



**Report
to
The LEGISLATIVE FINANCE COMMITTEE**



New Mexico Corrections Department
Reducing Recidivism, Cutting Costs and Improving Public Safety in the
Incarceration and Supervision of Adult Offenders
June 14, 2012

Report #12-07

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June 14, 2012

Mr. Gregg Marcantel, Secretary
New Mexico Corrections Department
4337 State Road 14
P.O. Box 27116,
Santa Fe, NM 87502-0116

Dear Secretary Marcantel:

On behalf of the Legislative Finance Committee (Committee), I am pleased to transmit our report on the New Mexico Corrections Department entitled *Reducing Cost and Recidivism in the Incarceration and Supervision of Adult Offenders*. The evaluation team reviewed the department's re-entry efforts, assessed the costs and associated outcomes of community-based correctional services, including probation and parole, and conducted a cost-benefit analysis of selected in-house re-entry programs designed to reduce recidivism.

As a part of this evaluation, the Committee has partnered with the Pew Center for the States to implement a cost-benefit model that has the potential to be a key tool in strategic budget development. We plan to work closely with your department in further refining this model as a tool for making informed policy decisions.

An exit conference was conducted with the Corrections Department on May 31, 2012 to discuss the contents of this report. The report will be presented to the Committee on June 14, 2012 in Hobbs. The Committee would like a plan to address the recommendations within this report within 30 days from the date of the hearing.

I believe that this report addresses issues the Committee asked us to review and hope all participating entities will benefit from our efforts. We very much appreciate the cooperation and assistance we received from your staff and your private corrections partners, as well as from representatives of other state agencies and organizations.

Sincerely,

A handwritten signature in blue ink that reads "David Abbey".

David Abbey, Director

Cc: Senator John Arthur Smith, Chairman, Legislative Finance Committee
Representative Luciano "Lucky" Varela, Vice-Chairman, Legislative Finance Committee
Sandra Dietz, Chair, New Mexico Parole Board
Tony Ortiz, Executive Director, New Mexico Sentencing Commission
Linda Roebuck Homer, CEO, New Mexico Behavioral Health Collaborative
Catherine Torres, M.D., Secretary, Department of Health
Arthur Pepin, Director, Administrative Office of the Courts
Hector Balderas, State Auditor, NM Office of the State Auditor

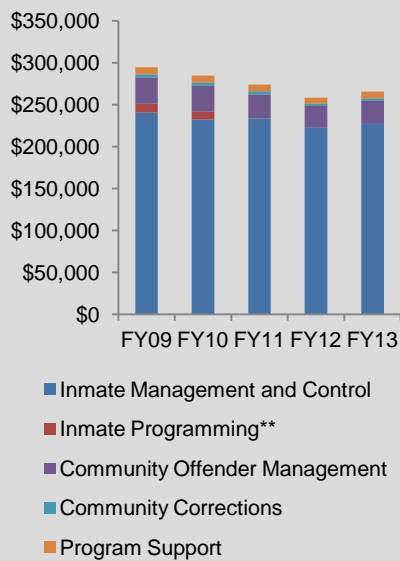
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Offenders will have an average of three trips to an NMCD facility.

General Fund Appropriations to NMCD
(in thousands)*



*Corrections Industries does not receive general fund appropriations

**Inmate Programming was merged into Inmate Management and Control in FY11.

The average cost per inmate in New Mexico was \$34 thousand in FY10 whereas the average cost per public school student was \$7,300.

New Mexico is facing a growing prison population projected to exceed current capacity within the next decade. In FY11, New Mexico spent almost \$300 million to house an average of 6,700 offenders and supervise another 18 thousand offenders each day. The New Mexico Corrections Department (NMCD) released 3,440 offenders from prison into the community that same year and if current trends continue, over half of these inmates will return to prison within five years. Although NMCD takes up a lesser amount of general fund compared with public education, the average cost per inmate in New Mexico was \$34 thousand in FY10, whereas the average cost per public school student the same year was \$7,300.

Costs of offenders who recidivate are substantial and result in general expenses to taxpayers and specific expenses to victims. The average offender will have three trips to a NMCD facility. Therefore the citizens of New Mexico pay costs of arresting, prosecuting, housing, rehabilitating and supervising offenders many times over. Investments in programs for reducing recidivism and promoting rehabilitation and treatment, in addition to security, are vital in improving public safety and reducing costs. The state continues to make significant investments in such programs.

The NMCD provides more than 40 programs within facilities and more than 30 providers conduct programs outside of NMCD facilities designed to facilitate reentry and reduce recidivism. According to the Pew Center for the States, states that strategically improve release preparation and community supervision will see falling recidivism rates. Instead of falling, New Mexico's recidivism is on the rise.

The NMCD has potential to reduce costs and improve public safety. However, the NMCD currently suffers from gaps in program oversight, ineffective use of resources, and patterns of inefficient spending. Programming is inadequately targeted or tracked, resulting in expansion of unproven programs and reductions in evidence-based programming. Programs available in the community for offenders on supervision lack adequate accountability, have limited resources for high-risk offenders, and are not measured for performance by the NMCD, the Behavioral Health Collaborative (BHC), or OptumHealth. As a result, contract funds are left unspent at OptumHealth for years at a time. Reduced programming, in turn, is partially responsible for the fact that 278 inmates are serving parole inside prison.

Significant opportunities exist to improve the incarceration and supervision of offenders in New Mexico. The NMCD has recognized many of these and have started working on improving reentry and use of evidence based programs before this report was issued. As a part of this evaluation, the LFC has partnered with the Pew Center for the States to implement a cost-benefit model that has the potential to be a key tool in strategic budget development. This report includes initial results from that model along with recommendations to improve assessment, management, and allocation of NMCD resources with a focus on development and expansion of evidence-

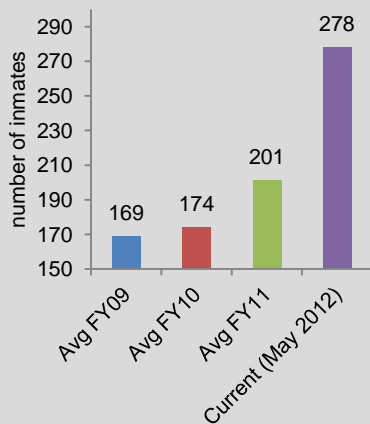
Since being released in 2008, 1,649 inmates, or 44.6 percent, have returned to prison within three years.

NMCD Cost Per Day (FY10)

	Cost Per Day
NMCD Public and Private Prisons	\$92.89
Probation & Parole /Community Corrections	\$8.27

Source: NMCD

In-House Parole Counts



Source: NMCD

based programs. If implemented, these recommendations will provide the tools needed to properly assess programs, result in cost-savings for the NMCD, and result in improved public safety outcomes.

KEY FINDINGS

Reducing recidivism through strategic budget development can save millions and improve public safety. Other states have implemented programs and policies that resulted in reductions in incarceration rates, closing of prisons, and hundreds of millions in savings. Through the proper delivery of proven programming, New Mexico could have similar results. The Pew Center on the States has worked with New Mexico to implement a cost benefit model. This model has the potential to be a great tool for data-driven policy decisions to cut costs and reduce recidivism.

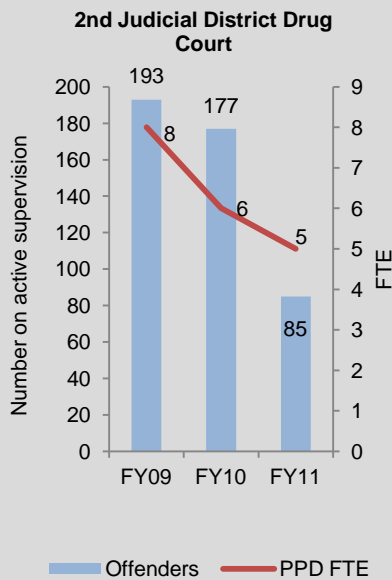
Reducing recidivism by 10 percent could save \$8.3 million in prison costs alone and reduce victimization costs by an estimated \$40 million. Since being released in 2008, 1,649 inmates, or 44.6 percent, returned to prison within three years. On average, these inmates return within 328 days of release. If the recidivism rate could be reduced by 10 percent (165 inmates), the state of New Mexico could save \$8.3 million given the FY10 cost per day and the 18-month average stay of NMCD inmates. Using estimates from national research and New Mexico conviction rates, estimated savings to victims are estimated at \$40 million.

The NMCD is not well positioned to use data to inform decisions resulting in expansion of unproven programs and reductions in evidence-based programs. The NMCD runs more than 40 programs for prisoners, but according to the NMCD less than a quarter of these are evidence-based. Evidence-based programs are those that have been evaluated through rigorous studies and have demonstrated that they reduce recidivism. Formal evaluation of these programs is lacking. A program developed in house called the recidivism reduction program was recommended to be expanded to all prisons without evidence of effectiveness whereas evidence based programming has been cut.

The use of in-house parole (IHP) costs \$10 million a year and could undermine public safety. If inmates cannot be paroled from prison, they will serve parole in prison, a practice called in-house parole. The number of in-house parolees has risen since FY09 and is now at an all time high.

Reasons for in-house parole include difficulties in finding placements, pending administrative issues, and refusal to participate in the parole process. Approximately 40 percent of offenders on in-house parole are listed as being hard-to-place due to insufficient community resources or insufficient funds on the part of the inmate. Another 40 percent of offenders on in-house parole are working through pending administrative issues which have delayed their parole to the community including erroneous or missing paperwork, pending parole plans and pending parole board action. Other IHP inmates refuse to participate in the parole process or are undocumented immigrants awaiting deportation.

In some cases programs are not assigned in accordance to policy and participation is not tracked resulting in some prisoners receiving credit for being at two places at the same time.



Source: NMCD

A March 2012 amendment to the contract between the NMCD and Lea County reduces staffing requirements by 32 FTE creating \$2 million in annual savings, but per-diem rates paid to the GEO Group Inc have not been reduced.

Treatment resources for sex offenders and other hard-to-place inmates are scarce and have recently been cut back. The New Mexico Behavioral Health Institute (BHI) operates the STOP program for the treatment of sex offenders. The Department of Health expanded this program to 24 beds in 2003, in response to an increased demand for services. However, bed space at the BHI is being crowded out by growing numbers of pre-trial defendants committed to the hospital by district courts. As a result, the Department of Health (DOH) has found it necessary to reduce STOP program beds from 24 to eight. Unless additional space is created at the BHI, treatment of sex offenders cannot be expanded.

Lack of valid assessments and poor management of prison programs and resources inadequately prepare inmates for successful transition into the community. States that deliver programming based on risk and needs, that identify evidence-based policies and that redirect inefficient spending to programs delivered with fidelity have been successful in reducing recidivism and costs. The NMCD has room to improve in these areas.

The NMCD does not adequately target treatment based on risk or needs of clients. NMCD programs are generally delivered to inmates at lower classification levels. The NMCD mandates a process for assessing inmates on risk and needs and assigning programming based on these assessments but does not follow this policy. Instead prisoners can choose their own programming, often based on the amount of good time the program awards. In some cases programs are not assigned in accordance to policy and participation is not tracked resulting in some prisoners receiving credit for being at two places at the same time.

Programs proven to work in reducing recidivism have been cut by the NMCD, have long waiting lists, and sometimes lack fidelity. Programs that have been proven to reduce recidivism on a national level have been cut by the NMCD, staffing provided by NMCD to the 2nd judicial district drug court has been cut as has the number of available slots. Corrections industries participation has dropped to a three year low while space and resources go unused. Other programs, such as adult basic education and cognitive programs, suffer from long waiting lists. Still other proven programs, such as therapeutic communities are not delivered with fidelity. Problems in delivering therapeutic communities, related to not following best practices, were identified in a 2007 LFC report and many of these problems remain today.

Operational inefficiencies result in \$8 million a year that would be better used on offender programming. A March 2012 amendment to the contract between the NMCD and Lea County for the operation of the Lea County Correctional Facility reduces staffing requirements by 32 FTE, creating \$2 million in annual savings, but per-diem rates paid to the GEO Group Inc. have not been reduced. Additionally, inmates with less than a year on their sentences are housed at NMCD facilities instead of jails because of sentencing or for diagnostic evaluations costing another \$2 million. Resources are also expended for low-risk inmates in New Mexico when other alternatives are available. The Vera Institute of Justice recognizes that

One million dollars that should have reverted to NMCD for FY10 and FY11 overpayments is still at OptumHealth.

OptumHealth is collecting interest on FY10 NMCD overpayments that have yet to revert to NMCD.

Overpayments to the single entity (Value Options or OptumHealth) have been occurring since FY06 and the recovery of these funds is a continuing issue.

releasing some elderly inmates before the end of their sentence has a low risk to the public and the state has a medical and geriatric parole program for release of such individuals. However, only one inmate was released under this program in FY11 while disabled and older inmates cost an estimated \$3.8 million in the same year.

More community-based resources are needed and existing resources could be better used. New Mexico spends more than \$34 million, or about 11 percent of the NMCD's total budget, to supervise and provide community-based services to more than 18 thousand offenders through a system of parole and probation officers and through contracts with community-based programs.

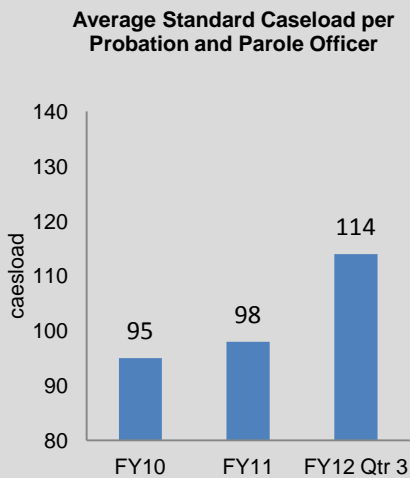
There is a growing national movement toward evidence-based programs (EBP) in corrections. These are programs that employ strategies that have been evaluated rigorously in experimental or quasi-experimental studies. Some programs in New Mexico are evidence-based, such as drug courts and therapeutic communities in prison. However, it is not clear how many of New Mexico's community treatment programs are evidence-based. The NMCD and OptumHealth attempted to collect that information with limited success; only 31 percent of providers responded. The Pew Center on the States reports that evidence-based corrections programs can reduce recidivism up to 30 percent, but programs that are not evidence-based tend to see no decrease and even a slight increase in crime.

Community treatment programs are not evaluated for effectiveness and are not targeted at the neediest offenders. At this time community treatment providers are not evaluated to determine if services are effective or if they are delivered with fidelity. In addition, these programs tend to focus on offenders with lower risks of recidivism and avoid riskier offenders such as those with a history of violence or gang affiliation.

The Behavioral Health Collaborative (BHC) should recover \$1 million in overpayments for non-Medicaid services from pre-payments to OptumHealth. The NMCD, working with the BHC, contracts with OptumHealth to provide services. According to the NMCD the same providers re-cycle over the years with few new entries into the provider network. One million dollars that should have reverted to the NMCD for FY10 and FY11 overpayments is still at OptumHealth. OptumHealth is collecting interest on FY10 NMCD overpayments that have yet to revert to the NMCD.

The Community Corrections Act (CCA) creates barriers to effective services and needs more flexibility. Currently CCA funds may only be used for offenders formally enrolled in Community Corrections programs. This is problematic because not all high needs offenders are enrolled in Community Corrections and there is a lack of clarity as to which offenders are classified as Community Corrections. To adequately fund treatment resources, more flexibility is required. With the advent of the BHC in New Mexico, community advisory panels are no longer required to screen contract providers.

The NMCD strategic plan cites nationally recognized best practices regarding standard probation and parole caseloads as 65 per officer.



Source: NMCD

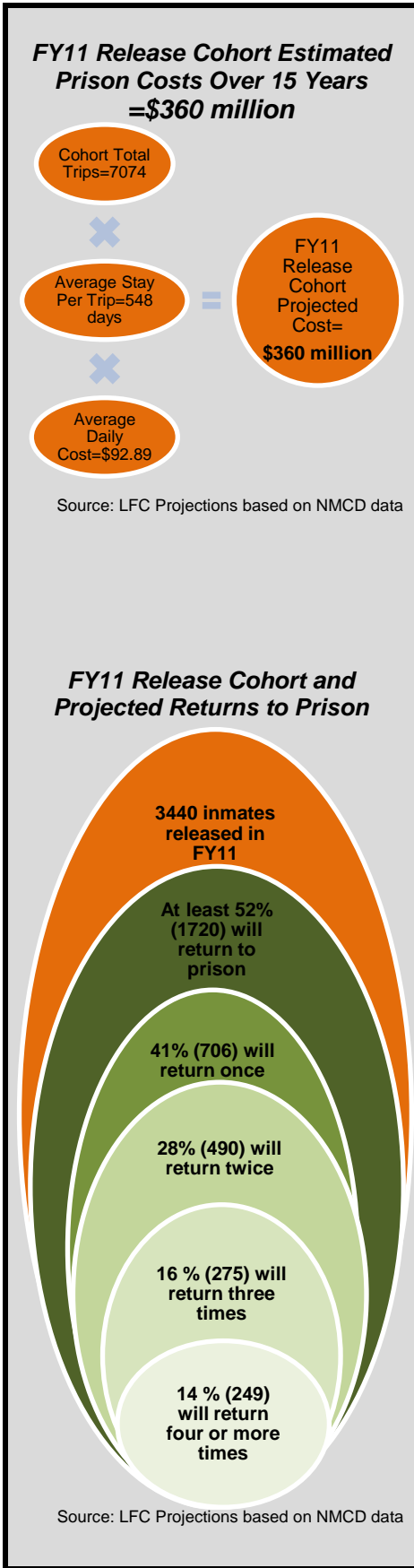
Most offenders on the Intensive Supervision Program waiting list are instead on standard supervision, where the average caseload is more than 100 offenders per officer, and have original offenses of a violent nature.

Probation and Parole Division (PPD) officers are comparatively underpaid, have high turnover rates, and are faced with increasing caseloads. According to the State Personnel Office (SPO), PPD officers earn 22 percent less than the market rate. PPD supervisors often find their trained staff moving to higher-paid positions with local jurisdictions or with the federal government. In FY11 turnover rates for PPD officers averaged 24 percent per year and vacancies averaged 20 percent per year.

The PPD caseloads are rising. The NMCD 2011-2012 strategic plan cites nationally recognized best practices regarding standard probation and parole caseloads as 65 per officer. The NMCD standard officer caseload however, is almost double the recommended standard at 114, and is trending upward.

There is a lack of resources for probation and parole resulting in high caseloads and waiting lists for intensive supervision. Currently there are more than 100 offenders on a waiting list for the Intensive Supervision Program (ISP) creating a potential risk to public safety. ISP is a highly structured, concentrated form of probation and parole supervision with stringent reporting requirements and an increased emphasis on offender monitoring, including after-hours field and home visits by Probation and Parole Officers. Often, courts will dictate that an offender be placed on ISP, rather than allowing the department to make that determination based on a risk assessment. Most offenders in the ISP waiting list are instead on standard supervision, where the average caseload is more than 100 offenders per officer, and many offenders on the ISP waiting list have original offenses of a violent nature. The reduced supervision that a high-risk offender receives poses an increased risk of recidivism and a risk to public safety.

ISP caseloads could be safely increased provided that specific criteria are met. The NMCD would like to increase the ISP caseload from the statutory 20 cases per officer. Under specific conditions, an increased ISP caseload could improve the current supervision of offenders, reduce waiting lists, and move riskier offenders off standard caseloads, while providing a manageable workload for officers. To be effective, candidates for ISP must be screened using NMCD's assessment tool, all ISP supervisees must be enrolled in some type of community treatment program, each caseload must include offenders at various phases of their ISP supervision, and electronic monitoring must be used to extend the surveillance effectiveness of the ISP officer.



KEY RECOMMENDATIONS

This evaluation has found an estimated \$10 million in potential recurring, and \$1 million non-recurring cost savings, much of which could be used to offset potential costs of increasing evidence-based programming and research and quality control. The increased uses of evidence-base programming and effective implementation have the potential to further reduce costs to taxpayers and victims through reductions in recidivism. Statutory changes will be necessary to save and repurpose funding, but the NMCD has an opportunity to reduce costs administratively. For example, the NMCD could reduce private prison expenses paid to Lea County by aligning the per diem to reflect savings from reducing required staffing levels and save an estimated \$2 million (see **Appendix B** for breakdown of potential savings).

- The NMCD should form a Research and Evaluation Unit consisting of three employees to provide a program auditing function along with a data analysis function for the NMCD. LFC calculations estimate these positions would be between a pay band 75 to 85 and cost \$230 thousand a year.
- The NMCD should aim to reduce recidivism through strategic investment by continuing to work with the LFC and the NMSC to update the WSIPP model so that programs can be funded based on results.
- The NMCD should pay the cost of halfway house placement for inmates where it can be demonstrated that the inmate does not have funding to reduce the costs of IHP. The department should also consider paying the first few months of rent for inmates entering parole, again in situations where it can be demonstrated that the inmate does not have the funds.
- The NMCD and the Parole Board should meet quarterly to study the reasons for current administrative delays to parole and initiate procedural reforms.
- The NMCD should prepare an implementation plan for administering and using COMPAS or another valid risk and needs assessment, and be using this tool system wide by June 30, 2013 to support decisions in program assignment. This tool should include internal policy.
- The NMCD should accompany any cost-savings measures agreed to in contract, such as reductions in required FTE, with measured reductions in per-diem rates for private prisons which could provide an estimated \$2 million in savings to the state at Lea County Correctional Facility.
- The Legislature should consider statutory changes to provide judges the ability to sentence inmates to NMCD prison facilities only if convicts are sentenced to one year or more after accounting for any period of the sentence being suspended or deferred and any credit for presentence confinement which could provide NMCD with an estimated \$2 million

in savings from eliminating D&E and intake of inmates with less than a year on their sentence as defined in statute.

- The Legislature should make changes to the Community Corrections Act allowing more flexibility in the use of community corrections funds and removing the requirements for state and local advisory panels.
- The NMCD, the BHC and OptumHealth should work together to expand the community-based provider network, specifically for hard to place and high-risk inmates.
- The NMCD in conjunction with the BHC should begin to move toward a system of evidence-based treatment programs. The Legislature should consider legislation that requires that most funding for community-based corrections programs be used to fund evidence-based programs over the course of a four year phase-in.
- The BHC, working with the NMCD, should develop a plan to revert appropriate excess funding from the single entity to the state. The plan should be presented to the Legislative Finance Committee by September of 2012.
- The NMCD should review PPD officer salary ranges with the intent of bringing them into line with comparable market rates as soon as possible.

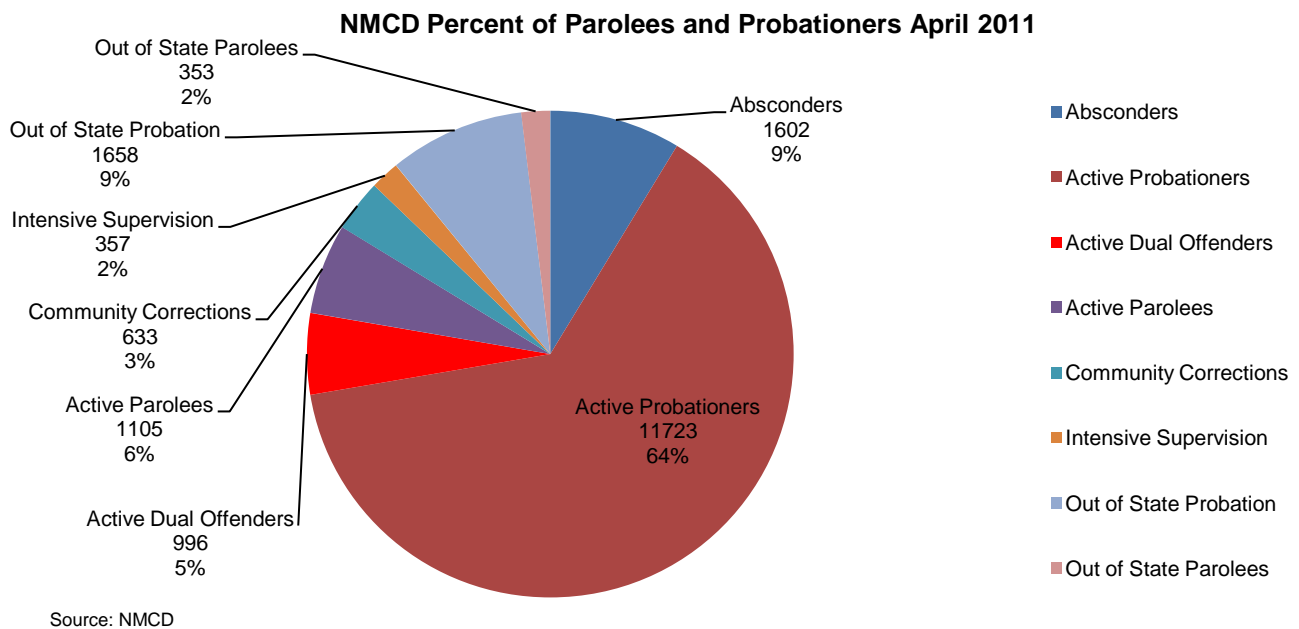
BACKGROUND INFORMATION

The United States has the highest rate of incarceration in the world with one in every 100 citizens behind bars and one in every 31 citizens either incarcerated or on probation or parole, according to the Pew Center on the States. In New Mexico, one in every 34 citizens is either incarcerated or on probation or parole. Over the next several years, it is anticipated that prison populations will grow, requiring either additional inmate beds or enhanced alternatives to incarceration.

New Mexico is facing a growth in incarceration. The New Mexico Corrections Department (NMCD) reports that the average daily prison population in New Mexico increased by 2.4 percent (156 prisoners) during FY11 rising to 6,673 total inmates. The New Mexico Sentencing Commission (NMSC) estimates that New Mexico's total prisoner population will grow at an average rate of 0.84 percent from FY12 to FY21. At that rate, New Mexico will reach a population of 7,208 prisoners by the end of FY21 with the male population exceeding current capacity by FY 2019.

According to the NMCD over half of inmates released from prison will be back within five years which is an additional incentive to seek workable strategies to reduce recidivism. Currently, 44 percent of NMCD inmates are returning offenders with an average of three prison stays per inmate, although some offenders have had as many as 11 prison stays. In New Mexico the average length of stay in prison is 1.82 years. Since 95 percent of all inmates in state prisons will return to their respective communities, the impact of re-entry and community corrections policies and practice on incarceration and recidivism is vital to public safety. There is no benefit to reintroducing inmates back into the community with unchanged criminal thinking, untreated addictions, and without educational and vocational tools needed to succeed. In fact, it is costly, as each inmate that does not succeed will cost the state almost \$100 dollars a day to incarcerate.

The probation and parole division (PPD) is responsible for supervising over 18 thousand offenders each month on average. Of those offenders on active supervision, the vast majority are probationers (64 percent) with fewer on parole (6 percent) and dual supervision (5 percent). About half of those on supervision are currently employed. Approximately 9 percent of offenders were absconders in April of 2011. According to the NMCD, approximately 10.8 percent of absconders were captured in FY11.



According to the NMCD, the success rate for parolees is about 50 percent. A success rate for probationers was not available. The primary reason for revocation of supervision is drugs. In fact, during an LFC ride along with Los Lunas PPD, an offender on supervision was found with drugs in his house and later submitted a urinalysis in the Los Lunas office.

Reasons for Supervision Revocation in FY11

Reasons for Revocation	Number of Offenders	Percent of Total
Drugs	766	37%
Reporting	418	20%
Alcohol	350	17%
State Laws	309	15%
Status	226	11%
Total	2069	100%

Source: NMCD

The NMCD has two program areas responsible for community corrections, the Community Offender Management program and the Community Corrections program. Community corrections programs are designed to be cost-effective alternatives to incarceration while minimizing public risk. The purpose of the Community Offender Management program is to provide programming and supervision to offenders on probation and parole with emphasis on high-risk offenders. The Community Corrections program is to provide selected offenders on probation and parole with residential and nonresidential service settings and to provide intermediate sanctions and post-incarceration support services. These two programs comprise 16 percent of the department’s 2,500 FTE and 12 percent of the department’s \$290 million budget.

The General Appropriations Act (GAA) performance measures for Community Corrections programs are limited to the average caseload of probation and parole officers which for FY10 and FY11 has consistently been above target. Other performance measures include turnover of parole and probation officers and percent of offenders completing selected programs (i.e. residential treatment and halfway house programs). Performance data on successful completion of parole or probation is not currently reported.

Beyond the obvious human costs of incarceration, the economic impact is significant. The average cost of incarcerating an individual in New Mexico is \$34,000 per year. This figure does not include the costs of the criminal justice system, or those incurred by victims. Reducing these costs through operating efficiencies, viable alternative policies and programs should be a high priority as some estimates put the cost of incarceration at almost 22 times the cost of probation, parole and community corrections programs.

As a result of the Governor’s Task Force, the expansion of alternative programs for diversion (e.g. drug courts) and community corrections (e.g. halfway houses) were recommended and a Reentry and Prison Reform Division was created but no longer exists. Other states are beginning to look at strategies for reducing prison populations and costs. Such strategies include the addressing of offender needs based on valid assessments, obtaining assistance from the federal government and other agencies, and investment in evidence-based practices.

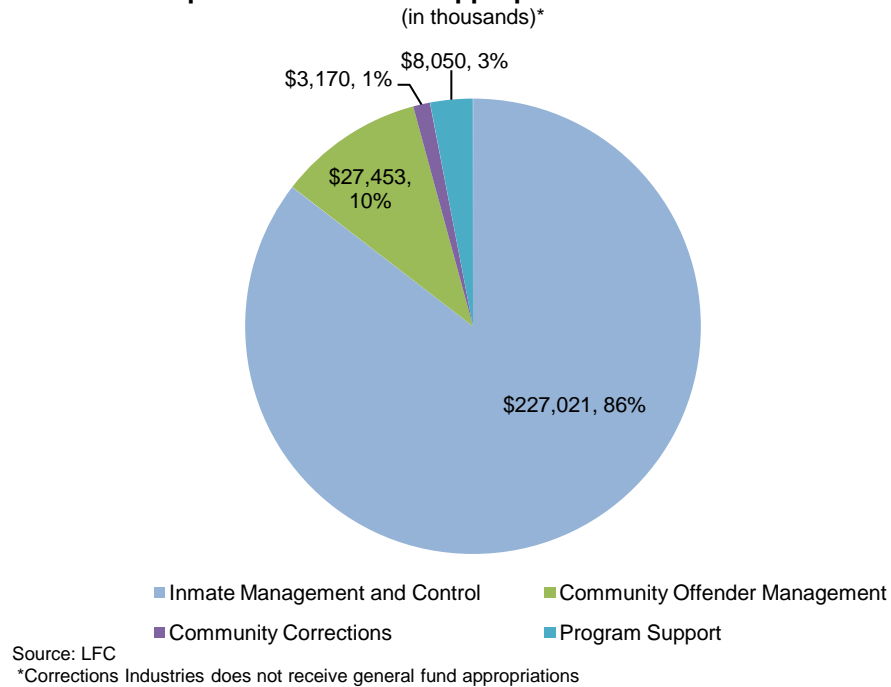
Regarding evidence-based practices, there is an ever increasing body of research on program effectiveness in reducing crime and producing savings for taxpayers. Along these lines, there is increasing interest in models for accurately assessing the comparative costs and benefits of evidence-based community corrections programs. Under the guidance of the Pew Center on the States, the Washington State Institute for Public Policy (WSIPP) has developed a model to “calculate the return on investment to taxpayers from evidence-based prevention and intervention programs and policies.” New Mexico along with a dozen other states is receiving technical guidance from the Pew Center on the States for the implementation of this model. Through a better understanding of program effectiveness and cost benefit of investments, policy makers can reinvest scarce criminal justice funds toward strategies that result in reduced recidivism and increased public safety.

FINDINGS AND RECOMMENDATIONS

REDUCING RECIDIVISM THROUGH STRATEGIC INVESTMENT CAN SAVE MILLIONS AND IMPROVE PUBLIC SAFETY

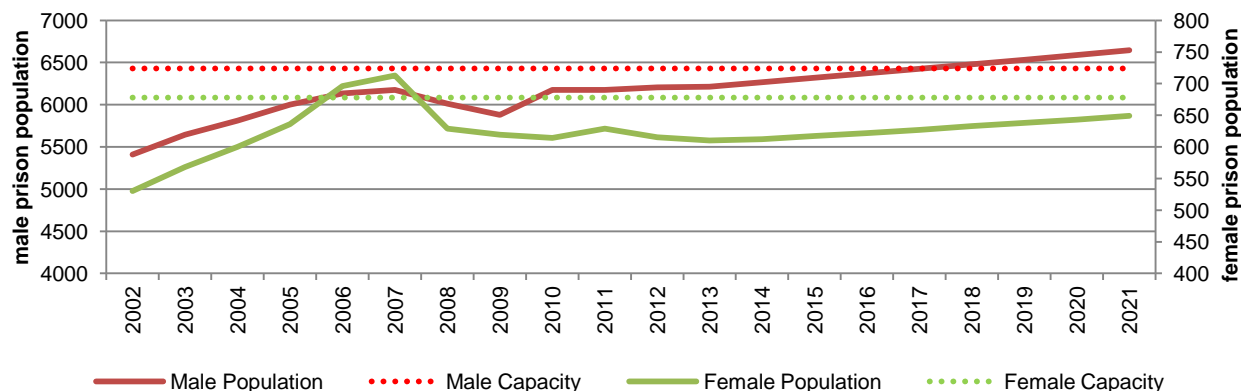
The New Mexico Corrections Department (NMCD) is appropriated \$288 million per year to house, supervise, and rehabilitate 25 thousand offenders a day. The mission of the NMCD is to provide a balanced approach to corrections, from incarceration to community-based supervision, with training, education, rehabilitation programs, and services that provide opportunities for offenders to successfully transition to communities. The FY13 appropriations to the NMCD are \$288 million, of which 92 percent, or \$265 million, is from the general fund.

Graph 1. General Fund Appropriation to NMCD FY13



New Mexico is facing a growing prison population that is projected to exceed capacity within the next decade. In FY11 the average daily prison population in New Mexico increased by 2.4 percent, 156 prisoners, rising to 6,673 total inmates. The New Mexico Sentencing Commission (NMSC) estimates that New Mexico's total prisoner population will grow at an average rate of 0.84 percent from FY12 to FY21. At that rate, New Mexico will reach a population of 7,208 prisoners by the end of FY21 with the male population exceeding current capacity by FY19. The NMCD recently shifted 72 beds at the Western New Mexico Correctional Facility (WNMCF) from men's beds to women's beds to alleviate the overcrowding of the New Mexico Women's Correctional Facility (NMWCF). An aging prison infrastructure coupled with prisoner capacity limitations in New Mexico's prison population points to the need for strategies such as diversion programs, front-end services and other strategies, along with enhanced reentry and reintegration programs to reduce incarceration and recidivism.

Graph 2. NM Prison Population Projections by Gender

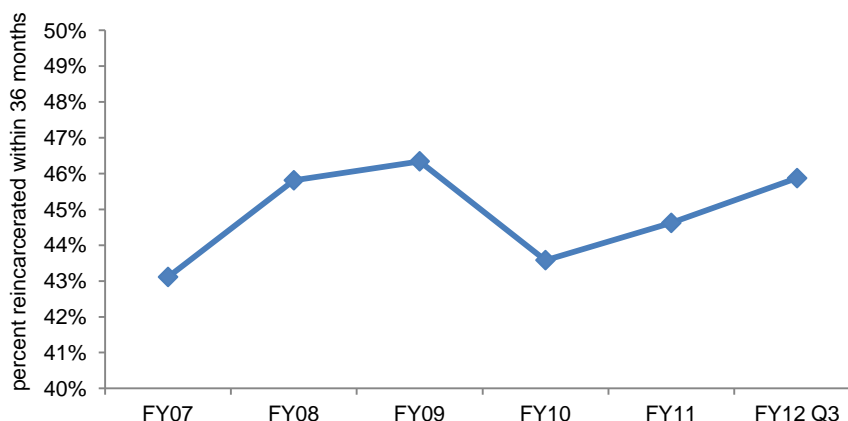


Source: NMCD and NMSC

According to the Pew Center on the States, evidence-based programs can decrease recidivism, lower costs, and improve public safety. The implementation of evidence-based programs in states has had a number of positive outcomes. In Washington, legislators and executive agencies identified evidence-based policies that provided the best return on taxpayer investments. Results of this strategy include a greater improvement in crime rates, improvement in juvenile arrest rates, an incarceration rate below the national average, and hundreds of millions in savings per year.

The NMCD released 3,440 inmates from prison into the community in FY11. More than 95 percent of prisoners will return to communities and the equivalent of half of the NMCD average population was released back into the community in FY11 alone. Within three years from being released 46 percent of inmates return to prison and within five years from being released 53 percent of New Mexico inmates return to prison. A key measure of successful transition to the community is recidivism, defined here as return to prison within 36 months, unless noted otherwise. According to the Pew Center for the States, states where corrections agencies are strategically improving release preparation and supervision strategies will see falling recidivism rates. An indicator that New Mexico needs to better prepare inmates for release and revisit supervision strategies is the recent increase in recidivism.

Graph 3. Percent of All Prisoners Reincarcerated To NMCD Facilities Within 36 Months



Source: NMCD

Reducing recidivism by 10 percent could save \$8.3 million in prison costs alone and could reduce victimization costs by an estimated \$40 million. Since being released in 2008, 1,649 inmates, or 44.6 percent, returned to prison within three years. On average, these inmates return within 328 days of release. If the recidivism rate could be reduced by 10 percent, 165 inmates, by implementing evidence-based programs in the prisons and transitional programs in the community, New Mexico could save \$8.3 million per prison stay given the FY10 cost per day and the 18-month average stay of NMCD inmates. Using data on costs to victims from a national study prepared for the US Department of Justice, along with conviction rates in New Mexico, the cost to victims by 165 offenders is approximately \$40 million. This includes tangible victim costs, such as health care expenses, property damage and losses in future earnings and intangible victim costs such as jury awards for pain, suffering and lost quality of life.

The NMCD has a number of aging facilities requiring repair or replacement. The NMCD will have to start planning new facility construction to replace on or more of their facilities. The General Services Department (GSD) recommends replacing any building with a facility condition index (FCI), the ratio of repair costs to replacement cost, greater than 60 percent. The 2005 facility assessment found that Central New Mexico Correctional Facility (CNMCF), Southern New Mexico Correctional Facility (SNMCF), and Roswell Correctional Center (RCC) were at 55.4 percent, 48.5 percent and 43.3 percent, respectively. The newest prison facility in Clayton cost \$61 million to build.

Increasing numbers of prisoners in New Mexico will cause a need for facility repair and replacement rather than closing of facilities. In addition to several prisons approaching FCI numbers warranting replacement, repair of facilities is a continuing financial concern. A 2007 LFC report on corrections facilities found that 20 housing units at SNMCF and CNMCF needed about \$26.8 million in repairs to extend their usefulness. Staff found that WCNMF has some of the most serious facility problems. One housing unit is sinking and separating from an attached structure, and the plumbing across the facility is corroding as quickly as it is repaired due to the hard water in Grants. Modular units housing low-security inmates appear in disrepair. PCD is currently in the process of updating the estimated repair and replacement costs for WNMCF – meaning the current repairs totaling \$19.3 million might increase significantly in the near future. The population of older prison inmates is rising and the facilities to address this need are inadequate. The 2007 LFC evaluation also identified the poor conditions of the geriatric housing unit at CNMCF. Although these facilities have just been refurbished, they are not designed for long-term housing or care.

Other states have successfully implemented evidence-based programs resulting in significant cost-savings. States such as Oregon, Michigan, Texas and Washington have reduced recidivism and gained significant cost-savings through implementation of evidence-based programs. Prison replacement costs have been avoided and a number of facilities throughout these states, including a 1,100 bed prison in Texas have been closed. Through the use of validated risk and needs assessment tools, along with requirements that correctional program funding be contingent on evidence-based design and delivery, these states have seen reductions in incarceration rates, closing of prisons, and hundreds of millions in savings (see **Appendix C**).

The NMCD is not well positioned to use data to inform decisions. The Legislature continues to provide resources for IT improvement. The FY13 budget for the NMCD includes a \$643 thousand appropriation to upgrade the criminal management information system and migrate it into a web-based environment and add necessary functionality. A completed IT system and a performance evaluation function would give the NMCD the structured reporting capability it needs rather than the point-in-time retrospective capabilities it now relies on. This leaves the NMCD dependent on other agencies and program area staff to perform data reporting. Other states as well as agencies within New Mexico have evaluation of programs and assessments. For example, the CYFD juvenile justice evaluation staff recently published a study on risk needs assessment in a peer-reviewed journal. The NMCD is in talks with the New Mexico Sentencing Commission (NMSC) to perform such a task.

The NMCD reporting functions are decentralized and focus on audit or contract compliance. No centralized unit collects data for reporting purposes, or tracks management reports. Although the NMCD has 95 reports with recidivism in the title each was created to respond to a specific question and are not continuous management tools.

The NMCD funds more than 40 in-prison programs for prisoners, but according to the NMCD less than one-quarter are evidence-based. Evidence-based programs are those that have been evaluated through rigorous studies and have demonstrated that they reduce recidivism. According to the NMCD, less than a quarter of the programs offered to inmates through the NMCD are evidence-based.

The NMCD rolls out programs system wide without adequate evidence that they are effective. The NMCD developed a program called the “recidivism reduction program”. Researchers from the University of California and Pepperdine University conducted an unpublished evaluation on the recidivism reduction program within the NMCD and found significant effects in inmate self-esteem and employment confidence. However, the evaluation recommended future research focus on whether these results translate into improvements in recidivism reduction. The NMCD interpreted the results favorably and introduced the program into five prisons last year as a pilot that will be evaluated by National Registry of Evidence-based Programs and Practices this coming year. An alternative is to use the program as an exit exam for inmates to determine what programs or services will need to continue on release into the community.

The Pew Center on the States is supporting a model to calculate the return on investment to taxpayers from evidence-based prevention and intervention programs and policies. The Washington State Institute for Public Policy (WSIPP) has developed a cost-benefit analysis model that provides estimated monetary benefits, costs, measure of risk, and return on investment based on over 27 thousand national studies. The Pew Center on the States is working at least a dozen states to get the model running. Additionally, the federal Office of Management and Budget cited the model for agencies to consider using. Results from the state of Washington are promising and include improvement in crime rates, incarceration rates, and hundreds of millions in savings per year.

With the Pew Center for the States, the WSIPP model was run for six programs currently being funded in New Mexico prisons. Through the LFC’s efforts, New Mexico is the second state to implement the WSIPP model beginning at the NMCD. Data for the current model is from NMCD, the NMSC, the Administrative Office of the Courts (AOC), the Department of Public Safety (DPS), the Federal Bureau of Investigation (FBI), and the U.S. Bureau of Justice Statistics. Six prison programs were entered into the New Mexico WSIPP model and outcomes were based on a cohort released from prison in 2005. The current model has limitations but was built to err on the side of being conservative. All programs entered into the model assume that best practices are followed in implementation which is not the case for all programs in New Mexico.

Table 1. Monetary Benefits and Costs of Evidence-Based Public Policies in New Mexico (Per Participant)

Program	Taxpayer Benefits	Total Benefits (Taxpayer + Victims)	Costs	Benefits Minus Costs (net present value)	Benefit to Cost Ratio	Rate of Return on Investment	Measure of Risk (odds of a positive net present value)
Adult Education	\$3,043	\$18,952	\$627	\$18,325	\$30.22	421%	99%
Cognitive Behavioral Programs	\$1,571	\$10,033	\$523	\$9,510	\$19.20	278%	99%
Corrections Industries	\$1,090	\$7,080	\$0	\$7,080	\$7,080	N/A	99%
2 nd Judicial District Drug Court (Adult)	\$3,285	\$20,336	\$3,205	\$17,131	\$6.35	103%	99%
Drug Treatment In Prison (Therapeutic Communities)	\$2,319	\$15,371	\$3,233	\$12,138	\$4.77	79%	99%
Vocational Education in Prison	\$2,881	\$18,525	\$1,171	\$17,354	\$15.89	234%	99%

Source: LFC

Results for six of the programs represented in the New Mexico WSIPP model that are run by the NMCD have been proven nationally to have a positive impact on reducing recidivism and improving public safety (see **Appendix D**). These six programs show that benefits outweigh costs with differing return on investments. Additionally, the odds of receiving total benefits that exceed costs, or a positive net present value, are almost 100 percent for the six programs. However, non-evidence-based programs, including programs designed within the NMCD, are being funded and expanded instead of these with proven track records. For example, the following programs have not been shown to be evidence-based nor have they been the subject of a program outcome evaluation:

- Art Therapy
- Cage your rage (anger therapy)
- Grief and Loss
- Life 101
- Recidivism reduction
- Relaxation group

Furthermore, therapeutic communities are not being run according to best practices in New Mexico. Given that current costs for therapeutic communities do not outweigh taxpayer benefits, it is likely that any return on investment is limited to benefits of avoided victimizations. Similarly, therapeutic communities should result in benefits to taxpayers and potential victims of \$8.5 million, but are not run according to best practices which will be detailed in a later chapter. According to the WSIPP model, in New Mexico every drug treatment in prison participant should result in \$12 thousand in benefits over a seven-year period. The NMCD reported 702 participants at the end of 2011.

Recent decisions by the NMCD and New Mexico courts to cut beneficial programs could have a lasting impact on cost to taxpayers and public safety. Two programs that reduce recidivism in national studies, drug courts and corrections industries, have been cut in New Mexico in the last fiscal year resulting in an approximate loss of benefits to taxpayers and potential victims of \$2.8 million each year these cuts remain in place. According to the WSIPP model, in New Mexico every drug court participant results in \$20 thousand in benefits over a seven year period. The 2nd judicial district court recently cut its drug court capacity by 90 participants. This cut will result in unrealized benefits to taxpayers and potential crime victims an estimated \$1.8 million each year the cuts remain in place. Even though the NMCD continues to provide between \$200 thousand and \$300 thousand per year for treatment of drug court participants, staffing support has been reduced. The NMCD has no statutory jurisdiction over these drug court participants. This raises the question as to whether total responsibility for these programs should rest with the court.

Likewise, in New Mexico every Corrections Industries participant could result in \$7,000 in benefits to taxpayers and potential over a seven year period. The number of corrections industries employed inmates fell between FY10 and FY11 by 132 inmates and three supervising corrections staff. This cut will result in unrealized benefits to taxpayers and potential crime victims estimated at \$1 million each year the cut remains in place.

Recommendations

The NMCD should form a Research and Evaluation Unit consisting of three employees to provide a program auditing function along with a data analysis function for the NMCD. LFC calculations estimate these positions would be between a pay band 75 to 85 and cost \$230 thousand a year.

The NMCD should aim to reduce recidivism through strategic investment by continuing to work with the LFC and the NMSC to update the WSIPP model so that programs can be funded based on results.

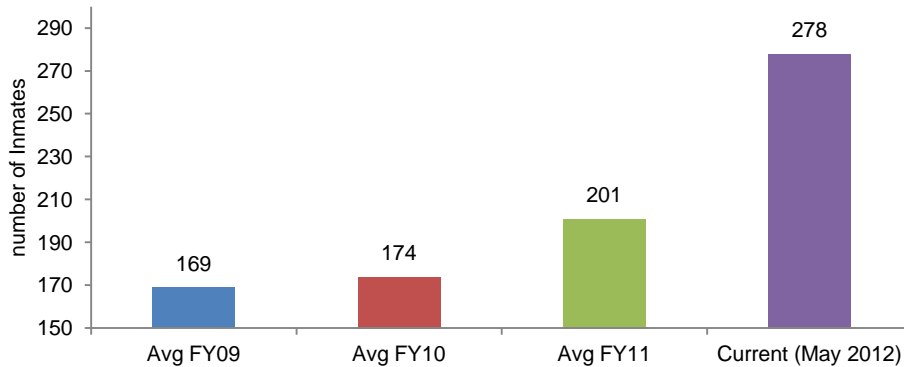
The NMCD should provide the LFC and the NMSC with updated data for the NM WSIPP model for FY12 by July 1, 2013 including the following:

- Number of years of prison, parole and probation use for prisoners by most serious offense.
- The change in length of stay (in years) for each subsequent sentence.
- Updated cohorts for adult prison and supervision.
- Updated and expanded program costs and participation rates for prison and community programs.

THE USE OF IN-HOUSE PAROLE COSTS \$10 MILLION A YEAR AND COULD UNDERMINE PUBLIC SAFETY

The number of in-house parolees is at an all time high. In most cases, inmates in New Mexico prisons are required to serve a sentence of parole on completion of their incarceration. In a growing number of instances, inmates are serving parole in prison. The average number of in-house parolees (IHP) has increased over the last three fiscal years. The number of inmates on IHP in May 2012 was 278. The state of New Mexico is paying an estimated \$10 million per year to house parolees in prison.

Graph 4. In-House Parole Counts



Source: NMCD

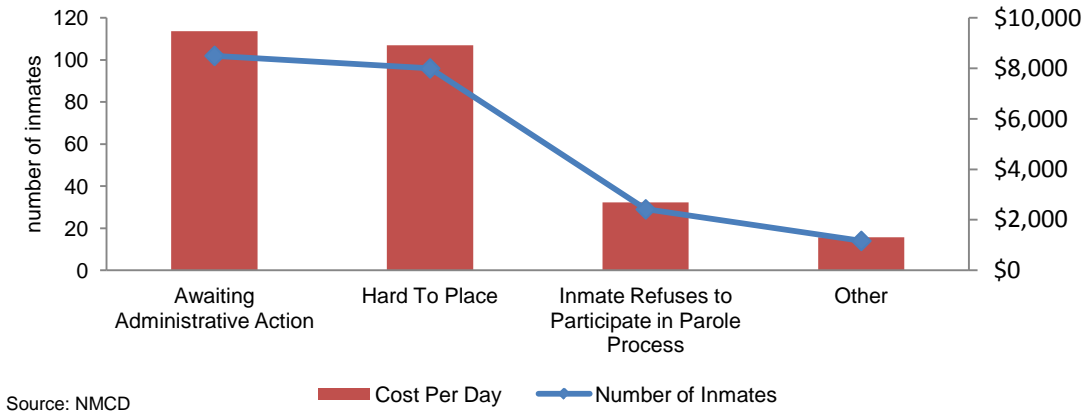
The number of in-house parolees is rising and could cost \$10 million or more in FY12. Before a parolee can be released from prison, Corrections Department staff creates a plan that outlines where the parolee will live, his principal family or social connections in that community, what conditions must be met to remain on parole, and what treatment or services that individual might need in the community. The plan is then approved or denied by the Parole Board. In a growing number of cases, the Parole Board is unable to approve parole plans as safe or appropriate. Many inmates simply do not have the resources or appropriate social connections in the community. Others, such as sex offenders and those with a history of violence, are extremely difficult to place in the community. Other reasons an individual remains in prison including administrative issues and inmates refusing to participate in the parole process. As a result, the individual must serve parole in prison. Hard to place high security risk offenders are likely to discharge directly from IHP. Currently the unit housing the most IHP offenders is PNM level VI with 51 inmates.

One hundred thirteen prisoners were discharged directly from IHP in 2011 and released back into the community without supervision.

Source: NMCD

Reasons for in-house parole include difficulties in finding placements, pending administrative issues, and refusal to participate in the parole process. Approximately 40 percent of offenders on in-house parole are listed as being hard-to-place. Many of these individuals are sex offenders, gang members, or individuals with a history of violence. For these offenders, there are insufficient community resources as many treatment programs cannot or will not provide services to higher-risk individuals.

Graph 5. Reasons for In-House Parole and Cost Per Day (Feb 2011)



However, the hard-to-place category also includes a significant number of individuals that do not have funds required for housing or treatment programs. For example, one inmate could not be released because he did not have money to pay for a program, and could not receive financial assistance for the program because he could not be released.

From NMCD IHP Report: “Parole Board saw inmate on 10/31/2011. Certificates were requested but will not be mailed out due to program not being paid for. ‘Inmate’ (name removed) applied for Eagle’s Unlimited but program will not assist unless inmate is already residing there.”

The cost of a halfway house for non-violent offenders, however, averages \$1,200 to \$1,500 for 90 days, less than the \$8,000 required to house an individual in prison over the same period of time.

Another 40 percent of offenders on in-house parole are working through pending administrative issues which have delayed their parole to the community. These pending issues include parole plans, parole certificates, parole board hearings, parole board action, and parole officer investigations. These are largely operational issues, many of which could be resolved by the Department working in cooperation with the Parole Board and by more efficient staffing strategies by the NMCD. By resolving approximately 40 percent of the issues causing in-house parole, the department could save an estimated \$4 million per year (see **Appendix E** for complete breakdown of reasons for IHP).

Reasons for IHP: Between January 1, 2012 and March 31, 2012, the parole board scratched more than 70 cases from the hearing docket due to pending administrative issues and erroneous paperwork from the NMCD including missing parole plan packets, pending parole plans, or wrong case numbers.

Source: NM Parole Board

Treatment resources for sex offenders are scarce and have recently been cut back. The Department of Health (DOH) New Mexico Behavioral Health Institute (BHI) operates the STOP program for the treatment of sex offenders. In response to an increased demand for services, the Department of Health expanded this program to 24 beds in 2003. However, bed space at the BHI is being crowded out by growing numbers of pre-trial defendants committed to the hospital by district courts across the state. These placements mandated by Section 31-9-1.2 NMSA 1978 and Section 31-9-1.5 NMSA 1978, and forensic patients now represent over 50 percent of the BHI population. As a result, the Department of Health (DOH) has found it necessary to reduce the number of beds for the STOP program from 24 to eight. Unless additional space is created at the BHI, treatment of sex offenders cannot be expanded.

The enhancement of community programs is a cost effective alternative to IHP. Based on the January IHP population of 278 inmates, and the cost per inmate per day in prison, in-house parolees could cost the state more than \$10 million in FY12. At least 10 percent of IHP inmates are sex offenders with parole terms of five to 20 years. Therefore the NMCD may have to pay the cost of IHP for 20 years. For example, the NMCD has three inmates on IHP that are listed as having “exhausted all viable plans for sex offenders”, and these inmates have discharge dates of 2026, 2028 and 2029. If appropriate placements through probation and parole or community corrections were available for in-house parolees, costs could be cut significantly because the cost of most programs and services are less than the FY10 average incarceration cost per inmate of \$92.89 a day.

Table 2. NMCD Community-Based Operations FY10

Program/Service	Cumulative Average Population	Average Annual Cost Per Inmate	Inmate Cost/Day
Community Corrections	881	\$5,524	\$15.13
Residential Treatment Center Programs (Females) – Los Lunas	54	\$39,139	\$107.26*
CC Residential Treatment Center Programs (Males) – Fort Stanton	73	\$16,805	\$46.04*
Probation and Parole (less ISP)	11,609	\$2,608	\$7.15
Intensive Supervision Programs	311	\$1,068	\$2.93
PPD/Community Corrections Totals	12,388	\$3,020	\$8.27

* According to NMCD PPD: The higher rates represent figures that calculate in partial administrative cost of staff salaries, and are part of an internal record used to estimate overall cost-per-client. Current base FY12 exact per-diem amounts without the administrative add-on are:

- Men's Residential: \$41.22 Capacity: 55 (reduced from 84 prior to FY11)
- Women's Residential: \$84.34 Capacity: 42 (reduced from 48 prior to FY11)
- Women's Halfway House: \$42.61 Capacity: 12 (reduced from 17 prior to FY11)

While the matrices decreased because funding decreased, the vendor did not drop the cost of services.

Other community-based programs could provide a way to reduce in-house parole and generate overall savings for the NMCD. For example, the NMCD contracts with two residential treatment programs (recovery academies) to provide treatment, housing, and related services to men and women re-entering the community from prison. The men’s program deals primarily with substance abuse while the women’s program has a component that addresses women and their children as well as women with co-occurring mental health and substance abuse issues. As a result of budget cuts, over the past several years, the men’s program has been cut from 84 to 55 beds and the women’s program has been cut from 48 beds to 42 beds. Both programs have the capacity for expanding the number of beds.

The expansion of non-treatment halfway houses is another potentially cost-effective mechanism for reducing in-house parole while providing for a secure transition from prison to community. The model that allows offenders to work or go to school during the day and return to the halfway house in the evening for meals and programming would facilitate workable parole plans. It is likely that existing halfway houses could be expanded. The program operates on a self-pay model with offenders paying approximately \$400 per month. As mentioned above, one barrier to placement in these facilities is the inability of the offender to pay this cost. The NMCD could pay part of this cost as an alternative to the much higher cost of incarceration (see Table 2).

The NMCD women’s population is growing in part because of a high percentage of women being in IHP as well as trends in juvenile populations. Referrals to the CYFD juvenile justice services have increased for girls from 32.8 percent in FY06 to 35.9 percent in FY11. One possible reason for the increase in the women’s prison population in New Mexico can be tied to an upward trend in female juvenile crime extending into adulthood. As women continue to recidivate as adults, more women enter the adult correctional system. However, in-house parole also plays a role in increasing the numbers of incarcerated women. Although the women’s population accounts for less than 10 percent of the total NMCD prison population, on average, women account for 12.4 percent of the current IHP population. The percentage of women on IHP may decline as the NMCD continues to penalize the private women’s prison for delays in starting the community placement process.

Recommendations

The NMCD should pay the cost of halfway house placement for inmates when it can be demonstrated that the inmate does not have funding. The department should also consider paying the first few months of rent for inmates entering parole, again in situations where it can be demonstrated the inmate does not have the funds.

The NMCD should explore expanding existing resources for halfway houses and residential treatment facilities to increase the likelihood of successful offender reentry and to lower IHP numbers.

The NMCD and the Parole Board should meet quarterly and study the reasons for current administrative delays to parole and initiate procedural reforms to ensure accurate and complete paperwork, timeliness of parole planning and investigation, and timely parole board action including issuing of parole board certificates as a 40 percent reduction in IHP could save the NMCD \$4 million.

The NMCD should study the development of a secure halfway house, perhaps on prison grounds, for sec offenders, those with a history of violence, and other very difficult-to-place parolees.

LACK OF VALID ASSESSMENTS AND POOR MANAGEMENT OF PRISON PROGRAMS AND RESOURCES INADEQUATELY PREPARE INMATES FOR SUCCESSFUL TRANSITION INTO THE COMMUNITY

The NMCD does not adequately target treatment based on risk or needs of clients. According to the Pew Center on the States, matching programs to offenders based on their risk level is a key to reducing recidivism. Furthermore, research has shown that certain programs are more effective with high-risk offenders but can actually increase recidivism of low-risk offenders. For example, an intensive program in Ohio lowered recidivism for high-risk offenders by 24 percent but raised recidivism for low-risk offenders by 18 percent. Currently, the NMCD collects data with validated risk and needs assessment tool at intake to prison, but uses it mainly for inmate classification based on risk to the safety and security of the inmate and facility. To get more out of the assessment, the NMCD needs to expand the results to include the needs of the inmate.

NMCD programs are generally delivered to inmates at lower security levels and some programs are delivered to inmates with low-risk for recidivism.

The majority of employment and treatment programs are offered to inmates at lower classification levels (I-III). Inmates in higher security levels (IV-VI), who are typically higher security threats, have less access to programming. There are established predictors for recidivism, including criminogenic factors, criminal history, and history of antisocial behavior which might indicate a correlation between security level and risk.

Classification History: In the late 1990s violence at New Mexico private prisons was drawing criticism from Governor Johnson who commented that he may be forced to remove inmates from prisons in Hobbs and Santa Rosa if violence continued. Beginning in 1999 the NMCD, in partnership with a private contractor, started researching the design of a new classification instrument based on risk of escape and violence. Best practices of states with existing classification instruments based on these factors were studied, including Colorado, Utah, and Ohio. After the riot of August 1999 at the Santa Rosa facility, the design and implementation of a new classification instrument was made a high priority, resulting in today's six-level

Research shows that programs such as cognitive behavioral therapy are significantly effective on high-risk inmates. The NMCD provided data from a valid risk and needs assessment, the COMPAS, for inmates who have participated in cognitive behavioral therapy programs. These data show that the majority of the participants are at low-risk for violence and low-risk for recidivism.

NMCD's classification system is based on safety. Inmates are evaluated on criminal background and record of institutional behavior. The system has six levels of increased supervision with steps for each level (see **Appendix F**). Some offenses or behaviors must maintain at a set level, such as keeping most validated gang members at level IV facilities.

The NMCD mandates best practices in policy, but these practices are not followed, including evaluating risk and needs of inmates. Governor Richardson's Task Force on Prison Reform produced two reports and made recommendations leading to the NMCD's adoption of a national model, the Transition from Prisons to Community Initiative (TCPI). The influence of this model led the NMCD to adopt policies in which staff is directed to use the COMPAS to assess the risk and needs of inmates. This validated tool is to be used in conjunction with group meetings involving staff members from all service areas, to prioritize goals and set programming and work assignments. These meetings are called Transition Accountability Plans (TAP).

The NMCD has been paying for the COMPAS tool since 2008 and twice contracted for studies never conducted. Although the money was encumbered, the NMCD did not pay Northpointe, Inc. since the studies of COMPAS were never done. Although the COMPAS has been paid for since 2008, it is not currently being used in decisions involving programming.

The COMPAS is currently administered to male inmates but not female inmates and is not being used in decisions for treatment or programming. Additionally, the TAPs do not currently occur.

Inmates “shop” for programs that have the best lump sum awards. Inmates assigned to educational, vocational or institutional work assignments are eligible to receive up to a 15 days a month of lump sum awards (LSAs), good time credit off the end of their sentences. Instead of delivering programming based on the risk or needs of the inmate, many prison staff indicated that inmates seek out programming that lead to earlier release. For a time, programs were assigned without classification hearings which are required by internal policy. Along these lines, it is unclear how the NMCD decides how programs should reward inmates through LSAs. For example, the therapeutic community program was recently reduced in duration to six months. However, the total lump sum awards for completing the entire program remained 90 days, providing prisoners with a greater incentive to participate in this program regardless of their programming needs.

The NMCD has trouble keeping track of programs participated in by inmates at some facilities resulting in prisoners receiving credit for being at two places at the same time. A victims’ family was recently alerted that the offender in the case was up for parole in December 2011. The family then contacted the NMCD to ensure that the parole hearing was not being conducted too early. The NMCD revealed the offender, along with 40 to 60 other offenders in the same facility, was erroneously enrolled in programs. In 2012 the NMCD audited this issue across all state prisons, but results are not yet available. The decision was made to allow inmates LSAs if documentation showing the inmate completed the program was sufficient.

At the Central New Mexico Correctional Facility, some lower security inmates were in programs or jobs that had overlapping schedules. Rather than assigning inmates to programs at classification hearings as required in NMCD policy, some classification officers approve program participation outside of hearings. This assigned a schedule where programs had overlapping times and created the potential for inmates to erroneously earn good-time deductions.

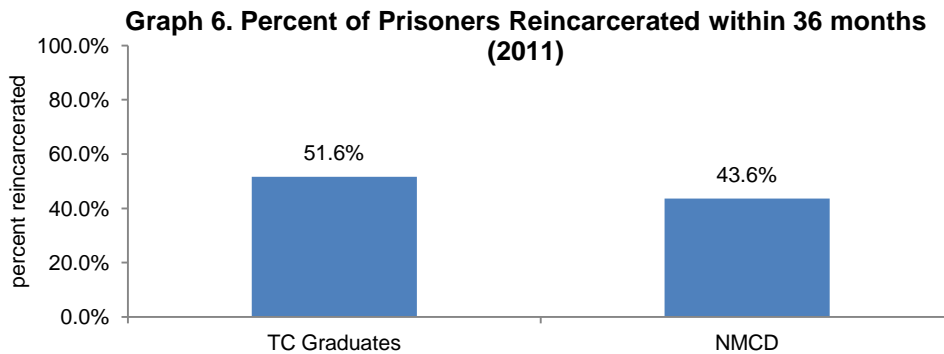
Overlapping inmate programs created a situation where inmates could receive LSAs for programs they did not fully participate in, and could earn good time for jobs they were not at. It is unclear how long overlapping inmate programs existed and how widespread the problem has been. At least two of the private prisons produce a report within their own IT systems to ensure that overlapping of programs does not happen. The NMCD has also reported to the LFC that they have implemented accountability sheets for all programs to know where inmates are at all times. Also, the NMCD has indicated that every inmate will now be assigned to all appropriate programming with no overlapping schedules or opportunities to erroneously earn good-time deductions.

<p>Avoiding Early Release: Between January 1, 2012 and March 31, 2012, the Parole Board scratched four cases from its docket because the inmates were not yet eligible for parole.</p> <p>Source: NM Parole Board</p>
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Programs that have been proven to work in reducing recidivism have been cut by NMCD, or the courts, have long waiting lists, and sometimes lack fidelity. Some programs offered by the NMCD have been nationally proven to reduce recidivism by over 10 percent (see **Appendix D**). Programs that have been proven to reduce recidivism on a national level have been cut by the NMCD and the courts. For example, the NMCD cut staffing provided to the 2nd judicial district cut which was accompanied by a cut in the number of available slots in its drug court program. Corrections industries participation has dropped to a three year low while space and resources go unused. Other programs, such as adult basic education serve 4,500 inmates a year and still have waiting lists of 850. Still other proven programs, such as therapeutic communities are not delivered with fidelity. This situation is exacerbated by budget cuts that resulted in the loss of educators, corrections industries employees or therapists. Many of these remain vacant. Problems in delivering therapeutic communities, related to not following best practices, were identified in a 2007 LFC report and many of these problems remain today.

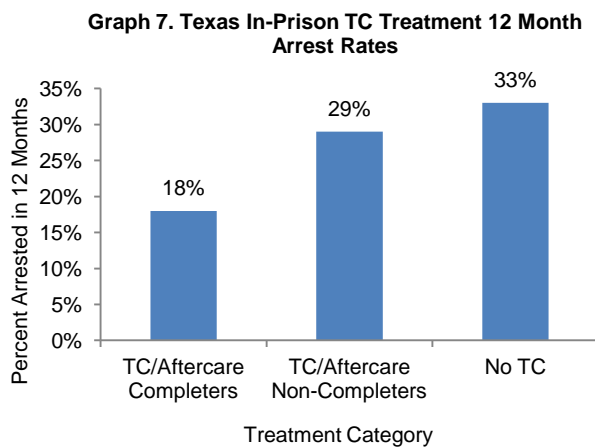
The department allocates about 700 beds to therapeutic communities (TC); however, this evidence-based practice needs improvement. According to the NMCD, 75 percent of inmates entering the prison system have a history of drug addiction and 68 percent have drug-related crimes on their records. Historically, the NMCD has provided TC beds for inmates classified at levels I-III, the average cost of therapeutic communities is \$8.87 a day in public facilities.

The TC completion rates for FY11 were 17.5 percent as 182 of 1,039 TC participants graduated from the program. Additionally, TC clients receive no formal aftercare services. The low graduation rate paired with a lack of aftercare services likely leads to program ineffectiveness indicated by a 51.6 percent recidivism rate for TC graduates in 2011.

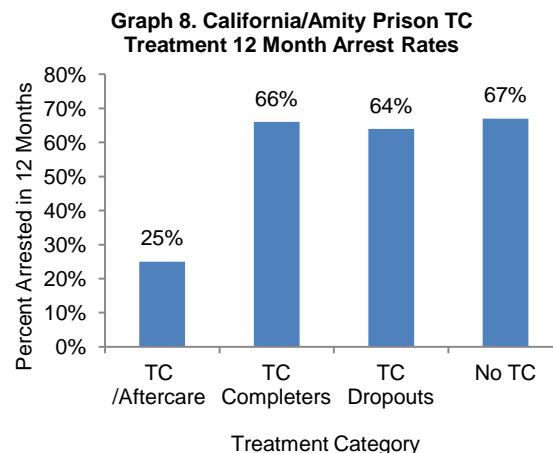


Source: NMCD

National evaluations demonstrate that TCs can significantly reduce recidivism based on meeting certain program standards. Model TC programs can significantly reduce recidivism, according to research summarized by the Pew Center on the States. On average, TC programs can reduce recidivism by 5.3 percent to 6.9 percent. Effective TC programs operate intensively for six to 12 months in a segregated housing unit, engage offenders in transitional and aftercare services, target high-problem offenders, and use risk and needs assessments to screen for appropriate placements.



Source: Wexler (1997)



Source: Simpson & Knight (1997)

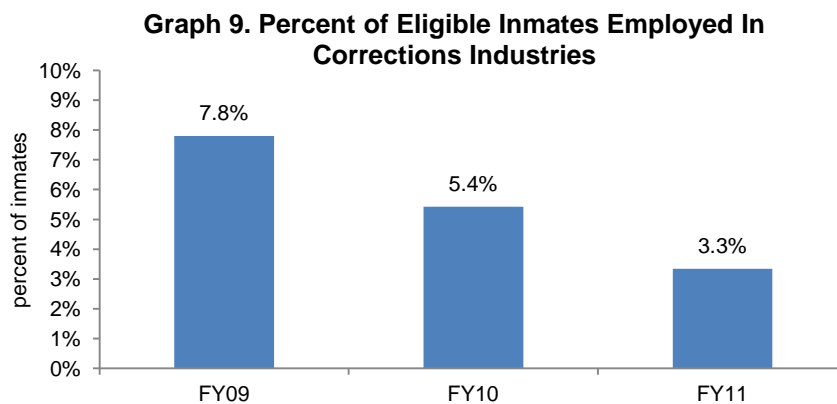
The NMCD has low TC graduation rates and no formal aftercare services; both factors likely reduce program effectiveness. Research by Texas Christian University (TCU) suggests treatment programs that include the routine monitoring of drop-out rates provide better accountability of program functioning. A 2007 LFC evaluation found similar shortcomings of TC programs and made recommendations that have not been implemented.

The NMCD TC programs do not meet all national program standards for TC. For example, first the TC program lacks a separate housing unit, as some TC units also house inmates who are not enrolled in the TC program. Second, the TC program uses a mix of TC programming, self-help, and 12-step groups. A national evaluation published by the National Institute of Justice expressed concern over the mixing of different treatment methods such as these. The evaluation noted that “combination treatments have not been fully evaluated and that many combinations may result in watered-down components, leading to less effective treatment”. Third, rather than using risk-needs assessments to target services across all classification levels, TCs are offered only to lower classification inmates. Many NMCD officials recognize that lower classification levels inmates likely have lower needs for such services, whereas higher classification (IV, V and VI) inmates have the highest level of need.

Finally, the department recognized that shortening the TC program to six months could boost completion rates. Given that the average prison length of stay is 1.8 years and that the transfer of inmates among facilities and classification levels challenges service delivery, shortening programs could boost graduation rates. However, this program duration is the least required by best practice it is unclear what this might do for program effectiveness.

Although 75 percent of NMCD inmates have a history of drug addiction, 11 percent of TC beds are unfilled. Delivering treatment to inmates in need of services for drug addiction is a challenge. In the United States only one in 10 inmates receive any form of drug treatment. The NMCD states that TC-eligible Level I and II inmates live in a dormitory setting where the 11 percent of TC beds were unfilled, a 1 percent increase from 2010.

Nationally Corrections Industries programs show promise at reducing recidivism by up to 7.8 percent, however these programs have been cut or discontinued in New Mexico. The purpose of Corrections Industries is to provide training and work experience opportunities for inmates, to instill a quality work ethic, to prepare them to perform effectively in employment, and to reduce idle time of inmates while in prison. The percent of eligible inmates employed by Corrections Industries has fallen far below the LFC recommendation of 6 percent. Corrections Industries is run as an enterprise fund with the intention of the program to be self-sufficient. However, expenditures have exceeded revenues since at least FY07.



Source: NMCD

The Pew Center on the States along with WSIPP identifies corrections industries as a low-risk program that reduces recidivism and can deliver monetary along with public safety benefits. Although institutional support jobs such as those offered at the NMCD have been recognized as valuable, programs that offer private sector experience, fair wages, and include vocational training have been proven to be effective more often. One potential avenue for improving correctional industries in the NMCD is through the Prison Industry Enhancement Certification Program. New Mexico is one of 45 members of the Prison Industry Enhancement Certification Program, but does not currently have an active program.

The Corrections Industries textiles program at the Lea County Correctional Facility (LCCF) was transferred to the Guadalupe County Correctional Facility (GCCF) last July, however the program has not been started. The Corrections Industries program at the LCCF was discontinued last July and reassigned to other prisons including the GCCF. However, the textiles facility at the GCCF remains dormant because no state employees have been hired for Corrections Industries for this program. Also, materials such as sewing machines remain on pallets at the LCCF awaiting pickup by the NMCD.

The NMCD Corrections Industries programs at all facilities, including the private prisons, must be overseen by state employees, causing some prisons to go without corrections industries if those positions are vacant. Corrections industries has a 62 percent vacancy rate and has no positions filled at five of 10 sites listed as supporting Corrections Industries in the State Personnel Office (SPO) listing of employees. Some vacancies are likely to the result of discontinuing programs at some facilities such as the textiles program at the LCCF. As of March 2012, 10 sites are listed as having Corrections Industries positions within prisons. According to the NMCD annual report, seven prisons were operating programs in FY10.

Figure 1. PNM Tag Facility, April 2012



Corrections Industries equipment is unused at two prisons and space is going unused at four prisons. More than \$300 thousand of equipment was purchased for the license plate manufacturing plant at the Penitentiary of New Mexico (PNM) so the NMCD could resume production of license plates for New Mexico. However, the NMCD has not created a business plan with sufficient contingencies to convince the Taxation and Revenue Department (TRD) or the Motor Vehicle Division (MVD) that it can indeed produce license plates and not negatively impact MVD's day-to-day business. The connecting data entry center remains idle as the Department of Transportation (DOT) terminated its contract and moved the operations to the University of New Mexico (UNM). Downsized and discontinued Corrections Industries programs results in tens of thousands of square feet of space being unused at the CNMCF the LCCF, the PNM, and the GCCF.

The Corrections Industries Commission does not report to the Legislature or governor according to statutory requirements. According to statute, the Corrections Industries Commission is required to prepare an annual report to the governor and Legislature containing detailed financial statements for each enterprise in each facility, a detailed

financial statement of the fund, reasons for establishing or terminating enterprises, a summary of plans to develop additional enterprises, the number of inmates employed in each enterprise, and the number of idle inmates available for work at each facility.

Operational inefficiencies result in \$8 million a year that would be better used on offender programming.

Reductions in requirements for private prison staffing have not been met with reductions in per-diem costs at the GEO Group Inc. prison in Hobbs. Additionally, the NMCD continues to house prisoners that are pre-adjudication or prisoners sentenced to less than one year resulting in significant costs to the state. Finally, the parole board has not fulfilled statutory reporting requirements on the medical and geriatric parole program which could offer significant cost-savings.

The NMCD has collected more than \$1 million in fines from understaffing at the GEO Group Inc. prison in Hobbs. In 2010, an LFC memorandum identified the department's failure to enforce financial penalties on private prisons for vacant positions as called for in contract. The NMCD has responded by collecting fines for understaffing and delays in release from New Mexico private prison operators.

A March 2012 amendment to the contract between the NMCD and Lea County reduces staffing requirements by 32 FTE creating \$2 million in annual savings, but per-diem rates paid to the GEO Group Inc have not been reduced. The NMCD approved reducing the Lea County Correctional Facility minimum staffing pattern from 325.2 FTE to 293 FTE. The LFC staff estimates potential savings from the 32.2 eliminated FTE Using the same methodology as the 2010 LFC memorandum on the financial penalties and estimates the NMCD could save approximately \$1.9 million a year. Although the required staffing level for the Lea County Correctional Facility was reduced by 10 percent saving the prison almost \$2 million, no change in the per diem rate for prisoners was written into the contract amendment.

The courts require the department to perform diagnostic evaluations of county jail inmates even though county jails have the capability to perform diagnostic evaluations and takes up valuable bed space costing the Department \$4.1 million since FY09. Section 31-20-3 NMSA 1978 allow district court judges to commit, for not longer than 60-days, a felon to the department for a diagnostic and evaluation (D&E) to assist in determining the sentence disposition: prison, deferred, or suspended sentence or probation. The department must evaluate the prisoner and make a recommendation to the court. From FY09 to FY11 the department admitted 1,074 people for diagnostic evaluations although diagnostic commitment is not required by statute prior to imposing sentence but it is ordered by the court. Given the FY10 daily costs of housing prisoners at CNMCF, \$58.16, and the NMWCF, \$88.79, these evaluations cost an estimated \$4.1 million over the last three fiscal years and \$1.5 million in FY11 alone.

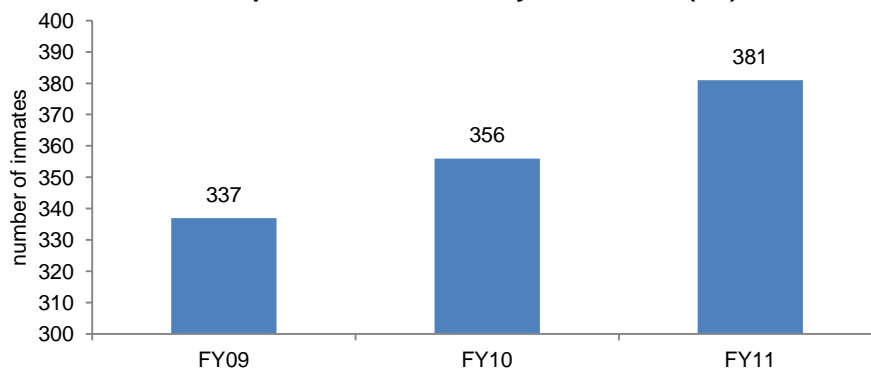
The number of D&E intakes has risen over the last three fiscal years from 337 to 381. In addition to typical cost per day care in facilities, the state also takes on the burden of paying to transport inmates to and from state facilities adding to the cost of D&E.

**Prison Industry Enhancement (PIE)
Certification Program**

The Prison Industry Enhancement Certification Program exempts state departments of corrections from normal restrictions on the sale of prisoner-made goods in interstate commerce. The PIE Certification Program was created by Congress in 1979 to encourage states to establish employment opportunities for prisoners that approximate private sector opportunities. Through the program inmates are placed in a realistic work environment, paid the local prevailing wage for work, and acquire marketable skills to increase their potential for successful rehabilitation. Although New Mexico is a member of this program NMCD does not currently participate.

Source: U.S. Department of Justice

Graph 10. D&E Intakes by Fiscal Year (FY)



Source: NMCD

The diagnostic evaluation process has required the department to set aside 32 beds at CNMCF that could otherwise be used for needed medium security bed space. The continuing need for the department to perform diagnostic evaluations, rather than county jails, is based on court orders which the NMCD cannot ignore. At the time of the statute's creation, county jails might not have had the professional expertise to perform D&Es. Modern jails have the same type of mental health staff as the department. Further, a 2007 NMSC study noted counties face additional costs and the public faces additional risk as a result of transporting inmates from county facilities to NMCD facilities for D&E and then back to county facilities. If the court orders a person to a NMCD facility for evaluation, the department cannot deny the court's request. To do so would cause the NMCD to be held in contempt of court, therefore a legislative solution is required.

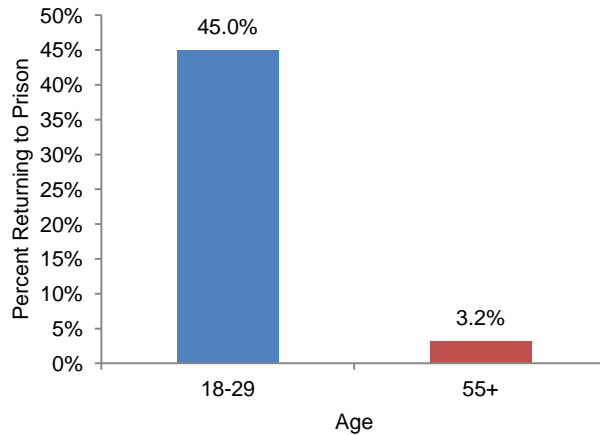
Having the department make recommendations on whether to commit a person to a department or contracted prison might be a conflict of interest. Staff that performs D&Es at CNMCF and NMWCF cannot then treat or evaluate the same inmate if they return to the department's custody.

Prisoners with less than one year on their original sentence are processed through intake and housed at the NMCD, even though state statute does not require the court to sentence such inmates to prison. Offenders with more than one year on their sentence must be housed at a corrections facility after accounting for any period of the sentence being suspended or deferred and any credit for presentence confinement unless otherwise provided by law. The statute states that judgments should be issued accordingly. However, the NMCD is accepting prisoners with less than one year on their sentence if court order or Judgment and Sentence order the inmate to be housed in the NMCD. The department cannot reject the order of the court, if the court orders confinement in a NMCD facility then it must comply with the order. As many as 2.6 percent of NMCD intakes, or 33 inmates, from 2011 were for offenders with less than one year on their sentence costing the Department \$680.5 thousand. The Department of Finance and Administration (DFA) receives an appropriation each year for the purposes of county detention of state prisoners. In FY13, this appropriation was \$3.3 million.

The estimated cost of inmates processed through NMCD intake in 2011 with less than one year on their sentences is \$700 thousand. This cost is based on the NMCD average cost per day only and does not include any supervision required after the offender finishes their sentence. Supervision costs can vary from a few dollars a day to over \$100 a day based on whether an offender is on parole, in ISP, or in a residential treatment program. The average sentence for these inmates, after accounting for suspensions, deferrals, and credits, is 222 days.

New Mexico's medical and geriatric parole program is underutilized. Recidivism rates drop as age increases. For example, a 1998 study by Holman found that while 45 percent of offenders 18 to 29 years old returned to prison within one year of release, only 3.2 percent of offenders 55 and older returned in the same period.

Graph 11. Return to Prison within 12 Months (Age)



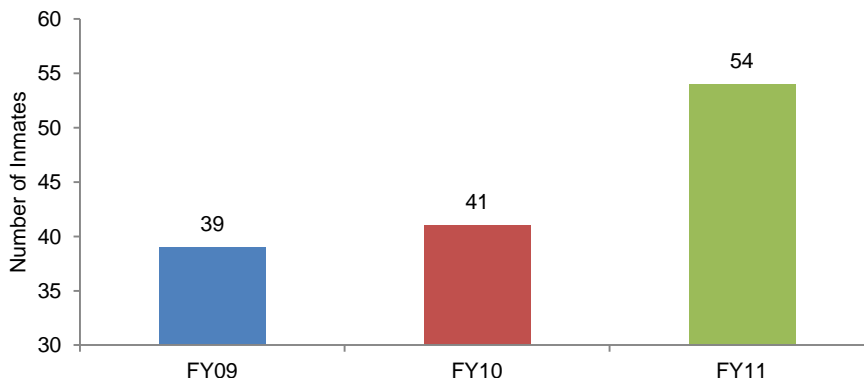
Source: Holman (1998)

Section 31-21-25.1 NMSA 1978 provides for approval or denial of applications by inmates for medical and geriatric parole for low-risk geriatric, permanently incapacitated, or terminally ill inmates. According to a report by the Vera Institute, New Mexico released 35 prisoners under medical and geriatric parole between 1999 and 2008. According to the parole board only one inmate was released under the medical and geriatric parole program in FY11. It is unclear why New Mexico numbers have declined. The LFC’s FY13 budget recommendation for the NMCD identifies the early release of elderly or terminally ill inmates as a potential cost-reduction measure. The Parole Board’s statutory responsibility to report to the Legislature and the corrections department has not occurred in recent years and resumed in January of 2012 in response to LFC evaluator inquiry.

The number and costs of disabled and older inmates are rising. Older and disabled inmates often require special housing for medical attention and for protection from younger inmates. National estimates of costs for inmates who are geriatric or of high medical needs are as high as \$138 thousand per year. In 2008, the Pew Center on the States identified the average cost of an older prisoner to be \$70 thousand per year. Using this more conservative figure, medically fragile or geriatric inmates at the CNMCF cost the state \$3.8 million in FY11 alone.

The average daily population in the CMU Special Needs unit at the Central New Mexico Correctional facility unit has risen from 39 to 54 over the last three fiscal years and the unit is now at capacity.

Graph 12. CMU Special Needs Average Daily Population



Source: NMCD

The qualifications in the NMCD internal policy for an inmate to be admitted into special needs housing closely aligns with qualifications for the medical and geriatric parole program in statute. It is likely that a number of the 54 inmates housed in the special needs unit in FY11 are eligible for medical or geriatric parole. The NMCD and parole board are somewhat limited by Section 31-21-25.1 NMSA 1978 to approving or denying applications for medical and geriatric parole.

Recommendations

The Parole Board with the NMCD input should report on the medical and geriatric parole program applicants by September 30, 2012.

The NMCD should prepare an implementation plan for administering and using a valid risk and needs assessment such as the COMPAS that includes internal policy. This tool should be in place system wide by June 30, 2013 to support decisions in program assignment.

The NMCD should work with research experts in the field of correctional substance abuse treatment to assess the potential impact of program design deficiencies on the overall TC program's effectiveness, including mixing of TC inmates with non-TC inmates, mixing of treatment approaches, and failure to discharge inmates near parole dates from TC.

The NMCD should provide the results of its program audit to the LFC by June 30, 2012.

The NMCD should develop an implementation plan for standardization of programs among prisons by December 2013.

The Adult Prisons and the Probation and Parole divisions of the NMCD should complete a plan for including a formal aftercare component to the TC program and submit this plan to the LFC no later than December 2013. The plan should include how the department will use existing resources as a first option by coordinating with the NMCD Community Corrections program and the state's behavioral health entity, OptumHealth, to provide services to TC graduates. The plan should also include a method for tracking how many TC graduates end up using community-based substance abuse services.

The NMCD should develop a plan for license plate manufacturing in Corrections Industries, including action steps for the next fiscal year and a summary of communication with the Secretary of the Taxation and Revenue Department and submit this plan to the LFC no later than September 2012 and deliver follow-up reports to the LFC quarterly.

The Corrections Industries Commission should follow statutory guidelines in reporting to the Legislature and governor and resume reporting in FY13.

The NMCD should accompany any cost-savings measures agreed to in contracts with private prisons, such as reductions in required FTE, with measured reductions in per-diem rates for private prisons resulting in an estimated cost savings of \$2 million at Lea County Correctional Facility.

The Legislature should update statute to provide judges the ability to sentence inmates to NMCD prison facilities only if convicts are sentenced to one year or more after accounting for any period of the sentence being suspended or deferred and any credit for presentence confinement.

The Legislature should consider amending the geriatric and medical parole statute to require the NMCD to evaluate inmates eligible for medical and geriatric parole and submit the list to the Parole Board for consideration.

MORE COMMUNITY-BASED RESOURCES ARE NEEDED AND EXISTING RESOURCES COULD BE BETTER USED

Community-based resources need to be more effectively managed. New Mexico spends approximately \$34 million, or about 11 percent of the NMCD's total budget, to supervise and provide community-based services to more than 18 thousand offenders through a system of parole and probation officers and through contracts with community-based programs (see **Appendix G** for listing of programs and locations). However, the current network of behavioral health and community corrections providers is insufficient to meet the needs of those re-entering the community from prison. The numbers of providers are inadequate, providers tend not to serve those with the greatest needs, and existing programs have no proven track record of effectiveness in reducing recidivism (Section 33-9-5 NMSA 1978 allows providers to reject the placement of inmates into their programs). As a result, corrections officials and policy-makers lack information on where to direct financial resources. This situation is exacerbated by an outdated and overly rigid Community Corrections Act that creates barriers to successful service delivery. At the same time, PPD officers are underpaid, have high turnover and vacancy rates, and face increasing caseloads.

The provider network focuses on the wrong group of offenders. Ninety-five percent of all incarcerated individuals will return to their respective communities upon completing their sentence. Currently most community programs cannot or will not provide services to higher risk offenders such as those with a gang affiliation, with a history of violence or sex offenders. Instead, treatment resources are directed at lower risk offenders. National trends in transitioning offenders from prison to the community emphasize directing resources to those individuals with a higher risk of recidivism. The Oregon Department of Corrections for example, uses a standardized and validated risk assessment tool to deliver services to offenders with a higher risk to recidivate

The Community Corrections Act (CCA) creates barriers to effective services and needs more flexibility. CCA funds can be used only for offenders who are formally enrolled in Community Corrections programs. This causes a problem in that some high needs offenders are enrolled in Community Corrections and instead are being served in special sex offender units, gender-specific caseloads, intensive supervision (ISP), drug courts, or special mental health units. There is also a lack of clarity as to which offenders are classified as community corrections. For example, in Santa Fe, sex offenders are considered to be in Community Corrections and are eligible for CCA funding. In Las Cruces, sex offenders are not considered part of Community Corrections, and in Albuquerque, some are and some are not. Similarly, residents in the Men's Recovery Academy are funded through the CCA while their counterparts in the Women's Recovery Academy are not.

State and Local selection and review panels mandated by the Community Corrections Act are no longer needed. The Act also calls for the operation of a Community Corrections Advisory Panel (CCAP). The Act requires a state panel, local panels and an application review panel, which may have reached their useful life with the creation of the Behavioral Health Collaborative. Under the Behavioral Health Collaborative, provider selection has been assumed by the single state entity under state contract for behavioral health services, OptumHealth. Current practice has the NMCD advising OptumHealth as to which contractors should be part of the network. Without an RFP process, the CCAP no longer serves a role.

Decisions regarding inmate community placement, however, are instead made by corrections staff relying on the professional expertise and knowledge of community programs throughout the state. The LSPs in Albuquerque and Los Lunas continue to serve as advisory committees to the two recovery academies. An option for local panels is to change their focus to community education regarding ex-inmates residing in those communities.

New Mexico can more effectively manage its community-based resources. There is a lack of providers to adequately serve offenders returning to the community. The NMCD, working with the Behavioral Health Collaborative (BHC), contracts with OptumHealth, the single state entity responsible for the provision of behavioral health and certain related non-treatment services. There are approximately 32 contracted providers for Parole and Probation and Community Corrections offenders. According to the NMCD, the same providers seem to

re-cycle themselves over the years with few new entering the provider network. In FY09, the transition from Value Options to OptumHealth as the single entity resulted in no additions or subtractions of vendors serving the Community Corrections program. OptumHealth relies on the NMCD to direct them to providers with which it should contract and does not directly engage in provider recruitment even though the contract requires it to recruit new providers.

There is a growing national movement toward evidence-based programs (EBP) in corrections. These are programs that employ strategies that have been evaluated rigorously in experimental or quasi-experimental studies. Which of New Mexico's community treatment programs are evidence-based is unclear. NMCD and OptumHealth attempted to collect that information with limited success as only 31 percent of providers responded. The NMCD is now implementing a process to require this information from all providers.

The Pew Center on the States reports that evidence-based corrections programs can reduce recidivism up to 30 percent, but programs that are not evidence-based tend to see no decrease and even a slight increase in crime. More states are concluding that the programs that are successful in reducing recidivism are those that are evidence-based. At least six states supported the implementation of EBPs for offender supervision in 2010 and a growing number of states are requiring evidence-based reentry programming. For example, in 2003 Oregon required evidence-based prevention, treatment, and intervention programs with the intent that by 2009, 75 percent of state funds be spent on evidence based programs.

Community treatment programs are not evaluated for effectiveness and general program oversight appears limited. Neither the NMCD nor OptumHealth currently analyze program outcomes. These types of studies are necessary to determine which programs are effective in reducing recidivism, in improving how individuals function, and in reducing risks to public safety. They also provide the basis for determining which programs are cost effective. OptumHealth audits are focused on provider operations and records. OptumHealth site visits are limited in scope to financial analysis, fraud detection, contract compliance, and procedural issues. In FY10, 17 percent of providers were audited for compliance and in FY11, 29 percent were audited for compliance. One recent audit resulted in the termination of a provider by the NMCD because of contract issues. Performance measures that are spelled out in provider statements of work are not routinely reviewed.

Statutorily required reporting regarding of community corrections by the NMCD is not done. Reporting on community corrections programs are required by Section 33-9-10 NMSA 1978 and this is required to be provided to the governor and legislature on an annual basis. Reporting required by statute is to include funding awards, program effectiveness, monitoring efforts and future recommendations regarding community corrections. Neither evaluations of program effectiveness, monitoring efforts, nor the statutorily required reporting occur.

The Behavioral Health Collaborative should recover \$1 million in FY10 and FY11 overpayments for non-Medicaid services from pre-payments to OptumHealth. One million dollars that should have reverted to the NMCD is still at OptumHealth. OptumHealth is collecting interest on FY10 monies that have yet to revert. For at least the last three fiscal years \$2.3 million has been left on contract with the single entity for unallocated monies. After reconciling FY10, the NMCD requested OptumHealth pay providers out of its corporate profits and reimburse the NMCD over \$400 thousand. It is unclear if any action can be taken to revert FY09 unrecovered funds from the previous single entity, Value Options.

Table 3. Amounts Unrecovered of NMCD Pre-Payments to the Single Entity FY09-FY11

FY	Single Entity	Total Amount Pre-Paid to SE from PPD and Community Corrections Funds	Total Amount Identified as Overpaid	Amount Reverted or Recovered By the State of NM	Amount unrecovered
FY09	VALUE OPTIONS*	\$3,329,374	\$1,977,185	\$713,390	\$1,263,795
FY10	OPTUM HEALTH	\$6,586,189	\$727,841	\$0	\$727,841
FY11	OPTUM HEALTH	\$5,881,900	\$282,310	\$0	\$282,310
Total		\$15,797,463	\$2,987,336	\$713,390	\$2,273,946

Source: BHC, NMCD, OptumHealth

*According to the NMCD, refunds from Value Options came in the lump sums cited for FY09 and reflect multi-year refunds.

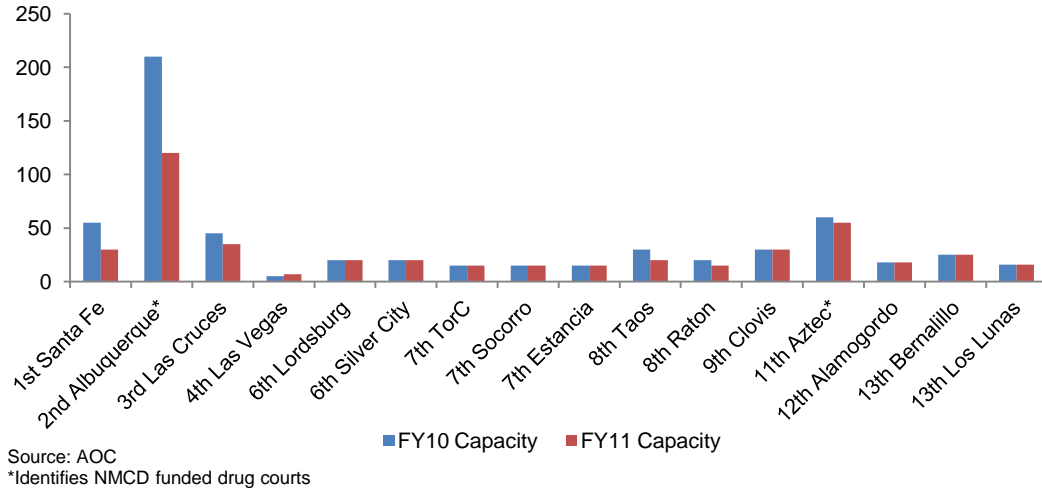
Money remaining unrecovered for FY10 and FY11 is contrary to provisions in the single entity contract (Article 6.11 F) and pre-payment for services not received is contrary state law (Section 13-1-158 NMSA 1978). The single entity is contractually obligated to revert any and all unexpended or unencumbered funds to the appropriate member agency by the November following the contract year. This is not occurring. The Procurement Code requires state agencies to pay for services after certifying that the contractor has provided the services. Services rendered by the single entity are not exempt from the procurement code, yet this practice remains a feature of the BHC's contract with the single entity. As pointed out in previous LFC program evaluations, to be compliant with the Procurement Code, the state should not pre-pay for services.

The failure to recover overpayments for non-Medicaid services is a recurring problem for the NMCD, the BHC and the single entity. In 2006, the LFC reported about \$850 thousand in unspent funds from FY06. A 2007 LFC follow-up report identified an estimated \$1.7 million in FY07 in overpayments as a result of pre-payment arrangements in the single entity contract.

Monies for PPD and Community Corrections contracts administered through OptumHealth are not targeted efficiently. Three PPD and Community Corrections providers spent 0 percent of their contract and some nine providers across the state spent more than they were allocated including one that spent 1,121 percent of their contract in FY10. In January 2012, eight providers were already at more than 100 percent of their allocations for FY12. The result of the inefficient targeting of funds results in waiting lists and a lack of services for badly needed programs such as halfway houses. For example, in February 2012, one half-way house had 15 women and 25 men on their waiting lists. This facility currently only has six beds for women and 15 beds for men but could expand at the request of the NMCD if monies were allocated to its contract. This warrants further consideration by the NMCD in light of the comparatively higher costs associated with more restrictive alternatives such as in-house parole.

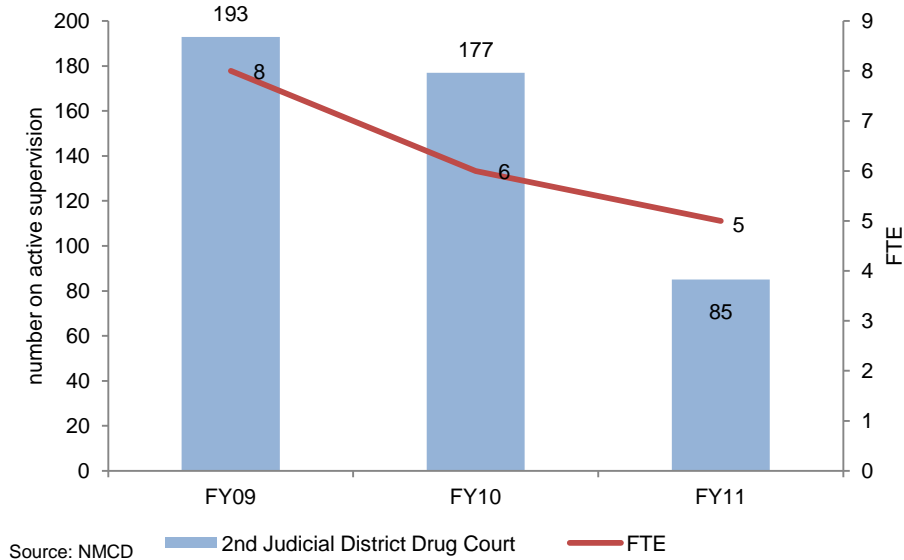
Drug courts, identified by Pew as an effective evidence-based practice that reduces recidivism by 10.7 percent, have been cut in New Mexico. The Pew Center on the States identifies drug courts as a measure that reduces recidivism and typically has a positive return on investment. The NMCD operates two drug court programs. NMCD provides offender supervision and funds treatment contracts in the 2nd and 11th judicial district court. All other drug courts are funded through the court district.

Graph 13. Adult Drug Court Capacity FY10-FY11



The largest drug court in the state is staffed by the NMCD and is operating at its lowest level in three years. In FY11, the 2nd judicial district drug court supervised fewer than half of the number of offenders as the previous year. Additionally, the number of FTEs that the NMCD dedicated to this drug court has fallen from eight in FY09 to five in FY11, reducing this option for qualified offenders.

Graph 14. 2nd Judicial District Drug Court Supervision Totals and FTE



The 2nd judicial district drug court capacity was cut by 43 percent between FY10 and FY11, whereas all other drug courts combined cut capacity by 14 percent. The 2nd judicial district drug court has a 3.6 percent recidivism rate (based on reoffense of graduates in the last three years) and costs \$9 a day, \$84 a day less than the average annual cost per inmate and an amount comparable to probation and parole daily costs.

The 2nd and 11th judicial district drug courts are staffed and programs funded by the NMCD, creating inconsistencies among the funding of state drug courts and requiring the NMCD to supervise offenders not in NMCD custody. Approximately 90 percent of offenders in the 2nd judicial district drug court are in pre-adjudication and are not under the custody of the NMCD. However, because the NMCD provides staff for offender supervision to the 2nd and 11th judicial district drug courts, these offenders are under the supervision of the NMCD.

Some New Mexico drug courts do not allow participants to receive medication-assisted treatment. Recognized treatment modalities for opiate addiction include Medication Assisted Treatment (MAT) programs that use medications such as Methadone or Suboxone to facilitate substance abuse treatment. The National Association of Drug Court Professionals (NADCP) has recently issued a resolution recognizing MAT as effective, evidence-based practices for reducing illicit substance use, re-arrests, re-incarceration, infections and mortality. The NADCP has asked drug courts not to impose blanket prohibitions against the use of MAT for their participants. However, according to the New Mexico Administrative Office of the Courts (AOC), it appears that some drug courts in New Mexico do not allow this evidence-based practice.

Recommendations

The Legislature should consider changes to the Community Corrections Act to allow for more flexibility in the use of community corrections funds and removing the requirements for state and local advisory panels.

The NMCD, the BHC, and OptumHealth should work together to expand the community-based provider network, specifically for hard to place and high-risk inmates. OptumHealth should take a much more active role in recruitment.

The NMCD should expand the number of existing beds at the men's and women's recovery academies.

Where possible, the NMCD should expand the number of beds at existing halfway houses and support efforts to establish alternative/recovery facilities across the state.

In the short-term, the NMCD should recruit and contract with additional non-treatment halfway houses working with local communities to mitigate placement issues. The placement of these facilities has traditionally been a challenge because of local concerns. Hence, community partnerships are important.

As a longer-term solution, the NMCD should study the design and construction of a secure halfway house, located on prison grounds, as a transitional resource for the most difficult-to-place offenders – such as sex offenders. The Department should also consider partnering with other criminal justice agencies to build or convert existing facilities into community re-entry (or diversion) programs.

The NMCD should coordinate the implementation of a strong system of program evaluations for community-based programs contracting with OptumHealth based on outcomes. This should be a joint effort by NMCD and OptumHealth. The recommended NMCD Program Evaluation unit mentioned elsewhere in this report could coordinate this effort. In addition, regular contract audits by OptumHealth should be expanded.

The NMCD in conjunction with the BHC should begin to move toward a system of evidence-based treatment programs. The Legislature should consider legislation that requires that most funding for community-based corrections programs be used to fund evidence-based programs over the course of a four year phase-in. The Legislature could require something similar to the following schedule for community-based corrections program spending:

- By 2014, 20 percent of applicable state funds be spend on evidence-based programs
- By 2015, 40 percent of applicable state funds be spend on evidence-based programs
- By 2016, 60 percent of applicable state funds be spend on evidence-based programs
- By 2017, 80 percent of applicable state funds be spend on evidence-based programs

NMCD should require a strong quality-assurance component in all contracts with community-based providers. NMCD should coordinate oversight of this function with the state entity.

The NMCD and the BHC should work together with OptumHealth to better track allocation monies spent by providers and to revert unspent funds in a timely manner.

The BHC, working with the NMCD, should develop a plan to revert appropriate excess funding from the single entity to the state. The plan should be presented to the Legislative Finance Committee by September of 2012.

The BHC should review the New Mexico Procurement Code as well as the existing contract with OptumHealth, with respect to unexpended funds, because of apparent conflicts and possible violations of law.

The NMCD should continue its efforts to more efficiently target the distribution of community corrections funds to providers. Consideration should be given to expanding beds at halfway houses that are determined to be effective by NMCD.

The NMCD should resume statutorily required reporting for community corrections in FY13.

The State Auditor should investigate the lack of reverted funds that has occurred between the single entity and the State of New Mexico going back to FY06.

The Legislature should appropriate funds to the 2nd and 11th judicial districts for the purposes of administering drug courts to be consistent with other drug courts in the state, and remove the responsibility NMCD. Accordingly, NMCD resources should be redirected from this function. This includes both NMCD staff support and treatment funding.

The AOC should continue in its educational efforts with drug courts to ensure that they have the most recent information on medication assisted treatment of opiate addiction and to end the practice of blanket prohibitions against this evidence-based practice.

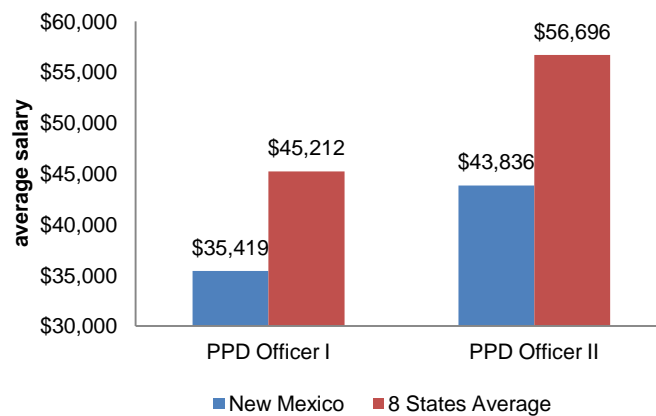
The NMCD should begin to shift community treatment efforts to offenders with a higher risk of recidivism and more challenging behavioral change requirements. The NMCD should focus efforts on shifting existing providers and new programs to work with gang members, those with a history of violence, and sex offenders while maintaining treatment resources for those with high needs for mental health and substance abuse treatment. New providers should be recruited who are able to meet this challenge and existing providers should be encouraged to begin to focus on more challenging offenders. Funding should be re-directed accordingly. In the long-term, it is anticipated that treatment programs reducing recidivism will place less pressure on funding additional prison beds and produce a corresponding savings to the state by establishing a continuum of care that begins at entry into the prison and continues through supervised parole.

PPD OFFICERS ARE COMPARATIVELY UNDERPAID, HAVE HIGH TURNOVER RATES, AND ARE FACED WITH INCREASING CASELOADS.

NMCD Parole and Probation Division (PPD) officers' compensation is lower than comparable positions in neighboring states, in some court jurisdictions, and in federal parole and probation. According to the SPO, PPD officers earn 22 percent less than the market rate compared to eight other states. Trained staff often moves to higher-paid positions with local jurisdictions or to the federal government for jobs that often have fewer requirements for field work. Turnover averages 24 percent per year and vacancies average 20 percent per year, as pressures to increase existing PPD caseloads continue to grow, potentially degrading public safety. These positions were not exempt from the hiring freeze or furloughs imposed upon state positions in recent years.

In 2006, the entry pay level was raised to \$16 per hour however pay levels for New Mexico PPD officers still lag behind eight other states surveyed by SPO and behind some comparable local and federal positions.

Graph 15. Probation and Parole Officer Salary Comparison



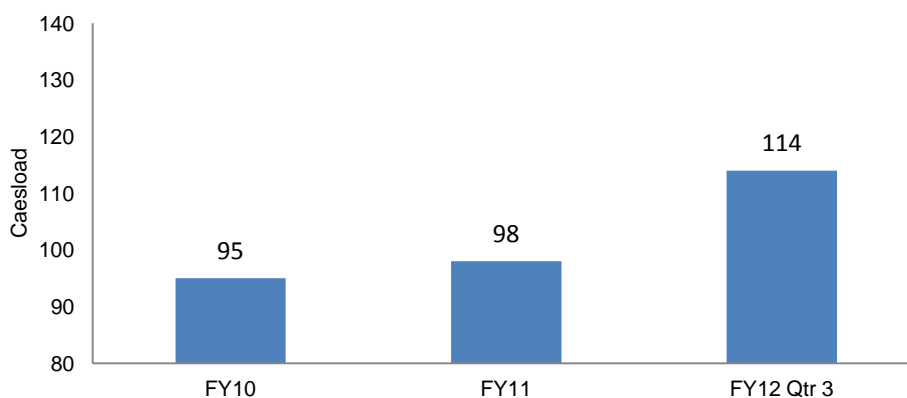
Source: SPO

PPD Officers have one of the lowest compa-ratios in the state. A compa-ratio represents an employee's salary divided by the midpoint of the pay band where a compa-ratio of 100 percent equals the midpoint of the pay band. The average compa-ratio of PPD officers is 83 percent, lower than the state overall pay band compa-ratio of 106 percent and the NMCD overall compa-ratio of 93 percent. High turnover rates and new employees lower this compa-ratio.

The SPO uses \$42,620 to reflect the cost of losing and replacing any employee in state government. Given the turnover rate for PPD officers, 25 percent for PPOI and 18 percent for PPOII, the estimated cost of turnover for parole officers was \$4.3 million dollars in FY11. The turnover rate for PPD officers was twice that of the NMCD turnover rate of 12.3 percent in FY11. To address turnover and retention rates, the NMCD instituted a 5 percent raise for supervisory staff to encourage retention and upward mobility of probation and parole officers. As exit interviews are often not completed, it is unclear if supervisory staff level of pay is related to turnover of supervisory staff or PPD officers.

PPD caseloads are rising. The NMCD strategic plan cites nationally recognized best practices regarding standard parole and probation caseloads as 65 per officer. The NMCD standard officer caseload however, is over 100 and is trending upward. Also, the rise in specialized caseloads (e.g., gender-specific, sex offender, etc.) with restricted numbers of offenders causes additional cases to be shifted to standard officers.

Graph 16. Average Standard Caseload Per Probation and Parole Officer



Source: NMCD

Additionally, local selection panels required for entry into community corrections programs are often difficult to organize and therefore serve as barriers to the timely enrollment of offenders into community corrections programs. These standard caseloads can also include offenders from the ISP waiting list. Judges will often release individuals to standard supervision rather than have them remain in jail awaiting inclusion in ISP caseloads. In the Albuquerque area, the judicial system has implemented the “rocket docket.” This is a rapid and condensed period of probation hearings that results in immediate sanctions for violations. Although useful for the judiciary and the administration of justice, the “rocket docket” results in increased pressure on PPD standard caseloads.

There is a lack of resources for probation and parole resulting in high caseloads and waiting lists for intensive supervision. ISP is a highly structured, concentrated form of probation and parole supervision with stringent reporting requirements and an increased emphasis on offender monitoring, including after-hours field/home visits by probation and parole officers. More than 100 offenders are on the waiting list for ISP. Two offices that have ISP caseloads, one in Albuquerque and the other in Santa Fe. Section 31-21-13.1 NMSA 1978 requires that intensive supervision caseloads be limited to a maximum of 20 offenders. Most of these offenders are on standard supervision, where the average caseload is over 100 offenders per officer, and have original offenses of a serious nature including armed robbery, seven or more DWIs, kidnapping, armed robbery with a deadly weapon, and aggravated assault with a deadly weapon. The reduced supervision that a high-risk offender receives could pose an increased risk to public safety. By placing more individuals in ISP caseloads, higher supervision is achieved and standard caseloads become more manageable.

ISP caseloads could be safely increased if specific criteria are met. Under specific conditions, an increased ISP caseload could improve the current supervision of offenders while providing a manageable workload for officers. In the 2012 Legislative Session, SB 162 attempted to increase the ISP caseload, but failed. To be effective, candidates for ISP must be screened using the NMCD’s assessment tool, all ISP participants must be enrolled in some type of community treatment program, each caseload must include offenders at various phases of their ISP supervision, and electronic monitoring is needed.

Recommendations

The NMCD should review PPD officer salary ranges with the intent of bringing them into line with comparable market rates as soon as possible.

The NMCD should recommend In-Pay Band Salary Adjustments (IPBs) for those employees whose performance has demonstrated placement at a higher compa-ratio.

The NMCD should require exit interviews for all exiting employees and analyze the results to inform policies to reduce turnover.

Priority should be given to filling vacant PPD positions as soon as possible.

The Legislature should support increasing ISP caseload size stipulating that the conditions outlined below:

1. Determine the appropriate level of supervision for each offender assigned to an ISP caseload using the Department's risk and needs assessment tool. Offenders entering into community supervision programs are assessed for program needs and risk of recidivism using an assessment tool developed by the University of New Mexico. Do not automatically override this assessment making all ISP candidates "extreme." There are situations where an individual may have a history of violence in their distant past but are subsequently convicted of a later drug offense. This individual may not warrant classification as an extreme risk of recidivism.
2. Ensure that each ISP caseload has a mix of phases. Currently the Department uses a 3-phase system to determine the number of required contacts with the officer and various other restrictions that the offender must adhere to. Successful completion of one phase leads to enrollment in a subsequent phase with lower restrictions and requirements. A minimum of two months per phase is required. To ensure that an expanded ISP caseload is manageable, each officer should have a mix of cases representing different phases.
3. National studies, (Steve Aos, Marna Miller, and Elizabeth Drake. (2006). *Evidence-Based Adult Corrections Programs: What Works and What Does Not*. Olympia: Washington State Institute for Public Policy.) have demonstrated that intensive supervision programs, by themselves, have an insignificant impact on recidivism. However, studies have shown that ISP is more effective in reducing recidivism when coupled with community treatment programs. Accordingly, the Department should ensure that all those assigned to ISP are also enrolled in appropriate behavioral health programs that match their needs.
4. Electronic monitoring and other technologies are often employed in ISP caseloads to monitor compliance with supervision conditions. Although electronic monitoring alone is considered a marginal technique for reducing recidivism, it can be a useful support tool. The enhanced use of electronic monitoring, such as active GPS, will facilitate case management under expanded caseloads by allowing officers a way to more consistently and carefully scrutinize offenders and respond to violations more rapidly.

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"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."

June 8, 2012

Chairman John Arthur Smith, Chair
Luciano "Lucky" Varela, Vice Chair
Legislative Finance Committee
325 Don Gaspar, Suite 101
Santa Fe, New Mexico 87501

Chairman Smith and Vice-chair Varela,

Below are the New Mexico Corrections Department's (NMCD) responses to the Legislative Finance Committee (LFC) staff review on methods to safely reduce recidivism and increase efficiency in our functions. Clearly, these are challenging times and our communities are looking to both its executive and legislative leadership for guidance. This is why we accept our responsibility to be forward thinking and prepare for the weeks, months, and years ahead. We see this responsibility as even more critical than the past. Accordingly, we see great value in our recent work together as governing bodies to assure that we have the collective courage to avoid limiting the role of corrections to a simple reactionary posture. Our courage to shift our thinking from more traditional inward thinking paradigm to more outward and innovative thinking may best be demonstrated in this study, as well as our investment of over \$25 thousand in staff resources to support our partnering LFC research staff in their work from December 2011 through May 2012.

As such, we see our experiences together in this study as a collaborative partnership and a most certain opportunity to grow together in our service to the people of New Mexico. Accordingly, it is the collective efforts of both the NMCD and LFC have produced this report. Its contents provide meaningful information to support the vision and purpose of our organization and therefore influence the decisions and priorities of staff in addressing the numerous challenges we will face in public safety. While many of the issues presented in the report were previously identified and diagnosed by NMCD staff, the report well focuses on the important tasks and impact of incarceration and recidivism on both the safety of our citizens and our resources as a State. The report clearly articulates the challenges the NMCD must overcome to successfully prepare for increases in incarceration through implementation of forward thinking recidivism reduction programs and initiatives.

As reported during the budget hearings last year for FY13, the State continues to face the threats of an increasing female inmate population, an aging correctional infrastructure, significant prison staff vacancies, overstretched community supervision caseloads, difficulty recruiting staff based on disparate rates of compensation when compared to other jurisdictions, and a burning need to change the organizational culture from its traditional inward nature to a proactive forward looking posture. While the NMCD was very fortunate to receive additional support for a budget increase in FY13 for its day-to-day operations, we have not waited to start our work.

Having observed the aforementioned demographic change in our female population, in FY12, we partnered with the New Mexico Sentencing Commission to study the reasons our female population is increasing. That report is almost complete and will serve to better inform us all in confronting and managing the change. Staff have, and will continue to be hired, with relevant subject matter expertise to both fuel and sustain the necessary transformative changes with an eye toward the future. Because we recognize our staff as our most valuable resource at our disposal, under the leadership of our new Academy Director, our succession planning shall be multidimensional, involving their access to standardized training, based on the most recent and relevant best practices. The future of our functioning will hinge on the quality of our organization's leadership. Accordingly, leadership education and testing will be prerequisite to promotion, to essentially grow our own leaders and assure the succession of a capable and ready workforce.

Systemically, we have been working with the State Personnel Office (SPO) to assertively fill staff vacancies within our Adult Prisons and Probation and Parole Divisions with qualified, talented and purpose-driven staff. Consequently, with the support of SPO, we have implemented an open recruitment for correctional and probation and parole officers. This work has yielded meaningful results. Having graduated over 80 cadets since December 2011, we have experienced double-digit staffing vacancy reductions in many of our prisons. While promising, there is much more progress to be made in this area. As such, we will continue to conduct uninterrupted, back-to-back academies in Santa Fe while pursuing partnerships with other organizations in the state where we continue to sustain recruitment challenges. We have also implemented a vigorous staff retention plan in an effort to stabilize the existing workforce. Because compensation continues to serve as a detractor for both recruitment and staff career satisfaction, we will continue to work with the executive and legislature to prioritize our future revenues to address this issue. More immediately, we are working on in-band pay adjustments for all probation and parole officer classifications to tactically and more readily address our retention issues of staff supervising offenders in our neighborhoods.

The caseloads of our probation and parole officers have been reduced to an average of 113 cases per officer, down slightly from last November's average of 120 per officer. During the 2012 Legislative Session, Senate Bill 162 (Probation Officer Maximum Caseload) was introduced to increase the maximum intensive supervision caseload from 20, as mandated in Section 31-21-13.1 NMSA 1978, to 40 cases per officer. As the report clearly indicates, while the statute was appropriate for the era in which it was enacted, with the advent of technology and more refined business models and best practices since that time, the statute now serves as a detriment to meaningful supervision of both high risk and medium risk offenders, not only challenging the overstretched resources of the Probation and Parole Division, but also the safety and security of our neighborhoods. The optimal approach would be to allow the department's Probation and Parole Division the flexibility to manage its caseload based on risk, needs and services. In the 2013 Legislative Session, the NMCD will use the objective conclusions of this report in creating a more accurate understanding of the positive public safety impact of this statutory amendment for our law makers. Accordingly, we respectfully request the support of your members in this undertaking.

Since last fall, we undertook a more comprehensive assessment of the physical security of our prison facilities. Working in partnership with the General Services Department, we are contracting with a security expert to fully assess our security needs, including the cost of comprehensively addressing our weaknesses or deficiencies and creating greater statewide fidelity of our security systems.

Understanding our responsibility as stewards of our State's existing revenues, we continue to work with all our private partners to correct deficiencies we detect in their contractual obligations to the people of New Mexico. As

deficiencies are detected, we will respect the value of our private partners, while assuring appropriate incentive for corrective action, when clear violations exist that may otherwise threaten the safety of our state or misappropriate its revenues. Based on this philosophical shift toward accountability, we have started a more vigorous Inspector General and Internal Audit systems approach. Building upon both its operational and reporting structures, we have partnered with the Taxation and Revenue Department to assume a similar composition and embrace many of the attributes of its most excellent and successful model. Accordingly, while we see great value in our continued partnership with the American Correctional Association (ACA), our new model shall require more vigorous auditing and inspection of security, facility services, inmate programs, inmate records and finance and accounting on an ongoing cycle, as opposed to the three (3) year audit cycle traditionally followed by our organization under the ACA model. Since our last meeting, we have partnered with the State of Arizona to adopt a web-based auditing and prison management application known as the Green, Amber, Red (GAR) Tool, whereby audit deficiencies may be monitored proactively and on a “real-time” basis. The GAR Tool, combined with monthly unannounced public facility inspections of an Inspector General team, monthly contract monitoring audits by private facility contract monitors, as well as a minimum of annual comprehensive inspections and audits, will make up a new multi-tiered and more accountable approach. More importantly, our standards and outcomes will become repetitive and habitual, allowing for better security and functioning, as well as readiness for an ACA audit at any given moment, thus creating excellence as a clear expectation.

Based on both our legal duty and ethical purpose to provide inmates medical care, through the diligent work of staff and many external volunteer assessment team members, we now have a new four (4) year medical contract that should save the state approximately \$13 million over the previous contract. Unlike our previous contract, this new contract includes performance measurements for any built-in consumer price index (CPI) increases and provides for a penalty schedule for staffing breaches by the vendor. To assure professional and adequate oversight of both the delivery of quality medical services and our business responsibilities, our former health services model has been redesigned to now have the oversight of a health services administrator.

The Department will continue to seek creative solutions to managing inmate and offender populations entrusted to our supervision. Specifically relating to the management of the number of medically fragile and elderly inmates within our prison facilities, we remain diligent in our understanding that our prison population does not age in the same manner as the non-incarcerated population. Based on the higher risk behaviors and lifestyles of those who are remanded to our custody, they suffer a greater exposure and rate of chronic or contagious diseases. Although current statute allows for the Department to directly make medical parole recommendations, forward inmate or inmate family applications, or both to the Parole Board, ultimately the decision to accept or reject the application or recommendation by statute resides with the Parole Board. The Department will continue to follow the statute as it pertains to medical and geriatric parole. We also remain reminded that the issue and concerns of our Parole Board for elderly inmates are frequently similar to that of any other parole condition, in that an inmate must have a safe and suitable place in which to parole.

The Corrections Department clearly accepts and embraces the understanding that it must breakdown its organizational “silos”. Accordingly, the organization fully accepts its responsibility to build a cohesive and higher functioning workforce to adequately and successfully deliver the necessary balance of social control and social support required for optimum public safety. Nationally, it is recognized that successful transition from prison to community requires an accountability model that starts with a relevant and defensible assessment of an offender’s risk and needs when he/she enters the prison system. More importantly, and what is easily overlooked is the requirement that the transition process continue from this point through the duration of confinement, into release from the institution and after discharge from supervised parole, with continuity and fidelity. Such a model, while offering the greatest promise for public safety, will require that the NMCD not only work closely with agencies that provide health, human services, work-related services, and housing, but implement education and programs couched in the more recent and relevant research proven to work. Accordingly, with the statewide implementation of our Offender Management Program module, we will not only be able to measure program fidelity, but also assure repetitive appropriate return for the investments we make in any of these programs. The initiative will likely require us to amend or add training for correctional and probation and parole staff, especially those in reception to

ensure that offenders are properly assessed so that a specific plan is created for each offender and then used throughout incarceration and release.

The Department had recognized its lack of standardization and fidelity with how education and skills programming is delivered, as well as how inmates earn good time relating to their participation in such programs. Prior to the onset of this study, we had begun planning and implementation of appropriate corrective action. In a statewide audit of these processes, our staff found deficiencies with scheduling inmate programs, inmates “shopping” for the programs that offered the greatest amount of lump sum awards instead of programs that best addressed their needs, too many programs created without clearly articulated reasons or program efficacy, and insufficient vocational training and corrections industry programs. These deficiencies and the Department’s early recognition and acceptance of the national model as a way to bring needed improvements to corrections, led the way for Governor Martinez’s creation of the Criminal Recidivism Reduction Taskforce and the requirement of staff to compile a matrix of programs currently at each prison as our starting point toward standardizing programs among prisons. With the information contained in the LFC staff report, we have examples of programs considered evidence-based by national experts, which will assist staff in singling out those from the inventory. We can now begin to assess program implementation based on best practices and determine if it is necessary to make modifications based on New Mexico’s cultural diversity.

In a creative attempt to address the growing threat of those inmates who are eligible for parole, but are experiencing difficulty achieving an acceptable parole plan for release (commonly referred to as in-house parolees – IHP), our staff have recently opened discussion with Otero County on possibly providing housing for hard-to-place sex offenders at a reduced daily rate. While discussions are in their early stages, the model pursued will provide continuous programming and therapy for these inmates at a cost lower than what we are currently experiencing in our public prison facilities. Because these offenders will ultimately be released back into our community but, at the same time, the nature of their offenses place them at a lowered probability for release than other offenders, exposure to repetitive programming and support while incarcerated may result in a better prepared offender, when they ultimately reach the lawful end of their sentence.

Recognizing the necessity of partnering with your committee and all lawmakers to achieve appropriate change, we will seek to open future dialog with the legislative and executive branches concerning the current requirements of the Community Corrections Act. The Act currently allows service providers to reject inmates, even if they have available space, hence forcing the Department to keep hard-to-place inmates on in-house parole. Additionally, the Act creates several panels whose useful life may have functionally ended, based on the work models of today. Armed with the understood reality that upwards of 96 percent of all inmates will ultimately return to our neighborhoods, an alternative for discussion may be the creation of community-based options for ex-inmates.

Before the onset of this study, the Department recognized that many of our internal processes require re-engineering for improved efficiency, and accountability, including our contractual relationship with OptumHealth Care. Accordingly, we will explore either reclassifying one (1) vacant finance position into one dedicated to contract monitoring, or in the alternative, partner one of our finance employees with a Probation and Parole Division program manager to monthly or quarterly review and reconcile provider allocations. Either option will allow the Department to potentially expand services through existing or additional providers. We must not wait two years to reconcile accounts and attempt to settle differences.

Recently executive corrections department staff visited the Corrections Industries (CI) program in Colorado to gain a better understanding of their programs and inspire a more informed and creative approach to our business planning in this area. With an understanding that inmate success is based on our ability to provide a continuum of care from the time an inmate enters our facility through release from supervision, we recognized that CI is a key player in reducing inmate idleness and providing transferable skills and occupational ethics upon release. Therefore, our staff is committed to reviewing educational and work programs and ensuring synergy between the two. Moreover, the vocational education and CI programs need to mirror the needs of our local communities. Accordingly, the

Corrections Department is partnering with University of New Mexico and Central New Mexico Community College professors on an initial assessment that will lead into a partnership with UNM Anderson School of Management to assist staff in developing a viable, forward-looking business plan for our CI Program.

Regarding the continued concern for our aging infrastructure, the condition and ages of facilities will continue to present challenges to the Department and the State of New Mexico. Over the past several years, with the Legislature's help, we have addressed significant deficiencies at several of our facilities, which have added to the useful life of many of our facilities. As we plan our future, we will endeavor to be even more intelligently led in our planning, not only taking into consideration the results of the 2005 facility condition index for each of our buildings, but also newer, more innovative, secure and cost effective designs, as well. The Department has met with the General Services Department, Property Control Division regarding our aging facilities and remains committed to an updated and complete facility assessment, allowing us more recent and relevant facts to build a more comprehensive master plan on which to make future decisions.

Well designed and developed technology is viewed as a potential force multiplier for the Department, allowing staff to move away from a paper laden environment and antiquated business models. As such, the NMCD recognizes that vital technology upgrades will be required to address greater use of technology to off-set the effects of a likely sustained decline in our economy. Simply put, technology will play an integral role in the Department's ability to achieve greater efficiencies and accountability. The Criminal Management Information System is the Department's primary and critical system for offender tracking and management. It serves our organization, our statewide law enforcement partners, as well as our State's court system in their relative functions and public safety decision making. This year we are embarking on the migration of existing modules to a single information technology platform, bringing efficiencies to our IT application development and maintenance staff. As previously mentioned, we are also implementing new functionality to bring more accountability to inmate programming and scheduling.

In summary, assessing the subtleties of how to best work with forensic populations can be a confounding task for any evaluator, whether working within the system or approaching it from the outside, as the case with this study. A relative truism is that there are multiple levels of complexity – some contradictory and some overlapping – that need to be considered to get an accurate picture of tall matters that may be lauded, as well as any other areas of growth that warrant attention. This study represents both, while underscoring the value of Government collaboration in the delivery of its services.

New Mexico itself is variegated in its population, essentially a mix of cultures, traditions, and lifestyles that make it unique among other states in our nation. Moreover, our State is also a mix

of multiple subcultures, with their own set of norms that make New Mexico truly enriched and meaningful. As we collectively look to the rest of the nation to identify “best practices” or “evidence-based practices” to streamline our prison system and hopefully produce proven and cost-effective outcomes, we should not forget the particular challenges of our *heritage* that make us unique as a State. Many best practices were originally studied in other parts of the country and may bear results unique to their test sites. It is, then, reasonable to pilot best practices in New Mexico, but also realize at the same time that our programs may require subtle adjustment to the needs of our citizens. Recently, a well respected Native American social scientist, speaking about Native populations that have been ill-studied in terms of social innovations, suggested that “evidence-based practices” were not the only lens through which to view a treatment or recovery paradigm. Alternatively, this researcher suggested that “practice-based evidence” may carry just as much weight in how to look at these matters. In this regard, we must commit to remain open minded to the subtleties of a variety of culturally accepted therapies.

Additionally, many practitioners hold that it is the nature of the relationship between the patient and counselor that creates true healing and meaningful behavioral change. Accordingly, what one counselor *says* in the course of a therapy may not have the same import of the trust and bond as another. Consequently we should also keep in mind that what is considered a best practice today may not be so in the future. This approach is not suggested to avoid the

value of our current and relevant literature, but suggested rather, as a means of preserving a watchful eye on our local successes and failures.

In closing, while we must, and shall, continue to grow as an organization, it is our respectful request that we not lose sight that our State's correctional system has also evolved over the last 3 decades. On the other hand, the delivery of public safety service is as challenging as we have ever seen it. Quite frankly, to many in its leadership, at times it seems overwhelming. At the same time, collectively, we know the discomfort of a periodic objective look at ourselves tends to bring out the best in New Mexicans. The literal history of the NMCD demonstrates that our more innovative thinking about social problems and their prevention have emerged from our willingness to embrace controversy and change, when it would be otherwise more comfortable to resist it. Accordingly, the men and women of the NMCD will use the results of this study and our continued collaboration and partnership with the LFC to rise to the challenges of our future together. We are grateful to the evaluation team and all the members of your committee for their commitment to making the NMCD and its commitment to the safety and well-being of our citizens, the very best!

Respectfully Submitted,



Gregg Marcantel
Secretary of Corrections
State of New Mexico

APPENDIX A: EVALUATION SCOPE AND METHODOLOGY

Evaluation Objectives.

This evaluation assesses what investments could be made to reduce recidivism in a safe manner. The evaluation will also identify program gaps and will recommend possible additions to New Mexico's array of services with a particular emphasis on probation and parole programs. The study will utilize the Washington State Institute for Public Policy (WSIPP) model for calculating the return on investment from evidence-based prevention and intervention programs and policies.

Objective 1: Assess the costs and effectiveness of community-based corrections, including probation and parole supervision, on improving safety, increasing successful completion of probation and reducing recidivism.

Objective 2: Review the status of the department's re-entry and prison reform efforts and collect baseline information to monitor the initiatives progress over time.

Objective 3: Conduct cost-benefit analysis of existing or potential evidenced-based criminal justice programs, and impact on prison spending.

Scope and Methodology.

- Catalogued existing adult community corrections programs in NM and other states
- Identified evidence-based programs
- Met with LFC director, program evaluation staff management, and fiscal analyst for NMCD
- Met with New Mexico Sentencing Commission and associated Institute for Social Research staff to determine data availability.
- Interviewed key NMCD staff
- Conducted site visits to selected Probation and Parole offices, and Prison Institutions
- Conducted "ride along" with probation and parole officers
- Collaborated with representatives from Pew Center on States for technical assistance in employing the WSIPP benefit/cost analysis model.
- Reviewed strategic, monitoring and reporting documents, including performance reports, internal/external audits, and budget status reports.
- Performed data analysis of program cost, performance, and outcomes.
- Reviewed national best practices and other states for budgeting and performance monitoring systems and measures and delivery of evidence-based programs.
- Reviewed:
 - Applicable laws and regulations
 - LFC file documents, including all available project documents
 - Relevant performance reviews from other states
 - Performance measures
 - Other relevant literature

Evaluation Team.

- Jon Courtney, Program Evaluator, Project Lead
- Jack Evans, Program Evaluator

Authority for Evaluation. LFC is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions; the effects of laws on the proper functioning of these governmental units; and the policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In

furtherance of its statutory responsibility, LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state laws.

Exit Conferences. The contents of this report were discussed with the NMCD on May 31, 2012.

Report Distribution. This report is intended for the information of the Office of the Governor; the New Mexico Corrections Department; Office of the State Auditor; and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.

A handwritten signature in black ink that reads "Charles Sallee". The signature is written in a cursive style with a large, sweeping initial "C".

Charles Sallee
Deputy Director for Program Evaluation

APPENDIX B: POTENTIAL NMCD COST SAVINGS

Identified Cost Savings	Amount of potential cost savings	Agency Responsible for Implementing Recommendation
Aligning the per diem to reflect savings from reducing required staffing levels	\$2 million a year	NMCD
Reducing IHP levels	\$4 million a year based on a 40 percent reduction	NMCD, Private Prisons, and Parole Board
Recovering money left on contract with OptumHealth	\$1 million for FY10 and FY11	BHC and NMCD
Eliminating the practice of D&E at NMCD	\$1.5 million estimated for FY12	Legislature
Eliminating the practice of housing inmates with less than one year on their sentence as defined in statute	\$700 thousand estimated for FY12	Legislature
Using the medical and geriatric parole program	\$2 million a year estimated based on a 50 percent reduction in the medical and geriatric population at NMCD	Parole Board and NMCD. Statutory changes by the Legislature could also increase likelihood of participation.
Total Cost Savings	\$11 million	

Source: LFC

APPENDIX C: EVIDENCE-BASED IMPLEMENTATION IN OTHER STATES

Oregon. Oregon is a national leader in reducing recidivism. From 1999 to 2004, the state saw recidivism rates drop almost 32 percent. For offenders released in 2004, Oregon has the lowest overall recidivism rate among 41 reporting states of 22.8 percent. This success rate is the result of a comprehensive reform both in prison and in community corrections. In prison, inmates receive risk and needs assessment at intake, targeted case management and focused transition planning. Upon release to the community, treatment programs for offenders are based on research and are subject to program outcome evaluation. The growth of evidence-based programs stems from the passage in 2003 of SB 267, which required that any correctional program receiving state funding be evidence-based – both in design and in delivery.

Michigan. Through the use of a validated risk and needs assessment tool (COMPAS), along with policy changes which reduced supervision revocations and increased compassionate medical release, the state of Michigan reduced its prison population by eight percent. Additionally the prison system expanded evidence-based programming and services. The return to prison rate among offenders who received re-entry services in Michigan declined by 32 percent. Between FY2002 and FY2009 the state of Michigan closed numerous correctional facilities resulting in a total bed reduction of 12,187 and an estimated cost-savings of \$339 million.

Texas. The state of Texas, through its Justice Reinvestment Initiative, is successfully re-directing funding to expand the capacity of treatment programs and residential facilities to address community corrections needs at a net savings to the state. As a result, Texas has averted the need to build new prisons and recently closed a 1,100 bed prison. The success of this approach is influencing policy makers in other states.

Washington. In 2005, the state of Washington predicted the need for two new prisons by 2020. In response, the Washington Legislature initiated a study of evidence-based programs to reduce crime, while saving taxpayers money. The study concluded that some programs—such as intensive supervision treatment, cognitive-behavioral therapy, community-based drug treatment and adult drug courts—can reduce crime rates while also reducing the cost of corrections. As a result of this study, the 2007 Legislature invested in the expansion of evidence-based programs, and the prison forecast was adjusted downward. Washington now has an incarceration rate lower than the national average and an estimated savings of \$1.3 billion per two-year budget cycle and has closed an adult prison and juvenile detention facility.

APPENDIX D: NATIONAL RECIDIVISM REDUCTION FOR PROGRAM TYPES

Program Type	Recidivism Reduction	Number of studies supporting finding
Programs for drug-involved offenders		
Adult drug courts	-10.7%	56
In-Prison "therapeutic communities" with community aftercare	-6.9%	6
In-Prison "therapeutic communities" without community aftercare	-5.3%	7
Cognitive-behavioral drug treatment in prison	-6.8%	8
Drug treatment in the community	-12.4%	5
Programs for the general offender population		
General and specific cognitive-behavioral treatment programs	-8.2%	25
Programs for domestic violence offenders		
Education/cognitive behavioral treatment for domestic violence offenders	0.0%	9
Programs for sex offenders		
Psychotherapy for sex offenders	0.0%	3
Cognitive-behavioral treatment in prison for sex offenders	-14.9%	5
Cognitive-behavioral treatment for low-risk sex offenders on probation	-31.2%	6
Behavioral therapy for sex offenders	0.0%	2
Intermediate sanctions/Supervision programs		
Intensive supervision: surveillance-oriented programs	0.0%	24
Intensive supervision: treatment-oriented programs	-21.9%	10
Adult boot camps	0.0%	22
Electronic monitoring	0.0%	12
Restorative justice programs for lower-risk adult offenders	0.0%	6
Work and education programs for the general offender population		
Correctional Industries	-7.8%	4
Basic adult education programs	-5.1%	7
Employment training and job assistance in the community	-4.8%	16
Vocational education in prison	-12.6%	3

Source: Washington State Institute for Public Policy (2006)

APPENDIX E: BREAKDOWN OF REASONS FOR IN-HOUSE PAROLE

Categories	Awaiting Administrative Action ⁽¹⁾	Hard To Place	Inmate Refuses to Participate in Parole Process	Other
Pending out of state plan	9 (2 are female)			
Parole certificates pending	16 (1 is female)			
Scheduled to see the parole board	13 (3 are female)			
Parole board action required	4			
Parole plan submitted/PPCO pending approval or denial	25 (11 are female)			
Classification needs new plan/follow up	35 (11 are female)			
Hard to place (housing assistance)		36		
Hard to place serious mental/medical illness		12		
Sex Offenders		42 (2 are female)		
Hard to place substance abuse program required		1		
Hard to place Ice detainees/other detainees		5		
Inmate refuse to participate in the parole process			29 (1 is female)	
Inmate ready to release/waiting for date				2
Legal issues/new charges/amended J&S/recent misconducts				4
Awaiting program bed				8
Total	102	96	29	14

(1) Administrative Action could be at the Parole Board, the NMCD, or the Private Prison Contractor.

Source: NMCD

APPENDIX F: NMCD CLASSIFICATION CUSTODY LEVELS (I-VI)

- Level I Custody, General Population Assignment:
 - Criminal background and record of institutional behavior indicate the ability to function appropriately and productively among staff and other inmates without the need for continuous staff supervision or a security perimeter (to include double fences with razor wire, armed towers and armed vehicle patrol).
- Level II Custody, General Population Assignment:
 - Criminal background and record of institutional behavior indicate that the inmate can function among staff and other inmates in a dormitory setting without presenting a significant risk to the safe, secure and orderly operation of the institution. There must be no history of recent violent incidents or recent escapes.
- Level III Custody, General Population Assignment:
 - Criminal background and record of institutional behavior indicate that the inmate requires placement within the confines of the security fences and armed vehicle patrols. Has the ability to function among other inmates in general population under staff supervision without posing a threat to the safety of other inmates, staff or to the security of the institution.
- Level IV Custody, General Population Assignment:
 - Criminal background and institutional behavior indicate that the inmate requires the need for continued staff supervision and observation within the confines of the security fences and armed vehicle patrols. Has the ability to function in general population, but due to previous behavior and/or criminal background including validation or suspected member of a Security Threat Group has the potential for actions that may threaten the security of the institution. Inmate movement is limited to small groups (up to 16 inmates) and inmates are placed under escort during any movement or group activity.
- Level V Status, Special Management Assignment:
 - Institutional behavior indicates the inability to function in general population because the inmate poses a threat to the safety of staff, other inmates or to the security of the institution. Requires separation from the general population with limited movement and activities under escort. Inmates in this status will progress to a general population facility.
- Level VI Status, Special Management Assignment:
 - Institutional behavior threatens the security of the institution requiring separation from the general population. This behavior includes, but is not limited to, assault, escape, murder, inciting riots and planning or participating in security threat group activities. This behavior poses a high-risk and inmates are not allowed to congregate with other inmates. Inmates may only be moved outside of their assigned cell with full restraints with an escorting officer.

APPENDIX G: NMCD COMMUNITY FUNDED SERVICE PROVIDERS

Currently Funded Programs	Location
A New Awakening Inc (MH) and (SA)	Albuquerque
Border Area Mental Health Services Inc	Silver City
Canyon Light	Alamogordo
Carlsbad Mental Health Center Inc	Carlsbad
Castenell, Michael L.	Farmington
Connections Inc	Gallup
Cornerstone Counseling	Farmington
Counseling Associates	Roswell
Family Connections	Grants
Forensic Therapy Services	Albuquerque
Guidance Center of Lea County Inc	Hobbs
Human Resources Dev Assoc Inc	Espanola, Las Vegas, Raton, and Taos
La Buena Vida Inc	Bernalillo, Los Lunas, and Rio Rancho
Mental Health Resources Inc	Clovis, Portales, and Tucumcari
NAVA Drug and Alcohol	Deming and Las Cruces
Partners in Wellness	Albuquerque
Paso Nuevo Counseling (William Chambreau)	Albuquerque
Presbyterian Medical Services	Farmington
Santisvan, Ernesto and Vincent, Jim	Santa Fe
Socorro Mental Health	Socorro
Southwest Counseling Center Inc	Las Cruces
TeamBuilders Counseling Services Inc	Clovis/Portales
The Counseling Center	Alamogordo
The Life Link	Santa Fe
UNM - ASAP and Mental Health Center	Albuquerque
UNM - ASAP	Bernalillo County TRC
Dismus House	Albuquerque
Eagles Unlimited	Statewide
La Posada	Albuquerque
Community Education Centers Inc. - Men's Academy Residential	Los Lunas
Community Education Centers Inc. - Women's Academy Residential	Albuquerque

Source: NMCD

APPENDIX H: NMCD FY12 Q3 REPORT CARD

Performance Overview: The New Mexico Corrections Department (NMCD) has performance measures that report on core functions: incarceration, release, and recidivism of inmates. The measures are well developed to evaluate the NMCD's performance over time. Correctional officer turnover, staffing levels, and re-incarceration rates improved modestly in the third quarter; this stabilized the number of assaults on inmates and staff and improves the department's likelihood of meeting assault targets. The department is taking steps to address the untimely release of inmates, a problem that persisted in the third quarter.

Inmate Management and Control		Budget: \$237,174,400	FTE: 1955.5	FY11 Actual	FY12 Target	Q1	Q2	Q3	Q4	Rating
1	Percent turnover of correctional officers*			10.3%	13%	12.2%	11.3%	10.74		G
2	Number of inmate-on-inmate assaults with serious injury* (cumulative)			14	23	7	13	17		Y
3	Number of inmate-on-staff assaults with serious injury* (cumulative)			4	10	0	1	1		G
4	Percent of inmates testing positive for drug use, including inmates refusing to be tested in a random monthly drug test*			1.39%	<=2%	1.8%	1.5%	1.77		Y
5	Percent of female offenders successfully released in accordance with their scheduled release date*			95%	90%	81.5%	84.7%	81.3		R
6	Percent of male offenders successfully released in accordance with their scheduled release date *			85%	90%	82.8%	83%	82.7		Y
7	Percent of all prisoners reincarcerated back into the corrections department within thirty-six months (after being discharged from a New Mexico corrections department prison or into community supervision)*			44.62%	47%	46.5%	46.3%	45.87		Y
8	Recidivism rate of the success for offenders after release program by thirty-six months*			33.7%	35%	37%	37%	37%		R
Program Rating				Y						Y

Comments: The department continues to improve the turnover rate for correctional officers; nationally turnover rates for correctional officers are about 16 percent. Timely release of females and males is being addressed through penalties at the private prisons and heightened vigilance on the state side. A goal of the NMCD is to reduce in-house paroles, which adds to untimely releases. The NMCD is making major changes to the offender management module of its IT system to better track which programs inmates enroll in and complete and whether there is a reduction in time of incarceration. Finally, the NMCD is implementing an assessment tool to help staff enroll inmates in the best program for his or her success. The recidivism rate for female inmates that are part of the SOAR program is 37 percent over a 36-month period versus 46 percent reincarceration rate for inmates not enrolled in SOAR-like programs (note measures 7 and 8).

Corrections Industries		Budget: \$3,962,200	FTE: 35	FY11 Actual	FY12 Target	Q1	Q2	Q3	Q4	Rating
9	Profit and loss ratio*			-4.2%	Break-even	-15.5%	-9.3%	4.67%		Y
Program Rating				R						Y

Comments: Profit and loss are determined at the end of the fiscal year based on the audited figures. There are programs that are no longer profitable and the NMCD is looking at other alternatives that may be profitable, provide work for inmates while in prison and transferable skills on release. While the reported figure appears to indicate a profit for the quarter, management has stated that the calculations need to be validated by the NMCD ASD staff.

Community Offender Management		Budget: \$28,144,300	FTE: 387	FY11 Actual	FY12 Target	Q1	Q2	Q3	Q4	Rating
10	Average standard caseload per probation and parole officer*			99	92 +/-3	108	122	114		R
Program Rating				R						R

Comments: The department worked with the State Personnel Office to allow for continuous recruitment. Additionally, the NMCD training academy is working to have back-to-back academies to increase the number of probation and parole officers in the community. Finally, the physical fitness requirement has been problematic at both the correctional and probation and parole officer levels—although applicants can reapply once they have reached the necessary level of physical fitness.

Suggested Performance Measure Improvement

The NMCD could improve performance measures by moving its focus from custody and monitoring-based measures to measures focused on evidence-based programming and impact on public safety. Such measures would better reflect the NMCD mission.

Proposed changes to existing measures:

Existing measures #5 and #6 now only record those individuals who are being released from In-House Parole and does not use release date in the calculation.

- Percent of offenders successfully released in accordance with their scheduled released date. (Should be calculated as projected release date-actual release date and include all inmates rather than just IHP).

Proposed new measures:

- Number of NMCD inmates currently on in-house parole.
- Recidivism rate of therapeutic community graduates after thirty-six months.
- Percentage of probationers who successfully complete supervision.
- Percentage of parolees who successfully complete supervision.
- Percentage of parolees classified as high risk that successfully complete supervision.
- Percent of offenders on supervision who are gainfully employed.
- Percent of community corrections funds spent on programs documented as evidence-based programs.

* Denotes House Bill 2 measure