Bernalillo County Metropolitan Detention Center:

Analysis of the Jail Population, June 30, 2020

Prepared by:
Elise M. Ferguson, M.A.
Helen De La Cerda, B.A.
with Alise O'Connell

Prepared for:
Bernalillo County
Department of Behavioral Health Services

OVERVIEW

The population of the Metropolitan Detention Center (MDC) is analyzed twice a year, at midyear and end of year. Jail and court data are used to complete these in-depth reviews of the population and have been compiled since mid-year 2015. These semiannual reviews are snapshots of the jail population and include demographic information, sentencing status, and charges. Additionally, data is presented describing the population historically, as well as bookings, releases, and length of stay (LOS). These biannual reviews demonstrate how the jail is being used and is an indicator of how the criminal justice system is functioning.

Population and Capacity:

The MDC population has decreased over time due in part to a series of criminal justice initiatives that have been implemented over time. (The MDC population and implemented initiatives can be seen in Appendix A.) More recently, as the COVID-19 pandemic began to spread nationwide, the governor of New Mexico issued the Stay-At-Home Order on March 24, 2020. This order, in conjunction with changes in procedures and policies by criminal justice agencies, has resulted in a marked decrease in the jail population during March and April 2020.
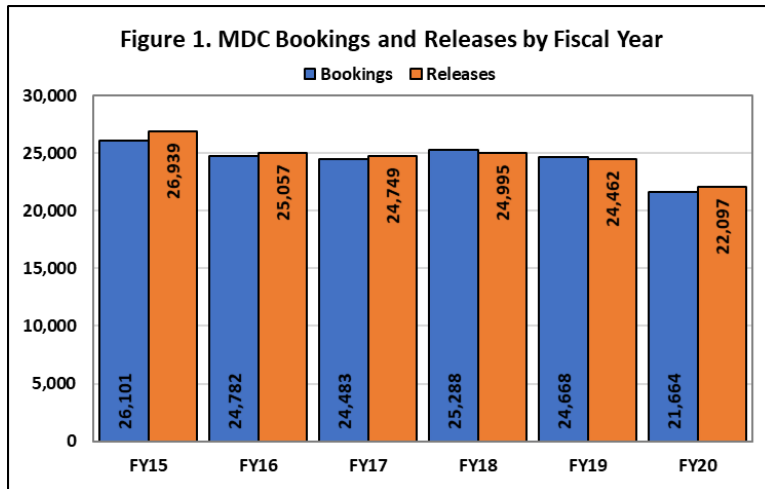
HIGHLIGHTS

- The population of the MDC has decreased over the last several years, with an increase in more serious offenders.
- The percent rated capacity occupied on June 30, 2020 was 54.4%.
- The incarceration rate for adults in Bernalillo County was estimated at 213 per 100,000 residents on June 30, 2020.
- The MDC population decreased from December 31, 2019 to June 30, 2020 by 17.8% (259 inmates).
- The percent of inmates at the MDC with one or more sentenced cases decreased to 22.3% on June 30, 2020.
- Over the last 5 years, the MDC population has been comprised of a higher portion of felons than lower level offenders. Of those in custody on June 30, 2020, 69.0% of inmates were in custody on a felony.
- The number of inmates with a preventive detention motion granted or pending and a hold increased to 28.9%, an increase from 21.4% on December 31, 2019.
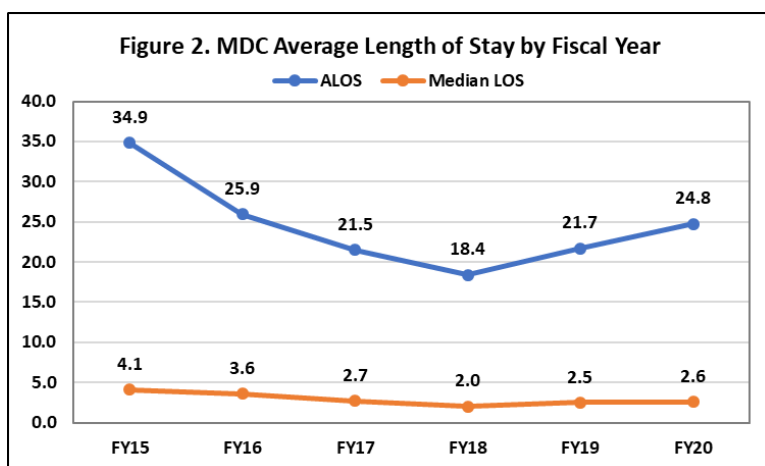
The current[1] rated capacity of the beds available in the facility – is 2,190, largely due to changes MDC – that is the number of in cell use from double occupancy to single occupancy. Operating below capacity, at about 90% or less of the rated capacity, is vital for the safe operation of a jail[2]. At midyear 2020, 54.4% of the rated capacity at the MDC was occupied. As of June 30, 3030, the MDC population was 1,192 (see Table 1)[3]. This was 259 inmates (17.8%) less than December 21, 2019 and 407 inmates (25.5%) less than June 30, 2019.

Table 1. Biannual Population Counts and Capacity (In Custody, On Site)

Date	Population	% Capacity Occupied	Date	Population	% Capacity Occupied
30-Jun-15	1,584	72.3%	30-Jun-18	1,403	64.1%
31-Dec-15	1,342	61.3%	31-Dec-18	1,301	59.4%
30-Jun-16	1,347	61.5%	30-Jun-19	1,599	73.0%
31-Dec-16	1,063	48.5%	31-Dec-19	1,451	66.3%
30-Jun-17	1,105	50.5%	30-Jun-20	1,192	54.4%
31-Dec-17	1,138	52.0%			

Annual Bookings/Releases: Figure 1 shows the bookings and releases by fiscal year from FY15 to FY20. From FY15 to FY19, the number of bookings ranged from 24,483 to 26,101 and the number of releases ranged from 24,462 to 26,939. Bookings and releases decreased during March, April, May, and June 2020. Compared to FY19, there were 3,004 fewer bookings (12.2%) in FY20 and 2,365 fewer releases (9.7%) in FY20.

Figure 1. MDC Bookings and Releases by Fiscal Year

Average Length of Stay: Figure 2 shows the average length of stay (LOS) by fiscal year, from FY15 to FY20. During this time period, the average length of stay decreased 47.3% from 34.9 days in FY15 down to 18.4 days in FY18. The LOS increased 34.8% to 24.8 days by FY20.The median LOS decreased from FY15 from 4.1 days down to 2.6 days in FY20. This means that half of the inmates released in FY20 were released within 2.6 days. The large difference between the median and mean indicates a high level of skewness[4] to the data. The LOS is positively skewed, meaning there was a disproportionate quantity of shorter lengths of stay.
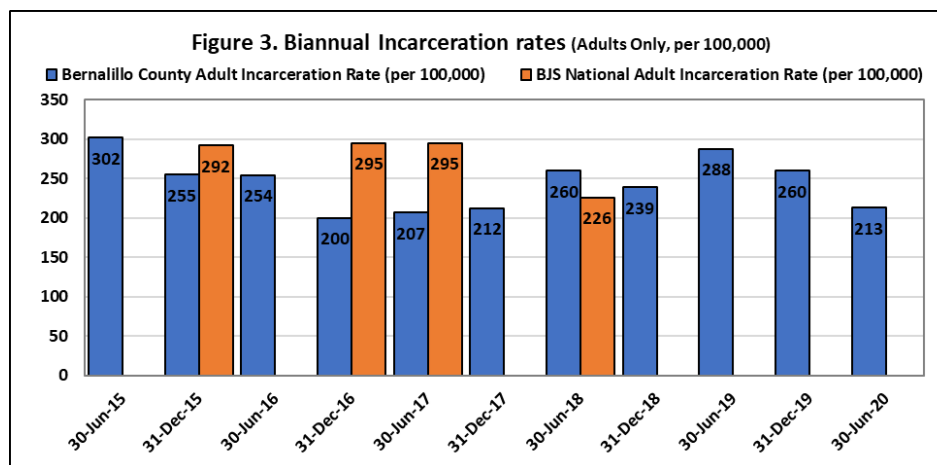

Figure 2. MDC Average Length of Stay by Fiscal Year

Recidivism: Recidivism for inmates by fiscal year was calculated for the MDC. According to the Bureau of Justice Statistics[5], a recidivism measure requires three items: a starting event, such as a release from a facility; a measure of failure, such as a booking; and a follow-up time period extending from the starting event. For the first unique release per fiscal year, an inmate was tracked forward for up to five years when possible. The measure of failure used was a new booking into the MDC.

Table 2 shows the rates for each fiscal year. During the first year after release from the MDC, between 38.8% and 40.9% of inmates returned to custody. During the second year, between 10.2% and 10.7% of inmates returned to custody. During the third year after release, 5.2% of inmates returned to custody. During the fourth year after release, 3.1% and 3.3% of inmates returned to custody and 2.2% of inmates returned to custody during the fifth year after release. Overall, nearly 60% of inmates released in FY15 returned to custody within five years, with a similar percent returning to custody within four years for those released in FY16.

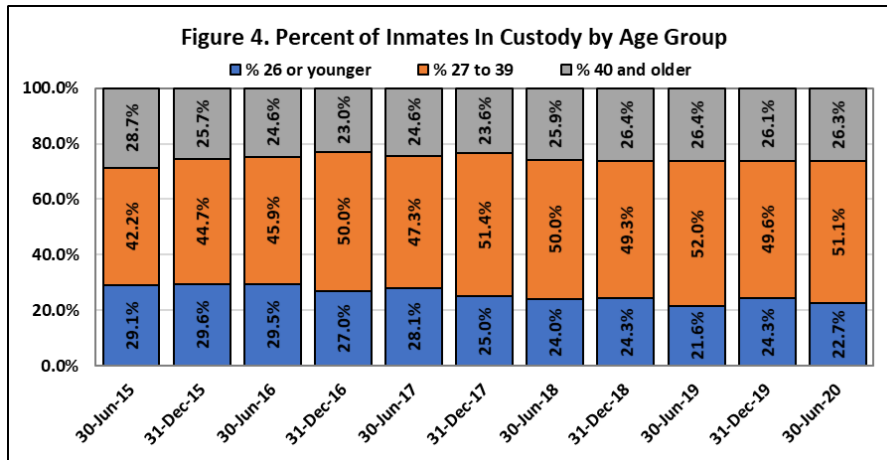**Table 2. MDC Recidivism by Fiscal Year**

	FY15	FY16	FY17	FY18	FY19
Unique Releases per FY	19,495	17,705	17,472	17,281	16,964
No Subsequent Bookings	11,437	10,302	10,640	10,740	11,204
Within 1 Year	38.8%	40.3%	39.3%	40.5%	40.9%
> 1 Year to 2 Years	10.2%	10.7%	10.5%	10.3%	
> 2 Years to 3 Years	5.2%	5.2%	5.2%		
> 3 Years to 4 Years	3.1%	3.3%			
> 4 Years to 5 Years	2.2%				
Total by Fiscal Year	59.5%	59.4%	55.1%	50.8%	40.9%

Incarceration Rate: Figure 3 shows the incarceration rate per 100,000 adults in Bernalillo County[6]. The incarceration rate in Bernalillo County at year end 2019 was 260 per 100,000 residents. At midyear 2020, the incarceration rate in Bernalillo County for adults was 213 per 100,000 residents. There are four time periods from the Bureau of Justice Statistics available for comparison to the biannual figures. According to the Bureau of Justice Statistics, the national midyear incarceration rate for adults in 2018 was 226 per 100,000 residents[7].
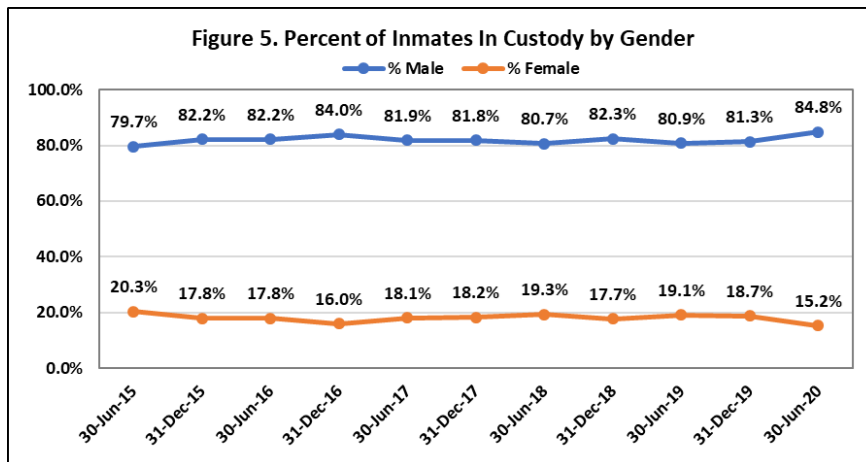

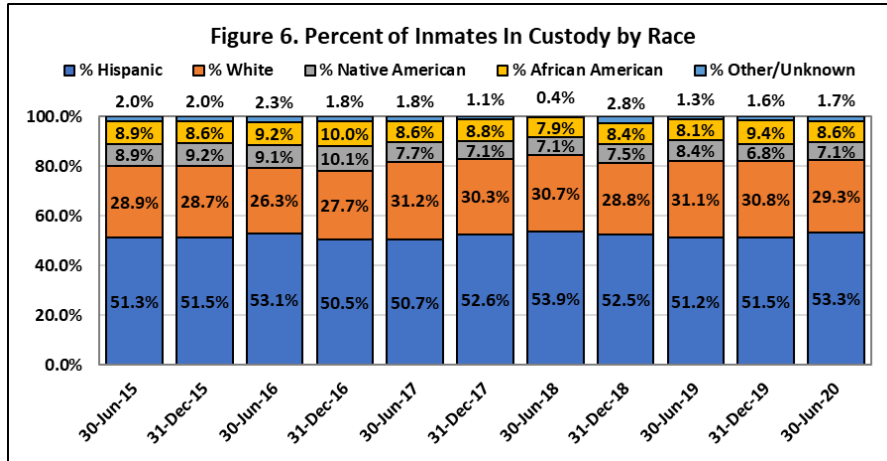Figure 3. Biannual Incarceration rates (Adults Only, per 100,000)

DEMOGRAPHICS

Age Group: Since June 30, 2015, the age[8] of inmates at the MDC has changed (see Figure 4). The percent of inmates in custody aged 26 and younger decreased from 29.1% on June 30, 2015 to 22.7% on June 30, 2020. The percent of inmates 40 or older also decreased slightly from 2015 to 2016, but has remained consistent at around 26.3% over the last several years. The percent of inmates aged 27 to 39 increased from 42.2% on June 30, 2015 to 51.1% on June 30, 2020.

Figure 4. Percent of Inmates In Custody by Age Group

Gender: The portion of the jail population comprised of males has increased slightly over time (see Figure 5). The percent of male inmates has ranged from as little as 79.7% on June 30, 2015 to as much as 84.8% on June 30, 2020. The female portion of the population was as high as 20.3% on June 30, 2015 and 15.2% on June 30, 2020.

Figure 5. Percent of Inmates In Custody by Gender

Race/Ethnicity: Across all snapshot dates, just over half of the population (50.5% to 53.9%) was Hispanic (see Figure 6)[9]. White inmates accounted for 26.3% to 31.2% of the MDC population. Native Americans accounted for between 6.8% and 10.1% of the MDC population and African Americans accounted for between 7.9% and 10.0% of the MDC population. On all snapshot dates minorities comprised a majority of the population.

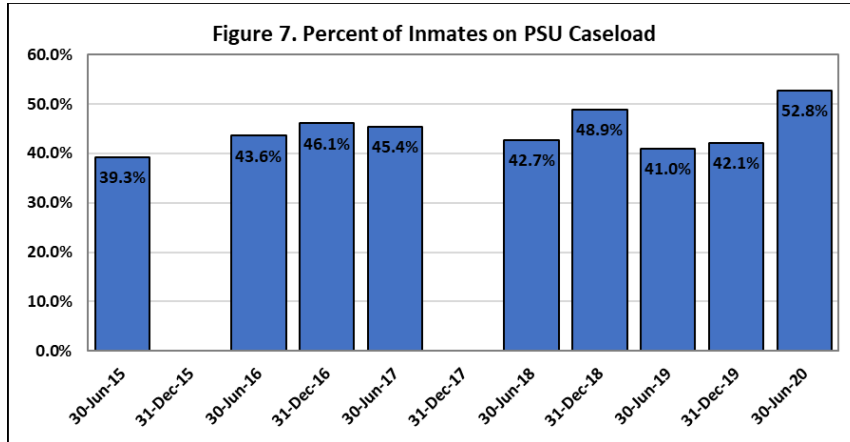Figure 6. Percent of Inmates In Custody by Race

To estimate the degree to which the inmate population is disproportionate to the population of the County, estimates were created to determine the adult population by race[10]. (Other are excluded as the group is small and there are a variety of overlapping options in the ACS data for this category). Compared to the County population, White inmates are underrepresented in comparison with an inmate to population ratio of 0.71. All other groups are overrepresented, with an inmate population ratio greater than one, ranging from 1.2 for Hispanic adults, 1.58 for Native American adults, and 3.19 for African American adults. Disparities can occur for a variety of reasons including differential offending and differential treatment at one of many points in the criminal justice system.

Table 3. MDC Inmates by Race/Ethnicity and County Estimates

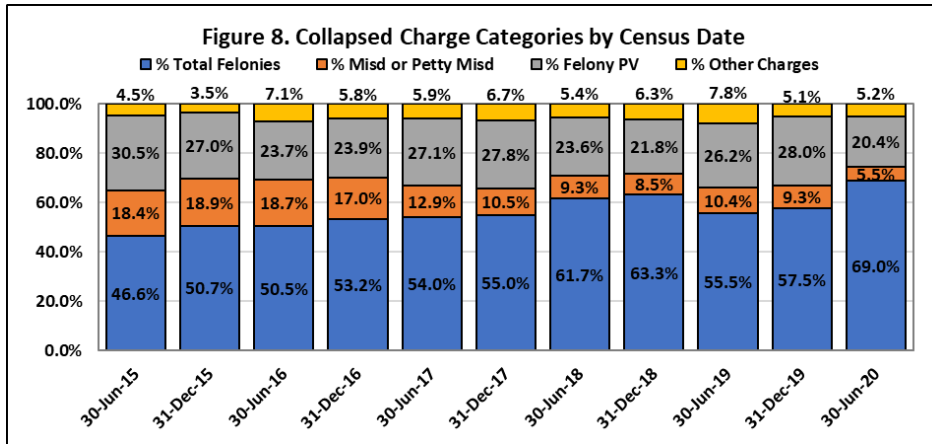| Race/Ethnicity	Count	Percent	2018 ACS Estimates, 18+	Inmate to Population Ratio
Hispanic	635	53.3%	44.33%	1.20
White	349	29.3%	41.12%	0.71
Native American	85	7.1%	4.49%	1.58
African American	103	8.6%	2.69%	3.19

Psychiatric Services Unit: On June 30, 2020, an estimated 52.8% (629) of confined inmates were on the PSU caseload[11] (see Figure 7). This is an increase of 25.4% from 42.1% on December 31, 2019. While there are two dates for which no caseload data was provided, there has been an increase in the portion of the MDC population on the PSU caseload.

Figure 7. Percent of Inmates on PSU Caseload

HIGHEST CHARGE AND SENTENCING STATUS

Highest Charge: For the inmates in custody in the MDC on the snapshot dates, the highest charge was selected based on charges for which the individual was in custody[12]. Over time, the composition of the jail by highest charge has shifted, with larger portions of inmates in custody with a felony charge (see Figure 8). On June 30, 2020, 69.0% (822) of the 1,192 inmates in custody had at least one felony charge. Of the remaining inmates in custody on June 30, 2020, 5.5% (65) had a misdemeanor or petty misdemeanor as their highest charge. Sixty-two (5.2%) inmates had various other charges, including warrants and holds. The percent of individuals in the MDC on a felony probation violation was 20.4% (243).

The percent of inmates with a felony has increased at nearly every biannual snapshot until a decrease at June 30, 2019, followed by an increase on December 31, 2019, and a further increase on June 30, 2020. On June 30, 2015, 46.6% of the MDC population highest charge was a felony. By June 30, 2020, this had increased to 69.0%. During the same time period, misdemeanors and petty misdemeanors decreased, with misdemeanors decreasing from 18.4% on June 30, 2015, down to 5.5% on June 30, 2020. There was a decrease in felony probation violations from June 30, 2015, decreasing from 30.5% to 20.4% on June 30, 2020. While some of these changes are likely occurring due to changes in policy during COVID-19 – for example, probation violations decreasing due in part to a decrease in mandatory face-to-face meetings for persons on probation or pretrial supervision – these changes are part of an on-going shift in the MDC population. The jail is increasingly being used to detain higher level and presumably higher risk offenders rather than detaining lower level offenders.

Figure 8. Collapsed Charge Categories by Census Date

Of those with at least one felony charge, 356 (29.9%) inmates were being held on a highest charge of an F4[13] and there were 219 (18.4%) inmates with the highest charge of an F3 (see Table 4). There were an additional 159 (13.3%) inmates with an F2 as the highest charge and 89 (7.5%) inmates with an F1.
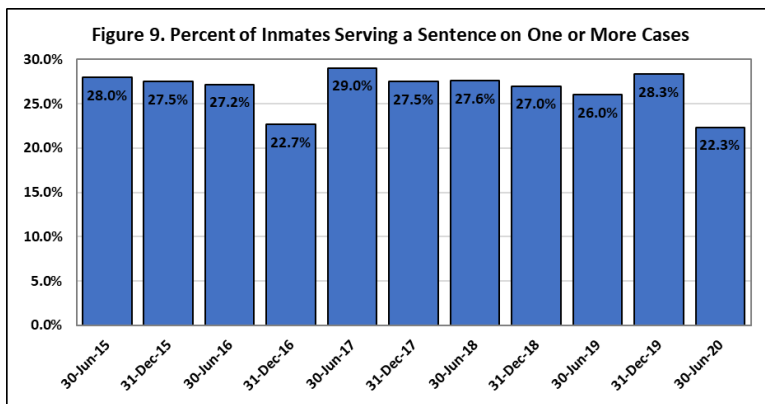
Table 4. In Custody by Highest Felony Charge

	30-Jun-15		31-Dec-15		30-Jun-16		31-Dec-16		30-Jun-17		31-Dec-17		30-Jun-18		31-Dec-18		30-Jun-19		31-Dec-19		30-Jun-20	
F1	149	9.4%	144	10.7%	117	8.7%	85	8.0%	97	8.8%	84	7.4%	94	6.7%	90	6.9%	84	5.3%	88	5.8%	91	7.5%
F2	156	9.8%	143	10.7%	152	11.3%	131	12.3%	141	12.8%	140	12.3%	153	10.9%	149	11.5%	181	11.3%	160	10.9%	160	13.3%
F3	159	10.0%	158	11.8%	167	12.4%	151	14.2%	138	12.5%	151	13.3%	240	17.1%	224	17.2%	242	15.1%	203	13.8%	219	18.4%
F4	274	17.3%	235	17.5%	244	18.1%	199	18.7%	221	20.0%	251	22.1%	379	27.0%	361	27.7%	381	23.8%	393	27.1%	358	29.8%
Total In Custody	1,584	46.6%	1,342	50.7%	1,347	50.5%	1,063	53.2%	1,105	54.0%	1,138	55.0%	1,403	61.7%	1,301	63.3%	1,599	55.5%	1,451	57.5%	1,192	69.0%

The population of the MDC has decreased over the last several years, with an increase in more serious offenders.

Sentenced/Unsentenced Inmates: Sentencing information was collected when available for all cases for which inmates were in custody on the snapshot dates[14]. Inmates were considered to have all cases sentenced if they were sentenced on all the cases for which they were in custody and partially sentenced if they were sentenced on at least one, but not all cases.

On June 30, 2020, approximately 266 (22.3%) of the 1,192 inmates in custody were sentenced on at least one case (see Figure 10). This was 6.0% lower than December 31, 2019. Of the 266, 221 inmates were sentenced on all cases. This decrease in the percent of sentenced inmates is likely due in part to the increase of inmates in custody on a felony and delays in court hearings such as jury trials.

Figure 9. Percent of Inmates Serving a Sentence on One or More Cases

The three largest groups of charges in the MDC were felonies, felony probation violations, and misdemeanors and petty misdemeanors. The percent of these bookings that were unsentenced has changed over the last five year (see Table 5). The percent of unsentenced bookings with a felony as the highest charge decreased slightly from 86.0% on June 30, 2015 down to 83.7% on June 30, 2020. While there were some increases in the percent of misdemeanors and petty misdemeanors that were unsentenced in the interim, from June 30, 2015 to June 30, 2020 this percent decreased from 77.4% to 75.0%. The largest change in unsentenced bookings was for felony probation violations, increasing from 45.1% on June 30, 2015 up to 55.9% on June 30, 2020.
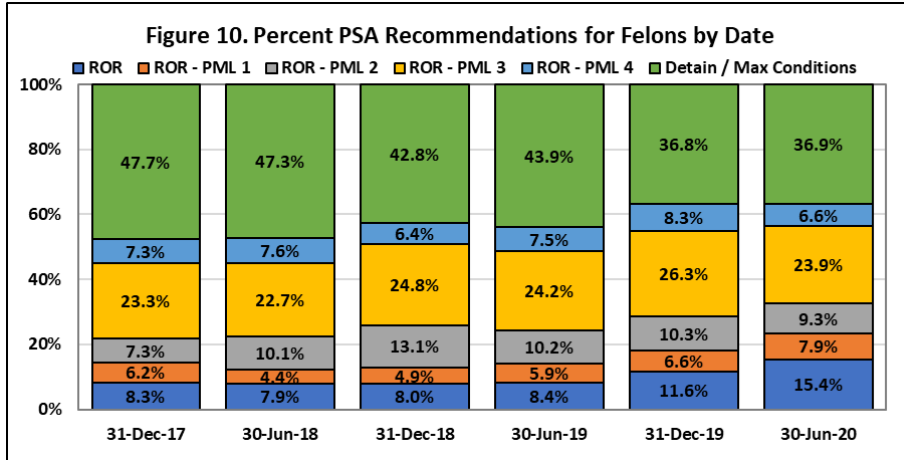
Table 5. Percent of Bookings Unsentenced by Highest Charge

	Percent of Bookings Unsentenced - Total Felonies	Percent of Bookings Unsentenced - Total Misdemeanor and Petty Misdemeanor	Percent of Bookings Unsentenced - Felony Probation Violation
30-Jun-15	86.0%	77.4%	45.1%
31-Dec-15	86.0%	73.9%	44.2%
30-Jun-16	84.3%	79.8%	40.8%
31-Dec-16	86.7%	86.7%	47.2%
30-Jun-17	86.1%	81.8%	36.3%
31-Dec-17	84.5%	87.5%	41.8%
30-Jun-18	85.9%	77.7%	33.5%
31-Dec-18	82.0%	80.2%	44.0%
30-Jun-19	84.9%	82.0%	50.4%
31-Dec-19	83.6%	72.6%	45.9%
30-Jun-20	83.7%	75.0%	55.9%

Public Safety Assessment Recommendations

The Public Safety Assessment (PSA) was implemented in Bernalillo County in June 2017[15]. The PSA is a judicial decision-making tool for judges to help gauge the risk a defendant poses and does not replace judicial discretion. The PSA is administered on felony cases and is primary used for release decision-making at the Felony First Appearance (FFA) in Bernalillo County Metropolitan Court (BCMC) and at the Felony Arraignment (FA) in Second Judicial District Court (SJDC). For some felony cases, there was either no PSA administered or a PSA had been administered as part of a previous booking. For cases in which the highest charge was a felony and a PSA was administered during the booking, the most restrictive PSA recommendation was selected. The recommendations provided on the PSA range from an ROR (release on own recognizance), ROR with pretrial supervision (the pretrial management level or PML ranges from level one to level four and increase in restrictiveness, and to either detain if constitutional requirements are meant or release with maximum conditions. The PSA is not used to assess the risk a defendant poses when charged with a misdemeanor.
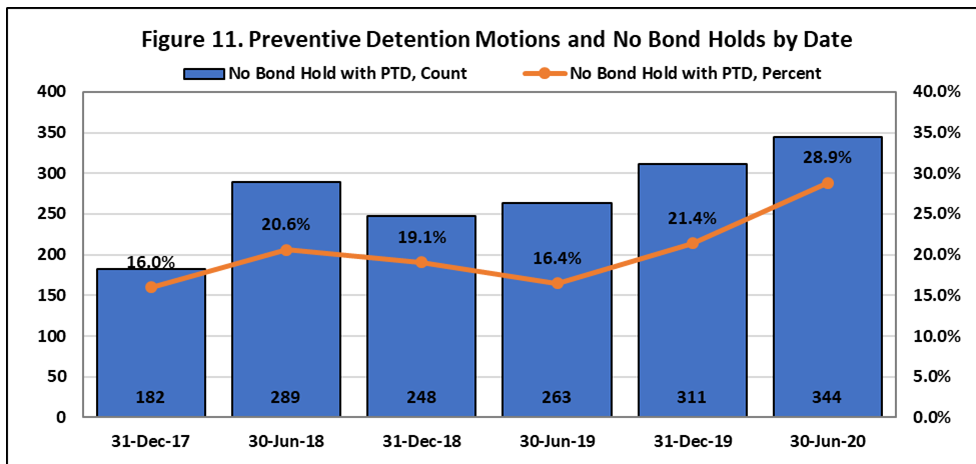
Of inmates with a felony as the highest charge and a PSA, the most common recommendation category was to detain or release with maximum conditions (see Figure 11). The percent of these inmates previously ranged from 47.7% down to 36.8%[16]. The percent of felons recommended for detain or maximum conditions decreased to 36.9%% on June 30, 2020. ROR with PML 3 is the second most common recommendation category, comprising between 22.7% and 26.3% over the last six census dates. ROR with PML 2 accounts for 7.3% to 13.1%. ROR with PML 1 accounted for between 4.4% and 7.9% of inmates and ROR accounted for between 7.9% and 15.4% of inmates.

Figure 10. Percent PSA Recommendations for Felons by Date

ROR ROR - PML 1 ROR - PML 2 ROR - PML 3 ROR - PML 4 Detain / Max Conditions

	31-Dec-17	30-Jun-18	31-Dec-18	30-Jun-19	31-Dec-19	30-Jun-20
Detain / Max Conditions	47.7%	47.3%	42.8%	43.9%	36.8%	36.9%
ROR - PML 4	7.3%	7.6%	6.4%	7.5%	8.3%	6.6%
ROR - PML 3	23.3%	22.7%	24.8%	24.2%	26.3%	23.9%
ROR - PML 2	7.3%	10.1%	13.1%	10.2%	10.3%	9.3%
ROR - PML 1	6.2%	4.4%	4.9%	5.9%	6.6%	7.9%
ROR	8.3%	7.9%	8.0%	8.4%	11.6%	15.4%

Preventive Detention Holds

In January 2017, preventive detention – which allows a motion to be filed for possible detention pending case disposition – was implemented in Bernalillo County. The snapshots for the latest five dates were reviewed to determine the number of inmates who were unsentenced, had a no bond hold, and a motion for preventive detention (PTD) either granted or pending.

The percent of the MDC population with a no bond hold and pending or granted PTD motion has ranged from 16.0% to 28.9% from December 31, 2017 to June 30, 2020 (see Figure 12). On December 31, 2019, that percent increased to 21.4%. On December 31, 2017, 182 inmates comprised this group. On June 30, 2020, there were 344, an 89.0% increase. This was an 10.6% increase from December 31, 2019 to the most recent snapshot.

Figure 11. Preventive Detention Motions and No Bond Holds by Date

No Bond Hold with PTD, Count   No Bond Hold with PTD, Percent

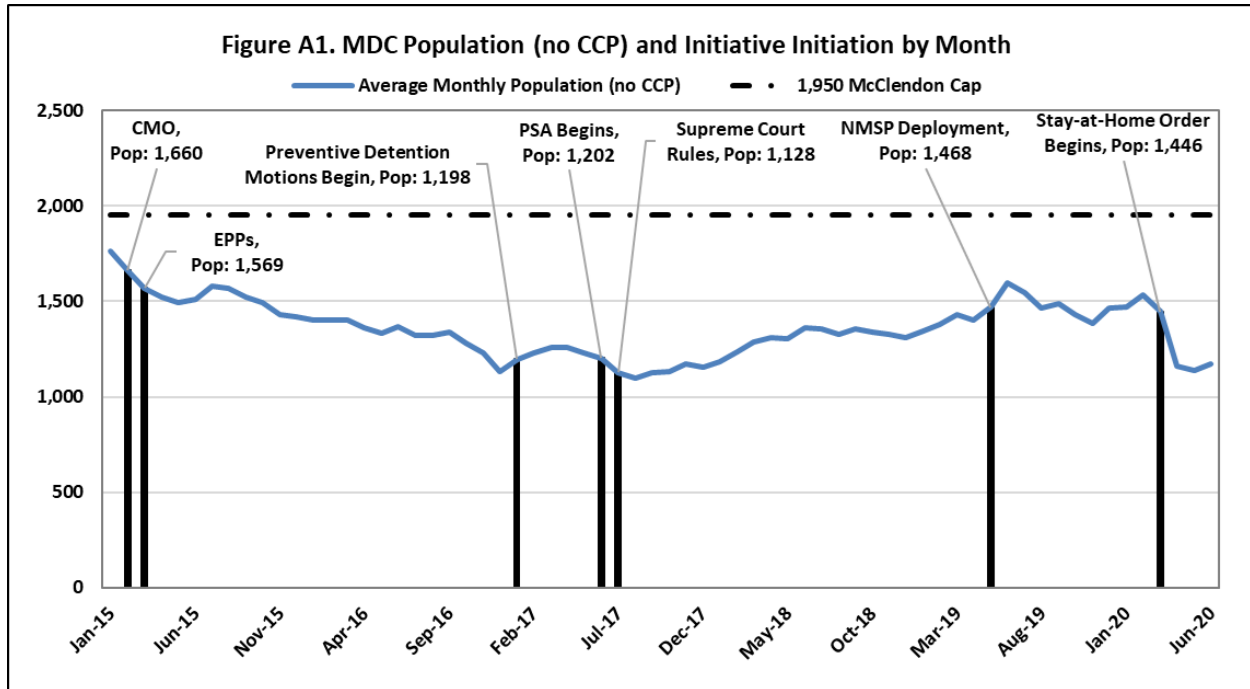|	31-Dec-17	30-Jun-18	31-Dec-18	30-Jun-19	31-Dec-19	30-Jun-20
Count	182	289	248	263	311	344
Percent	16.0%	20.6%	19.1%	16.4%	21.4%	28.9%

Conclusion

The MDC population has decreased since 2019 and has consistently operated below capacity for over 5 years. There have been small changes in the composition of the population by gender and race, as well as shifts in the composition of the population by age. The portion of the population on the PSU caseload increased up to 52.8% on June 30, 2020.

The sentencing status decreased by June 30, 2020 and the composition of the population by charge has changed over the last 5 years. Most notably, there has been an increase in the proportion of the population with a felony and a decrease in the proportion of inmates with a misdemeanor or petty misdemeanor.

The change in composition of the MDC inmates can affect the LOS and may also indicate changes in the types of inmates being booked as well as shifts in how release decision making occurs. Part of this may be due to the implementation and use of the PSA as well as the implementation of preventive detention. Additionally, changes in the criminal justice system to respond to COVID-19 have likely resulted in the increase in felons in custody and a decrease in sentencing. The MDC data in this review has shown the MDC population remains below the rated capacity and is increasingly comprised of more serious offenders.

APPENDIX A

Figure A1 shows the MDC population from January 2010 to June 2020 and criminal justice initiatives implemented in Bernalillo County over the last 6 years.

Figure A1. MDC Population (no CCP) and Initiative Initiation by Month

[1] The MDC was originally designed and built to hold 288 inmates. During the 1980s, the original structure was expanded to house 586 inmates. In 2000, County officials began planning and building the new MDC facility which was occupied in 2002 had had a capacity of 2,048 beds. In December 2006, 188 beds were added, increasing the rated capacity to 2,236. The current rated capacity is 2,190, largely due to changes in cell use from double occupancy to single occupancy.

[2] Guerin, P. 2013. Bernalillo County Metropolitan Detention Center: Analysis of the Jail Population.

[3] Inmates in custody as at the end of the day, excluding individuals listed as AWOL or in Federal custody on the census date. Additionally, this does not include inmates in the custody of the Community Custody Program (CCP), those in the hospital, or those in the Receiving Discharge Transfer (RDT) unit.

[4] The skewness statistics for LOS for each month ranged from 4.2 to 30.3 for FY15 through FY20.

[5] Bureau of Justice Statistics described recidivism in their Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-14) summary published May 2019. https://www.bjs.gov/content/pub/pdf/rsorsp9yfu0514_sum.pdf.

[6] This calculation was updated from previous versions using population estimates from Bernalillo County from https://gps.unm.edu/pru/projections. The estimates for 2015 and 2020 were used and for the years in between an equal increase was included to allow for updated population figures. The population was reduced by 22.7% to account for individuals under 18 prior to 2019. This figure came from the 2015 U.S. Census estimates. From 2019 on, the 2019 U. S. Census estimated the population under 18 at 21.4%.

[7] Bureau of Justice Statistics. March 2020. Jail Inmates in 2018. NCJ 253044. This is the most recent published rate.

[8] Age was calculated at the census date.

[9] In data from the MDC, Hispanic is included as both a race and as an ethnicity. Racial categories were limited based on both categories. For example, an individual listed as White and Hispanic was categorized as Hispanic. Individuals listed as Mexican were collapsed into the Hispanic category.

[10] ACS Estimates for 2018 were used to estimate the adult population. The ACS 5-year estimates were available for Hispanic and Black Only (which in this instance could include Hispanic) and ACS 1-year estimates were used for White, non-Hispanic and American Indian Only (also including Hispanic). The calculated total for each category over 18 was compared to the estimated population for 2018 and this percent was compared to the race of inmates at the jail.

[11] Inmates on the PSU caseload were identified using a list maintained by the facility and provided as available. In some instances, the date available is close to, but is not on the same date as the snapshot date.

[12] For the highest charge, dual violators (those who violated both parole and probation) are categorized with the parole violation as the highest charge. In instances where there is a civil contempt warrant, this remains a warrant as it is difficult to ascertain what is holding an individual in custody and there is often not a precise charge that can be identified. For instances where the booking charges included a warrant, if the warrant had been resolved by the snapshot date the underlying charge was used instead of the warrant. If the warrant was unresolved, then it was considered the highest charge for that case. For probation violations, regardless of whether the case was sentenced, the violation was considered the highest charge. In instances where the violation was due to a new charge, the charge on the new case for which they were in custody was considered the highest charge. For cases in the process of being bound over to the SJDC, the charge information from the processing case was used as the highest charge.

[13] If a specific statute identified a charge as one of multiple degrees, the lowest degree charge was selected. For instance, by statute a kidnapping charge could be an F1 or F2, so an F2 was selected if the degree was not specified.

[14] A case was considered pending if it had not been resolved or if there was insufficient information to determine if there had been a resolution. Sentencing status was assigned based on court data that indicated the inmate was serving a sentence or waiting for release to a facility that was part of the sentencing order.

[15] The PSA was developed by Arnold Ventures in partnership with leading criminal justice researchers. The PSA uses evidence-based, neutral information to predict the likelihood that an inmate will commit a new crime if released before trial, and to predict the likelihood that he/she will fail to return for a future court hearing.

[16] The PSA recommendation information for December 31, 2017 was updated to reflect corrected figures.