

Significant reductions in inmate population have enabled the Corrections Department (NMCD) to accommodate extremely high vacancy rates among correctional officers and other staff. However, instead of reinvesting savings from reduced populations and staffing levels into programming aimed at reducing recidivism, these funds are generally redirected towards equipment, are subsumed by increased contract costs, or remain unspent. The agency’s spending on recidivism-reduction programming has remained relatively flat, and its FY24 budget request does not provide for any increases in this area, despite the state’s budget surplus.

Recidivism-Reduction Programming Plan. In the 2020 General Appropriation Act (GAA), the Legislature appropriated \$200 thousand from the penitentiary income fund to NMCD to develop a recidivism-reduction programming plan and provide supplies for recidivism-reduction programs. The appropriation required the agency present its recidivism-reduction plan to LFC and the Department of Finance and Administration (DFA) by September 2021, including a current program inventory, program capacity and enrollment, number of inmates whose risk-needs assessments indicate they should participate in each program but are not enrolled, incentives for participation, program cost, and metrics of program effectiveness.

Due to the impacts of the Covid-19 pandemic, during the 2021 session the department requested an extension on the time to use the funding and the deadline for it to present its plan (to September 2022). Language extending the appropriation and deadline were included in the 2021 GAA, without changing any of the conditions or requirements of the original appropriation. However, the governor vetoed the agency’s requirement to present the plan to LFC. The agency has been requested to present the plan to LFC at the hearing on September 22.

Budget

Budget History

Between FY18 and FY22, NMCD’s total budget grew by \$14.9 million, or 4.6 percent, and its appropriations from the general fund increased \$30.6 million, or 10.3 percent. Over the same period, the population of inmates in NMCD’s care decreased 22.1 percent. The agency’s assumption of operations at previously privately operated facilities have been significant cost drivers, with the state taking over operations of Northeast New Mexico Correctional Facility (NENMCF) in Clayton in November 2019 and of Guadalupe County Correctional Facility (GCCF) in Santa Rosa and Northwest New Mexico Correctional Facility (now called Western New Mexico Correctional Facility South) in November 2021. NMCD also entered into a new contract for inmate healthcare in November 2019, and while the contract has since been amended, it remains a significant expense.

In FY22, the agency received a general fund appropriation 0.4 percent lower than its FY21 operating budget, but the total appropriations exceeded the agency’s

AGENCY: Corrections Department

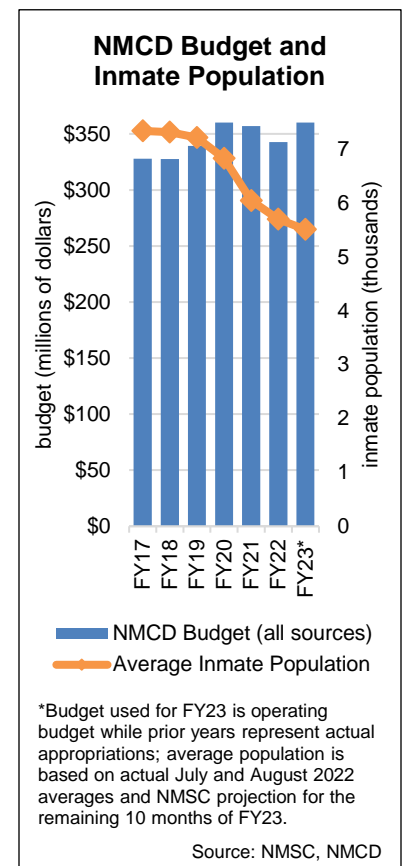
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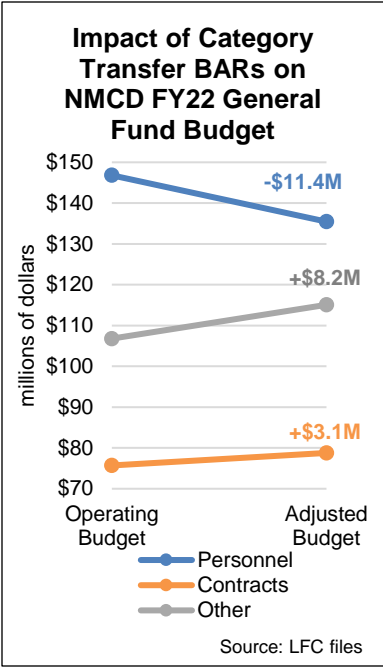
PURPOSE OF HEARING: Review recidivism reduction programming plan

WITNESS: Alisha Tafoya Lucero, Secretary, Corrections Department

PREPARED BY: Ellen Rabin, Senior Fiscal Analyst, LFC

EXPECTED OUTCOME: Informational





actual FY21 expenditures by \$1.7 million. Significant cost savings from continued population reductions and the agency’s high vacancy rate were redistributed to other legislative priorities within the agency. Although general fund reversion amounts for FY22 are not yet available, NMCD reports its overall revenues exceeded expenditures by \$7.1 million.

Budget Adjustments. NMCD made several significant budget adjustments during FY22, transferring a total of \$30.4 million between budget categories, including an almost \$10 million transfer from the other category to personnel that was effectively reversed several months later. At the beginning of FY22, NMCD transferred \$9.4 million from the other category to personnel to account for the transfers of GCCF and Western New Mexico Correctional Facility South from private to public operation. In December 2021, the agency reallocated \$12.5 million of vacancy savings, including \$9.8 million which it transferred to the other category, effectively reversing its earlier transfer. In March 2022, the department transferred an additional \$7.5 million from personnel due to vacancy savings, reallocating \$250 thousand to contractual services and \$7.2 million to the other category. The vacancy savings from the Inmate Management and Control Program were primarily used to cover increased contract costs, purchase equipment, and conduct facility maintenance and improvements.

Use of Inmate Management and Control Vacancy Savings

NMCD provided information on the planned uses of its \$12.5 million transfer out of personnel in December, including:

- \$2.8 million for maintenance projects;
- \$2.2 million for shortfalls in funding for medical and behavioral health contracts;
- \$1.5 million for general cost escalations for supplies;
- \$1.3 million for maintenance equipment; and,
- \$1.2 million for staff housing.

The agency also planned to expend funds on stab-resistant vests, facility video surveillance upgrades, vehicles, and armory equipment.

The agency did not provide a breakdown of how it would spend the \$7.5 million in vacancy savings transferred in March, but stated the funds would be used for building and repair, installation and maintenance of a new physical fitness course at its training academy, new security and communication systems, and other equipment and maintenance needs.

In addition to category transfers, the agency increased its budget with \$1.2 million in unbudgeted federal funds and transferred \$200 thousand in vacancy savings from the Inmate Management and Control Program to the Community Offender Management Program to cover a shortfall for salaries and benefits. These adjustments resulted in an adjusted FY22 operating budget that differed substantially from what was appropriated by the Legislature.

**NMCD General Fund Appropriations and Request
FY22-FY24
(in thousands)**

Program	FY22 Actual Approp.	FY23 Operating Budget	FY24 Budget Request	Percent Increase Requested
Inmate Management and Control	\$277,225.1	\$265,894.6	\$267,306.0	0.5%
Corrections Industries	\$0.0	\$0.0	\$0.0	-
Community Offender Management	\$38,095.7	\$31,825.6	\$33,336.0	4.7%
Reentry*	\$0.0	\$22,875.2	\$21,985.8	-3.9%
Program Support	\$12,576.3	\$14,805.3	\$14,986.4	1.2%
Total	\$327,897.1	\$335,400.7	\$337,614.2	0.7%

*The Reentry Program was created as a new program for FY23 and consolidates the budgets of the Recidivism Reduction Bureau and Education Bureau, previously part of the Inmate Management and Control Program, as well as transitional services and community corrections contracts, previously part of the Community Offender Management Program.

Source: NMCD FY24 budget request and LFC files

FY23 Operating Budget

Although the Legislature reduced NMCD’s Section 4 funding for FY23, the compensation package more than made up for this reduction. Section 4 of the 2022 General Appropriation Act reduced NMCD’s general fund FY23 operating budget by \$2.6 million, or 0.8 percent, compared with FY22. The agency’s significant vacancy rates and prison population reductions provide an opportunity to cut costs while also expanding services, and the FY23 operating budget also reinvested \$1.6

million from these savings into programming and \$500 thousand into transitional housing for offenders reentering the community. However, the agency received \$8.7 million in general fund appropriations for compensation for FY23, resulting in a general fund operating budget \$7.5 million, or 2.3 percent, greater than FY22. The agency’s overall FY23 operating budget exceeds FY22 by \$2.6 million, or 0.7 percent.

FY24 Budget Request

NMCD requested an increase of \$2.2 million, or 0.7 percent, from the general fund for its FY24 budget. The entirety of the increase is due to anticipated increases in fixed rate costs. The agency’s request also included the transfer of \$9.2 million in vacancy savings to contracts (\$6 million) and other (\$3.2 million) in the Inmate Management and Control Program for medical and behavioral health services, increases in privately operated facility per-diem rates, increased costs for inmate food service, and increased utility costs. Additionally, the request shifted \$1 million from the Reentry Program to the Community Offender Management Program for offender drug testing. NMCD did not request any additional funds for recidivism reduction programming.

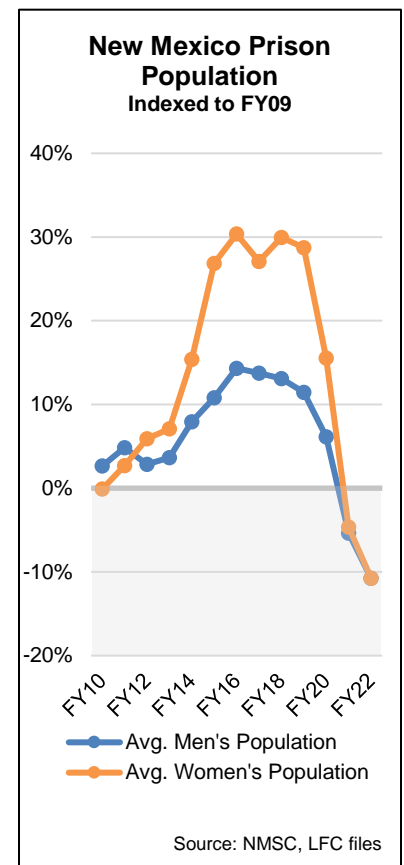
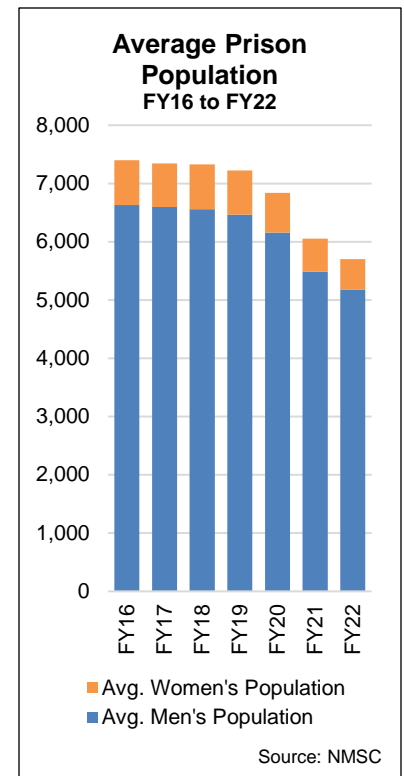
Prison Population, Facility Capacity, and Staffing

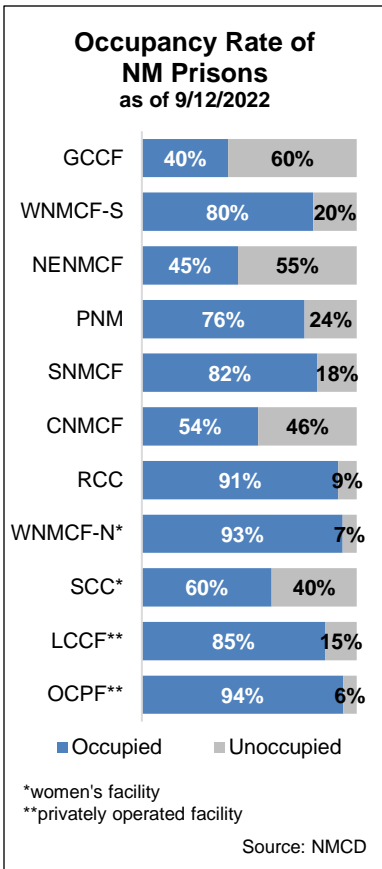
New Mexico’s prison population has been falling since September 2018 and had dropped over 8 percent by March 2020, even before the impacts of the Covid-19 pandemic on adjudication and early releases. The unprecedented but sustained reductions in population could provide significant cost savings, as incarcerating an inmate cost an average of \$49.6 thousand in FY21, and create an opportunity for the state to realize and reinvest those savings in improved programming and resources. Although correctional officer and other vacancies remain high, reductions in inmate populations allow the department to continue operating its facilities safely, and sustained population reductions may render many of these vacant positions unnecessary.

Prison Population

Population trends and admissions data suggest inmate population may be stabilizing after falling almost every month for over three years. The total prison population averaged 5,703 in FY22, down 5.7 percent from FY21 and 22.9 percent lower than the population high in FY16. Although the average number of people incarcerated in New Mexico’s prisons fell between FY21 and FY22, changes in population trends are usually offset from changes in admission trends due to sentence length. Admissions to prison in FY22 increased for the first time since FY15, rising 2 percent compared with FY21. A total of 2,409 people were admitted to prison over the course of the year, including 2,076 men and 333 women. This increase was driven by new convictions, which rose 11 percent compared with FY21 and made up 60 percent of total admissions compared with 55 percent in FY21.

New Mexico’s prison population increased slightly in August, rising 0.1 percent compared with July (a net increase of six inmates), but still saw a 3.4 percent decline year-over-year compared with August 2021. Overall, an average of 5,598 people were incarcerated in August, including 5,093 men (an increase of 0.2 percent month-over-month but a 3.3 percent decline year-over-year) and 505 women (a decline of 1 percent month-over-month and 4.4 percent year-over-year).





Occupancy and Staffing Rates

High vacancy rates pose safety concerns, but low populations have enabled NMCD to adjust facility occupancy to align with staffing levels. However, this has not been possible at all facilities.

While just 54 percent of Western New Mexico Correctional Facility North's (WNMCF-N) custody staff positions were filled on September 1, the facility was 93 percent occupied on September 12, reflecting the agency's lack of flexibility as WNMCF-N is the only facility that can house medium- or maximum-security female inmates.

However, Roswell Correctional Center (RCC) also has a significant discrepancy between staffing and occupancy, with 67 percent of custody positions and 91 percent of beds filled. RCC holds level II men, who can also be held at five other facilities.

The Sentencing Commission's July 2022 prison population projection anticipates total prison populations will average 5,513 over the course of FY23, a 3.3 percent drop from FY22's average population of 5,703. This reduction is projected due to falling male inmate populations, which the commission estimates will fall 4 percent between FY22 and FY23; female populations are projected fall an average of 1.1 percent between FY22 and FY23, but the commission anticipates female prison populations will rise during the course of FY23. The actual population housed in the state's prisons in August was 0.1 percent higher than the commission's projection, with the commission projecting 1.1 percent fewer men and 6.5 percent more women than were actually incarcerated.

Facility Capacity and Staffing

Population declines also provide an opportunity for the state to reduce populations at understaffed facilities. Overall, about 28 percent of NMCD's total positions were unfilled over the course of FY22. Public and private correctional officer vacancies remain high, at 29 percent and 32 percent, respectively, for FY22. The Penitentiary of New Mexico (PNM) drives public correctional officer vacancies, with an average of about 100 correctional officer positions unfilled during the course of FY22. As of September 1, 125 correctional officer positions at PNM were vacant.

Guadalupe County Correctional Facility (GCCF) in Santa Rosa and Northeast New Mexico Correctional Facility (NENMCF) in Clayton continue to operate at half capacity due to vacancies among custody staff. Last spring, high vacancies among correctional officers at GCCF prompted NMCD to close one of its two housing units, and as vacancy rates among correctional officers at NENMCF began to increase significantly this fall, the agency similarly closed one of the two housing units at that facility, reducing the population housed at each facility to under half capacity.

While GCCF has seen improvements in vacancies over the past nine months, with rates falling from 58 percent in December to 46 percent in September, NENMCF has seen a significant increase in vacancies over the course of the past year, rising from 33 percent in October 2021 to 52 percent in September. As of September 12, GCCF housed 241 inmates (40 percent of its 600-bed capacity) and NENMCF housed 281 inmates (45 percent of its 628-bed capacity).

Central New Mexico Correctional Facility (CNMCF) in Los Lunas and Southern New Mexico Correctional Facility (SNMCF) in Las Cruces had the lowest vacancies this year, averaging 22 percent over the course of FY22. CNMCF's low vacancy rate is a result of the transfer of 93 vacant positions to GCCF and WNMCF-S when NMCD took over operations of those facilities in November, and CNMCF employed 28 fewer officers in June than at the beginning of FY22. Due to its location, SNMCF has generally not experienced the same degree of vacancies as other facilities, although it is worth noting it lost a net 27 officers over the course of the year.

Recidivism and Programming

NMCD has seen improvements in recidivism but still has a long way to go. Low completion rates of evidence-based programs suggest NMCD may need to focus not only on ensuring offenders receive services, but also on ensuring offenders are consistently engaging in these services and that services are consistent among prisons and security levels. The department should also track metrics of success

for participants and graduates of its programs and should conduct evaluations to ensure programs are implemented as intended.

Recidivism

The overall three-year recidivism rate of offenders released from NMCD’s custody decreased 7 percentage points between FY21 and FY22, with the fourth quarter marking the sixth consecutive quarter of improvement in this crucial area. Recidivism due to new offenses remained relatively stable between FY21 and FY22, while recidivism due to technical parole violations fell 6 percentage points over the same period. Reduced recidivism aligns with the reduction in prison admissions due to parole revocations, which fell 13 percent in FY22 compared with FY21, and went from comprising 41 percent of total admissions in FY21 to 35 percent in FY22.

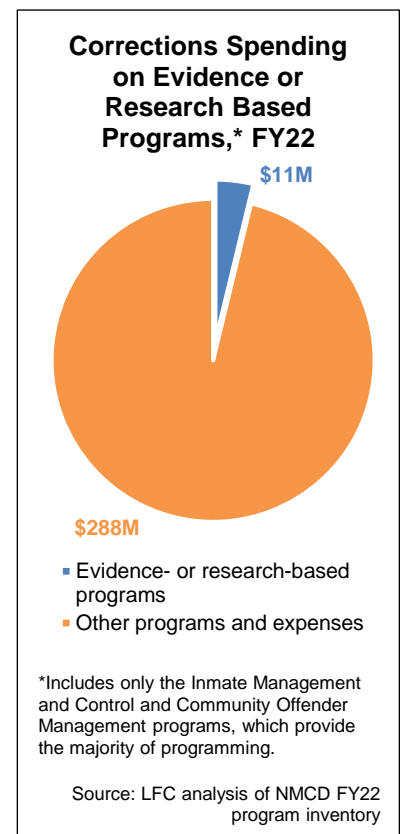
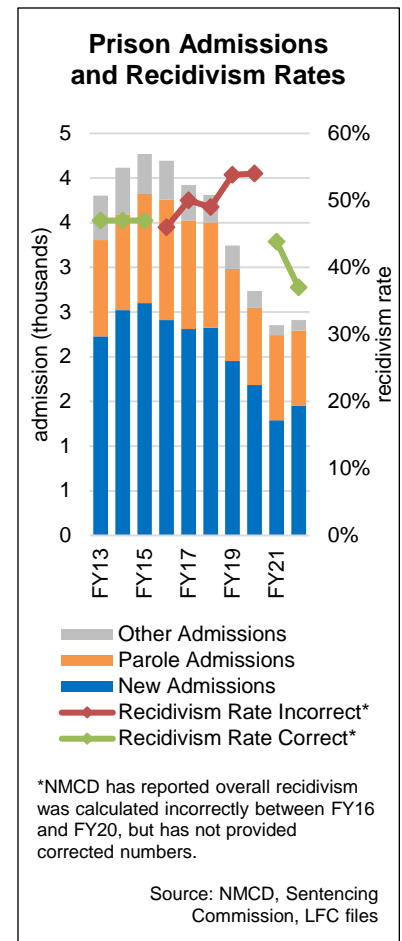
Improved recidivism rates may reflect improved reentry programming, but other factors upstream in the criminal justice system, such as arrests, could also impact recidivism. Despite meeting the target for overall recidivism, the measure’s rating remains yellow due to a lack of historical data with which to compare current results. In the first quarter of FY21, NMCD reported its overall three-year recidivism rate had been reported incorrectly since 2016 due to a database error that erroneously counted all intakes to the parole system as prison admissions for purposes of calculating reincarceration rates. The agency has corrected this issue, but because it has not provided corrected historical data on this measure, it is unclear if FY21’s recidivism results represent an increase or decrease from previous years. NMCD reports it is working on recalculating annual results for its three-year recidivism rate measure but has not yet provided results.

Programming

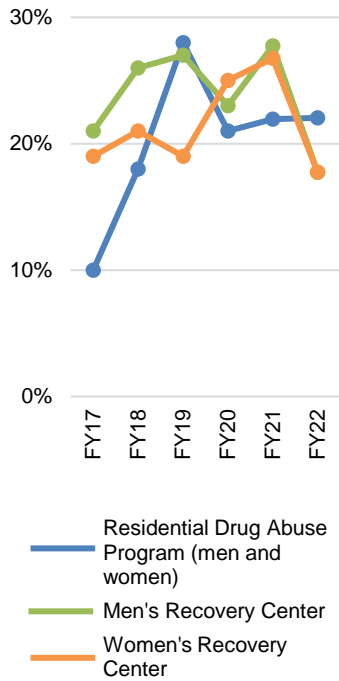
NMCD reports all recidivism reduction programs it funds for \$100 thousand or more are evidence- or research-based. The agency’s FY22 program inventory included 26 programs, of which 12 (funded at a total of \$5.3 million) were evidence-based and 14 (funded at a total of \$6 million) were research-based, with the agency’s largest expenditures on the men’s and women’s recovery academies (\$3 million) and adult basic education (\$2.4 million). A full list of programs, participation, completion, and costs can be found in Attachment 1. This year, Community Corrections’ RFP for behavioral health and transitional housing will require providers to use evidence-based practices. Overall, the agency spent about 4 percent of its budget for the Inmate Management and Control and Community Offender Management programs (which provide the majority of programming) on evidence- or research-based programs.

The department may need to focus its attention not only on ensuring offenders receive services, but also that they are consistently attending to enable successful completion of the program. Only a small fraction of participants complete these programs, with a completion rate of just 26 percent across all programs in FY22.

Although all programs have some research or evidence behind them, it is important to ensure these programs operate to fidelity, meaning they are run as the model intends, and that their outcomes are in line with what is generally expected from correctly run programs. NMCD reports on recidivism for just two of these programs: the men’s and women’s recovery academies and the Residential Drug Abuse Program (RDAP). These programs account for 36 percent of the department’s expenditures on evidence- and research-based programs in FY22;



Recidivism Rates of NMCD Drug Treatment Programs



Source: LFC files, NMCD

however, the remaining 64 percent of those funds were expended on programs whose outcomes are not tracked. NMCD’s recidivism-reduction programming plan is required to include metrics of program effectiveness for all programs, which should help ensure funds are spent on the most effective programs and identify areas that may suffer from implementation issues.

Substance-Use Disorder Treatment. Inadequate services within jails and prisons help to perpetuate substance use disorders and contribute to recidivism. The evidence-based Residential Drug Abuse Program (RDAP), NMCD’s largest in-prison approach to addressing substance use, served 1,365 inmates in FY22. Although RDAP graduates are almost half as likely to recidivate as nongraduates, only 10.4 percent of those enrolled in the program in FY22 successfully completed it, a total of 142 individuals. LFC previously found NMCD’s implementation of similar programs did not align with best practices. In FY22, the recidivism rate of RDAP graduates was 22 percent, unchanged from the prior year.

Offenders on probation and parole in the community also lack sufficient access to treatment. In FY19, only 8.5 percent of the estimated 12.6 thousand offenders needing such treatment were served by community corrections substance-abuse programs. NMCD’s largest expenditure on programming is for the men’s and women’s recovery academies, which cost \$3 million in FY22. These academies serve offenders after release with both evidence- and research-based programs (including six programs for men and women and two programs specifically aimed at the female population), but using an evidence- or research-based model does not guarantee success. A 2015 study by the Sentencing Commission found no statistically significant improvement on outcomes at the men’s center. In FY22, the programs served a total of 304 offenders, with 59 percent completing the program, lower than FY21’s graduation rate by 6 percentage points.

Programming Spotlight: RDAP Mindfulness Pilot Project

NMCD is partnering with Tulane University to develop a pilot project deploying virtual reality tools to teach inmates in the residential drug abuse program (RDAP) emotional regulation skills to improve wellbeing, mental health, reentry, and life skills. The agency hopes these skills will reduce offenders’ violent behavior towards themselves and others.

While mindfulness and meditation programs have been used in other residential treatment settings to address social anxiety and behavior modification, this would be the first pilot in a prison setting. The department has invited the University of New Mexico to join the project to convene an institutional review board to help define protocols for research and data collection to evaluate the pilot’s effectiveness.

Other states (including Alaska, Colorado, and Pennsylvania) have employed virtual reality tools to help inmates reenter the community by allowing them to ‘experience’ environments outside of prison prior to release, such as [halfway houses](#) and [grocery stores](#), as well as engage in [mock job interviews](#).

This effort is part of a larger initiative from NMCD to identify programs and practices that have shown success in noncorrectional settings, pilot them within prisons, and assess their effectiveness to identify which programs to expand and continue long term.

NMCD expects to begin its mindfulness pilot project this fall with about 10 to 15 inmates participating. A transition in management of the organization the agency is partnering with from the University of Colorado to Tulane University delayed the program’s start date, which was originally planned for this summer.

In FY22, recidivism at both the men’s and women’s recovery academies showed significant improvement over FY21, with the men’s recidivism rate falling 10 percentage points and the women’s rate falling 9 percentage points, and both measures achieved their targets. However, a sharp increase at the women’s academy in the fourth quarter is notable and concerning, with recidivism almost doubling between the third and fourth quarters, from 15 percent to 29 percent. This comes after four consecutive quarters of improvement, which NMCD credited to the initiation of new, evidence-based programs, including trauma-informed programming specifically intended for women.

Notably, medications specifically designed to treat addiction—one of the most effective approaches to treatment and the current standard of

care for opioid disorders—are not currently available to most inmates in state custody.

Education. Notably, NMCD spent more money on the recovery academies in FY22 than on adult basic education, previously its most expensive program. Spending on adult basic education dropped 23 percent between FY21 and FY22, from almost \$3.1 million to \$2.4 million. While participation in the program declined only slightly (6 percent), the number of graduates fell 27 percent, with the overall graduation rate dropping from 9.8 percent in FY21 to 7.6 percent in FY22 (program length may impact graduation rates as this program can take 3 years to complete). Offenders who participate in this program, as well as those with a high school equivalency when they leave prison, are less likely to recidivate. Program graduates are more likely to be employed as well as have higher earnings post-release. Inmate participation in educational, cognitive, vocational, and college programs increased slightly in FY22, from 41 percent to 45 percent. However, the number of inmates who earned a high school equivalency certificate dropped 31 percent compared with FY21, which may reflect a lagging effect of reduced instructional time during the pandemic.

Sex Offender Treatment. Adult sex offender treatment reduces the likelihood for sex offense recidivism and general recidivism overall, according to research from the National Institute of Justice. However, the completion rate of these programs both in prison and in the community is poor. About 90 individuals participated in the in-prison sex offender treatment program in FY21 and FY22, with just two graduating in FY21 and six graduating in FY22. Outside of prison, NMCD’s sex offender treatment program saw its completion rate fall between FY21 and FY22, from 17 percent to 12 percent, although the program did see a slight increase in enrollment. Overall, the agency spent almost \$500 thousand on these programs in FY22.

While recidivism rates for program participants and graduates is not reported, overall sex offender recidivism for new sex offenses is extremely low. Only one offender was reincarcerated for such an offense in FY22.

Attachments:

1. NMCD FY22 Program Inventory

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NMCD FY22 Program Inventory

Program	Total Participating	Total Completing	Completion Rate	Program Rating	Total FY22 Expenditures
GEO REENTRY SERVICES - RECOVERY ACADEMIES: The recovery academies offer eight programs: Substance Abuse - Inpatient RDAP and co-occurring disorder treatment (evidence based) (men and women); Substance Abuse - Inpatient Living in Balance, Hazelden (evidence-based) (men and women); Substance Abuse - Helping Women Recover and Beyond Trauma (evidence based) (women only); Substance Abuse - Relapse Prevention (evidence based) (men and women); Cognitive Behavioral Therapy (evidence based) (men and women); Beyond Violence (research based) (women only); CBT Anger Management (research based) (men and women); Moral Reconciliation Therapy (research based) (men and women)	304	144	47%	evidence based (five programs) and research based (three programs)	\$ 3,045,699.38
CORRECTIONS ADULT BASIC EDUCATION	1,079	82	8%	research based	\$ 2,365,810.22
CROSSROADS FOR WOMEN: Modified Therapeutic Community for Persons with Co-Occurring Disorders.	117	38	32%	evidence based	\$ 1,118,515.20
RESIDENTIAL DRUG ABUSE PROGRAM (RDAP) - Therapeutic Community - Inpatient RDAP and co-occurring disorder treatment	1,365	142	10%	evidence based	\$ 1,023,037.46
LA PASADA: Halfway House	136	37	27%	research based	\$ 949,218.65
EAGLES: Service Enriched Housing	737	725	98%	research based	\$ 572,603.16
NMCD DRUG COURT	130	11	8%	evidence based	\$ 412,515.33
CORRECTIONS ADULT POST SECONDARY EDUCATION	362	10	3%	research based	\$ 396,532.00
INTENSIVE OUTPATIENT PROGRAM (IOP) - Living in Balance	566	113	20%	evidence based	\$ 332,413.57
JOURNEY'S COUNSELING SERVICES: Cognitive Behavioral Therapy	341	42	12%	evidence based	\$ 283,405.00
RAMP: Halfway House	222	51	23%	research based	\$ 220,662.00
SEX OFFENDER TREATMENT PROGRAM (SOTP)	88	6	7%	research based	\$ 206,429.64
CORRECTIONS - Moral Reconciliation Therapy (MRT)	244	95	39%	research based	\$ 155,584.00
HOPEWORKS : Modified Therapeutic Community for Persons With Co-Occurring Disorders.	76	18	24%	evidence based	\$ 123,935.39
CORRECTIONS BASED VOCATIONAL TRAINING PROGRAM - Welding	18	3	17%	research based	\$ 121,203.00
TOTAL	5,785	1,517	26%		\$ 11,327,564.0

Source: NMCD