

**Mental Health Survey  
Final Report**

Prepared for:  
The Metropolitan Criminal Justice Coordinating Council  
Albuquerque New Mexico

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## **Introduction**

In November 1998 the Metropolitan Criminal Justice Coordinating Council (MCJCC) contracted with the Institute for Social Research (ISR) at the University of New Mexico (UNM) to complete several tasks. One of these tasks included conducting research on existing community services provided to individuals with mental and/or developmental disabilities who have contact with the criminal justice system, especially those routinely held at the Bernalillo County Detention Center (BCDC). This report completes this portion of our contract. This information, along with other data, is useful towards studying and making policy decisions regarding gaps that exist in services for individuals who are arrested and booked into BCDC with mental and/or developmental disabilities.

Additionally, and related to the above, the MCJCC contracted with us to conduct a snap shot study of the jail. As part of the snap shot study ISR staff are conducting a study of those held in custody at BCDC on a given day (December 2, 1998). This snapshot study will include all those held in custody who were active in the Psychiatric Service Unit (PSU) at BCDC on the study date. When this portion of the study is complete a picture will be constructed of all inmates held in the Jail, including inmates receiving psychiatric services. When the PSU data is combined with information in this report a more complete picture will exist regarding the status of inmates held in BCDC with mental disabilities and existing community services. These two sources of information will be useful in discussing Jail and community mental health issues.

This research on existing community services for criminal justice system involved individuals with mental disabilities is partially the result of discussions we held with MCJCC staff and members regarding a Motion to Intervene submitted in September of 1995, on behalf of a proposed subclass of all present and future residents of BCDC with mental and/or developmental disabilities. The motion was submitted by lawyers working for the New Mexico Protection & Advocacy System. Through a series of agreements, the parties decided it was in their mutual interest to resolve the Plaintiff-Intervenors' complaint-in-Intervention. A flexible approach was devised to address the concerns raised by the Plaintiff Intervenors. Research on existing community services is helpful in objectively gaining a more complete understanding of existing services and gaps in services towards the goal of enhancing services and closing gaps.

Along with the MCJCC, we had originally hoped to conduct a more complete survey of existing mental health providers that would have included individuals and groups, both public and private, that provide ancillary or support services to mental health clients. We had also hoped to conduct more in-depth interviews collecting client information and agency network information. This was not possible due to funding limitations and so it was decided to focus on individuals and agencies who have direct contact with criminal justice involved mental health clients and to focus on existing community services and gaps in services. In the future it may be beneficial to conduct a more complete study. Despite these limitations we believe this information is useful in beginning the process of objectively documenting existing services and service gaps and begin improving the conditions of individuals who are in this situation.

This report includes a number of sections. Following the introduction is a section that includes a description of the methodology used to develop the survey instrument, the survey instrument itself, and how we selected the individuals and agencies we interviewed. The next section presents some information from the surveys including a brief description of each agency represented in the sample, the population served by the various agencies, the different services provided by the agencies surveyed, the referral process, client tracking information, and some information on how and to what extent agencies collaborate. The next section contains a list of service gaps identified by the interviewees. The final section contains a list of recommendations and a conclusion.

## **Methodology**

### *Development of the Survey*

The first stage in constructing the survey instrument involved gathering basic information about the overall criminal justice system and issues involved in handling individuals with mental and/or developmental needs. Several academic texts provided a basic overview of these needs. Institute staff members reviewed these texts to gain a sense of what types of issues needed to be addressed in the survey. The texts, Treatment of Offenders with Mental Disorders. (1998) and The Mentally Ill In Jail: Planning for Essential Services (1989) provided the research team with a broad understanding of the way that individuals with mental and/or developmental disabilities are treated in the criminal justice system. The information gathered helped with the construction of the survey instrument. We also held informal discussions with MCJCC members and attorneys for the plaintiffs. These discussions provided us with some broad guidelines concerning issues of interest and importance.

### *The Survey*

The survey instrument was designed to address broad areas of interest and used probes to elicit more detailed responses from interviewees. The survey included questions about the type of clients each agency serves and basic aggregated demographics of these clients, open ended questions about the services provided by the specific agency, other community services, and services within the jail. The demographic information included age, race/ethnicity and sex. The research team gathered information about the mission and goals of each agency, funding sources and staff positions. Other questions asked about the referral process by which an individual comes into contact with the specific agency. Questions related to actions taken on behalf of a client include any collaboration an agency may have with others, in and outside of the Albuquerque area. Several questions asked individuals to describe where gaps might exist in services for criminal justice clients with mental and/or developmental disabilities. Individuals were further asked to provide a description of what they perceived to be an ideal process for the treatment of criminal justice clients with mental and/or developmental disabilities.

### *Agency Sampling Strategy*

A contact list of key individuals and agencies who deal with those who have mental health issues and have come into contact with the criminal justice system was initially provided by Dr. Joel Dvoskin and Mr. Peter Cuba. This list was very extensive and we included only those in our sample who fit our selection criteria of having direct contact with criminal justice involved mental health individuals. Additional agencies were selected during several meetings sponsored by Ms. Barri Roberts where various mental health stakeholders were present. Additionally, we interviewed individuals from several other organizations that were recommended to us during the course of other interviews. Some of the individuals interviewed represent units or teams within larger agencies that exclusively serve criminal justice system clients with mental disabilities. As noted earlier, we did not interview individuals with organizations that provide ancillary services (i.e. residential housing, substance abuse, job training/employment, or public assistance).

The agencies contacted, included the Pre-Trial Services Mental Health Unit (jail diversion), the Forensic Unit at the University of New Mexico Health Sciences Center, the New Mexico Protection & Advocacy System, the Mental Health Unit of the District Attorney's Office, the Albuquerque Police Department (APD) Crisis Intervention Team (CIT), the National Advocacy for the Mentally Ill (NAMI), the Mental Health Unit of the Public Defenders Department, Arc of New Mexico, and the Psychiatric Services Unit (PSU) at the Bernalillo County Detention Center (BCDC).

Interviews were conducted from March 1999 to June 1999. The first informal interview was with the senior case manager of the Forensic Unit of the UNM Mental Health Sciences Center. The senior case manager reviewed the survey constructed by the ISR research team and some suggestions were included in the final survey instrument.

Interviews were conducted with the two Forensic Case Managers at the UNM Mental Health Sciences Center, a Social Worker/Consultant from the Mental Health Unit of the Public Defenders Office, an Attorney from the Mental Health Unit of the Public Defenders Office, a Registered Nurse with the PSU at BCDC, two Jail Diversion officers with Pre-Trial Services, a representative from the National Advocacy for the Mentally Ill, a Sergeant from the Albuquerque Police Department's Crisis Intervention Team (CIT), the Chair of the Forensic Intervention Consortium (FIC), an Attorney from the New Mexico Protection and Advocacy System, a representative from the Arc of New Mexico's Justice Advocacy and Training Program, and a representative from the Mental Health Division in the District Attorney's Office.

In total, thirteen interviews were conducted with key individuals from nine agencies, who handle individuals with mental and/or developmental disabilities and who have been involved with the criminal justice system. Some interviews were conducted with more than one individual at the same agency. These agencies were contacted more than one time in order to gather information from individuals in different positions who had different types of contacts with clients and community agencies. The amount of time spent interviewing individuals varied from twenty

minutes to two hours.

Interviews were scheduled and conducted by a single ISR staff member. This was done in order to ensure some consistency in the manner they were conducted. The survey instrument contained both categorical questions and open-ended questions. The open-ended questions included probe statements to elicit more information regarding the specific topics. Open-ended questions included those which asked about an individual's opinion regarding the services within the community and within the jail, based on their expertise with clients and other community agencies.

### **Results from the Survey**

This section provides information from the survey including a brief description of each agency represented in the sample, the population served by the various agencies, the different services provided by the agencies surveyed, the referral process, client tracking information, and some information on how and to what extent agencies collaborate.

With the exception of the National Advocacy for the Mentally Ill and the Forensic Unit of the University of New Mexico Mental Health Sciences Center, all those interviewed represent units within agencies or agencies which have a client population which is completely composed of criminal justice system involved individuals. The Forensic Unit of the University of New Mexico Mental Health Sciences Center estimates that 60% of their total client population comprises clients involved with the criminal justice system. The National Advocacy for the Mentally Ill represents all individuals with mental illnesses and their families or caretakers.

Based on the focus and extent of our survey and the complexity of the issue of mental health services for criminal justice clients we recommend that a more in-depth study be undertaken to more completely study the issue. Broadening the focus of an additional study would present several benefits. First, it would allow the inclusion of agencies who provide ancillary services and who are an important component of the mental health provider system. Second, a greater focus on how agencies are networked and how they share information would be beneficial. This would be helpful in determining whether a better integrated system would alleviate some of the problems identified by this report. Finally, a focus on the type and number of individuals who have been served in the mental health system and criminal justice system would enable policy makers to better focus on what services at what level are needed.

#### *Brief Agency Descriptions*

This sections provides a brief description of each agency represented in the sample. The descriptions were primarily provided to us during each interview and presents limited information regarding each agency.

#### Crisis Intervention Team (CIT)- Albuquerque Police Department (APD) Field Patrols

The Crisis Intervention Team of the Albuquerque Police Department, is a specially trained unit

that handles the mentally and/or developmentally disabled who are criminally disruptive in the community. The officers within this unit are trained to handle situations involving mentally or developmentally disabled individuals. One hundred-eight officers are designated to be trained to handle these types of cases.

The officers are trained by the Forensic Intervention Consortium. The division consists of a supervising coordinator, an investigation officer coordinator and 108 field officers.

#### The Mental Health Unit of the State Public Defender Department

The Mental Health Unit is a division of the Public Defender Department which assists contract and staff attorneys with their cases involving clients with serious mental disabilities. The mission of the Public Defender Department is to provide all clients with high quality legal representation that protects their liberty and constitutional rights and serves the interests of society fairly and efficiently. The Mental Health Unit supports the department's mission by providing specialized services and expertise for clients who are at high risk of discrimination in the criminal justice system because of a mental disability.

The Mental Health Unit of the Public Defender Department consists of five staff members. This includes two attorneys, one in Santa Fe and one in Albuquerque who handle legal issues and one social worker that handles placements in community facilities, Pre-Trial involvements, treatment plans, benefits of the individual, and cases resolved with the District Attorney's Office. Additionally, a legal liaison provides mediation between the Public Defender Department and clients and one administrative assistant helps with administrative support.

#### The Psychiatric Service Unit at the Bernalillo County Detention Center

The Psychiatric Services Unit at the Bernalillo County Detention Center serves as a treatment center for inmates who have mental and/or developmental disabilities and are residents of BCDC. The PSU's overall goal is to stabilize inmates who have been admitted to the PSU. One of the main focuses of the PSU is to identify inmates who may be suicidal and stabilize those individuals. The PSU is budgeted for 6 registered nurses, 10 counselors, 2 social workers, 1 administrator, 2 records administrators, and 2 psychiatrists. The PSU is staffed 24 hours a day seven days a week.

#### Pre-Trial Services-Jail Diversion Program

Pre-Trial Services has one Pre-Trial Specialist charged with handling jail diversion programs for the mentally disabled. It is important to note that Pre-Trial Services is only responsible for handling those with mental disabilities, not developmental disabilities. Given this, much of their collaborative work is done with Arc of New Mexico who works with the mentally and developmentally disabled.

Pre-Trial Services has the power to intervene at any point in the criminal justice process. The overall goal is to intervene in a mentally disabled individual's involvement with the criminal justice system in order to assist them in receiving the proper care. To achieve this goal they

structure the conditions of release so an individual is admitted to a community facility designed to address their needs. These conditions are set on a case by case basis. The judge assigned to the case ultimately decides whether, under what conditions, and at what time an individual will be released.

#### The Forensic Intervention Consortium

The Forensic Intervention Consortium (FIC) is a consortium composed of individuals that represent agencies that provide mental health services. FIC developed and supervises the Crisis Intervention Team within the Albuquerque Police Department and the Jail Diversion Program housed in Pre-Trial Services. This program uses community psychiatric services and case managers, based in the Bernalillo County Detention Center, to promptly identify arrestees with mentally disabilities. The Crisis Intervention Team identifies mentally ill individuals who are criminally disruptive before they are booked into BCDC and acts as a diversion program.

#### The Mental Health Division of the District Attorney's Office

The Mental Health Division of the District Attorney's Office is funded by the state and operates as part of the larger organization of the District Attorney's Office. The Mental Health Division handles all types of criminal justice clients ranging from those with misdemeanor charges to those whom are considered dangerous and have more serious felony charges. The Mental Health Division's goal is to divert individuals who have mental health issues by devising a plan for treatment while also considering a strategy to handle their open charges.

The Mental Health Unit has a civil and criminal component. The civil component addresses the needs of individuals who have mental and/or developmental disabilities who do not have criminal charges and have pending cases. The criminal component includes individuals who have criminal charges and have been ordered to receive mental health competency evaluations. When an individual, held in BCDC, is suspected of having a mental and/or developmental disabilities, a mental competency evaluation may be ordered. Upon motion and good cause the court can order a mental examination of the defendant before making any determination of competency.

#### Forensic Unit- UNM Mental Health Center

There are two case managers in the Forensic Unit at the UNM Mental Health Center who handle individuals with mental disabilities, developmental disabilities and/or substance abuse disorders who have been booked into BCDC. The mission of the Forensic Unit is to divert individuals with chronic mental illnesses away from the criminal justice system. The goal of the unit is to link individuals with community resources that can help them remain stable.

#### Protection and Advocacy System

Funding for the Protection and Advocacy System comes from the state, the federal government, and the private sector. The agency is not part of a larger organization, although they are part of the local and national Disability Rights Movement. Attorneys with the Protection and Advocacy System offer legal and advocacy services to individuals within the criminal justice system who have mental health needs. The goal of the agency is to require the federal and state government

to more adequately meet the needs of people with mental disabilities. One strategy that is pursued to achieve this goal is to file class action suits against units of government to improve conditions among those with mental health disabilities.

#### National Alliance for the Mentally Ill (NAMI)

NAMI is a non-profit advocacy organization dedicated to improving the lives of the approximately 200,000 citizens in New Mexico who either suffer directly from severe and persistent mental illness or are family members and caretakers who help care for individuals who suffer from mental illnesses. The mission of NAMI is to be advocates for the mentally ill and provide education and information to clients, family members, and the general public. Since a segment of the mentally ill population is frequently involved in the criminal justice system, NAMI, focuses on programs to assure appropriate and effective outcomes for these encounters.

#### The Arc of New Mexico Justice Advocacy and Training Program

Arc of New Mexico houses the Justice Advocacy and Training Program. This program provides statewide advocacy services to adults and juveniles with developmental disabilities, particularly mental retardation, who become involved with the law, and face difficulties in understanding and negotiating the criminal justice system.

The goal of the program is to guarantee an equal opportunity for alternatives to incarceration, habilitative programming and a coordinated system of follow-up or after care through specialized community release programming. The Justice Advocacy and Training Program actively pushes for and supports legislation which promotes the improved treatment and habilitation and the development of specialized programs for offenders with development disabilities.

#### *Client Population*

All agencies interviewed, except Pre-Trial Services, are charged with handling both mental and/or developmental disabled individuals and those who have a concurrent substance abuse disorder. Pre-Trial Services deals only with mentally ill adults with minor criminal charges.

Pre-Trial Services cases that involve developmentally disabled individuals are referred to Arc, who takes over the case and designs a program where an individual is cared for outside of the jail. Developmentally disabled individuals have a disability which inhibits the process of normal maturation, such as those diagnosed as mentally retarded. Mental disabilities range anywhere from schizophrenia to bi-polar personalities to panic disorders. Arc handles clients who are dually diagnosed, as long as one of the diagnosis includes a developmental disability.

All agencies interviewed stated that individuals are handled on a case by case basis. When a jail diversion program is designed to offer an alternative to jail for someone who is mentally or developmentally disabled the agencies must devise a strategy that best addresses the particular mental or developmental disability. If an individual has a concurrent substance abuse disorder it is necessary to address this first, according to those interviewed. Otherwise, the treatment for the mental illness is muddled by the substance abuse issue. Often it is difficult to find community

agencies who are equipped to handle substance abuse problems concurrent with mental and or developmental disabilities.

Various agencies must also assess the prominence of the illness. In other words, they must assess to what degree the individual perpetrated an alleged criminal act due to the illness or whether the illness is one aspect of the criminal's character. According to some of those interviewed, occasionally individuals commit criminal acts because their medications were changed or unregulated. The majority of agencies handle individuals who have minor charges or misdemeanors. Treatment plans for violent individuals can be devised to address their needs but the majority of work is done with non-violent individuals. Those who have more serious charges and/or who are violent usually stay in jail.

The Crisis Intervention Team has anywhere from 3,500 to 4,000 CIT contacts each year. The Supervising Coordinator estimates that 20% of the individuals who come into contact are seen repeatedly. Estimates given by PSU staff about who is in the PSU are as follows: 80%- axis 1 (most severe diagnosis); 10% axis 2 (borderline); and 10% axis 3. They estimated that 20% of the inmate population has some mental illness when they enter the facility or that they develop during their time in jail. Many of the people referred to Pre-Trial Service are Veterans who are eligible to receive services from the Veterans Hospital. The Mental Health Unit of the Public Defender Department has just over 1,000 clients per year statewide. The Forensic Unit of UNM Mental Health Center manages approximately 107 clients a year who are involved with the criminal justice system. This population makes up about 60% of the clients served by the Forensic Unit. The Arc of New Mexico Justice Advocacy and Training Program handles approximately 15-20 clients a month. They are able to divert from jail, about 3-4 individuals each month.

### *Referral Process*

The Crisis Intervention Team responds to circumstances involving individuals with mental and/or developmental disabilities or dangerous individuals. Frequently these cases are flagged at the 911 call-in level. Obvious signs of mental disability are identified at this time, including, suicidal behavior, behavior that is substance induced, dangerous behavior to self or others, and whether they have been identified by the caller with a mental diagnosis. In many instances the dispatch of trained officers is dictated by the circumstance, and often there is cross-dispatching. Thus, the Crisis Intervention Team diverts individuals with mental and or developmental disabilities from entering the jail and escorts them to a mental facility within the community. The facilities that most often receive CIT clients are the UNM Mental Health Center, Presbyterian Kaseman Hospital, and Health Care for the Homeless.

Individuals who are brought to the BCDC are given a psychiatric screening before they proceed through the booking process. At times, family members or friends call the BCDC to alert them that an individual has mental and/or developmental disabilities.

Most referrals come to Pre-Trial Services from the PSU unit at the BCDC. Anyone who is placed in the PSU is flagged for a jail diversion program. Other referrals come from the Public Defenders Office, (usually probation violations), the District Attorney's Office, Judges from District and Metropolitan Court, and from parents or family members. Pre-Trial Services is contacted immediately for an interview once an individual is identified with a disability. The interview is set up to decide if the inmate qualifies for an alternative program other than jail. After the interview, Pre-Trial Services meets with the judge and the conditions for release are set. If the individual is released, it is done so as a third party Pre-Trial release.

At times the Pre-Trial Services will flag individuals to be referred to the Protection and Advocacy System if it is suspected that a person's rights have been infringed upon. Clients are also referred to the Protection and Advocacy System either through the families, or the clients themselves.

Pre-Trial Services is also immediately contacted when an individual is identified as having developmental disabilities. Since Pre-Trial Services is not contracted to deal with individuals with developmental disabilities, an Arc representative is contacted to handle the case. Pre-Trial Services and Arc work closely together to devise a management plan outside of the jail. The process for diverting an individual out of jail is very complex because there are few services for those with developmental disabilities. A management team comprised of doctors and social workers designs the plan for an individual with input from the Arc officials.

The Arc of New Mexico Justice Advocacy and Training Program is the only community agency designed to handle the specific needs of the developmentally disabled. Although other agencies work with the developmentally disabled, the first contact to devise a jail diversion strategy is made with the Arc of New Mexico Justice Advocacy and Training Program.

Referrals to the Mental Health Unit of the Public Defenders Department are received from the attorneys representing a given individual, the BCDC-PSU, the District Attorney's Office, the families, or the clients themselves. The social workers must have authorization from the attorney to begin work on an individual's behalf due to confidentiality issues. The social workers may make referrals to community agencies. They assess the services and placement that are appropriate for the particular disability.

The referral process by which criminal justice system clients come into contact with the Mental Health Division of the District Attorney's Office begins with the BCDC. The District Attorney's office is also contacted by the family of the individual with mental health needs or by the police. The judge assigned to a given case may also order a mental competency evaluation and thus the Mental Health Division of the District Attorney's office will become involved.

Clients become aware of NAMI New Mexico through word of mouth or through advertisements. Their affiliation with the National Alliance for the Mentally allows them usage of an 800 telephone number entitled the CAP line. The CAP line, Consumer Advocacy Program, provides

legal advice for individuals and families involved with the criminal justice system.

### *Services Provided*

#### Legal Consultation and Community Education

NAMI provides intensive training to volunteers, through the Treatment Guardian Training program, who are then available to assist the Mental Health Center and Bernalillo County Detention Center. In the 1998 legislative session NAMI presented a mental health parity bill. This bill, crafted in extensive negotiation with lobbyists for the health insurance industry, proposed a two-year pilot program for state employees to gather data on the costs of full parity for mental health treatment for New Mexico citizens. The bill was passed by the legislature with broad bipartisan support in both houses, but vetoed by the Governor, and was later presented again. NAMI also helped assemble the Forensic Intervention Consortium which oversees the Pre-Trial Services Jail Diversion Program and the Crisis Intervention Team.

#### Community Coordination

The Forensic Intervention Consortium (FIC) represents twenty-five agencies. These twenty-five agencies are represented on the FIC board and they meet once a month. This group has been meeting for approximately five years. These agencies include representatives from law enforcement agencies, mental health advocates, homeless agencies, consumers of mental health services, families of the mentally ill, and NAMI.. In 1996, a grant was secured from the state to implement a jail diversion program for those individuals with mental health needs. Two aspects make up the jail diversion program. The first is the pre-booking aspect, where the agency is responsible for training officers for the Crisis Intervention Program within the APD. The second aspect is the Pre-Trial involvement. The agency provides a forensic case manager to handle those with mental disabilities.

FIC is funded by the state through the Department of Health and Behavioral Health Sciences Divisions. Everything that FIC does is sub-contracted through the University of New Mexico Mental Health Division. Individual staff members consist of the Chair of the project who oversees the Pre-Trial Services Manager and the Forensic Unit Case Manager at the UNM Mental Health Division.

#### Case Management and Treatment within the Jail

Individuals who are booked into the BCDC, are evaluated for mental and/or developmental disabilities. Those who are admitted to the PSU do so by way of a mental evaluation conducted at the booking process. The main focus of the evaluation is to flag individuals who may be suicidal. Most inmates will remain in the general population of the jail, if they are not suicidal, although, they may be on medication. Anyone admitted into the PSU receives a care plan. If the individual is on prescribed medications, the staff verifies their medications and calls doctors regarding their prescriptions. The medical nurses maintain their medication and a doctor sees them one or two times a week.

### Jail Diversion Programs

The Crisis Intervention Team is a subunit within the Albuquerque Police Department. The CIT operates as a diversion program for the mentally and /or developmentally disabled, by detouring individuals from the criminal justice system before there is any contact with BCDC. When trained officers identify a criminally disruptive individual as mentally and/or developmentally disabled they bring them to a community facility equipped to handle their specific needs. The majority of their collaborative work is done with Health Care for the Homeless and the Mental Health Division at UNM.

### Jail Diversion Programs, Referrals and Case Management

The Pre-Trial Services Mental Health Unit, although housed in Pre-Trial Services is ultimately part of the Forensic Intervention Consortium. The chair of FIC oversees the Pre-Trial Services Mental Health Unit. Once an individual has been referred to the Pre-Trial Services Mental Health Division an interview is set up. The individual's mental health history is established and all previous contacts with mental health centers are recorded. The individual history provides the Pre-Trial Services Mental Health Division with a background on how and with whom an individual is connected to various organizations and how these organizations are connected with each other. The case managers work with the courts, diverting those who have been booked, when appropriate, from incarceration into a system of intensive community based management, thus, establishing or reconnecting them to community treatment and support services.

The Jail Diversion program is a labor intensive program. With felonies it may take three to four days or longer to establish what and how certain needs are to be met. Often Pre-Trial Services will contact the Forensic Unit of the UNM Mental Health Division to establish a case manager and the conditions of released from jail. This is usually the tail end of the process.

### Legal Consultation, Jail Diversion, Referrals, and Mental Competency Evaluations

When an individual is sentenced, the Mental Health Unit of the Public Defender Department attempts to identify individuals with mental and or developmental disabilities before they go through the system. When an individual is identified, after sentencing, the Public Defender attempts to place them in an agency that is better equipped to serve their client than jail. Within the Mental Health Unit of the State Public Defender Department, social workers monitor cases of those with mental and/or developmental disabilities to ensure individuals receive the care and treatment needed. The social worker must obtain authorization from the attorney before they are able to visit with the client. When they do meet with the client they assess what is happening with the case and ask how the client wishes their case to be handled. To achieve their goal, they attempt to secure a Pre-Trial release into a diversion program where an individual is placed in a community service agency. They will also evaluate the client for a competency evaluation.

Typically an attorney with the Mental Health Unit of the Public Defender Department is called in at the Pre-Trial level. The attorney of the Public Defender Department meets with the client at this time and assists with securing a mental competency evaluation, if appropriate, and interprets

the report for their client. In cases where an individual is determined "incompetent", different hearing procedures with different time lines are set in motion. The state may want to commit the individual to the Las Vegas State Mental Hospital. The attorney will help the individual with such a case.

The types of services offered to clients by the Mental Health Division of the District Attorney's Office, include legal services and referral services. The Mental Health Division of the District Attorney's Office can intervene in an individual's case whether or not a mental competency evaluation has been issued. If an individual has a mental health issue, then the Mental Health Division will devise a plan for treatment as well as one to handle the open charges against their client. In competency cases, violent offenders are transferred to District Court. A competency evaluation is guaranteed to be completed within three days. In the case of an incarcerated, the court shall hold a hearing and determine their competency within ten days of notification to the court of completion of the diagnostic evaluation.

The Mental Health Unit of the District Attorney's can assign treatment guardians to maintain an individual's case when an individual does not want to take prescribed medication. In this situation, an individual determined to have mental and/or developmental disabilities, will have hearings, for up to one year, to determine if a family member could maintain their needs outside of jail.

When a competency exam is ordered it is provided by a psychologist, psychiatrist or other qualified professional recognized by the District Court as an expert. After the hearing, when the court determines that a defendant is not competent to proceed in a criminal case and the court does not find that the defendant is dangerous, the court may dismiss the criminal case without prejudice in the interests of justice. Upon dismissal, the court may advise the District Attorney to consider initiation of proceedings under the Mental Health and Developmental Disabilities Code. With misdemeanor cases the Mental Health Division will try to provide treatment by contacting the Forensic Unit of the UNM Health Sciences Center.

When finding a defendant dangerous, the District Court may order treatment to attain competency to proceed in a criminal case for a period not to exceed one year. The defendant is provided with treatment available to involuntarily committed persons, and:

- 1) the defendant is detained by the Department of Health in a secure, locked facility; and
- 2) the defendant, during the period of commitment, is not released from that secure facility except pursuant to an order of the District Court which committed him.

Within ninety days of the entry of the order committing an incompetent defendant to undergo treatment, the District Court, sitting without a jury, conducts a hearing, unless waived by the defense, and shall determine:

- 1) whether the defendant is competent to stand trial or to plead; and, if not,
- 2) whether the defendant is making progress under treatment toward attainment of competency within one year from the date of the original finding of incompetency.

If the District Court finds the defendant is competent, the District Court sets the matter for trial, provided that the defendant is in need of continued care or treatment and the supervisor of the defendant's treatment agrees to continue to provide the treatment.

If the District Court finds that the defendant is still not competent and that s/he is not making progress toward attaining competency such that there is not a substantial probability that s/he will attain competency within one year from the date of the original finding of incompetency, the District Court proceeds pursuant to Section 31-9-1.4 NMSA 1978.

The individual is then placed with Pre-Trial Services to be monitored while they receive treatment. This option gives the court leverage to bring the individual back into the system if they renege on the conditions of release, especially on the treatment that is ordered.

#### Case Management, Referrals and Assessments Outside the Jail

The UNM Health Science Center Forensic Unit provides screening, evaluation, consultation and case management to its clients. They are funded through the Forensic Interagency Consortium and their clients are referred to them from Pre-Trial Services, the Public Defenders Department and the Mental Health Unit of the District Attorney's office. Screening enables the case managers to gain a sense of the needs of the individual. An evaluation is conducted to determine how that individual can be connected to the community resources. The case managers monitor how the individual is linked to these services and what forensic information, case management and consulting has been conducted.

#### Community Education, Case Management, Referrals, Assessments Outside the Jail

The Arc of New Mexico handles all developmentally disabled individuals who come into contact with Pre-Trial Services, the Mental Health Unit of District Attorneys Office, and the Mental Health Unit of the Public Defender Department. Arc is the only agencies in Albuquerque who manage developmentally disabled individuals who have come into contact with the criminal justice system. Arc also educates individuals with developmental disabilities and their families regarding appropriate citizenship, individual rights and due process. The Arc developed a prevention model which teaches clients about "Citizenship and the Law" what constitutes illegal behavior, and consequences for breaking the law. Furthermore, they offer education to service providers about the special needs of person with developmental disabilities who are high risk for becoming involved in the criminal justice system through presentations at workshops, conferences, or in-service trainings. Arc of New Mexico is a private organization which functions on donations and thrift store revenues.

**Table 1: Services provided by various agencies**

	<b>CIT</b>	<b>NAMI</b>	<b>Pre-Trial</b>	<b>Arc</b>	<b>FIC</b>	<b>DA</b>	<b>PD</b>	<b>Forensic Unit</b>	<b>Protection &amp; Advocacy</b>
<i>Services</i>									
Screening								<b>X</b>	
Legal	<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>
Developmental	<b>X</b>			<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Consultation		<b>X</b>		<b>X</b>			<b>X</b>		
Case Management			<b>X</b>	<b>X</b>			<b>X</b>	<b>X</b>	
Social Work							<b>X</b>		
Advocacy		<b>X</b>		<b>X</b>					<b>X</b>

*Client Tracking*

Hard Copy Records

Many of the agencies interviewed maintain hard copy records for tracking their clients. The CIT of the Albuquerque Police Department maintains hard copy records documenting the circumstances of each case. The records include details of the investigation, the criminal and psychiatric history of the individual and any follow up contacts that may have occurred. According to the supervising coordinator, officers may do a follow-up two to three times a week. The follow-ups are attempts to catch people who may have been escorted to an agency but for various reasons, such as voluntary or involuntary dismissal, are no longer receiving necessary care.

Pre-Trial Services also tracks individuals through the use of hard copy files. The information that is kept on an individual includes the date they were booked into BCDC, the results of the mental health screening done at the time of booking, any PSU involvement, any notes taken by the PSU staff, and any other decisions or occurrences that have happened up till the point that Pre-Trial Services intervened.

The social worker/case manager within the Mental Health Unit of the Public Defender Department, tracks individuals using hard copy records. The client's name, custody referral, and diagnosis are basic information that is gathered and stored in each file. Any correspondence,

including e-mails from the attorneys involved, along with the events and disposition of the case, are kept in the files.

#### Hard Copy Records and Automated Data

The Forensic Unit of the UNM Health Sciences Center maintains both hard copy records and a spreadsheet on their clients. The information that is collected includes a biographical sketch of the individual. Demographics, diagnosis, where and when a referral was received, what their legal charge was, and what their custody status was, makes up the biographical sketch of their clients.

The Arc of New Mexico is another agency that stores data on its clients in hard copy records and in a database. All information from 1997 until the present is contained within the database. Arc keeps information on the process of devising a plan for clients, demographics, i.q. levels, diagnosis, legal charges, disposition of the case, any police involvement, and the length of time passed since the last contact with their client.

#### Automated Data

The attorneys within the Mental Health Unit of the Public Defender Department as well as attorneys with the Protection and Advocacy System, developed an automated database of personal information of the client, their charges, the amount of contacts the individual had with the social worker and attorneys, the case proceedings and outcome (especially those designated as incompetent to stand trial), and forensic evaluations. The information kept on the Public Defender Department clients allows them to monitor who is in what jails across the state, who is in the Las Vegas State Hospital, and who is waiting to be admitted to the State Hospital.

The PSU at the Jail also has automated data that is used to track clients, the services they receive, any medications, the dates they are active within and their progress within the Jail.

NAMI of New Mexico documents all conversations received through their 800 telephone number in their database. Their database is set up to house demographic information, issues of their clients, and the progress of their legal case.

#### *Networking*

Collaboration refers to the process of contacting agencies inside and outside the community to obtain the services needed by clients (e.g. jail diversion). All agencies interviewed, identified one another as part of their network of community agencies for which collaboration took place. For example, the Mental Health Division closely collaborates with case managers within and outside the New Mexican community. The majority of collaboration occurred with Presbyterian Kaseman Hospital in Albuquerque. A large portion of their collaboration occurred with Happy Acres, a case management center in Oklahoma. They also work closely with the Psychiatric Hospital in Las Vegas, the Veterans Hospital in Albuquerque and the UNM Forensic Unit in Albuquerque.

The organizations that the legal section of the Mental Health Unit of the Public Defenders Department collaborate with include Arc of New Mexico (protection and advocacy group for the mentally ill); Pre-Trial Services; the Albuquerque Police Department CIT; BCDC Psychiatric Services Unit staff; and extensive contact with the state mental hospital in Las Vegas. The social consultation section collaborates with the following: Health Care for the Homeless; Arc of New Mexico; the Justice and Judicial Advocacy group; Pre-Trial Services; UNM Mental Health Unit; St. Martin's Hospital; Trinity House; and State wide mental health facilities.

### **Identifiable Service Gaps**

- *Community Facilities*

Many of those interviewed argued that there is a severe lack of appropriate facilities within the community that address the needs of individuals with mental and/or developmental disabilities who have contact with the criminal justice system. The lack of adequate facilities results in the arrest of many who have mental and/or developmental disabilities who could possibly be better managed by appropriate facilities. The majority of those interviewed identified the number one problem in the mental health community as a lack of residential in-patient and out-patient housing in the community for this type of client. According to interviewees housing resources have been dramatically reduced over the last few years and the lack of placement options for an individual contributes to the difficulty of getting them out of jail. Needed facilities include substance abuse facilities, especially in-patient facilities, facilities that can serve those determined as violent, organizations which handle the developmentally disabled, and basic housing facilities.

Exacerbating this problem is that at times existing facilities refuse treatment to individuals who have come in contact with the criminal justice system. They may refuse treatment because they don't understand the severity of the individual's conditions, they may fear that an individual's criminal charges make that individual unmanageable or they simply do not want to deal with criminals.

- *Entitlements*

One of the most important issues identified by several interviewees is the loss of entitlements that comes with being in jail for more than 29 days. Entitlements (food stamps, Medicaid, and SSI) are essential for obtaining medication and providing assistance for placement in a community facility. Thus, an individual dependent on entitlements who is eligible for a jail diversion program and has been in jail for more than 29 days, is unable to be released because they lack the resources to be admitted to them. Furthermore, it takes months to get entitlements reinstated once they have been revoked.

- *Case Managers*

The lack of case managers is another one of the major issues identified as particularly problematic. Case managers have experienced extreme cut backs and they are identified as

necessary for recovery. Case managers help individuals obtain housing, manage finances and monitor medication.

- *Jail Resources*

It has been suggested that part of the problem is that some agencies such as the Mental Health Unit of the Public Defenders Department are not informed quickly enough about a person in the PSU. This was identified as a problem stemming from the fact that the BCDC does not have an adequate number of personnel to handle these clients. One individual argued that the jail has been undercounting mentally and developmentally disabled inmates. Thus, many who do have mental health needs are not having their needs met within the jail facility. Undercounting inmates with disabilities allows the jail to limit the staff and medication it would otherwise need if the population was larger. The alleged cutbacks have led to the Jail's inability to appropriately medicate individuals. Therefore individuals are not eligible for jail diversion since community agencies often will not take someone who is not stabilized.

Furthermore, it has been identified that since the BCDC is federally mandated to keep the population down, many individuals with minor charges are released before they are able to get into a community mental health program.

- *Treatment Guardians*

Another serious problem identified by interviewees, is that there are not enough treatment guardians. Often clients are given medication and then released without any supervision. Going off their medication is identified as one of the major reasons why people end up in jail and why they remain there. This is partially because there are not enough treatment guardians to manage them.

- *Managed Care*

Managed care has posed a problem for mental health clients. Many of those interviewed stated that they feared when managed care was established it would not know how to treat individuals with mental health care needs. The fear, according to many, has been realized. Managed care facilities will not admit someone unless the circumstances are very grave, i.e. if an individual shows clear signs of suicidal behavior. Even if an individual claims to be suicidal, managed care facilities still may not admit them. Furthermore, clients may not always be fully covered, and some insurance agencies refuse to cover clients with mental disabilities.

- *Probation/Parole*

Some suggested that another gap is in the formal training of Probation and Parole Officers. The infrequent contact these officers have with mentally and developmentally disabled individuals undermines the knowledge about the type of care they may need. When an individual is assigned to parole or probation the design of their release does not take into consideration their mental disposition and thus they often fail under the circumstances. These individuals often recidivate due to parole or probation violations.

Part of the reason why individuals do not successfully complete their probation or parole time is they go off their medication for a variety of reasons. Reasons why individuals do not maintain their medications include, a lack of case management, the inability to get to a pharmacy to pick up their medications, a loss of entitlements which pays for their medications and/or refusal to take them.

- *Mental Competency Evaluations*

Several individuals identified that when a mental competency evaluation is ordered, inmates may wait in jail for a long time until the evaluation is completed. An evaluation should be conducted within 72 hours. This time frame begins once the paper work has been received by the evaluating center. The time that elapses between the moment that a person is considered for an evaluation and the point when the paper work is filed, is indefinite.

- *Developmental Waiver*

Problems related to individuals with developmental disabilities differ from those with mental health disorders. The major gap in services for the developmentally disabled is whether or not an individual is on a waiver. The Developmental Disabilities Waiver is a funding mechanism for individuals with developmental disabilities. For every dollar needed to provide medical attention for developmentally disabled individuals the federal government provides \$ .77 on the dollar and the state provides \$ .23 on the dollar comprehensive. The Waiver pays for necessary comprehensive services including: residential placement, the any necessary staff (designated on a case by case basis, including up to 2 staff members per person 24 hours a day), behavior therapy, vocational support, job placement, speech and occupational therapy, nursing support, and structured and inclusive case management. New Mexico is one of four states that has a waiting list for the waiver. The wait is usually five years or more. The waiver is the only way that services can be obtained for developmental disabilities. Often times individuals are picked up for criminal misconduct during the long waiting period.

Furthermore, it is very difficult to obtain a waiver since the waiting list is five years. There is a crisis allocation committee which can issue a 'crisis in need' instant waiver but the criteria to make such a determination is incredibly stringent. It must be substantiated that the individual needs constant care and that they suffer neglect or abuse without a guardian. Adult protection services establishes this criteria. Advocates are required to exhaust *every* possible resource, both mental illness treatment and developmental disability treatment, before they can consider a 'crisis in need' waiver. While this is being established the individual could wait in jail through the process. A few 'crisis in need' waivers have been ordered by the court. Once it is issued the client must sign the waiver within 10 days or they lose their position on the waiting list and must begin the process once again.

This is only the case with 'crisis in need' cases. Others who are on the waiting list who end up in jail lose their position on the waiting list if they remain in jail for more than 29 days. If they are in jail for more than one year they must begin the process of filing for a waiver and maintaining a position on the waiting list once again.

The major gap identified by Arc is that there is no place for individuals to go when they are waiting either for competency evaluations or for waivers. Another problem that advocates experience regarding developmental disabilities is that the few facilities that do exist often refuse to take in anyone with criminal or substance abuse backgrounds.

Only 10% of the developmentally disabled clients in need of treatment have waivers. For the other 90%, treatment plans are pieced together with the facilities that are available in the community. These facilities focus on mental disorders. Although the developmentally disabled usually do not function well in these centers, since they are not designed to handle their needs, many times this is the only alternative.

- *Masking of Mental and Developmental Disabilities*  
Clients learn to mask their disabilities making it difficult for staff in booking and the forensic evaluators to identify the problem in a ten minute session. Often those who have not been diagnosed recycle through the system. Once the disability is finally diagnosed and mental incompetency is determined attempts to treat the disability can begin.

## **Recommendations and Conclusion**

### *Recommendations*

- *Housing*  
Although the housing issue has been identified as the major issue little is suggested to alleviate this problem other than building more facilities. Some do argue that jail may be the safest place for an individual to be if there are no beds available within the community.

- *Case Managers*  
Many identify that there is a great need for case managers. Case managers help in explaining to individuals what is happening to them when they enter BCDC and go through the criminal justice process. Case managers can facilitate the management and stabilization of individuals with mental and/or developmental disabilities.

The Fountain House model was suggested as a potentially successful case management style that could be replicated. The Fountain House is a security review board program that originated in Portland Oregon. The centrally located board consists of representatives from the probation office, the legal arena, case managers, and consumers of the community . The security review board handles clients on a case by case basis to address individual's needs. The security review board is operated in a centralized location. The group of individuals acts as an in-house referral agency for all clients with developmental and mental health issues. Their primary goal is to integrate systems to better serve the target population.

To address the case management deficiency in the community, it has been suggested that designers look to programs instituted in Michigan, Massachusetts and Arizona as role models. In

these states they have implemented an intensive case management system. There is 1 case manager for every 10 chronic mentally ill individuals. Under these systems, availability and access to medication is not complicated.

- *Jail Resources*

Immediate medication is identified by some as one of the pressing problems faced by the mentally ill. Increasing the nursing staff at the Jail with psychiatric training was offered as one suggestion, along with having more than one psychologist to do evaluations. Others argue that individuals need to be stabilized in a hospital not a jail.

One interviewee suggested that a psychiatric emergency room be designed to handle individuals in contact with the criminal justice system especially those who are dually diagnosed. Furthermore it was recommended that the city buy into the jail diversion program. On average it is estimated by FIC officials, that they save \$200,000 a year and operate on a \$100,000 a year budget. Increasing their budget would, presumably, increase the amount of savings and the quality of care.

- *Training*

Many of those interviewed agreed that the Crisis Intervention Team has been invaluable in diverting people with mental health needs from being booked into the jail. The Crisis Intervention Team handles approximately 350 calls a month. Although it is considered invaluable, interviewees also acknowledge that it is not enough to deal with the issue at hand. Furthermore, some expressed concern with the amount of training CIT trained officers have undergone. The CIT officers are police officers before they are social workers and sometimes these roles clash. Increasing the amount of training CIT officers receive would increase the quality of intervention.

### *Conclusion*

The findings presented in this report suggest that services for the mentally and/or developmentally ill who are involved with the criminal justice system are seriously lacking in the jail and in the community. Since a number of facilities have closed in the state (e.g. Mesilla Valley Psychiatric Inpatient Hospital and Innovative Developmental In-Patient Services both located in Las Cruces, New Mexico) the trend is towards the jail becoming a housing facility for the mentally and to a lesser degree the developmentally disabled.

The Jail was identified as an inappropriate place for some mental health criminal justice involved clients, since many of these individuals need constant monitoring and care. In other words a boarding facility is inadequate to handle clients with mental and/or developmental disabilities. Although the BCDC is not an alternative to handling individuals with mental health needs, it may, at times be a practical placement due to the nature of the crime, the disposition of the individual, or the lack of facilities.

Furthermore, it is important to account for changing trends that have affected the mentally and or

developmentally disabled. For example, according to Arc representatives, many of their clients are increasingly becoming victims of gang exploitation. The developmentally disabled are easy targets for drug dealing since they lack the critical understanding of legal and moral issues. Gangs offer a stable group setting which accepts the developmentally disabled.

Interviewees estimate that approximately 20-30% of the mentally and/or developmentally disabled inmates recycle through the BCDC. Many in the mental health field argue that if a system to address mental health needs was in place within the community, up to 50% of those with mental and/or developmental disabilities would not return to the jail.

In order to release individuals from jail as quickly as possible a more fluid system must be adopted. According to the interviewees many of the clients with mental or developmental disabilities stay in Jail longer than those without disabilities because they do not understand the criminal justice system processes and they lack basic resources and skills to negotiate the process. Pre-Trial Services has a daunting task and it is suggested by some that their services be expanded because it is very difficult to get those in need out of jail. If the Jail is not to become a housing facility for the mentally and/or developmentally disabled issues identified in this study must be seriously considered in a timely manner.