

ACTION PLAN

Submitted by agency?	Yes
Timeline assigned?	No
Responsibility assigned?	No

New Mexico’s prisons are more violent and more understaffed than last year, and NMCD has shown no improvement in its ability to rehabilitate offenders and prevent them from reentering the prison system. With prison populations decreasing almost every month for over 18 months and unprecedented declines in prison admissions over the past two fiscal years, the Corrections Department (NMCD) has had a unique opportunity to reallocate resources to improve its performance, but its Inmate Management and Control (IMAC) program saw little improvement in its key metrics in FY20. Rates of inmate-on-inmate and inmate-on-staff assaults resulting in serious injury increased significantly in FY20 compared with FY19, on par with the 10-year high in assaults seen in FY18. Despite targeted pay increases, the average vacancy rate among public correctional officers in FY20 was 10 percentage points higher than in FY15. And while the three-year recidivism rate for inmates released from NMCD’s custody remained steady between FY19 and FY20, it has increased 10 percentage points over the past decade, from 44 percent to 54 percent. NMCD proposed discontinuing all these performance measures in FY22.

The department has faced criticism for its handling of the COVID-19 pandemic, particularly at Otero County Prison Facility (OCPF), where almost 90 percent of the inmates have contracted COVID-19. Of the 470 inmates diagnosed with COVID-19 OCPF as of August 3, NMCD reported 435 had recovered, 31 were considered active but asymptomatic, and four passed away. Recovered inmates returned to the general population, while active cases were kept in medical isolation. NMCD is using a standard of two negative COVID-19 test results to establish if an inmate has recovered; however, this represents a higher standard than the U.S. Centers for Disease Control and Prevention (CDC) recommends for asymptomatic patients, meaning some inmates may be kept in isolation longer than is medically necessary.

COVID-19 Cases at NMCD Facilities
as of 8/14/2020

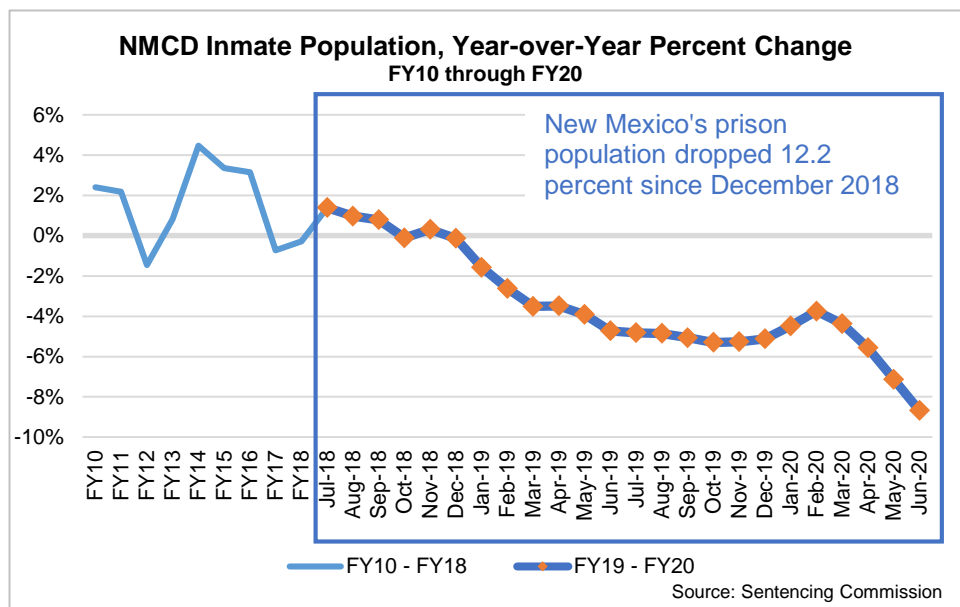
Facility	Number of Cases	Population	Percent of Population Infected
CNMCF	25	819	3.1%
LCCF	4	1,202	0.3%
NENMCF	1	415	0.2%
NWNMCC	1	385	0.3%
OCPF	472	533	88.6%
PNM	1	677	0.1%
WNMCF	4	370	1.1%

Note: No cases are reported at SNMCF, RCC, SCC, or GCCF.

Source: NMCD, Department of Health

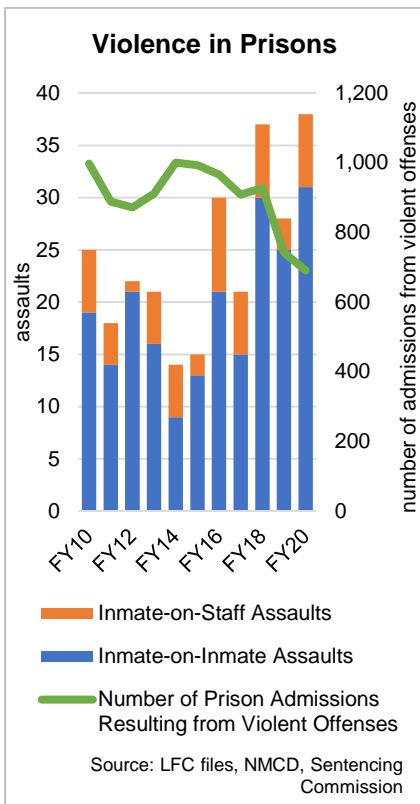
Inmate testing remains relatively sparse, with NMCD conducting just two rounds of surveillance testing (in May and July) of 25 percent of the overall prison population since the beginning of the pandemic. While the scale of the outbreak at OCPF necessitates more widespread testing at that facility, it is unclear if the low number observed at other prisons are due to low rates of infection or low rates of testing.

In FY20, total prison population averaged 6,837 (6,157 men and 680 women), a decrease of 5.4 percent over FY19’s average population. Overall, the average number of inmates dropped by 608 during FY20; significantly, the



Executive Order 2020-021

Of the 76 inmates released under the governor’s April 6 executive order for early release in FY20, 28 inmates (or 37 percent) were released less than a week before their planned release date, and seven were released just one day before their planned release date.



**Policy Spotlight:
Inmate Classification**

A July report from LFC’s program evaluation team found inmates are frequently housed at higher security levels than NMCD’s classification scoring tool indicates is necessary. Between 2014 and 2016, nearly 60 percent of classification decisions were either subject to overrides or resulted in inmates being housed at security levels inconsistent with their custody scores for unknown reasons. The report estimated that deviations from the initial custody score cost the state up to \$28 million annually.

governor’s April 6 order for early release of some inmates accounts for only 12.5 percent of this decrease (76 inmates), while the remaining declines likely represent decreased adjudications due to the COVID-19 pandemic and continued trends in population decreases seen over FY19 and FY20. Since December 2018, each month’s average prison population has represented a year-over-year decline, and overall prison population has declined 12.2 percent since then; between June 2019 and June 2020, New Mexico’s inmate population dropped 8.7 percent. Prison admissions decreased 15.1 percent in FY19 compared with FY18, the largest year-over-year decline in two decades, and FY20 saw an even larger drop in admissions of 15.6 percent. With an average annual cost per inmate of \$40.4 thousand in FY19, these population declines offer an opportunity for significant cost savings.

Inmate Management and Control

Prison Violence. New Mexico’s prisons became more violent in FY20, slightly exceeding the 10-year high of inmate-on-inmate assaults seen in FY18 and matching that year’s high rate of inmate-on-staff assaults. The high rate of inmate-on-inmate assaults this year was driven by a 14 assaults in the first quarter, the highest number of such assaults seen in a single quarter since before FY16. Throughout the rest of FY20, an average of 6 inmate-on-inmate assaults occurred each quarter, the same as FY19’s average. The causes of the first quarter’s assaults are not clear, but NMCD noted the majority of incidents were confined to two facilities. NMCD cites debts from the purchase of illegal drugs as a primary cause of inmate-on-inmate violence and notes mitigation of smuggling illegal drugs into facilities is their primary method of addressing this issue. However, the rate of positive inmate drug tests has decreased every year since at least FY17.

Release-Eligible Inmates. In the third quarter of FY20, NMCD achieved significant drops in the percent of release-eligible inmates incarcerated past their scheduled release data, and the department demonstrated sustained improvement in those areas in in the fourth quarter. Overall, the department reduced the percent of release-eligible men and women incarcerated past their scheduled release date by 2.9 percentage points and 1.7 percentage points, respectively, compared with FY19.

NMCD cites increased housing for sex offenders (available as a result of the \$750 thousand recurring increase in its FY20 budget for evidence-based community corrections programming) as a primary factor for this change, as those offenders are generally the hardest to place. In FY20, NMCD increased the beds available at La Pasada (the only halfway house that houses sex offenders) from 40 to 60. However, despite receiving an additional increase of \$500 thousand for evidence-based community corrections programming in FY21, NMCD plans to reduce the beds it pays for at La Pasada to 34, below FY19 levels. This will likely lead more release-eligible inmates to remain incarcerated. NMCD has chosen to reallocate those funds to other providers that do not provide housing for sex offenders.

Recidivism. The three-year recidivism rate has exceeded 50 percent every quarter since the fourth quarter of FY18, and FY20 saw no improvement over FY19’s 54 percent rate. NMCD plans to employ a risk, needs, and responsivity assessment upon intake to better match inmates with appropriate, evidence-based programming while incarcerated. The department also plans to enhance its prerelease services and states that its Recidivism Reduction Division will work collaboratively with outside partners to increase opportunities for offenders upon release. However, the

department makes no mention of examining its policies related to technical parole revocations (which account for a significant share of reincarcerations) in its improvement action plan for this measure.

NMCD’s classification processes may also contribute to high recidivism rates. A July 2020 examination of inmate classification at NMCD by LFC’s program evaluation team found the current system is not consistent with best practices and has not been validated. Additionally, the report found that while the majority of prisoners admitted to the system received initial custody scores classifying them as minimum security, more than half are housed in medium-security settings. Inmates in more secure facilities tend to engage in institutional misconduct at higher rates and have higher rates of recidivism than inmates in lower-security prisons, so expanding access to minimum-security settings may help reduce recidivism and its associated costs. NMCD is currently working with the University of New Mexico’s Institute for Social Research to validate its custody scoring tool.

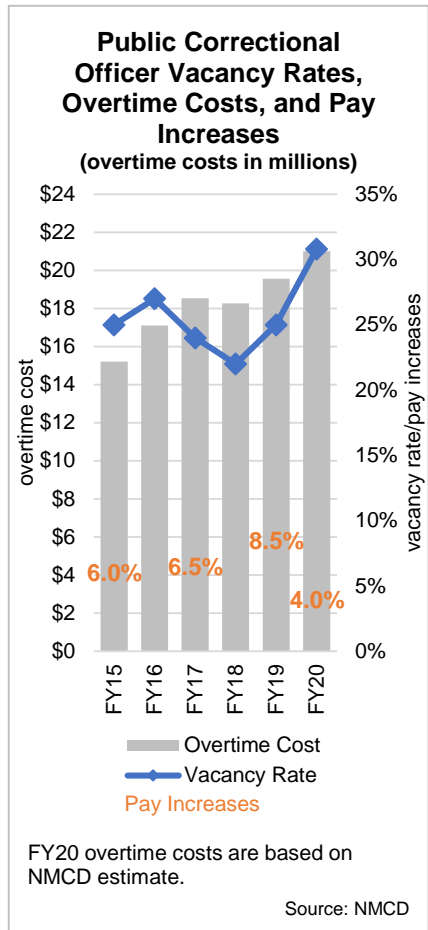
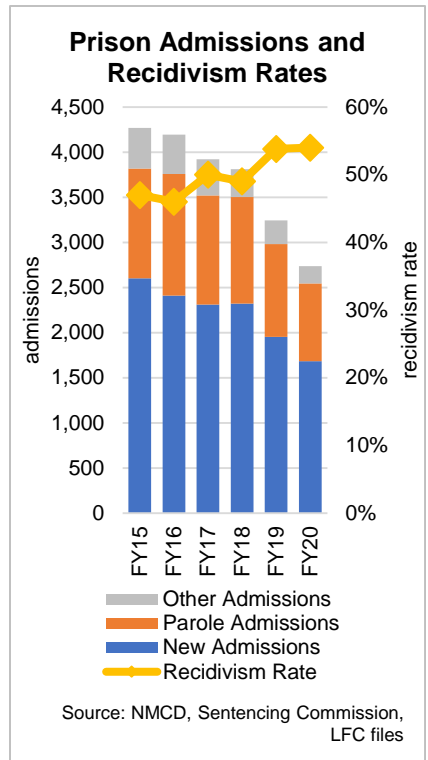
Staffing. In the fourth quarter of FY20, vacancy rates among publicly-employed correctional officers rose to 36 percent, a 4 percentage point increase over the third quarter. At the same time, vacancy rates among privately-employed correctional officers fell 16 percentage points, to 31 percent. While the transition of Northeast New Mexico Correctional Facility in Clayton from private to public operation in the second quarter could account for such changes between the second and third quarters of this year, it cannot directly account for the change seen between the third and fourth quarters, when no positions were transferred between public and private facilities. NMCD erroneously claims the increase in public correctional officer vacancies was a direct result the transition of NENMCF in the second quarter and did not provide an alternative explanation when asked, but the department did state that recruitment efforts have not been impacted by the COVID-19 pandemic.

Budget: \$275,007.4 **FTE:** 1,869

	FY18 Actual	FY19 Actual	FY20 Target	FY20 Actual	Rating
Inmate-on-inmate assaults with serious injury	30	25	8	31	R
Inmate-on-staff assaults with serious injury	7	3	2	7	R
Prisoners reincarcerated within 36 months	49%	54%	45%	54%	R
Participating inmates who have completed adult basic education*	78%	77%**	N/A	74%	Y
Release-eligible female inmates still incarcerated past their scheduled release date	8.9%	9.4%	6%	7.7%	Y
Release-eligible male inmates still incarcerated past their scheduled release date	9.2%	9.3%	6%	6.4%	Y
Residential drug abuse program graduates reincarcerated within 36 months of release*	18%	28%	N/A	21%	
Random monthly drug tests administered to at least 10 percent of the inmate population testing positive for drug use*	3.9%	2.9%	N/A	2.5%	
Vacancy rate of state-employed correctional officers	22%	25%	20%	31%	R
Vacancy rate of privately-employed correctional officers	NEW	NEW	20%	46%	R
Program Rating	Y	R		R	

*Measures are classified as explanatory and do not have targets.

**Although the FY19 values reported quarterly for this measure averaged 62 percent, with a maximum of 67 percent, NMCD reported an FY19 year-end value of 77 percent. LFC and DFA staff have not yet resolved this discrepancy.

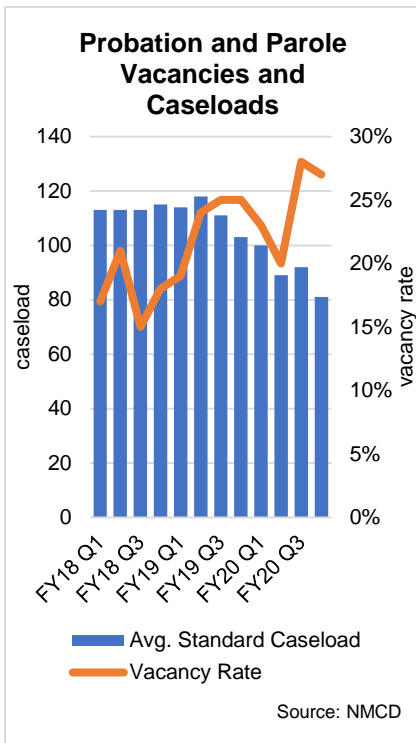


Community Offender Management

COVID-19 Response: Probation & Parole

In response to the COVID-19 pandemic, probation and parole officers are holding virtual office visits with offenders. All officers have been provided with personal protective equipment, including N95 masks which are used only when conducting field operations or arresting individuals on supervision.

The Community Offender Management Program performed well on several of its key performance measures in FY20, including the percent of required monthly contacts with high-risk offenders completed and the percent of absconders apprehended, continuing prior-year trends. FY20 also saw significant improvements in the average standard caseload per probation and parole officer, which was 19 cases lower than the FY19 average, and the three-year recidivism rates for graduates of the men’s recovery center, which improved by 4 percentage points compared with FY19. However, the three-year recidivism rate for graduates of the women’s recovery center was 6 percentage points higher than FY19, a significant decline in the program’s demonstrated effectiveness.



Staffing. Vacancy rates among probation and parole officers remained high this quarter and averaged 25 percent overall for the year, an increase over FY19 (24 percent) and a significant increase compared with FY18 (18 percent). The department did not provide a specific, measurable action plan to reduce these vacancies. Despite such a drastic increase in vacancies, the Community Offender Management Program maintained the average standard caseload per probation and parole officer well below its target (decreasing to 81 in the fourth quarter and averaging 91 for the year), indicating that either the number of offenders on standard supervision is decreasing, vacancies are concentrated among officers who would handle specialized caseloads rather than standard caseloads, or both.

Technical Parole Violations. The recidivism rate due to technical parole violations would be a useful metric to collect on a quarterly basis to inform ongoing discussions around reforming sanctions for technical violations and to provide context for the overall recidivism rate. Despite the measure’s inclusion in the 2019 General Appropriation Act and multiple requests from LFC staff, the department declined to report this measure quarterly in FY20; however, it has proposed to do so in FY21.

Budget: \$36,008.2 **FTE:** 377

	FY18 Actual	FY19 Actual	FY20 Target	FY20 Actual	Rating
Percent of required monthly contacts with high-risk offenders completed	99%	98%	95%	96%	G
Average standard caseload per probation and parole officer	114	110	105	91	G
Male offenders who graduated from the men’s recovery center and are reincarcerated within 36 months	26%	27%	23%	23%	G
Female offenders who graduated from the women’s recovery center and are reincarcerated within 36 months	21%	19%	20%	25%	R
Absconders apprehended	29%	33%	30%	31%	G
Vacancy rate of probation and parole officers	18%	24%	15%	25%	R
Prisoners reincarcerated within 36 months due to technical parole violations	22%	15%	20%	No Report	R
Program Rating	Y	Y			Y