

Criminal Competency: New Rules, Reports and Resources



Moderator:

Judge Abigail Aragon, Fourth Judicial District Court

Panel:

Judge James Hudson, Fifth Judicial District Court
Dr. Paul Bagwell, New Mexico Behavioral Health Institute

Dr. Samantha Guzman, PsyD

Tiffany Wynn, New Mexico Human Services Division

Presenter Biographies:

Judge Abigail Aragon is a graduate of the UNM School of Law. She was appointed to the District Court Bench in March of 2006 and elected the same year. Judge Aragon is a general jurisdiction judge and has been on the bench for thirteen (13) years. She was Chief Judge of the Fourth Judicial District from 2012 through 2015. She is active in the judiciary and has been appointed by the Supreme Court to the Personnel Rules Committee, the Children's Rules Committee, the Ad Hoc Mental Health Rules Committee, the Judicial Conclave Planning Committee, and the Language Access Committee. Judge Aragon is one of the original founders, organizers, and trainers of New District Court Judges Training.

Dr. Paul W. Bagwell, Psy.D., M.A., ABMP, is employed with the New Mexico Department of Health (DOH), serving as the Forensic Division Director of the New Mexico Behavioral Health Institute (NMBHI) at Las Vegas. He is an employee of NMDOH/NMBHI since 2001. He is a licensed psychologist, board certified in Medical Psychology by the American Board of Medical Psychology. He maintains an active prescribing certificate in the State of New Mexico since 2013. Dr. Bagwell is a clinical assistant professor of the Department of Psychiatry and Behavior Sciences, University of New Mexico, School of Medicine. He is a member of the New Mexico Board of Psychologist Examiners since 2012. Dr. Bagwell is licensed as a psychologist in New Mexico and Texas. Prior to moving to New Mexico, he was employed with the Federal Bureau of Prisons at the Federal Medical Center, Carswell, located in Fort Worth, Texas.

Dr. Samantha Guzman recently obtained her doctorate degree in clinical forensic psychology from the Chicago School of Professional Psychology. Her research interests include program evaluation and development of culturally sensitive forensic instruments. As part of her dissertation requirements, Dr. Guzman evaluated the efficacy of a program designed to empower inmates in a county jail to make positive changes. Her dissertation focused on the impact of the program on inmates' readiness to change and hope. Dr. Guzman is presently working as a forensic postdoctoral fellow for the University of New Mexico in collaboration with the state of New Mexico. Her role is to support competency evaluations and help develop a community of forensic evaluators. Part of her duties as a fellow includes completing competency evaluations for New Mexico's Behavioral Health Institute (NMBHI). She also works in collaboration with private licensed psychologists conducting civil and criminal forensic evaluations of adults and juveniles. Dr. Guzman completed her internship at Harris County Juvenile Probation Department (HCJPD) in Houston, Texas. As an intern, She completed diagnostic as well as forensic evaluations for juvenile court. Some of these evaluations included waiver to adult evaluations, which involved assessing for risk, maturity level, criminal sophistication, and treatment amenability of juveniles. At HCJPD, Dr. Guzman assisted in competency and lack of responsibility evaluations of juvenile offenders. She also operated as a consultant for a specialty court designed to serve victims of human trafficking and provided short-term psychotherapy to youth being detained.

Judge James Hudson is Chief Judge for the Fifth Judicial District in Chaves County. He was appointed District Judge in April, 2013. Judge Hudson hears all lower court competency transfers and involuntary commitment cases in Chaves County in addition to his general jurisdiction docket of criminal, civil, family law, and probate cases. Judge Hudson earned a Bachelor's degree in Economics With Honors from the University of Notre Dame in 1980, and a Juris Doctor from the University of New Mexico School of Law in 1984. Jude Hudson founded and heads the Chaves County Behavioral Health Leadership Council. The Council includes representatives of care providers, service providers, non-profit entities, government agencies, law enforcement, the Chaves County Detention Center, City and County government, and local attorneys dedicated to improving communication, understanding, efficiency, and cooperation in order to address the need for mental health care services. Judge Hudson also served on the Senate Joint Memorial 4 Task Force on Clinically Appropriate Housing Options for Seriously Mentally Ill.

Tiffany Wynn, MA, LPCC, Ph.D. (c) currently serves the state of New Mexico as the Clinical Services Manager within the Behavioral Health Services Division. She is a doctoral candidate in Counselor Education and Supervision. She teaches at Prescott College and Capella University in the Counselor Education Departments. She spent ten years working in the mid-west in forensic psychology under the direction of Dr. Lee Howard. In her current role at BHSD, she oversees the Competency to Stand Trial program. In the last 15 months, she has worked across state agencies and with community stakeholders to address deficiencies in the competency evaluation process. This work has included quality reviews of evaluations, data collection, and review, streamlining evaluator expectations and timelines, rate reviews, and ongoing communication with the supreme court ad hoc rules committee.

2019 JUDICIAL CONCLAVE

CRIMINAL COMPETENCY: NEW RULES, REPORTS RESOURCES

OVERVIEW OF NEW RULES

James M. Hudson
District Court Judge
Fifth Judicial District
P.O. Box 1776
Roswell, NM 88202
Phone: (575) 624-0859
Fax: (575) 624-7503

**MOTIONS TO DETERMINE COMPETENCY TO STAND TRIAL
AND SUBSEQUENT PROCEEDINGS**
Rules 5-602.1 and 5-602.2 NMRA

	<p style="text-align: center;">COMPETENCY DEFINITION:</p> <p>(a) <i>sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding,</i> (b) <i>a rational as well as factual understanding of the proceedings against the defendant, and</i> (c) <i>the capacity to assist in the defendant's own defense and to comprehend the reasons for punishment.</i></p>
	<u>OPPOSED MOTION FOR COMPETENCY FILED IN DISTRICT COURT</u>
	<p>Motion Filed <i>Note: Motion is automatically filed under seal pursuant to Rule 5-123 NMRA</i> Must include:</p> <ul style="list-style-type: none"> (a) statement that is based on a good faith belief that the defendant may not be competent to stand trial; (b) a description of the facts and observations about the defendant that have formed the basis for the motion (without violating the attorney–client privilege); (c) statement that is not filed for purposes of delay; (d) statement that is opposed as provided in Rule 5-120 NMRA; (e) a completed defendant information sheet; and (f) a request for a competency evaluation.
5 days after Motion	<p>Response by State due. Must include: specific facts in opposition of motion.</p>
2 days after Response Or 5 days after Response	<p>a. Court enters Order within two (2) days if no hearing to be held.</p> <p><u>or</u></p> <p>b. Court holds hearing within five (5) days to determine whether there is a good faith basis to raise competency.</p>
2 days after Order entered	<p>Court provides Evaluation Order to Evaluator. <i>Optional: file Notice of Delivery of Order</i></p>
	<u>UNOPPOSED MOTION FOR COMPETENCY FILED IN DISTRICT COURT</u>
	<p>Motion Filed <i>See above for requirements</i></p>
2 days after Motion	Court enters Evaluation Order
2 days after Order entered	Court provides Evaluation Order to Evaluator
	<u>TRANSFER FROM LOWER COURT</u>
	<p>Case transferred from lower Court <i>Note: Order of Transfer must include necessary findings made in lower court</i></p>
5 days after transfer	<p>Court enters Evaluation Order <i>Optional: file Notice of Delivery of Order</i></p>
2 days after final Order	Case is remanded to lower court

	EVALUATION ORDER (Form 9-514 NMRA)
	<p>Must include:</p> <ul style="list-style-type: none"> a. Name of evaluator; b. Requirement that Report must be filed the Court within thirty (30) days; c. Date of Competency hearing within 45 days of Order. <p><i>Note: the evaluator is considered an expert for the Court, not either party</i></p>
30 days after Order	<p>Report from Evaluator is due. Evaluator files Report with Court.</p> <p><i>Note: the definition of competency is based on the factors discussed in the <u>Linares</u> and <u>Rotherham</u> cases, not the <u>UJI</u>.</i></p>
45 days after Order	Competency Hearing must be held
	EVALUATION REPORT
	<i>Note: Report is automatically filed under seal pursuant to Rule 5-123(C)(2) NMRA, but not served on the parties.</i>
2 days after Report filed	<p>Court provides Report to Counsel</p> <p><i>The Court must excise any statement the Defendant made about the crime charged or any other crime.</i></p> <p><i>Optional: file Notice of Delivery of Report</i></p>
7 days after Report filed	<p>The Parties must either file:</p> <ul style="list-style-type: none"> a. A joint motion to adopt the conclusion; or b. Specific written objections to conclusions in report.
	COMPETENCY HEARING
45 days after Order	Must be held within at time stated in Order for evaluation
	<p>Hearing:</p> <ul style="list-style-type: none"> a. Report is prima facie evidence of competency subject to rebuttal b. Standard of proof is preponderance of the evidence
3 days after hearing or Joint Motion	<p>Court enters final Order on competency</p> <ul style="list-style-type: none"> a. If found competent, proceedings continue; <p>OR</p> <ul style="list-style-type: none"> b. If found not competent and not charged with a felony, the Court may dismiss without prejudice; c. If found not competent and charged with a felony, additional proceedings under Rule 5-602.2 NMRA to determine dangerousness and possible commitment for treatment to competency if asserted by the State; d. If found incompetent and either no felony or not dangerous, the Court may advise the district attorney to consider initiating involuntary commitment proceedings.
	EXTENSIONS OF DEADLINES AND FAILURE TO MEET DEADLINES
	<p>1. Deadlines may be extended:</p> <ul style="list-style-type: none"> a. Up to ninety (90) days from the date the motion was filed upon a showing of good cause. b. Beyond the ninety (90) days upon a showing of extraordinary circumstances, but the Court shall not rely on any circumstances used to grant a previous extension.
	<p>2. Failure to determine competency within time required, including extensions: Case is subject to review and dismissal without prejudice.</p>

	PROCEEDINGS AFTER FINDING OF INCOMPETENCY
	<p><i>Defendant not charged with a felony:</i></p> <ul style="list-style-type: none"> a. If transferred from lower court, matter is remanded within two (2) days b. If competency raised in District Court, Court may dismiss without prejudice. c. If dismissed, Court may advise attorneys to refer defendant to appropriate person for possible involuntary commitment.
	<p><i>Defendant is charged with a felony – proceeding to determine dangerousness</i></p> <ul style="list-style-type: none"> a. Dangerousness – if released, the defendant presents a serious threat of inflicting great bodily harm or committing criminal sexual penetration or criminal sexual contact of a minor. b. Standard of proof: clear and convincing evidence. c. Only consider evidence whether defendant presents a serious threat. Does not require expert testimony. Similar to determination of which conditions of release will reasonably ensure the safety of the community. d. If no finding of dangerousness: remand to lower court, dismiss without prejudice, advise of possible involuntary commitment.
	<p><i>Incompetent and Dangerous – Treatment to Competency</i></p> <ul style="list-style-type: none"> a. Inability to treat – must be made within fourteen (14) days of admission. b. Initial assessment and report – within thirty (30) days of admission. c. Review hearing within ninety (90) days of admission. d. If treated to competency, case remanded to lower court or continues in District Court. e. If cannot be treated to competency and case does not involve a crime for possible commitment, then case may be dismissed with or without prejudice, with consideration of possibility for involuntary commitment.
	<p><i>Commitment Proceedings under NMSA 1978, §31-9-1.5</i></p> <ul style="list-style-type: none"> a. Only available if defendant is charged with: <ul style="list-style-type: none"> ▪ felony involving great bodily harm; ▪ felony involving use of a firearm; ▪ aggravated arson; ▪ criminal sexual penetration; ▪ criminal sexual contact of a minor. b. State must prove, by clear and convincing evidence, the Defendant committed the crime. c. If State does not prove defendant committed the crime, then case is dismissed <i>with</i> prejudice, with consideration of possibility for involuntary commitment. d. If State proves defendant committed the crime but the defendant is no dangerous, then case is dismissed <i>without</i> prejudice, with consideration of possibility for involuntary commitment. d. If the Court finds the defendant committed the crime, is incompetent, and is dangerous, then the defendant is committed for a period of time equal to the maximum sentence had defendant been convicted at trial.

SAMPLE EMAIL TO EVALUATOR

Dr. __,

Attached is the Order for Competency Evaluation On Transfer in the referenced case involving the Defendant _ in the referenced matter.

I have copied Counsel for the Defense and the District Attorney's Office with this email.

Thank you for your consideration,
James M. Hudson

James M. Hudson
District Court Judge
Fifth Judicial District
P.O. Box 1776
Roswell, NM 88202
Phone: (575) 624-0859
Fax: (575) 624-7503

*STATE OF NEW MEXICO
COUNTY OF CHAVES
FIFTH JUDICIAL DISTRICT COURT*

*STATE OF NEW MEXICO,
Plaintiff,*

v.

*No. D-504-SI-2019-
(Mag Ct. M-7-)
Honorable James M. Hudson*

,

Defendant.

***ORDER FOR COMPETENCY EVALUATION
ON TRANSFER***

THIS MATTER comes before the Court upon transfer from the magistrate court after a finding of a reasonable belief that the defendant may not be competent to stand trial. The defendant **is not** in custody.

THE COURT THEREFORE ORDERS the following:

1. A competency evaluation shall be performed by Dr. Susan B. Cave, PhD., 2213 Brothers Road, Suite 300, Santa Fe, New Mexico 87505, (505) 988-7616.
2. The evaluation shall be completed and a written report shall be filed with the court within thirty (30) days of the filing of this order.
3. The report filed under Paragraph 2 of this order shall include the following:
 - (a) A description of the procedures, tests, and techniques used by the evaluator;
 - (b) A clear statement of the evaluator's clinical findings and opinions about the defendant's competency;
 - (c) A description of the sources of information and the factual basis for the evaluator's clinical findings and opinions, provided that the report shall not include information or opinions concerning the defendant's mental condition at the time of the alleged crime or any statements made by the defendant regarding the alleged crime or any other crime; and
 - (d) The reasoning by which the evaluator utilized the information to reach the clinical findings and opinions.

4. Any party who objects to the conclusion set forth in the report filed under Paragraph 2 of this order shall file that party's objections in writing within seven (7) days of the filing of the report.

5. The parties shall return to court for a hearing on the question of the defendant's competency on **A, 2019** at 3:00 p.m., unless the court, upon its own motion or upon the motion of the parties, rules at an earlier time on the defendant's competency without a hearing.

6. The court has considered the defendant's conditions of release and orders the following: The defendant's conditions of release shall continue until further order of the court.

IT IS SO ORDERED.

JAMES M. HUDSON
DISTRICT COURT JUDGE

xc: Matthew Stone, Esq. (sent via email)
Debra Lautenschlager, Esq. (sent via email)

*STATE OF NEW MEXICO
COUNTY OF CHAVES
FIFTH JUDICIAL DISTRICT COURT*

*STATE OF NEW MEXICO,
Plaintiff,*

v.

*No. D-504-SI-201
(Mag Ct. M-7-
Honorable James M. Hudson*

,

Defendant.

***NOTICE OF DELIVERY OF
ORDER FOR COMPETENCY EVALUATION TO EVALUATOR***

Pursuant to Rule 5-602.1 (G) NMRA, notice is given that the Order For Competency Evaluation was delivered to the evaluator by email on __, 2019.

JAMES M. HUDSON
DISTRICT COURT JUDGE

xc: Matthew Stone, Esq. (sent via email)
Debra Lautenschlager, Esq. (sent via email)

*STATE OF NEW MEXICO
COUNTY OF CHAVES
FIFTH JUDICIAL DISTRICT COURT*

*STATE OF NEW MEXICO,
Plaintiff,*

v.

*No. D-504-SI-201
(Mag. Ct. M-7-)
Honorable James M. Hudson*

,

Defendant.

***NOTICE OF DELIVERY OF REPORT
OF EVALUATION OF COMPETENCY***

Pursuant to Rule 5-602.1 (G) NMRA, notice is given that the forensic Report of
Competency Evaluation was delivered to the evaluator by email on _.

JAMES M. HUDSON
DISTRICT COURT JUDGE

xc: Matthew Stone, Esq. (sent via email)
Debra Lautenschlager, Esq. (sent via email)

*FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF CHAVES*

*STATE OF NEW MEXICO,
Plaintiff,*

v.

*No. D-504-SI-
Honorable James M. Hudson*

,

Defendant.

***ORDER COMMITTING DEFENDANT
TO THE NEW MEXICO BEHAVIORAL HEALTH INSTITUTE
FOR TREATMENT TO COMPETENCY
PURSUANT TO NMSA 1978, §31-9-1.2***

THIS MATTER came before the Court on __, pursuant to NMSA 1978, §31-9-1.2. The Court heard testimony, the argument of counsel, and has reviewed the pleadings and exhibits. The Court FINDS:

1. The Defendant is accused of __, in violation of NMSA 1978, §__, a felony.
2. The Defendant is not competent to stand trial.
3. The Defendant is dangerous as defined by NMSA 1978, §31-9-1.2. [INSERT SUMMARY OF REASONS AND FINDINGS]. If released Defendant presents a serious threat of inflicting great bodily harm on another [or violating NMSA 1978 §30-9-11 or . §30-9-13].

IT IS, THEREFORE, ORDERED that:

- A. The Defendant shall be committed to the Forensic Division of the New Mexico Behavioral Health Institute to be treated to attain competency.
- B. The Defendant shall be held in a secure, locked facility, and shall not be released from said facility except by order of this Court.

C. Within ten (10) days of this Order, counsel for the Defendant shall deliver to the Forensic Division of the New Mexico Behavioral Health Institute all necessary information for the Defendant's admission, including copies of:

- a. This Order;
- b. The Criminal Complaint or Information;
- c. The forensic evaluation;
- d. The police report or other affidavit; and
- e. Any NCIC record.

D. Within thirty (30) days of the Defendant's admission, the Forensic Division of the New Mexico Behavioral Health Institute shall file an initial assessment, treatment plan and report on the Defendant's amenability to treatment to attain competency to stand trial in accordance with NMSA 1978, §31-9-1.2.(E), which shall be sent to the following parties:

The Honorable James M. Hudson
District Court Judge
400 N. Virginia Ave.
Roswell, NM 88201

_, Esq.
Assistant District Attorney
400 N. Virginia Ave., Ste. G-2
Roswell, NM 88201

_, Esq.
Law Office of the Public Defender
610 N. Virginia Ave.
Roswell, NM 88201

E. On or before _, seven (7) days prior to the review hearing described below, the Forensic Division of the New Mexico Behavioral Health Institute shall submit a written progress

report to the Court in accordance with NMSA 1978, §31-9-1.3(B). Said report shall be sent to the parties set forth above.

F. A review hearing shall be held pursuant to NMSA 1978, §31-9-1.3(A) on _ **at** _ **p.m.**, unless waived by the Defendant.

IT IS THE FURTHER ORDERED that the Chaves County Sheriff's Office shall make arrangements to transport the Defendant from the Chaves County Detention Center to the New Mexico Behavioral Health Institute in Las Vegas, New Mexico.

IT IS THE FURTHER ORDERED that the Chaves County Sheriff's Office shall make arrangements to return the Defendant to the custody of the Chaves County Detention Center for the review hearing described above.

JAMES M. HUDSON
DISTRICT COURT JUDGE

xc: District Attorney's Office
Attorney for Defendant
CCSO – fax copy
CCDC – fax copy
BHI Forensic Division – fax certified copy

*FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF CHAVES*

*STATE OF NEW MEXICO,
Plaintiff,*

v.

*No. D-504-SI-
Honorable James M. Hudson*

—

Defendant.

***ORDER COMMITTING DEFENDANT
TO THE NEW MEXICO BEHAVIORAL HEALTH INSTITUTE
PURSUANT TO NMSA 1978, §31-9-1.5***

THIS MATTER came before the Court on __, for hearing pursuant to NMSA 1978, §31-9-1.5. The Court heard the testimony of witnesses and the argument of counsel, and has reviewed the pleadings and exhibits. The Court FINDS:

1. The Defendant is accused of __, in violation of NMSA 1978, §____.
2. The State proved by clear and convincing evidence that the Defendant committed __.
3. The Defendant remains not competent to stand trial.
4. The Defendant remains dangerous as defined by NMSA 1978, §31-9-1.2.
5. The maximum sentence to which the Defendant would have been subject to is _____. However, Defendant is entitled to credit for confinement between __, and __ for a total of __ days. *State v. Lopez*, 2011-NMCA-071, 150 N.M. 34, 256 P.3d 977. Therefore, the maximum time that Defendant may be held at the Behavioral Health Institute is __ years and __ days from ____ (until __, 201__).

6. The Defendant is not entitled to earned meritorious deductions pursuant to NMSA 1978, §33-2-34 because the New Mexico Behavioral Health Institute is not “a correctional facility designated by the corrections department.”

IT IS, THEREFORE, ORDERED that:

- A. The Defendant shall be detained by the Forensic Division of the New Mexico Behavioral Health Institute in Las Vegas, New Mexico.
- B. The Defendant shall be held in a secure, locked facility, and shall not be released from said facility except by order of this Court or upon expiration of a period of _ years and _ days from _ (until ____, 201_).
- C. Significant changes in the Defendant’s condition, including but not limited to trial competency and dangerousness, shall be reported in writing to:

The Honorable James M. Hudson
District Court Judge
P.O. Box 1776
Roswell, NM 88202

Assistant District Attorney
400 N. Virginia Ave., Ste. G-2
Roswell, NM 88201

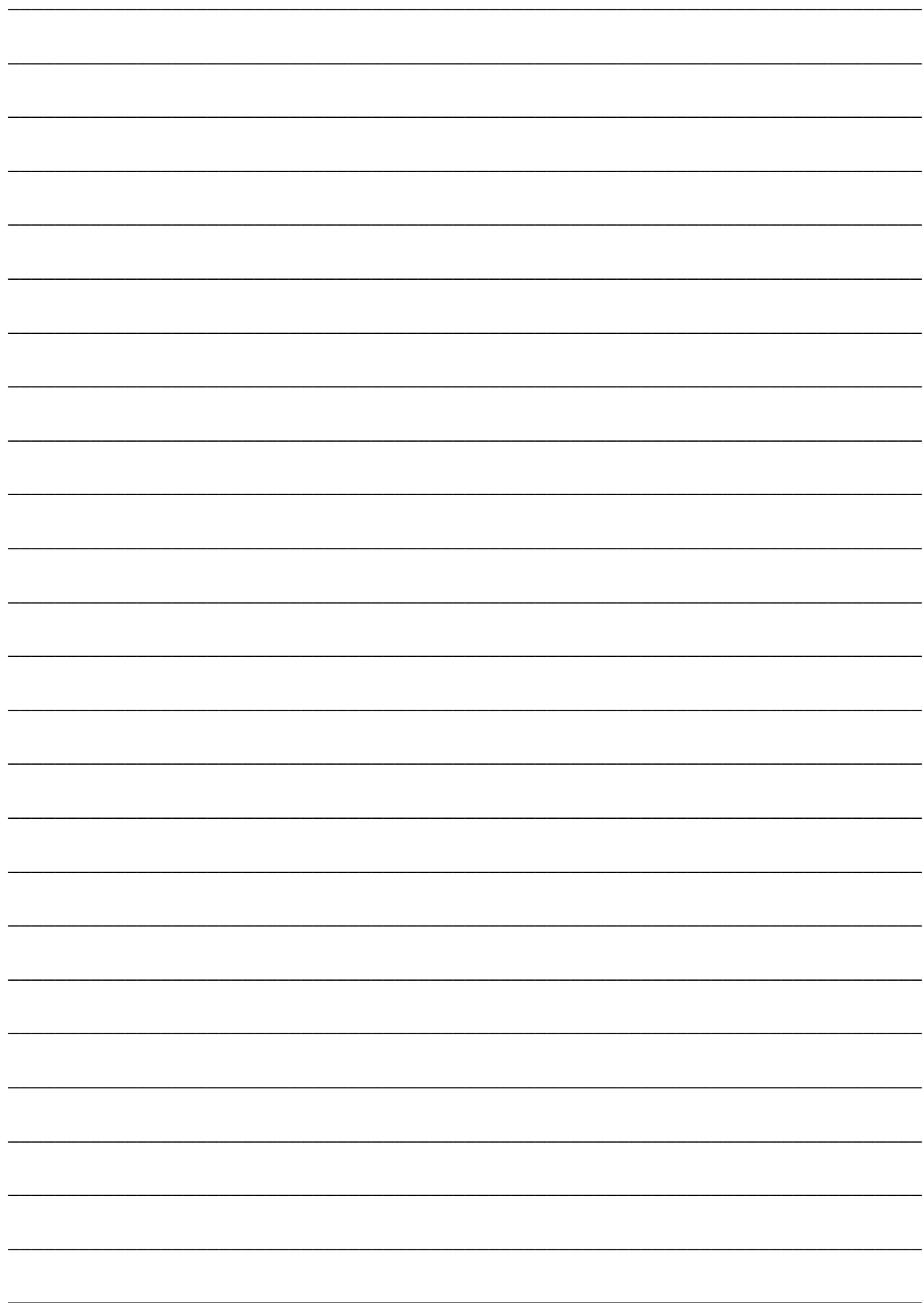
Office of the Public Defender
610 North Virginia Ave.
Roswell, NM 88201


- D. At least every two years, the Court shall conduct a hearing pursuant to NMSA 1978, §21-9-1.5(D)(4).

IT IS THE FURTHER ORDERED that the Chaves County Sheriff's Office shall make arrangements to transport the Defendant from the Chaves County Detention Center to the New Mexico Behavioral Health Institute in Las Vegas, New Mexico.

JAMES M. HUDSON
DISTRICT JUDGE, DIVISION VI

xc: District Attorney's Office
Attorney for Respondent
CCSO - fax certified copy
BHI-fax certified copy



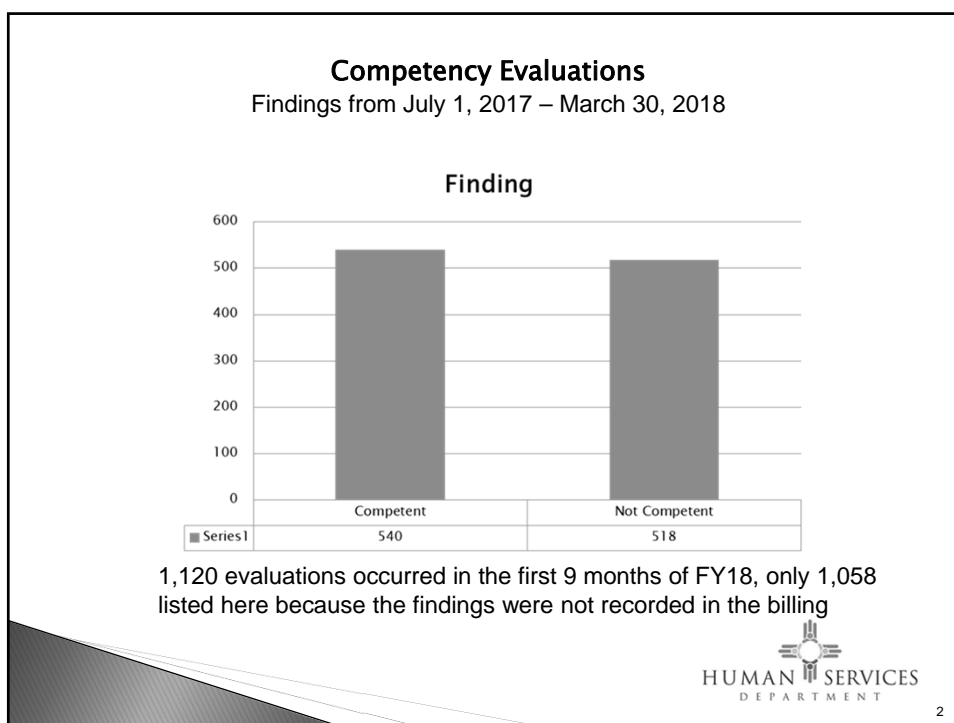


HUMAN SERVICES

D E P A R T M E N T

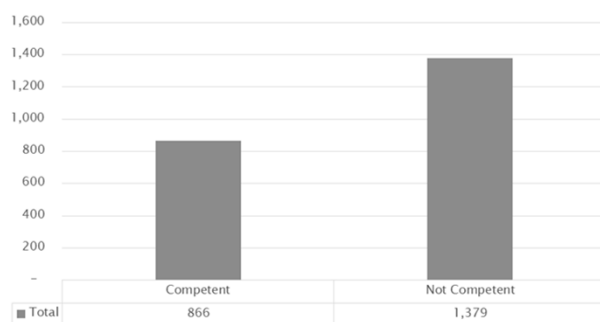
Competency Evaluation Data Findings and Trends
Tiffany Wynn, M.A., LPCC, Samantha Guzman, Psy.D.

New Mexico Human Services Department



Competency Evaluations

Findings from July 1, 2018 – April 30, 2019



2,245 evaluations have occurred since July 1, 2018.

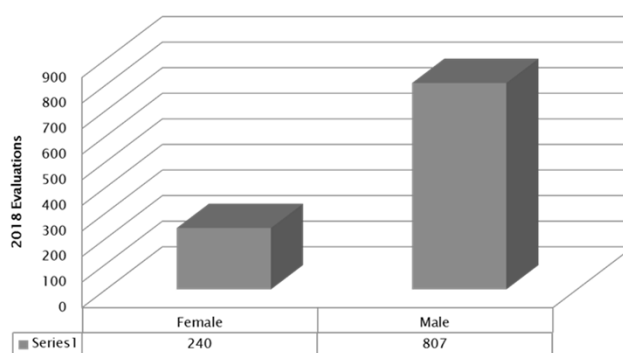


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Competency Evaluations

Findings from July 1, 2017 – March 30, 2018

Evaluations by Gender

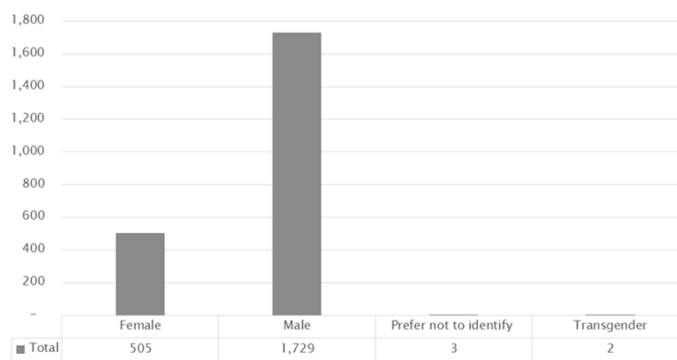


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Competency Evaluations

Findings from July 1, 2018 – April 30, 2019

Evaluations by Gender



6 were not reported

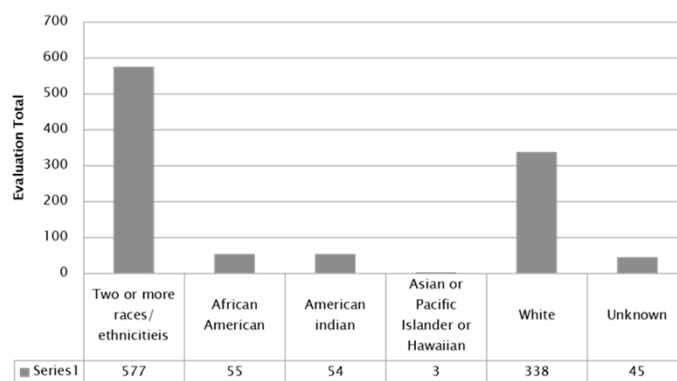


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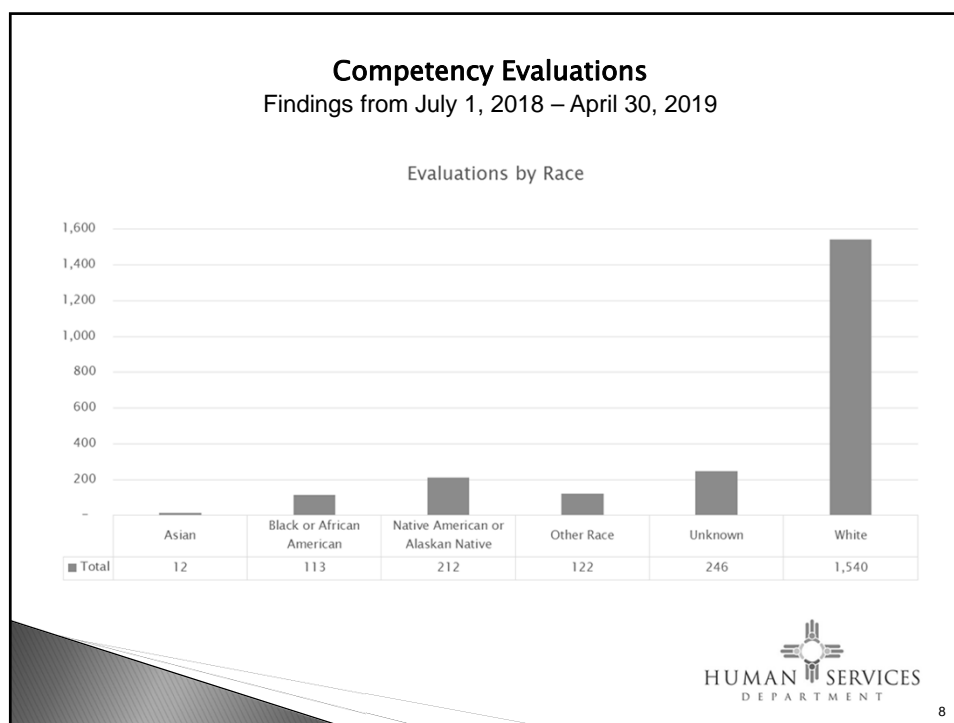
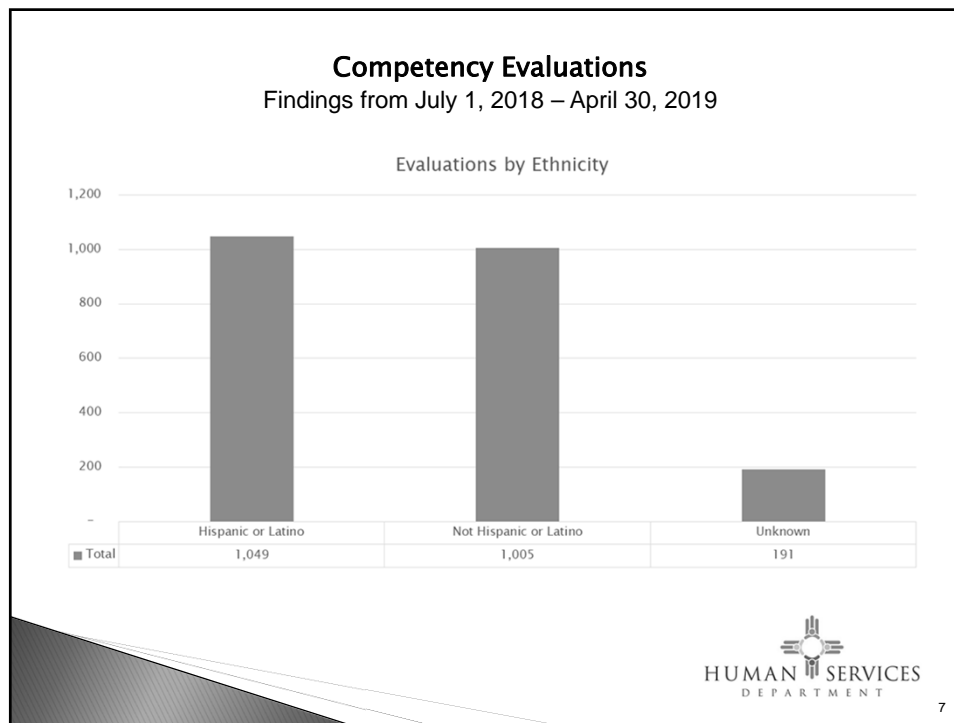
Competency Evaluations

Findings from July 1, 2017 – March 30, 2018

Evaluations by Ethnicity



6



Competency Evaluations

Findings from July 1, 2018 – April 30, 2019

Race and Ethnicity Breakdown

Count of Race	Ethnicity			
Race	Hispanic or Latino	Not Hispanic or Latino	Unknown	Grand Total
Asian	4	6	2	12
Black or African American	3	108	2	113
Native American or Alaskan Native	36	173	3	212
Other Race	104	11	7	122
Unknown	120	9	117	246
White	782	698	60	1,540
Grand Total	1,049	1,005	191	2,245

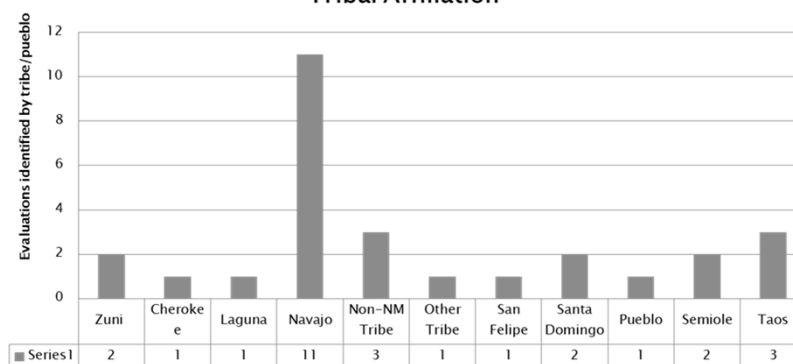


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Competency Evaluations

Findings from July 1, 2017 – March 30, 2018

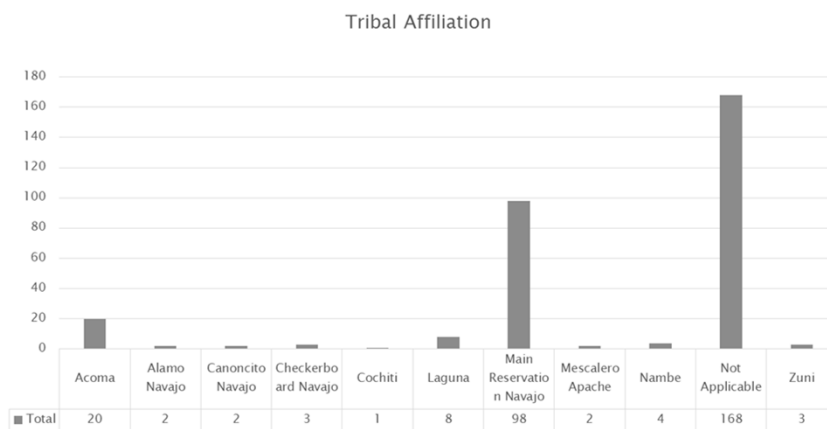
Tribal Affiliation



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Competency Evaluations

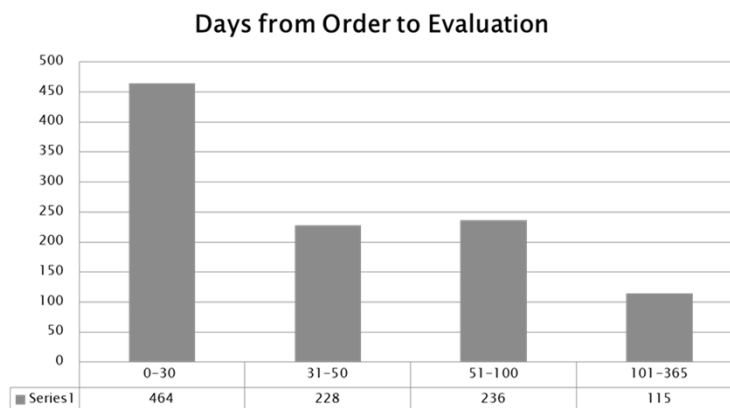
Findings from July 1, 2018 – April 30, 2019



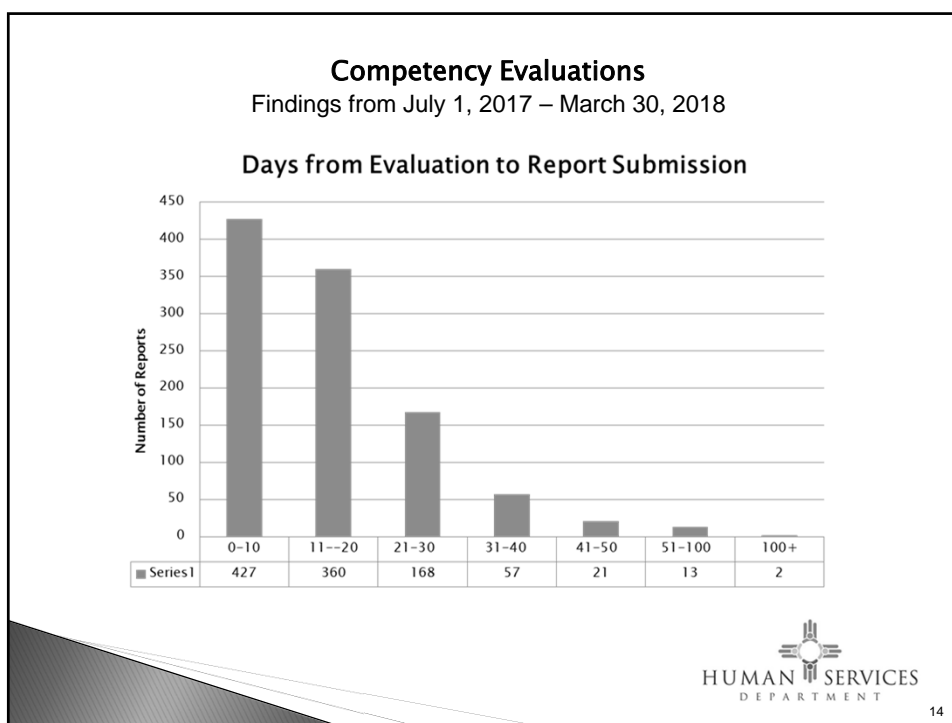
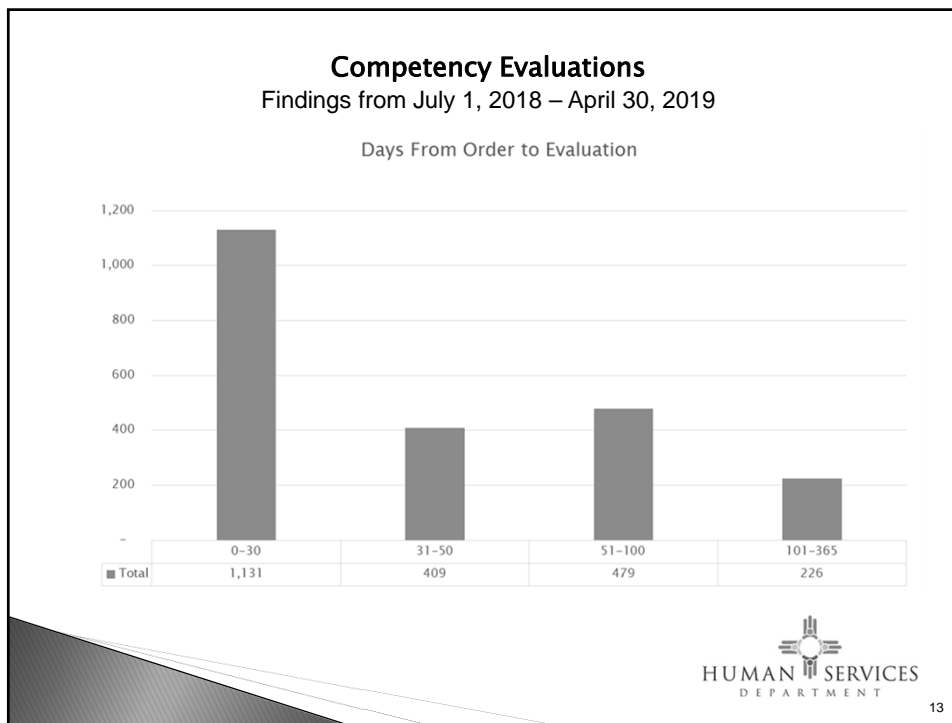
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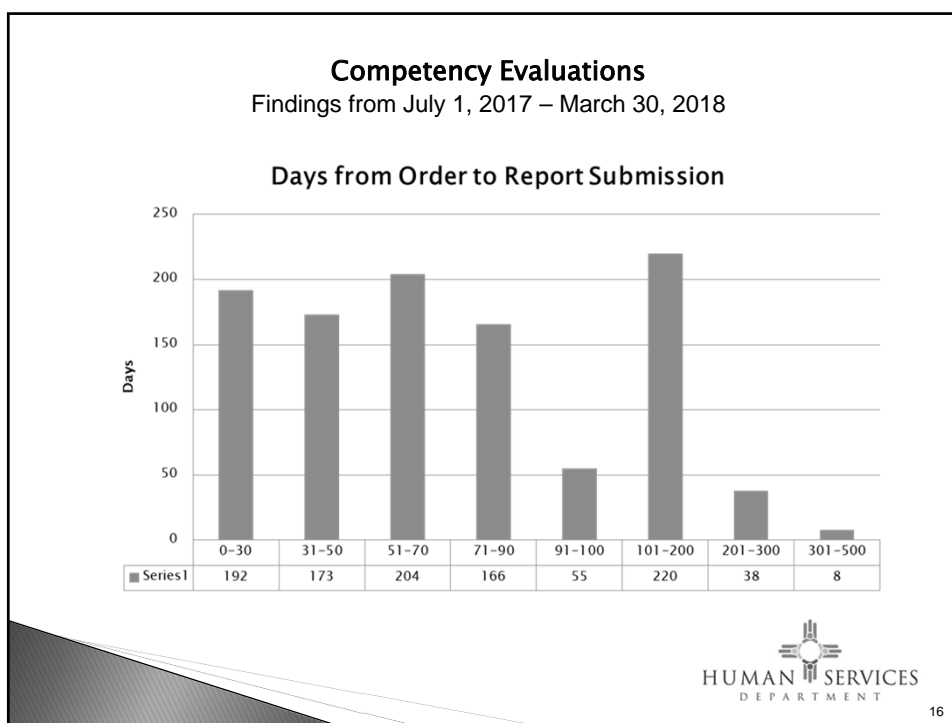
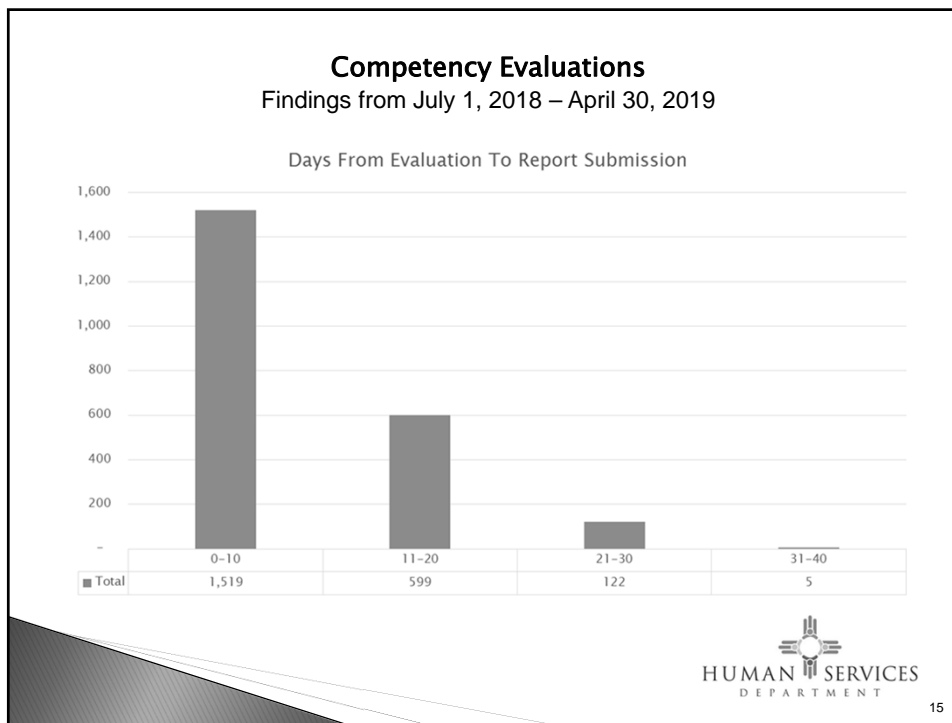
Competency Evaluations

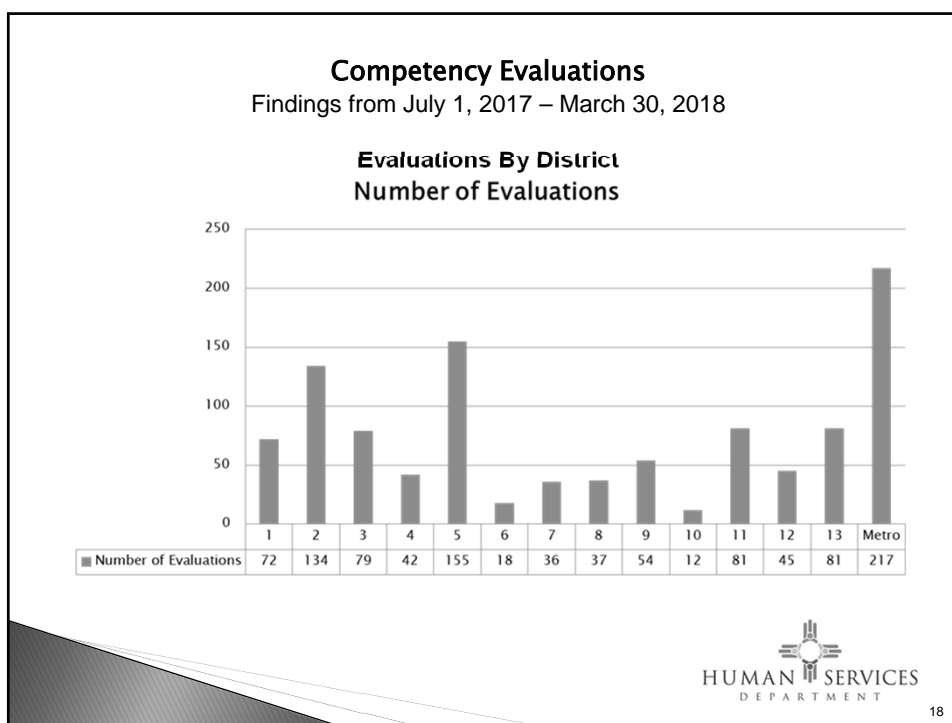
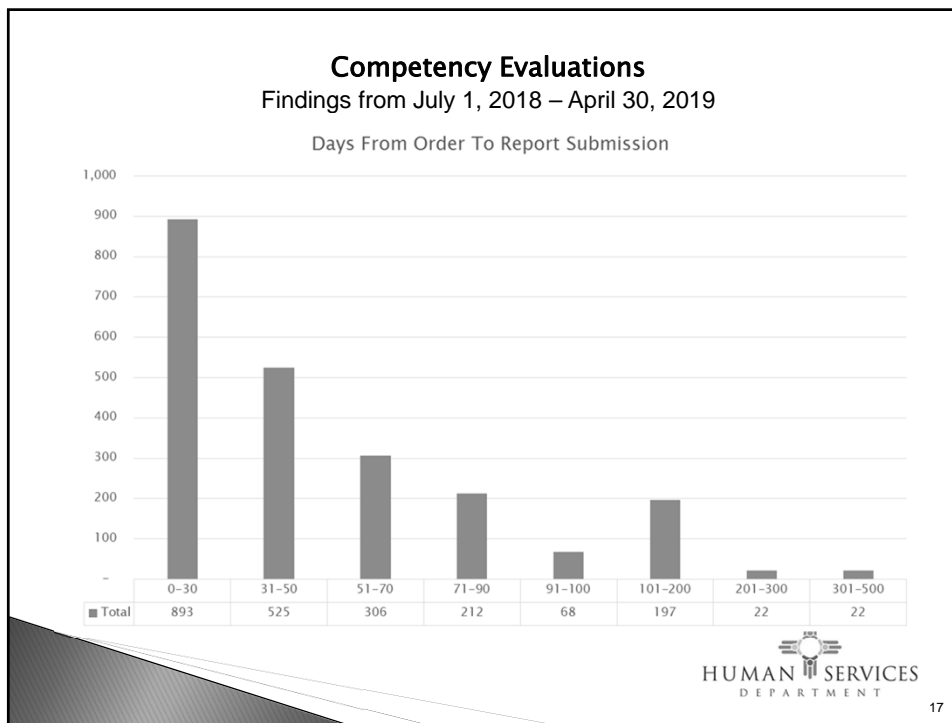
Findings from July 1, 2017 – March 30, 2018



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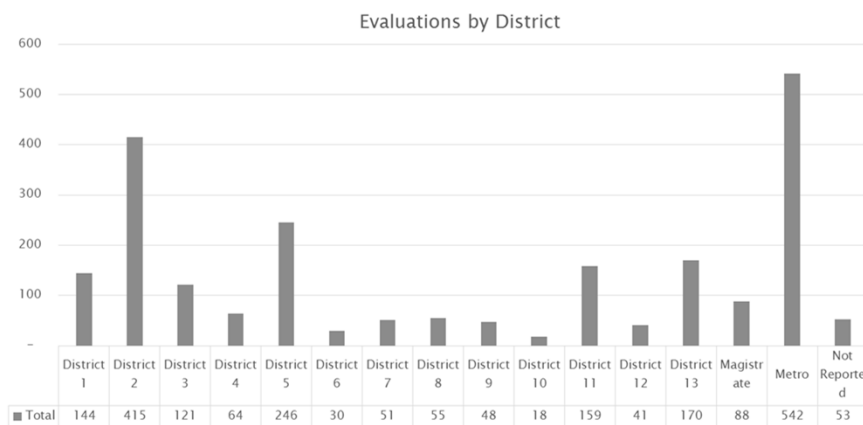






Competency Evaluations

Findings from July 1, 2018 – April 30, 2019



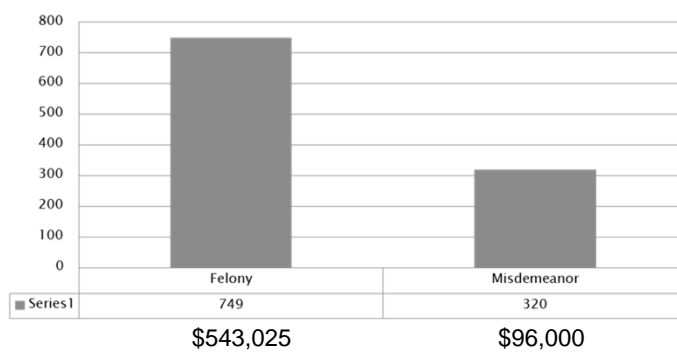
HUMAN SERVICES
DEPARTMENT

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Competency Evaluations

Findings from July 1, 2017 – March 30, 2018

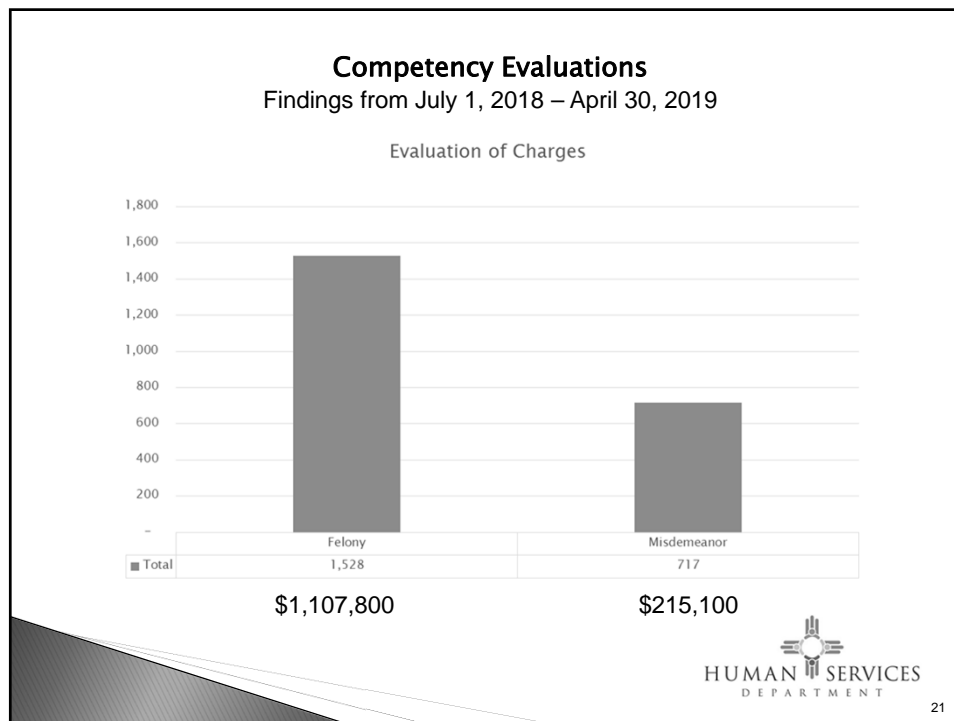
Evaluations by Charges

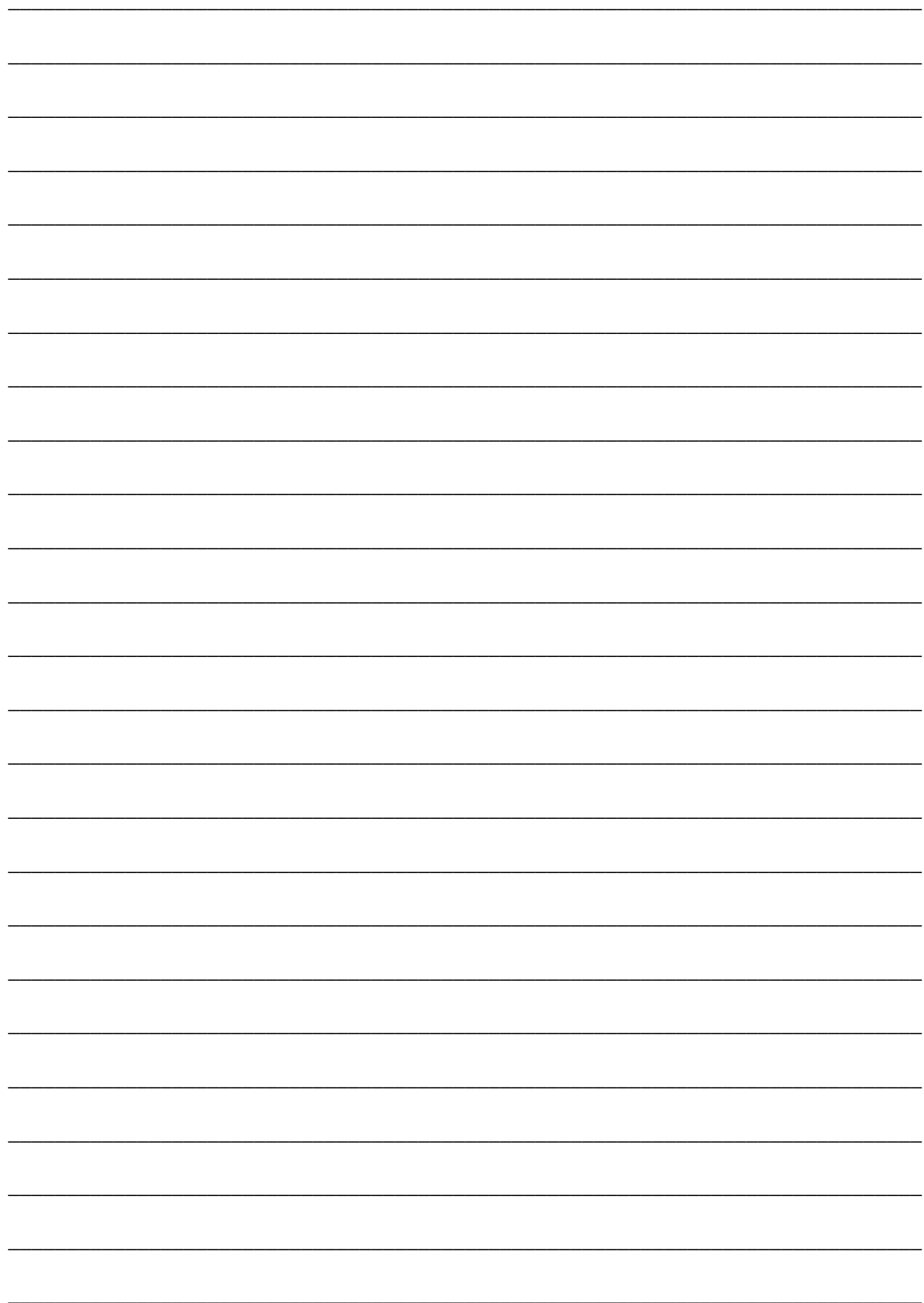


Cost per felony competency evaluation \$725, this includes the evaluation, testimony and travel. Cost per misdemeanor competency evaluation \$300 this includes evaluation, testimony and travel.

HUMAN SERVICES
DEPARTMENT

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Competency Restoration at NMBHI

A Brief Overview

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Agenda

- Overview of New Mexico Behavioral Health Institute
- Overview of the Forensic Division of (NMBHI) at Las Vegas;
- Review of the Admission Criteria;
- What happens to the defendant on Day 1;
- Review of Forensic Programming;
- Basics of Competency Restoration and the anticipated progress reports about the defendant

NMBHI Mission Statement:

- A Healthier New Mexico
- The New Mexico Behavioral Health Institute is committed to meeting the diverse and evolving mental and health care needs of all of New Mexicans*

* NMBHI is a Smoke-Free-Facility

NM Behavioral Health Institute



Fully Accredited
By
The Joint Commission

Joint Commission. Why is it important?

1. Joint Commission standards reflect today's health care environment.
2. It assures that we are maintaining certain high standards of care. Joint Commission's standards encompass strict guidelines for the highest quality inpatient, outpatient and nursing home care for patients (clients/residents).
3. A successful Joint Commission survey and subsequent accreditation projects a positive public image and lets our community know we are in compliance with national standards.

NM Behavioral Health Institute



Fully Accredited
By
The Joint Commission

- Adult Psychiatric Division
- Long Term Care Services Division
- Forensic Division
- Center for Adolescent Relationship Exploration (CARE)
- Community Based Services Division

NMBHI, Forensic Division

- Initial development and construction of a two-story building known as the Court Treatment Center [now referred to as Forensic Division (FD)-Main] occurred under former Governor Bruce King's direction.
- Providing quality forensic services to referring District Courts across the state since 1972-73.
- A secure, locked facility under the auspices of NM Department of Health.

NMBHI, Forensic Division

- In 1983, the Division expanded with the construction of a 40-bed unit formerly known as “D-Wing”.
- Subsequent construction expanded the service delivery in 1993-94 and again in 1996.
- At present, the Forensic Division (FD) has 84 operational beds.
- Is one of five separate Divisions at NMBHI.

NMBHI, Forensic Division

- Comprised of the following units:
 - Maximum Security Unit
 - Acute Care Unit
 - Continuing Care Unit
 - Women’s Unit

NMBHI, Forensic Division

- **Maximum Security Unit**
 - 6-beds designated for individuals presenting imminent risk of harm to themselves or others;
 - 24-hour supervision by nursing staff, security personnel and interdisciplinary team members.
 - Temporary designation with intent to transfer the patient to a residential unit after demonstrating clinical stability and diminished threat of harm.

NMBHI, Forensic Division

- **Acute Care Unit**
 - 32-bed male residential unit;
 - Individuals often have acute mental illness, organicity, mental retardation, co-existing conditions;
 - Relatively smaller population aids in the level of functioning of individuals designated here.
 - Highly structured environment

NMBHI, Forensic Division

- Continuing Care Unit (formerly known as “D-Wing”)
 - 40-bed male residential unit;
 - Individuals with diverse clinical conditions and comorbid conditions;
 - As a group, can function more independently with greater amounts of stimuli;
 - Transfers can occur between units during a course of hospitalization for various clinical or administrative reasons.

NMBHI, Forensic Division

- Women’s Unit
 - 12-bed residential unit;
 - Separate from the two male units;
 - Diverse clinical needs and co-existing conditions;
 - Programming and services are the same across residential units.

NMBHI, Forensic Division

- Snapshot of Services:
 - Psychiatric
 - Medical
 - Psychological
 - Nursing
 - Social Work;
 - Psychosocial/Rehabilitative;
 - Dietary;
 - Religious services;
 - Patient Advocate;
 - Services also available through DRNM; and
 - Ancillary Services, e.g., OT and PT, dental and optometry.

Admission Criteria

- Court Order containing the following elements:
 - Accused of a Felony;
 - Finding of Incompetence
 - Dangerous as defined in 31-9-1.2 (D);
 - Turnaround transport language as in 43-1-1(E);
 - Release of Records as per 43-1-1(D).
- Admission is not immediate. Time is allowed for admission within 30 days of the commitment and receipt of necessary admission documents as per 31-9-1.2 (C).

Requested Documentation

- Court Order
- Grand Jury Indictment
- Criminal Complaint
- Police Records
- Criminal history, e.g., NCIC Report
- Forensic evaluation report by local examiner as per 43-1-1; 31-9-1.1

Methods to Expedite the Admission

- Fax the court order as soon as it is filed;
- Mail pre-admission documents to NMBHI, Forensic Division;
- Send the court order to the Sheriff's Department.
- NMBHI will call the Sheriff's Department to arrange transport once the documents are received.

Day One

- Released from custody of the sheriff's department;
- Screened by security personnel;
- Undergo preliminary admission process including picture taken, processing of any possessions and demographics;
- Screened to determine unit placement prior to intake interview.

Admission

- Assigned an interdisciplinary treatment team;
- Initial intake interview;
- History and physical examination;
- Nursing assessment;
- Social Work assessment;
- Initial treatment plan is devised;
- Evaluate clinical need of pre-admit medication, if any;

Admission

- Assess capacity to make psychiatric treatment decisions;
 - If unable, assess if emergency medication is clinically warranted;
 - If unable, petition for appointment of a treatment guardian;
- Assess capacity to make medical decisions;
 - If unable, determine if surrogate decision-maker warranted.

Admission

- Designate to a residential unit or MSU following admission
- Dietary consult; and
- Assessment by psychosocial rehabilitative services.
- Schedule with court-certified interpreter as needed.

Interdisciplinary Team

- Medical Services*
- Psychiatry Services*
- Psychology Services
- 24-hour Nursing Services
- Social Work Services
- Psychosocial Rehabilitative Services

* On-call providers available after normal business hours

Forensic Unit Programming

- Unit level system;
- General Rules;
- Maladaptive behaviors are identified;
- Scheduled PSR activities;
- Unstructured outdoor time within secure perimeter;
- Patient Rights as per 43-1-6;
- Contact information for patient advocate and DRNM.

Basics of NMBHI Competency Restoration

- Medical intervention;
- Clinical psychopharmacological intervention;
- Restorative Programming:
 - a. Group meetings with varying treatment modalities
 - b. Individual services as needed
- Medical and psychiatric intervention begin around the time of admission if clinically warranted;
- Restorative programming begins within 7-10 days from admission.

30-Day Report

- Examinee's amenability to treatment;
- Whether NMBHI, Forensic Division can provide "appropriate treatment" for the defendant;
- Statement/opinion regarding the likelihood of the examinee being restored; and
- Report is accompanied by copy of interdisciplinary treatment plan.

See Section 31-9-1.2 (E) NMSA 1999.

90-Day Report

- “Clinical findings...and the facts upon which the findings are based;”
- Whether the examinee is CST or “making progress”, and is there “substantial probability” of being restored;
- Whether medication is prescribed, and if so, “...the type, the dosage and the effect of the medication on the defendant’s appearance, actions and demeanor”;
- Dangerous per “1.2”, or meets requisite criteria for involuntary commitment per the Mental Health and Developmental Disabilities Code.

See Section 31-9-1.3 (B) NMSA 1999.

Final Forensic Report

- Content of the *Final* report is similar to the *90-Day Report*, although more detailed.
- Sections include, e.g., nature of referral and confidentiality, collateral sources, mental status at the time of admission versus currently, detailed course of hospitalization, treatment received, psychometrics, diagnostics, related-abilities section to competency, clinical opinion(s) and summary/recommendations.

See Section 31-9-1.3 (D) NMSA 1999.