



NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

Program
Evaluation
Unit

Program Evaluation: Corrections
Department – Status of Programs to Reduce
Recidivism and Oversight of Medical
Services

October 23, 2018

Report #18-09

LEGISLATIVE FINANCE COMMITTEE

Representative Patricia A. Lundstrom, Chairwoman
Senator John Arthur Smith, Vice-Chairman
Representative Paul C. Bandy
Senator William F. Burt
Senator Pete Campos
Senator Carlos. R Cisneros
Representative Randal S. Crowder
Representative George Dodge, Jr.
Representative Jimmie C. Hall
Representative Larry A. Larrañaga
Senator Carroll H. Leavell
Senator Howie C. Morales
Senator George K. Munoz
Senator Steven P. Neville
Representative Nick L. Salazar
Representative Jim R. Trujillo

DIRECTOR

David Abbey

DEPUTY DIRECTOR FOR PROGRAM EVALUATION

Charles Sallee

PROGRAM EVALUATION TEAM

Amir Chapel
Jon R. Courtney, Ph.D.
Sarah M. Dinces, Ph.D.
Nathan Eckberg, Esq.
Jenny Felmley, Ph.D.
Micaela Fischer
Brenda Fresquez, CICA
Maria D. Griego
Brian Hoffmeister
Clayton Lobaugh
Travis McIntyre, Ph.D.
Alison Nichols

Representative Patricia A. Lundstrom
Chairwoman

State of New Mexico
LEGISLATIVE FINANCE COMMITTEE

325 Don Gaspar, Suite 101 • Santa Fe, NM 87501
Phone: (505) 986-4550 • Fax (505) 986-4545

Representative Paul C. Bandy
Representative Randal S. Crowder
Representative George Dodge, Jr.
Representative Jimmie C. Hall
Representative Larry A. Larrañaga
Representative Nick L. Salazar
Representative Jim R. Trujillo

David Abbey
Director



Senator John Arthur Smith
Vice-Chairman

Senator William F. Burt
Senator Pete Campos
Senator Carlos R. Cisneros
Senator Carroll H. Leavell
Senator Howie C. Morales
Senator George K. Munoz
Senator Steven P. Neville

October 23, 2018

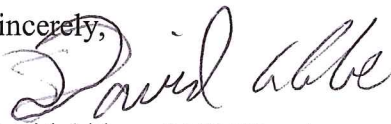
Chairwoman Patricia Lundstrom
Legislative Finance Committee
325 Don Gaspar
Santa Fe, New Mexico 87501

Dear Chairwoman Lundstrom:

The Legislative Finance Committee are pleased to transmit the program evaluation, *Review of the New Mexico Corrections Department: Prison Staffing, Oversight of Medical and Behavioral Healthcare and Implementation Status of Evidence-Based Programming*. The evaluation focused on prison staffing, the implementation of evidence based programming as it relates to reentry, and oversight of the medical and behavioral health contracts.

The report will be presented to the Legislative Finance Committee on October 23, 2018. An exit conference was conducted to discuss the contents of the report with the New Mexico Corrections Department on October 18, 2018.

We believe this report addresses issues the Legislative Finance Committee asked us to review and hope the New Mexico Corrections Department and the state as a whole will benefit from our efforts. We very much appreciate the cooperation and assistance we received from all parties involved.

Sincerely,

David Abbey, LFC Director

DA:TM:AC:TE/al

CC: Representative Patricia A. Lundstrom, Chair, Legislative Finance Committee
Senator John Arthur Smith, Vice-Chair, Legislative Finance Committee

Table of Contents



Executive Summary	1
Key Recommendations	2
Background	4
Findings and Recommendations	6
Recidivism Reduction Programs are Evidence-Based, but Need to be Tracked for Utilization and Outcomes.....	6
Technical Parole Violations Associated With Substance Use Drive Recidivism Rates; Use of Treatment Programs is Unknown.....	11
Health Care Contracts Incorporate Best Practices but Quality of Care is Unknown.....	18
Agency Response	27
Appendices	28
Appendix A: Evaluation Scope and Methodology	28
Appendix B: New Mexico Prisons.....	30
Appendix C: Recidivism Rates.....	31
Appendix D: ReleaseEligible Inmates.....	32
Appendix E: Parole and Probation Offices.....	33
Appendix F: Professional Parole Board Qualifications.....	34





Recidivism is rising, driven by parole revocations for technical violations

A nationwide movement for criminal justice reform has seen significant declines in prison populations across the U.S. in recent years, though at the same time, New Mexico prisons have continued to grow. From 2009 to 2016, the total U.S. prison population decreased by 7 percent while the total New Mexico prison population increased by 14 percent. In FY18, the state allocated \$297.3 million in general fund dollars to the New Mexico Corrections Department (NMCD) to house 7,325 inmates and supervise 19,552 probationers and parolees. Ninety-five percent of these inmates eventually return to the community, and so it is essential to prepare offenders for reentry in order to improve public safety and reduce costly recidivism (the return to prison) of offenders.

Since a 2012 LFC program evaluation of corrections, NMCD has implemented best practices in several areas including using validated risk-needs assessments for all inmates, developing an inventory of evidence-based recidivism reduction programs with the Pew-MacArthur Results First Initiative, and reducing the number of costly release eligible inmates by half. However, the recidivism rate in New Mexico is increasing, rising to 50 percent in FY18, an 11 percent increase since FY10. Every extra percentage point of recidivism costs the state \$1.5 million per year for incarceration alone.

Parole revocations for technical violations related to drug use contribute half of the recidivism rate. Approximately one-third of prisoners admitted to NMCD are due to failed drug tests and missed appointments. It costs the state over \$40 million per year to house these revoked parolees in prison versus community supervision, and there is little evidence that this improves public safety or addresses root causes of crime. LFC analysis found that 67 percent of parolees violate conditions at least once, 75 percent of which are for failed drug tests and missed appointments. In total, 43 percent of parolees are revoked and sent back to prison after an average of 2.7 violations over 372 days. The average time revoked parolees spend in prison is 333 days, at a cost of \$30 thousand per offender compared to remaining on supervision.

NMCD changed medical providers from Corizon to Centurion for healthcare, Boswell for pharmacy, and MHM for women's behavioral healthcare in early 2016, though still faces difficulties recruiting and retaining qualified staff to provide and oversee health services. Performance measures in the contracts comprehensively cover treatment rates but do not show whether conditions are being adequately managed or cured. The state has strong medical and geriatric parole statutes and policies that go underutilized, causing inmates who would be better served outside prison walls to remain incarcerated.

Moving forward, NMCD could improve on their success at implementing best practices by beginning to track how the needs of offenders are connected with services, and evaluating the implementation and outcomes of recidivism reduction programs to ensure they are working as intended.

Parole revocations for technical violations related to drug use contribute half of the recidivism rate



Recommendations

The legislature should:

Consider expanding funding for transitional living to adequately house hard-to-place release eligible inmates and to be used as a sanction for parole violations, but should require and expand the use of evidence-based programs at those facilities

Consider appropriating to recidivism reduction programs as a separate line item in the NMCD budget

Consider amending the geriatric and medical parole statute to require NMCD to evaluate inmates eligible for medical and geriatric parole and submit the list to the Parole Board for consideration

NMCD should:

Require all private prison contracts to use performance based funding based on recidivism reduction targets over historic recidivism rates at each facility

Collect performance measures for the percent of COMPAS recommendations actually assigned and completed

Collect performance measures for need, participation, and completion for all recidivism reduction programs

Collect performance measures for the number of reentry plans recommending treatment/education needs and the participation and completion of those programs

NMCD should collect performance measures for housing/employment/treatment needs and outcomes

Accompany cost-savings from REI reduction with accompanying justice reinvestment

Improve case management of parolees to ensure connection to services and implement evidence-based STEP programs statewide (graduated interventions, short jail-time, etc.) to maximize attempts to divert from full revocation

Cooperate with the Department of Health to obtain access to the Electronic Health Records system being proposed to modernize health information management

Work with state health agencies to discuss methods of incentivizing long term care providers in the community to accept medical parole-eligible inmates to make better use of medical parole rules

Background

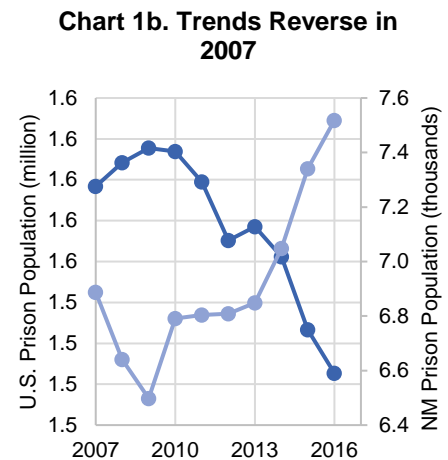
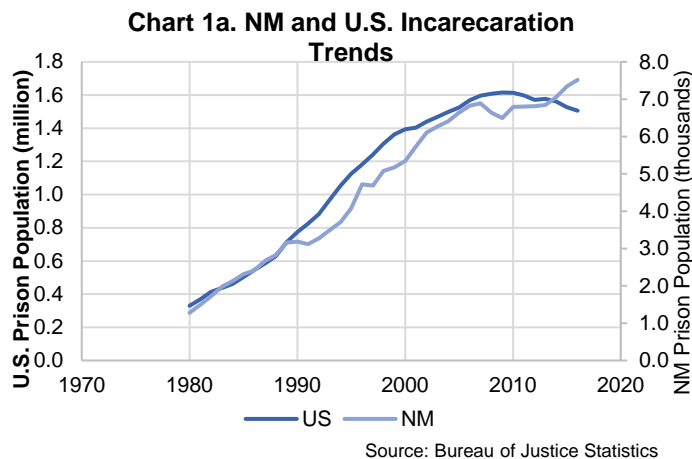
Table 1. Top 10 Highest Incarceration Rates Worldwide

Country	Prison Population (per 100,000)
U.S.A.	655
El Salvador	604
Turkmenistan	552
Thailand	526
Cuba	510
Maldives	499
Rwanda	464
Bahamas	438
Seychelles	437
Grenada	435

Source: World Prison Brief, Institute for Criminal Policy Research

The United States has the highest rate of incarceration in the world according to the Institute for Criminal Policy Research, with 1 in every 114 adults behind bars (1 in every 167 in prison) and 1 in every 55 adults under community supervision at the end of 2016, according to Bureau of Justice Statistics. In total, 2.6 percent of all adults are under some form of corrections supervision. In New Mexico, 1 in every 108 adults were behind bars (1 in 210 in prison) and 1 in every 103 adults were under community supervision at the end of 2016. According to the Robina Institute of Criminal Law and Criminal Justice, New Mexico ranked 36th among states for prison incarceration rates and 36th for parole supervision rates in 2014. A total of 1.9 percent of all New Mexico adults are under some form of corrections supervision.

National trends for incarceration show a consistent decline over the past decade. While incarceration trends in New Mexico and the U.S. have historically moved in the same direction, they have moved in opposite directions since 2007, shown in Chart 1 below. The total prison population in the U.S. increased every single year until 2009 and has been decreasing since then. In New Mexico, the total prison population reached an initial peak in 2007 and then declined through 2009 before increasing again. From 2009 to 2016, the total U.S. prison population declined by 7 percent and the total New Mexico prison population increased by 14 percent. The FY18 general fund appropriation to the New Mexico Corrections Department was \$297.3 million.



Recent Policy Developments

International: In 2013, the VERA Institute of Justice took delegations from the U.S., including the NMCD secretary, to the Netherlands and Germany to study incarceration practices. The visit showed a stark contrast in incarceration practices – Europe focuses on re-socialization and rehabilitation in contrast to the U.S. practice of incapacitation and retribution. In Germany, law require prisons to be comparable to life outside prison walls, facilitate easy reentry, and suspend most prison sentences less than two years in exchange for fines or community service. Inmates in German and Dutch prisons prepare their own meals, wear their own clothes, and work and education are required. Many inmates are allowed to leave prison on weekends to be with family and practice skills they learned during the week. The VERA report states that only about 1 percent of inmates abscond from family visitation and that denial of weekend home stays are considered a more severe sanction than solitary confinement.

National: There is a large and bipartisan appetite for criminal justice reform throughout the U.S. at this time. Recognizing the nation’s world-leading incarceration rate, Congress introduced a bipartisan bill in late 2017 entitled the Sentencing Reform and Corrections Act aimed at reducing federal mandatory minimums, and in some cases making the reductions retroactive, for drug and gun sentence offenses. In addition to federal reforms, states have also identified best practices. In 2007, Texas projected a need for 17 thousand new prison beds at a cost of half a billion dollars. However, the state worked to analyze their justice system which identified low community supervision success rates, scant in-prison programming, and poor utilization of parole and reallocated funds earmarked for prison construction towards treatment and diversion programs as well as enacted legislation to expand treatment access, improve chances for success on community supervision, and better use of parole. Texas is estimated to have saved over \$200 million as a result. Similarly, Idaho focused on improving access to substance use treatments and expanded access to probation and parole by adding staff and improving training, allowing for a higher caseload and fewer in prison. Idaho projected a 16 percent inmate population increase between FY14 and FY19 despite having one the lowest crime rates in the nation. As a result of implementing best practices, Idaho’s inmate population fell 3 percent in the first year and a half and the state was able to close a prion unit.

New Mexico: In the face of years of significant inmate population growth, New Mexico has worked to reduce recidivism and contain costs by providing better services for incarcerated persons. In 2012, the LFC published a program evaluation, *Reducing Recidivism, Cutting Costs and Improving Public Safety in the Incarceration and Supervision of Adult Offenders*, with several recommendations around strengthening recidivism reduction best practices. In 2013, NMCD created the Office of Recidivism Reduction in an attempt to strategically work towards better outcomes for offenders. In 2014, NMCD created a research and analysis unit to measure program outcomes, evaluate fidelity, and promote evidence-based practices. In 2015, the department adopted policy requiring no less than 70 percent of total recidivism programming be evidence-based as defined by the Pew-MacArthur Results First Initiative and began determining Medicaid eligibility prior to release.

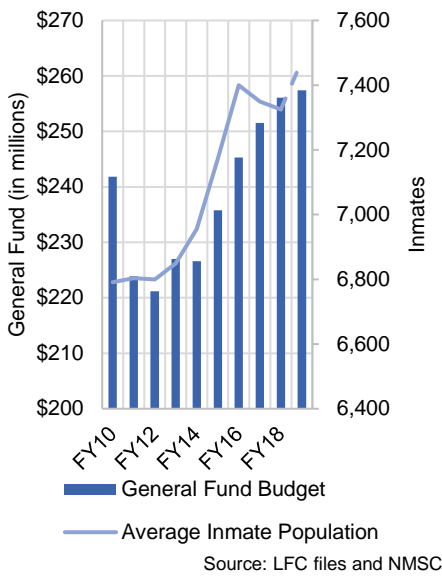
The purpose of this evaluation is to review recidivism reduction programs, with a focus on reentry practices, as well as to look at healthcare providers and outcomes in the corrections department.



Recidivism reduction programs are evidence-based, but need to be tracked for utilization and outcomes

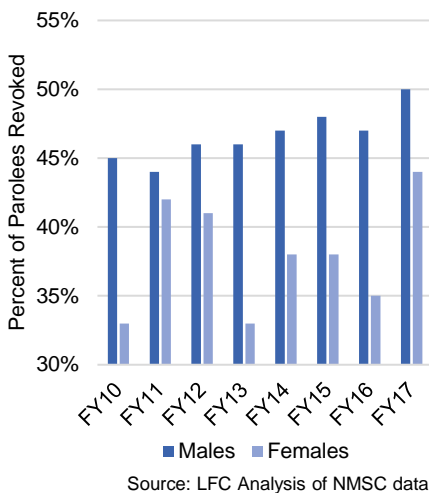
The New Mexico Corrections Department (NMCD) operates 11 prisons across the state, six public and five private (see Appendix B)

Chart 2. NMCD Prisons General Fund History



In FY18, the average population in NM state prisons was 7,325 inmates, 765 women and 6,560 men, a 7.9 percent increase since FY10, but a 1.3 percent reduction from the all-time high in FY16. Private facilities incarcerated 51 percent of the total prison population in FY18. Inmate population is a function of both number of admissions per year and average length of stay. In New Mexico, the average length of stay in prison for men is one and a half years while women serve on average just over one year. The New Mexico Sentencing Commission (NMSC) measures that the female prison population has been increasing at 4 percent per year over the last five years versus 2 percent per year for males over the same time period. However, NMSC estimates show the female population is projected to stay flat through FY19 while the men’s population is projected to rise 1 percent. General fund appropriations for prisons were \$256.1 million in FY18, a 5.9 percent increase from FY10 and a 15.8 percent increase from the post-recession low of \$262.8 million in FY11. Average cost per inmate per day fell from \$97.5 in FY10 to \$95.8 in FY18, though was at a low of \$89.1 per inmate per day in FY12. Vacancy rates among corrections officers has stayed between 21 and 24 percent over the last three years.

Chart 3. Recidivism Rates Increasing



The recidivism rate among New Mexico offenders is increasing

Of those incarcerated, 95 percent will be released and many of those will return to prison. Recidivism, or the return to prison within three years of release from prior incarceration, is a significant driver of prison admissions, representing almost half of all admissions. In New Mexico, those returning to prison represented 41 percent of all admissions in FY17, according to New Mexico Sentencing Commission data. The overall recidivism rate among New Mexico offenders has been increasing over the past decade. Chart 3 shows the recidivism rate for men and women since FY10. In FY17, NMCD reported a recidivism rate over 50 percent for the first time in the past decade, a 5 percent increase since FY10 or the equivalent of approximately \$6 million per year in additional costs. A 2017 study by the Virginia Department of Corrections ranks New Mexico’s FY16 recidivism rate well above the national average, at 11th in the nation (see Appendix C), though we are cautioned not to compare recidivism rates between states too closely as they use different counting methods and regulations.

Successful in-custody recidivism reduction requires best practices from intake to reentry

According to the Bureau of Justice Assistance (BJA) and the Substance Abuse and Mental Health Services Administration (SAMSHA), the most important step in reentry planning is obtaining information about an individual's risk of reoffending and programmatic needs. Once a validated risk/needs instrument is used, the implementation of evidence-based programs can be better targeted to individual inmates to achieve outcomes like recidivism reduction, educational attainment, stable housing, and consistent employment. The U.S. Department of Justice identifies five principles of recidivism reduction, four of which are highlighted below:

- **Principle I:** Upon incarceration, every inmate should be provided an individualized reentry plan tailored to his or her risk of recidivism and programmatic needs
- **Principle II:** While incarcerated, each inmate should be provided education, employment training, life skills, substance abuse, mental health, and other programs that target their criminogenic needs and maximize their likelihood of success upon release
- **Principle III:** Before leaving custody, every person should be provided comprehensive reentry-related information and access to resources necessary to succeed in the community
- **Principle IV:** During transition back to the community, halfway houses, and supervised release programs should ensure individualized continuity of care for returning citizens

NMCD has begun administering risk-needs assessments to inmates upon intake but lacks data around how the results are utilized. A 2012 LFC program evaluation found that NMCD purchased a validated risk-needs assessment tool, called COMPAS, in 2008, though never paid for or conducted assessments by the time of that evaluation. SHARE records indicate that NMCD expended \$40 thousand for the use of COMPAS in 2013, though it is not clear what was purchased with it. NMCD indicated it began fully administering the assessment to all 4,197 admitted inmates upon intake in FY17, which SHARE indicates cost a total of \$232 thousand. NMCD policy requires that COMPAS assessment be administered within four weeks of intake and referenced in making recommendations for program and treatment needs upon initial facility placement and every six months thereafter. However, NMCD also indicates that there are three significant factors that supersede COMPAS in program assignment: NMCD policy around security concerns that may preclude inmates from participating in programs at certain facilities, the Inmate Literacy Act requiring GED-level education for all inmates without a high school diploma or equivalent, and specific sentencing requirements that may be assigned by the judiciary like DWI programming (not evidence-based).

NMCD is unable to provide data for the overall COMPAS results on the risks and needs among inmates. NMCD is unaware how often COMPAS assessment recommendations are actually assigned, attempted, or completed, and so it is not clear how the results of the assessment are used to connect inmates with services. Without data connecting COMPAS results with actual assignments, there is no way of knowing if resources are being used to focus on offenders with the highest risk of recidivating. Additionally, being able to track COMPAS results against superseding literacy requirements, security transfers,

Recidivism reduction best practices:

1. Evaluating risk-needs upon intake
2. Connecting inmates with evidence-based programs
3. Planning effectively for successful reentry.

NMCD began administering a validated risk-needs assessment to all inmates upon intake in FY17

A gap analysis of need assessed versus services provided would improve resource allocation

and judicial requirements would help policy-makers better address disparities between need and access to services.

NMCD spends 87 percent of in-custody recidivism reduction programming dollars (\$8.4 million) on evidence-based programs. NMCD began their partnership with Pew McArthur Results First Initiative in 2014 and created an inventory of recidivism reduction programs in 2015. NMCD spent \$9.6 million on 31 recidivism reduction programs in prisons in FY17. According to NMCD analysis of clearinghouse databases, \$8.4 million (or 87 percent) is spent on 26 evidence-based programs. This compares to less than 25 percent spent on evidence-based programming in 2012 according to a 2012 LFC program evaluation. Some of the largest expenditures are for highly rated programs with large benefit-cost expectations (adult education - \$4.5 million; post-secondary education - \$1.6 million; Residential Drug Abuse Program (RDAP) - \$783 thousand; moral reconnection therapy - \$464 thousand). However, the fidelity of programs like RDAP may benefit from routine evaluation, as recommended by the 2012 LFC report. At that time, NMCD was funding an evidence-based program called therapeutic communities (TC) that was not producing expected outcomes due to fidelity issues (i.e. not following best practices). A 2007 LFC report identified these issues as well. RDAP is a type of therapeutic community, and NMCD has not produced any documentation describing the components of RDAP, showing a difference from the TC model that was identified as underperforming in 2012 and 2007. Further, NMCD was unable to provide documentation around program participation numbers, completion rates, compliance reports, penalties levied, or even programmatic contracts, guidelines, or components for any of the in-custody recidivism reduction programs.

The amount of inmates served by recidivism reduction programs is unknown, as NMCD has participation figures for 0 out of 31 in-custody programs. NMCD is burdened by a paper-based records management system with hundreds and thousands of individual pages per inmate, thereby collecting data utilization in this format isn't cost effective for staff. However, this is in stark contrast to the 2012 LFC corrections evaluation, when the department had participation and completion figures for all programs. NMCD received \$7 million from the legislature in FY16 to develop an offender management system that is expected to digitize records and have the capability of reporting program participation, completion, COMPAS, incidents, education levels, etc. The new system is expected to have the capability of reporting program participation, completion, COMPAS, incidents, education levels, health needs, and services provided, etc. Additionally, the system will include a module for use by the Probation and Parole Division and the Parole Board to help complete comprehensive release plans. The expected completion date is 2021.

Until NMCD is able to track program data, there is no way of knowing which programs are cost effective, being run with fidelity, or returning the best outcomes. NMCD cannot allocate resources towards programs that are working and away from programs that are not, or determine how many resources should be allocated to produce the greatest impact on recidivism reduction. For instance, a program inventory published by the Mississippi Department of Corrections indicate they spend 1.2 percent of their budget on recidivism reduction, while the Alaska Department of Corrections spends 7 percent compared to the 4.8 percent spent by NMCD. There is no way of

knowing if 4.8 percent is too much or too little without collecting data on participation and outcomes.

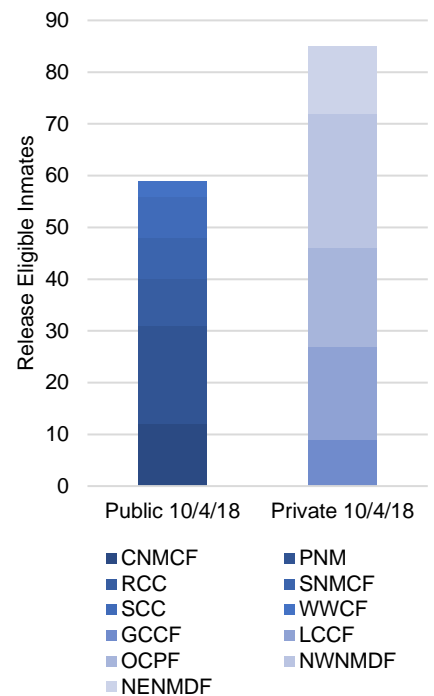
NMCD has reduced release eligible inmate numbers by half. NMCD policy states that offenders must have an approved parole plan to be released and that inmates must coordinate reentry 180 days before release with a committee of specialists that includes a transitional parole officer. NMCD policy requires that the committee form recommendations and suggestions to address individual inmate needs but does not include any reference to the use of COMPAS. The reentry plan developed by the committee must address treatment, employment, and housing needs, among others. However, NMCD was unable to produce any records of how many inmates were prepared for, connected to, or obtained those needs upon release or thereafter. Additionally, LFC staff witnessed a concerning pattern of near-release inmates lacking good employment and housing plans during multiple prison visits. Again, these observations are by no means conclusive of anything, but utter lack of substantive reentry preparation was unavoidably apparent.

A significant issue identified in the 2012 LFC evaluation was the large amount of release-eligible inmates (REI) serving out parole inside prison facilities, largely due to poor re-entry planning and administration. NMCD claims to have made a concerted effort to address these issues since then, and indeed, the total number of REIs across all prisons has declined substantially from 278 in 2012 to 144 in 2018, amounting to a potential cost savings of \$4 million per year. The previous LFC evaluation found that 30 percent of REIs were deemed hard-to-place, meaning finding adequate parole locations for these individuals was difficult, delaying their timely release. The department in 2012 spent an estimated \$3.7 million to incarcerate hard-to-place inmates.

Private prisons have held disproportionately large numbers of release eligible inmates in recent years. From October 2017 to 2018, private prison facilities held an average of 50 percent more REIs than public facilities (approximately 90 versus 60 at a time), despite incarcerating only 51 percent of the total prison population, see Appendix D. The Northwestern New Mexico Correctional Center (NWNMCF) operated by CoreCivic held the most REIs at 39 (over 5 percent of the facility’s total population) as of October 5th, 2017, more than twice the REI number of any public facility. It should be noted that, since 2016, NWNMCF has been contracted to specialize in facilitating the re-entry process. According to a CoreCivic press release, the facility’s mission is to “provide intensive reentry programs designed to prepare inmates for life outside the prison walls.” By October 4th, 2018 the number of REIs at NWNMCF dropped to 26, though this is still the highest number of REIs than any other facility.

Securities and Exchange Commission filings make it clear that facility occupancy is a primary concern among private prison corporations. For instance, according to the 2017 GEO annual shareholders report, predictions of their future financial position, business strategy, and others are materially impacted by “our ability to maintain or increase occupancy rates at our facilities.” While this is entirely understandable from a business perspective, it is a fact that should be taken into account when making policy decisions around contract management. One potential avenue worth considering is performance based funding for private correctional facilities. There are no such funding models currently being utilized within U.S. prisons, but 2012 legislation requiring performance funding for New Mexico higher education

Chart 4. Daily Release Eligible Inmate Counts Higher at Private Facilities



Source: LFC Files

institutions, despite some hiccups, has seen the four-year graduation rate at the University of New Mexico more than double from 14 percent in 2012 to 30 percent in 2018, the highest in modern history. At 51 percent inmate occupancy rates, private prisons in New Mexico are among the highest in the nation for share of total prison beds. This puts New Mexico at an advantage in terms of moving the needle on the overall recidivism rate through effective contracting. Performance funding contracts for private prisons should likely focus on recidivism reduction below history rates for each facility, and could consider monitoring prisoner transfer logs to account for moving around of preferential inmates.

NMCD policy provides for reentry-related information before and after release. The DOJ lays out methods in which every person should be provided comprehensive reentry-related information and access to resources necessary to succeed in the community. One barrier to reentry is the lack of identification, which is needed to acquire services like TANF, SNAP, Medicaid and other services. NMCD policy addresses the need for an offender to have identification upon release. However, it is not clear how many offenders are provided the necessary documents prior to release. The New Mexico Motor Vehicle Division does not except prison identification as an acceptable form of ID to get a state issued ID card. In 2014, NMCD began using the Making the Right Turn to Reentry curriculum to prepare inmate for reentry in all prisons and in 2017 NMCD transitioned to the Starting Out curriculum except at NWNMCF, the dedicated reentry facility. NMCD has a limited resource list for released offenders published online, but currently there is not a reentry hotline to assist recently released individuals.

Recommendations

NMCD should:

Require all private prison contracts to use performance based funding based on recidivism reduction targets over historic recidivism rates at each facility

Collect performance measures for the percent of COMPAS recommendations actually assigned and completed

Collect performance measures for need, participation, and completion for all recidivism reduction programs, specifically RDAP/ GED/ HED/ vocational

Collect performance measures for the number of reentry plans recommending treatment/education needs and the participation and completion of those programs

Accompany cost-savings from REI reduction with accompanying justice reinvestment

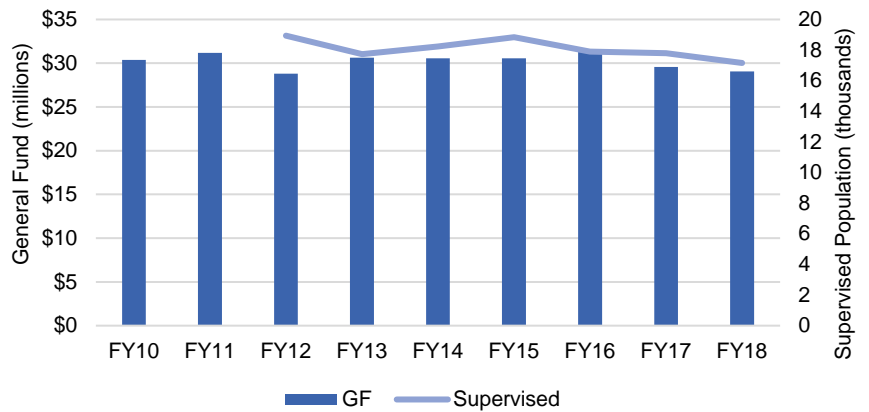
Technical parole violations associated with substance use drive recidivism rates; use of treatment programs is unknown

NMCD Probation and Parole Division (PPD) uses four regions around the state (see Appendix E) to supervise 19,552 offenders

General fund appropriations for PPD were \$29 million in FY18. Community supervision programs are designed to be cost-effective alternatives to incarceration while minimizing public risk. Compared to an average prison cost per inmate per day of \$111 in FY18, the average cost per supervised individual per day was \$4. Almost half of the offenders (8,458; 43 percent) on supervision are in region II, which consists of Sandoval, Bernalillo, and Valencia counties. Region I serves northern New Mexico and has a supervision caseload of 3,973 (20 percent) offenders. Region III serves the southern part of the state and has a supervision caseload of 3,271 (17 percent). Region IV serves the eastern part of the state with a supervision caseload of 3,402 (17 percent).

General fund appropriations for PPD have ranged between \$28.8 million and \$31.4 million since FY10, without an overall pattern of either increasing or decreasing, as seen in Chart 5. The total supervised population has decreased 10 percent since 2012, from 18,943 to 17,159 in 2018 according to NMCD. Bureau of Justice Statistics (BJS) data indicate it likely that probationers has driven the overall decline in supervised population. This aligns with findings from the 2018 LFC program evaluation, *Review of the Criminal Justice System in Bernalillo County*, which found a 33 percent decline in felony prosecutions from FY14 to FY16 in Bernalillo County. Vacancy rates among parole officers have stayed between 17 and 21 percent over the last three years. Average supervision cost per offender per day hovers around \$4.

Chart 5. NMCD Community Supervision Budgeted General Fund



Source: LFC files, NMCD data

NMCD community supervision policy aligns closely to DOJ guiding principles, but could improve use of performance management

Policy requires that offenders receive a risk-needs assessment using COMPAS, an individualized supervision plan that prioritizes risk and targets need, a timeline of objectives and expectations, and preferential use of evidence-based practices. However, there appears to be a significant lack of performance measurement and management, as NMCD is able to provide very little data around program participation, completion, or outcomes. Findings around PPD use of COMPAS assessment are exactly the same as for the in-custody chapter; COMPAS use is required but there is no data around utilization, connection to services, or outcomes.

NMCD spends 90 percent of community supervision recidivism reduction programming dollars (\$5.5 million) on evidence-based programs. NMCD spent \$6.1 million on 38 recidivism reduction programs in community supervision in FY17. NMCD recidivism reduction programs serve an unknown number of participants, as NMCD only has participation figures for 6 out of 38 total programs. This is in stark contrast to the 2012 LFC corrections evaluation, when the department had participation and completion figures for all programs. According to NMCD analysis of clearinghouse databases, \$5.5 million (or 90 percent) is spent on 26 evidence-based programs. The largest community supervision program that NMCD funds is \$3.2 million for 184 offenders at the Men’s and Women’s Recovery Academies, which utilize an evidence-based inpatient therapeutic community model. However, a 2015 study by NMSC of the impact of the academies found no statistically significant improvement on outcomes at the men’s facility, and there has been no substantive difference in the contract since then. The legislature allocated funding for program evaluation positions at NMCD in FY14 in order to address issues around program fidelity that would seek to understand and improve the impact from programs like the recovery academy. However, as of today, these positions do not appear to exist.

NMCD spend \$1.6 million on halfway houses in FY17, though evidence-based programs at these facilities is lacking. In New Mexico, only 4 percent of released inmates (203 individuals) utilized halfway houses in FY17 according to NMCD data. NMCD expenditures for five halfway house programs was \$1.6 million in FY17, or an average of \$595 per offender per month. A 2012 LFC program evaluation found that 15 percent of REIs (36 inmates per month) were kept in prison while awaiting affordable housing, costing approximately \$1.5 million in incarceration versus supervision costs. The DOJ has identified the need for evidence-based services at these facilities. LFC staff observed halfway house facilities during field visits but were often unable to identify any services offered or referred to on-site. Figure 2 shows staff photographs of halfway house living conditions at various facilities during the evaluation study period. Recall that the state is paying \$595 per bed per month at these facilities, and there are no discernable programs being offered. NMCD has noted that it is difficult to procure halfway house providers.

Table 2. Halfway House Contract Provisions Comparison

Halfway-house Contract Provisions	NM	PA
Accreditation (ACA and ACRS)		On-site
24-7 Programming	Off-site	On-site
Community Advisory Board		On-site
PREA Compliance	Off-site	On-site
Accept all referrals from Department of Corrections	Off-site	On-site
Drug Interdiction		On-site
Performance Metrics	Off-site	On-site
Recidivism Monitoring		On-site
Pay-for-success funding		On-site

Source: LFC Analysis of PDOC and NMCD Contracts

Figure 2. Living Conditions within Typical Halfway Houses in New Mexico



In 2013, the Pennsylvania Department of Corrections (PDOC) renegotiated all halfway house contracts to include evidence-based services using a pay-for-success funding model, which includes strict recidivism reduction targets for providers to exceed in order to receive a per diem bonus or else potential

contract cancellation. At the time of the renegotiation, 67 percent of offenders utilizing halfway houses returned to prison within three years compared to a 60 percent recidivism rate for inmates released to the streets. The new contract requirements included mandatory accreditation by the American Correctional Association, 24-7 programming, performance metrics, and recidivism monitoring. Since then, PDOC saw overall recidivism rates at halfway houses drop 16 percent statewide in 2015, an additional 11 percent drop in 2016. In Pennsylvania, out of the 1,352 parolees released in August of 2018, 31 percent (421) were released to a halfway house. If NM reduced its overall recidivism rate by 16 percent among 203 halfway house-utilizing offenders, the state would realize an annual savings of approximately \$650 thousand dollars. Table 2 depicts the criteria the PDOC halfway house contracts require in comparison to NMCD halfway house contracts made available to LFC. Currently, NMCD provides evidence-based services off-site, though some of the provisions in these service contracts like 24-7 programming and performance metrics were less comprehensive than PDOC.

Best practices for the response to supervision violations suggest that risk-based supervision monitoring, linked to effective treatment, as well as swift and certain responses to behavior, increase success and result in fewer technical violations and new crimes. Violations of supervision conditions are often part of the offender change process, so departments need tools and evidence-based strategies for appropriately dealing with violations when they occur. Since technical violations do not involve new criminal activity, parole departments can exercise significant discretion to address technical violations by developing structured decision-making processes that use a range of intermediate sanctions and evidence-based responses.

The California Department of Corrections Adult Parole Operations uses a reward and sanction matrix in response to technical violations or positive behavior. These responses enhance the offender’s motivation to initiate and continue with positive behavior change that results in reduced recidivism and increased public safety. Some examples of rewards include affirmation, reduced drug testing requirement, reduction in frequency of office visits, gift cards, and bus passes. A sanction that California uses for technical violations is “flash incarceration,” a confinement period of up to 10 days. This addresses the swiftness and certainty component of deterrence. Responses must be applied consistently in order for the swiftness and certainty principles to be most effective in deterring future unwanted behaviors. Every violation should be met with a graduated sanction, which eliminates the perception by the offender that some violations are ignored or excused.

Current NMCD policy allows for graduated sanctions in the Sanctioned Parole Violator Program (SPVP), but it has not been used for almost three years. A department wide email sent out in February of 2016, directed PPD staff to suspend the SPVP program for a minimum period of three months pending review. This meant the Adult Parole Board would no longer accept referrals for the SPVP program from PPD. As of October of 2018 the SPVP program is still not being utilized. Table 3 compares the graduated sanctions of the NMCD SPVP program with the Bernalillo county 2nd judicial district courts’ STEPS program.

Figure 3: Best Practices for Violation Sanctions

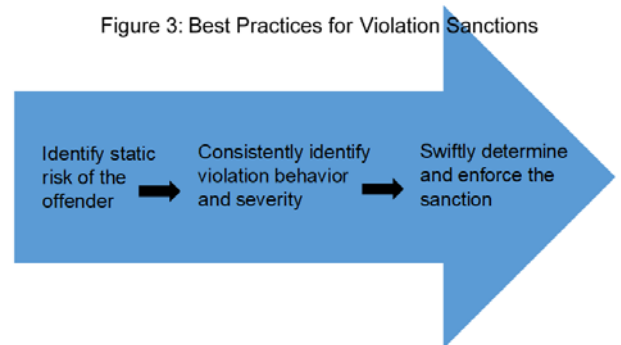
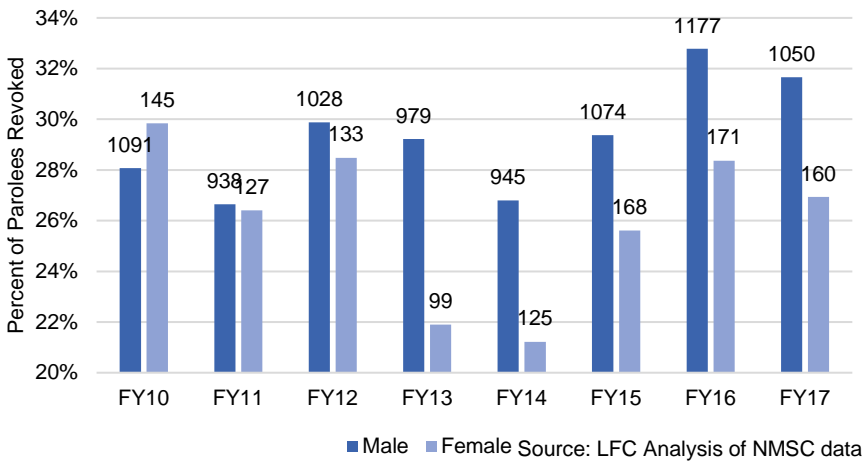


Table 3. Community-Based Graduated Sanctions Best Practices

Continuum of Community-Based Sanctions	Probation	Parole
Verbal Admonishment by Parole/Probation Officer	X	X
Written Admonishment by Parole/Probation Officer	X	X
Verbal Admonishment by Parole/Probation Officer and Supervisor	X	X
Lengthen time in current phase	X	*
Increase phase level	X	*
Increase level of supervision	X	*
Community Service	X	
AA/NA Meetings	X	*
Outpatient Counseling		
Electronic Monitoring	X	*
Reside and participate in Sober-Living Program		
Arrest, Flash Incarceration and reinstatement to Supervision	X	*
Therapeutic Community (Residential Drug Treatment)		
Arrest and Recommendation for Revocation	X	X

Source: U.S. Parole Commission, NMCD policies
*SPVP program

Chart 6. Technical Parole Revocations Increasing

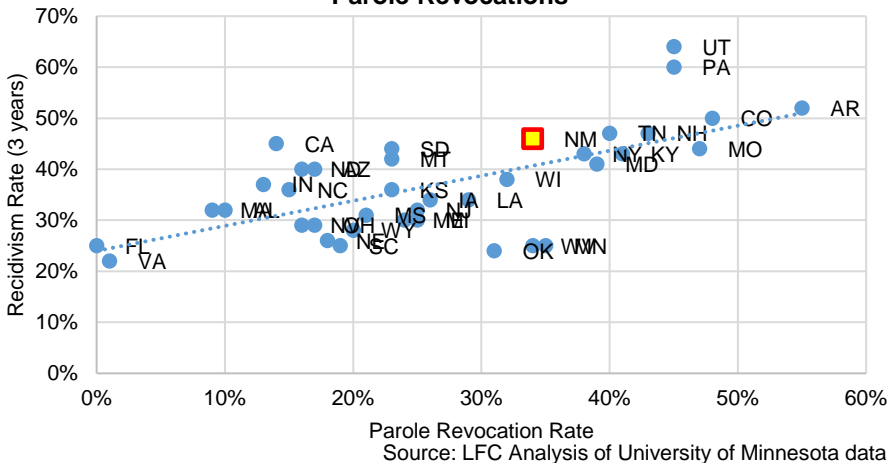


Parole revocation is increasing and drives the majority of the recidivism rate

Chart 6 shows the parole revocation rates for technical violations for men and women since FY10. The percent of parolees revoked for technical reasons in F17 was 32 percent for male parolees (1,050 offenders) and 27 percent for female parolees (160 offenders). Using an average return to prison after revocation of 333 days (see next page), technical revocations resulted in a massively expensive cost to the state of approximately **\$40 million in FY17**.

Both recidivism and parole revocation have increased significantly in recent years. Since FY13, recidivism increased 9 percent for men and 33 percent for women. Similarly, parole revocation increased 8 percent for men and 23 percent for women over the same time period. As would be expected, there is

Chart 7. U.S. States' Recidivism Rates Correlated with Parole Revocations



a strong correlation between revocation and recidivism, as parolees revoked within three years of release directly contribute to the recidivism rate. Chart 7 shows the relationship between recidivism and parole revocation in U.S. states. It should be made clear that states have different parole policies and different methods for counting recidivism among each other, and the practice of comparing between them should be done with caution. However, on average, technical parole revocation likely accounts for about 70 percent of recidivism nationwide. In New Mexico, 60 percent of readmissions in FY16 were due to technical parole revocations.

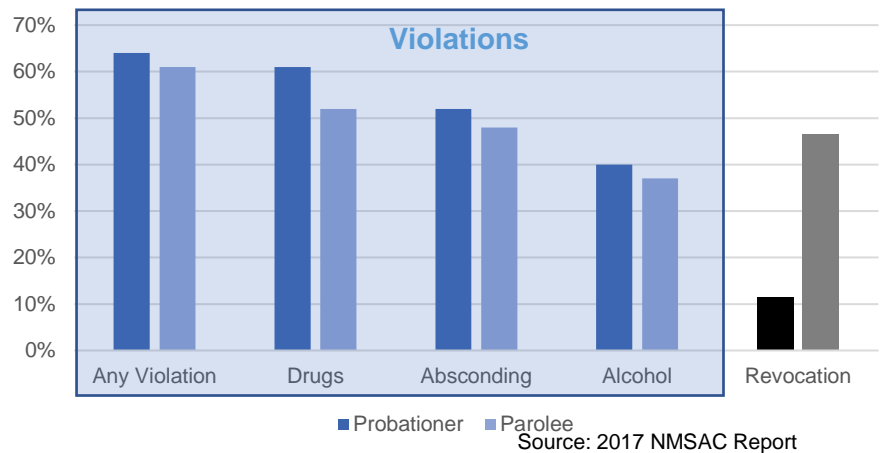
The vast majority of parole violations and revocations are related to substance use

LFC staff analyzed a random sample of 100 parolee files that were closed in 2016 to investigate the numbers and types of violations and revocations. The results indicate a significant amount of revocations associated with substance use. In the sample, 67 percent of parolees violated conditions at least once. Among violations, 75 percent were for substance use or absconding and an additional 15 percent of violations were caused by new criminal charges, all of which were for possession of a controlled substance. In total, 43 percent of parolees had their parole revoked and were sent back to prison after an average of 2.7 violations over 372 days. As most parole terms last two years by state statute, it is likely that parole revocation results in about a one-year return to prison on average. Indeed, the average time from revocation to discharge in the sample is 333 days. Among violations involving drug use detected in urinalysis, 50 percent contained methamphetamines, by far the highest specific

drug detected. The 2018 LFC program evaluation on Bernalillo county crime also found an alarming amount of methamphetamine use associated with the justice involved population.

The findings in the LFC sample align well with a 2010 report on parole violations from the NM Statistical Analysis Center (NMSAC), which also found a violation rate of 67 percent, from among 4,135 parolees released in 2005 and 2006. NMSAC found a revocation rate of 51 percent after an average of 269 days on supervision, with 70 percent of revocations caused by technical violations. Additionally, a 2017 NMSAC report on absconding found a 46 percent revocation rate among 2,322 parolees beginning supervision in 2011 and 2012 and likely indicates that the majority of absconding can be linked to substance use issues. The same report also shows strikingly similar technical violation amounts and types between parolees and probationers, though parolees get revoked at 4 times the rate. Chart 8 shows the percent of parolees and probationers who violate overall and for the top three technical violation types. Additionally, parolees and probationers' first violations come at very similar times on average, after 161 days and 169 days respectively. Recall from Table 3 that probationers are subjected to more best practices around intermediate sanctions than parolees.

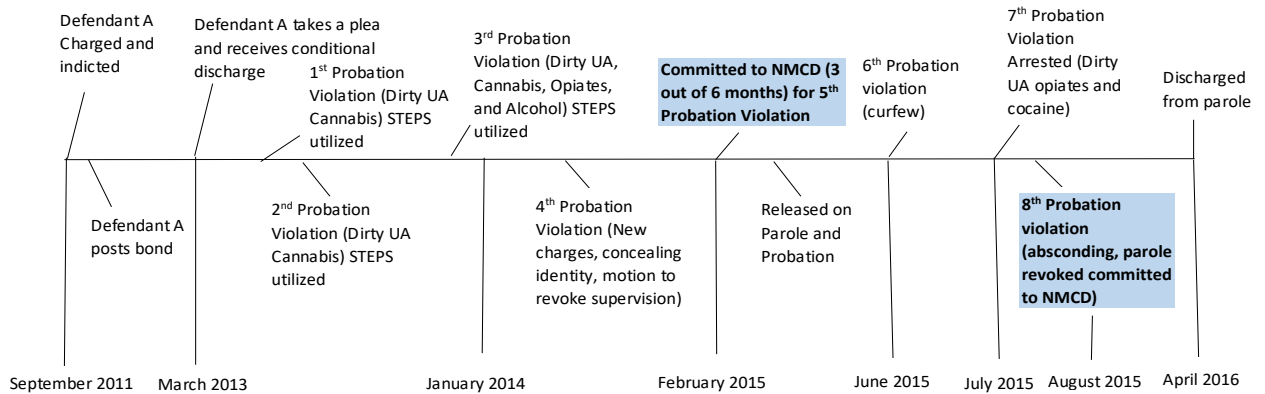
Chart 8. Probation/Parole Violation Rates Similar, Revocations Much Different



One of the offenders in the LFC sample of parolees provides a good example of a system of technical violations resulting in prison terms. Defendant A was arrested only once for contributing to delinquency of a minor and possession of cannabis before his criminal history in the state of New Mexico began to compile. The case was bound over to district court and joined with a later case in 2012 where defendant A was given a conditional discharge sentence of 3 years with 2 years of mandatory parole for the two criminal counts in the 2011 case and the 2012 case in addition to 3 years of supervised probation. In August of 2011 defendant A was arrested for misdemeanor shoplifting and was found guilty with time served in the Metropolitan Detention Center (MDC). In December 2011 defendant A was arrested for obstructing and evading. All charges were dismissed. Defendant A racked up eight probation violations between 2013 and 2015. Six out of eight (75 percent) of the probation violations stemmed from drug use. The seventh violation was a curfew violation while the final violation was for absconding. STEPS sanctions were utilized throughout the course of violations, which included short periods of incarceration, community service, and referrals to treatment. In February of 2015, defendant A was sentenced to 6 months to the corrections department for a probation violation and served 3 out of the 6 months. Defendant A was initially rejected to serve parole where he lived at his grandmother's house because another person under house-arrest already lived there (his little brother he was shooting at stop signs with). Defendant A served ten days as a release eligible inmate until a parole plan was approved. Three months after defendant A was released in May 2015, defendant A

absconded from supervision. After the last violation for absconding, the parole board decided to revoke his parole (from the prior conditional discharge) and he was remanded back to the corrections department to serve out the remainder of his parole term in custody. Defendant A was finally discharged from the prison and parole in April of 2016.

Figure 4. Timeline of Defendant A’s Probation and Parole Violations and Revocations



Some states have improved training and education requirements for community supervision staff in order to improve revocation outcomes. In Montana, the law was changed to require the parole board to meet several qualifications around experience with fields like social science and criminology in an effort to professionalize the members. In New Mexico, PPD has had to remove bachelor degree requirements for parole and probation officers in order to more easily fill vacancies.

Recommendations

NMCD should collect performance measures for percent of COMPAS recs actually assigned, completed

NMCD should collect performance measures for housing/employment/treatment needs and outcomes

NMCD should accompany cost-savings from parole revocation reduction with accompanying justice reinvestment

NMCD should improve case management of parolees to ensure connection to services, implement evidence-based STEP programs statewide (graduated interventions, short jail-time, etc.) to maximize attempts to divert from full revocation

NMCD should consider negotiating performance based funding contracts for private recidivism reduction program providers

The legislature should expand funding for transitional living to adequately house hard-to-place release eligible inmates and to be used as a sanction for parole violations, but should require and expand the use of evidence-based programs at those facilities

Healthcare contracts incorporate best practices but quality of care is unknown

The Supreme Court established inmates have a constitutional right to adequate healthcare regardless if the state or a contractor provides services.

Current NMCD Health Contracts:

- Healthcare: Centurion
- Pharmacy: Boswell
- Women's Specific Behavioral Health: MHM Correctional Services

Prisons are constitutionally obligated to provide adequate healthcare for inmates. The 1976 U.S. Supreme Court case *Estelle v. Gamble* (429 U.S. 97) established inmates have the constitutional right to receive adequate healthcare, to do otherwise is cruel and unusual punishment under the Eighth Amendment. In the years following *Estelle v. Gamble*, many other cases have sought to further define what “adequate” means. Now, according to a 1999 report by Douglas C. McDonald, adequate care for prisoners is considered to be “a level reasonably commensurate with modern medical science and of a quality acceptable within prudent professional standards.” The Supreme Court has since ruled “whether a physician is on the state payroll or is paid by contract, the dispositive issue concerns the relationship among the State, the physician, and the prisoner. Contracting out prison medical care does not relieve the State of its constitutional duty to provide adequate medical treatment to those in its custody.” (*West v. Atkins*, 487 U.S. 42)

NMCD contracted with three companies in 2016 to provide medical care for about 7,300 inmates. The Corrections Department has used various contractors to provide health services to state prisoners for the past decade. Most recently, prompted by reports of prolonged medical neglect and mismanagement, NMCD contracted with a new healthcare provider, Centurion, in May 2016. Additionally, the department entered into contracts with Boswell for pharmaceutical services and MHM Correctional Services for behavioral health services for the female population. In FY18, expenditures across all three contracts was \$50.3 million for an average 7,325 inmates.

Table 4. NMCD Health Services Contract Base Costs
(in thousands)

Fiscal Year	Corizon/Centurion		Boswell		MHM	
	Base Contract Cost	Percent Cost Increase	Base Contract Cost (per inmate)**	Percent Cost Increase	Base Contract Cost	Percent Cost Increase
FY13	\$37,500.0	-	-	-	-	-
FY14	\$46,716.7	25%	-	-	-	-
FY15	\$46,716.7	0%	-	-	-	-
FY16*	\$46,716.7	0%	-	-	-	-
FY17	\$41,000.0	-12%	\$6.9	-	\$2,200.0	-
FY18	\$42,640.0	4%	\$7.1	2%	\$2,255.0	3%
FY19	\$43,919.2	3%	\$7.2	2%	\$2,311.4	3%
FY20	\$45,236.8	3%	\$7.4	2%	\$2,369.2	3%

* The state switched medical providers from Corizon to Centurion in May 2016.

** The Boswell contract charges per inmate per month plus an administrative fee of \$30 thousand per month.

Source: provider contracts

All three contracts include payment escalators between 2 percent and 4 percent per year; however, appropriation levels have remained flat. The pharmaceutical contract utilizes a per inmate per month payment that increases two percent per year for each of the four years of the contract, meaning if the inmate population increased significantly, payments to the provider could skyrocket. In FY18, the contacts served 6,560 men and 756 women at all 11 of the department's prison facilities.

Table 5. Healthcare Expenditure per Inmate
(in thousands)

	Centurion Healthcare Contract Cost per Inmate	Boswell Pharmacy Contract Cost per Inmate	MHM Mental Health for Female Inmates Cost per Inmate	Total Inmate Per Year Male	Total Inmate Per Year Female
FY13 (Actuals)	\$5.6	-	-	\$5.6	\$5.6
FY14 (Actuals)	\$6.7	-	-	\$6.7	\$6.7
FY15 (Actuals)	\$6.5	-	-	\$6.5	\$6.5
FY16 (Actuals)*	\$6.2	-	-	\$6.2	\$6.2
FY17 (Actuals)	\$5.3	\$0.6	\$1.5	\$5.9	\$7
FY18 (Actuals)	\$5.3	\$0.8	\$2.6	\$6.1	\$7
FY19 (Budgeted)	\$5.6	\$0.9	\$2.8	\$6.6	\$9.4

* In FY16, the state switched medical providers from Corizon to Centurion, Boswell, and MHM.

Source: SHARE and LFC files

Per inmate costs are derived using average yearly inmate population data.

Current healthcare contracts are based on best practices. The National Institute of Corrections in 2001 published a comprehensive guide to establishing and maintaining constitutionally sound prison health systems. The guidelines stress the importance of having a system-wide health services administrator, a reporting structure, adequate staffing patterns, and data collection for quality assurance. The guidelines also suggest providing specialized services for female inmates and for special needs populations such as those with HIV, hepatitis C, or diabetes. The National Institute of Corrections does not provide guidelines or recommendations for tracking patient outcomes.

The National Institute of Corrections does not provide guidelines or recommendations for tracking patient health outcomes.

Centurion’s contract is based on NMCD’s goal of reducing avoidable morbidity and mortality while meeting constitutional standards through six goals:

1. Ensuring timely access to healthcare services,
2. Establishing a prison medical program addressing the full continuum of healthcare services,
3. Recruiting, training, and retaining a professional quality medical and mental health workforce,
4. Implementing a quality assurance and continuous improvement program,
5. Establishing medical support infrastructure; and,
6. Providing necessary clinical, administrative, and housing facilities.

Centurion must complete a screening for all incoming inmates, have a protocol in place for the detoxification of inmates entering prison under the influence of drugs and provide primary healthcare, sick call, emergency services, on-call physician services, and special medical programs including chronic care clinics, women’s healthcare, infectious disease programs, dental services, optometry, auditory, physical therapy, dialysis, and preventative services. Centurion must also provide utilization reports and manage the long term care unit at the Los Lunas prison facility.

- Centurion must provide:
- screening for all incoming inmates
 - a protocol for detoxifying inmates
 - primary healthcare
 - sick call
 - emergency services
 - on-call services
 - chronic care clinics
 - women’s healthcare
 - infectious disease programs
 - dental services
 - optometry
 - auditory
 - physical therapy
 - dialysis
 - preventative services
 - management of the long term care unit at the Los Lunas prison facility

Centurion is also required to comply with current personnel and staffing guidelines established by the National Commission on Correctional Healthcare (NCCHC) based on the size of the correctional facility, the acuity of the offenders housed there, types of services delivered (e.g. mental health, dental), the needs of the population, the organizational structure of the prison, and the mission of the facility (e.g. long term care unit). Staff must also be

licensed to practice within New Mexico. Centurion must fill all required staffing positions for no less than 90 percent of possible working hours or face financial penalties. If the vacancy lasts beyond 60 days, the contractor must find contract staff to fill the vacancies until permanent staff can be hired.

Centurion must also institute a continuous quality improvement (CQI) process approved and monitored by NMCD at each facility for medical, dental, mental health, and psychiatry services to effectively monitor, evaluate, and improve the quality of care and services being provided. The CQI must meet NCCHC and American Correctional Association (ACA) standards and focus primarily on medical outcomes or interventions “that have been shown through evidence-based medicine to favorably change clinical outcomes.”

Both Centurion and Boswell must provide continuous quality improvement plans that are monitored by NMCD to ensure that services are being provided appropriately and to correct issues that may occur.

Similarly, Boswell, the pharmaceutical provider, must also develop a CQI process and abide by the terms of the Centurion contract as it relates to the need and use of pharmaceuticals and compliance with NCCHC, ACA, and state Board of Pharmacy requirements. MHM, the women’s behavioral healthcare provider, is required to provide evidence-based services and participate in CQI processes including:

- Comprehensive treatment and programming to address adjustment to prison, substance abuse and addiction disorders, co-occurring disorders, trauma, intimate partner violence, and reentry issues,
- Gender-responsive and trauma-informed treatment to include psychological, physical, spiritual, and socioeconomic or sociopolitical issues,
- Suicide prevention and treatment and on-call interventions,
- Behavioral health component of diagnostic evaluation if ordered by the courts,
- Residential treatment programs such as Residential Drug Abuse Programs (RDAP); and,
- Discharge planning.

Of note, MHM is contractually required to provide substance abuse programming to no less than 100 women at any given time to be considered compliant. To meet this requirement and treat as many women as possible, MHM offers intensive 6 month residential drug abuse programming with new groups of women starting every two months. MHM must provide a Licensed Alcohol and Drug Abuse Counselor to be the Substance Abuse Treatment Coordinator and all other providers must be licensed in the state to provide

behavioral health services. In total, MHM must field 20 staff, 6.5 FTE at Springer and 13.5 FTE at the women’s facility in Grants.

Table 6. NMCD Non-Contract Behavioral and Mental Health Provider Vacancy Rates (as of October 2018)

Facility	Behavioral Health Providers			Mental Health Providers		
	Vacant	Total Positions	Vacancy Rate	Vacant	Total Positions	Vacancy Rate
Western (Grants)	2	3	67%	-	-	-
Southern (Las Cruces)	2	8	25%	0	1	0%
Penitentiary of NM (Santa Fe)	9	11	82%	0	1	0%
Central (Los Lunas)	13	26	50%	2	2	100%
Roswell	1	3	33%	0	1	0%
Springer	2	3	67%	0	1	0%
Total	29	54	54%	2	6	33%

Source: LFC files

Both state and contractor medical positions are

frequently understaffed, threatening the quality of care provided. The Corrections Department’s Office of the Medical Director, state employees who are responsible for overseeing the care, opportunities and education necessary for patients to improve their health, including medical provider

contract oversight, had a 25 percent vacancy rate as of October 2018. Two vacancies were for nurse auditors to oversee medical service provision. The Mental Health Bureau, responsible for providing services to inmates in state prisons, had a 40 percent total vacancy rate, of which most were behavioral and mental health therapists.

Centurion, like many other healthcare providers statewide, has also struggled to recruit and retain staff, incurring fines of \$1.1 million in each of the last two fiscal years for critical vacancies including dentists, licensed nurse practitioners, pharmacists, and medical directors. FY17 and FY18 documentation provided by NMCD of Boswell pharmaceutical invoices did not include analysis of critical staff vacancies. MHM invoices showed \$173.2 thousand in penalties in FY17 and \$299.7 thousand in FY18 for critical vacancies including mental health director, drug and alcohol counselors, a psychologist, and a regional director.

Over the last decade, NMCD and their healthcare providers have faced dozens of lawsuits alleging inmate neglect or mistreatment. The department has explained that many of the same individual service providers employed by former healthcare contractors are rehired by current contractors because they are the only workforce qualified to provide services in areas where prisons are located. As a result, experienced, quality personnel can continue serving inmates at prisons around the state; however, care must be taken to ensure only the best personnel are hired.

Current healthcare performance measures are an improvement from past contracts, but say little about healthcare quality. The department has released some details about the new health contractors, including audits, inspection reports, and staffing penalties, but little is known about the quality of healthcare in the state’s prisons. Additionally, it is unclear if contractors are meeting National Commission on Correctional Healthcare

Table 7.

Centurion Position Classifications Eligible for Fines if Vacant for Less Than 90 Percent of Possible Work Hours
Regional Director
Regional Medical Director
Regional Director of Nursing
Regional Psychiatric Director
Regional Pharmacist
Registered Nurse for Infection Control and Hepatitis C Coordination
Telehealth Coordinator
Site Medical Director
Staff Physician
Nurse Practitioner
Psychiatrist or Mid-level Psychiatric Practitioner (Psychiatric Nurse Practitioner and/or Prescribing Psychologist)
Dentist
Dental Assistant
Health Services Administrator
Director of Nursing
Registered Nurse
Licensed Practical Nurse
X-ray Technician
Physical Therapist
CMA/Pharmacy Tech/CAN
Medical Records Clerk
Administrative Assistant

Source: Centurion contract

Table 8.

Examples of Vacant Contractor Positions Resulting in \$1.1 Million in FY18 Contractor Fines

Public Facilities	
Central (Los Lunas)	Dentist, health services administrator, licensed practical nurse for Mental health, psychiatric health doctor, nurse manger, physical therapist, psychiatrist
Penitentiary of NM (Santa Fe)	Director of Nursing, licensed practical nurse, psychiatrist
Roswell	Medical director, physical therapist
Southern (Las Cruces)	Medical director, nurse, physical therapist
Springer	Dental assistant, dentist, licensed practical nurse
Western (Grants)	Medical director, physicians assistant
Private Facilities	
Guadalupe (Santa Rosa)	Licensed practical nurse, medical director
Lea (Hobbs)	Health services administrator, psychiatrist, nurse
Northeast (Clayton)	Dentist, dental assistant, psychiatrist
Northwest (Grants)	Licensed practical nurse, medical director
Otero (Chaparral)	Dentist
Administration	
Regional Office	Mental health director, pharmacist, dental director

Source: NMCD

standards. All three medical contracts lack quality-of-service data. For example, there are numerous performance measures about chronic disease

treatment rates but no data on how many inmates cleared or are effectively managing their disease.

The department contracted with the New Mexico Medical Review Association in FY18 to audit services provided by Centurion. The audit, release June 2018, focused on whether inmates received their initial intake screening as required by department policy. The auditors sampled 203 charts and found that NMCD's current continuous quality improvement tools are not meeting industry best practices for clinical care and that some charts were illegible or inaccurate, not filled out and submitted timely, and not used consistently at all prisons. The audit found an instance where an inmate diagnosed with a communicable disease did not receive needed medication for almost a year. Pregnancy tests were also not consistently documented and tuberculosis tests were not documented appropriately and followed-up upon consistently.

Recommendations from the audit included:

- Implementation of standardized processes for reporting communicable disease;
- Staff education coordinated and developed by both centurion and NMCD on defensible chart documentation standards and consistency;
- Implementation of most recent industry best practices on charting forms; and
- Educating staff that an intake form must be completed for all inmates and implementing procedures to ensure that all forms are filed in the record in a timely manner.

In response to the recommendations, NMCD has developed a corrective action plan to address the issues identified in the audit, formed an intake process task force, and has contracted with New Mexico Medical Review Association in FY19 to conduct a follow-up audit of the intake process following corrective action plan implementation.

Massive volume of paper records present barrier to data analysis. The New York City Jail System uses an electronic health record (EHR) system to monitor patient safety and population health across 12 jails. A 2015 study, Meaningful Use of an Electronic Health Record in the New York City Jail System, on the city's use of health information through an EHR showed enhancements in their ability to deliver coordinated, quality care. The study found that New York City needed to implement meaningful performance measure tracking within the system and provide the ability to allow patients to view online, download, or transmit health information on release.

NMCD was unable to provide identifiable data to track inmate health outcomes during incarceration or post-release or allow staff to assess whether inmates are receiving needed services in a timely manner. The department lacks an EHR system to store patient health data, meaning health records are stored in boxes in warehouses in different prisons around the state. Reports generated by the Behavioral Health Bureau are all counted by hand, taking many hours of staff time and resources. Paper records sometimes do not follow an inmate who is being transferred to another prison facility or being released to the community, which could cause critical lapses in care.

An independent audit of the healthcare contract showed inconsistent inmate intake healthcare assessments and an instance where needed medications were not delivered timely and missing tests for tuberculosis and pregnancy. Sometimes, the second reading for tuberculosis tests were missing.

The audit suggested all staff be trained on consistent charting and that all charts follow industry best practices.

A 2015 study, Meaningful Use of an Electronic Health Record in the New York City Jail System, on the city's use of health information through an EHR showed enhancements in their ability to deliver coordinated, quality care.

The prevalence of paper records means NMCD lacks the ability to generate meaningful reports on their own and must rely on contractors to generate data, making effective oversight by NMCD difficult. The Corrections Department should procure a modern method of tracking patient needs, services, and outcomes that is comprehensive and centrally located and resistant to file damage and loss. A comprehensive EHR system could provide for these needs. Contractually, Centurion is required to help NMCD develop and transition to a long-term EHR solution once it is identified by the department but does not currently operate an EHR in New Mexico. The Department of Health has included a new EHR system as the second priority in their IT request for FY20 for \$4 million. Access to a continuous, nonproprietary EHR system would allow NMCD to better track inmate health outcomes, mental and substance abuse treatments, prescription costs and utilization, and a myriad of other metrics in an efficient, reliable manner that currently does not exist.

Using a university healthcare system like the University of New Mexico (UNM) Health Sciences Center also could help solve the need for an EHR and provide comprehensive care both within prison walls and post-release although it may not reduce healthcare costs. UNM is vested in the public health of the state which could include better quality health outcomes as well as provide a stable EHR, eliminating the turnover of data with contractors and the ability to utilize UNM and its connections with community providers around the state to ensure better healthcare outcomes for individuals post-release. The NMCD Health Services Bureau can make recommendations or referrals to continue care post-release as part of the transition accountability plan committee but does not follow-up on an inmate's medical status or needs post-release nor is a "warm hand off" to service providers performed. Utilizing the University of New Mexico (UNM) Health Sciences Center as the prison healthcare provider, as is done in Texas and New Jersey, could provide comprehensive care services for inmates and persons on supervised release.

Health contract performance measures comprehensively cover critical areas of healthcare provision but provide no detail on quality and outcomes of services. Meaningful healthcare outcome measures demonstrate the impact of healthcare services have on inmates. The Institute of Medicine in 2016 developed a six-point framework for assessing the quality of a healthcare system:

- Safe: avoiding harm to patients from the care that is intended to help them,
- Effective: providing services based on scientific knowledge to all who could benefit and refraining from providing services to those not likely to benefit (avoiding underuse and misuse, respectively),
- Patient-centered: providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions,
- Timely: reducing waits and sometimes harmful delays for both those who receive and those who give care,
- Efficient: avoiding waste, including waste of equipment, supplies, ideas, and energy; and,

Neither the Corrections Department nor its contractors have an Electronic Health Record, meaning all inmate health information is on paper.

The department has a dedicated warehouse at the Los Lunas prison filled with paper records it is retaining per law that an employee must manually find to assess health histories.

The prevalence of paper records makes analyzing data difficult and time consuming. It also leaves inmate's records subject to damage and records do not always transfer timely if an inmate is moved between prisons.

NMCD has few performance measures that track the outcomes of healthcare services for inmates. Instead, measures count outputs.

Without strong quality performance measures, it is difficult to evaluate the efficacy of the healthcare provider and ensure prisoner's civil rights are being met.

- Equitable: providing care that does not vary in quality because of personal characteristics such as gender, ethnicity, geographic location, and socioeconomic status.

NMCD's current performance measures are detailed and cover appropriate healthcare topics but do not report on the quality of healthcare provided by the contractors. Instead, measures count outputs rather than outcomes like occurrences of doctor's visits and documentation requirements, but no measurement of whether diseases are under control. For example, NMCD requires Centurion to monitor cardiac diseases and hypertension among inmates. Measures include:

- Cardiac disease and hypertension documented on master problem list.
- Seen regularly in chronic care clinic as ordered by provider.
- Lipid panel completed yearly.
- Electrocardiogram completed within last two years.

Fewer older inmates were incarcerated in 2017 than two years ago; however, the state could be paying as much as \$1.1 million in geriatric medical costs that could be avoided if medical parole was better utilized.

While these measures are a good indicator of a disease being effectively monitored, there is no measure of whether an inmate's hypertension is under control or worsened. Similarly, there are no quality measures for mental health (is patient stable?), skin wounds (did pressure ulcer close?), and psychiatrics (has a patient on psychotropics been able to reduce or cease dosage successfully?). Hepatitis C and diabetes, however, both have measures of viral loads and blood sugar baselines being checked but no data on success of treatment.

Without strong quality performance measures, it is difficult to evaluate the efficacy of the healthcare provider and ensure prisoner's civil rights are being met. The National Quality Forum hosts a database of outcome performance measures for health providers that could strengthen future NMCD health performance measures, for example:

- The percentage of patients 18 to 85 years of age who had a diagnosis of hypertension (HTN) and whose blood pressure (BP) was adequately controlled (<140/90) during the measurement year.
- Percent of residents or patients with pressure ulcers that are new or worsened

NMCD reports that long term care units around the state frequently use a federal rule to reject potential medical or geriatric parole-approved inmates. The rule states residents of long term health facilities have the right to be free from mistreatment and neglect, including "residents whose personal histories render them at risk for abusing other residents."

New Mexico has strong medical and geriatric parole rules that are underutilized. A 2010 Vera Institute for Justice analysis of statutes nationwide provides a framework for comprehensive medical parole statutes including defining eligibility requirements, types of exclusions from medical parole, the medical parole application process, evaluation of applying offenders, conditions for their release, and revocation procedures. Many of these best practices are included in New Mexico statute. However, the report shows many states' policies are underutilized due to political considerations and public opinion, eligibility requirements, application procedures, and referral and review processes.

Analysis by the New Mexico Sentencing Commission (NMSC) shows between 2015 and 2017 the number of male inmates older than 50 years old fell 0.5 percent while the number of women incarcerated within the same age demographic fell 0.9 percent. Similarly, the number of incarcerated men

between 30 and 50 years old fell 1.1 percent while the female population fell 0.8 percent.

A 2018 Pew Charitable Trusts report states older inmates, just like older individuals outside prison walls, are more likely to suffer from a multitude of illness when compared to younger people, including memory loss, challenged mobility, impaired hearing and eyesight, and more serious medical conditions. These conditions are costly and are often difficult to treat in a penal setting, necessitating the need for strong medical and geriatric parole that is utilized effectively.

In FY18, the Parole Board received 19 applications for medical parole of which it granted 5, or 26 percent. Of the 19 applications, two were for inmates who were either discharged or passed away. Overall, the Board held 3,811 hearings – medical parole applications accounted for 0.5 percent of total activity. In 2008, the Pew Center on the States’ Public Safety Performance Project identified the average cost of an older prisoner to be \$70 thousand per year. As of October 10, 2018, 21 inmates were housed in NMCD’s long term care unit (LTCU). 11 years later, assuming a medical CPI cost of 3.6 percent per year as defined by the Federal Reserve Bank of New York in 2017 and that half of the 21 inmates in the LTCU were geriatric inmates, the state is paying \$1.1 million in geriatric medical costs alone that could be avoided.

Section 31-21-25.1 NMSA 1978 provides for approval or denial of applications by inmates for medical and geriatric parole for low-risk geriatric, permanently incapacitated, or terminally ill inmates. However, statute does not require the department to report on inmates who are eligible for medical parole to the Parole Board for consideration; the department is responsible for determining whether an inmate should apply for medical parole or not. Many inmates in New Mexico are not granted medical parole because correctional staff cannot arrange for a long term care facility (LTC) placement for them. Regulations surrounding LTC facilities are numerous, including federal rule F224 established by the Centers for Medicare & Medicaid Services which states “each resident has the right to be free from mistreatment, neglect and misappropriation of property. This includes the facility’s identification of residents whose personal histories render them at risk for abusing other residents, and development of intervention strategies to prevent occurrences, monitoring for changes that would trigger abusive behavior, and reassessment of the interventions on a regular basis.” Rule F224, according to the Corrections Department, is often used as justification by LTC facilities for denying patients with felony history. As a result, inmates who need care difficult to provide in prison settings remain incarcerated, driving up medical costs.

Efforts should be made by the Human Services Department and the Department of Health to develop incentives for long term care and nursing home providers to accept hard-to-place patients, including those with criminal backgrounds. Strategies like providing special insurance or bonds to help

Recommended Elements of Geriatric and Medical Release Policies

(checkmark indicates 31-21-25.1 NMSA 1978 or NMCD policy includes recommended elements)

- Eligibility requirements
 - ✓ Minimum age
 - ✓ Minimum time served
 - ✓ Medical needs
- Types of exclusions
 - Conviction offenses
 - Previous criminal history
- Application
 - Parties eligible to make application
 - ✓ Agency to which application is made
- Evaluation
 - ✓ Public safety or risk assessments
 - ✓ Medical conditions
 - ✓ Party responsible for making evaluations
 - ✓ Existing parole guidelines
 - ✓ Agency responsible for final release decision
- Conditions of release
 - ✓ Release plan
 - ✓ Predetermined release location
 - ✓ Program participation
 - ✓ Monitoring
 - ✓ Reporting requirements
 - ✓ Level of supervision
 - ✓ Length of supervision
- Revocation
 - Reason(s)
 - ✓ Responsible agency
 - ✓ Procedures

Source: VERA Institute for Justice and LFC records

mitigate risk for providers who accept hard-to-place individuals may help enhance the use of medical parole. Additionally, under-used state facilities like Fort Bayard or the Meadows could be used to house geriatric or medically-released offenders.

Recommendations

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

NMCD should cooperate with the Department of Health to obtain access to the Electronic Health Records system being proposed to modernize health information management.

NMCD should work with state health agencies to discuss methods of incentivizing long term care providers in the community to accept medical parole-eligible inmates to make better use of medical parole rules.



AGENCY RESPONSES



Appendix A: Evaluation Scope and Methodology

Evaluation Objectives.

- Assess the costs, effectiveness, and availability of NMCD’s evidence-based programming, including if no less than 70 percent of the department’s programs are truly evidence-based,
- Evaluate the re-entry process. Determine how NMCD’s Probation and Parole Division coordinates with nonprofits and state, county, and city governments to facilitate successful re-entry, including employment opportunities, housing, treatment, and case management programs to offenders on supervision, and
- Assess quality of NMCD’s healthcare providers and determine if proper oversight, both fiscal and technical, is practiced.

Scope and Methodology.

- Catalogue existing adult community corrections programs in NM and other states
- Identify evidence-based programs
- Interview key NMCD staff
 - Secretary
 - Director/Deputy Director of Probation and Parole Division, Director of Office of Recidivism Reduction, NMCD Health Services Administrator, NMCD Deputy Behavioral Health Bureau Chief, Other relevant program, fiscal, and contract staff
- Conduct site visits to selected Probation and Parole offices, and Prison Institutions
- Conduct “ride along” with probation and parole officers
- Review strategic, monitoring and reporting documents, including internal policy, performance reports, internal/external audits, and budget status reports.
- Data analysis of costs, performance, and outcomes
 - Population growth, programs recidivism, health care, and community corrections
- Review national best practices and other states for budgeting and performance monitoring systems and measures and delivery of evidence-based programs.
- Review applicable laws and regulations, LFC file documents, including all available project documents, Relevant performance reviews from other states, Performance measures, Other relevant literature

Evaluation Team.

Travis McIntyre, Program Evaluator, Project Lead

Amir Chapel, Program Evaluator

Theresa Edwards, Fiscal Analyst

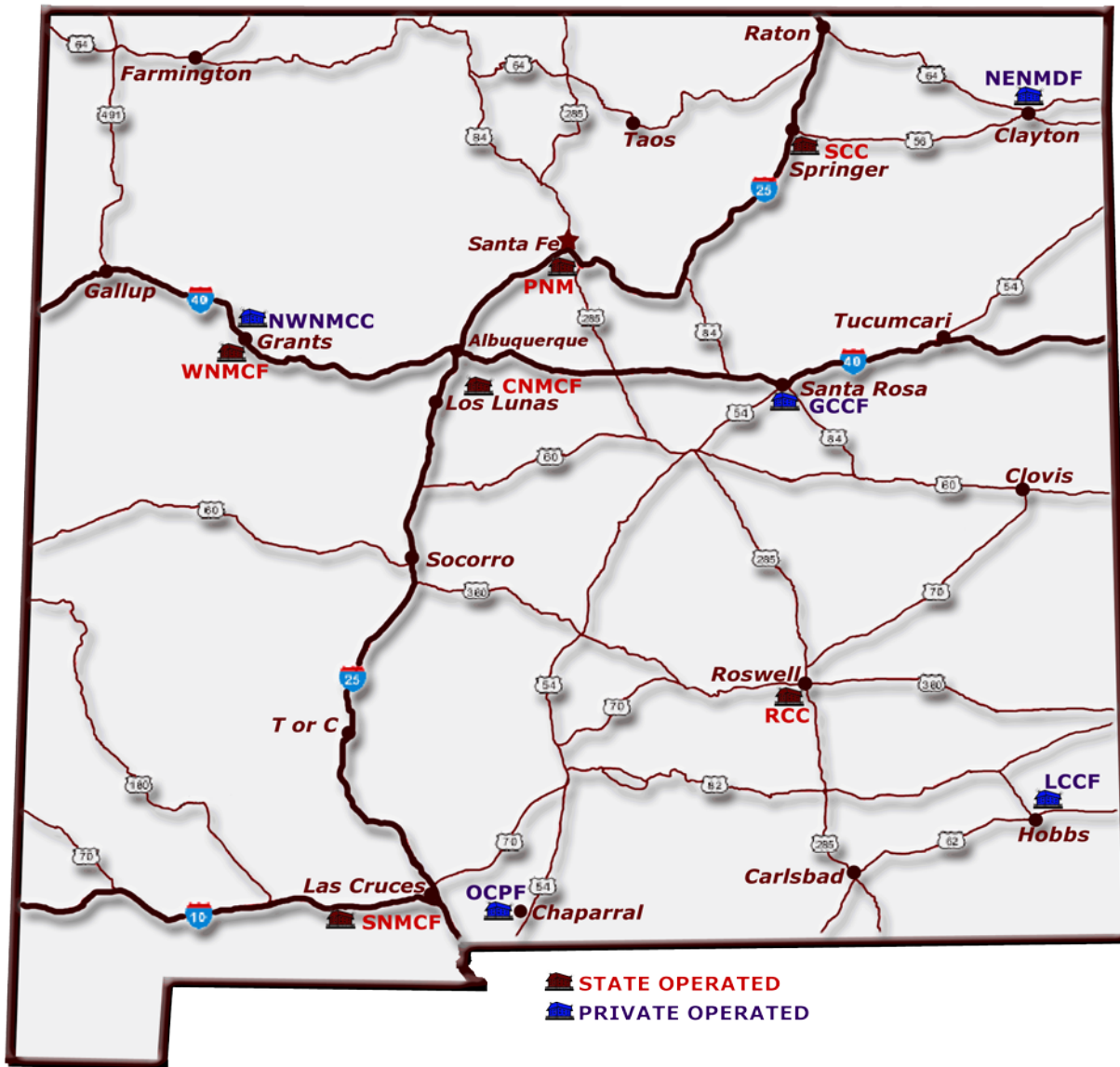
Authority for Evaluation. LFC is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions; the effects of laws on the proper functioning of these governmental units; and the policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state laws.

Exit Conferences. The contents of this report were discussed with the Secretary of the New Mexico Corrections Department and his staff on October 18, 2018.

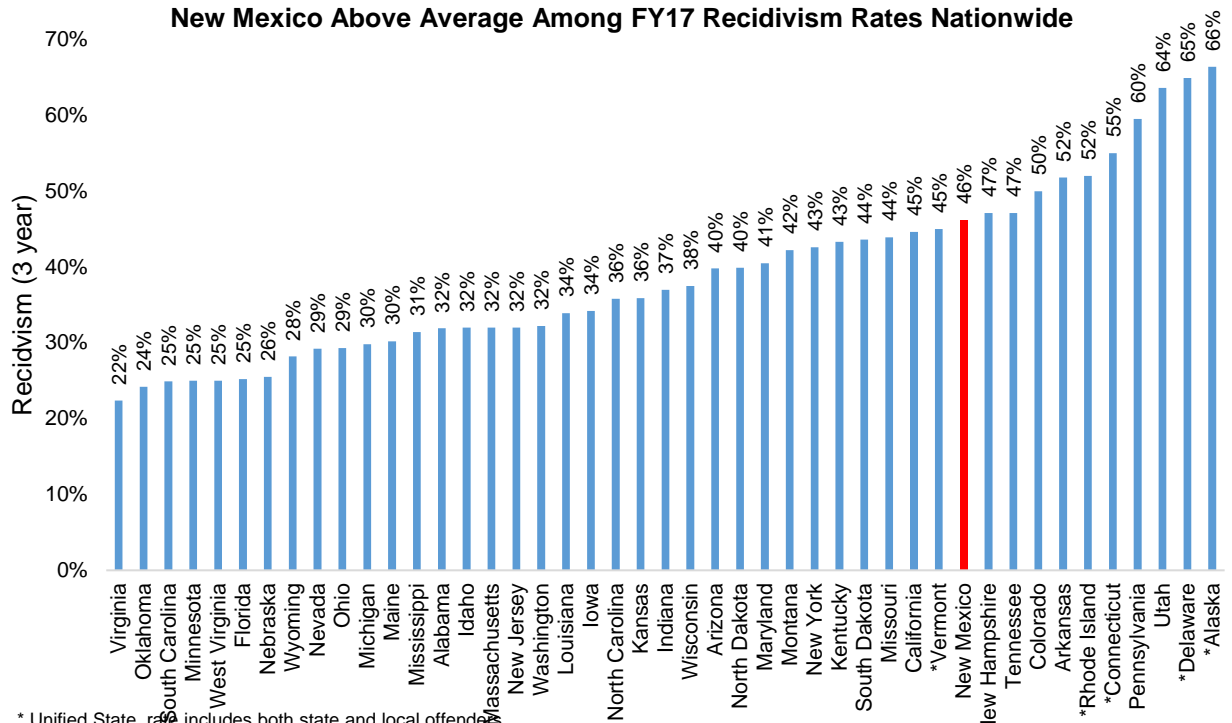
Report Distribution. This report is intended for the information of the Office of the Governor, the New Mexico Corrections Department, the Department of Finance and Administration, the Office of the State Auditor, and the Legislative Finance Committee. This restriction is not intended to limit distribution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



Appendix B: New Mexico Prisons



Appendix C: Recidivism Rates



* Unified State, rate includes both state and local offenders.

Notes: Recidivism rates for each state are the most recent three-year re-incarceration rates produced and made publicly available by each state (as of September, 2017). Cautions should be taking in making state to state comparisons because of varying recidivism definitions, differences in states' correctional populations resulting from variations in sentencing practices, and differences in organizational structure in states' systems.

Appendix D: Release Eligible Inmates

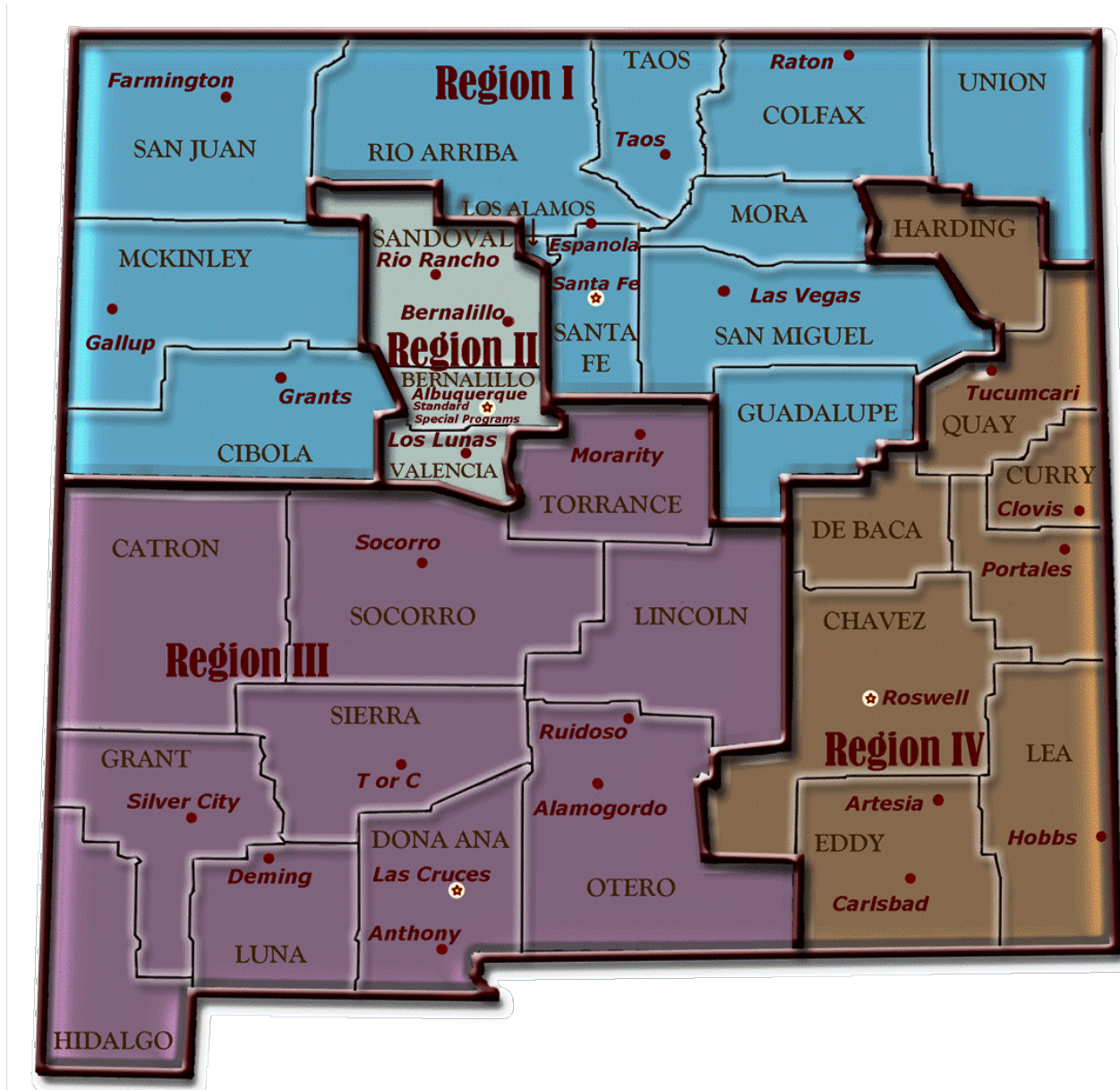
REIs Average 50 Percent Greater at
Private Facilities

Public	10/4/2018	10/5/2017
CNMCF	12	0
PNM	19	15
RCC	9	7
SNMCF	8	17
SCC	8	13
WWCF	3	7
Total	59	59

Private	10/4/2018	10/5/2017
GCCF	9	4
LCCF	18	18
OCPF	19	24
NWNMDF	26	39
NENMDF	13	8
Total	85	93
% difference	144%	158%

Source: LFC Files

Appendix E: Parole and Probation Offices



Appendix F: Professional Parole Board Qualifications

Montana Law on Parole Board Qualifications

Section 1. Montana board of pardons and parole -- composition and qualifications -- allocation -- quasi-judicial.

- (1) There is a board of pardons and parole consisting of five members.
- (2) Board members must possess at least one of the following qualifications:
 - (a) a college degree in criminology, corrections, or a related social science;
 - (b) at least 5 years of extensive work experience in corrections, the criminal justice system, or criminal law; or
 - (c) a law degree.
- (3) Consideration should be given to balancing members' expertise or knowledge of:
 - (a) American Indian culture;
 - (b) serious mental illness and recovery from serious mental illness; and
 - (c) victim awareness.