

# Inmate Classification

## Summary

Inmate classification is the backbone of the prison system. Classification determines the security level at which inmates are housed and has implications for the safety of inmates and prison staff, for the cost of incarceration for taxpayers, with higher levels of security generally costing more, and for prison operations, inmates' access to services, and recidivism. It is thus fundamental to the performance of state prisons.

The consequences of an inadequate classification system are evident in some of the most violent incidents in New Mexico prison history. On August 31, 1999, a guard was stabbed to death at the Guadalupe County Correctional Center in Santa Rosa, provoking a riot. An independent investigation found that under-classification was a primary underlying cause of the violence, with the New Mexico Corrections Department (NMCD) erroneously placing high-risk inmates and gang members in a medium-security setting.

NMCD's current classification system evolved in response. The scoring tool that guides housing decisions was redesigned and the department made notable progress in managing security threats. But the department has yet to implement several standard industry practices to ensure its current system works. Most importantly, it has yet to validate the scoring tool that

guides custody decisions to determine whether it appropriately classifies inmates, though it is now finalizing a contract with researchers at the University of New Mexico to do so. Additionally, the department has not regularly reviewed its classification practices to identify and correct problems or to determine their effect on prison operations. The extent to which the system is effective in today's policy environment and for the current inmate population is thus poorly understood.

While underclassification no longer appears to be an issue, inmates are frequently placed at higher security levels than the scoring tool indicates is necessary. While 60 percent of new inmates from 2014 to 2016 scored at minimum security, only 29 percent are currently housed there, with the majority instead held in medium security. However, because NMCD's scoring tool has not been validated, it is impossible to definitively say whether these decisions are appropriate or represent unnecessary overclassification. Without clarity on this question, it will be difficult for the department to effectively minimize costs, plan for future capital needs, or provide offenders with appropriate access to minimum-security settings. LFC analysis finds the deviations from the scoring tool cost the state up to \$28 million a year.

*Inmates are frequently placed at higher security levels than indicated by NMCD's scoring tool.*

LFC staff would like to thank the New Mexico Corrections Department and the Institute for Social Research at the University of New Mexico for their engagement in producing this report.

# Spotlight

Program Evaluation Unit  
Legislative Finance Committee  
July 16, 2020



NEW MEXICO  
LEGISLATIVE  
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## NMCD Reformed its Classification System to Reduce Violence, But it Still Deviates From Best Practices in Key Ways

**Whether the state's classification system accurately assesses security risk has never been tested and monitoring is limited**

The primary goal of classification is to place inmates at a security level where they will not threaten the safety of other prisoners, prison staff, and the public. In some states, such as California, placing inmates at the lowest appropriate security level is an explicit goal, though that is not directly addressed in New Mexico's classification policies. At NMCD, as in most corrections departments, security level is determined through a scoring tool intended to objectively evaluate inmates' risk of misconduct, violence, or escape. Unless inmates meet certain criteria triggering an override, they are supposed to be housed according to their custody score. Modern classification systems also include an internal process to determine unit, programming, and work assignments.

Inmates in the general population can be classified at one of four security levels. Outside of the general population, NMCD maintains restrictive housing units where inmates can be placed in short-term segregation, and protective custody status for inmates who face particular threats to their safety. The department also continues to maintain a supermax unit, formerly known as Level VI, at the Penitentiary of New Mexico (PNM) North for inmates who demonstrate predatory behavior. New admissions default to custody Level IV until receiving a classification.

**Table 1: NMCD Inmates by Custody Level, FY19**

Custody Level		Average Population	Estimated Annual Cost-Per-Inmate
Level I	Minimum Security	146	\$38,191
Level II		2,000	\$27,443
Level III	Medium Security	3,691	\$37,135
Level IV	Maximum Security	719	\$82,624

Note: All Springer inmates are assumed to be Level II; all Western New Mexico inmates are assumed to be Level III

Source: LFC Analysis of NMCD data

Misclassification in either direction – that is, to a lower or higher custody level than warranted – can have negative consequences. Underclassification creates security threats and could heighten escape risk. Overclassification unnecessarily drives up costs and may contribute to recidivism by restricting access to programming and the more rehabilitative environments available in

minimum- or medium-security facilities. It is therefore critical for correctional systems to have reliable and valid classification systems. Reliability refers to the system's ability to generate consistent results, while validity refers to its ability to produce the right results – in other words, to accurately predict inmates' security risk.

**Table 2: New Mexico State Prisons**

Facility	Capacity	Occupancy, FY20	Custody Levels	Location
<b>Publicly Operated</b>				
Central New Mexico Correctional Facility	1221	70%	I, II, IV, Restricted Housing, Long Term Care Unit, Mental Health Treatment Center	Los Lunas
Northeast New Mexico Correctional Facility	628	73%	III	Clayton
Penitentiary of New Mexico	861	85%	II, IV, Restricted Housing, Predatory Behavior Management Unit	Santa Fe
Roswell Correctional Center	340	67%	II	Hagerman
Springer Women's Correctional Center	437	72%	I, II	Springer
Southern New Mexico Correctional Facility	768	85%	II, III, IV, Restricted Housing	Las Cruces
Western New Mexico Women's Correctional Facility	423	88%	III, IV	Grants
<b>Privately Operated</b>				
Guadalupe County Correctional Facility	590	98%	III, Restricted Housing	Santa Rosa
Lea County Correctional Facility	1293	96%	II, III, Restricted Housing	Hobbs
Northwest New Mexico Correctional Center	728	87%	II, III	Grants
Otero County Prison Facility	647	92%	III, Restricted Housing	Chaparral

Source: NMCD

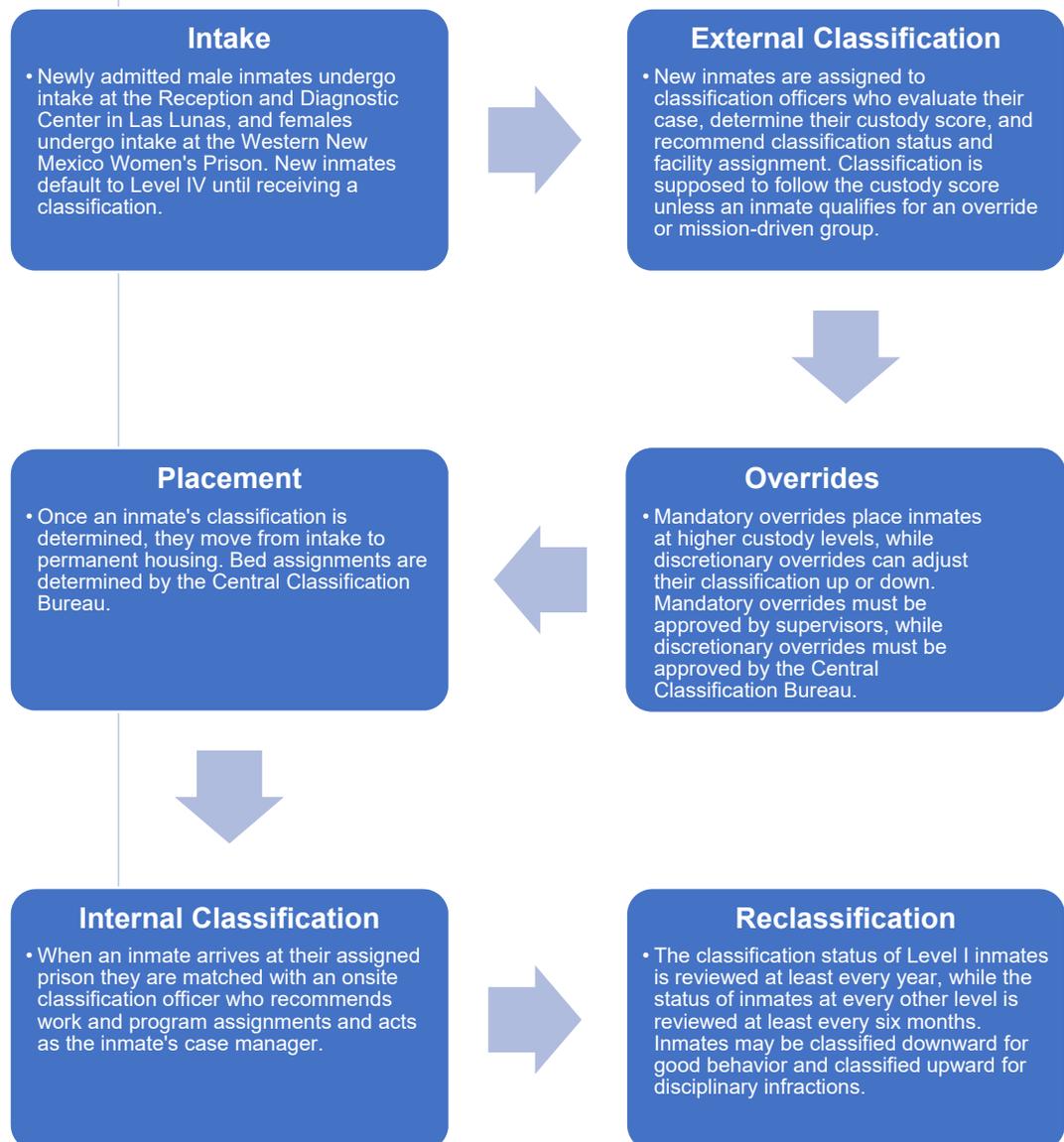
**Past violence in New Mexico prisons was caused in part by ineffective classification systems.** In 1980, NMCD signed a consent decree that settled a federal lawsuit brought by inmate Dwight Duran alleging substandard living conditions and overcrowding at PNM. Those conditions set the stage for PNM's fatal prison riot in 1980, which left 33 inmates dead. The *Duran* consent decree required the state to improve prison conditions by providing adequate medical care and sufficient living space. Additionally, it required the state to implement a formal classification system, which it lacked prior to the riot, and appropriately house prisoners according to their security risk.

The guard's murder in Santa Rosa in 1999 occurred just minutes after an inmate was stabbed in another part of the prison, one day after another serious assault, and nine days after an inmate was murdered in his cellblock. The classification system in place at the time had been approved by the federal court, but the violence showed the tool had major shortcomings and was used ineffectively. A review by a board of independent experts found that NMCD inappropriately placed inmates with violent histories and dangerous gang affiliations in the medium-security Santa Rosa prison. As a whole, the system produced errors that resulted in both inappropriately low and unnecessarily high classifications, and classification decisions were too frequently driven by available bed space rather than security risk. In addition to finding significant



errors in how NMCD classified inmates, a 2000 report to the Legislature by national classification consultant James Austin, Ph.D., found that New Mexico's classification system failed to follow industry best practices on multiple fronts. NMCD subsequently worked with Mr. Austin to implement several of his recommended reforms, including: adopting a new initial classification scoring form to determine the security level at which inmates are housed after entering the system, and automating the scoring function; adopting a new reclassification form and changing how frequently it reevaluated inmates' custody levels; and implementing criteria for discretionary and mandatory overrides to the custody score, and a process for approving such overrides.

**Chart 3: NMCD Classification Process**



**NMCD's current classification system more consistently follows industry best practices, but its accuracy has not been verified and monitoring is limited.** Systems that effectively sort inmates among the available custody levels rely on dedicated and well-trained classification staff, accurate information about inmates, reliable and valid criteria for determining custody levels, regular evaluation of the classification system's impact on the overall prison system, and prompt attention to problems identified through monitoring and evaluation.

The National Institute of Corrections (NIC) has for years offered states technical assistance in improving and validating their classification systems, and published guidelines on classification. NMCD's classification system includes most of the essential components in NIC guidelines, including dedicated classification staff, a central classification bureau to oversee inmate transfers and discretionary overrides, and separate initial classification and reclassification scoring tools. However, the department does not implement each of the essential components consistent with best practices. Notable deviations are described below, with some discussed in greater detail later in this report.

**Reliable, Valid, and Tested Classification Instruments:** NMCD uses initial classification and reclassification scoring tools that were developed with an independent expert and include factors that are generally consistent with tools employed by other states. However, the reliability and validity of these tools for the state's incarcerated population has not been tested. According to NIC, scoring tools should be validated before they are implemented then retested at least every five years to insure their continued utility as laws, policies, and prison populations change. NMCD's tools were not tested prior to implementation and have not been tested since. NMCD has now initiated a contract with the Institute for Social Research (ISR), a policy research group at the University of New Mexico (UNM), to revise and validate its scoring tool. The process is expected to take two years.

**Appropriate Use of Overrides:** Discretionary and mandatory overrides should each affect 5 percent to 15 percent of the prison population, according to NIC and Mr. Austin. While NMCD's use of discretionary overrides meets this benchmark, a 2017 UNM study commissioned by NMCD found mandatory overrides occur in approximately one-quarter of classifications, and another quarter of classifications house inmates at security levels higher than indicated by the classification scoring tool but without overrides or other documented justification.

**Timely Classification:** NMCD's policies on timely classification are consistent with best practices, requiring initial classification to occur within 30 days and reclassification to occur every six to 12 months, depending on custody level. However, the 2017 UNM study found

**Table 4: NMCD's Adherence to Best Practices in Classification**

✓ = Largely Compliant    — = Partly Compliant  
 ✗ = Largely Non-Compliant

National Institute of Corrections' Essential Components of Objective Classification Systems	NMCD Compliance
Mission Statement, Goals and Objectives	✓
Dedicated Classification Unit and Classification Staff	✓
Centralized Control Over all Prison Transfers and Housing Decisions	✓
Formal Housing Plan and Custody Designation for Each Housing Unit	✓
Timely Classification	—
Adherence to Housing Plan	—
Accurate Prisoner Data	—
Automated Data System	—
Continuous Monitoring	—
Reliable, Valid and Tested Classification Instruments	✗
Appropriate Use of Overrides	✗
Impact Evaluation	✗

Source: LFC analysis of NIC and NMCD documents



only 59 percent of new inmates received their initial classification within 30 days, only 16 percent of inmates entitled to reclassification every six months received timely reviews, and 43 percent of inmates entitled to reclassification every 12 months received timely reviews.

**Adherence to Housing Plan:** According to best practices, inmates should only be housed with others with the same classification status. NMCD is currently under court order to validate its classification system through a contract with UNM researchers due to recent litigation that revealed female prisoners with mixed custody designations were housed together.

**Accurate and Automated Prisoner Data:** Data on inmates' criminal history, active warrants, disciplinary history, education and employment history, medical and mental health needs, and gang affiliations should be reliable and readily available to classification staff. NMCD's classification system accounts for these factors, and records are available to classification staff. However, many exist only on paper and some information appears to be difficult to compile. Missing presentence and police reports are a common justification for overrides, for instance. Paper records are also a barrier to regular and effective evaluation of classification practices.

**Continuous Monitoring:** NIC recommends continuous monitoring to ensure classification systems are working as intended. Such monitoring should evaluate whether prisoners are classified according to agency policy and whether prisoners are housed according to their classification. NMCD contract monitors perform light quarterly audits of classification at private prisons and generate corrective action plans to document any issues they identify. Quality assurance reviews provide a similar function at public prisons, though NMCD did not provide LFC with details on the process. The results of contract monitoring and quality assurance are provided to NMCD's inspector general, but not necessarily to its Central Classification Bureau. Additionally, NIC recommends corrections departments have the capability to generate quantitative reports from their information systems that allow them to analyze statistical patterns and trends and evaluate the system's overall performance. NMCD does not appear to have such capabilities.

**Impact Evaluation:** Impact evaluations assess the effect of the classification system on the prison system as a whole and use statistical analysis to assess the validity and reliability of the system. They should be completed regularly even on validated systems to ensure the continued utility of the scoring instruments and classification policies as inmate demographics, laws, and criminal justice policies change. NMCD has not performed an impact evaluation on its current system, nor does it have a policy requiring such evaluations on a recurring basis.

**Table 5: NMCD's Custody Scoring Tool**

Scoring Factor	Predictive?
History of institutional violence and discipline	✓
Severity of current conviction	✗
Escape history	✗
Prior felony convictions	✗
Severity of prior convictions	✗
History of alcohol or drug abuse	✗
Age	✓
Gang membership or activities	✓

Source: ISR

**The factors considered by New Mexico's custody scoring tool are generally consistent with those used in other states, but only some are predictive of risk.** The custody scoring tool is the foundation of the classification system. Inmates are supposed to be housed at the custody level determined by their score unless they meet criteria triggering a discretionary or mandatory override or qualify for mission-driven housing groups, such as units for sex offenders, former law enforcement officers, or inmates who have renounced affiliation with a gang.

NMCD adopted its current scoring factors following the Santa Rosa riot and in consultation with a national classification expert. Though they were based on best practices, research has only shown some to be predictive of risk. (Other states also use both predictive and non-predictive factors.) Moreover, because the scoring tool, the factors it uses, and how it weights them have never been validated for New Mexico's inmate population, it is difficult to know how likely the tool is to accurately assess security risk.

**The COMPAS tool is underutilized for identifying inmates' programming and treatment needs.** NMCD policy requires classification officers to administer the COMPAS risk-needs assessment to inmates during the initial classification process. The purpose of the assessment is to assess offenders' needs and risk of recidivism and to help case managers determine programming and treatment plans. When both the risk and needs portions of the assessment are completed, the tool can help corrections officials match high-risk offenders with appropriate programming. The tool is validated and since FY17 NMCD has spent approximately \$200 thousand a year on licenses to administer it.

However, the impact of COMPAS on classification appears limited due to issues with implementation. A 2019 LFC analysis found that in FY18 only 4 percent of the incarcerated population, or 310 inmates, had completed COMPAS assessments, while 41 percent, or 3,020 inmates, had only the risk portion completed, and 55 percent, or 4,019 inmates, had never received an assessment.

**New Mexico's classification system was designed for male prisoners and may not be appropriate for NMCD's growing female population.** Men have historically made up the vast majority of the incarcerated population. In FY20, the average male population in NMCD custody was 5,970, compared with 685 women. As a result, the tools that are used to classify men and women are often oriented toward male needs and behavior. However, the female offender population in New Mexico has grown significantly in recent years – roughly 20 percent since 2008, compared with an increase of 8 percent in the male population over the same period. Female inmates are on average less violent and more compliant than their male counterparts, and therefore pose a lower risk to security. Prison systems designed for men tend to overclassify women, stripping them of access to certain resources and costing the prison system more money. According to the National Institute of Corrections, four states – Idaho, New York, Massachusetts, and Ohio – have developed separate classification systems for men and women, leading to a dramatic drop in the



number of women in medium and high security facilities. While NMCD does not currently have separate tools for men and women, it is in the process of developing and validating gender-specific tools.

***Lapses in oversight at the former women's prison highlight the complications inadequate classification can cause for planning and operations.*** To address overcrowding and a lack of services at what was then the only women's prison in the state, in 2015 NMCD elected to move its female population from a single private prison in Grants to one of two public facilities: a minimum-security prison in Springer or a medium- and maximum-security facility in Grants. In preparing for the move, NMCD discovered the private operator at the former women's prison, which employed its own classification staff, had been housing inmates together regardless of their classification and was not regularly reclassifying the women or adequately maintaining their records. According to court transcripts, the state's attorney in the most recent *Duran* litigation told the judge: "(T)here was indiscriminate mixing of inmates at different levels. There were failures to score, there were misclassifications of inmates, lapses in classification." Additionally, the state's attorney stated, "there was no oversight by the classification bureau" at NMCD because women were not being transferred in and out of the facility. The same company that operated the women's prison – CoreCivic, formerly the Corrections Corporation of America – continues to operate the facility in Grants as a minimum- and medium-security men's prison.

As a result of the classification lapses, NMCD could not easily discern which female inmates should be assigned to the new minimum- and medium-security facilities. To sort the inmates, the deputy director of adult prisons did an "at-a-glance review of every inmate's file," according to the state's attorney, to determine which inmates were safe to assign to minimum security at Springer. The litigation revealed a number of Level III women ended up at Springer. Plaintiffs argued this put minimum-security inmates at risk, and it led to the stipulation in the 2019 *Duran* settlement requiring NMCD to resume its work with UNM's Institute for Social Research to validate a new custody scoring tool, again bringing the department's classification system under court oversight.



## High Rates of Mandatory Overrides and Inconsistent Classifications Limit Access to Minimum Security

### Overclassification should be identified and corrected

In 2016, the Corrections Department contracted with the University of New Mexico's Institute for Social Research (ISR) to review its classification system. In its phase-one study, submitted to the department in 2017, ISR examined the department's external classification tool, including its initial custody and reclassification forms. ISR's review included focus groups with classification staff and an analysis of three years of classification data. The study provided insight into the use of discretionary and mandatory overrides and other issues, which collectively raise questions about the efficacy of the system and potential overclassification. In 2019, ISR followed up with a second study testing the reliability of new initial classification and reclassification tools for men and separate tools for women. The new tools included modifications proposed by ISR based on the findings of the first report. NMCD provided the two reports to LFC in the spring of 2020; they have not otherwise been publicly released. To date, the studies have cost taxpayers \$83 thousand. The complete contracts for the final phase were not yet posted in the SHARE statewide financial system at the time of this report.

ISR's findings show that mandatory overrides occur at high rates and contribute to the high proportion of inmates held in medium-security prisons. Mandatory overrides reflect departmental policies limiting certain inmates' access to primarily minimum security, based on assumptions about how factors like sentence length might heighten escape risk. However, because NMCD's classification system has not been validated, it is unclear whether these restrictions are appropriate or overly restrictive. This uncertainty combined with the outsized impact overrides have on where prisoners are housed underscores the need for a validated classification tool. Additionally, roughly a quarter of classifications in the sample ISR analyzed were inconsistent with the custody score but without an override or other justification, something that is not supposed to occur under NMCD policy. This finding points to the need for policies and a data system that facilitate ongoing monitoring of classification practices and their effect on prison operations.

NMCD is currently obligated to validate its classification system by a 2019 consent decree in ongoing *Duran* litigation. The court specifically required the department to contract with ISR to complete the validation and with classification expert James Austin as a consultant. Validation should help shed light on whether some portion of the medium-security population could be safely housed in minimum security. The process is expected to conclude in summer 2022 and will be conducted by ISR using revised custody scoring tools for men and women.



**Although 60 percent of inmates received initial custody scores of Level I or Level II from 2014 to 2016, the majority are currently held at medium security or higher.** The three-year classification sample analyzed by ISR showed just over 60 percent of inmates received initial custody scores qualifying them for minimum-security units, while 30 percent received a Level III, or medium-security score. These numbers are notable because they differ from the proportion of inmates actually housed at Level II and III facilities.

**Table 6: Initial Custody Scores v. Final Housing Assignments**

Custody Level	Percentage of Initial Custody Scores, 2014-16	Percentage of Total Population Housed, FY20	Average Number of Inmates, FY20
Level I	13.2%	2%	143
Level II	48.1%	27%	1780
Level III	34.4%	52%	3492
Level IV	4.4%	10%	695
Predatory Behavior Management Program	n/a	3%	213
Restrictive Housing	n/a	3%	229
Health Units	n/a	2%	104

Source: ISR, NMCD

Today, just over half of the male population is held in Level III custody, with only a quarter in Level II units. A high rate of mandatory overrides and classification decisions that are inconsistent with custody scores for unknown reasons likely contribute to the discrepancy. The remaining quarter of inmates are distributed between the maximum-security levels, including Level IV, the predatory behavior management program, and restrictive housing. The women's population is nearly evenly split between its minimum- and medium-security prisons, with 46 percent at the minimum-security Springer Correctional Center, and 54 percent at the Western New Mexico Correctional Facility, which houses mostly Level III inmates and a handful of Level IVs.

**Nearly 60 percent of classification decisions from 2014 to 2016 were either subject to overrides or inconsistent with custody scores for unknown reasons.** According to NMCD policy, classification should follow the custody score unless an inmate meets certain criteria for an override. Discretionary overrides recognize that no automated scoring tool will generate appropriate results for every inmate and allow corrections staff to house inmates at lower or higher security levels than their score indicates. Mandatory overrides limit certain inmates' access to minimum- and medium-security units, based primarily on the nature of their offenses, history of violence,

**Discretionary Override:**  
Allows corrections staff to house inmates at lower or higher security levels than indicated by the custody scoring tool.

**Mandatory Override:**  
Limits certain inmates' access to minimum- and medium-security units. Should always result in a higher classification than indicated by the scoring tool.

escape risk, and the medical and behavioral health service limitations of the facilities themselves (see Appendix B for scoring tool and override criteria). Overrides are necessary components of modern classification systems, and both discretionary and mandatory overrides should be expected to impact 5 percent to 15 percent of classification decisions.

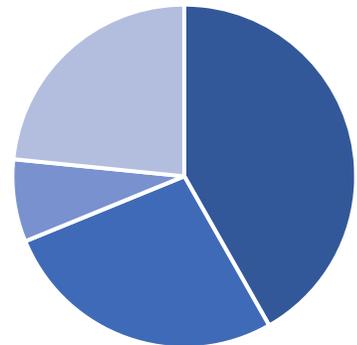
The rate of discretionary overrides in NMCD meets that benchmark, at 8 percent of classifications in the three-year sample ISR analyzed. Discretionary overrides impacted 972 unique inmates in the sample. Mandatory overrides, however, occur at a significantly higher rate, representing 27 percent of the classifications in the sample. Most of these overrides were given during initial classification. ISR did not report the number of unique inmates affected by mandatory overrides. However, based on the average number of classifications each inmate in the sample received, LFC estimates 1,500 inmates were impacted by mandatory overrides.

Fifty-seven percent of discretionary overrides in the sample moved inmates to higher security levels, while 39 percent moved inmates to lower security levels, mainly from Level IV to Level III. Sixty-six percent of mandatory overrides moved inmates to higher security levels, while 34 percent resulted in no change in custody level. This last finding is curious because mandatory overrides should only place inmates at higher custody levels. It may reflect changes in scores due to other factors or errors in the classification data and warrants further investigation

Medical and mental health restrictions were the most common justification for the mandatory overrides, followed by active detainees, missing presentence and police reports, and the length of time until projected release. Medical and mental health overrides generally reflect limited services at minimum-security facilities, such as psychiatric care or programs that allow inmates to keep medications on their person (see Appendix D). The others reflect concerns of heightened escape risk, or in the case of missing reports, a conservative approach to managing safety threats.

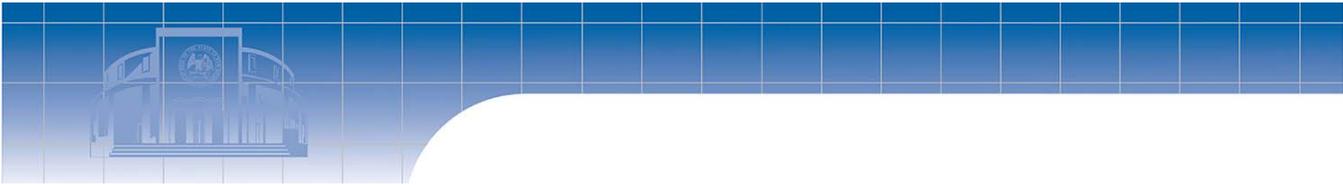
The high rate of overrides indicates department staff have limited confidence in the scoring tool's ability to effectively assess risk. The overrides limit access to minimum-security facilities, and likely help explain their low occupancy rates relative to medium-security. Notably, one of the most common justifications – a file lacking presentence or police reports – is not listed as an official override on NMCD's published classification forms, making its custody implications uncertain.

**Figure 7: Most Classifications Deviated from Custody Score**



- Consistent with Score
- Mandatory Override
- Discretionary Override
- Unexplained Inconsistencies

Source: ISR



**Table 8: Leading Justifications for Mandatory Overrides**

Override Type	Rate	Custody Implications
Medical / Mental Health Restriction	24%	Level I → II or Level II → III
Felony / Detainer / Under Criminal Investigation	14%	Level II → III
File Lacks Presentence or Police Reports	14%	Not an official override
More Than 2.5 Years to Projected Release	12%	Level I → II
Current or Previous Conviction Involving Sex Crime or Children	12%	Level I → II
Active Misdemeanor or ICE Detainer	10%	Level I → II
More than 4 Years to Projected Release	8%	Level II → III

Source: ISR, NMCD

As NMCD revises its classification forms and validates the system, it should scrutinize its override criteria, given their frequent use. The factors that restrict access to minimum security based on sentence length, for instance, do so based on the assumption that a longer sentence heightens escape risk and because inmates who are closer to release have more incentive to maintain good behavior. However, there does not appear to be evidence that the thresholds used to limit access to lower security levels actually heighten escape risk or accurately predict misconduct. Additionally, escapes are very rare; since FY09, NMCD has reported only one. Because limiting escape risk is the rationale underlying a number of mandatory overrides, NMCD should examine the necessity of those policies as it validates a new tool.

**Nearly a quarter of classifications resulted in placements at higher security levels than indicated by the custody score but without overrides or other documented justification.** ISR identified a significant group of inmates who were not housed according to their custody score but who did not receive overrides. Twenty-three percent of classifications in the sample fell into this category, impacting an estimated 1,300 inmates. (ISR did not report the unique inmates affected. LFC based the estimate on the average number of classifications each inmate received.) It is not clear why these classifications deviated from the scoring instrument, nor whether noncompliance was justified.

Nearly all of the classifications in this group – 99 percent – were higher than the custody score. According to ISR's report, NMCD officials indicated these decisions may reflect information the classification committee considered that is not clearly delineated on the classification form. However, the department's policy states any deviation from the custody score should be clearly documented and justified in an inmate's file. Additionally, the override criteria specifically exist to address situations in which the automated scoring tool does not generate appropriate results.

This finding highlights the need for regular and ongoing internal reviews of the classification system, which could identify the cause of such problems and correct them.

*Nearly a quarter of classifications resulted in placements at higher security levels than indicated by the custody score – but without overrides or other documented justification.*



**Focus groups highlighted frustration with a lack of formal training among classification officers.** ISR held focus groups with classification officers from both public and private prisons as part of its research. Participants reported that new classification officers do not receive formal training, nor do officers receive training on policy changes impacting classification. Classification officers said they relied on colleagues to learn the job and understand department policies. Relatedly, participants expressed a desire for classification policies to be more clear and less flexible. They believed there was too much gray area in policy interpretation and expressed uncertainty about whether they interpreted it correctly. Lack of training could be a factor in the inconsistencies and frequent overrides ISR identified.

**Overrides and inconsistent classifications likely contribute to high occupancy rates in medium-security prisons and comparatively low occupancy rates in minimum security.** ISR's phase-two report on NMCD's classification system provides additional evidence that mandatory overrides – and the policies they reflect – result in a substantial number of inmates who receive minimum-security custody scores being placed into medium-security facilities. The findings of its second report should be interpreted cautiously, however, because they stem from a test of proposed modifications to the scoring tool and are therefore not necessarily reflective of what is currently occurring within NMCD.

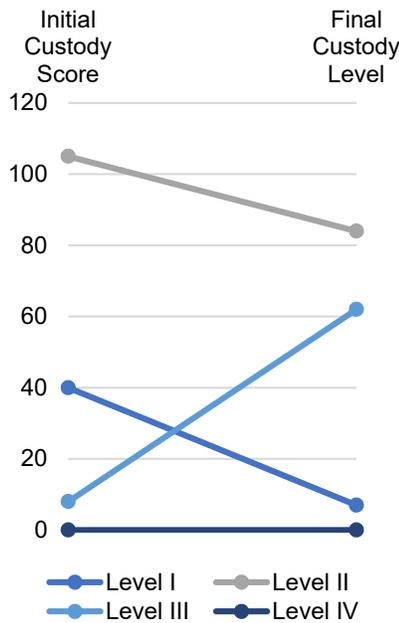
The second report assessed the reliability of new scoring tools for men and women. ISR made several proposed modifications to the scoring tools, then had classification officers from four prisons complete initial classifications for the same sample group of 152 male and 83 female inmates to determine whether the officers consistently reached the same decisions regarding custody level. The same process was followed for the reclassification of a sample group of 251 men and 196 women. While the study tested a modified version of the scoring criteria currently in use at NMCD, override criteria remained the same.

The majority of the inmates in the sample classified at medium-security were placed there as a result of overrides. Nearly half of the 152 men received a mandatory override at initial classification. Of the 40 inmates who received Level I custody scores, 83 percent were overridden. Half of that group were classified upward to Level II and more than a third were classified at Level III, a jump of two security levels. Only 5 percent, or eight inmates, received initial custody scores of Level III, but after overrides, 40 percent, or 62 inmates, were classified at Level III. The reclassification process followed similar patterns, though the shift to Level III after overrides was even more pronounced. Similarly, overrides significantly increased the number of women classified at Level III and reduced the number who qualified for Levels I and II.

The override rate in the reliability study was higher than in the 2017 assessment of NMCD's current classification tool. This may reflect the effect of adjustments made to the scoring tool, which appear to have resulted in higher percentages of inmates scoring at Levels I and II, possibly leading to a larger number meeting the criteria for overrides that limit access to those custody levels.

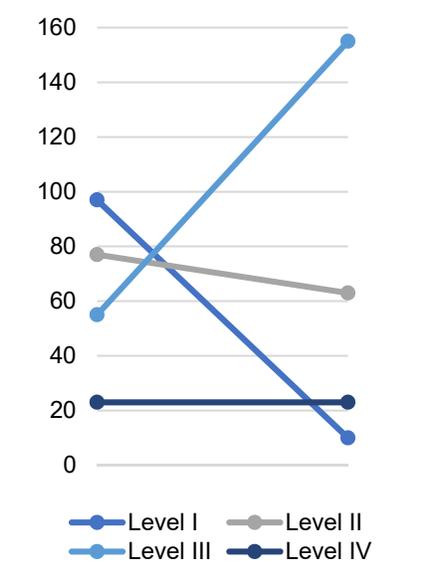


**Figure 9: Men's Initial Custody Scores vs. Custody Assignments After Overrides**



Source: ISR

**Figure 10: Men's Reclassification Custody Scores vs. Custody Assignments After Overrides**



Source: ISR

**All Level III facilities for men in New Mexico, most of which are privately operated, had occupancy rates over 90 percent in FY20, except for the Northeast New Mexico Detention Facility (NENMDF) in Clayton.** The average population of NENMDF, which NMCD has operated since the fall of 2019, was 462, an occupancy rate of 74 percent. The only other state-run Level III unit for men, at the Southern New Mexico Correctional Facility (SNMCF), had an occupancy rate comparable to privately-operated Level III facilities at 97 percent.

Most minimum-security facilities are comparatively under-occupied. The state's only Level I unit, at the Central New Mexico Correctional Facility (CNMCF), had an occupancy rate of 43 percent, while the Level II units statewide are 85 percent occupied. Occupancy at the Roswell Correctional Center was particularly low among Level II facilities, at 67 percent. Level II units at the Penitentiary of New Mexico and CNMCF were 95 percent and 92 percent occupied, respectively, while Level II units at Northwest New Mexico Detention Facility and SNMCF were 90 percent and 78 percent occupied, respectively (see Appendix A).



**Table 11: Medium-Security Units Are Near Capacity**

Custody Level	Capacity	Estimated Average Population, FY20	Occupancy
Level I	336	143	43%
Level II	2,196	1,780	81%
Level III	3,790	3,492	92%
Level IV	837	695	83%
Level VI	288	213	74%
Restrictive Housing	335	229	68%
Health Units	154	104	67%

Source: LFC analysis of NMCD CBC counts

**ISR's proposed modifications to the scoring tool are promising, but additional changes may be warranted to both the tool and the methods by which it is used**

**Older disciplinary infractions would no longer impact inmates' custody score.** Disciplinary incidents currently follow inmates for a decade, with points added for serious misconduct within the last 10 years. But the literature review ISR conducted in 2017 found research suggesting only recent misconduct – over the past year – is predictive of risk for future misconduct. While the reclassification form allows points to be deducted for recent good behavior, with higher deductions for longer misconduct-free stretches, those deductions could be canceled out by points for old offenses. Revising this aspect of the scoring instrument may make it easier for inmates to access less restrictive custody levels without compromising safety.

ISR's proposed revision to this scoring factor in the tool it tested in the 2019 report considers disciplinary history only over the past year. It should be noted, however, that the scoring system in use prior to the Santa Rosa riots also only considered institutional misconduct for a year. The independent investigation concluded this timeline was too short for New Mexico's inmate population and contributed to underclassification of violent inmates and gang members. The forthcoming validation study to be completed by ISR by summer 2022 should attempt to determine whether one year is appropriate for the current population, or whether something more conservative is warranted.

**The addition of a scoring factor for mental illness should be carefully considered before it is implemented.** A factor that adds one point to the custody score for any history of mental illness in the past five years was included on the new custody scoring tools undergoing testing by ISR. History of mental illness is predictive of risk of misconduct. However, mental health assessments by clinicians and a corresponding scoring system are already the basis for mandatory overrides, primarily due to service restrictions at Central New Mexico Correctional Facility's Level I unit and at one Level II prison, the Roswell Correctional Central (see Appendix D). It is not immediately apparent which method of accounting for inmates' mental health is superior, nor whether one or the other is likely to result in meaningfully different classification outcomes. Such questions should be examined, and if the scoring factor is added, NMCD should consider removing the mental health override.



It should also be noted that while California used to use mental illness as a scoring factor, it removed it in 2008 due to litigation.

***NMCD should consider removing the scoring factor for "history of drug and alcohol abuse."*** This factor is not predictive of misconduct, and the value it adds otherwise is unclear. Though the plain language of the factor implies it considers an inmate's history of substance use disorder, the factor in fact adds a point for trafficking or distribution of alcohol or drugs. Presumably, such offenses inside prison or outside the walls should be considered in other parts of the tool, such as history of institutional misconduct, severity of current conviction, and prior felony convictions. Additionally, LFC examined the scoring factors for three other states with similar incarceration rates to New Mexico – California, Colorado, and Kansas – all of which use validated scoring tools. None include a factor for substance abuse or misconduct. History of drug and alcohol abuse would likely be better considered as part of an assessment of treatment needs. COMPAS would be an appropriate tool to address this once it is fully implemented.

***ISR's reliability study showed some factors were consistently scored between classification officers while others were not.*** In particular, the study found weak inter-rater reliability for history of institutional adjustment and violence during initial classification for men, and moderate reliability during reclassification. This is significant because it is one of the few predictive risk factors included in the scoring tool. NMCD should determine the source of weak reliability for this important scoring factor.

***NMCD should closely examine its mandatory override criteria and the policy rationale underlying them.*** Given their high rates of use and significant impact on offenders' classification status, NMCD should include validation of the override criteria in its efforts to reform the classification system. It should determine whether the overrides are necessary, applied correctly, and appropriately or unnecessarily limiting access to lower security settings. Overrides based on sentence length, for instance, assume that longer sentences heighten escape risk. Whether that is true, however, and whether the cut points NMCD uses reduce that risk is uncertain. (The department has indicated to LFC staff that it plans to review these criteria in its validation work, but it believes some consideration of sentence length continues to be valid in determining custody level, particularly for offenders serving life sentences.) Overrides for detainers are similarly based on assumptions about escape risk. Whether this is warranted and whether all detainers should be treated equally through overrides should also be examined. Colorado, for example, limits access to minimum security for some detainers but not all.

Additionally, it is worth noting that New Mexico allows for more mandatory overrides than other states. California and Colorado, which both use validated systems, provide six and four criteria for mandatory overrides, compared with 16 in New Mexico (see Appendix C).

# Without Confidence in its Classification System, NMCD Cannot Effectively Plan for the Future and Minimize Costs

## Classification trends should inform population projections and facility planning

Much has changed about New Mexico's correctional system since the 1999 Santa Rosa riot. Since reaching an all-time high in FY16, the inmate population is declining. Admissions to the prison system dropped 15.1 percent between FY18 and FY19, the largest year-over-year decrease in two decades, and NMCD's most recent population counts show the average population declining 5 percent in FY20.

At the same time, New Mexico's public prisons are aging beyond their useful lives and becoming increasingly expensive to maintain and operate. A 2019 LFC progress report estimated deferred maintenance costs at public prisons would approach \$300 million in 2021. The report found that replacing old and inefficient housing units would be more cost-effective than continuing to maintain them. Importantly, these facilities were also not built to accommodate the security needs of the current population.

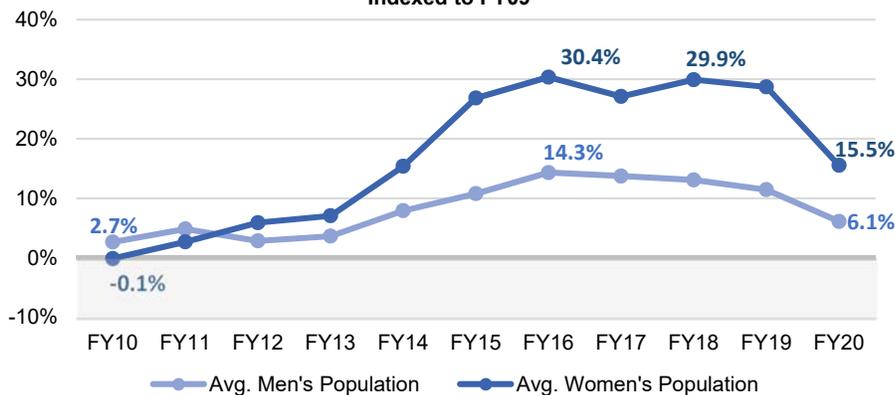
Past LFC reports have recommended NMCD complete a 10-year master facility plan. Such a master plan should be informed by classification data and projections for the security needs of the current and future population. Overclassification, if it is occurring, should be identified and factored into these projections in order to maximize cost-savings and produce facility plans that best serve inmates' needs. Classification data is not currently included in annual population projections prepared by the New Mexico Sentencing Commission. That data should be made available to the commission and included in projections.

**Figure 12: Decline in Inmate Population by Custody Level, FY19-FY20**



Source: LFC analysis of NMCD data

**Figure 13: New Mexico Prison Population Indexed to FY09**

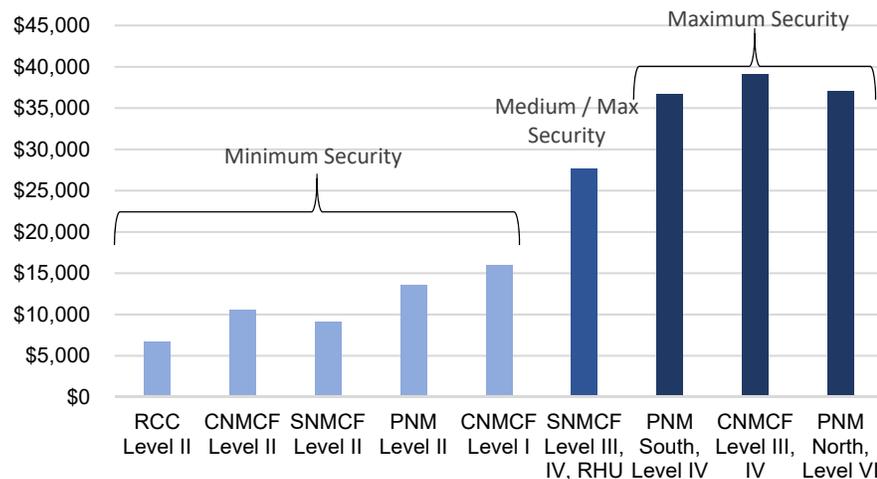


Source: NMSC, LFC files



**Classifying inmates more consistently with their custody scores could save the state millions of dollars.** The cost of incarceration generally rises with security level, primarily due to staffing requirements. The security costs of holding inmates in medium and maximum-security units in New Mexico's public prisons was at least 2.5 times greater than in minimum-security units in FY19. According to prison custody budgets, which cover correctional officers' salaries, the annual security cost-per-inmate for all minimum-security units in state-run prisons was \$11,183 in FY19, compared to \$27,668 for Level III and IV units at Southern New Mexico Correctional Facility, and \$37,585 at all other maximum-security units. It was not possible to isolate the cost of medium-security housing, or Level III, because SNMCF was the only public facility housing Level III inmates in FY19, and it keeps a combined budget for its medium- and maximum-security units. Among all units, custody costs were lowest at the Roswell Correctional Center, and highest at the Reception and Diagnostic Center in Las Lunas, where newly admitted men are held in Level IV housing while they await classification and placement. CNMCF's Level I unit was the most expensive minimum-security setting, likely due to its low occupancy rate, which averaged just 44 percent in FY19.

**Figure 14: Public Prison Custody Cost-per-Inmate, FY19**



Source: LFC analysis of NMCD data

To illuminate the overall implications of classification decisions to the budget, LFC staff estimated the cost of housing the actual population in Levels I through IV in FY19 compared with the cost of housing the population proportional to the initial custody score rates identified by ISR in its three-year data sample. This would increase the population in minimum security and decrease the population in medium and maximum security, resulting in an estimated \$28.2 million in annual savings.

This is a rough estimate, and it is not necessarily reflective of how NMCD can or should house inmates. Rather, it illustrates the outsized impact overrides have on cost and underscores the need to identify and correct misclassification. Additionally, the analysis indicates the system as it is currently designed does

not have the minimum-security capacity initial custody scores would indicate. The Level II capacity in FY19 was just 69 percent of the adjusted population in LFC's analysis. The cost savings in LFC's estimate were primarily driven by increasing the Level II population and reducing the Level III and IV populations.

**Table 15: Potential Cost Savings of Expanding Access to Minimum-Security Units**

Security Level	Avg. Annual Cost per Inmate	FY19 Avg. Population	Total Annual Cost	Population Adjusted for Initial Custody Score Rates	Total Annual Cost	Savings
Level I	\$38,191	146	\$5,575,836	852	\$32,549,135	-\$26,973,298
Level II	\$27,443	2000	\$54,886,060	3147	\$86,359,922	-\$31,473,862
Level III	\$37,135	3691	\$137,066,355	2229	\$82,776,047	\$54,290,309
Level IV	\$82,624	719	\$59,406,587	328	\$27,084,116	\$32,322,471
Total		6556	\$256,934,838	6556	\$228,769,219	\$28,165,619

Source: LFC analysis of NMCD population count and SHARE data

LFC completed an additional analysis assuming 15 percent of the total adjusted population received mandatory overrides. This still yielded significant cost savings of \$20.7 million (see Appendix E for methodology).

**Table 16: Potential Cost Savings Assuming a 15% Mandatory Override Rate**

Security Level	Population Adjusted for Overrides	Total Annual Cost	Savings
Level I	665	\$25,392,294	-\$19,816,458
Level II	2843	\$78,008,944	-\$23,122,884
Level III	2617	\$97,180,925	\$39,885,430
Level IV	432	\$35,660,255	\$23,746,331
Total	6556	\$236,242,419	\$20,692,419

Source: LFC analysis of NMCD population count and SHARE data

**Expanding access to minimum-security settings may help to reduce recidivism and the costs associated with it.** Recidivism rates are high and costly in New Mexico. A 2018 LFC program evaluation found that recidivism increased by 11 percent between FY10 and FY18, reaching 50 percent that year. More recent reporting shows recidivism continuing to increase to 54 percent in FY19. Every extra percentage point costs the state \$1.5 million a year in expenses for incarceration.

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. Some scholars suggest this is a sign that the classification systems are working to correctly predict risk. However, other experts argue more restrictive prison environments may cause inmates to engage in misconduct, both while in prison and after release. A 2011 study of California's classification system, for instance, found inmates with scores close to the cut points for medium and close custody were more likely to engage in misconduct



if they were housed at the higher security level than the lower one. The same study found little evidence that California's scoring cut points had any effect on suppressing misconduct.

***An antiquated data and record keeping system limits NMCD's ability to effectively use classification data to monitor and improve its operations.***

Custody scores are generated through an automated system that requires classification officers to enter information into the department's Criminal Management Information System (CMIS). However, much of the information classification officers use in their work is still kept in paper records. NMCD provided ISR with multiple datasets to complete their analysis, and the researchers found it difficult and sometimes impossible to match events in an inmate's file, including disciplinary reports, with changes in their custody status. ISR was therefore unable to explain the inconsistencies they found, or to fully evaluate compliance with the department's classification policies.

According to the National Institute of Corrections, classification systems should not only be validated before implementation, they should be periodically re-validated to insure their continued utility as inmate populations and criminal justice policies change. Classification should also be regularly monitored by corrections departments given its fundamental importance to the system as whole. Due to its outdated data and records systems, such monitoring is difficult if not impossible at NMCD. However, the department is in the process of adopting a new data system, which it expects to implement in 2021. The project is approximately two years behind schedule and the department had spent \$7.9 million of the \$14.2 million available for the project as of June 2020.



## Next Steps

While this report concludes a substantial number of inmates are classified at higher security levels than indicated by their custody score, it could not answer the critical question of whether such decisions are justified to protect public safety or unnecessarily restricting access to minimum security. NMCD should prioritize answering this question in the process of modifying and validating its scoring tools.

Additionally, the department should review its override criteria in the validation process. It should pay particular attention to the necessity of the most frequently used overrides, such as those based on medical and mental health restrictions, detainers, missing records, and sentence length. It should determine whether the policy assumptions underlying these overrides – in particular, assumptions about escape risk – reflect true risk or are overly restrictive.

Finally, NMCD is replacing its data system in tandem with its work to reform its classification system. The department should ensure the new data system is capable of generating reporting that allows the department to conduct broader and more consistent monitoring of classification practices and their effects on the prison system. NMCD should be capable of identifying and correcting issues like those identified in ISR's first report on a regular basis, especially high override rates and classifications that are inconsistent with the scoring tool without documented justification. It should consider adopting policies that require regular monitoring that would identify such issues.

# APPENDICES

## Appendix A: NMCD Population by Facility and Custody Level, FY20.

**NMCD FY20 Average Population By Facility and Custody Level**

Public Facilities				
Facility	Custody Level	Capacity	Avg. Population	Occupancy
Central New Mexico Correctional Facility				
	Level I	336	143	43%
	Level II	260	240	92%
	Level IV	384	302	79%
	Restrictive Housing	96	71	74%
	Long Term Care Unit	41	28	68%
	Mental Health Treatment Center	104	74	71%
	Total	1221	858	70%
Penitentiary of New Mexico				
	Level II	288	274	95%
	PNM South Level IV	261	231	89%
	PNM South Restrictive Housing	24	10	42%
	PNM North Level Predatory Behavior Management	288	213	74%
	Total	861	728	85%
Roswell Correctional Center				
	Level II	340	229	67%
	Total	340	229	67%
Southern New Mexico Correctional Center				
	Level II	288	224	78%
	Level III	240	232	97%
	Level IV	192	162	84%
	Restrictive Housing	48	32	67%
	Total	768	650	85%
Northeast New Mexico Detention Facility				
	Level III	587	439	75%
	Restrictive Housing	41	21	51%
	Total	628	460	73%
Springer Correctional Center				
	Level I, II	437	314	72%
	Total	437	314	72%
Western New Mexico Correctional Facility				
	Level III, IV	423	371	88%
	Total	423	371	88%
Total Public		4678	3610	77%

Private Facilities				
Facility	Custody Level	Capacity	Avg. Population	Occupancy
Lea County Correctional Facility				
	Level II	18	7	39%
	Level III	1224	1192	97%
	Restrictive Housing	42	38	90%
	Med	9	2	22%
	Total	1293	1239	96%
Guadalupe County Correctional Facility				
	Level III	557	548	98%
	Restrictive Housing	33	28	85%
	Total	590	576	98%
Otero County Prison				
	Level III	620	584	94%
	Restrictive Housing	27	11	41%
	Total	647	595	92%
Northwest New Mexico Detention Facility				
	Level II	565	493	87%
	Level III	139	126	91%
	Restrictive Housing	24	17	71%
	Total	728	636	87%
Total Private		3258	3046	93%

Source: LFC analysis of NMCD CBC population counts

# Appendix B: NMCD Classification Scoring Tools.

Form CD-080102.2  
Revised 08/24/16

## NEW MEXICO CORRECTIONS DEPARTMENT INITIAL CUSTODY SCORING FORM

Inmate's Name: \_\_\_\_\_ NMCD# \_\_\_\_\_  
*Last First MI*  
 Classification Officer: \_\_\_\_\_ Classification Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**1. HISTORY OF INSTITUTIONAL ADJUSTMENT/VIOLENCE.** (Review individual's entire background for 10 years prior to classification date. to include jail and juvenile incidents). (Include date of incident; rate most severe.)

None \_\_\_\_\_ 0  
 Ten or more non-violent disciplinary reports \_\_\_\_\_ 2  
 Non-violent/serious Class A Level incidents \_\_\_\_\_ 2  
 Violent Incident with no weapon, serious injury or death \_\_\_\_\_ 4  
 Violent Incident involving a weapon, serious injury or death \_\_\_\_\_ 7

**2. SEVERITY OF CURRENT CONVICTION.** (Score the most serious conviction, list offense and date)

Low \_\_\_\_\_ 1  
 Moderate \_\_\_\_\_ 3  
 High \_\_\_\_\_ 5  
 Highest \_\_\_\_\_ 7

**3. ESCAPE HISTORY.** (Last 10 years from this rating date. List date of escape).

None \_\_\_\_\_ 0  
 Escape/attempted escape from Level I or II, County Jail, Juvenile Facility, or Peace Officer (no violence) \_\_\_\_\_ 4  
 Escape/attempted escape from Level III facility or above (no violence) \_\_\_\_\_ 6  
 Escape/attempted escape with violence \_\_\_\_\_ 7

**SUB-TOTAL SCORE FOR ITEMS 1-3** (If points equal 10 or more, classify as Level IV)

**4. PRIOR FELONY CONVICTIONS** (Do not include current conviction; list offenses and dates.)

None...0      One...1      Two...2      Three or more...3  
 \_\_\_\_\_  
 \_\_\_\_\_

**5. SEVERITY OF PRIOR CONVICTIONS** (Score the most serious offense; list offense and date.)

None, Low...0      Moderate...1      High...2      Highest...3  
 \_\_\_\_\_

**6. ALCOHOL/DRUG ABUSE** (Last 10 years from this rating date; list most severe and date.)

None \_\_\_\_\_ 0  
 Trafficking or Distribution of Alcohol/Drugs \_\_\_\_\_ 1

**7. CURRENT AGE**

21 and under...2      22 to 25...1      26 to 34...0      35 to 44...-1      45 and above...-2

**8. GANG MEMBERSHIP/ACTIVITIES IN THE PAST 10 YEARS**

Yes...2      No...0  
 \_\_\_\_\_

**TOTAL SCORE** (Add 1 through 8)

**NEW MEXICO CORRECTIONS DEPARTMENT  
RECLASSIFICATION SCORING FORM**

Inmate's Name \_\_\_\_\_ NMCD# \_\_\_\_\_

Classification Officer: \_\_\_\_\_ Reclassification Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**1. HISTORY OF INSTITUTIONAL ADJUSTMENT/VIOLENCE.** (Review individual's entire background for 10 years prior to reclassification date to include jail and juvenile incidents)(Include date of incident; rate most severe)

None \_\_\_\_\_ 0

Non-violent/serious Class A Level incidents \_\_\_\_\_ 1

Violent Incident with no weapon, serious injury or death \_\_\_\_\_ 3

Violent Incident involving a weapon, serious injury or death \_\_\_\_\_ 6

**2. SEVERITY OF CURRENT CONVICTION** (Score most serious conviction, listing offense and date)

Low \_\_\_\_\_ 1

Moderate \_\_\_\_\_ 2

High \_\_\_\_\_ 4

Highest \_\_\_\_\_ 6

**3. ESCAPE HISTORY** (last 10 years from this rating date, list date).

None \_\_\_\_\_ 0

Escape/attempted escape from Level I or II facility, juvenile facility, peace officer, or county jail (no violence) \_\_\_\_\_ 3

Escape/attempted escape from Level III facility or above (no violence) \_\_\_\_\_ 5

Escape/attempted escape with violence \_\_\_\_\_ 6

**SUB-TOTAL SCORE FOR ITEMS 1 – 3** (If points equal 10 or more, classify as Level IV)

**4. PRIOR FELONY CONVICTIONS** (Do not include current conviction) List offenses and dates.

None...0      One...1      Two...2      Three or more...3

\_\_\_\_\_

\_\_\_\_\_

**5. DISCIPLINARY CONVICTIONS RECEIVED** (only one per class)

Last 24 months: One or more Class A=5 \_\_\_\_\_

Last 24 months: One or more Class B=4 \_\_\_\_\_

Last 24 months: One or more Class C=2 \_\_\_\_\_

**6. HISTORY OF DISCIPLINARY** (Clear conduct)

Clear conduct for 36 months or more \_\_\_\_\_ -3

Clear conduct for 24 months or more \_\_\_\_\_ -2

Clear conduct for 12 months or more \_\_\_\_\_ -1

**7. PROGRAM/WORK PERFORMANCE** (Last 6 months)

Less than maximum good time...0      Maximum good time...-2

**8. CURRENT AGE**

21 and under...2      22 to 25...1      26 to 34...0      35 to 44...-1      45 and above...-2

**9. GANG MEMBERSHIP/ACTIVITIES IN THE PAST 10 YEARS**

Yes...2      No...0

**TOTAL SCORE** (Add items 1 through 9)

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Custody Level Scale for Initial/Reclassification Scoring Forms**

**Male Inmates**

- LEVEL IV 10 points or higher on items 1-3, or 18 points and higher on items 1 through 8 (9)
- LEVEL III 12-17 points on items 1 through 8 (9)
- LEVEL II 6-11 points on items 1 through 8 (9)
- LEVEL I 5 or less points on items 1 through 8 (9)

**Female Inmates**

- LEVEL IV 10 points or higher on items 1-3, or 19 points and higher on items 1 through 8 (9)
- LEVEL III 13-18 points on items 1 through 8 (9)
- LEVEL II 7-12 points on items 1 through 8 (9)
- LEVEL I 6 or less points on items 1 through 8 (9)

**CUSTODY OVERRIDE FACTORS**

**MANDATORY OVERRIDE FACTORS:** *Override factors are to be documented whether override is necessary or not, by checking the appropriate section*

**Level I Facility Restrictions**

- Current charge or previous conviction involving sex crime or child abuse  Inconclusive NCIC
- More than two and one half years to projected release date  Medical/Mental Health Restriction
- Misdemeanor or ICE Detainer  2<sup>nd</sup> Degree Murder
- Drug related misconduct report within the past 6 months

**Level I and II Facility Restrictions**

- More than four years to projected release date  Interstate Compact Inmate w/o custody reduction approval from sending state
- Current Offense for murder 1<sup>st</sup> Degree  Escape from Level II facility within past 10 yrs
- Medical/Mental Health Restriction  Validated or Suspected Inactive STG member
- Felony Detainer/Active Felony Warrant/Under criminal investigation

**Level I, II, and III Facility Restrictions (males only)**

- Escape from a Level III or above
- Validated or Suspected STG Affiliation

**DISCRETIONARY OVERRIDE TO INCREASE CUSTODY LEVEL:** *Discretionary override factors are to be marked only if activated. (Select most applicable.)*

- Known behavior/management problems  Serious violence threat
- Nature of offense more severe than charge would indicate  Felony arrest history
- Absconded from probation or parole within past year  Known gang affiliation/suspect
- Suspected escape threat  Former Law Enforcement Officers
- Escape from Level I  Short time remaining to serve

**DISCRETIONARY OVERRIDE TO LOWER CUSTODY LEVEL (Select most applicable.)**

- Inmate does not require level IV supervision  Good institutional conduct
- Nature of offense not as severe as scale would indicate  Within six months projected remaining to serve
- Prior record not as severe as scale would indicate

**RECOMMENDED CUSTODY LEVEL**

- Level I
- Level II
- Level III
- Level IV

**RECOMMENDED HOUSING STATUS (Male)**

- General Population  MHTC
- Special Management  LTCU
- LCCF UNIT 4

**Gender Responsive**

- Minimum
- Medium
- Maximum

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Classification Officer's Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Supervisor's Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Classification Committee's Chair Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Security Representative Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**FINAL CUSTODY LEVEL**

- Level I
- Level II
- Level III
- Level IV

**FINAL HOUSING/STATUS (Male)**

- General Population  MHTC
- Special Management  LTCU
- LCCF UNIT 4

**Gender Responsive**

- Minimum
- Medium
- Maximum

Reasons for Override: \_\_\_\_\_

## Appendix C: California and Colorado Override Criteria.

### California Department of Corrections and Rehabilitation Mandatory Override Criteria

Reason for Override	Mandatory Minimum Housing Level
Sentenced to life without the possibility of parole	II
History of escape	II
History of sex offense	II
History of violence and does not meet certain criteria*	II
Sentenced to life without the possibility of parole and does not meet certain criteria**	II
Sentenced to death	IV

\*Criteria include being within five years of release and having a minimum of seven years since last violent offense

\*\*Criteria include having been evaluated by a psychologist to represent a low or moderate risk of violence and not having a high level of notoriety.

Source: California Legislative Auditor

### Colorado Department of Corrections Mandatory Override Criteria

Reason for Override	Restricted Custody Level*
Time Restriction	I and II
Sex Offender	I and II
Felony Detainer	I and II
Prior Escape Secure Facility	I and II

\*Level I restrictions include restrictions on placements in community corrections. CDC override criteria are not absolute. For example, offenders with certain types of detainers may still be eligible for Level I and II placement. Those with escape histories not involving violence and with at least seven years since the last attempt may still be eligible for Level I. Similarly, absconding from parole or probation or community corrections does not render one ineligible for Level I.

Source: Colorado Department of Corrections

## Appendix D. NMCD Behavioral Health Codes and Facility Restrictions.

Inmates on medication for mental health issues cannot be housed in Central New Mexico Correctional Facility's Level I Unit or at the Roswell Correctional Center, though they can be admitted to all other Level II facilities in the state. When inmates are admitted to the prison system, they are assessed by behavioral health clinicians and given a mental health code. These codes contribute to classification decisions and can be the basis for mandatory overrides, since some facilities lack the services necessary to care for certain inmates.

NMCD Behavioral Health Codes
<b>Code 0:</b> No current mental health issues indicated.
<b>Code 1:</b> Active in mental health group treatment and / or psycho-education. No other treatment programs or needs. Not on psychotropic medication.
<b>Code 2:</b> Active in mental health treatment. Not on psychotropic medication. Not receiving psychiatric services.
<b>Code 3:</b> Stable with medication, with or without participation in any other form of treatment. Or has an active referral to psychiatry or is being monitored by psychiatry whether or not on medications.
<b>Code 4:</b> Not stable due to mental illness. Self-injurious behavior within the last 90 days. Active suicidal ideation within last 60 days.
<b>Code 5:</b> Actively psychotic. Suicide attempts within the last 90 days. A danger to self or others due to mental illness.

Source: NMCD

CNMCF's Level I unit and RCC, a Level II prison, can accept codes 0, 1, and 2, but cannot accept any inmates on psychotropic medication because they lack psychiatric services. All other Level II units in the state accept codes 0 through 3. Given the high proportion of medical and mental health overrides, the absence of services from CNMCF I and RCC may contribute to those units' low occupancy rates.

## Appendix E. Cost Savings Methodology.

To calculate potential cost savings from changing the distribution of inmates across security levels, LFC staff estimated the cost-per-inmate (CPI) by custody level at each public and private prison for FY19. NMCD reports average CPI figures by facility for public prisons but does not report these figures by custody level; additionally, the agency only reports the overall average CPI for all private prisons, without a breakdown by facility (see Appendix F). To provide comparable CPI amounts by custody level for both publicly- and privately-operated prisons, LFC staff used the methodology outlined below.

The average population for FY19 was estimated using count reports from NMCD's Central Bureau of Classification from the 15<sup>th</sup> of each month.

**Table 1: Public Prison Custody and Non-Custody Costs, FY19**

	Avg. FY19 Population Estimate*	FY19 SHARE Total Custody Costs**	Avg. FY19 CPI***	Total Annual Cost by Facility****	Est. FY19 Non-Custody Costs
CNMCF	852	\$20,209,705	\$51,366	\$48,284,447	\$28,074,742
PNM	774	\$22,302,705	\$54,527	\$43,676,409	\$21,373,704
RCC	298	\$1,987,180	\$29,966	\$8,869,849	\$6,882,669
SNMCF	702	\$14,515,230	\$49,732	\$34,464,610	\$19,949,380
WNMCF	374	\$5,670,159	\$47,024	\$17,916,292	\$12,246,133
SCC	385	\$3,224,448	\$31,277	\$12,104,190	\$8,879,742
<b>GRAND TOTAL</b>	<b>3,384</b>	<b>\$67,909,427</b>	<b>\$43,982</b>	<b>\$165,315,798</b>	<b>\$97,406,370</b>

\*LFC analysis of NMCD count reports from Central Bureau of Classification

\*\*Calculated based on custody expenditures in security level budgets at each facility

\*\*\*As reported by NMCD by facility in Dec. 2019 report to LFC

\*\*\*\*Based on FY19 CPI as reported by NMCD and LFC average population estimate

At the public prisons, LFC used custody expenditures to estimate the CPI at each security level. Custody expenditures are reported by security level in SHARE budget data for each prison. The custody costs of each prison were first compared to the total annual costs at each facility, which were calculated using the CPI for each facility as reported by NMCD. This allowed LFC staff to determine the percentages of the CPI at each facility that were attributable to custody versus non-custody costs. LFC staff then calculated the custody CPI by unit level for each public prison and applied the ratio of custody to non-custody costs to estimate a total CPI by custody level.

**Table 2: Estimated Cost-Per-Inmate by Custody Level, Public Prisons, FY19**

Facility	Level	Custody Expenditures*	Avg. FY19 Pop.	Est. Non-Custody Costs	Est. Total Cost	Est. Total CPI
SNMCF	Level II	\$2,424,142	265	\$3,331,682	\$5,755,824	\$21,720
SNMCF	Level III, IV	\$12,091,088	437	\$16,617,698	\$28,708,786	\$65,695
CNMCF	Level I	\$2,333,795	146	\$3,242,041	\$5,575,836	\$38,191
CNMCF	Level II	\$2,452,633	232	\$3,407,128	\$5,859,761	\$25,258
CNMCF	Level IV	\$12,050,611	308	\$16,740,363	\$28,790,974	\$93,477
PNM	Level II	\$3,602,444	266	\$3,452,387	\$7,054,831	\$26,522
PNM	Level V	\$9,455,337	258	\$9,061,483	\$18,516,820	\$71,771
PNM	Level VI	\$9,244,924	250	\$8,859,834	\$18,104,758	\$72,419
RCC	Level II	\$1,987,180	298	\$6,882,669	\$8,869,849	\$29,765
WNMCF	Level III, IV	\$5,670,159	367	\$12,246,133	\$17,916,292	\$48,818
SCC	Level I, II	\$3,224,448	342	\$8,879,742	\$12,104,190	\$35,392

\*Source: SHARE budget data

Less detailed budget data was available for the private prisons, and it was only possible to estimate a CPI by facility. However, since most of the private prisons accepted almost solely Level III inmates in FY19, this provided an acceptable approximation of custody-level CPI. (NWNMCF's CPI was not included in the estimate for the average Level III CPI since it takes more Level II than Level III inmates.) LFC estimated CPI by facility by calculating the CPI of the department's contract with the prison operator and estimating the additional costs related to these facilities based on NMCD's CPI report. The CPI associated with contract expenditures was calculated based on actual contract costs as reported by NMCD in its FY21 budget request. Non-contract costs were estimated using the average private CPI reported by NMCD to LFC in December 2019. LFC staff then calculated the percentage of the total annual cost of private prisons attributable to non-contract costs, and applied this ratio to the costs of the individual facility contracts to calculate an estimated total CPI by facility.

**Table 3: Estimated Cost-Per-Inmate by Facility, Private Prisons FY19**

	Avg. FY19 Pop Estimate	Total FY19 Contract Costs*	Est. Contract Cost CPI	Total FY19 Annual Cost**	Non-Contract Costs	Est. Non-Contract Cost Percentage	Est. Total CPI by Facility
<b>Total</b>	3,639	\$89,695,800		\$125,244,377	\$35,548,577	40%	
GCCF	572	\$13,207,500	\$23,077				\$32,222
LCCF	1,247	\$27,509,500	\$22,059				\$30,802
NENMCF	508	\$17,435,200	\$34,327				\$47,931
NWNMCF	699	\$15,016,700	\$21,478				\$29,990
OCPF	612	\$16,526,900	\$26,986				\$37,682

\*As reported in NMCD's FY21 budget request

\*\*Based on average private CPI and population reported by NMCD in Dec. 2019

## Appendix F. NMCD CPI Report, FY19.

### New Mexico Corrections Department Average Cost Per Inmate / Client-Slot Based on FY19 Actual Expenditures

**Final**

Institution / Program	Cumulative Average Population/ Caseload	Average Annual Cost Per Inmate/ Client-Slot	Cost Per Day (In \$'s)
Penitentiary of New Mexico	801	\$ 54,527	\$ 149.39 (4)
Western New Mexico Correctional Facility (Females)	381	\$ 47,024	\$ 128.83 (9)
Southern New Mexico Correctional Facility	693	\$ 49,732	\$ 136.25 (5)
Central New Mexico Correctional Facility	940	\$ 51,366	\$ 140.73 (8)
Roswell Correctional Center	296	\$ 29,966	\$ 82.10 (10)
Springer Correctional Center (Females)	387	\$ 31,277	\$ 85.69 (11)
<b>Total Department Operated Facilities</b>	<b>3,498</b>	<b>\$ 47,517</b>	<b>\$ 130.18 (1)</b>
Private Prison (Males)	3,713	\$ 33,731	\$ 92.41 (2)
<b>Total Privately Operated Facilities</b>	<b>3,713</b>	<b>\$ 33,731</b>	<b>\$ 92.41</b>
<b>Institution Totals</b>	<b>7,211</b>	<b>\$ 40,419</b>	<b>\$ 110.74</b>
Community Corrections	511	\$ 9,809	\$ 26.88 (8)
Residential Treatment Center Programs (Females) Albuquerque	69	\$ 24,868	\$ 68.13 (3, 7, & 8)
CC Residential Treatment Center Programs (Males) Los Lunas	74	\$ 22,854	\$ 62.62 (3 & 8)
Probation & Parole (Less ISP)	8,657	\$ 3,091	\$ 8.47 (8)
Intensive Supervision Program	911	\$ 1,383	\$ 3.79 (8)
<b>Probation &amp; Parole/Community Corrections Totals</b>	<b>10,222</b>	<b>\$ 3,566</b>	<b>\$ 9.77</b>

**Notes:**

- (1) The Corrections Department's Public Institution's Cost Per Inmate is based on FY19 expenditures, including allocations from Administration, Information Technology Division, APD Director's Office, Training Academy, Health, Education Bureaus and Recidivism and other special appropriations.
- (2) The Private Prison Cost Per Inmate is based on FY19 expenditures, including allocations from Administration, Information Technology Division, APD Director's Office, Health, Education Bureaus and Recidivism and other special appropriation.
- (3) Not based on the number of clients served during this fiscal year. The average length of stay for a Community Corrections clients is eight to nine months for non-residential and six months for residential programs.
- (4) Includes all PNM facilities: Levels II, IV, V & VI.
- (5) Includes all SNMCF facilities: Levels II, III, IV & VI.
- (6) Includes all CNMCF facilities: Levels I, II, III, IV, V, VI, Long Term Care, Mental Health Treatment Center, Geriatric Unit, Reception & Diagnostic Center.
- (7) The Women's Residential Treatment Program in Albuquerque is a program for both women and their children and women with identified dual diagnosis (mental health & substance abuse issues). Priority placement into the program are women released directly from incarceration to parole supervision.
- (8) Based on the average offender population to the assigned program.
- (9) Includes all WNMCF facilities: Levels II, III, & VI - Woman
- (10) Includes all RCC facilities: Level II.
- (11) All SCC facilities: Levels I & II - Woman

December 19, 2019