

State of New Mexico Office of the State Auditor

CONSTITUENT SERVICES (505) 476-3821

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Via E-mail (jmorgasbaca@bernco.gov)

Ms. Julie Morgas Baca County Manager Bernalillo County One Civic Plaza, NW Albuquerque, New Mexico 87102

Re: Special Audit of the Bernalillo County Criminal Justice System

On May 23, 2018, then State Auditor Wayne Johnson designated a special audit of seven (7) different entities within the Second Judicial District. Former State Auditor Johnson indicated the objective of the designation was to identify weaknesses in the processes from arrest to confinement, which potentially reduce the overall effectiveness of the criminal justice system in Bernalillo County. The original concept for the designations was to have each of the seven (7) entities reviewed independently and, upon completion, the Office of the State Auditor (OSA) was to consolidate the findings into one (1) comprehensive report. This original concept has been re-evaluated and based on the circumstances, the OSA has determined consolidating the results will not provide readers with the comprehensive understanding initially contemplated.

In response to the designation, on June 26, 2018, the Second Judicial District Court requested an opinion from the New Mexico Office of the Attorney General (NMAG) regarding whether the OSA's designation for this purpose exceeded the OSA's constitutional authority. Despite that request, five (5) of the engagements were completed and the reports are available on the OSA's website. The Bernalillo County Sheriff's Office and the Metropolitan Detention Center reports were combined and OSA has released four (4) separate reports. The two (2) remaining entities designated for the special audit, the Law Office of the Public Defender and the Albuquerque Police Department have not complied with the special audit designation pending receipt of an opinion from the NMAG. As of this date no opinion has been issued.

In this instance the special audit of the criminal justice system in Bernalillo County did not have a sufficiently defined scope to properly analyze the system in its entirety. Instead the scope emphasized process and did not sufficiently consider the complexity of the criminal justice system as a whole and the many nuances relating to the protection of defendants' constitutional rights, victims' rights, and adherence to statutes and rules of criminal procedure. Despite these issues, recommended actions presented in each of the reports and observations from other evaluations are intended to improve the best practices of each of the agencies involved.

2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507 Phone (505) 476-3800 * Fax (505) 827-3512 www.osanm.org * 1-866-OSA-FRAUD At the time of the designation of this special audit by former State Auditor Johnson, the Legislative Finance Committee (LFC) was in the final stages of completing its own evaluation of the Bernalillo County criminal justice system. Initiated in late 2017, the LFC sought to assess trends and the current situation of crime and the justice system as a whole. That report, #18-05, was published on July 19, 2018 and is a comprehensive 123 page evaluation with recommendations and responses.

After thorough review and in light of the contemporaneous evaluation of the Bernalillo County Criminal Justice System made by the LFC it was found that the special audit initiated by former Auditor Johnson was superfluous. Moreover, taken together the completed reports from the special audit and the LFC amount to a comprehensive review of the Criminal Justice System in Bernalillo County.

Therefore, it has been determined that the OSA will not enforce the designation of the final two (2) engagements as the information and data presented in the LFC report in conjunction with those contained in the completed special audit reports together provide a sufficient basis to evaluate the system. At this time the OSA is concluding the Criminal Justice Special Audit and encourages all entities to consider the recommendations to improve the Bernalillo County Criminal Justice System.

Respectfully,

Brian S. Colón, Esq. New Mexico State Auditor



Second Judicial District Comprehensive Audit Office of the State Auditor-Special Project

October 2018



Bernalillo County Second Judicial District Comprehensive Audit

Report

Management and Office of the State Auditor

INTRODUCTION

We performed the consulting services described below solely to assist the Office of the State Auditor (OSA) with the Second Judicial District Comprehensive Audit involving the Bernalillo County Sheriff's Office (BCSO) and the Metropolitan Detention Center (MDC). Our services were conducted in accordance with the Consulting Standards issued by the American Institute of Certified Public Accountants and the terms of our Professional Services Contract with Bernalillo County. Since our procedures were applied to specific questions and processes at the request of the OSA, it is possible that significant issues related to the areas may not have been identified. The sufficiency of these procedures is solely the responsibility of the OSA. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

PURPOSE AND OBJECTIVES

As part of the special project, the OSA requested Bernalillo County to contract out the engagements for BCSO and MDC. The audit included a separate audit of each entity involved in the criminal justice system in the Second Judicial District, including the Albuquerque Police Department, the Bernalillo County Sheriff's Office, the Bernalillo County Metropolitan Court, the Second Judicial District Court, the District Attorney's Office, the Law Offices of the Public Defender, and the Metropolitan Detention Center. REDW met with both the OSA and Bernalillo County to determine which entities would be applicable as part of the engagement.

Our procedures focused on obtaining and documenting information related to specific areas of the criminal justice system, as identified by the OSA. All information obtained by REDW will be used in conjunction with the results of audits performed for the other entities involved. If other entities had been interviewed and other procedures requested, different results may have been reported.

SCOPE AND PROCEDURES PERFORMED

As part of our procedures, REDW met with the OSA and Bernalillo County to review the scope of the engagement, determine applicability and approve the modified listing of steps to be completed.

In order to gain an understanding of the processes and policies and procedures, we interviewed the following personnel:

MDC

- Emily Madrid, Chief Financial Administrator
- Michelle Fascitelli, MDC Program Administrator
- Meaghan Ellsworth, Director of Administrative Services
- Alexis Iverson, Intake Supervisor

BCSO

- Brian Lindley, Chief Deputy
- Craig Sever, Captain

County Legal

Gabriel Nims, Adult Detention Reform Coordinator

We read relevant portions of:

MDC

- APO 16.02: Pre-Booking and Transfer of Custody (February 28, 2014)
- APO 16.03: Booking Process (January 18, 2017)
- REC 6.00: Booking Information (February 28, 2014)
- REC 6.02: Custody Records (February 28, 2014)
- RDT: Booking Processing Officer (July 14, 2016)
- Receiving Screen Form

BCSO

- BC Sheriff's Department Rules and Regulations: 313 Arrests (July 9, 2018)
- BC Sheriff's Department Rules and Regulations: 316 Booking Procedures (May 22, 2012)
- BC Sheriff's Department Rules and Regulations: 400 Reports and Records (June 9, 2014)
- BC Sheriff's Department Rules and Regulations: 401 Offense and Incident Report Form Instructions (August 1, 1998)

We performed the following testwork:

REDW conducted interviews with personnel at the Metropolitan Detention Center (MDC) and the Bernalillo County Sheriff's Office (BCSO) in order to obtain an understanding of the processes in place related to those functions requested by the OSA. We read relevant portions of policies and procedures provided by both MDC and BCSO to obtain a better understanding of their processes. Additionally, we performed a walkthrough of the arrest process by BCSO up to the booking at MDC.

The specific information gathered is included in Attachment A, including the processes in place and any issues identified at both the BCSO and the MDC. Based on interviews with personnel at Bernalillo County, we believe that the Bernalillo County Criminal Justice Coordinating Council would be a helpful forum to discuss how all seven entities can better share information and improve processes, as all the entities included in this audit participate in this council. Specific areas to consider are included in the attachment.

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This report is intended solely for the information and use of the Office of the State Auditor, Bernalillo County audit committee, members of Bernalillo County Commission and others within the organization.

RFDW LLC

Albuquerque, New Mexico December 20, 2018

	MDC			Sheriff's Office			
Step 1	Applicability	REDW Comments	REDW Identified Issues	Applicability	REDW Comments	REDW Identified Issues	
Review and document the procedure for recording cases at the initial step and assess whether there are procedural matters creating weaknesses or breakdowns in the system that can be resolved at the initial stage.	N/A	N/A	N/A	Applies	The Bernalillo County Sheriff's Office (BCSO) records all incidents (crashes and incidents) through the Records Management System (RMS). RMS automatically assigns a case report number to all incidents.	None identified.	
Determine how the process for processing cases prior to arraignment or preliminary hearing is handled by the responsible agency.	N/A	N/A	N/A	N/A	N/A	N/A	
Determine the process for sending a case to the grand jury or to a preliminary hearing.	N/A	N/A	N/A	N/A	N/A	N/A	
Review the rules of the various courts to determine any specific requirements.	N/A	N/A	N/A	N/A	N/A	N/A	
Determine the process for assignment of case numbers by each agency and determine if case number assignments are consistent across agencies or if case number assignments are contributing to weaknesses in the process.		MDC utilizes E-Justice as their Inmate Managing System to track all incoming inmates. This same system has been in use by MDC for approximately 20 years. Each time an inmate is brought into MDC, a booking number is assigned to them. Booking numbers are specific to personal property. Inmates are assigned an inmate number, which is different from the booking numbers. The inmate number always stays the same no matter how many times an inmate has been booked, and is person-specific. Additionally, MDC also assigns temporary case numbers. Once the inmate goes to their first appearance arraignment the temporary case number is changed to reflect the actual number from the courts. Temporary case numbers are not utilized by any other agency.	There is not a standardized numbering system across agencies as each assigns their own case/inmate number based on the system they utilize. There is no process in place to cross reference between the numbering. The Bernalillo County Criminal Justice Coordinating Council (BCCJCC) should discuss the possibility of a standardized numbering system across entities and the feasibility of such an implementation.	Applies-Uses case numbers. Also DA, Court, MDC	The Records Management System (RMS) automatically assigns a case report number. All documentation produced by BCSO related to the same incident will have the same case report number.	There is not a standardized numbering system across agencies as each assigns their own case/inmate number based on the system they utilize. There is no process in place to cross reference between the numbering. The Bernalillo County Criminal Justice Coordinating Council (BCCJCC) should discuss the possibility of a standardized numbering system across entities and the feasibility of such an implementation.	
Determine the breakdown of cases being administered electronically versus paper and data entry.	N/A	N/A	N/A	Applies-The new RMS was just implemented in June 2018 and DA will have access to our system.	Since the implementation of RMS in June 2018, all cases are automatically recorded electronically. Prior to that date documents were completed manually and then had to be scanned and entered into the system. Now the majority of the documentation is completed within the RMS system, however pre-booking forms and criminal complaint may still be completed on paper. Tow slips and domestic violence reports are also on paper form, which then require scanning into the system. Deputies are able to scan documents into RMS as they process the report on the date of the incident.	still filled out on paper, requiring	

	MDC			Sheriff's Office		
Determine whether paper filings and data entry issues are contributing to weaknesses in the process between responsible agencies.	N/A	N/A	N/A	arrest & confinement	In the past, BCSO had issues with ADP scanning documents as it was not uncommon for written documents to be separated from the original reports during processing resulting in numerous hand searches to correct the issue. The process took a long time to scan in the documents which caused delays in the BCSO process. In the past it would at times take 3-6 months for documents to be ready, now documents can be scanned within the same date of the incident. Since the implementation of RMS in June 2018, BCSO believes to be seeing an increase in efficiency as reports are available as soon as they are completed along with all other forms completed within the RMS system. They feel the organization of documentation has also improved.	See above.
					improved.	
Step 2						
Walk through a sample of cases noting the process for arrest, confinement, and each court appearance from arraignment to trial and sentencing.	Applies	taking charges into consideration. E-Justice helps ensure an inmate is not placed in area that could potentially cause problems by give a warning if the individual should not be placed within a certain part of the jail. However, this can be overwritten by inputting a reason into the system. The system also limits the number of inmates that can be placed within each area	that not all charges are entered into E-Justice, there is a possibility that the Classification Unit does not have all the necessary information available to correctly determine cell placement. Additionally, the system can be overridden to move inmates to sections	Applies-In investigation process-then goes to DA and/or MDC	When an individual is arrested, the deputy will complete an incident report which includes the report number issued by the records management system. The report will indicate all charges, physical characteristic of the individual being arrested, as well as personal information such as age, DOB, SSN and home address. During completion of the report, the system alerts the deputy if sections have not been filled out. The incident report must be completed by the end of the shift. In addition to creating the incident report, the officer is also required to create a criminal complaint and pre- booking form. The criminal complaint and pre-booking form are to be provided to PTC or MDC. These forms can be completed electronically or on paper. Both the criminal complaint and pre-booking form have the same case report number assigned to the incident report. Theses reports are to be completed prior to arriving at MDC.	information is entered manually into E- Justice, there is a possibility for error. BCCJCC should discuss how to integrate systems across entities and the

		MDC			Sheriff's Office		
		Court Appearance: The movement of inmates for arraignments (held within MDC via video monitor) and Bernalillo County Court appearances are not tracked within E-Justice, but rather using an officer pod log	Court Appearance: Movement of inmates related to court appearances at a Bernalillo County Court are not tracked within E-Justice. MDC should consider tracking inmates for court appearances in their system.		We obtained a copy of case report #SO18100006195 occurring 10/1/18. We then compared the information on the Incident Report to the Pre-Booking Information Report, noting the same case report # and same information. Additionally, we obtained the Offender Booking Sheet from MDC. We identified variances between the information recorded on the Pre-Booking Information Report completed by the officer and the Booking Sheet completed by MDC. In this particular case, the person taken into booking had their information taken from their driver's license to list their address. Once they got into the booking system at MDC, their records showed a different address than the one on the pre-booking information report. As the arrestee had been booked in years prior, MDC continued to use the address already on file. Per our discussion with the Chief Deputy and Captain, this is a recurring issue. We also observed the case report assigned by BCSO ceased to be used and a person ID and new booking number was assigned.		
Determine how cases are "tracked" or kept under control and examine whether any of the tracking or control processes are contributing to weaknesses in the process.	Applies	MDC does not track cases but they do track the inmates. All movement of inmates, other than court appearances are tracked in E-Justice. The system helps keep track of cell placement. Depending on the charges of the inmate, the system will give a warning if the individual shouldn't be placed within a certain part of the jail, however this can be overwritten by inputting a reason. The system also limits the number of inmates that can be placed within each area of the jail in order to prevent overcrowding.		Applies	Arrests do not require tracking as the arrestees are transported to MDC or Prisoner Transport Center (PTC) within hours of the arrest.	None identified.	
Determine data available during the processes. Determine whether all agencies involved are receiving the same data or have the same data available.	N/A	N/A	N/A	N/A	N/A	N/A	

	MDC			Sheriff's Office			
Determine how "cases" are handed off to the next entity or department and assess whether the transfer of cases from one entity or department to another is the source of any weaknesses in the process.	Applies	Although this is not a "case", inmates are handed off to other entities. MDC receives inmates from BCSO and the Prisoner Transport Center (PTC) by obtaining a pre- booking form and criminal complaint/warrant. MDC will hand off arrestees through a court order or a writ of habeas corpus. As part of the inmate verification process for releasing, the inmate will be compared to a photo ID and physical description recorded during the intake process. They will also be asked personal questions such as social security number, date of booking, charges and emergency contact. MDC will be implementing an iris scan in the future to help with identify verification during the releasing phase.		Applies	Although this is not a "case", inmates are handed off to other entities. Case numbers (arrestees) are transported by BCSO to MDC or PTC for booking. They provide either entity with a pre-booking form detailing personal information of the arrestee, arrest information and offense summary. They also provide a criminal complaint detailing the offense.	information documented for inmates between BCSO and MDC. BCCJCC	
Determine how "case numbers" are handled during transfers from one agency to another and assess whether the assignment of case numbers by different agencies or departments is a source of any weakness in the process.	N/A	N/A	N/A	Applies	BCSO assigns a case report number, however this number changes once the arrestee reaches MDC.	There is not a standardized numbering system across agencies as each assigns their own cases/inmate number based on the system they utilize. BCCJCC should discuss the possibility of a standardized numbering system across entities and the feasibility of such an implementation.	
Determine if the "name" of the accused is used as an identifier and whether the use of names as an identifier is causing any weakness in the process.	Applies	Names are not part of the inmates ID. Inmate ID's are automatically assigned by the system. All inmate numbers begin with "1000" followed by 4 other numbers. Each time an inmate is brought into MDC, a booking number is assigned to them which identifies how many times they've been arrested. The inmate ID always stays the same no matter how many times an inmate has been booked, and is person-specific. The name of the accused is used in conjunction with their inmate number as an identifier.	None identified.	Applies-Involves all agencies	The name of the arrestee is not incorporated into the case report number as these are automatically assigned by the system. Although the name is not part of the numbering system, it is included on all forms and thus used in conjunction with the case report number.	None identified.	
St. 2							
Step 3 Determine procedures for "dismissal" of a case and assess whether or not there are cases which are being dismissed as a result of weaknesses in the process, rather than as a result of proper judicial process or defense.	N/A	N/A	N/A	N/A	N/A	N/A	

	MDC			Sheriff's Office			
Determine if the policies of each agency are interfacing or are conflicting and whether there are conflicts in the internal policies of each entity or department which contribute to weaknesses in the process.		annually at MDC; however, based on our reading of policies provided it appears some are outdated based on the last revision date. Additionally, MDC does not	Based on revision dates on policies, it appears some could potentially be outdated. Additionally, MDC does not compare their policies to other agencies/departments. BCCJCC should discuss what policies should be coordinated and shared.	Partially applies. Can gather policies, but will not have access to other entity's policies.	complete review and update has not been completed.	procedures has not been completed. This	
assignment of public defenders to indigent	N/A-Sometimes MDC coordinates indigent for inmates	N/A	N/A	N/A	N/A	N/A	
Assess state and local laws, court rules, and case law which are influencing the internal policies of each agency and determine whether there are conflicts of law which are causing weaknesses in the process.	N/A - Auditor will be unable to assess the law.	N/A	N/A	N/A - Auditor will be unable to assess the law.	N/A	N/A	
Determine when an inmate gets referred to another program as a matter of policy, and assess whether there are gaps in the referral process which contribute to weaknesses in the process.	N/A	N/A	N/A	N/A	N/A	N/A	
Determine efficacy (recidivism) rates and use of specialty courts and assess underlying reasons if specialty courts are found to be underutilized.	aspect of this, courts does most	N/A	N/A	N/A	N/A	N/A	
Assess the experience of the referrals to behavioral health organizations to see if the programs are effective and efficient.	N/A	N/A	N/A	N/A	N/A	N/A	

		MDC			Sheriff's Office			
Assess the behavioral health treatment received at MDC and measure the recidivism rate.	Applies	discussion with Gabriel Nims, Adult Detention Reform Coordinator at County Legal, he primarily oversees contracts funded by the County for search and analysis	Recidivism rate is not currently being tracked.	N/A	N/A	N/A		
Determine what reports are generated by each entity and whether those reports are contributing to efficiencies in the process, or whether there are reporting processes which are a source of weaknesses in the system.	Applies		MDC does not currently generate any reports. BCCJC should discuss the need of information and reports, that would be considered beneficial to share across entities.	Applies	BCSO is able to generate a variety of reports including calls for service, number of burglaries, injuries, etc. The only report they run consistently (monthly) is the Calls for Service as this helps them get a better understanding of the types of calls being received and from where. They can in turn allocate their resources accordingly. Other reports are run on an as needed basis.	None identified.		
Provide an assessment of any weaknesses in the process or interface between entities or departments which are identified by the IPA, but not listed in this scope of work.	Applies	 booking system, however they do not have access to RMS. MDC also believes to have a good working relationship with Albuquerque Police Department (APD) and most agencies. They have specific points of contacts and are able to get pointed in the right direction when encountering difficulties. MDC expressed they consistently struggle with the Metro Court as they currently have to depend on a 'transport list' to figure out which dispositions are needed for each day and which inmates had updates to 	MDC does not have access to RMS system. BCCJCC should discuss how to integrate systems across entities and the feasibility of such an implementation. None identified. MDC struggles obtaining daily deposition lists and case updates from the Metro Court. Sharing of information and improvement of processes should be discussed by the BCCJCC.	Applies	There does not appear to be any conflicts with MDC or any specific difficulties or struggles in obtaining information from Metro Court. Conflicts with ADP have decreased since the implementation of RMS. Communication with the DA's office has also improved since the implementation of the new RMS system and the DA having access to reports.	None identified.		

	MDC				Sheriff's Office		
		MDC will be switching to a new inmate managing system that will allow them to share data. The old system was established in 1998 and is no longer supported adequately. They are planning to switch to the new system by April 2019 or within the next 12-18 months.	With the implementation of a new system, policies and procedures will likely need to be updated. BCCJCC should discuss the need for updating policies and any possible conflicts that could arise within the criminal justice system. Discussion should include sharing of information/data across entities.				
Determine efficacy of pre- trial release programs including GPS monitoring, failure to appear (FTA) rate, and the rate of re-offense in the pre-trial services population.	N/A	N/A	N/A	N/A	N/A	N/A	
Test risk assessment tools used by the agencies for accuracy of predicted outcomes and determine failure rate.	N/A	N/A	N/A	N/A	N/A	N/A	
each agency to determine	N/A-They don't apply to case flow	N/A	N/A			There appears to be inadequate staffing. BCSO should work with the County to discuss staffing needs.	