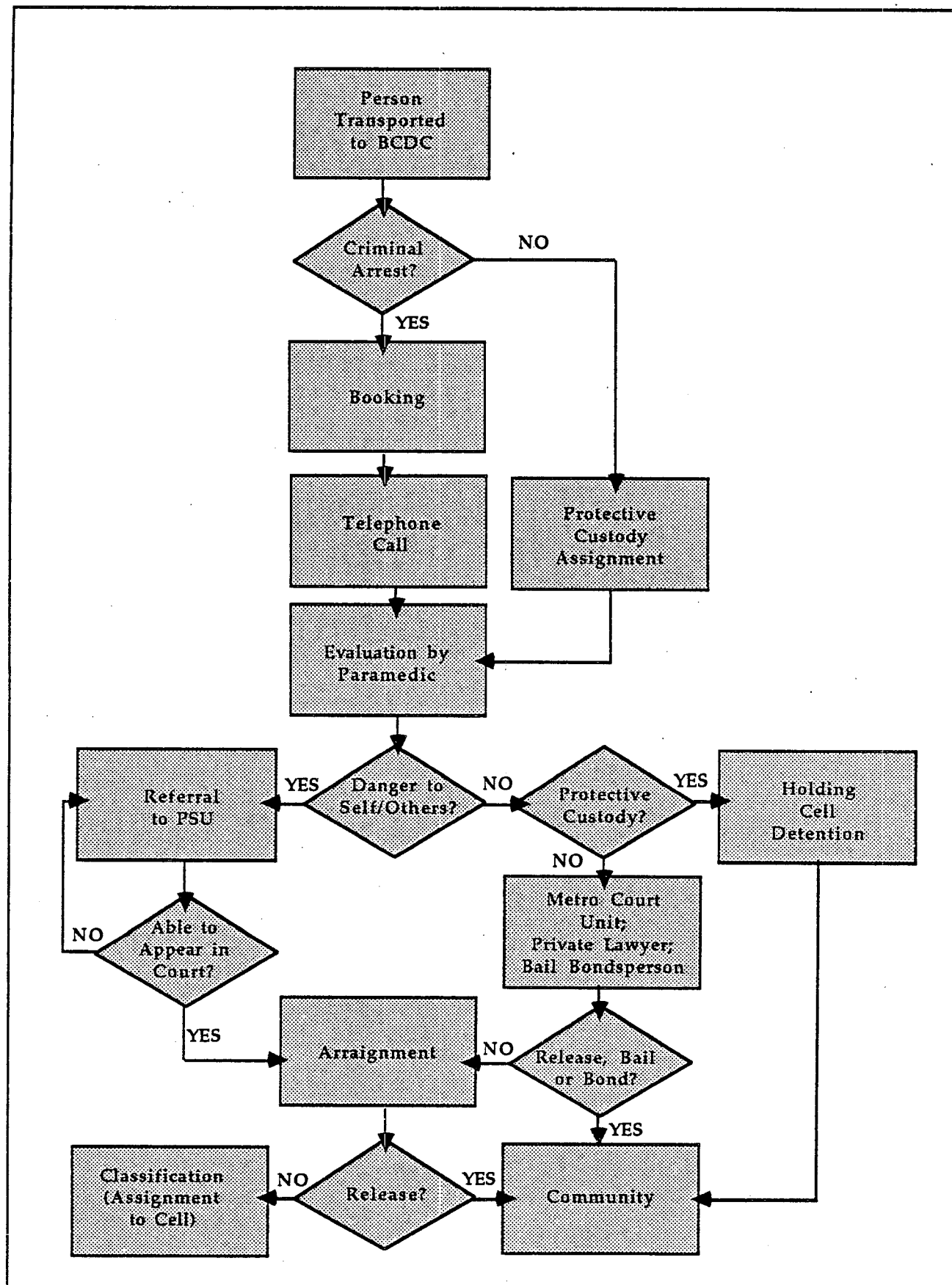
## B. THE BERNALILLO COUNTY CORRECTION AND DETENTION CENTER

The Bernalillo County Correction and Detention Center (BCDC) is located across the plaza from the building housing the Bernalillo County Metropolitan Court. BCDC, built in 1976, consists of six housing levels with bed space for approximately 660 people. Its 48 "pods" hold 100 residents per floor. One floor exclusively for women houses up to 96 residents. BCDC also has a satellite unit located on 4th and Mountain Streets in Albuquerque. Residents housed in the satellite unit are mostly "low-risk" residents in work-release programs or residents serving short-term sentences. Figure 4 is a schematic representation of the processing of mentally disabled offenders by BCDC.

Persons transported to BCDC may be under arrest or detained under protective custody because they present a harm to themselves or others (see Section A in this Part). Statutes authorizing protective custody due to a mental disability place restrictions on the "temporary shelter" of persons in "detention facilities," including a 24-hour time limit on detention, prohibition against placement in a cell with prisoners, prohibition of identification on records reserved for prisoners, and special protection from suicide attempts. N.M. Stat. Ann. § 43-1-10C (1984). Statutes also require that the detainee be treated with the dignity and respect "due every citizen who is neither accused nor convicted of a crime." Id. Statutes authorizing protective detention due to alcoholism include similar restrictions (e.g., a 12-hour limit on detention. N.M. Stat. Ann. § 43-2-22A (1984)).

**FIGURE 4**

**Schematic Overview of the Bernalillo County Correction and Detention Center's Processing of Mentally Disabled Offenders**



## 1. Receiving and Discharge

Receiving and discharge (booking) of arrestees by BCDC include the administrative steps taken after the arrested person is brought to BCDC, identified, classified, and placed. These steps are described below.

### a. Intake Procedures

BCDC makes first contact with defendants when apprehending law enforcement officers arrive at an intake window through the "sally port" with the defendant in custody. At that time, officers give intake corrections officers (COs) a completed "Pre-Booking Sheet." If the officer does not have this form, he or she will receive one from the CO, complete it at that time, and then insert the form into a "time stamp machine" and give it to the CO. The officer advises the CO of the charges against the defendant and, if necessary, gives the defendant a breath-analyzer test.

If the defendant has shown signs of mental disability while in the officer's custody, at this time the officer will advise the CO, the paramedic, or the booking supervisor. He or she then signs a "Receiving and Detention Multipurpose Form" and leaves the individual in the custody of BCDC to prepare the criminal complaint form. According to one APD spokesperson, in order to facilitate the booking procedures, officers may complete the criminal complaint form in the police cruiser en route to BCDC. A copy of the criminal complaint form is left in a box at the booking station.

The defendant (referred to as a "resident" by BCDC staff) is then searched by a CO. The CO assigns the resident a booking number and fills out the multipurpose form with information about the resident recorded on the pre-booking slip.



The resident's property is inventoried and the inventory recorded on the multipurpose form. The property is then placed in a large plastic bag. Personal items such as cigarettes or combs are placed in a small plastic bag to be given to the resident for use while in custody.

Meanwhile, the resident is taken to another room in BCDC where his or her fingerprints are made on a small and large card (the small card is placed in the large plastic bag; the large card is put with the booking paperwork). The resident then signs the multipurpose form. If the defendant is unable or refuses to sign, the CO so indicates on the form. A copy of the multipurpose form also is placed with the inventoried property in the large plastic bag and sealed with a heat sealer. Another copy of the multipurpose form is given to the booking officer who enters the information from the top portion of the form into computer files.

Persons under protective custody are not identified with booking numbers. They are identified by a "PC" (protective custody) number. They are not fingerprinted or photographed, nor are they allowed to make a telephone call. According to BCDC spokespersons, detailed information about residents under protective custody is not entered into computer files, though their numbers are recorded on a routine basis by BCDC. From July 1, 1986 through July 1, 1987, a total of 679 persons were brought into BCDC under protective custody.\*

b. Examination by Paramedic

After the initial intake procedures, the resident is taken for a routine evaluation by a paramedic. The paramedic is located in the

---

\* Memorandum from Michael F. Hanrahan, Director, BCDC, July 22, 1987.

booking area in a holding cell that has been converted for the paramedic's use. Reportedly, the primary purpose of the paramedic's examination is to determine suicidal tendencies. However, the paramedic also examines the resident for physical as well as mental problems. Using a standardized form, "Paramedic Unit Intake Interview," the paramedic asks the resident the following questions about his or her mental health:

- (1) Are you now or have you in the past been in treatment for a mental or emotional problem? If yes, with whom and when?
- (2) Are you now or have you been in the past on medication for mental or emotional problems? If yes, name of medication and dosage?
- (3) Have you ever attempted suicide? If yes, was this while in jail?
- (4) Are you thinking about hurting yourself or others now? If yes, how would you do this?
- (5) Do you hear voices when alone or see things others do not?

If any of the questions are answered affirmatively by the resident, the paramedic completes a "Psychiatric Services Referral Form." At this point (or at any time during the period of incarceration), if the resident needs immediate mental health intervention, the Psychiatric Services Unit (PSU) may intervene. In emergency situations, the paramedic may call PSU staff to the booking area immediately. According to BCDC spokespersons, the paramedic, in cooperation with the CO, may also cause the person to be transported to UNM/MHC. Persons being held in protective custody who are deemed not to be immediate threats to themselves or others may be released at the discretion of the paramedic and the CO.

There are spaces on the forms used by the paramedic for "reasons and explanation" where he or she can insert narrative answers to questions he or she believes should have been answered affirmatively by the resident. In such cases, the paramedic faithfully records a resident's answers but also indicates any personal knowledge that conflicts with those answers. Whenever the paramedic completes the Psychiatric Services Referral Form, he or she attaches it to the Paramedic Unit Intake Interview form.

When the paramedic determines that it is not necessary to complete the Psychiatric Services Referral Form, the resident is placed in the general population and the paramedic files the questionnaire in one of various folders. Questionnaires are later taken to the medical unit of BCDC and reviewed by a department physician when the resident receives his or her complete physical. According to BCDC spokespersons, if the paramedic has reason to alert the BCDC staff that the resident should not be assigned to kitchen duty (KP), he or she completes a "classification alert" and attaches it to the multipurpose form. The form is also used to alert the staff to any special needs other than the need to avoid such duty.

The paramedic maintains a form, the "Weekly Booking Statistics," which is a record of the number of residents the paramedic encounters on the shift and the number referred to the PSU unit. A compilation is made at a later date by the paramedic supervisor and submitted to a security manager.

A monthly statistical report entitled "R and D Paramedics" is also completed. This report indicates, among other items, the number of persons in protective custody (PC) and the number of persons referred to UNM/MHC.

## 2. Procedures Before and After Arraignment

After the examination by a paramedic, BCDC residents who have been booked (i.e., not those residents under protective custody) are permitted to make a telephone call. Persons under protective custody immediately are placed in a holding cell apart from other prisoners. After the resident either completes the telephone call or declines to make a call, he or she is asked to sign a form noting the completion of the call. The CO will sign the form for those defendants refusing to sign. After the resident is given the opportunity to make a telephone call, he or she is placed in a holding cell to await staff of Pretrial Services (see Section C.1. in this Part).

At this time, a defendant is either "bailed out," released on his or her own recognizance, or held in custody. If the defendant is released, he or she must sign a "release" log kept in the lobby of BCDC. As noted earlier, persons in protective custody may be released at the discretion of the paramedic and a supervisor.

When a resident remains in custody in BCDC, he or she either will be taken immediately for arraignment or will be further detained. Arraignment is a procedure whereby the accused is brought before the court to plead to a criminal charge. If the booking procedure takes place shortly before arraignment, the defendant may be taken to arraignment immediately (9:30 a.m. for misdemeanors, 1:30 p.m. for

felonies). If the booking takes place on a weekend, however, or if the defendant has missed the time of arraignment, he or she may be held in a holding cell if arraignment will take place within four hours. If the resident is not arraigned within that time, he or she will be housed in the BCDC Intake Unit. Mentally disabled felony defendants are handled in a somewhat different manner. Depending upon the judge or defense attorney, or the seriousness of the offense, the judge may order the defendant to the custody of PSU or the University of New Mexico Mental Health Center.

All arraignments are conducted in open court and BCDC staff have the responsibility of transporting defendants to court. Defendants are taken through the underground tunnel to the "custody courtroom" in the Metropolitan Court building. There, according to reports, they will meet for a very short time (approximately 90 seconds) with a public defender before arraignment. After arraignment, a defendant may be released either for time already served in BCDC or on a plea of guilty. The judge may also release a defendant pending trial. If the defendant is not released, he or she will be returned to BCDC to await trial, sentencing (after a plea of guilty), or a competency hearing (see Section D.1. in this Part).

If offenders will be arraigned within an hour of booking, they will be taken to court in their personal clothing. If arraignment is delayed, they will be "dressed out," which means they will be clothed in detention center jumpsuits prior to arraignment. Once arraigned, residents are returned to BCDC, sent to the Intake Unit, and classified. Classification involves categorizing the defendant as a misdemeanor or a felon;

determining whether he or she must be put into a suicide unit; and assessing whether he or she is suffering from an illness requiring medication or whether he or she has any other need that would require special consideration. Classification already may have occurred if the defendant was held for a length of time before arraignment. Typically, however, classification occurs after arraignment. Defendants who are detained by BCDC for competency hearings are held until they are examined by a mental health professional of the Forensic Evaluation Services (see Section D.2. of this Part).

### 3. The Psychiatric Services Unit

The Psychiatric Services Unit (PSU) is a short-term mental health intervention unit in the Bernalillo County Correction and Detention Center (BCDC). Staff members evaluate and treat defendants (residents) who have serious mental disabilities. PSU is designed to provide a therapeutic atmosphere within a maximum-security setting. It is considered only a "quasi-inpatient" facility because it does not provide around-the-clock mental health care. The mental health services provided to residents at BCDC by PSU are delivered by means of a contractual arrangement between BCDC and the University of New Mexico Mental Health Center. The contract spells out the scope of services to be provided as follows:

Contractor clinical services shall consist of mental health treatment, screening, evaluation, crisis intervention, and referral by the Psychiatric Services Unit. Provision of these services shall be in compliance with the current mental health standards as defined by the American Correctional Association.\*

---

\* Memorandum from Michael F. Hanrahan, Director, BCDC, July 22, 1987.

In addition, the contract between BCDC and UNM/MHC states that the contractor (i.e., UNM/MHC through PSU) shall be responsible for the management of female residents.

According to most observers (e.g., Meloy, 1986; Richardson, 1985), mental health services provided in the Nation's jails, where many acute mental health problems arise, are not adequate to meet needs. Inpatient facilities within large metropolitan jails are a new treatment phenomenon in the United States. PSU stands as an innovative and progressive service for mentally disabled offenders. It is the only service unit of its kind in New Mexico and among only a handful in the Nation.

Located on the fifth floor of BCDC (the newest part of the jail), PSU is operated by the University of New Mexico Mental Health Center (UNM/MHC) under a contract with BCDC. PSU consists of two administrative offices, a visiting room, one seclusion cell, a padded cell (or "rubber room"), and 13 rooms with 22 beds for the housing of residents. A 12-bed continuous suicide watch unit also exists within PSU. PSU is contracted to employ a full-time psychiatrist, a program administrator/coordinator, three-and-one-half (full-time equivalent) registered nurses, eight-and-one-half counselors, a social worker, and a staff assistant. Its bed space for 34 residents is usually fully occupied.

During the fiscal year ending June 30, 1986, 441 residents were treated as inpatients by PSU with an average daily census of 19.5 and an average length of stay of approximately 16 days. During the month of September, 1986, the daily census in PSU ranged from a low of 14 residents to a high of 18 with an average of 16.2. On a sample day, November 6, 1986, PSU was treating 18 inpatients, including eight

Caucasians, seven Hispanics, two Blacks, and one Native American, who ranged in age from 23 to 55 years. Seven were charged with, or convicted of, minor charges such as criminal trespass, resisting arrest, or refusing to obey law enforcement officers; 11 were charged with or convicted of serious crimes such as kidnapping, aggravated battery, and armed robbery. The diagnoses of the 18 inpatients, according to the clinical impression of the PSU counselors, included six diagnoses of psychosis or schizophrenia, eight diagnoses of bipolar disorder or depression, and one diagnosis of depression.\* All 18 were voluntary patients insofar as they consented to treatment in accordance with the New Mexico Mental Health and Developmental Disabilities Code. N.M. Stat. Ann. § 43-1-15 (1984).

According to formal BCDC policy, PSU "shall provide for the referral and care of the mentally ill or mentally retarded residents whose adaptation to the detention environment is significantly impaired." Residents of PSU are typically chronically mentally ill or retarded persons. Reportedly, one-half of the residents are felons and one-half are misdemeanants, an estimate approximated by the data collected on November 6, 1986. A small percentage await examinations for competency to stand trial.

PSU counselors make routine rounds in the women's area of BCDC and provide ongoing counseling to female residents. In some cases, female

---

\* The data reported in this paragraph and in the remainder of this section were collected as part of a preliminary test of the monitoring and measurement model described in PART TWO of this report.



residents may be transferred to UNM/MHC for additional care if deemed appropriate by the PSU psychiatrist.

Generally speaking, PSU provides for the care of chronically mentally ill and acutely suicidal offenders in a therapeutic environment with suicidal residents being a focus of major concern. A PSU psychiatrist may prescribe appropriate psychotropic medication, minor tranquilizers, or other medication to relieve nervousness or anxiety. PSU also administers to the general population by stabilizing the residents when needed to enable them to function in that environment.

In cooperation with a BCDC "accreditation team," a suicide prevention program, designed to maintain continuous observation and supervision of residents who have been evaluated and determined to be suicidal, was developed and implemented. The residents, who are housed in continuous suicide supervision "pods," are followed by PSU counselors and are provided individual and group counseling in an effort to decrease their potential for suicide. A total of 178 residents was placed on continuous suicide watch from July 1, 1986 through July 1, 1987.\*

PSU receives referrals for mental illness, suicide risks, mental retardation, and emotional disturbances from BCDC staff, family members, attorneys, judges, and the residents themselves. A standard reporting form, the "Psychiatric Services Referral Form," is used for this purpose. According to a PSU spokesperson, the "feeder system" into PSU in the past was mostly reactive insofar as PSU staff responded to incidents in the general inmate population requiring emergency mental

---

\* Memorandum, Michael F. Hanrahan, Director, BCDC, July 22, 1987.

health intervention. Due to the development of screening mechanisms and training of corrections staff, admissions to PSU today are largely the result of screening and referral at BCDC intake. A referral log maintained by PSU identifies the resident referred to PSU, the referral source, the date and time of referral, the priority code (emergency or non-emergency), and the disposition of the case.

Upon receipt of referrals, PSU staff members typically respond to the most critical situations first according to their best judgment. All residents referred to PSU are screened or evaluated by a PSU counselor. In September 1986, PSU counselors performed 91 initial evaluations or screenings. During the fiscal year ending June 30, 1986, 1,252 screenings were performed by PSU staff. Whenever possible, residents are evaluated at the jail location where they have been assigned (i.e., they are not evaluated within PSU).

Evaluations or screenings by PSU counselors may result in one of the following four case dispositions: (1) if the resident is determined not to be in need of mental health intervention, no further action is taken; (2) the case is "opened" and the resident is provided individual counseling in the general inmate population by a PSU counselor; (3) upon a physician's order, the case is opened and the resident is admitted to PSU for inpatient services; or (4) the case is opened and the resident is placed under continuous observation and supervision in a suicide observation "pod" by PSU staff.

In the absence of a physician and in accordance with BCDC policy (BCDC No. 12.1.1, ACA No. 2-5261), PSU staff may consult with the Psychiatric Emergency Services of UNM/MHC (see Section D in this Part)

via telephone or on the basis of the telephone consultation request that a resident be transported to UNM/MHC for psychiatric evaluation. A telephone consultation may result in the prescription of medication or, simply, discussions about the resident. Referral and transportation of a resident to UNM/MHC are for the purposes of evaluation; the resident may or may not be admitted to a ward in UNM/MHC, however. During times of the day when PSU staff is not on duty, and in accordance with the contractual agreement with BCDC and UNM/MHC, a resident who is not in PSU can be transported to UNM/MHC for evaluation. PSU staff is notified the next working day.

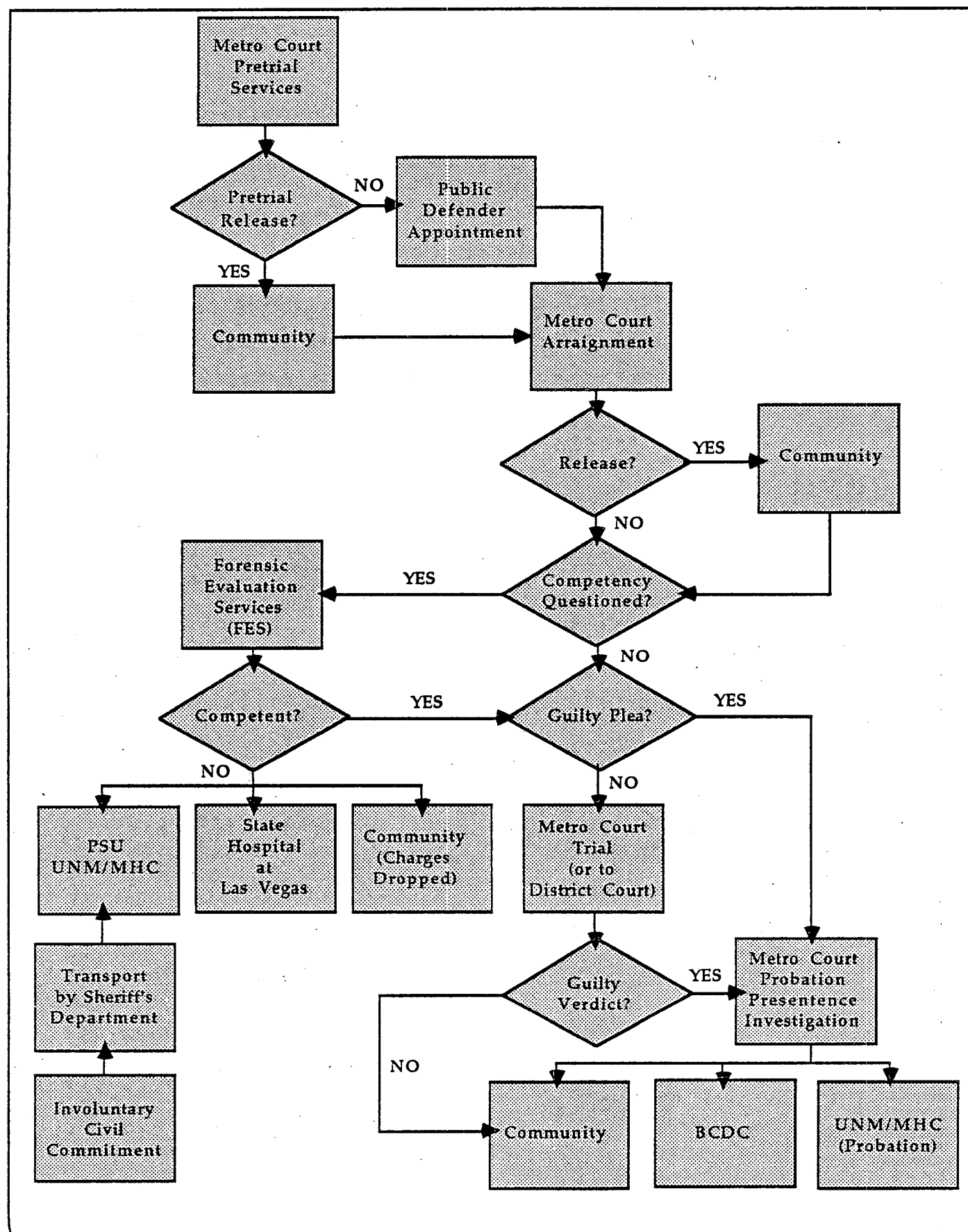
Various standard forms documenting individual data about PSU clients are completed by BCDC and PSU staff, including the Psychiatric Services Referral Form, the Standard Referral Form, the Doctor's Orders Sheet, the Problem List, the Progress Notes-Problem Oriented, the Psychiatric Report, the Patient Intake Form, and other standard forms used by UNM/MHC. According to a PSU spokesperson, no aggregate data on PSU clients awaiting examination for competency to stand trial are currently maintained by PSU. Monthly caseload summaries and quarterly statistical reports are reported as a matter of policy (BCDC No. 12.1.2, ACA No. 2-5262) by BCDC. As noted earlier, these summaries and reports contain aggregate data on PSU services provided in the general population and within the inpatient unit.

### C. THE COURTS

The trial courts in Bernalillo County include a court of general jurisdiction, the Second District Court (one of 13 in New Mexico), and two courts of limited jurisdiction, the Probate Court and the Bernalillo County Metropolitan Court (Metro Court). The District Court is the state court authorized to hear and determine all civil and criminal cases which are not specifically exempted from its jurisdiction by the state constitution or otherwise provided by law. The Metro Court began operation July 1, 1980. In addition to its jurisdiction over civil cases involving claims of not more than \$5,000, the Metro Court is authorized to decide violations of the state motor vehicle code (traffic cases), hear minor criminal offenses which carry a penalty of imprisonment less than one year and/or a fine of not more than \$1,000 (misdemeanors), and conduct preliminary procedures in felony cases. As one staffer quipped, Metro Court is where "the judicial rubber meets the road."

Mentally disabled offenders first come into contact with the judicial system in Bernalillo County through the Metro Court (see Figure 5). Generally speaking, the offenders who are the focus of this study--persons who commit minor crimes or engage in dangerous non-criminal conduct--have their only court appearance in the Metro Court. Even those mentally disabled offenders who are charged with more serious crimes make an initial appearance in Metro Court before being released or indicted by the grand jury for presentment in District Court.

**FIGURE 5**  
**Schematic Overview of the Handling of Mentally**  
**Disordered Offenders by the Bernalillo County Judicial System**



# 1. Pretrial Services of the Metropolitan Court

Pretrial Services is a unit of the Metro Court with responsibility for screening defendants to determine their eligibility for release on their own recognizance (ROR) and their eligibility for representation (misdemeanants) by the public defender. Out of every 100 persons arrested, Pretrial Services spokespersons estimate that 95% are interviewed for conditions of release, representation by the public defender, or both. BCDC residents under protective custody are not served by Pretrial Services.

A defendant who is arrested on new, open charges is interviewed by Pretrial Services staff after the booking process at BCDC. A report of the interview is presented to the bonding-arraignment judge or the custody arraignment judge for reference during arraignment; a copy also is supplied to the Office of the Public Defender. The form consists mostly of financial statements that include the defendant's history, residence, and income level.

Although Pretrial Services theoretically interviews every defendant during booking, in practice it interviews only during peak booking hours. It operates on a 24-hour basis, but screening of defendants does not occur between 6:00 a.m. and 4:00 p.m. According to a Pretrial Services spokesperson, staff members take over court functions at night. During daytime hours, the staff is occupied with other duties, including calls to released defendants to remind them of court appearances, arrangements for the services of a public defender for defendants, and paperwork.

Defendants booked during daytime hours are either interviewed after the start of the "swing shift" if they have not bonded out of jail or

they may not be interviewed until custody arraignment the following morning. Staff coverage is staggered to cover as much of the peak booking time as possible when as many as 120 persons may be booked. Reportedly, 60 bookings in one night is not unusual, especially on nights when the "Batmobile" is operating. (The Batmobile is an acronym for Mobile Breath Alcohol Test Unit.) Swing-shift and graveyard-shift staffs are responsible for accepting cash and surety bonds for defendants who are released on "money" bonds.

Members of the Pretrial Services staff try to be present in the receiving area of BCDC during the booking process. In this way, a spokesperson reported, they can observe the process and be alert for persons who appear upset, agitated, or intoxicated. Otherwise, defendants are interviewed in the Pretrial Services office at BCDC on a first-arrested, first-served basis.

Of the persons in protective custody, those arrested on warrants, and those arrested on new, open charges, Pretrial Services staff interviews only the latter to determine eligibility for ROR. These persons are typically interviewed only after they have made a telephone call and before they have been examined by the paramedic, though this may vary.

Although Pretrial Services uses the booking slip as an aid in interviewing, unless a police officer has brought the slip to the attention of BCDC in the presence of Pretrial Services staff, there usually is no indication that a defendant may be mentally disabled. The booking slip will indicate if a defendant is in protective custody, but will not differentiate between protective custody for the purposes of mental disability or alcoholism.

A spokesperson reported that, through experience, Pretrial Services staff is able to determine if a person being interviewed is both under the influence of intoxicants and mentally disabled even though alcohol may mask the symptoms of mental disturbance. If the staff suspects mental disability, PSU is called to examine the defendant. If a defendant is so agitated or otherwise disturbed that Pretrial Services staff cannot conduct an interview, this is made known to PSU. Attempts may be made the next day to interview the defendant with advice from PSU. One Pretrial Services spokesperson estimated that only 1% to 2% of persons interviewed are referred to PSU.

Pretrial Services considers a number of factors when evaluating a defendant's eligibility for release, including (1) the nature and circumstances of the offense, (2) community and family ties, and (3) past criminal history. Generally speaking, a defendant without community ties will not be released on ROR.

According to Pretrial Services spokespersons, mentally disabled persons ordinarily do not meet the eligibility requirements for ROR, nor do they qualify for cash bail or surety bond since they typically have no money. In most cases, Pretrial Services cannot identify a person to take responsibility for the defendant or to take him or her home. According to one Pretrial Services spokesperson, family members may be "sick and tired" of dealing with the defendant, and jail becomes a substitute for respite care. For those defendants who do qualify for release, Pretrial Services staff sets their arraignment time (during "swing" and "graveyard" shifts) in cooperation with Metro Court's Criminal Division.



When reporting to the court, Pretrial Services has several options, including credit for time served. For those defendants who are mentally disabled, Pretrial Services reportedly will attach a handwritten recommendation for PSU to the reporting form which is made available to the judge and the public defender during custody arraignment. Sometimes a representative from PSU will appear in court and, occasionally, Pretrial Services may recommend that a defendant be evaluated to determine his or her competency to stand trial. However, according to one Pretrial Services spokesperson, requests for competency examinations result in the defendant "getting caught in the system" and in long delays.

During interviews, the Pretrial Services staff also determines whether or not defendants are eligible for legal representation at public expense. Notwithstanding their eligibility for the services of a public defender at trial, misdemeanor defendants who are not represented by a private attorney receive the services of the public defender during custody arraignment.

## 2. Bernalillo County Metropolitan Court

A defendant's first appearance before a judge for a misdemeanor offense is at arraignment, a preliminary hearing at which the defendant is informed of the charges against him or her. Eleven judges serve in Metro Court with duties, including that of custody arraignment, rotated among them.

The Metro Court first receives official notice of a criminal defendant's case when police complaints are brought to the attention of the Clerk's Office. The complaint is the official "opening document" for

the court. In the event that a booked defendant appears at arraignment without a complaint, the arraignment judge reportedly "throws out the case" and releases the defendant. Liaison officers from the Albuquerque Police Department (one sergeant, two sworn officers, and one civilian), the Bernalillo County Sheriff's Department (a part-time sworn officer and a full-time civilian), the New Mexico State Police (one full-time sworn officer), and the University of New Mexico Campus Police (one officer for parking offenses) are assigned to the Metro Court. They facilitate Metro Court and law enforcement interactions. As part of their duties, these officers examine the files to be sure the paperwork is in order; notify other officers of the dates on which they are to appear in court; notify judges as to which officers will appear in court; and identify those persons who need to be subpoenaed.

During custody arraignment, a Metro Court judge considers the type of release recommended by Pretrial Services and, as a result, may order a defendant released pending trial. Credit for time served (CTS) may be given to a defendant. If a defendant pleads "not guilty," the judge will also consider conditions and terms of release. A defendant may also be held pending trial, or held pending an examination to determine competency to stand trial.

Persons brought to BCDC by law enforcement officials under protective custody do not undergo a court proceeding. They are released when BCDC believes they are fit for release or upon the expiration of the statutory limit of protective custody (i.e., 24 hours for mentally disordered persons, N.M. Stat. Ann. § 43-1-10C (1984), and 12 hours for alcoholics or intoxicated persons, id. at § 43-2-22A). The court is not notified of their custody or release.

A defendant believed to be incompetent to stand trial is, according to one spokesperson, usually one who "has breached the tolerance level of the community." Interestingly, this comment suggests that the question of a defendant's competency to participate in the legal process--which is (at least theoretically) the only legal issue to be determined by an examination of competency to stand trial--may not be the sole purpose for which an examination of a defendant's competency to stand trial is routinely requested. If a defendant has "acted out" while in custody or if the public defender (or private attorney) is aware of a mental disability that affects competence, the attorney may make an oral motion for a competency hearing. The court may also order a competency hearing sua sponte. In many instances, the court is not aware until arraignment that a defendant's competence is at issue. When a Metro Court judge orders a competency hearing, the court file is forwarded from the courtroom directly to the Metro Court Administrator who arranges for all the competency examinations to be conducted by Forensic Evaluation Services (FES), a unit of UNM/MHC (see Section E in this Part).

In the past, competency hearings presented the court with a difficult problem. Metro Court would order the competency hearing but, according to law, the hearing had to be conducted in the District Court. Frequently, defendants would sit for weeks awaiting competency hearings. Reportedly, defendants in custody who were perceived or determined to be incompetent often spent a greater length of time in jail awaiting hearings than they would have been required to serve had they pleaded or been found guilty and sentenced. According to a number of spokespersons, the practice became an embarrassment to the court.

To correct this situation, the District Court currently still retains statutory responsibility for determining competency to stand trial but has delegated to Metro Court the duties of conducting competency evaluations and making competency determinations. See N.M. Stat. Ann. § 43-1-1 (1984); Rule 5-602, Rules of Criminal Procedure for the District Courts; Rule 7-507, Rules of Criminal Procedure for the Metropolitan Courts. In practice, the evaluation typically consists of an out-of-court outpatient examination by staff of Forensic Evaluation Services (FES) and an out-of-court judicial determination, though the defendant has the right to request an in-court hearing. FES makes outside appointments with released defendants and comes to the jail for appointments with in-custody defendants. The court pays FES, a division of UNM/MHC, according to the total time and resources invested by FES per defendant examined. A contract between Metro Court and UNM/MHC sets the applicable dollar limits and hourly rates for evaluative services provided by FES.

FES typically returns the competency evaluation report to files in the Criminal Division of Metro Court. The report states that the defendant either is or is not believed to be competent to stand trial. It gives the name of the defendant, dates of the examination, and a brief description of the defendant and the opinion(s) of the examiner--one paragraph to two pages depending on the difficulty of the case (see Section D.2. in this Part). The file is then submitted to the judge who ordered the evaluation. He or she reviews the file and decides whether or not the defendant is competent to stand trial in accordance with established law. In 1960, the United States Supreme Court articulated the test for determining a defendant's competency to stand trial in Dusky v. United States, 362 U.S. 402 (1960):

"whether he [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding--and whether he has a rational as well as factual understanding of the proceedings against him." Id. at 402. See also Rule 5-602, Rules of Criminal Procedure for the District Courts. As a matter of practice, judges will typically follow the recommendations of FES.

If the defendant is competent to stand trial, the judge orders a trial date. If the defendant is not competent to stand trial, the judge may at his or her discretion order the defendant to be held at PSU or to undergo more extensive testing, or he or she may drop the charges. If a second competency examination is ordered or if more extensive testing is required, the defendant may be hospitalized at the State Hospital in Las Vegas. According to a number of spokespersons, approximately two-thirds of the offenders examined to determine competency to stand trial are evaluated in the community, and one-third at the State Hospital in Las Vegas. Many of the defendants are sent to the hospital in an actively psychotic state due to schizophrenia or a bipolar disorder. Most are medicated and some quickly regain competency. If treatment is effective within a two-year period, the mentally disabled offender is returned for trial or plea in the same manner as any other defendant not mentally disabled.

FES sends invoices to the court listing the number of persons evaluated, which may be a source of statistics on the number of competency hearings held. Reportedly, no records are sent to the jail following FES evaluations.

### 3. Metropolitan Court Probation Services

To help them make sentencing decisions, Bernalillo County Metropolitan Court judges may request that the Probation Division conduct a presentence investigation of defendants who plead guilty or are found guilty after trial. Presentence investigations are conducted in an effort to find alternatives to jail sentences.

According to Probation Division spokespersons, most requests for presentence investigations are made for defendants who are not in custody. This group constitutes the majority of Metro Court defendants. At least theoretically, defendants most likely to be eligible for sentencing alternatives are those who are alcohol abusers, mentally and developmentally disabled offenders, and Vietnam veterans suffering from post-traumatic stress. In practice, however, because mentally disabled offenders seldom are released prior to sentencing (see above) and because few alternatives to jail are available, few mentally disabled offenders are involved in sentencing alternatives. Dropping of criminal charges and the initiation of involuntary civil commitment proceedings occurs only infrequently. Also, reportedly, probation that is conditioned upon a defendant's compliance with a plan of treatment is only used occasionally with mentally disabled offenders because situations and resources for assuring compliance with the conditions of probation are seldom in place (e.g., the person has no home and no contact with relatives).

For defendants in custody for whom presentence investigations are requested, probation officers conduct interviews and complete a "quick" presentence report usually returned to the Metro Court no later than the day after the request. Defendants usually are interviewed in the custody

courtroom in the lower level of the Metro Court. When a defendant for whom a presentence investigation has been requested is located in PSU, the presentence investigation proceeds as it would in a case not involving mental aberration except that the interview may be delayed a day or two until the defendant has calmed down or has been stabilized. According to one spokesperson, some of the defendants are "too crazy to come to court." On rare occasions, probation officers may travel to UNM/MHC to interview a defendant.

Presentence investigations typically include an interview of the defendant conducted by a probation officer and, if necessary and possible, the acquisition of supplemental or corroborative information from others (e.g., the defendant's family, friends, acquaintances, and former and present treatment providers). During the interview, which typically lasts 30 to 45 minutes, the probation officer attempts to elicit the following information, prompted by an interview checklist: (1) identifying data, including name of the interviewee, address, age, date of birth, etc.; (2) marital and family status and characteristics; (3) education; (4) employment history; (5) military service history; (6) physical and mental health data; (7) financial data; (8) interests and leisure time activities; and (9) the defendant's version of the arrest.

At the request of the Metro Court, the defendant's attorney or, on the basis of the judgment of the probation officer, the Probation Division may request a mental health examination of the defendant as part of its presentence investigation. Requests for examinations of a defendant's fitness to stand trial are made to the Metro Court Administrator who in turn contacts the Forensic Evaluation Services (FES)

of UNM/MHC; requests for presentence examinations are made directly to the FES by Probation Services (see Section D.2. in this Part). At the time of the writing of this report, UNM/MHC was under contract with the Metro Court to conduct presentence mental health examinations requested by the Probation Division. Reportedly, UNM/MHC examiners conduct most presentence mental health examinations in BCDC. Examination reports are submitted to the Metro Court. They may include specific recommendations for treatment and suggest preliminary arrangements for placement of the defendant following release from custody.

The results of presentence investigations are recorded on a standard reporting form, the "Pre-Sentence Report," and submitted to the Metro Court. The report summarizes information elicited from the defendant and others by the probation officer, with particular attention paid to criminal history, the defendant's version of the arrest, and specific sentencing recommendations. The report has a space for noting any mental or emotional difficulties experienced by the defendant, as well as any present and past treatment of those difficulties which are known to the probation officer. Additional comments reported by the probation officer in DWI (driving while intoxicated) cases may include information about the treatment program to which the probationer has been referred, as well as his or her compliance with the requirements of that treatment. As noted earlier, because mentally disabled offenders are seldom recommended for outpatient treatment, such detailed reports are a rarity in cases involving mental disabilities.

Probation officers may recommend that a defendant receive a jail sentence, a suspended sentence, supervised probation, or a combination of these. In some cases, they may recommend that suspected mentally



disabled defendants who are not in PSU receive some jail-time in PSU. If the person is given probation, his or her supervision is handled in the same manner as a case not involving mental aberration.

According to spokespersons, the Probation Division refers probationers to UNM/MHC, the Veteran's Administration Hospital, Casa Ayuda (see Section E in this Part), and private practitioners. The Division receives monthly reports from UNM/MHC. Reportedly, the likelihood of receipt of payment for mental health services--third-party payments or public assistance--plays a significant part in determining not only where but also whether services are provided.

One Probation Division spokesperson expressed concern about the lack of available services for mentally retarded and developmentally disabled as opposed to mentally ill persons in the community, saying that there were long waiting lists for group home placement for mentally retarded persons. This concern was echoed by a number of other individuals knowledgeable about the services available to mentally retarded and developmentally disabled persons in New Mexico (see Nathanson, 1984).

No aggregate data on the number and characteristics of suspected mentally disabled offenders are available in the Probation Division. Individual data are, however, available from the interview checklists maintained by probation officers and the individual presentence reports submitted to the Metro Court.

#### 4. Legal Representation

##### a. Public Defender Department

Legal representation for mentally disabled offenders is generally provided by the Public Defender Department. The Department has

the responsibility of representing indigent criminal defendants at trial and all in-custody defendants at arraignment. Often, as previously stated, mentally disabled defendants remain in custody after arrest.

Every person booked for a misdemeanor and held in custody at BCDC is interviewed by a public defender. If a defendant does not qualify for representation at public expense, he or she will still be represented by a public defender who will be reimbursed \$250 to \$300 according to a sliding scale. In cases where representation by the public defender may result in a conflict of interest, the indigent defendant will be represented by a private attorney under a contract with the Public Defender Department. The Department also maintains a social services unit staffed by one person who has responsibility for providing sentencing alternatives and for acting as liaison between the legal staff of the Department and PSU. Characterizing the legal representation of the clients who are the subject of this study, one spokesperson noted: "It's not a matter of win or lose, this is life."

Attorneys in the Public Defender Department are not assigned to individual cases, but to a segment of the criminal proceedings for all or most defendants. They are assigned either to Metro Court or to "felons." One attorney, for example, may be assigned to all custody-arraignments. Therefore, different public defenders may represent a defendant throughout the various stages of the criminal proceedings. According to a spokesperson, this assignment procedure, though expedient, may present difficulties for the mentally disabled offender.

A defendant first meets with a public defender just prior to custody arraignment at Metro Court. Reportedly, this meeting may be as brief as 90 seconds. Its purpose is to enable the public defender to ensure the defendant legal representation at the arraignment. A public defender is likely to be representing more than one in-custody defendant at this time and usually has not reviewed a defendant's file before arraignment. Metro Court arraignments consist of advisement of rights and arrangements for conditions of release. For felony offenses, defendants make an initial appearance in Metro Court before being indicted by the grand jury for presentment to District Court.

On Tuesday of each week, the staff person of the Public Defender Department's social services unit interviews residents at PSU. At this time, he determines whether the resident has been arraigned, whether he or she may be a danger to self or others, and how long the resident has been in BCDC. According to a spokesperson, the major aim of the social services provided to PSU residents is to "prevent people from falling through the cracks" of the criminal justice system. The staff person alerts the legal staff of the Department to those residents in PSU who have not yet been arraigned. Reportedly, this is one of the rare instances when the legal staff has the time to review the file, and perhaps interview the defendant, prior to arraignment.

For other defendants, the social services unit of the Department tries to find alternatives to BCDC and, if they can be arranged, will recommend to the court that the defendant be relocated. Reportedly, the court usually accepts the recommendations. No systematic tally is kept of the number of defendants interviewed each week, but approximately 20% of all felony cases are referred to alternative arrangements.

b. Private Bar

A mentally disabled offender may be represented by a private attorney. Spokespersons believed, however, that most are not. A private attorney may be appointed in cases where representation by the public defender may result in a conflict, but, according to spokespersons, the typical involvement of the private bar is by appointment by the court to represent a person subject to involuntary civil commitment (see below). In such cases, if a person has been committed on an emergency basis, an attorney must be appointed and a hearing set within five days of the commitment. The hearing must be held within seven days. N.M. Stat. Ann. §§ 43-1-4, -10, -11 (1984).

c. Office of the District Attorney

The district attorney normally does not appear in court for criminal misdemeanor custody arraignments. He or she may, however, get involved if a question of competency is raised. Spokespersons reported that a mental disability may be recognized at arraignment but, unless the defendant "acts out" or the court or attorneys are already aware of the disorder, this occurs infrequently. In cases in which a defendant is arrested on felony charges, the competency issue is rarely raised in Metro Court because of the fear that the case may be "lost in limbo." Reportedly, it is generally believed that competency is better raised in District Court.

In cases of involuntary civil commitment for a 30-day period, the defense attorney (whether private or public defender) or PSU staff will call the district attorney to report the need for commitment and to request the district attorney to drop the charges. However, this

sequence may vary and, reportedly, BCDC may proceed on its own to UNM/MHC to seek a person's hospitalization. After hospitalization, BCDC may ask the judge to drop the criminal charges against the defendant. For persons charged with felonies, the court liaison to UNM/MHC may request that the charges be dismissed.

When defendants are actively involved in this process, alternatives to involuntary civil commitment may be sought. A defendant may agree to voluntary hospitalization in exchange for dismissal of charges. He or she may be found guilty but mentally ill and given probation on the condition that treatment be sought. N.M. Stat. Ann. § 31-9-3 (1984).

Cases not involving criminal offenses may come to the attention of the District Attorney's Office by the submission of an application, or a petition alleging that the person to be committed is a danger to self or others as a result of mental disorder. The application, which must be accompanied by a doctor's letter, requests that the subject of the application be committed under the emergency mental health statute. Family members, friends, or acquaintances of the "respondent" (the subject of the petition) may bring the application for involuntary civil commitment to the district attorney who must respond within 72 hours. Id. at §§ 43-1-10, -11.

If the person is not currently in a hospital, a family member or other interested party can request the District Attorney's Office to initiate proceedings to have the patient evaluated. The patient can be placed in the hospital on an emergency basis if a licensed physician certifies that as a result of a mental disorder the person presents a likelihood of serious harm and the detention of the person is necessary to prevent that harm. Id. at § 43-1-10B.

If the applicant is unable to obtain a physician's letter or if an emergency does not exist, the district attorney can petition for a hearing and the person notified by summons. Id. at § 43-1-11E. This procedure is rarely used. Instead, applicants are urged by the District Attorney's Office to obtain a physician's letter that is taken, together with the application, to a District Court judge. The judge will review the application and, if he or she believes an emergency commitment is necessary, he or she will sign an order requesting the Sheriff's Department to take custody of the person and transport him or her to the designated mental health facility for the purpose of emergency evaluation. The district attorney delivers a copy of the "pick-up order," return of service, and application to the Sheriff's Department, which, in turn, dispatches a deputy to pick up the person for transportation to the mental health facility. The facility, usually UNM/MHC, "holds" the patient for up to seven days. If UNM/MHC determines that more time for treatment and care is required, the staff will submit a petition to the District Attorney's Office for an extended 30-day commitment. The involuntarily-hospitalized patient must then be provided a court-appointed lawyer and afforded a judicial hearing within seven days.

Over the past year, the District Attorney's Office has prepared 101 applications for emergency "pick-up" by the Sheriff's Department. Interestingly, § 43-1-10 of the New Mexico Mental Health and Developmental Disabilities Code, which provides for involuntary emergency commitment, does not specifically authorize the court to issue "pick-up orders" for transportation of involuntary patients to a mental

health facility for emergency evaluation. Section 43-1-11E does provide for the issuance of an order to detain an individual, but this section pertains only to non-emergency evaluations prior to which a summons must be issued to the person requiring him or her to appear at a hearing at which a judge or a special commissioner must make a determination as to whether the person should be detained for an evaluation. If the person fails to appear at the hearing, or if the person appears without having already submitted to a mental health evaluation, the judge or special commissioner may order the person detained and transported to an evaluation facility.

A number of District Court judges reportedly refuse to sign "pick-up orders" because they do not believe there is sufficient statutory authority to do so. This view is not shared by all the judges, three of whom will sign such orders. A close reading of the relevant statutes suggests there is some validity to the judges' reluctance. The procedure seems to be an informal blending of two related statutes: Sections 43-1-10 and 43-1-11 of the New Mexico Mental Health and Developmental Disabilities Code. Because § 43-1-10B is silent regarding the issue of how a person may be brought to an evaluation facility pursuant to a physician's certificate, the practice of issuing "pick-up orders" has been adopted in order to enable law enforcement officers to detain and transport the person to an evaluation facility.

The Mental Health and Developmental Disabilities Code authorizes a law enforcement officer to detain a person for an emergency mental health evaluation, in the absence of a legally valid order from the court, only if:

- (1) the person is otherwise subject to lawful arrest; or
- (2) the [law enforcement] officer has reasonable grounds to believe the person has just attempted suicide; or
- (3) the [law enforcement] officer, based upon his own observation and investigation, has reasonable grounds to believe that the person, as a result of a mental disorder, presents a serious harm to himself or others, and that immediate detention is necessary to prevent such harm.

N.M. Stat. Ann. § 43-1-10 (1984). Accordingly, law enforcement officers will not detain persons pursuant to a physician's certification, under the provision of Section 43-1-10B, unless a court has issued an order requiring such detention and transportation.

If the patient is currently in the hospital and does not wish to remain or is in outpatient treatment but is in need of inpatient care, the treating physician or therapist can submit a petition to the District Attorney's Office for 30-day commitment. The patient will be appointed an attorney and the case will be set for hearing. An order to detain is not filed in this type of case.



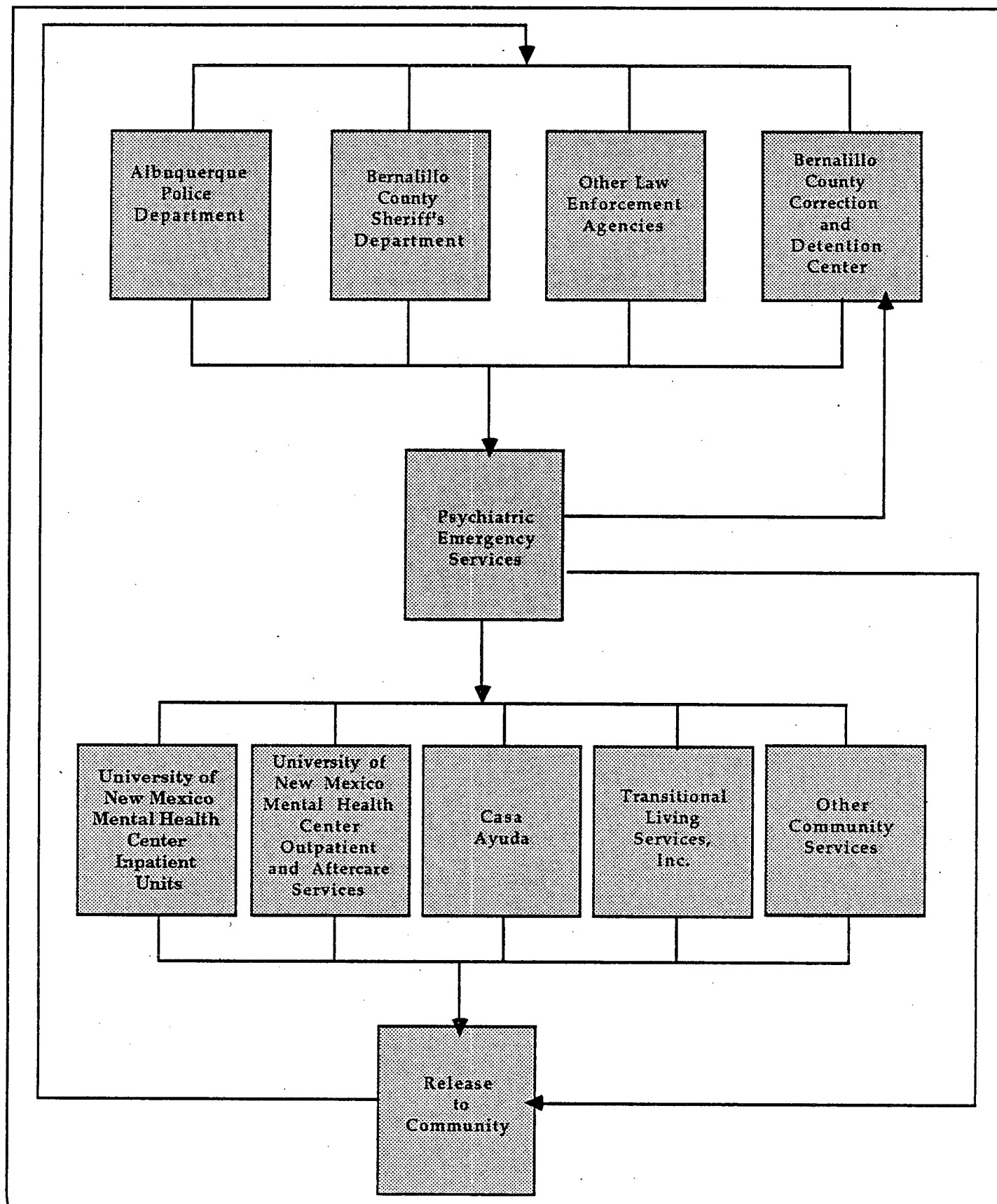


#### D. THE UNIVERSITY OF NEW MEXICO MENTAL HEALTH CENTER

By all accounts, the major provider of public mental health services in Bernalillo County and surrounding areas is the University of New Mexico Mental Health Center. Established in 1969 by a joint powers agreement between the University and Bernalillo County, UNM/MHC is a mental health care facility owned by Bernalillo County and operated as a component of the University Medical Center. Federal, state, county, and city funds, as well as fees and contracts for services, support programs designed to provide care to individuals and families regardless of ability to pay. UNM/MHC provides a range of services, including an around-the-clock psychiatric emergency service, an inpatient psychiatric hospital with 59 beds, a small day-treatment program, a transitional living program, a variety of outpatient clinics, and a number of programs designed for special populations. Since 1976, the Center's Forensic Psychiatry Program Division has administered the Psychiatric Services Unit (PSU) of BCDC. The Division, through its Forensic Evaluation Services (FES), also provides forensic mental health examinations for the Bernalillo County Metropolitan Court and the District Court.

Although mentally disabled offenders may be served by any of the programs of UNM/MHC, they are most likely to come into contact with the Psychiatric Emergency Services and the Forensic Evaluation Services. This section describes these two units of UNM/MHC and their involvement with mentally disabled offenders in the County. Figure 6 depicts the scheme for law enforcement agency referrals to the emergency unit and disposition following emergency evaluation (FES functioning is schematically represented in Figure 5).

**FIGURE 6**  
**Schematic Overview of Referrals, Evaluation, and**  
**Disposition of Mentally Disabled Offenders by the Psychiatric**  
**Emergency Services of the University of New Mexico Mental Health Center**



## 1. Psychiatric Emergency Services

Akin to the emergency room in a medical hospital, Psychiatric Emergency Services, the crisis unit of UNM/MHC, provides around-the-clock mental health evaluation and treatment services to any and all individuals or families experiencing a mental health crisis. Services are designed to provide immediate intervention in order to restore the individual or the family to acceptable levels of functioning. According to a Psychiatric Emergency Services spokesperson, anywhere from 550 to 600 persons enter through the doors of the unit each month; approximately half of these are new patients. During the two-week period beginning September 1, 1986, a total of 252 persons was admitted, an average of 19.4 patients per day.

Referrals come from a variety of sources: (1) self-referrals or "walk-ins"; (2) families; (3) physicians; (4) law enforcement agencies, including the Albuquerque Police Department, the Bernalillo County Sheriff's Department (see Section A in this Part), the University of New Mexico Campus Police, the New Mexico State Police, the Federal Bureau of Investigation, and other federal agencies; (5) the Veteran's Administration Hospital; (6) other psychiatric facilities in Bernalillo County; (7) nursing homes; (8) transitional living centers; and (9) the Bernalillo County Correction and Detention Center (BCDC). Not unexpectedly, most mentally disabled offenders, who reportedly constitute only a small fraction of the patients served by the Psychiatric Emergency Services, are referred by law enforcement agencies and BCDC. During the two-week period beginning September 1, 1986, for example, 33 persons were referred to the unit by law enforcement agencies, a daily average of 2.3

and a range of 0-5 per day. Nineteen of the admittees were men and 14 were women. The majority (23) were former patients of UNM/MHC; only nine were new patients. More than half (18) were referred by the Albuquerque Police Department; six were referred by BCDC, three by BCSD, three by the court, and two by other law enforcement agencies.

All referrals to Psychiatric Emergency Services are noted on a "Crisis Daily Patient Record." The form identifies each patient by name and hospital number, and notes the date the patient entered and left the crisis unit, the referral source, whether intervention was on an emergency or non-emergency basis, by whom the patient was interviewed, and the nature of the disposition. While acceptance into one of UNM/MHC's programs is necessarily restricted by individual needs (a crisis unit spokesperson noted that "All of us know when the patient is in need of hospitalization") and available services, no one referred to the crisis unit is denied mental health screening and evaluation. This typically consists of an interview by a mental health examiner (a nurse or a therapist) lasting an hour or more.

Law enforcement officials accompanying a potential patient to the crisis unit are asked to complete a "Law Enforcement Referral Form." The purpose of this form is to elicit from the apprehending law enforcement officer all the necessary information which led the officer to believe that the potential patient is in need of mental health services. The form identifies the patient by name, date of birth, and age; it also identifies the person requesting emergency evaluation, where this person can be reached, the nature of any pending civil or criminal charges against the patient, whether or not the patient was searched for weapons,

the address or facility from which the patient was transported, and the need for any agency to be notified upon completion of the evaluation. The form also requires the accompanying law enforcement official to note behavioral characteristics that may be applicable to the patient, e.g., the patient is cooperative, angry, depressed, coherent, hostile, intoxicated, incoherent, violent, suicidal, mute, assaultive, homicidal, frightened, or "bizarre."

Depending on the results of the evaluation by the Psychiatric Emergency Services, a mentally disabled offender may be admitted to one of the acute inpatient units of UNM/MHC (including a 20-bed alcohol detoxification unit)\*, or one of the outpatient and aftercare services provided by four "outstationed" multi-disciplinary teams of UNM/MHC (Central Cities, Northwest Valley, Southwest Valley, and Heights). After a brief period of hospitalization, no more than 5% to 10% of involuntary patients initially admitted by UNM/MHC are transferred to the State Hospital in Las Vegas. The greater percentage is treated by UNM/MHC.

Alternatively, a patient may be referred to Transitional Living Services, Inc. or Casa Ayuda (see Section E in this Part). The person may also be referred (or returned) to BCDC for booking or criminal custody. If a patient is referred to BCDC, crisis unit personnel may request that the patient be evaluated by the Jail Psychiatric Unit (PSU) or returned to the crisis unit for re-evaluation prior to release from BCDC. In accordance with established UNM/MHC procedures, if the crisis unit attempts to evaluate a person accompanied by a law enforcement

---

\* The UNM/MHC Detoxification Unit was closed several months after this study took place. No inpatient alcohol treatment is currently provided by UNM/MHC.

officer, but is unable to do so because the person is under the influence of alcohol or drugs (or for any other reason), the crisis unit will request that the person be transported to BCDC and detained for the purpose of custody or evaluation. Instructions accompanying the request form note that "[every] effort will be made to forward the form to the jail psychiatric unit promptly, and if possible, the jail psychiatric unit will evaluate the individual prior to release." Again, according to procedures noted on the request form, BCDC will make an effort to return the person to the crisis unit prior to release from custody. It is noted that when such a procedure is legally prohibited, the individual or "significant other" should be advised to return to the UNM/MHC Psychiatric Emergency Services on a voluntary basis.

## 2. Forensic Evaluation Services\*

Forensic Evaluation Services (FES) provides evaluative services to the trial courts and attorneys in Bernalillo County (see Section C in this Part). Evaluations conducted by FES include psychological screening, evaluation, and determinations of criminal responsibility (sanity), specific criminal intent, competency to stand trial,

---

\* The contract between the New Mexico Health and Environment Department and the Forensic Evaluation Services (FES) expired June 30, 1987. At this writing, no other provider of forensic evaluation services has been identified. According to a spokesperson of the Metro Court, negotiations are currently underway with a group of certified psychologists affiliated with the University of New Mexico. Currently, services are being provided on an individual, fee-for-service basis by private certified psychologists. The difficulty of providing forensic mental health services to the courts is, apparently, not limited to Bernalillo County. According to a spokesperson of the Protection and Advocacy System, the New Mexico Health and Environment Department has not yet made a determination regarding the provision of forensic mental health services throughout the state. Reportedly, discussions have taken place about the possibility of transferring all defendants referred for forensic mental health evaluations to the State Hospital in Las Vegas.

identification of factors relevant to sentencing and disposition such as amenability to treatment, and determination of other issues that may be raised by attorneys and officers of the courts.

Persons are likely to be referred to FES by the Metropolitan Court for assessments of their competency to stand trial or by the Metropolitan Court Probation Division for determinations of their amenability to treatment and likely compliance with the requirements of that treatment (see Section C.3. in this Part). The following statement, excerpted from an evaluation report submitted to the Metro Court by FES, illustrates typical reasons for referral to FES:

[name of defendant deleted] is a 19-year-old Hispanic male who was referred by . . . Metro Court . . . Mr. [name deleted] is currently at UNM/MHC as an inpatient. He was previously held at BCDC on a charge of assault on a police officer. The purpose of the current evaluation is to assess his competency to stand trial.

FES conducts examinations of defendants in custody at BCDC. Also, forensic mental health evaluations requested by Metro Court are conducted on an outpatient basis at the FES offices at 5100 Second Street, N.W., in Albuquerque. FES evaluations--typically consisting of a clinical interview of the defendant, the administration of tests appropriate to the referral question (e.g., Competency to Stand Trial Assessment Instrument), and examination of the defendant's medical chart--are conducted by mental health professionals (a doctorate-level certified psychologist or a non-certified psychologist with a Ph.D. degree, a M.A.-level staff psychologist, or a B.A.-level psychologist-assistant under the supervision of the certified psychologist).



The results of the forensic mental health evaluation performed by FES are reported to the Criminal Department of Metro Court. Whereas Metro Court officials were of the impression that FES examinations are conducted within one or two days of the request of the examination, a FES spokesperson indicated that it may take 30 days or longer to file a report of an examination with Metro Court. Reportedly, defendants in custody are given priority.

A typical FES examination report may describe the reason for referral to FES, assessment procedures used, background information about the defendant, clinical impressions, and a diagnosis keyed to the classifications contained in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM III) (3rd ed. 1980). The following is typical of descriptions of the backgrounds of defendants referred to FES and the responding clinical impressions of FES examiners:

According to the information in the medical chart, Mr. [name deleted] had become violent with his parents and then with the police officer who came to investigate. He has a history of not sleeping and of property destruction. At PSU, he was described as agitated, psychotic, and having auditory hallucinations. He was kept in the rubber room until his transfer to [UNM/MHC]. At the hospital, Mr. [name deleted] was treated for depression, social withdrawal, disorganized thoughts, and manic behavior. He received a diagnosis of bipolar affect disorder manic, and is currently receiving lithium, haldol, and cogene.

According to Mr. [name deleted] he has always lived with his parents and younger sister. He was always weak in school, played varsity basketball in high school. He says that he has always been hyper and had his first nervous breakdown 1 1/2 years ago. At that time he was admitted to UNM/BCMHC West Wing. Six months

later he was admitted to Heights Psychiatric Hospital. Since that time he has received outpatient therapy but refused to continue his medication. He gave a good account of the events surrounding his arrest.

It appears at this time that Mr. [name deleted] is competent to stand trial. He generally has a good idea of the charges against him, is able to articulate the events surrounding his arrest and understands court procedure. Although Mr. [name deleted] may show some poor judgment and vestiges of psychosis, he appears able and willing to follow his attorney's instructions and advice.

Once FES submits an examination report to the Criminal Division of Metro Court, the defendant's file is sent to the Metro Court judge who ordered the FES examination. The judge reviews the file and decides, on the basis of the FES report, whether or not the defendant is competent to stand trial. Though a judge may independently apply the test for determining a defendant's competency to stand trial articulated by the United States Supreme Court in the case of Dusky v. United States, 362 U.S. 402 (1960), as well as the relevant provisions in Rule 5-602, Rules of Criminal Procedure for the District Courts, he or she is more likely than not to follow the recommendations of the FES examiner.

If the defendant is determined by the examiner to be competent to stand trial, the judge will set a trial date. If not, the judge has the discretion to order the defendant held at PSU, to order him or her to undergo more extensive testing, or to drop the criminal charges. With regard to defendants determined to be at least temporarily unfit to stand trial, a PSU spokesperson noted a strong preference for such defendants to be placed in a facility other than PSU while they either regain their competency or are determined to be permanently incompetent to stand trial (see Section B.3. in this Part).



## E. COMMUNITY SERVICES

Community services is a broad term. In Bernalillo County it can encompass a wide range of services potentially available to the people who are the subjects of this study. Community mental health centers provide a variety of programs, including inpatient and outpatient care, for persons with mental disabilities for whom treatment and care in an inpatient psychiatric hospital is unnecessary or inappropriate. Adult residential shelter care homes accept ambulatory or mobile non-ambulatory residents who have physical or mental disabilities. These homes may require periodic professional nursing care provided by staff, by visiting nurse services, or by an outpatient facility. County boarding homes are licensed to accept adults who, because of diminished mental or physical capacity, find it difficult to care for themselves in their own residences, and choose to arrange for food, supervision, and limited services from a provider of board and care. Such boarding homes must be able to provide supervision of residents' meals, medication, appointments, and activities on and off the premises. Finally, transitional living facilities are state licensed mental health facilities for adults who have a severe or persistent mental disability that impairs their daily functioning but for whom care in a psychiatric hospital is unnecessary or inappropriate. These facilities must be operated on a 24-hour basis and must be able to provide assistance with daily living activities regarding the whereabouts and activities of the residents. Additionally, they are responsible for case management and coordination of all programatic services directly or by contract, such

as, but not limited to: mental health, medical, and dental care; rehabilitation, social, and recreational activities; and educational, legal, housing, employment, and placement services.\* Only a small slice of this range of services which is most relevant to mentally disabled offenders is discussed in this section.

Many of the mentally disabled offenders who come into contact with the justice, mental health, public safety, and social service systems may also be a part of the chronically mentally ill and homeless populations in Albuquerque. While various estimates of the number of homeless people in Albuquerque range from a few hundred to 1,000, national estimates indicate that anywhere from 35% to 45% of homeless individuals have serious mental disabilities. These individuals may be served by the various agencies who feed the homeless, who provide necessary facilities such as showers and telephones, or who provide temporary shelter. Other mentally disabled offenders may become residents in one of two transitional living centers designed to help them learn to adjust to independent living (see Figure 7).

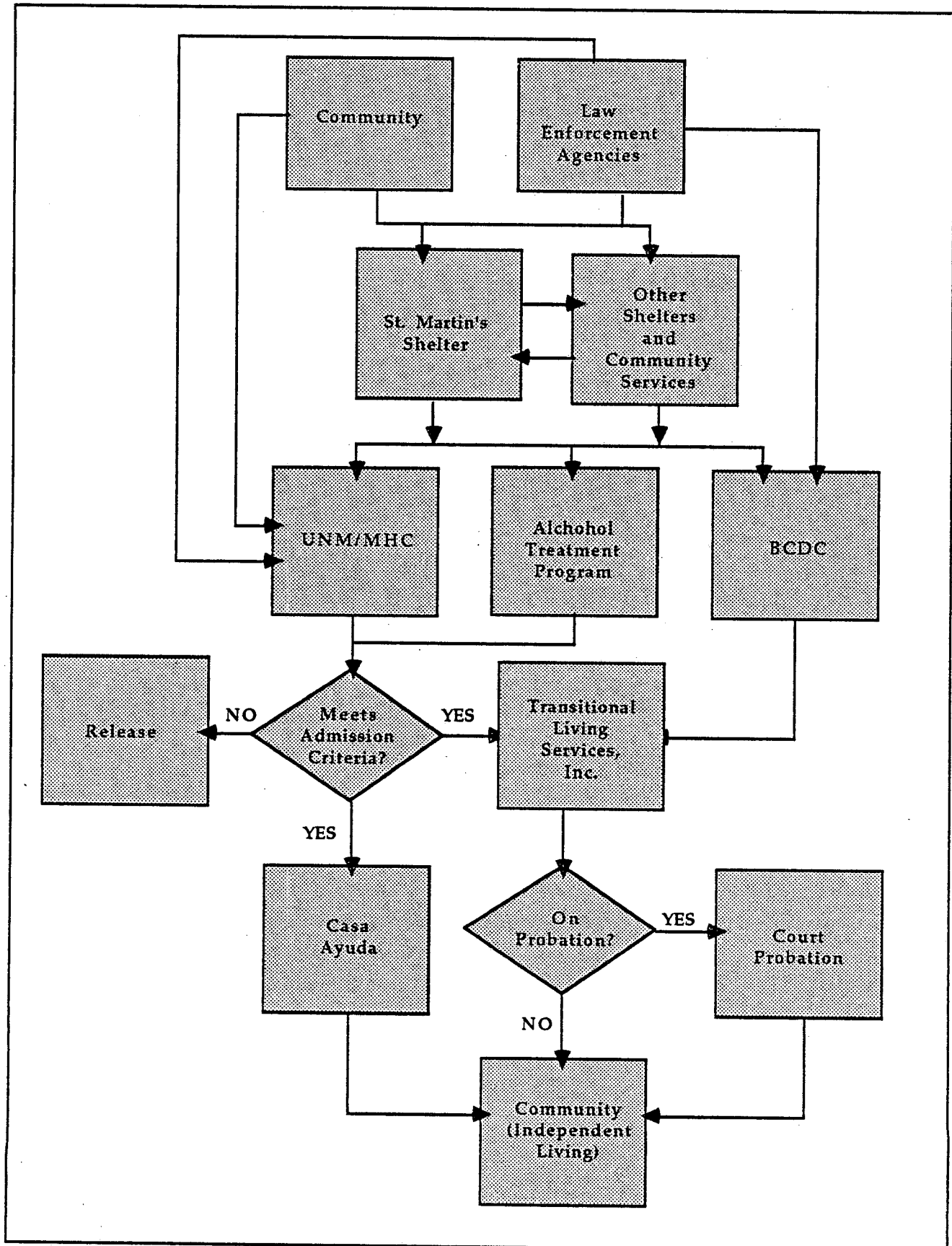
#### 1. Shelters

The directory of social services published by United Way lists eight shelters in Bernalillo County where the homeless might find a temporary abode. According to shelter spokespersons, Albuquerque has approximately 300 "shelter beds." All of the shelters, most of which are run by religious groups or organizations, are well known to law enforcement

---

\* This summary of mental health facilities is taken from Regulations Governing Residential Shelter Care and Board Home Facilities for Adults, Health Facilities and Occupational Licensing Bureau, New Mexico Health and Environment, 1986.

**FIGURE 7**  
**Schematic Overview of Community Services Available to**  
**Mentally Disabled Offenders or Ex-Offenders in Albuquerque**



officers and may be places where mentally disabled persons are brought or referred. A spokesperson for one shelter noted that the existence and location of the shelters are well known by those in the homeless community.

Although serving a need, the shelters do not provide a long-term stable living situation, nor do they provide, for the most part, a place where mentally disabled offenders can receive necessary care. All the shelters limit the time a person may spend there and most are not open during the day.

Included among the shelters where the homeless may find a bed, one agency, St. Martin's Shelter, provides a refuge during the day from 8:00 a.m. to 2:00 p.m. Here, the homeless may make telephone calls, take showers, write letters, get help with job applications, make doctor appointments, or take care of any other basic survival needs that persons with permanent residences meet at home or at work. St. Martin's is unique in that it has a clinic staffed by a mental health counselor who provides on-going case management and crisis intervention when necessary. It is reportedly the only agency in Bernalillo County--and perhaps the entire state--directly providing mental health counseling to this homeless population. A spokesperson noted that clients are usually referred to St. Martin's by the shelters and by the informal network that exists "on the street." After interviewing clients, the mental health counselor may refer clients to UNM/MHC when necessary. Sometimes she takes clients there herself. She also may refer her clients for alcohol treatment.

The St. Martin's mental health counselor indicated that she sometimes interviews mentally disabled offenders in BCDC. Reportedly, offenders are seldom if ever released from BCDC under the condition that they report to St. Martin's, nor are they ever brought to St. Martin's in lieu of arrest. She has in the past called the police to pick up someone who is "acting out" or is in danger, but usually only after giving the person the option to leave voluntarily.

Reportedly, no outreach services can be initiated by St. Martin's because of the prohibitively high numbers of persons served by the shelter. Resources are already stretched. The mental health counselor said that it is difficult to spot all the people who need help, especially because some "never cause trouble or ask for help." It is believed, she said, that the more the homeless live on the street, the more passive and also the less trusting they become.

## 2. Residential Services

### a. Casa Ayuda

Casa Ayuda, a part of UNM/MHC, is a transitional living program for mentally disabled persons located in a commercial area not far from Interstate Highway 25. It is one of Albuquerque's two halfway houses for mentally disabled persons. This transitional living program is located in 20 rooms of a refurbished motel and, according to a statement of goals, provides sheltered living while teaching basic living skills to persons with a history of mental disability who show potential for independent or semi-independent living. Casa Ayuda, which currently has a staff of eight (including clerical support), has moved almost 100 people into private and semi-independent apartments since it was started



approximately four-and-one-half years ago. Reportedly, approximately 50 former mental patients and Casa Ayuda residents are now on their own, working, or attending school (Richardson, 1986).

Criteria for admission are simple. Residents must have a history of mental disability and must show that they are controllable, i.e., they must have been non-violent during the last year and, if they are taking medication, they must show that they independently take such medication. The majority of referrals to Casa Ayuda come from UNM/MHC or from its satellite clinics. They also come from the parents of people served by local mental health clinics and the State Hospital in Las Vegas. According to a spokesperson, 10 individuals from BCDC have become residents of Casa Ayuda in the last two years. Residents may also be referred from out of state. Approximately 60 to 70 people are on a waiting list to become Casa Ayuda residents.

Casa Ayuda provides a short-term living environment where residents learn the basic living skills, including handling money, taking care of personal hygiene, and keeping their immediate environment clean. According to a spokesperson, it is important for the residents to learn how to "get up in the morning, get dressed, and get out--in an effort to normalize their lives."

Funded for only 15 residents, Casa Ayuda is licensed to house 30. The daily census averages about 20 residents. The average stay of residents is from three to six months and, in accordance with Casa Ayuda's contract, residents can stay up to 18 months. Casa Ayuda is considered 85% successful, said one spokesperson, according to a simple

measure: the number of former residents living in the community, in an apartment living situation, and not back in the jail or in a hospital. A spokesperson noted that during Casa Ayuda's existence, only three residents needed to be referred to the State Hospital in Las Vegas.

In addition to its residential program, Casa Ayuda monitors the semi-independent living of its former residents-clients in a program designed to help them function in the community. Fifty persons are clients in this semi-independent living situation, although Casa Ayuda receives funding only for 12.

As part of Casa Ayuda's independent community living program, each client has an individual plan. The program assists clients in completing the necessary forms to apply for public assistance payments and, when possible, also helps them get a job. Clients can return to Casa Ayuda for a visit or, when needed, for short-term respite care. Additionally, the staff routinely monitors the clients in their semi-independent living environments. Except to the landlords, clients are not known as "mentally ill" by persons in the community. According to a spokesperson, the landlords are supportive. Reportedly, residents are good tenants who keep their apartments clean and pay their rents.

Not all the clients in the semi-independent living program are able to become completely independent of Casa Ayuda. In the past four years, however, approximately 50 have moved on; of those, 25 people are currently working. Some maintain contact with Casa Ayuda on a voluntary basis.

According to a spokesperson, Casa Ayuda is a program designed to stop the revolving door in which many mentally disabled persons are caught. The program is not designed to help all mentally disturbed persons, however. Casa Ayuda does not provide a long-term, open-ended living program for those who will probably need some level of care for their entire lives.

A spokesperson of the Protection and Advocacy System in Albuquerque indicated that the contract between Casa Ayuda and the New Mexico Health and Environment Department lapsed June 30, 1987. Reportedly, the contract offered by the Department to Casa Ayuda would require the facility to "down-size" to serve no more than 10 clients in any one location, presumably based on the rationale that the transitional program offered by Casa Ayuda should be in a more "normal" environment than that provided in a refurbished motel with 20 residents. At this writing, no agreement has been reached between Casa Ayuda and the State and it is unclear whether Casa Ayuda will continue as a 20-resident facility, as two 10-resident facilities, or not at all.

b. Transitional Living Services, Inc.

Transitional Living Services, Inc., a 19-bed facility located at 2525 Central Avenue, N.E., in Albuquerque, is the other of the two residential living centers designed to serve the mentally disabled population in the community. TLS is not affiliated with UNM/MHC. According to a spokesperson, the term "transitional living" is a misnomer when applied to TLS since the term typically refers to a six- to nine-month program only. TLS is actually funded to provide care of longer duration. Nevertheless, like Casa Ayuda, the goal of TLS is to

provide a temporary living situation to allow the residents to accommodate themselves to semi-independent living until they are able to move out to a more independent life.

TLS's referrals come from UNM/MHC, from the State Hospital in Las Vegas, and from PSU. According to the terms of a contract with BCDC, TLS always has two beds available for referrals from PSU, but it may accommodate more than two if necessary. Referrals to TLS also come from shelters, from families, and from private hospitals.

Residents cannot have a violent history. Those referred from BCDC are more often misdemeanants than felons. Unless a resident of TLS is on probation, he or she typically does not have to report back to the court after admission to TLS. Although the average stay at TLS is one year, some residents have stayed for as long as two or three years. Others have stayed as little as two months. At the time of this writing, 18 people were residents of TLS.

Residents with a dual diagnosis of mental illness and alcoholism may be admitted to TLS. The staff provides them with an individualized program aimed at independent living. Resident committees establish rules for living as well as sanctions for noncompliance with those rules. Residents may remain at TLS all day, though it is preferred that they leave during the day for jobs, school, or volunteer work (e.g., Meals on Wheels or Goodwill Industries).

Although no psychiatrists are on the permanent staff of TLS, the Central Cities satellite clinic of UNM/MHC sets aside a "clinic day" for TLS residents and is available on a 24-hour basis for emergencies. In addition, UNM/MHC mental health workers visit TLS monthly for informal talks with the residents.

The goal of TLS is to enable residents to move into semi-independent or independent living environments. TLS staff currently provides case management for 15 clients living in subsidized city housing. TLS recently received a grant from the Department of Vocational Rehabilitation to do peer counseling. As part of the program, five residents were selected to visit with other mentally disabled persons who are living in the community.

## PART TWO

### A MONITORING AND MEASUREMENT MODEL

PART TWO presents a recommended model for monitoring and measuring the numbers and characteristics of mentally disabled offenders in Bernalillo County. It describes the model, its advantages and limitations, and the results of its application by Project staff on a trial basis. The model has four basic components corresponding to the "portals" through which mentally disabled offenders generally must pass to enter the mental health-justice system of Bernalillo County: (1) the Psychiatric Emergency Services of the University of New Mexico Mental Health Center (UNM/MHC); (2) the Bernalillo County Correction and Detention Center (BCDC); (3) the Psychiatric Services Unit (PSU) of BCDC; and (4) the Bernalillo County Metropolitan Court and its departments and allied agencies.



## A. INTRODUCTION TO THE MODEL

The purpose of PART ONE of this report is premised upon the common-sense notion that it is first necessary to fully understand a system and how it is structured and administered before it can be properly assessed and, if necessary, changed and improved. As will be noted in PART THREE, regardless of how useful and accurate the descriptions in PART ONE prove to be, the information needs to be updated fairly regularly. That is, the knowledge conveyed by the descriptions is not fixed and unchanging. What was known about the operation of a particular component of the systems responsible for mentally disabled offenders in Bernalillo County already may not be relevant today.

The next step in understanding comes from descriptive data about the mentally disabled offenders "processed" by these systems. How many come into contact with the various components of the justice, mental health, public safety, and social service systems in Bernalillo County during a specific period of time? Who are these individuals? What are their characteristics and needs? How are they dealt with by the systems? PART TWO attempts to address these questions. It describes the results of efforts to develop, identify, and test a monitoring and measurement model for assessing the nature and magnitude of the impact made by mentally disabled offenders on the justice, mental health, public safety, and social service systems in Bernalillo County.



It is important to emphasize that the overall goal of this study is to provide to the Committee and others in Bernalillo County a better understanding of and a plan of action for improving the structures, organizations, and operations of the various systems that routinely come in contact with mentally disabled offenders. While the results of the test of the monitoring and measurement model described in this Part provide answers to many heretofore unanswered questions, they do not provide ultimate answers and final solutions. These must be left, as a matter of necessity, to the Committee and the people of Bernalillo County. The results reported in this Part, together with the descriptions in PART ONE and the recommendations in PART THREE, do provide a common language, a basic reference, and a common understanding by which definitive answers, sound policies, and appropriate programs for mentally disabled offenders can be developed.

#### 1. Development of the Model

The development of the monitoring and measurement model began--based on the descriptions in PART ONE and, in part, on subsequent interviews with informed individuals in Bernalillo County--with the identification of all potential measurement points in the processes used to "handle" mentally disabled offenders in Bernalillo County. This first step entailed: (1) identifying all routine data collection done by the various components as described in PART ONE; (2) assessing the actual availability of the data collected to responsible potential users such as the members of the Committee (data collection procedures may be in place but data may be inaccessible for various reasons); and (3) assessing the data collection capacity for gaining more or better information about

mentally disabled offenders at every identified measurement point without the requirement of significant additional resources. This last qualification is an important one. No doubt, a legion of researchers with unlimited resources could satisfy every need to know. Bernalillo County has no such fortunes at its disposal. Consequently, the objective of this first step was to develop, test, and recommend a monitoring and measurement model that did not depend upon the indefinite continuation of this Project and its resources, but instead could be implemented by the Committee on an ongoing basis with few, if any, additional resources not already a part of the justice, mental health, public safety, and social service systems in Bernalillo County.

The second step in the development of the model was to evaluate the information that is (or easily can be) collected at each identified measurement point in terms of standards of accuracy, utility, propriety, and feasibility. Accuracy standards are related to the soundness of the data, including the validity and reliability of measurement, and the objectivity of reporting. Utility standards include benchmarks for guiding data collection in a manner that promises to be influential, timely, and informative. Propriety standards include factors that have relevance to the rights of persons described by the data including such factors as confidentiality, conflict of interest, public disclosure, informed consent, formal obligations to the responsible agency, balanced reporting of data, and fiscal responsibility. Finally, feasibility standards include factors related to the recognition that data collection, organization, analysis, and reporting consume valuable resources, including money and personnel time.

The third and final step in the development of the model was the application of the model and the description of the results. This step entailed acquiring routine data compiled and reported by the Bernalillo County Correction and Detention Center (BCDC), collecting data on the characteristics of inpatients at the Psychiatric Services Unit (PSU) of BCDC during three sample days, and collecting and analyzing data on all cases referred to the Psychiatric Emergency Services of UNM/MHC by law enforcement agents during the six-month period beginning January 1 and ending June 30, 1987. The results of these efforts are described in Sections B, C, D, and E of this Part.

## 2. Rationale for the Model

Most mentally disabled individuals in Bernalillo County who encounter the criminal and civil justice systems as the result of either criminal or non-criminal dangerous conduct are likely to have their first contact with these systems when they are apprehended by law enforcement officers. A complete monitoring and measurement model would include assessment of the frequency, nature, and results of these encounters, as well as information about the characteristics of the mentally disabled individuals encountered. Unfortunately, as noted in PART ONE, accurate data about suspected mentally disabled offenders at the point of law enforcement contact is not readily available, although the mechanisms for data collection exists, i.e., the routine use of the Offense and Incident Report by both the Albuquerque Police Department and the Bernalillo County Sheriff's Department. A review of 86 Offense and Incident Reports, sampled from the files of the Albuquerque Police Department in the Fall of 1986, revealed no information that might indicate the existence of data collected by police officers about mentally disabled

offenders that would meet minimum standards of accuracy and utility. Only six of the sampled reports contained information that indirectly suggested that the arrestee was mentally disabled. Although words such as "agitated" and "confused" were used, none of the officers' beliefs or suspicions that the individual might be mentally disabled were clearly recorded. This is not to say that police officers are insensitive to persons exhibiting mental disabilities, but instead only that such disabilities, when noticed, are not systematically documented as a matter of official record.

Similarly, data reported by the Bernalillo County Sheriff's Department on the Offense and Incident Report (identical, except for the title, to that used by the Albuquerque Police Department) and the "radio card" used by the Department's radio dispatcher (see PART ONE, Section A.2.) revealed no systematic collection of data about mentally disabled offenders which would meet minimum standards of accuracy and utility. (This is not to suggest that these data collection efforts could not be developed and improved, an issue addressed in PART THREE at RECOMMENDATION 8.)

Because the data currently collected by the two law enforcement agencies in Bernalillo County most likely to encounter mentally disabled offenders is currently incomplete, inaccurate, and therefore not usable, because such data collection by individuals and groups outside of these law enforcement agencies is not considered feasible, and, finally, because the development of data collection efforts by these agencies that would meet minimum standards of accuracy, feasibility, utility, and propriety would require further inquiry and development not currently

contemplated, the data collected at the point of contact of mentally disabled offenders with law enforcement agencies was not incorporated into the recommended monitoring and measurement model. For the purposes of developing a monitoring and measurement model that could be adopted and used today, we first know of a mentally disabled offender's contact with the justice, mental health, public safety, and social service systems in Bernalillo County as that individual becomes a resident of the Bernalillo County Correction and Detention Center (BCDC), a defendant in court, or a subject of emergency mental health evaluation by the crisis unit of the University of New Mexico Mental Health Center (UNM/MHC), and not before.

With the exception of law enforcement, the recommended monitoring and measurement model encompasses the other major components of the organized systems in Bernalillo County that regularly and routinely encounter mentally disabled offenders: the Bernalillo County Correction and Detention Center (BCDC), its Psychiatric Services Unit (PSU), the Bernalillo County Metropolitan Court and its Probation Services, the Forensic Evaluation Services (FES) of the University of New Mexico Mental Health Center (UNM/MHC), and the Psychiatric Emergency Services of UNM/MHC. The remainder of this Part describes the methods and results of data collected about mentally disabled offenders within each of these components, beginning with what is perhaps the most important "portal" through which mentally disabled offenders in Bernalillo County must pass, the Psychiatric Emergency Services of UNM/MHC. It also explores the inclusion of such data collection in the recommended monitoring and measurement model.

## B. THE MENTAL HEALTH SYSTEM PORTAL: THE CRISIS UNIT OF UNM/MHC

As discussed in PART ONE, the Psychiatric Emergency Services, the crisis unit of UNM/MHC, provides around-the-clock mental health evaluation and treatment services to any and all individuals or families experiencing mental health crises in Bernalillo County. It is the portal to the mental health-justice system in Bernalillo County through which mentally disabled persons who are believed to have committed non-criminal (albeit dangerous) acts almost invariably must pass to receive mental health services. It is also the second portal through which some mentally disabled offenders pass who have already entered through the other major portal for mentally disabled offenders, the Bernalillo County Correction and Detention Center and its Psychiatric Services Unit, described in the next section. This Section describes the methods and results of a six-month study of mentally disabled offenders making contact with the mental health system in Bernalillo County through the portal of the UNM/MHC Psychiatric Emergency Services. It concludes with some observations about the appropriateness of the data collection methods and results for the recommended monitoring and measurement model.

### 1. Methods

All referrals to the Psychiatric Emergency Services are noted on a form titled the "Crisis Daily Patient Record" completed by staff of the crisis unit. The form identifies each patient by name and hospital number, date and time of referral, referral source, diagnostic classification, and short-term disposition of the case. It is this form that served as the basis of the data collection effort.

Over a six-month period, beginning January 1 and ending June 30, 1987, descriptive data was acquired for all cases referred to the crisis unit by law enforcement agents or agencies. With some initial orientation to the abbreviations and codes used, and a minimal amount of ongoing guidance from crisis unit administrative personnel, Project staff recorded most of the information about law enforcement-referred cases available on the "Crisis Daily Patient Record," including name of the patient, sex (guessed on the basis of the patient's first name), hospital number (indicating whether the patient was a new admission or a readmission), the date and time of the patient's referral, the referral source, the primary diagnostic category in which the patient was placed, and the short-term disposition of the case. The data for each case was computer-coded by a Project staff member working on-site in Albuquerque on a part-time, temporary basis, transmitted to Project staff at the National Center for State Courts in Williamsburg, Virginia, entered into computer files, summarized, and analyzed.

## 2. Results

During the six-month period ending June 30, 1987, a total of 3,544 cases was referred to the UNM/MHC Psychiatric Emergency Services. As indicated in Table 1, 8.6 percent (303) of these cases were referred by law enforcement agents or agencies. The rate of case-referrals by law enforcement agents or agencies was relatively stable over the six-month period, ranging from a low of 43 cases in February to a high of 58 cases in March. An analysis of the times of referral revealed that 37.6 percent (114) of the law enforcement referrals were made between noon and

6:00 p.m., 28.7 percent (87) between 6:00 p.m. and midnight, 19.8 percent (60) between 6:00 a.m. and noon, and 11.9 percent (36) between midnight and 6:00 a.m. The great majority of the cases, 86.8 percent (263), were referred to the crisis unit on weekdays.

Most of the 303 cases referred by law enforcement agencies, 44.6 percent (135), were referred by the Albuquerque Police Department. The Bernalillo County Sheriff's Department accounted for only 9.6 percent (29) of the referrals and the Office of the District Attorney accounted for 11.9 percent (36). Most, if not all, of the referrals in the latter two categories were made pursuant to involuntary civil commitment of the patients. The Bernalillo County Correction and Detention Center (BCDC) referred a total of 39 (12.9 percent) cases. Finally, 63 (20.8 percent) were referred by other law enforcement agents or agencies including, for example, the New Mexico State Police, the University of New Mexico Campus Police, police departments outside of Albuquerque, sheriffs' departments outside of Bernalillo County, probation officers, parole officers, and jail personnel other than those from BCDC.

Table 2 presents cases referred to the Psychiatric Emergency Services according to referral source, patient status, and sex of patient.

(Totals noted in Table 2 for referrals may differ from those reported in the preceding paragraph because of missing data about patient status and sex in some cases.) Interestingly, a comparison of referrals of new cases with cases referred to UNM/MHC at least once before, revealed that



Table 1

Cases Referred to the UNM/MHC Psychiatric Emergency Services by Law Enforcement Agents During the Six-Month Period Beginning January 1, 1987 and Ending June 30, 1987

Month	Total	Law Enforcement Referrals	Percent of Total
January	574	48	8.4
February	545	43	7.9
March	624	58	9.3
April	545	50	9.2
May	663	51	7.7
June	593	53	8.9
Total	3544	303	8.6

Table 2

Psychiatric Emergency Services (UNM/MHC) Cases According to Referral Source, Patient Status, and Sex of Patient

Referral	Patient Status		Sex	
	New	Old	Male	Female
Police <sup>1</sup>	40	91	70	61
Sheriff <sup>2</sup>	9	19	17	12
Dist. Atty. <sup>3</sup>	7	27	18	21
BCDC <sup>4</sup>	11	23	26	10
Other <sup>5</sup>	18	38	39	23
Total	85	199	171	127

<sup>1</sup> Albuquerque Police Department

<sup>2</sup> Bernalillo County Sheriff's Department

<sup>3</sup> Office of the District Attorney

<sup>4</sup> Bernalillo County Correction and Detention Center

<sup>5</sup> All Other Public Safety-Related Agencies and Departments

old cases outnumber new cases more than two-to-one. Out of a total of 284 of the 303 law enforcement referrals for which a distinction could be made, 65.7 percent (199) were cases already once referred to UNM/MHC and only 28.1 percent (85) constituted new patients. The overall proportion of new and old cases is maintained consistently within each category (i.e., "old" patients outnumbering new patients more than two-to-one in each of the referral categories). This finding may, however, be an artifact of the method by which the distinction between new and old patients was made. Any referral that was assigned an out-of-sequence hospital number lower than the numbers currently assigned was considered an old case under the assumption that the out-of-sequence number was the assigned number given to the individual for a prior referral to the UNM/MHC system. Only if this method indeed accurately distinguishes between old and new patients, and we had every reason to believe that it did, can the finding that approximately two-thirds of the referrals are old patients be considered reliable.

Out of a total of 297 cases for which data were available, 56.4 percent (171) were male and 41.9 percent (127) were female. Males outnumbered females in each referral category except the Office of the District Attorney, which referred three more females during the six-month period.

Table 3 summarizes the cases referred to the UNM/MHC Psychiatric Emergency Services by law enforcement agents according to the diagnostic classification of the case made by the crisis unit. In a total of 110 cases (36.3 percent), no diagnostic judgments were reported on the "Crisis Daily Patient Record" and, therefore, no diagnostic data were available. Reportedly, the cases for which no five-digit DSM-III

classification was recorded were either new patients or old patients out of the system long enough to require a new diagnosis. Among those for whom diagnostic judgments were made, most were diagnosed as having psychotic disorders, including schizophrenia and paranoid disorders. Generally speaking, a psychosis is a major mental disorder in which an individual's ability to think, interpret reality, recall past events, communicate, and respond emotionally and appropriately is impaired so as to interfere substantially with the individual's capacity to meet the ordinary demands of life.

Table 3

Major DSM-III<sup>1</sup> Diagnostic Classifications of Cases Referred to the UNM/MHC Psychiatric Emergency Services by Law Enforcement Agents During the Six-Month Period Beginning January 1, 1987 and Ending June 30, 1987

Diagnostic Category <sup>2</sup>	Frequency	Percent
Psychotic Disorders	65	21.5
Organic Disorders	17	5.6
Affective Disorders	36	11.9
Developmental Disorders <sup>3</sup>	5	1.7
Substance Abuse Disorders	30	9.9
Impulse or Adjustment Disorders	28	9.2
Anxiety or Personality Disorders	12	4.0
No Diagnosis	110	36.3

<sup>1</sup> Diagnostic and Statistical Manual of Mental Disorders, Third Edition, published by the American Psychiatric Association in 1980.

<sup>2</sup> Presumably, these diagnostic classifications are based on the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (3rd ed.) (DSM-III), published in 1980. This is the predecessor of the Diagnostic and Statistical Manual of Mental Disorders (3rd ed.-Rev.) (DSM-III-R) published earlier this year.

<sup>3</sup> Disorders usually first evident in infancy, childhood, or adolescence.

Thirty-six persons referred to the crisis unit were diagnosed as having affective disorders including bipolar disorders (popularly known as manic depression) and major depression. Generally speaking, affective disorders are disturbances of mood (depression or elation) not due to any other physical or mental disorder. The next major diagnostic category represented by the law enforcement referrals was substance abuse disorders followed by impulse or adjustment disorders. Less than 20 cases were classified in each of the following diagnostic categories: organic disorders (17), anxiety or personality disorders (12), and developmental disorders (5).

Table 4 shows the disposition of cases referred to the crisis unit in seven categories. A total of 109 referrals (36.0 percent) resulted in compulsory hospitalization by means of involuntary civil commitment. A total of 73 cases (24.1 percent) was handled by means of "other" dispositions, a figure inflated by cases for which disposition data was not reported. Other dispositions included, for example, referrals to the University of New Mexico Medical Center Emergency Room, the Oklahoma Human Services, Pediatric Family Counseling, Family and Children's Services, Programs for Children, Victims of Domestic Violence, Veteran's Administration Hospital, Drug Counseling Service, Public Health Services, New Day, Vista Santa, Juvenile Probation, UNM/MHC Adolescent Board, Family Institute, Santa Ranch Nursing Home, Sandoval County Mental Health Center, Child Guidance Center, and the Anger Control Clinic.

A total of 63 cases (20.8 percent) was referred to one of the outpatient clinics operated by UNM/MHC (Central Cities, Northwest Valley, Southwest Valley, and Heights). The next most represented dispositional

Table 4

Disposition of Cases Referred to the UNM/MHC Psychiatric Emergency Services by Law Enforcement Agents During the Six-Month Period Beginning January 1, 1987 and Ending June 30, 1987

Disposition	Frequency	Percent
Involuntary Commitment	109	36.0
Voluntary Admission	22	7.3
Outpatient Clinics	63	20.8
Shelters	4	1.3
Alcohol Treatment Programs	15	5.0
Protective Custody (BCDC)	17	5.6
Other <sup>1</sup>	73	24.1
Total	303	100.0

<sup>1</sup> Including cases with missing data.

category was voluntary admission to the UNM/MHC inpatient facilities, followed by placement of the patient under protective custody in the Bernalillo County Correction and Detention Center, alcohol treatment programs, and shelters.

Finally, Table 5 summarizes the disposition of cases referred to the Psychiatric Emergency Services according to the major DSM-III diagnostic categories. Most of the patients diagnosed as having psychotic, organic, or affective disorders were admitted to UNM/MHC as involuntary patients, which is consistent with the general approach used throughout

Table 5

Disposition of Psychiatric Emergency Services (UNM/MHC) Cases According to Major DSM-III<sup>1</sup> Diagnostic Categories

Diagnostic Category	UNM/MHC Admission		Outpatient Clinics	Alcohol Treatment Program	Protective Custody <sup>2</sup>	Other	Total
	Involuntary	Voluntary					
Psychotic Disorders <sup>3</sup>	44	7	3			11	65
Organic Disorders	11		1	1	2	2	17
Affective Disorders	22	3	6		1	4	36
Developmental Disorders <sup>4</sup>	1				1	3	5
Impulse or Adjustment Disorders	1	2	15	1	1	8	28
Substance Abuse Disorders	9	2		6	3	10	30
Other <sup>5</sup>		1	4		1	6	12

<sup>1</sup> Diagnostic and Statistical Manual of Mental Disorders, Third Edition, published by the American Psychiatric Association in 1980.

<sup>2</sup> Bernalillo County Correction and Detention Center.

<sup>3</sup> Including three major categories: schizophrenic disorders, paranoid disorders, and other psychotic disorders "not elsewhere classified."

<sup>4</sup> Disorders usually first evident in infancy, childhood, or adolescence.

<sup>5</sup> Including anxiety disorders, personality disorders, other unspecified mental disorders or disorders not attributable to mental disorder, and cases with missing data.

the country of limiting involuntary civil commitment procedures to persons exhibiting organic brain syndromes, psychosis, and major affective disorders (Sadoff, 1987). Not surprisingly, a significant proportion of patients with substance abuse disorders were admitted as involuntary patients, which may be due to the fact that these patients may have also been suffering from substance-induced organic mental disorders or psychosis. Patients diagnosed as having developmental disorders or impulse or adjustment disorders were more prone to be referred to outpatient clinics or other programs. One patient diagnosed as having developmental disorders and one diagnosed as having impulse or adjustment disorders were involuntarily committed to the inpatient program of UNM/MHC. The referrals for the three patients diagnosed as having developmental disorders in the "other" category were the Oklahoma Human Services, Pediatric Family Counseling, and "Ob-Gyn." Other programs to which the eight patients diagnosed as having impulse or adjustment disorders were referred included the Child Guidance Center, the Program for Children, the Public Health Services, Family and Children's Services, and the Turquoise Lodge.

### 3. Discussion

The methods described in this Section for acquiring, organizing, and analyzing the cases referred to the UNM/MHC Psychiatric Emergency Services by law enforcement agencies serve as the centerpiece of the monitoring and measurement model recommended to the Committee (see PART THREE). The results reported in this Section, though flawed by missing

and incomplete data, are sufficiently accurate and meaningful to suggest the utility of the methods. Although one may question whether UNM/MHC personnels' assessments and judgments about mentally disabled offenders reported in the "Crisis Daily Patient Record" are indeed valid and reliable, there is little doubt that the data accurately reflect the assessments and judgments actually made, as well as the dispositions made on the basis of those assessments and judgments. Given the fact that the crisis unit staff members who recorded the data on the "Crisis Daily Patient Record" were not the individuals creating the data, were those data faithfully reported? Interviews with staff of the Psychiatric Emergency Services suggest that the data reported on the "Crisis Daily Patient Record" accurately describe the characteristics of mentally disabled offenders referred to the crisis unit as well as the unit's handling of the cases.

In terms of their replicability, the methods used to acquire the data reported in this section rank high on standards of propriety and feasibility. The "Crisis Daily Patient Record" was accessible to Project staff without the requirement of individual informed consent and without the imposition of onerous (in the opinion of the authors) burdens on the clinical and administrative staff of UNM/MHC. Replicating the procedures described in this Section should consume no more than two or three minutes per case, or no more than three hours per month, including approximately an hour or two of time contributed by UNM/MHC personnel for orienting an agent of the Committee to the "Crisis Daily Patient Record."

The reliability of the data gathered from the "Crisis Daily Patient Record," measured in terms of reliability between two independent recorders or raters, was well within acceptable ranges. To check



reliability, a researcher other than the Project staff member primarily responsible for data collection in Albuquerque, repeated the coding of all law enforcement-referred entries in the "Crisis Daily Patient Record" during the period from March 1 to March 15, 1987. The secondary identified 31 mentally disabled offenders, one less than the primary rater. The discrepancy was due to the unfamiliarity of the second rater with two entries referring to police departments outside of Bernalillo County and one transcription error by the primary rater. The first error obviously can be avoided by an increased familiarity with the codes, abbreviations, and shorthand used in the "Crisis Daily Patient Record." Some transcription errors are, obviously, unavoidable.

To further check inter-rater reliability, the coding of three variables--referral source, disposition, and DSM-III diagnostic classification--was checked for the 30 cases identified by both the primary and secondary rater. The primary and secondary raters agreed on 89 of the 90 codes, indicating high reliability. Again, the single discrepancy was the result of a simple transcription error.

### C. MENTALLY DISABLED OFFENDERS IN JAIL

Throughout the country, jails generally are not viewed as major providers of mental health services. Nevertheless, the available data on prevalence rates of severe mental disorders in local jails clearly suggest that mentally disabled detainees in local jails constitute a significant population in need of mental health services (Steadman, McCarty, & Morrissey, 1986). Bernalillo County is no exception. This Section describes the mental health services provided to residents of the Bernalillo County Correction and Detention Center (BCDC) by its Psychiatric Services Unit (PSU) on an "outpatient" basis in the general inmate population as well as within PSU's inpatient unit (see PART ONE for a description of BCDC and PSU).

#### 1. General Inmate Population

Table 6 summarizes the caseload of PSU in the general inmate population and in its inpatient unit during the fiscal year (FY) ending June 30, 1986, and the fiscal year ending June 30, 1987. During FY 1986, PSU treated 1,190 residents in the general population on an outpatient basis and 441 residents on an inpatient basis. During FY 1987, comparable figures were 888 and 405, respectively, representing a 25 percent drop in outpatient treatment and an eight percent drop in inpatient treatment. These figures do not account for double counting of individuals who may have been arrested, released, rearrested, and seen more than once by PSU staff. Given the proportion of readmissions as compared to new admissions to the Psychiatric Emergency Services of UNM/MHC, it is highly likely that the numbers of mentally disabled offenders treated by PSU in fact comprises significantly fewer than the

Table 6

Bernalillo County Correction and Detention Center (BCDC), Psychiatric Services Unit (PSU), Annual Report Caseload Summaries for Fiscal Years (FY) 1986 and 1987

Category	FY 1986	FY 1987
<b>General Population</b>		
a. Total Number of Screening Visits Only	1,252	1,286
b. Total Number of Hours Consumed Screening	914	948
c. Total Number of Treatment Visits	3,710	2,785
d. Total Number of Visits (a & c)	4,962	4,071
e. Average Number of Daily Visits	18.6	11.3
f. Total Number of Residents Treated	1,190	888
<b>Psychiatric Inpatient Unit</b>		
g. Average Daily Census	19.5	17.2
h. Total Number of Residents Treated	441	405
<b>General Population and Inpatient Unit</b>		
i. Number of New Intakes	407	287
j. Number of Reopened Charts	1,082	935
k. Number of Screening Visits (a)	1,252	1,286
l. Total Number of Residents Seen (i, j, & k)	2,741	2,508

1,190 different individuals reportedly treated in FY 1986 and the 888 treated in FY 1987. A total number of 1,252 "screening visits" and 3,710 "treatment visits" made up the combined total of 4,962 contacts PSU made

with BCDC residents in FY 1986. Comparable figures for FY 1987 were 1,286, and 2,785 (a significant drop), and a total of 4,071.

It should be noted that these figures do not include individuals brought to BCDC under protective custody (a total of 679 in 1986). Individuals under protective custody are not served by PSU and therefore are not reflected in the annual report caseload summaries in Table 6. The prevalence and severity of mental disabilities exhibited by this group, as well as their needs for services, are not well known. Ideally, an assessment of mental health needs of this group should be made to allow definitive conclusions about the magnitude of the problem presented by mentally disabled offenders in Bernalillo County.

As services are provided by PSU, whether during intake in the booking area or later during the residents' stay in BCDC (the average length of stay during the fiscal year ending June 30, 1986 was 16 days), "logs" of services are created by PSU staff. These logs are compiled into monthly, quarterly, and annual reports. Table 6 provides the annual report caseload summaries of these logs. Unfortunately, for the purposes of this report and the needs of the Committee, the annual reports summarized in Table 6 tell only an incomplete story. They focus on the workload of PSU (which understandably is of primary interest to BCDC and to UNM/MHC which administers PSU), instead of the nature (type and severity) and magnitude (prevalence rates) of mental disabilities among residents of BCDC (which is a focus of interest among those who seek alternative ways to deliver jail mental health services and the comparative advantages and disadvantages of those alternatives). For example, it is only of limited interest to know that the average number of daily treatment visits in FY

1986 was 18.6 which dropped to 11.3 in FY 1987, especially when these figures do not seem to jibe with the number of screening visits, number of treatment visits, or the reported total number of residents "seen." Except by inference to the number of residents treated on an inpatient basis within PSU compared to those treated within the general inmate population, little can be gleaned from the aggregate data in Table 6 about the prevalence rates of severe mental disorders in the jail.

On the other hand, the caseload data summarized in Table 6 are infinitely superior to no data at all. Given the general difficulty of obtaining data about jail mental health services (Steadman, McCarty, & Morrissey, 1986), the importance of these data (notwithstanding their incompleteness and limited utility) should not be diminished. The staff of BCDC, and its PSU, should be commended for collecting these data and making them available to the Project staff. From the data in Table 6, we know, for example, that a little more than 400 residents in BCDC exhibited mental disorders of sufficient severity to require inpatient hospitalization within PSU. Further, we know that more than double this number exhibited mental disorders requiring PSU intervention within the general inmate population on an outpatient basis. The total of 2,741 residents in FY 1986 and 2,508 in FY 1987 "seen" by PSU on an inpatient or outpatient basis (notwithstanding the problem of double-counting noted above) is a significant figure, especially in view of the fact that a PSU spokesperson estimated that the great majority of residents "seen" by PSU go back to the streets with little or no known follow-up mental health treatment or care.

The likely availability of the aggregate data in the future (assuming the imprimatur of the Committee) reported in Table 6, and the existence

of the mechanisms within BCDC to compile these data on a routine basis, augurs well for generating data in the future that might be even more responsive to addressing questions regarding the nature and magnitude of severe mental disorders exhibited by the jail population. (See PART THREE at RECOMMENDATION 10 for further discussion of this issue.) The data in Table 6 do suggest the general contours of the size of the jail population exhibiting severe mental disorders. Even in its present form, the annual caseload summaries of mental health services provided to the jail population by PSU is an important component of the recommended monitoring and measurement model.

## 2. Jail Inpatients

As noted in Table 6 above, 441 (FY 1986) and 405 (FY 1987) BCDC residents were treated in the Psychiatric Services Unit (PSU) as inpatients. The average daily censuses in PSU during the same two years were 19.5 and 17.2 patients, respectively. This Section provides a "snapshot" of the inpatients in PSU. Table 7 summarizes the characteristics of residents in PSU on three days: May 11, 20, and 22, 1987. PSU housed 22 inpatients on the first sample day, 20 on the second day, and 19 on the third, constituting the total of 27 inpatients described in Table 7.

All 27 inpatients were male. (As discussed in PART ONE, PSU counselors make routine rounds in the womens' area of BCDC and provide ongoing counseling to female residents on an outpatient basis. In some cases, female residents may be transferred to UNM/MHC for inpatient mental health treatment if deemed appropriate by the PSU psychiatrists.) The average age of the PSU inpatients was 35.1 years with the youngest being 20 and the oldest 54 years of age. Criminal charges ranged from

Table 7

Characteristics of Residents in the Psychiatric Services Unit (PSU) of the Bernalillo County Correction and Detention Center (BCDC) on May 11, 20, and 22, 1987.

Patient	Age	Ethnicity	Date of Arrest	Charge(s)	Diagnosis
1	27	Caucasian	12/01/86	Aggravated Burglary Assault with a Deadly Weapon Residential/Commercial Burglary	Bipolar Disorder
2	22	Caucasian	12/12/86	Robbery	Atypical Psychosis
3	22	American Indian	04/05/87	Failure to Comply with Conditions of Probation Aggravated Battery	Bipolar Disorder
4	54	Caucasian	05/01/86	Murder	Major Depression Psychotic Features
5	26	Caucasian	01/22/87	Aggravated Assault with a Deadly Weapon Disorderly Conduct	Bipolar Disorder Alcoholism
6	39	Hispanic	05/06/87	Parole Violation	Schizophrenic Disorder
7	20	Black	12/09/86	Assault with Intent to Commit a Violent Felony Auto Burglary	Bipolar Disorder
8	45	Hispanic	03/06/87	No Known Charge Held at PSU for Court Appearance	Bipolar Disorder
9	30	Hispanic	03/19/87	Conspiracy to Commit Felony Kidnapping with Great Bodily Harm	Major Depression Psychotic Features
10	28	Hispanic	02/01/87	Failure to Appear	Bipolar Disorder
11	28	Hispanic	02/06/87	Failure to Comply with Conditions of Probation Breaking and Entering Attempt to Receive Stolen Property	Atypical Psychosis

Table 7 (continued)

Patient	Age	Ethnicity	Date of Arrest	Charge(s)	Diagnosis
12	33	Hispanic	04/24/87	First Degree Murder	Bipolar Disorder
13	39	Hispanic	04/17/87	Failure to Appear Drinking in Public Aggravated Assault	Schizophrenic Disorders
14	40	Hispanic	01/31/87	Disorderly Conduct Failure to Appear Aggravated Burglary	Bipolar Disorder
15	43	Hispanic	05/06/87	Breaking and Entering	Bipolar Disorder
16	31	Hispanic	05/09/87	Disorderly Conduct Refusal to Obey	Atypical Psychosis
17	24	Black	05/01/87	Held at PSU for Court Appearance Receiving Stolen Property (over \$100)	Schizophrenic Disorders
18	38	Black	05/08/87	Refusing to Obey a Police Officer Criminal Trespass	Schizophrenic Disorders
19	42	Black	06/30/86	Held at PSU for Court Appearance	Bipolar Disorder
20	47	Hispanic	04/30/87	Aggravated Battery DWI	Major Depression
21	54	Caucasian	05/18/87	Criminal Sexual Penetration (5 counts) Kidnapping Contributing to Delinquency of a Minor	Alcoholism Withdrawal Delerium



Table 7 (continued)

Patient	Age	Ethnicity	Date of Arrest	Charge(s)	Diagnosis
22	40	Caucasian	05/15/87	Aggravated Assault Aggravated Assault on a Police Officer	Bipolar Disorders
23	44	Hispanic	03/24/87	Public Nuisance Disorderly Conduct Aggravated Assault	Bipolar Disorder
24	31	Caucasian	05/12/87	Failure to Comply with Conditions of Probation Issuing Worthless Checks (3 counts)	Bipolar Disorder
25	35	Caucasian	04/15/87	Negligent Arson	Bipolar Disorder
26	39	Black	05/12/87	Failure to Comply with Conditions of Probation Distribution of a Controlled Substance	Atypical Psychosis
27	28	Caucasian	05/20/87	Falsely Obtaining Services	Atypical Psychosis

such minor crimes as public nuisance, disorderly conduct, and refusing to obey a police officer to first degree murder. (For two of the patients, the charges were not available.) Twelve of the residents were Hispanic, nine were Caucasian, five were Black, and one was an American Indian.

According to a PSU spokesperson, only four of the inpatients identified in Table 7 during the three sample days were jailed pending a proceeding in the Bernalillo County Metropolitan Court. Twenty-one residents, the great majority, were charged with offenses under the jurisdiction of the Second District Court. Two of the inpatients (Number 8 and Number 19 in Table 7) were transferred from the New Mexico penitentiary to be held in PSU pending court appearances, presumably in the Second District Court.

A total of 17 inpatients, almost two-thirds of the PSU residents during the three sample days, suffered from major affective disorders, either bipolar disorder (popularly known as manic depression) or major depression. Major affective disorders are serious disturbances of mood (depression or elation) not solely due to any other physical or mental disorder. Nine of the PSU residents were classified as having psychotic disorders, including five with atypical psychosis and four with schizophrenic disorders. Psychotic disorders are characterized by gross impairment in reality testing. Schizophrenia usually occurs before the age of 45, lasts for more than six months, and is characterized by serious deterioration from previous levels of functioning, hallucinations, delusions, "loose associations," inappropriate affect, and some disturbances in psychomotive behavior. Atypical psychosis is a residual category for persons who exhibit psychotic symptoms that do not

meet the criteria for any specific mental disorder. Two PSU residents suffered from alcoholism and two residents were given a dual diagnosis.

Because Table 7 presents only a "snapshot" of PSU inpatients on the three sample days, the "generalizability" of the data obtained in these three days is, of course, limited. One can only speculate whether the snapshot represents a true picture of PSU inpatients taken over a longer period of time.

From the perspective of a monitoring and measurement model, the snapshot approach has certain advantages, notwithstanding its speculative generalizability. First, the approach depicts a grossly drawn profile of PSU inpatients. We know, for example, that most of the PSU inpatients suffer from major affective disorders who, if left in the general inmate population, may pose suicide or security risks. Further, it may be (we cannot be sure), that most of the PSU inpatients are sentenced inmates instead of defendants awaiting trial, information that may assuage (if confirmed) the concern raised by some members of the Committee that mentally disabled defendants may be unduly detained in PSU.

Second, the snapshot is probably sensitive to gross changes in the composition of PSU inpatients. That is, a dramatic change in the seriousness of the charges or diagnoses of the PSU inpatients, for example, should be easily recognizable from successive snapshots. Third, the snapshot is an accurate representation of the characteristics of PSU inpatients as those characteristics are known to PSU staff. That is, regardless of whether the judgments and assessments upon which that knowledge is based are reliable (can be confirmed by others), the assessment and judgments are valid to the extent that PSU actions are based upon them.

Finally, and most importantly, obtaining the type of snapshot presented in Table 7 is feasible, though not guaranteed, in the future. At the present time, information about PSU inpatients is stored in individual patient files and, in part, in personal computer files accessible to PSU staff. Requirements for and concerns about confidentiality of records, security, and disruption of routine preclude free access to PSU inpatient information by outside researchers. Thus, relevant data must be accessed, compiled, and transmitted by authorized personnel. The limited requirements for time and resources imposed on PSU staff by the snapshots increases the probability that the snapshots could be obtained on a routine basis. For these reasons, the PSU "snapshots" are part of the recommended monitoring and measurement model.



#### D. MENTALLY DISABLED OFFENDERS IN COURT

In many jurisdictions throughout the country, many mentally disabled persons charged with minor crimes who ostensibly are referred by the courts for forensic mental health examinations for competency to stand trial are, in fact, referred for other reasons that have little to do with their fitness to stand trial per se. Judges and even defense attorneys may use the competency issue as a vehicle for "criminally" committing a defendant to a state hospital, some other treatment facility, or jail. As a result, a mentally disabled defendant may spend a considerable amount of time awaiting an evaluation of competency to stand trial or awaiting the results of the examination. An individual arrested on petty charges who (if convicted of those charges) would probably spend no more than a few days in jail, for example, may be denied bail and a speedy trial because the competency referral was used to hold the defendant for the benevolent purpose of providing some minimal mental health treatment or care that is otherwise unavailable. It is this concern, specifically that defendants under the jurisdiction of the Metro Court remain incarcerated awaiting competency evaluations longer than they would have had they pleaded guilty and served their time, that provided at least some of the impetus for the present study.

Table 8 presents the characteristics (age, sex, ethnicity, dates of arrest and evaluation, criminal charges, legal status, diagnosis, and recommendation) of 26 defendants referred by Metro Court for evaluations of competency to stand trial and convicted offenders referred by its Probation Department for presentence evaluations during the nine-month period beginning July 1, 1986 and ending March 31, 1987. All evaluations

were performed by the Forensic Evaluation Services (FES) of UNM/MHC (see PART ONE, Section D.). During the period in which the sample of 26 cases was drawn, 40 cases were referred to the Forensic Evaluation Services. Thus, the sample represents approximately two-thirds of the population of mentally disabled offenders whom Metro Court and its Probation Department believed may be in need of mental health intervention. The roughly one-third of the mentally disabled offenders referred for forensic mental health evaluation by Metro Court or by the Department of Probation that are not represented in Table 8 represented cases for which the court files were inaccessible\* or cases in which the offenders did not appear for scheduled appointments with FES.

Of the 26 mentally disabled offenders described in Table 8, 20 were referred by Metro Court for competency evaluations and six were referred by the Probation Department for "presentence" evaluations (see PART ONE). The individuals ranged in age from 19 to 59 and had an average age of 34. Twenty-one were male; five were female. Seventeen were Hispanic, eight were Caucasian, and one individual was of unknown ethnic origin. Most of the individuals were charged with relatively minor charges including driving while intoxicated, shoplifting, criminal trespass, and concealment of identification. The most serious charges included breaking and entering, battery, and simple battery. Ten of the offenders were in custody at the time of the evaluation; the remaining offenders were released to the community on their own recognizance, in the custody of a third party, after filing a bond, or under a suspended sentence with conditions imposed by the court (probation).

---

\* These files were not closed or confidential, but merely unavailable to the Project staff for review at the times of data collection.

Table 8

Characteristics of Defendants and Offenders Referred by Metropolitan Court for Evaluations of Competency to Stand Trial or by its Probation Department for Presentence Evaluations, July 1, 1986 - March 31, 1987

Defendant	Age	Sex	Ethnicity	Date of Arrest (A) and Evaluation (E)	Charge(s)	Legal Status	Diagnosis	Recommendation
1	34	Male	Hispanic	10/23/85 A 10/10/86 E	DWI Suspicion Possession of Open Container	Arraigned; ROR <sup>1</sup>	Schizophrenia (disorganized, polar)	Not Competent
2	23	Male	Caucasian	09/02/86 A 10/27/86 E	Concealment of a Deadly Weapon Resisting Arrest Disorderly Conduct Assault on Police Officer Reckless Driving Suspended Driver's License No Driver's License Criminal Damage to Property	In Custody <sup>2</sup>	Bipolar Disorder (manic, psychotic features) Organic Brain Syndrome (atypical or mixed)	Not Competent
3	59	Male	Caucasian	06/04/86 A 10/17/86 E	DWI No Insurance Open Container Obstructing Traffic Careless Driving	Arraigned; Bond <sup>3</sup>	Alcoholism (continuous) Bipolar Disorder (unspecified)	Competent
4	23	Male	Unknown	10/02/86 A 10/31/86 E	Refusing Order by Police Officer Disorderly Conduct	In Custody	Schizoaffective Disorder	Not Competent
5	24	Male	Hispanic	08/20/86 A 12/18/86 E	Simple Battery (Domestic)	Arraigned; Bond	Alcohol Abuse (continuous)	Competent
6	21	Male	Hispanic	09/06/86 A 12/17/86 E	Simple Battery	Arraigned; ROR	Transsexualism (homosexual)	Not Competent
7	22	Male	Hispanic	12/04/86 A 12/10/86 E	Assault on Police Officer Criminal Damage to Property	In Custody	Schizophrenia (paranoid, subchronic)	Not Competent
8	38	Male	Hispanic	10/27/86 A 12/31/86 E	Criminal Trespass Simple Battery Resisting Arrest Assault	Arraigned; ROR	Affective Disorder (nonspecific diagnosis)	Competent



Table 8 (continued)

Defendant	Age	Sex	Ethnicity	Date of Arrest (A) and Evaluation (E)	Charge(s)	Legal Status	Diagnosis	Recommendation
9	22	Male	Hispanic	12/02/86 A 03/12/87 E	Domestic Violence Resisting Arrest Assault on Police Officer	Arraigned; ROR to Third- Party Custody	Adjustment Disorder (conduct) Epilepsy	Not Competent
10	40	Female	Hispanic	10/10/86 A 01/21/87 E	DWI No Driver's License Failure to Keep Lookout	Arraigned; Bond	Substance Abuse Disorder	Competent
11	57	Male	Hispanic	10/12/86 A 02/26/87 E	Battery (Domestic Violence)	Arraigned; ROR or Bond	Dementia Alcohol Abuse (continuous)	Not Competent
12	29	Male	Hispanic	11/30/86 A  01/10/87 A 01/31/87 A 02/23/87 E	DWI Shoplifting No Driver's License No Registration Solvent Abuse	Arraigned; In Custody	Organic Brain Syndrome (atypical or mixed) Alcoholism (continuous)	Competent
13	48	Male	Hispanic	02/12/87 A 03/12/87 E	Breaking & Entering into Albuquerque Police Department	In Custody; Released- 10-Day Rule; Evaluated While Not In Custody	Bipolar Disorder (manic, in remission)	Competent
14	32	Male	Caucasian	02/24/87 A 03/02/87 E	Criminal Trespass	In Custody	No diagnosis	Not Competent
15	40	Female	Hispanic	02/19/87 A 03/20/87 E	Shoplifting Failure to Pay a Licensed Shopkeeper No Insurance Suspended License	Arraigned; Bond	Personality Disorder (atypical or mixed) Epilepsy	Competent
16	36	Female	Caucasian	02/09/87 A 03/12/87 E	Shoplifting (Petty Larceny) Possession of Stolen Credit Card Receiving Stolen Property	In Custody after Failure to Appear	Opioid Dependence (in remission) Major Depression (recurrent) Epilepsy	Competent

Table 8 (continued)

Defendant	Age	Sex	Ethnicity	Date of Arrest (A) and Evaluation (E)	Charge(s)	Legal Status	Diagnosis	Recommendation
17	34	Male	Caucasian	08/20/86 A 01/09/87 E	Negligent Use of Firearms No Proof of Financial Responsibility Expired License Obstructed License	Arraigned; Sentence Suspended; Violated Probation- DWI	Alcohol Abuse (continuous)	Probation
18	35	Female	Hispanic	06/14/86 A 11/11/86 E	DWI Suspended License No Seat Belt Open Container Obstructing Traffic	Arraigned; Guilty Sentence Suspended with Super- vised Proba- tion to include Alcohol Treatment & Psychological Counseling	Alcohol Abuse (in remission)	Probation
19	25	Male	Hispanic	10/30/86 A 03/26/87 E	Battery	Arraigned; Probation	Schizophrenia (undifferentiated, subchronic)	Probation
20	22	Male	Hispanic	12/13/86 A 03/31/87 E	Criminal Trespass Assault on Police Officer Disorderly Conduct Refusal to Obey Order of Police Officer	Arraigned; Six-month Jail Sentence Suspended with Condi- tional Probation to Alcohol Treatment Program	Alcohol Abuse (episodic) Personality Disorder (schizotypal)	Probation
21	19	Male	Hispanic	08/17/86 A 09/05/86 E	Assault on Police Officer	Arraigned; Bond	Bipolar Disorder (manic)	Competent
22	35	Male	Hispanic	A 09/04/86 E	Concealing ID Resisting Arrest	Arraigned; ROR to Third-Party Custody	Schizophrenia (residual, subchronic)	Probation

Table 8 (continued)

Defendant	Age	Sex	Ethnicity	Date of Arrest (A) and Evaluation (E)	Charge(s)	Legal Status	Diagnosis	Recommendation
23	47	Male	Caucasian	07/24/86 A 08/15/86 E	Resisting Arrest Obstructing Officer Simple Battery	In Custody until 9/10/86- Case Dropped	Schizophrenia (disorganized)	Not Competent
24	50	Male	Hispanic	07/28/86 A 08/21/86 E	Criminal Damage to Public Property Assault on Police Officer Resisting an Officer	Arraigned; In Custody	Schizophrenia (undifferentiated, chronic with acute exacerbation)	Not Competent
25	30	Male	Caucasian	08/04/86 A 08/12/86 E	Disorderly Conduct	Arraigned; In Custody	Schizophrenia (disorganized) Alcoholism	Not Competent
26	38	Female	Caucasian	07/18/86 A 07/29/86 E	DWI Failure to Maintain Lane No Driver's License	Arraigned; ROR	Alcohol Abuse Personality Disorder	Probation

<sup>1</sup> Defendant released on his or her own recognizance.

<sup>2</sup> Defendant incarcerated in the Bernalillo County Correction and Detention Center.

<sup>3</sup> Defendant released after paying the amount of bail set by the court.

Most of the 26 offenders referred for forensic mental health evaluations by the Metro Court or by the Probation Department were diagnosed by FES as having serious mental disorders. A total of eight individuals reportedly suffered from psychotic disorders including seven individuals with schizophrenia. Five suffered from major affective disorders, including bipolar disorder and major depression. Three had organic brain syndromes, including dementia. Three individuals exhibited personality disorders, one adjustment disorder, one psychosexual disorder, three convulsive disorders (epilepsy), and one individual was not diagnosed. Significantly, a total of 11 offenders exhibited substance abuse disorders with alcohol dependence or abuse being the most prevalent diagnosis. Finally, 10 individuals were given a dual diagnosis (e.g., alcoholism and bipolar disorder).

Of the 20 offenders referred for competency evaluations during the nine-month period, nine were determined by FES to be competent to stand trial; 11 were determined to be not fit to stand trial. Table 8 reveals no easily discernable relationship between diagnosis and competency determination.

From the perspective of a monitoring and measurement model, the method of describing mentally disabled offenders in the court discussed here has certain advantages and disadvantages. It is advantageous because it captures almost two-thirds of the population of mentally disabled offenders formally involved with Metro Court (undoubtedly there is a significant number of mentally disabled offenders who are not identified by the court's formal requests for forensic mental health evaluation). A question left unanswered, however, is whether those case

files inaccessible to the Project staff represent a group of mentally disabled offenders substantially different from those described in Table 8.

Similar to the "snapshot" approach used in gathering data about inpatients detained in BCDC, this approach draws a rough profile of the characteristics of mentally disabled offenders in Metro Court and is likely to be sensitive to gross changes in that profile. Also, the data are accurate representations of the characteristics of these individuals as seen by those responsible for actions based, at least in part, on those characteristics. If nothing else, the overall result of the application of this method, indicating with reasonable certainty that only about 40 mentally disabled offenders (approximately 60 on an annual basis) are recognized formally by Metro Court for it to order psychological evaluations, dispels the notion popular among many officials in Bernalillo County that the numbers are much larger. Given that the present study was intended, at least in part, to explore this notion, this simple result is significant.

The methods described in this Section have some disadvantages for the development of a model monitoring and measurement system. Even though the number, names, and dates of examination of all individuals referred by Metro Court and its Probation Department to FES easily can be ascertained from quarterly reports sent by FES to Metro Court, the characteristics of the mentally disabled offenders can only be known by reviewing individual court files. As noted earlier, some of the files were inaccessible. Referral lists available from Metro Court do not include a case number and, therefore, are difficult to match with the individual court files. Some time may be lost in matching defendant names with the proper files. In the future, this difficulty easily may be

overcome by indicating the court case numbers next to the names of the defendants in the referral list. (Reportedly, the Metro Court already may be implementing this procedure. This will facilitate the method of gathering data described in this Section should the Committee wish to use these methods as part of the recommended monitoring and measurement model.)

Another disadvantage of the method described in this Section is that it is difficult for someone unfamiliar with Metro Court files to locate specific information in those files (in some cases complete information may not be available even to someone familiar with court files). For example, in most cases, information about the legal status of a defendant (e.g., whether the defendant had been arraigned, was in custody, was released on his or her own recognizance or after securing bond, and so forth) could be found in the court files. As suggested by some of the missing data in Table 8, however, in some instances this information could not be discerned from the files. Often the case files indicate multiple arrest dates, though the information available also suggests that the competency or presentence examination was conducted subsequent to a particular arrest.

In short, acquiring the type of information contained in Table 8 may be time consuming--perhaps as much as an hour per case file--and requires the assistance of knowledgeable Metro Court personnel. The "costs" of implementing these methods are estimated to be at least 30 hours per year, assuming a yearly total of 60 cases referred by Metro Court or its Probation Department for forensic mental health examination and assuming approximately 30 minutes for review of each court file (an optimistic estimate).



#### E. SUMMARY OF MODEL AND PRELIMINARY RESULTS OF ITS APPLICATION

The model monitoring and measurement system described in the preceding sections has four basic components corresponding to the "portals" through which mentally disabled offenders generally must pass to enter the mental health-justice system in Bernalillo County: (1) the Psychiatric Emergency Services of the University of New Mexico Mental Health Center (UNM/MHC); (2) the Bernalillo County Correction and Detention Center (BCDC); (3) the Psychiatric Services Unit (PSU) of BCDC; and, finally, (4) the Bernalillo County Metropolitan (Metro) Court, its departments, and allied agencies. The component representing the Psychiatric Emergency Services of UNM/MHC, the primary mental health "portal," is the centerpiece of the model complemented by the other three components.

Component 1, described in Section B, entails gathering information about all cases referred to the UNM/MHC crisis unit by law enforcement agents and agencies. These data are drawn from the "Crisis Daily Patient Record" maintained on a routine basis by the crisis unit staff. This record is likely to be accessible to officials with a legitimate need for the information. These data balance interests in, and meet the minimum standards of, accuracy, utility, propriety, and feasibility.

Highlights of the application of the methods of Component 1 over the six-month period ending June 30, 1987 include the following results:

- o A total of 303 cases was referred to the UNM/MHC crisis unit by law enforcement agents and agencies over the six-month period, representing 8.6 percent of a total of 3,544 cases referred to the crisis unit.
- o Two-thirds of these referrals were former patients of UNM/MHC or one of its affiliated programs.



- o 56.4 percent of the referrals were males and 41.9 percent were females.
- o The Albuquerque Police Department made most of the referrals to the crisis unit, contributing almost one-half of the total; the Office of the District Attorney and the Sheriff's Department together accounted for about one-fifth of the referrals pursuant to involuntary civil commitment; BCDC referred 13 percent of the cases, and other law enforcement agents or agencies contributed 21 percent.
- o Most (62.0 percent) of the mentally disabled offenders referred to the crisis unit by law enforcement agents or agencies exhibited serious mental disorders including psychosis, organic brain syndrome, bipolar disorder, and major depression; a significant proportion (16.0 percent) of the referrals exhibited substance abuse disorders; 15.0 percent exhibited impulse or adjustment disorders; and only five cases (about 3 percent) exhibited developmental disabilities usually first evident in infancy, childhood, or adolescence.
- o Most of the law enforcement cases (36.0 percent) referred to the UNM/MHC crisis unit resulted in involuntary civil commitment of the referred individual; the next most frequent disposition was referral to one of the UNM/MHC outpatient clinics (20.8 percent), followed by voluntary admission to UNM/MHC inpatient facilities (7.3 percent), protective custody in BCDC (5.6 percent), alcohol treatment programs (5.0 percent), community shelters (1.3 percent), and a variety of other programs (24.1 percent).
- o Consistent with the general approach taken throughout the country of limiting involuntary civil commitment procedures to persons exhibiting serious mental disorders, most of the law enforcement referrals to UNM/MHC crisis unit who were admitted as involuntary inpatients were diagnosed as having psychotic, organic, or serious affective disorders.

Component 2 of the model monitoring and measurement system gauges the flow of mentally disabled offenders through the other primary "portal," the Bernalillo County Correction and Detention Center (BCDC), into the formal mental health-justice system in the County. This component relies, for the most part, on the annually reported caseload summaries made available by BCDC. Highlighted results of the application of this component include:

- o Totals of 1,190 and 888 residents in the general inmate population of BCDC during FY 1986 and FY 1987, respectively, were treated by the Psychiatric Services Unit (PSU) of BCDC.
- o Totals of 441 BCDC residents in FY 1986, and 405 residents in FY 1987, were treated on an inpatient basis in PSU; the average daily census of that unit was 19.5 in 1986 and 17.2 in 1987.

Component 3 of the model consists of "snapshots" taken of BCDC/PSU inpatients on arbitrarily selected days. The use of this technique on May 11, 20, and 22, 1987 produced the following highlighted results:

- o The average age of the 27 PSU inpatients during the three sample days was 35.1 years with the youngest being 20 and the oldest 54 years of age.
- o Criminal charges ranged from such minor crimes as public nuisance, disorderly conduct, and refusing to obey a police officer to first degree murder.
- o Twelve of the residents were Hispanic, nine were Caucasian, five were Black, and one was an American Indian.
- o Only four of the PSU inpatients were jailed pending a proceeding in Metro Court; the great majority (21) was charged with offenses under the jurisdiction of the Second District Court.
- o A total of 17 inpatients in PSU, almost two-thirds of the PSU residents during the three sample days, suffered from major affective disorders; nine were classified as having psychotic disorders; two residents suffered from alcoholism; and two residents were given a dual diagnosis.

The final component of the model monitoring and measurement system gauges the formal involvement of the Metro Court with mentally disabled offenders. It entails an assessment of all Metro Court referrals to the UNM/MHC Forensic Evaluation Services (FES) for forensic mental health evaluations of competency to stand trial and consideration of factors to be weighed with regard to sentencing. Techniques involve identification of cases from referral lists maintained by Metro Court and a review of

individual court files. Highlights of the results of the use of this component during the nine-month period ending March 31, 1987 include:

- o A total of 40 cases was referred to FES by Metro Court; among the study sample of 26 of these cases, 20 were referred for competency evaluations and six were referred for presentence evaluations.
- o Referrals ranged in age from 19 to 59 with an average age of 34 years; males outnumbered females four-to-one; Hispanics outnumbered all other ethnic groups two-to-one; most of the individuals were charged with relatively minor crimes including driving while intoxicated, shoplifting, criminal trespass, and concealment of identification; the most serious charges included breaking and entering, battery, and simple battery.
- o Ten of the offenders were in custody at the time of the examination; the remaining offenders were released to the community on their own recognizance, in the custody of a third party after filing a bond or under a suspended sentence with conditions imposed by the court (probation).
- o Most of the sample of 26 offenders referred for forensic mental health evaluations were diagnosed by FES as having serious mental disorders including eight individuals reportedly suffering from psychotic disorders, five from major affective disorders, and three from organic brain syndromes; a total of 11 offenders exhibited substance abuse disorders with alcohol dependence or abuse being the most prevalent diagnosis; finally, 10 individuals were given a dual diagnosis (e.g., alcoholism and bipolar disorder).
- o Of the 20 offenders referred for competency evaluations, nine were determined to be competent to stand trial by FES, and 11 were determined to be not fit to stand trial.

## PART THREE

### RECOMMENDATIONS

It is important to emphasize that this report is meant to be descriptive and not necessarily evaluative. That is, while the descriptions of the structures and operations in PART ONE and the results of the application of the model monitoring and measurement system reported in PART TWO certainly can be a basis of judgments regarding sufficiency and adequacy of program capacities, they cannot be the sole basis for judging the worth or the value of a program. For example, while one may conclude on the basis of this descriptive study that the capacity and resources of BCDC and the UNM/MHC crisis unit fall short of the need for treatment and care of the mentally disabled offenders in Bernalillo County (see below), no conclusions can be drawn about the quality, value, or worth of the treatment and care that are provided by these programs. Such program evaluation is not the intent of this study. It is, however, a shared enterprise that the members of the Committee should consider in the future. Indeed, some independent program evaluations have already been conducted and are available for review. For example, an audit team from the Commission on Accreditation for Corrections, assigned to assess BCDC's compliance with national mental health standards, determined the quality of care provided by BCDC to be outstanding.

Because the manner in which mentally disabled offenders are handled in Bernalillo County is, generally speaking, fragmented and uncoordinated, the recommendations in this Part encourage continuity and

better coordination of the processes administered by the various components of the justice, mental health, public safety, and social service systems. Further, the recommendations urge increased communication and cooperation among the individuals, agencies, and groups responsible for managing the processes and influencing their outcome. It is hoped that the results of the descriptive studies reported in PART ONE and PART TWO set the stage for this to occur.

The recommendations in this part are directed to the Committee on Mentally and Developmentally Disabled Offenders. The Committee is considered the initial change agent for the purposes of implementing the recommendations. When a specific action is recommended to be taken by a particular program, agency, group, or individual, an action that cannot be taken by the Committee itself, the recommendation is nonetheless directed to the Committee under the assumption that it would stimulate, encourage, influence, and shape that action.

RECOMMENDATION 1. THE ALBUQUERQUE COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS SHOULD BE MAINTAINED AND STRENGTHENED.

The existence of the Committee is demonstrable evidence of the concern for the plight of mentally disabled offenders in Bernalillo County. Even without action, the Committee stands as a symbol demonstrating that perceived problems have been publicly recognized and that action is forthcoming. More importantly, the Committee is the vehicle by which recommended solutions could be implemented. This report undoubtedly will gather dust without the Committee's impetus.

Meeting the needs of seriously mentally disabled persons is increasingly a community concern. As described in this report, the

handling of mentally disabled offenders involves a variety of agencies and groups in Bernalillo County. Apart from its function as a symbol of concern and as a stimulant to change, the Committee serves as an informal mechanism whereby the various components of the justice, mental health, public safety, and social service systems can address issues that cannot be addressed solely from the perspective of a single individual, discipline, group, or component of these systems. The Committee provides a unique forum for discussion of issues and concerns and cooperation in finding solutions in an informal atmosphere before the issues and concerns develop into intractable and formal disputes.

RECOMMENDATION 2. COMMITTEE MEMBERSHIP SHOULD INCLUDE REPRESENTATIVES OF SELF-HELP, MENTAL HEALTH SERVICES CONSUMER, AND ADVOCACY GROUPS.

The current membership of the Committee (the names and affiliations of the members of the Committee appear on Page iii of this report) includes representatives of the courts with jurisdiction over mentally disabled offenders, mental health inpatient facilities, community mental health centers, law enforcement agencies, social service agencies, local government (including elected officials), and others. Thus, the various justice, mental health, public safety, and social service systems in Bernalillo County and their components are well represented on the Committee. Absent from the Committee until shortly before this writing, however, were representatives of the very people who are served by these systems and those who advocate on their behalf, including ex-patient groups, consumer groups, self-help groups, family advocacy groups, elected officials, and others representing the interests of persons suffering from mental illness, mental retardation, and other mental disorders, disabilities, or handicaps. It makes eminent sense to include such groups in the membership of the Committee.

RECOMMENDATION 3. AN APPROPRIATE AGENCY OR GROUP, UNDER THE DIRECTION OF THE COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS, SHOULD PREPARE AND REGULARLY UPDATE A COMPREHENSIVE GUIDE TO MENTAL HEALTH AND RELATED SOCIAL SERVICES AVAILABLE TO MENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY.

The development and preparation of a guide to services available to mentally disabled offenders are important practical steps toward continuity and coordination of whatever services may be available in Bernalillo County. A number of directories, such as the one developed by United Way, are already available and should be relied upon during the development of the recommended guide. Importantly, such a guide will facilitate better communication and cooperation among those responsible for delivering these services. Law enforcement officers, jail personnel, attorneys, mental health personnel, social service workers, and others involved with mentally disabled offenders in Bernalillo County must have access to current information about available facilities, resources, and services if those services are to be appropriately used. For example, Albuquerque Police Department officers may, in some instances, dispose of a case informally by taking the apprehended person to an appropriate shelter facility or some other suitable place, but only if the officer knows that the individual will be accepted (see PART ONE, Section A.1.c.).

The recommended guide should be made available for use to all individuals and organizational units of the various components of the justice, mental health, public safety, and social service systems in Bernalillo County described in PART ONE. The guide should include, but not be limited to, the following types of information:

- (1) a complete listing of public, private, and non-profit mental health and social service resources potentially serving mentally

disabled offenders (including advocacy agencies, self-help groups, and legal service organizations), their locations, telephone numbers, and hours of operation;

- (2) admission or acceptance criteria, if applicable;
- (3) maximum and minimum lengths of stay, if applicable;
- (4) a short description of the types of treatment, care, and other services offered by each of the resources listed and the service capacity of each, including its staff and size (e.g., bed capacity), organizational structure (e.g., outpatient after-care service, shelter, boarding home, etc.), and the financial arrangements necessary for receiving services; and
- (5) a brief summary of the resource's history in providing services to mentally disabled persons who have become involved with the criminal or civil justice system in Bernalillo County or elsewhere.

The recommended guide should be updated regularly by an individual or group that has regular access to the services available to mentally disabled offenders in Bernalillo County. Ideally, the information contained in the guide should be based upon observation and direct experience with the services and resources listed, and not solely upon written descriptions or reports provided by the administrators or service providers. To prevent the guide from becoming too quickly outdated, it is important that its format be such (e.g., a loose-leaf binder) that the information contained in it can be expeditiously updated and communicated to all agencies, groups, and individuals responsible for mentally disabled offenders.



RECOMMENDATION 4. FURTHER RESEARCH AND EVALUATION OF THE FUNCTIONING AND OUTCOMES OF THE HANDLING OF MENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY SHOULD BE STRONGLY ENCOURAGED AND SUPPORTED BY THE COMMITTEE ON MENTALLY AND DEVELOPMENTALLY DISABLED OFFENDERS.

The accumulation of reliable and valid information and knowledge about the functioning and consequences of the processes used to handle mentally disabled offenders in Bernalillo County is impeded by the complex nature of those processes and the fragmentation of the components of the justice, mental health, public safety, and social service systems responsible for their administration. To the extent that the results of careful research and evaluation are made available for public knowledge and discussion, needed improvement could be facilitated.

The various components of the systems responsible for mentally disabled offenders can contribute to meaningful improvement by mobilizing their capacities for generating new information and knowledge about mentally disabled offenders in Bernalillo County. The purpose of RECOMMENDATION 4 is to open up to legitimate scrutiny the various processes and procedures for handling mentally disabled offenders and thereby provide an empirical basis for their improvement. Unfortunately, much of what is viewed as legitimate reform often is based not on sound empirical information but rather on beliefs, untested theories, and unfounded assertions. RECOMMENDATION 4 encourages the replacement of some of this dogma with data.

One role of the Committee may be to encourage and support research and systematic program evaluation by individuals and groups in Bernalillo County and throughout the State of New Mexico with interest in mentally disabled offenders. For example, university-based researchers, with the

encouragement and the imprimatur of the Committee, may take an interest in creating new knowledge about mentally disabled offenders in Bernalillo County. It is important to emphasize that the recommended research and program evaluation need not be sophisticated to produce valuable results. Research can take various forms. Careful descriptive studies, for example, need to be conducted. Even though one would hope that the descriptive study reported in PART ONE of this report remains useful for some appreciable time, such research needs to be updated fairly regularly. Also, the recommended monitoring and measurement model needs refinement and expansion, an issue addressed by RECOMMENDATION 5.

RECOMMENDATION 5. A MODEL MONITORING AND MEASUREMENT SYSTEM FOR ASSESSING THE CHARACTERISTICS OF MENTALLY DISABLED OFFENDERS AND THEIR HANDLING IN BERNALILLO COUNTY SHOULD BE IMPLEMENTED ON AN ONGOING BASIS.

This recommendation is, for the most part, self-explanatory. The advantages and disadvantages of the four primary components of a model monitoring and measurement system are described in PART TWO of this report. The first step in the implementation of such a model is recommended next.

RECOMMENDATION 6. THE INITIAL STEP TAKEN IN THE IMPLEMENTATION OF A MODEL MONITORING AND MEASUREMENT SYSTEM SHOULD BE ESTIMATING THE NUMBER OF MENTALLY DISABLED AND DEVELOPMENTALLY DISABLED OFFENDERS IN BERNALILLO COUNTY.

It is doubtful that any social problem will be addressed meaningfully until the magnitude of the problem is known. Given the fragmentation of the systems with responsibility for mentally disabled offenders in Bernalillo County, an actual "head count" would not be feasible, if not impossible. However, if certain assumptions are made, a workable

estimate may be developed. Table 9 recommends five data elements for the development of such an estimate. The elements represent the two primary "portals" in Bernalillo County--BCDC and the crisis unit of UNM/MHC--through which most mentally disabled offenders enter the mental health-justice system of the County.

Table 9

Recommended Data Elements for the Development of Estimates  
of Mentally Disordered and Developmentally Disabled Offenders  
in Bernalillo County

Data Elements	Incidence/Number/Year
(1) UNM/MHC Crisis Patients	300
(2) BCDC/PSU Inpatients	400 <sup>1</sup>
(3) BCDC/PSU Outpatients	1,000 <sup>1</sup>
(4) BCDC Suicide Unit Residents	180
(5) BCDC Protective Custody Residents	<u>700</u>
Uncorrected Total	2,580

<sup>1</sup> Number includes recurrences (readmissions and follow-up outpatient episodes) with same individual.

The first element represents the estimated number of individuals per year referred to the UNM/MHC Psychiatric Emergency Services by law enforcement agencies. This estimate is based upon the approximately 600 law enforcement-referred cases brought to the attention of the crisis unit (see Table 1 in PART TWO) minus the repeat cases or readmissions per

year. The next three elements refer to the mentally disabled offenders in BCDC: "inpatient" admissions to the Psychiatric Services Unit of BCDC, "outpatients" treated by PSU in the general inmate population, the number of residents treated in the BCDC suicide unit, and the number of residents in BCDC under protective custody.

Estimates of BCDC/PSU inpatients and outpatients--400 and 1,000 respectively--are based on FY 1986 and FY 1987 annual report caseload summaries reported in Table 6, PART TWO. Unlike the estimated numbers of UNM/MHC crisis patients and residents in protective custody in BCDC shown in Table 9, the estimated numbers of mentally disabled offenders in BCDC for the second and third elements overestimate the actual number of mentally disabled offenders by the proportion of cases that are readmissions or recurrences. As noted in the text accompanying Table 6 in PART TWO, these figures are not corrected for recurrences; that is, they do not account for double-counting of offenders who may have been arrested, released, rearrested, and seen more than once by PSU staff. Given the fact that at least half of the admissions to the Psychiatric Emergency Services of UNM/MHC are readmissions, it is highly likely that the number of mentally disabled offenders treated by PSU in fact comprises fewer than that shown in Table 9.

The estimate of the number of residents in the BCDC Suicide Unit was based on the figure of 178 residents, both men and women, on suicide "watch" in FY 1987 as reported by a BCDC spokesperson. Reportedly, the FY 1987 figure represents actual individuals and does not include recurrent patients or readmissions. According to a BCDC spokesperson, daily counts of residents on suicide "watch" are maintained by BCDC.

In addition to possible overestimation of the actual number of mentally disabled offenders in Bernalillo County due to unaccounted readmissions and recurrences, the uncorrected total may also overestimate the actual number of mentally disabled offenders in Bernalillo County by a factor equal to the proportion of offenders who make their way through both "portals" in a single year and hence are represented at least twice in the total. Though the history of prior hospital admissions of arrestees and history of arrests of crisis unit patients are not known, it is highly likely that many of the mental patients have a history of arrests.

The estimate representing the last data element in Table 9 is based upon the FY 1987 figure of 679 protective custody cases handled by BCDC. It includes persons taken into protective custody because of suspected mental disability and those suspected of alcohol or other drug abuse. Estimates of the proportion of mentally disabled persons represented in the population of the persons taken into protective custody range from 10% to 50%. Absent reliable data, BCDC spokespersons appropriately cautioned against reliance on these estimates.

RECOMMENDATION 6 urges the Committee on Mentally and Developmentally Disabled Offenders, as a first step in the implementation of a monitoring and measurement model, to calibrate the estimates shown in Table 9 up or down by altering the assumptions suggested above, as may be appropriate, and substituting alternative estimates for those in Table 9. For the present, a total of 2,580 mentally disabled offenders in Bernalillo County is offered as the best available estimate.

RECOMMENDATION 7. TRAINING PROGRAMS AND MATERIALS DEVOTED TO IDENTIFICATION AND APPROPRIATE HANDLING OF MENTALLY DISABLED PERSONS SHOULD BE DEVELOPED AND PROVIDED TO OFFICERS OF THE ALBUQUERQUE POLICE DEPARTMENT AND THE BERNALILLO COUNTY SHERIFF'S DEPARTMENT.

Law enforcement officers are often the first to make contact with mentally disabled individuals in the community. The identification of, and responses to, mentally disabled persons and the necessary interaction with mental health and social service providers present special problems for law enforcement officers. Accordingly, RECOMMENDATION 7 urges that officers be provided with training programs and materials regarding (1) how to recognize and handle mentally disabled persons, (2) the assistance available from the mental disability and social services agencies in their jurisdictions, and (3) applicable principles, policies, and procedures. The intent of this recommendation is not to make law enforcement officers into mental health or social work professionals. Rather, it is to assist officers in carrying out their duties as effectively as possible and to help ensure that persons requiring emergency services receive them quickly and with the least limitation of liberty.

Topics addressed by recommended programs and materials should include:

- (1) the nature and manifestations of mental disabilities;
- (2) appropriate techniques for identifying, communicating with, and handling mentally disabled persons;
- (3) laws (including the scope of potential liability), policies, and procedures established for responding to requests involving mentally disabled persons, obtaining necessary services for them, and taking mentally disabled persons into custody;

- (4) policies and procedures for transporting mentally disabled persons to and from mental health and social service facilities; and,
- (5) the scope and quality of resources available to assist mentally disabled persons.

Ideally, a small, select group of law enforcement officers should receive specialized training in the recommended program areas. That training would allow the trained officers to train others. A member of the Committee noted that it might be desirable to explore the possibility of the development of a team of trained professionals, including law enforcement officers and mental health, crisis intervention workers, that would be able to respond 24 hours a day, 7 days a week to encounters between law enforcement officers and suspected mentally disabled offenders. The team would make recommendations to the law enforcement officer with regard to case disposition or take independent actions if appropriate.

RECOMMENDATION 8. OFFICERS OF THE ALBUQUERQUE POLICE DEPARTMENT AND THE BERNALILLO COUNTY SHERIFF'S DEPARTMENT SHOULD, ON A ROUTINE BASIS, RECORD ON A STANDARD "OFFENSE AND INCIDENT REPORT" ALL ENCOUNTERS WITH THOSE PERSONS WHOM THEY BELIEVE TO BE MENTALLY DISABLED.

RECOMMENDATION 8, if implemented, would constitute an expansion of the model monitoring and measurement system recommended in PART TWO to include mentally disabled offenders' first encounters with law enforcement agencies. As noted earlier in this report, accurate data about suspected mentally disabled offenders at the point of law enforcement contact are not readily available, though the mechanisms for data collection exist in the routine use of the "Offense and Incident

Report" by both the Albuquerque Police Department and the Bernalillo County Sheriff's Department. Offenses and incidents are classified and recorded by these agencies by use of the Uniform Crime Report (UCR). Each report is entered into computer files using the applicable UCR code. At present there are no precise codes associated with law enforcement encounters with mentally disabled offenders (see PART ONE, Section A.1.d.). Ideally, if a UCR code would be developed for that specific purpose and proper training provided to officers and computer data-entry personnel, then, presumably, a promising system for data retrieval with regard to suspected mentally disabled offenders at the point of law enforcement contact would be in place.

Infrequent notations about encounters with suspected mentally disabled persons, if they are made at all, are usually made in the narrative section of the "Offense and Incident Report," data that are not routinely subjected to computer analysis and, therefore, not routinely used and disseminated. If a simple code for encounters with suspected mentally disabled offenders were created, communicated to law enforcement officials, and actually used as part of the standard reporting procedure by police and sheriff's deputies, initial-contact data may be made available, for example, contribute to the accuracy of the working estimate of the number of mentally disabled offenders noted in the commentary to RECOMMENDATION 6 above.

According to a spokesperson of the Albuquerque Police Department, one of the main concerns about identifying persons as "mentally disabled" is the risk of legal liability for alleged negative consequences caused by such identification. Reportedly, officers of APD are reluctant to



identify an individual as a mentally disabled offender and make such an identification on a public record. Possibly, the use of an "innocuous" recording procedure that reports solely opinions of the reporting officers, rather than facts (which have a more definitive legal meaning), may minimize the risks of liability.

RECOMMENDATION 9. THE ALBUQUERQUE POLICE DEPARTMENT AND THE BERNALILLO COUNTY SHERIFF'S DEPARTMENT SHOULD ESTABLISH CLEAR CRITERIA FOR THE DISPOSITIONAL OPTIONS AVAILABLE FOR CASES INVOLVING SUSPECTED MENTALLY DISABLED OFFENDERS, INCLUDING ARREST, PROTECTIVE CUSTODY IN JAIL, TRANSPORTATION TO THE UNM/MHC CRISIS UNIT, AND INFORMAL DISPOSITION. THE CRITERIA SHOULD BE ESTABLISHED IN COOPERATION WITH THE BERNALILLO COUNTY CORRECTION AND DETENTION CENTER AND THE UNIVERSITY OF NEW MEXICO MENTAL HEALTH CENTER.

Faced with a mentally disabled person who has engaged in an unlawful act or is exhibiting dangerous behavior, law enforcement officers in Bernalillo County may take him or her into protective custody and transport him or her to BCDC or, alternatively, to the crisis unit of UNM/MHC (see PART ONE, Section A). The officer may, in some instances, handle the case informally by transporting the person to some other suitable place. Although law enforcement officers may, as a practical matter, know quite well who goes where under what circumstances, clear criteria have not been established and communicated to the various components of the justice, mental health, and social service systems that interact with law enforcement agencies. If nothing else, discussion about such criteria among the representatives of the various components of the justice, mental health, public safety, and social service systems in Bernalillo County, including Committee members, should highlight, in practical terms, the "entry" into the mental health-justice system of mentally disabled offenders each year.

RECOMMENDATION 10. PERSONNEL OF THE BERNALILLO COUNTY CORRECTION AND DETENTION CENTER AND ITS PSYCHIATRIC SERVICES UNIT (PSU) SHOULD, ON A ROUTINE BASIS, COMPILE DATA ON THE NUMBER AND CHARACTERISTICS OF MENTALLY DISABLED RESIDENTS ACCORDING TO THEIR LEGAL STATUS.

Understandably, security is the major concern (though, not the only concern) of the staff of the Bernalillo County Correction and Detention Center (BCDC), much as judicial administration is the major concern of the courts and as mental health is the concern of UNM/MHC. Thus, it is not entirely surprising that Project staff had difficulties ascertaining the legal status of BCDC residents receiving mental health evaluation or treatment by BCDC's Psychiatric Services Unit (PSU). How many PSU outpatients (i.e., in the BCDC general inmate population) and inpatients are sentenced and serving their time in BCDC? How many are sentenced? How many are awaiting transfer to the state penitentiary? How many are pretrial detainees awaiting the next step in the criminal proceedings (e.g., arraignment, competency to stand trial examination, competency determination, trial, and so forth)? To what extent is one system holding up the other? For example, is resolution of the issue of a defendant's competency to stand trial contributing to trial delay? Or the person's incarceration impeding treatment?

Data to answer these questions are compiled, though not readily available or easily coordinated and applied to mentally disabled persons in jail. Some of the data are in court files, some in PSU, and perhaps some with individual attorneys representing the residents. Some of these data are reported in PART TWO as part of the preliminary results of the application of the model monitoring and measurement system. More needs to be compiled, coordinated, and organized to answer questions such as those noted above.

RECOMMENDATION 11. THE TWO PRIMARY RESIDENTIAL FACILITIES CURRENTLY PROVIDING TRAINING AND COMMUNITY-BASED CARE IN BERNALILLO COUNTY (CASA AYUDA AND THE TRANSITIONAL LIVING SERVICES, INC.) SHOULD BE DEVELOPED AND STRENGTHENED. ADDITIONAL COMMUNITY RESOURCES SHOULD BE IDENTIFIED AND DEVELOPED FOR MENTALLY DISABLED OFFENDERS WHO NEED SUPERVISED LIVING ARRANGEMENTS OR TRANSITIONAL LIVING PROGRAMS.

By all accounts, the resources of the Bernalillo County Correction and Detention Center and its Psychiatric Services Unit, as well as the Psychiatric Emergency Services of UNM/MHC, are overburdened by the mentally disabled offenders (see RECOMMENDATION 6 above) that these facilities must serve per year. Many mentally disabled offenders, perhaps most, may be better served (largely because of minor charges against them) in a setting other than the jail or the inpatient hospital unit at UNM/MHC. Still others are not appropriately served by outpatient treatment and care that does not include close supervision and aggressive case management. At present, Casa Ayuda and Transitional Living Services, Inc. have the staff, resources, and space to serve only a fraction of the mentally disabled offenders in Bernalillo County who need the type of supervised residential care and transitional living training that these two programs provide. (But see PART ONE. Casa Ayuda's existence may be in jeopardy. This makes RECOMMENDATIONS 11 and 12 even more important.)

RECOMMENDATION 12. LOCAL GOVERNMENT SHOULD PROVIDE AN INTEGRATED CONTINUUM OF MENTAL HEALTH AND RELATED HEALTH AND SOCIAL SERVICES TO MENTALLY DISABLED OFFENDERS. THE RANGE OF THIS CONTINUUM SHOULD ENCOMPASS A BROAD ARRAY OF COORDINATED COMMUNITY SERVICES, INCLUDING TRANSITIONAL LIVING PROGRAMS SERVING TO DIVERT MENTALLY DISABLED OFFENDERS FROM THE CRIMINAL JUSTICE SYSTEM, AS WELL AS INPATIENT HOSPITAL SERVICES.

The mental health-justice system in Bernalillo County, like most throughout the country, has yet to develop a spectrum of services to match the wide range of needs of the persons presented to it.

RECOMMENDATION 12 urges not just detailed planning, development, and statutory expression of a comprehensive system of care for mentally disabled offenders, but also the affirmative implementation of such a plan.

A useful role of the Committee on Mentally and Developmentally Disabled Offenders in Albuquerque (see RECOMMENDATION 1) may be to encourage the development and the actual provision of a full range of needed services along the recommended continuum. If nothing else, the Committee could help to prevent the problem of mentally disabled offenders "falling through the cracks" by focusing public attention and exerting public pressure at integrating and strengthening whatever services currently exist in Bernalillo County.

## REFERENCES

- Albee, G. W. (1986). Toward a just society: Lessons from observations on the primary prevention of psychopathology. American Psychologist, 41, 891-898.
- "Bad trips for the doubly troubled." (1987). Time, August 3, 1987.
- Bittner, E. (1971). Florence Nightingale in search of Willie Sutton: A theory of the police. In H. Jacob (Ed.), The potential for reform of criminal justice. Beverly Hills, CA: Sage.
- Brakel, S. J., Parry, J., & Weiner, B. A. (1985). The mentally disabled and the law. Chicago: American Bar Foundation.
- Ellis, J. W., & Luckasson, R. A. (1985). Mentally retarded criminal defendants. George Washington Law Review, 53, 414-493.
- Keilitz, I. (1984). A model process for forensic mental health screening and evaluation. Law and Human Behavior, 8, 355-369.
- Keilitz, I. (1981). Mental health examinations in criminal justice settings: Organization, administration, and program evaluation. Williamsburg, VA: National Center for State Courts.
- Lamb, H. R. (1984). The homeless mentally ill: A task force report of the American Psychiatric Association. Washington, DC: American Psychiatric Association.
- Landers, S. (1986). DSM by APA? APA Monitor, 17(11), 7.
- Malgady, R. G., Rogler, L. H., & Costantino, G. (1987). Ethnocultural and linguistic bias in mental health evaluations of Hispanics. American Psychologist, 42, 228-234.
- Meloy, J. R. (1986). Inpatient psychiatric treatment in a county jail. Journal of Psychiatry & Law, 13, 377-396.
- Monahan, J., & Steadman, H. J. (1983). Mentally disordered offenders: Perspectives from law and social science. New York: Plenum.
- Murphy, G. R. (1986). Special care: Improving the police response to the mentally disabled. Washington, DC: Police Executive Research Forum.
- Nathanson, R. (1984). Mental retardation official cites need for community programs. Albuquerque Journal, September 14, 1984.

- Peele, R., Gross, B., Arons, B., & Jafri, M. (1984). The legal system and the homeless. In H. R. Lamb (Ed.), The homeless mentally ill: A task force report of the American Psychiatric Association. Washington, DC: American Psychiatric Association.
- Persons, J. B. (1986). The advantages of studying psychological phenomena rather than psychiatric diagnoses. American Psychologist, 41, 1252-1260.
- Richardson, J. (1986). No place to land. Albuquerque Tribune, (three-part article) June 9, 10, and 11, 1986.
- Richardson, J. (1985). Prison ill-equipped to handle, house mentally troubled inmates, officials say. Albuquerque Tribune, April 12, 1985.
- Romanik, R., & Gentry, J. (1985). The New Mexico mental health law handbook. Unpublished manuscript.
- Sadoff, R. (1987). Basic facts about mental illness. In Mental Health Law Project (Ed.), Protection & advocacy for people who are labelled mentally ill. Washington, DC: Mental Health Law Project.
- Slusher, S. A. (1982). The insanity plea in New Mexico. Century, September 1, 1982.
- Steadman, H. J., McCarty, D. W., & Morrissey, J. P. (1986). Developing jail mental health services: Practices and principles. Rockville, MD: National Institute of Mental Health.
- Teplin, L. A. (1984). Managing disorder: Police handling of the mentally ill. In L. A. Teplin (Ed.), Mental health and criminal justice (pp. 157-175). Beverly Hills, CA: Sage.
- Whitcomb, D., & Brandt, R. L. (1985). Competency to stand trial (National Institute of Justice Policy Brief). Washington, DC: National Institute of Justice.