

## Corrections Department Capital Outlay

### Public Prison Maintenance Costs Continue to Rise as Facilities Age

A 2014 LFC evaluation of capital outlay at New Mexico's prisons found the facilities were outlasting their planned useful life, contributing to growing maintenance requirements. LFC staff pointed to the need for a master plan to

repair or replace increasingly outdated and inefficient inmate housing. The evaluation estimated it would be more cost effective to build a new medium-security housing unit than continue maintaining current ones, a finding that remains relevant in 2019.

Changes in prison population trends since the original evaluation are bringing this issue into focus again, with a 5 percent decrease in inmates between FY18 and FY19 and a recent legal settlement that places new requirements on inmate living space having new implications for the New Mexico Corrections Department (NMCD)'s future facility and operating costs. Deferred maintenance needs are approaching \$300 million and will continue to grow as the average New Mexico prison facility is over 40 years old.

While issues with project oversight have been alleviated by improvements at the General Services Department (GSD), NMCD still lacks a long-term facility plan and facilities are getting older with more and more deferred maintenance. Of the six key recommendations for NMCD made in the 2014 evaluation, one has been fully implemented, three are progressing, and two remain outstanding.

**The Evaluation:** *General Services Department/Corrections Department Review of Capital Outlay Planning, Spending, and Outcomes* (June 2014) found New Mexico's public prisons have become more expensive and inefficient to operate and maintain and are experiencing an increasing backlog of deferred maintenance. The evaluation recommended the replacement of existing housing units at public prisons with larger and more operationally efficient units and improved project prioritization. However, these issues persist as resource constraints required a scaling back of planning while the most urgent maintenance needs and other projects, some of which have uncertain outcomes, took precedence.

**Progress Reports** foster accountability by assessing the implementation status of previous program evaluation reports, recommendations and need for further changes.



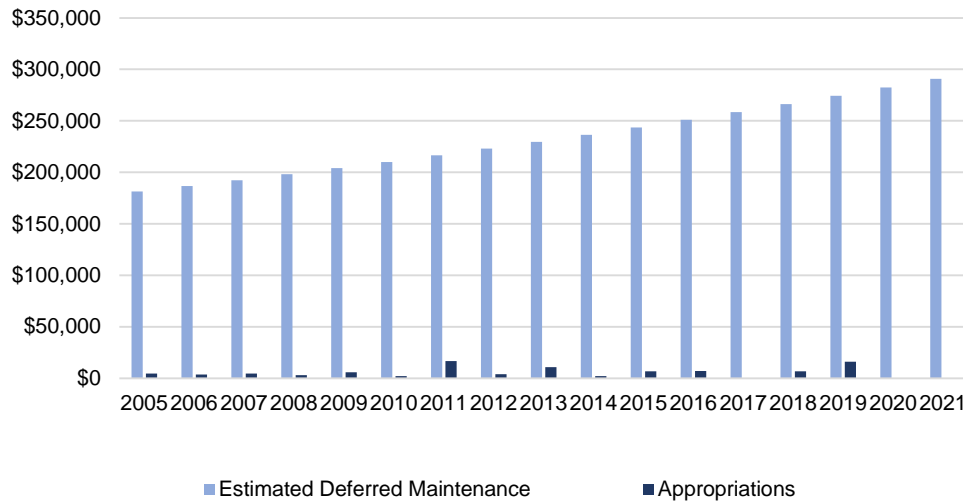
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# NMCD Continues to Face Rising Costs Due to Aging and Inefficient Facilities

**As facilities age, NMCD’s deferred maintenance needs are approaching \$300 million.**

The 2014 evaluation found deferred maintenance needs at NMCD facilities totaling \$236.5 million. Continuing at the 3 percent rate of inflation assumed by that report, this could reach over \$290 million by FY21. Meanwhile, since the 2014 legislative session, NMCD received capital appropriations of \$38.5 million, or roughly 13 percent of the total estimated need.

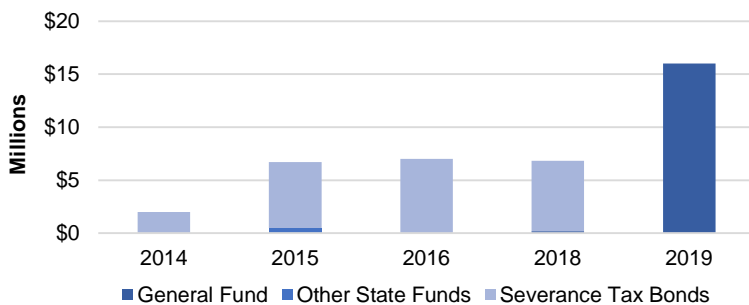
**Chart 1. NMCD Estimated Deferred Maintenance Needs and Capital Appropriations**  
(\$ in thousands)



Source: LFC analysis of NMCD data

The daunting inventory of repair and improvement needs has led NMCD to focus on the most critical security, life, and safety needs. The average age of NMCD facilities is increasing, reaching 43 years in 2019, well past the estimated useful life of 25 years. This does not include private prisons or the Northeast New Mexico Correctional Facility in Clayton, which is in the process of being transferred to NMCD from a private operator.

**Chart 2. NMCD Capital Appropriations\* by Legislative Session**

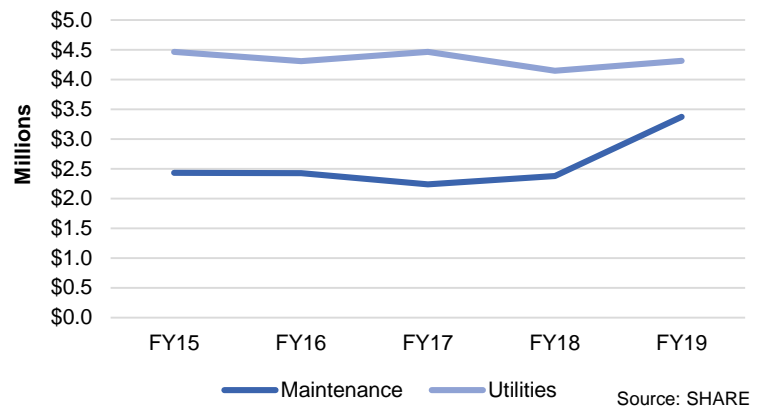


\*Excludes reauthorizations and vetoes  
Source: LFC Files

After several years of capital appropriations in the \$6 million to \$7 million range, the Legislature increased NMCD’s capital outlay funding substantially in the 2019 session. The \$16 million appropriated for projects beginning in FY20 is roughly 2.4 times the \$6.6 million appropriated during the 2018 session. Much of this funding is supporting needed work to repair aging facility infrastructure.

After modest declines in maintenance and utility costs from NMCD’s Inmate Management and Control program budget between FY15 and FY18, expenditures spiked to \$7.7 million in FY19. While utility costs have decreased by 3 percent since FY15 in part due to projects to repair, replace, or upgrade electrical, HVAC, and water systems at state prison facilities, maintenance costs grew 39 percent overall, from \$2.4 million to \$3.4 million. Much of this increase is attributable to growth between FY18 and FY19, including a 10-percent increase in spending on maintenance of buildings and structures and an increase in grounds and roadways maintenance costs from \$33 thousand to \$197 thousand, among other, more modest increases.

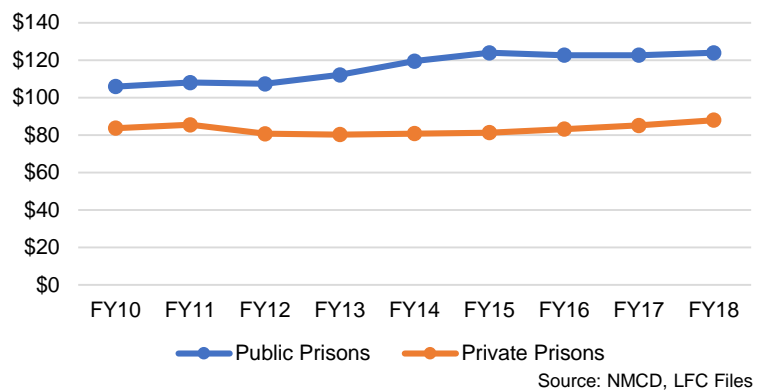
**Chart 3. Inmate Management and Control Expenditures on Maintenance and Utilities, FY15-FY19**



**The cost to house an inmate in New Mexico’s public prisons has stabilized since the 2014 evaluation, but still relies on inefficient facility designs.**

The 2014 evaluation found increasing operational costs due to a shift in higher security inmates to public prisons while private prisons expanded with more medium-security inmates. At the time of the original evaluation in FY14, the average cost to house an inmate in an NMCD-operated facility was about \$119 per day. At the end of FY18, this had risen to \$124 per day, an increase of 4 percent. By comparison, the average daily cost per inmate grew nearly 13 percent between FY10 and FY14.

**Chart 4. Average Daily Cost per Inmate**



A key finding of the 2014 evaluation was that New Mexico’s public prisons, especially medium security facilities, have inefficient designs that contribute to higher operating costs, requiring lower inmate-to-officer ratios and more complex maintenance needs. These designs remain largely unchanged with only limited plans to replace them due to a lack of a long-term master plan.

**NMCD’s aging facility designs continue to require staffing levels that the department has had difficulty maintaining.** NMCD has not replaced or engaged in significant redesigns of its public prison housing units since the 2014 evaluation was published. As noted in that report, New Mexico’s public prisons have more inefficient medium-security housing units than their private counterparts due to factors such as their age, staffing requirements, and adherence to conditions of the Duran consent decree.

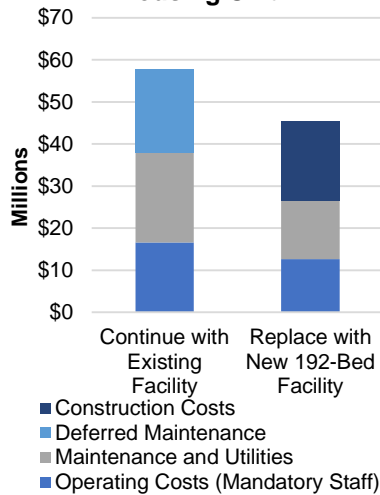
NMCD continues to struggle with staffing its public prisons, with an overall vacancy rate among all correctional officers of 32 percent as of October 2019. Custody positions, which are those who directly supervise inmates, had a vacancy rate of 27 percent as of October 2019. The highest vacancy rate is at the Springer Correctional Center, at 57 percent.

**Table 1. Public Prison Custody Position  
Vacancy Rates, October 2019**

Facility	Filled	Vacant	Total	Vacancy Rate
CNMCF	240	101	341	30%
PNM	248	91	339	27%
RCC	32	17	49	35%
SCC	29	38	67	57%
SNMCF	204	28	232	12%
WNMCF	90	35	125	28%
<b>Total</b>	<b>843</b>	<b>310</b>	<b>1,153</b>	<b>27%</b>

Source: LFC analysis of SPO data

**Chart 5. Updated 20-Year  
Cost of Replacing a  
Medium-Security  
Housing Unit**



Source: LFC analysis of NMCD data; Construction cost growth estimated based on RSMeans construction cost index

***NMCD's current plan would maintain aging infrastructure and add capacity to accommodate anticipated growth in the female inmate population that recent population trends indicate may not be warranted.***

**Replacing aging and inefficient housing units remains more cost-effective than continuing to maintain them.**

The original evaluation estimated the cost to build and finance a new 192-bed medium-security prison to replace older, existing housing units at roughly \$16.9 million in 2014 dollars, which equates to roughly \$18.2 million in 2019. That evaluation also estimated such a new housing unit would provide cost savings of \$2.6 million over 10 years through reduced operational, utility, and maintenance costs. Conducting construction and maintenance activities in a prison environment is already a costly and complex endeavor due to the need to ensure the security of inmates and work crews during the entire project, and these costs may be exacerbated by the age and design of the facilities.

As noted in the original evaluation, increased capacity could result in savings if inmates transferred from higher-cost facilities and newer facilities were more energy efficient. However, NMCD's current ICIP does not call for the replacement of any existing housing units, instead proposing a new 100-bed women's unit. The ICIP suggests continuing to try to maintain the aging infrastructure at current facilities in addition to constructing new capacity to accommodate anticipated growth in the female inmate population that recent population trends indicate may not be warranted. Without decommissioning or demolishing an existing, older, higher-cost unit, the department would still need to bear the fixed costs to maintain and staff those facilities after those inmates are moved to a new facility, potentially creating additional excess capacity in the process.

Updating the 2014 LFC cost-benefit analysis indicates a growing gap between the cost of maintaining a current medium-security (level III) housing unit and replacing it with a new 192-bed facility. The 2014 analysis estimated a 20-year cost of \$49.7 million to continue to operate an existing facility, using Southern New Mexico Correctional Facility (SNMCF) as the basis for the hypothetical estimate, compared with \$43.1 million to replace it. Incorporating changes since then, including growth and inflation in NMCD staffing and maintenance costs, as well as increases in construction costs based on national industry indices, reveals a 20-year estimated cost of continued operation at \$57.8 million compared with \$45.4 million for replacement.

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**NMCD has improved prioritization of the highest-need projects, but some issues remain.**

The 2014 evaluation found that NMCD was not using a facility condition assessment to drive its project priorities and recommended NMCD quantify its capital needs based on fixed criteria such as facility condition, safety risk, cost-benefit, and shovel readiness, and request funding for projects with the highest need. While NMCD's most recent requests prioritize funding based on category of need, some recent examples suggest a continuing need for more rigorous oversight.

Since the original evaluation, GSD contracted for an updated facilities condition assessment in early 2016, and NMCD has drawn upon that assessment to inform its project planning and prioritization. In its FY20 and FY21 Infrastructure Capital Improvement Plans (ICIPs), NMCD's first priority is security, fire, and life safety upgrades, followed by other replacements repairs, renovations, construction, and additions; water, sewer, and electrical upgrades; transitional living centers; and parking lots, roadways, and exterior upgrades. Each category consists of specific projects that will meet these needs at specific facilities.

While recent ICIP requests demonstrate improved prioritization of projects, it remains unclear the extent to which NMCD incorporates facility condition assessment data or other criteria into its project planning and prioritization processes as recommended by the 2014 LFC report. The department's ICIP documents are not transparent in presenting supporting data or other information explaining how prioritization decisions were reached. These details can help inform appropriations decisions and target funding to projects likely to have the greatest benefit.

***NMCD has faced difficulties in completing all of its highest priority projects because of circumstances requiring emergency repairs and funding for other projects where the value is uncertain.*** In addition to critical security systems such as video surveillance, many of the areas of highest need continue to be in building systems, such as heating, ventilation, and air conditioning (HVAC), water and wastewater, electrical, and fire safety systems. NMCD has several ongoing projects to repair or replace these systems at its facilities statewide. However, unexpected emergencies can divert resources from planned projects, and as facilities and equipment age, the risk of such occurrences increases.

For example, a generator failure at WNMCF required a \$639 thousand replacement during FY18. NMCD has engaged in projects to replace all generators at prison facilities statewide in recent years to ensure power supplies remain uninterrupted in the event of an emergency. Most recently, a \$2.2 million project to replace all generators at the Penitentiary of New Mexico (PNM) was completed in July 2019.

***Failing electrical generators have cost NMCD nearly \$3 million to replace over the past two years.***

Other projects completed during the same period, however, have not necessarily aligned with the high-priority infrastructure needs of NMCD facilities. A project at PNM to convert a kitchen into an industrial bakery cost \$366 thousand, but upon completion lacked a concrete plan for its use. As of October 2019, there is a plan to use the bakery temporarily while the Level II kitchen is undergoing upgrades. However, once that is completed, it is still unclear whether the bakery facility is to be used by Corrections Industries or for some other programming for PNM inmates.

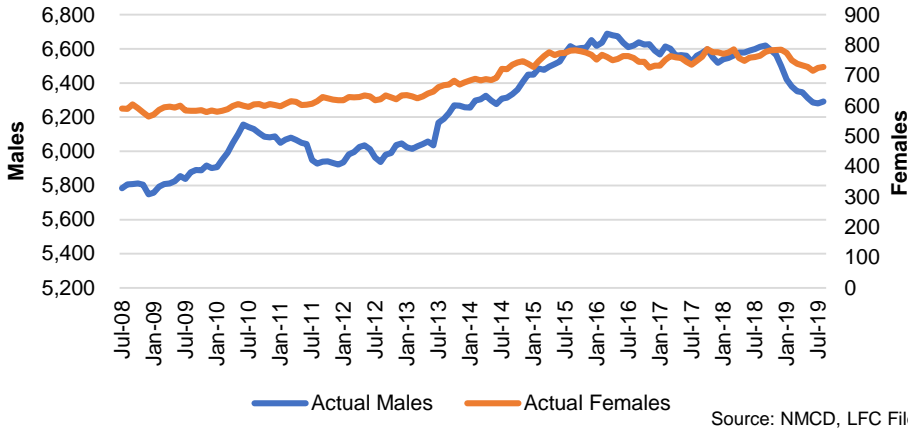
# NMCD's Facility Planning Should Leverage Policies to Reduce the Prison Population and Optimize Capacity

## New Mexico's prison population is trending downward after years of growth.

As of the end of FY19, the number of inmates in New Mexico prisons is at its lowest level in roughly five years. The original evaluation was completed in

June 2014, during a period of steady growth in the inmate population. After its publication in June 2014, the number of inmates in New Mexico prisons continued to grow from just under 7,000 to over 7,400 at the end of FY16. Between FY16 and the beginning of FY19, the population remained fairly steady between 7,300 and 7,400, but fell throughout FY19 to just over 7,000 as of August 2019.

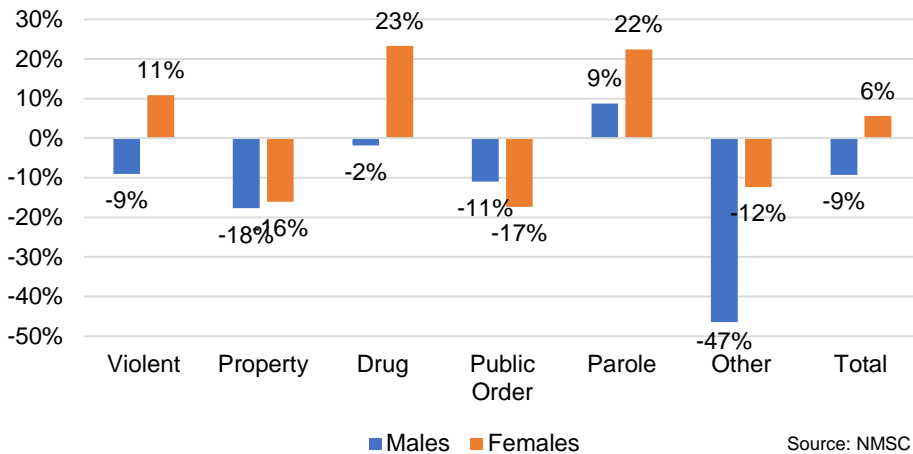
**Chart 6. New Mexico Prison Population, FY09-FY20 YTD**



While females make up a much smaller portion of the overall inmate population (10 percent versus 90 percent for males), their numbers have grown disproportionately faster. Between FY14 and FY18, the most recent full year of available admissions data, the number of female admissions to New Mexico

prisons grew by 6 percent, from 589 to 622, mostly driven by drug and violent crimes and parole violations. Male admissions, however, declined by 9 percent, and while parole violations leading to incarceration increased among men as well, admissions due to all other categories of crime decreased.

**Chart 7. Percent Change in Male and Female Prison Admissions by Crime Type, FY14-FY18**



The New Mexico Sentencing Commission (NMSC) states the reasons for the overall decline in the prison population remain unclear, and

thus there is some uncertainty over whether this trend will persist or if populations will begin to grow again. However, absent a sustained upward trend, NMCD should focus its facility planning on rehabilitating and replacing aging, high-cost units rather than significant capacity increases.

**NMCD may be able to optimize facility use through changes to inmate classification.** NMCD classifies inmates as levels I through VI based on their criminal and behavioral history and other factors that may contribute to their ability to function in the inmate population and whether or not they may act as a security threat. Level I inmates are housed under the lowest levels of security and supervision, and Level VI inmates receive the highest. Generally, the higher the level of security, the greater the staffing and physical security needs and therefore the higher the costs.

The bulk of NMCD inmates reside in levels III and IV, generally corresponding to medium to medium-high security needs. According to analysis of the available NMCD data, the proportion of public prison inmates in levels III and IV grew from 18 percent in FY14 to 27 percent in FY19. Meanwhile, these inmates make up a smaller share of the private prison population (private prisons in New Mexico generally do not take inmates classified higher than Level III). This shift is partially due to the movement of much of the female inmate population from privately owned facilities to NMCD facilities. Currently, all female inmates are housed at NMCD-operated facilities rather than private prisons.

It should be noted that NMCD currently tracks inmates in such a way that some facilities or units have counts that combine more than one level of custody. For example, FY19 data shows the total count of Level III and Level IV inmates at Western New Mexico Correctional Facility (WNMCF) rather than discrete counts of each level. Therefore, it is not possible to know from available data exactly how many inmates are in each level. In certain cases, the data combines some level III inmates with level II inmates; this is less useful for assessing medium-security housing needs because level II inmates may be housed in dormitory-style facilities rather than cells. However, because levels III and IV in public facilities often use housing units planned around pods of cells, often staffed from the same pool of correctional officers, it is more useful to use these to assess public prison housing needs.

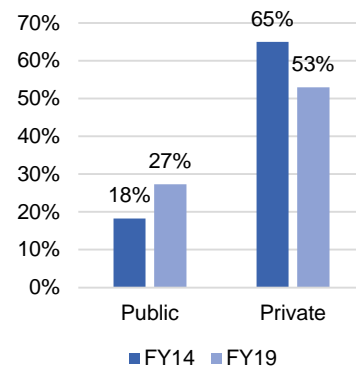
Factors such as classification overrides and the structure of private prison contracts may lead to some inmates being inappropriately classified to fill unoccupied beds at certain facilities. For example, the contract for the Northeastern New Mexico Detention Facility in Clayton (which NMCD is assuming full control of in November 2019) stipulates that NMCD is to assign only inmates designated level III to that facility, including overrides, creating a potential incentive to classify inmates to that level who may otherwise not meet its criteria.

The Institute of Social Research at the University of New Mexico is currently conducting a study of NMCD classification levels which may serve to refine how the department classifies and houses inmates. In addition to departmental changes in the classification process, this could serve to further reduce the overall prison population or contribute to some reductions in the custody levels of certain inmates, potentially freeing capacity and reducing costs.

**NMCD has not completed a long-term master plan, and is instead studying a potential new women’s facility.**

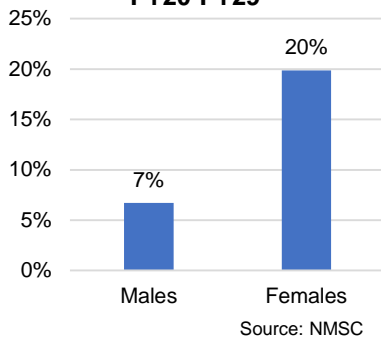
The original evaluation recommended NMCD develop and implement a 10-year master plan for its facilities and submit it to the relevant legislative committees and DFA every other year. In the 2018 legislative session, NMCD

**Chart 8. Percent of Public and Private Prison Inmates in Levels III and IV, FY14 and FY19**

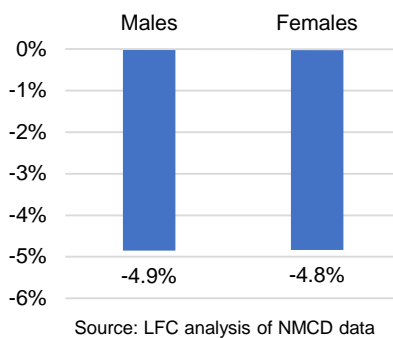


Source: LFC analysis of NMCD data

**Chart 9. NMSC  
Projected Change in  
Inmate Population,  
FY20-FY29**



**Chart 10. Change in  
Inmate Population,  
August 2018-August  
2019**



received a \$200 thousand appropriation for master planning. The Legislature passed an additional \$300 thousand appropriation for this purpose in the 2019 session, but this was vetoed by the Governor. As a result, NMCD is not moving forward with the recommended 10-year plan and is instead using the \$200 thousand appropriation to carry out a more limited study for ways to house an anticipated growing female inmate population. While recent forecasts suggest a 20 percent increase in the female inmate population over the next decade, the actual female population decreased by 5 percent between August of 2018 and August of 2019, alongside a similar decrease for males, potentially indicating a need for revised projections.

Women are currently housed at the Springer Correctional Center (SCC) and Western New Mexico Correctional Facility (WNMCF), which currently have a combined capacity of 860 female inmates. To this end, NMCD is including a request for \$5 million for a new 100-bed medium security women’s housing unit at Western New Mexico Correctional Facility in Grants as part of its FY21 ICIP. This addition would increase capacity to 960 female inmates.

Given the recent overall downward trend in New Mexico’s prison population, however, NMCD should consider how such a new housing unit could be used to replace existing higher-cost, higher-maintenance units rather than simply add new capacity. While the assumption of female population growth is based in part on recent NMSC projections that forecast female inmate growth of as much as 20 percent over the next decade, the recent downturn is leading NMSC to reassess its methodology. As such, it remains to be seen if such significant growth assumptions in the female population are warranted.

***The transfer of the Clayton facility to NMCD will add 628 beds of level III capacity to the state’s control.*** This facility averaged occupancy of roughly 81 percent in FY19 and will be the newest facility in NMCD’s portfolio, having opened in 2008. This offers the state an opportunity to incorporate a relatively new, more efficient prison into its operations and plans for leveraging its capacity going forward.

**NMCD must plan its facility needs accordingly to ensure ongoing compliance with the recent Duran settlement.**

In September 2019, New Mexico reached a preliminary settlement in the long-running Duran lawsuit that stemmed from conditions in NMCD prison facilities following the 1980 riot at the Penitentiary of New Mexico (PNM). While the state had been operating under a consent decree for many years, the most recent settlement agreement provides a roadmap for the state to disengage from court oversight.

Under the preliminary settlement agreement, NMCD must provide at least 50 square feet of living space for each inmate assigned to a dormitory or multiple occupancy room, not including dayrooms and bathrooms. To ensure this, NMCD must, within 18 months, transfer a total of 314 inmates from two private facilities and two public facilities to space in other New Mexico prisons. In addition, NMCD must abide by requirements for providing adequate inmate shower and toilet availability, sufficient water and wastewater services, and adequate pest control at certain locations.



**Table 2. Prison Capacity Changes Required Under Duran Settlement**

	Public/Private	Current Capacity	Revised Capacity	Change	% Change
Northwest New Mexico Correctional Facility	Private	748	673	-75	-10%
Springer Correctional Center	Public	437	308	-129	-30%
Western New Mexico Correctional Facility	Public	423	353	-70	-17%
Otero County Prison Facility	Private	647	607	-40	-6%
<b>Total for Affected Facilities</b>		<b>2,255</b>	<b>1,941</b>	<b>-314</b>	<b>-14%</b>

Note: WNMCF capacity is reported by NMCD as 423, while the Duran settlement states it as 393. This analysis is based on the NMCD-reported figure.

Source: NMCD; Duran Settlement Court Order

The Duran agreement also requires NMCD to address understaffing through increased recruiting efforts and to identify geriatric, permanently incapacitated, and terminally ill inmates eligible for geriatric or medical parole. The latter provision could serve to address a recommendation of the 2014 evaluation to relocate geriatric inmates from Central New Mexico Correctional Facility to permanent housing.

Even though the settlement lays out a timeline of 18 months, or roughly March 2021, for final disengagement, the court requires NMCD to demonstrate its ability to ensure sustained compliance with its provisions before approving final dismissal of the lawsuit. Restructuring classification may provide one avenue to optimizing capacity in a way that ensures the state remains in compliance.

### **Funding evidence-based practices and programming could further reduce inmate populations.**

The Corrections Department has been working with LFC and DFA to inventory and categorize programming based on evidence. However, more work is needed to further reduce inmate populations. Chief among these efforts should be the delivery of a valid risk and needs assessment to match inmates and those on supervision with adequate programming.

Although NMCD has been paying for such a tool, known as the COMPAS, since 2008, the assessment has not been fully implemented systemwide. A July 2019 LFC memo noted that although the department aimed to fully implement the assessment in 2017, only 4 percent of the incarcerated population had completed assessments, compared with 40 percent of the community population. A 2019 report from the Council of State Governments also found strengthening supervision can help reduce prison admissions, especially for probation and parole violations, and recommended strengthening and validating the use of the state’s risk assessment to this end.

NMCD’s FY21 Infrastructure Capital Improvement Plan (ICIP) includes a request for \$3 million to increase beds and program areas at men’s and women’s transitional living centers statewide. While the 2014 evaluation did not touch upon this aspect of correctional facility planning, recidivism reduction initiatives in recent years have increasingly pointed to a need for evidence-based programs and opportunities that improve outcomes for individuals in the correctional system and prevent them from re-entering prison after being released.

A 2018 LFC evaluation of NMCD’s recidivism reduction efforts recommended expanded funding for transitional living opportunities that can

**Table 3. Release Eligible Inmates as of October 2019**

Type of Prison	Release Eligible Inmates
Public	63
Private	93
<b>Total</b>	<b>156</b>

Source: NMCD

accommodate hard-to-place release-eligible inmates and parole violators, as well as evidence-based programming designed to reduce reincarceration. Such facilities can in turn reduce prison facility costs by allowing inmates eligible for release to be housed there, as well as providing an alternative to reincarceration for certain individuals who violate their parole and may otherwise be placed back in prison. NMCD should account for such opportunities for transitional housing and evidence-based programming in any strategy for dealing with its future facility needs.

As of October 2019, NMCD housed 156 inmates eligible for release. Of these, 63 inmates (40 percent) were housed in public prison facilities, while 93 inmates (60 percent) resided in private prisons.

## Updated Recommendations

The Legislature should consider:

- Appropriating funds for NMCD to complete a full 10-year facilities master plan in the 2020 session.

NMCD should:





- Consider directing a portion of operating funds to facility master planning;
- Clarify in its ICIP requests the criteria by which project prioritization decisions were made; and
- Include in any updated facility master plan:
  - Consideration of how existing capacity can be optimized or replaced in light of cost-benefit analysis and inmate classifications;
  - An explanation of how the plan will ensure compliance with the Duran settlement with regard to inmate living space and facility condition requirements; and
  - Consideration of expanded transitional living opportunities with evidence-based programming for release-eligible inmates, parole violators, and others at risk for reincarceration.



## Status of Previous Recommendations





### Finding

Public prisons have \$277 million in capital outlay needs, but investing in existing medium security housing may not prove cost beneficial.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
GSD and NMCD should consider replacing medium security housing units based on LFC cost benefit analysis.				NMCD agrees the current designs of housing units in public facilities are operationally inefficient and that newly designed and constructed housing units would allow for greater efficiencies in areas such as staffing, energy usage, and security. However, in the absence of a long-range master plan, NMCD is currently limiting this initiative to a request for funding a new medium security housing unit for female inmates.
NMCD should continue to work with the Legislature to acquire resources to address serious security issues identified in the Security Systems Upgrades Assessment.				NMCD notes that some technologies recommended in the 2013 assessment are now outdated, but that the department has invested capital outlay funds to replace or upgrade video surveillance systems and implement stun fences at multiple public prisons and upgrade master control systems at WNMCF.
NMCD should consider expanding the amount of medium security housing capacity to take inmates back from private facilities.				NMCD is using a \$200 thousand appropriation from 2018 to study and plan for new medium security housing units for anticipated growth in the female population.
NMCD should develop and implement a 10-year facility strategic plan and submit the plan to the Courts, Corrections and Justice Committee, the Legislative Finance Committee, and the Department of Finance and Administration no later than November 1 of each even-numbered year.				Apart from the \$200 thousand planned to be used for a study of new units to house a growing women's population, in the absence of additional funding NMCD continues to use the existing ICIP process to plan its needs.

## Finding

Inadequate planning and oversight of capital outlay projects has led to deficient outcomes.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
GSD should develop quality assurance tools with status updates on projects to ensure projects are completed to specifications.				GSD's Facilities Management Division (FMD) reports management changes have resulted in greater consistency in project management, with new policies, procedures, and an improved review process involving the Staff Architect. However, LFC staff were not provided with documentation of specific tools in place.
GSD should implement policies and procedures regarding capital outlay.				FMD reports it has adopted new policies, procedures, and checklists for project managers and conducts biweekly project status meetings. However, LFC staff was not provided with documentation of specific tools in place.
NMCD should improve its ICIP process by quantifying capital needs based on fixed criteria and requesting funds for those projects with the highest need.				NMCD is prioritizing projects based on need, but the extent to which the ICIP draws directly on condition assessment data or other criteria is not transparent.
NMCD should adopt a policy requiring each facility to obtain professional design services for drawings and specifications for all upgrade projects, additions and changes made to security systems. Such a policy would ensure equipment is state of the art and meets established NMCD correctional facilities guidelines.				NMCD has every project utilizing capital outlay go through a professional design phase, including engineering and architectural services.