

Good afternoon Madam Chair and members of the committee. I am Jon Courtney, and I am a Program Evaluator for the Legislative Finance Committee. I will take about 20 minutes to present portions of the report you have before you called Reducing Recidivism, Cutting Costs and Improving Public Safety in the Incarceration and Supervision of Adult Offenders. Although the sole focus of our report was not behavioral health, there are relevant portions to this committee which I will be talking about this afternoon. Afterwards I would be happy to take questions.

Madam Chair and members, over half of the inmates currently in Corrections Department facilities will be released in the next year, and 95% will be released eventually. More than half of those that are released, are likely to return to prison within five years, on average these inmates will return more than once, some of them more than ten times. According to the NMCD 75% of inmates entering the prison system have a drug addiction and 68 percent have drug-related crimes on their records. Many times the return to prison is related to parole or probation violation of which the most common reason is drugs. It is estimated that inmates released from prison, this year alone, will cost hundreds of millions over the next 15 years for incarceration costs.

Madam Chair and members, our evaluation shows that there is potential to reduce such costs and improve public safety through strategic investment and evidence-based programming including but not limited to behavioral health programming. Our evaluation determined that the NMCD currently suffers from gaps in program oversight, ineffective utilization of resources, and patterns of inefficient spending. There are many areas of cost savings and if these are implemented dollars can be reallocated to evidence-based program which has the potential to reduce recidivism and provide savings to taxpayers.

Our presentation this afternoon will focus on the following findings.

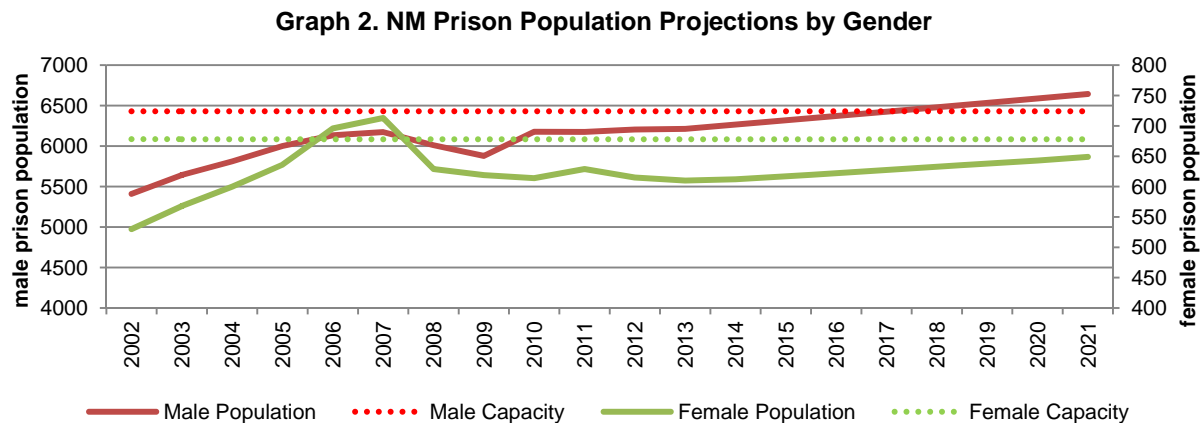
- **Reducing recidivism through strategic budget development can save millions and improve public safety.**
- **The Use of In-house parole costs \$10 million a year and could undermine public safety**
- **Lack of valid assessments and poor management of prison programs and resources inadequately prepare inmates for successful transition into the community.**
- **More community-based resources are needed and existing resources could be better used.**

Madam Chair and members, with that as an overview, I will now explain our findings and recommendations in more detail.

REDUCING RECIDIVISM THROUGH STRATEGIC INVESTMENT CAN SAVE MILLIONS AND IMPROVE PUBLIC SAFETY

New Mexico is facing a growing prison population that is projected to exceed the capacity of our 10 prisons within the next decade. If you would please turn to page 15. Graph 2 at the top of the page

shows this projected increase.



Source: NMCD and

The New Mexico Sentencing Commission (NMSC) estimates that New Mexico's total prisoner population will reach 7,208 prisoners by the end of FY21 with the male population exceeding current capacity by FY19.

An aging prison infrastructure coupled with prisoner capacity limitations points to the need for strategies such as diversion programs, front-end services, along with enhanced reentry and reintegration programs to reduce incarceration and recidivism. This includes evidence-based behavioral health programs and adequate measurement of outcomes for these programs.

According to the Pew Center on the States, evidence-based programs, including behavioral health programs, can decrease recidivism, lower costs, and improve public safety.

Evidence based programs are programs that employ strategies that have been evaluated rigorously in experimental or quasi-experimental studies.

Evidence based programs are shown to work

There is a growing national movement toward evidence-based programs in corrections.

The implementation of such programs has had a number of positive outcomes in other states. In Washington, legislators and executive agencies identified evidence-based policies that provided the best return on taxpayer investments through the use of the Washington Institute for Public Policy Cost-benefit model. Results of this strategy include a greater improvement in crime rates, improvement in juvenile arrest rates, an incarceration rate below the national average, and hundreds of millions in savings per year.

According to the Pew Center for the States, states where corrections agencies are strategically improving release preparation and supervision strategies will see falling recidivism rates. New Mexico recidivism rates are rising.

Reducing recidivism by 10 percent in New Mexico could save \$8.3 million in prison costs alone and could reduce victimization costs by an estimated \$40 million a year.

Pew is supporting the implementation of the model that Washington state uses. This cost-benefit analysis model provides estimated monetary benefits, costs, measure of risk, and return on investment based on over 27 thousand national studies. Through the collaboration with the NMCD and other agencies, New Mexico is the second state to implement this cost-benefit model. Please turn to page 17, table 1. You will see results for six NMCD prison programs entered into the model

with outcomes based on a cohort released from prison in 2005. The current model has limitations but was built to err on the side of being conservative. All programs entered into the model assume that best practices are followed in implementation which is not the case for all programs in New Mexico.

Table 1. Monetary Benefits and Costs of Evidence-Based Public Policies in New Mexico (Per Participant)

Program	Taxpayer Benefits	Total Benefits (Taxpayer + Victims)	Costs	Benefits Minus Costs (net present value)	Benefit to Cost Ratio	Rate of Return on Investment	Measure of Risk (odds of a positive net present value)
Adult Education	\$3,043	\$18,952	\$627	\$18,325	\$30.22	421%	99%
Cognitive Behavioral Programs	\$1,571	\$10,033	\$523	\$9,510	\$19.20	278%	99%
Corrections Industries	\$1,090	\$7,080	\$0	\$7,080	\$7,080	N/A	99%
2 nd Judicial District Drug Court (Adult)	\$3,285	\$20,336	\$3,205	\$17,131	\$6.35	103%	99%
Drug Treatment In Prison (Therapeutic Communities)	\$2,319	\$15,371	\$3,233	\$12,138	\$4.77	79%	99%
Vocational Education in Prison	\$2,881	\$18,525	\$1,171	\$17,354	\$15.89	234%	99%

Source: LFC

Please look at column four titled benefits minus costs. At the time of our evaluation these six programs existed in New Mexico prisons and the model shows that benefits for the programs outweigh costs with differing return on investments indicated in the next to last column titled rate of return on investment. If you look at the last column, the odds of receiving total benefits that exceed costs, or a positive net present value, are almost 100 percent for the six programs. Although the model assumes best practices are followed in program delivery, the programs in New Mexico are often not run with fidelity or have been subject to cuts. Also, non-evidence-based programs had been expanded instead of those with proven track records.

Madam Chair and members, these six programs are just examples of programs that the cost-benefit model can run to assist with allocation decisions for the legislature or the corrections department. These models also include other programs such as early childhood programs.

The NMCD is not well positioned to use data to inform decisions resulting in expansion of unproven programs and reductions in evidence-based programs. Within prisons, the NMCD runs more than 40 programs, but according to the NMCD less than a quarter of these are evidence-based. The NMCD has 30 community providers running programs through OptumHealth. Neither the NMCD, OptumHealth, nor the Behavioral Health Collaborative know how many of these programs are evidence based. Formal evaluation of both prison and community programs is lacking.

Madam Chair and members, our second finding is:

THE USE OF IN-HOUSE PAROLE COSTS \$10 MILLION A YEAR AND COULD UNDERMINE PUBLIC SAFETY

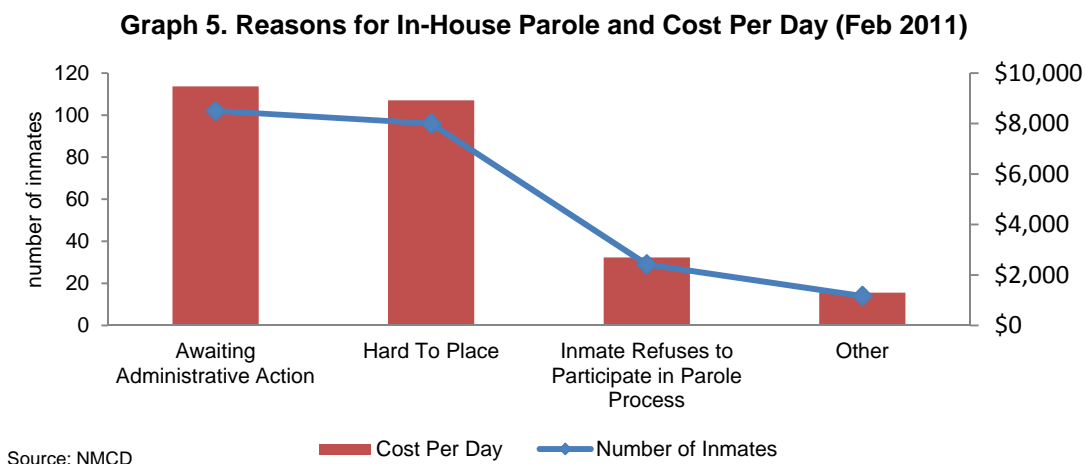
And we are now on page 20.

If inmates cannot be paroled from prison, they will serve parole in prison, a practice called in-house parole. The number of in-house parolees has risen consistently since FY09 and is now at an all time

high of 278 inmates. The state of New Mexico is paying an estimated \$10 million per year to house parolees in prison.

Please turn to page 21, graph 5. This graph shows the number of inmates on IHP and the cost per day per reason. Approximately 40 percent of offenders on in-house parole are listed as being hard-to-place. In many cases placements would include residential treatment programs. Many of these individuals are sex offenders, gang members, or individuals with a history of violence. For these offenders, there are insufficient community resources as many behavioral health treatment programs cannot or will not provide services to higher-risk individuals. Additionally cuts in bed space at residential treatment facilities has left some on IHP with fewer options.

At least 10% of offenders on IHP are sex offenders serving parole terms of 5-20 years in prison. Treatment resources for sex offenders are scarce and have recently been cut back. The Department of Health New Mexico Behavioral Health Institute operates the STOP program for the treatment of sex offenders. In 2003 DOH expanded this program to 24 beds, however the DOH has recently reduced the number of beds to 8.



By resolving 40 percent of the issues causing in-house parole, the department could save an estimated \$4 million per year in prison costs alone. The enhancement of community programs is a cost effective alternative to IHP. Existing resources such as halfway houses and recovery academies have room to expand, are more cost effective, and offer targeted treatment.

Madam Chair and members, we are now on page 24, the third finding is:

LACK OF VALID ASSESSMENTS AND POOR MANAGEMENT OF PRISON PROGRAMS AND RESOURCES INADEQUATELY PREPARE INMATES FOR SUCCESSFUL TRANSITION INTO THE COMMUNITY

The NMCD does not adequately target treatment based on risk or needs of clients. According to Pew, matching programs to offenders based on their risk level is a key to reducing recidivism and not doing this can actually increase recidivism.

NMCD programs are generally delivered to inmates at lower security levels and these programs are not targeted according to risk.

The NMCD has policies in which staff are directed to use a valid risk needs assessment, the COMPAS, to assess the risk and needs of inmates. Although the COMPAS has been paid for since 2007, it has never been used in decisions for treatment or programming.

Instead, inmates “shop” for programs that have the best opportunity to earn time off of their sentence.

Programs that have been proven to work in reducing recidivism have been cut by NMCD, or the courts, have long waiting lists, and sometimes lack fidelity. Some programs offered by the NMCD have been nationally proven to reduce recidivism by over 10 percent.

At the time of our evaluation, the department allocated about 700 beds to therapeutic communities OR (TC) which is an in prison drug treatment program, a program proven in other locations to reduce recidivism.

We found that 11% of the TC beds were unfilled and that the TC completion rates for FY11 were 17.5%. The low graduation rate paired with additional issues related to best practices previously found in a 2007 LFC evaluation, likely leads to program ineffectiveness indicated by a 51.6 percent recidivism rate for TC graduates in 2011 which is 8 percent higher than the recidivism rate for all NMCD inmates. The NMCD has informed the LFC that they will be discontinuing TC and replacing it with the Residential Drug Abuse Program or RDAP which was developed in the federal bureau of prisons, a program comparable in potential effectiveness to TC. However the failure of TC illustrates the importance of program implementation. Even the best designed program will fail if not implemented with fidelity.

Operational inefficiencies result in \$8 million a year that would be better used on offender programming.

The NMCD reduced staffing requirements by 32 FTE at the LCCF creating an estimated \$2 million in annual savings in prison operations to the private company that runs the prison, the Geo Group Inc. Although staffing requirements were reduced, per-diem rates paid to the GEO Group Inc have stayed the same.

Additional savings could be realized through implementing recommendations to eliminate diagnostic evaluations or D&Es of county jail inmates; Judges committed 381 inmates to NMCD for diagnostic evaluations. A function county jails have the capability to perform. D&Es have cost the Department an estimated \$4.1 million since FY09.

Additionally, the statutory medical and geriatric parole program is underutilized as only one inmate was released under this program in FY11. Medically fragile or geriatric inmates at the CNMCF cost the state \$3.8 million in FY11 alone.

Madam Chair and members, we are now on page 33, the fourth finding is:

MORE COMMUNITY-BASED RESOURCES ARE NEEDED AND EXISTING RESOURCES COULD BE BETTER USED

The NMCD spends approximately \$34 million, or about 11 percent of their budget to supervise and provide community-based services to more than 18 thousand offenders through a system of parole and probation officers and through contracts with community based programs. In FY12 \$5.3 million was allocated to OptumHealth for behavioral health programs.

However, the current network of behavioral health and community corrections providers is insufficient to meet the needs of those re-entering the community from prison.

The provider network focuses on the wrong group of offenders. Most community programs do not provide services to higher risk offenders, those with a gang affiliation, with a history of violence, or sex offenders.

One result of the lack of programs for these higher risk offenders is that they cannot get approved parole plans leaving almost 300 inmates to serve their parole in prison on “in house parole”.

Instead, treatment resources are directed at lower risk offenders. National trends in transitioning offenders from prison to the community emphasize directing resources to those individuals with a higher risk of recidivism.

- **For example the Oregon Department of Corrections uses a standardized and validated risk assessment tool to deliver services to offenders with a higher risk to recidivate.**

The Community Corrections Act creates barriers to effective services and needs more flexibility. This is an outdated law that needs updating.

There are restrictions on how community corrections funds can be used sometimes causing the inability to use these funds for offenders in special program units. CCA funds can be used only for offenders formally enrolled in the Community Corrections program. This causes a problem in that some high needs offenders are not enrolled in community corrections and are instead being served in special sex offender units, gender specific caseloads, intensive supervision or elsewhere.

There is also a lack of clarity as to which offenders are classified as community corrections.

- **For example in Santa Fe, sex offenders are considered to be in community correction and eligible for CCA funding. In Las Cruces, sex offenders are not considered a part of community corrections, and in Albuquerque, some are and some are not.**
- **Similarly, residents in the Men’s Recovery Academy are funded though the CCA while their counterparts in the Women’s Recovery Academy are not.**

State and Local selection and review panels mandated by the Act are no longer needed.

- **Program provider review and selection has been assumed by the single state entity, Optum Health, and the Department now works with providers on inmate community placement making the local selection panels obsolete.**

The current number of community-based providers is insufficient.

- **An almost universal conclusion among all of the corrections professionals with whom we spoke is that there is a lack of providers to adequately serve offenders returning to the community.**
- **There are approximately 32 contracted providers for parole and probation and community corrections offenders**

- These same providers re-cycle themselves over the years with few new providers entering the network.
- Optum Health does not directly engage in provider recruitment although this is an expectation in their contract.

Community treatment programs are not evaluated for effectiveness and program oversight is limited.

- Neither the NMCD nor OptumHealth analyze program outcomes.
- These types of studies are necessary to determine which programs are effective in reducing recidivism, in improving how individuals function and in reducing risks to public safety.
- They also provide the basis for determining which programs are cost effective.
- The NMCD has a responsibility outlined in statute (33-9-10 NMSA 1978) to report on community corrections, but this is not done.

Our review revealed an important concern that has been identified in the past. Contract funds are left unspent at the end of the contract year and are not reverting to the state.

- For a number of years now, there has been contract money left on the table at the end of the contract year. For the most part, these funds have not reverted to the State-and they should.
- At least \$1 million that should have reverted to the NMCD is still at OptumHealth.
- OptumHealth is collecting interest on FY10 monies that have yet to revert.
- Money remaining unrecovered for FY10 and FY11 is contrary to provisions in the single entity contract (Article 6.11 F) which requires unexpended or unencumbered funds to revert to the appropriate member agency by the November following the contract year. This is not occurring.

Monies for PPD and Community Corrections contracts administered through OptumHealth are not targeted efficiently.

- For example in FY10, three PPD and Community Corrections providers spent 0 percent of their contract and some nine providers across the state spent more than they were allocated including one that spent 1,121 percent of their contract.
- This problem has been persistent. In January of 2012, eight providers were already at more than 100 percent of their allocations for FY12.
- The result of the inefficient targeting of funds results in waiting lists and a lack of services for badly needed programs.

Madam Chair and members, we will now move to page 40.

The Intensive Supervision Program or ISP

- ISP is a highly structured, concentrated form of probation and parole supervision with stringent reporting requirements and an increased emphasis on offender monitoring, including after-hours field/home visits by probation and parole officers.
- At the time of the evaluation there were 357 offenders on ISP with over 100 on the waiting list for ISP.
- Those on the waiting list are on standard supervision where the average caseload is over 100 offenders per officer and have original offenses of a serious nature including armed robbery, kidnapping, armed robbery with a deadly weapon, and aggravated assault with a deadly weapon.
- Statute requires that ISP caseloads be limited to a maximum of 20 offenders.
- ISP caseloads could be safely increased if specific criteria are met.

- In the 2012 legislative session SB 162 attempted to increase the ISP caseload, but failed. This bill was missing key components needed to ensure the effectiveness of ISP
- To be effective, candidates for ISP must be screened using the NMCD's assessment tool, all ISP participants must be enrolled in some type of community treatment program, each caseload must include offenders at various phases of their ISP supervision and electronic monitoring is needed.
- To be clear, according to research, enrollment in community treatment is key here. Otherwise ISP is no more effective than standard probation and parole.

Madam Chair and members, in summary, significant opportunities exist to improve the incarceration and supervision of offenders in New Mexico. This evaluation found an estimated \$10 million in potential recurring and \$1 million in non-recurring cost savings, much of which could be used to offset potential costs of increasing evidence-based programming and research along with quality control. These cost savings are detailed on page 50 in appendix D. The increased uses of evidence-based programming and improved management of programs and resources have the potential to further reduce costs to taxpayers and victims through reductions in recidivism.

Madam Chair, I would like to conclude with selected key recommendations for the how the corrections department, along with other key agencies can work toward reducing recidivism, cutting costs and improving public safety. Additional recommendations are available throughout the report.

If implemented, the recommendations outlined in this report will provide the tools needed to properly assess programs, improving outcomes for offenders, taxpayers, and potential crime victims.

The NMCD should form a Research and Evaluation Unit consisting of three employees to provide a program auditing function along with a data analysis function for the NMCD. LFC calculations estimate these positions would be between a pay band 75 to 85 and cost \$230 thousand a year.

The NMCD should aim to reduce recidivism through strategic investment by continuing to work with the LFC and the NMSC to update the WSIPP model so that programs can be funded based on results.

The NMCD should pay the cost of halfway house placement for inmates where it can be demonstrated that the inmate does not have funding to reduce the costs of IHP. The department should also consider paying the first few months of rent for inmates entering parole, again in situations where it can be demonstrated that the inmate does not have the funds.

The NMCD and the Parole Board should meet quarterly to study the reasons for current administrative delays to parole and initiate procedural reforms.

The NMCD should prepare an implementation plan for administering and using COMPAS or another valid risk and needs assessment, and be using this tool system wide by June 30, 2013 to support decisions in program assignment. This tool should include internal policy

The NMCD should accompany any cost-savings measures agreed to in contract, such as reductions in required FTE, with measured reductions in per-diem rates for private prisons which could provide an estimated \$2 million in savings to the state at Lea County Correctional Facility.

The Legislature should consider statutory changes to provide judges the ability to sentence inmates to NMCD prison facilities only if convicts are sentenced to one year or more after accounting for any period of the sentence being suspended or deferred and any credit for presentence confinement which could provide NMCD with an estimated \$2 million in savings from eliminating D&E and intake of inmates with less than a year on their sentence as defined in statute.

The Legislature should make changes to the Community Corrections Act allowing more flexibility in the use of community corrections funds and removing the requirements for state and local advisory panels.

The NMCD, the BHC and OptumHealth should work together to expand the community-based provider network, specifically for hard to place and high-risk inmates.

The NMCD in conjunction with the BHC should begin to move toward a system of evidence-based treatment programs. The Legislature should consider legislation that requires that most funding for community-based corrections programs be used to fund evidence-based programs over the course of a four year phase-in.

The BHC, working with the NMCD, should develop a plan to revert appropriate excess funding from the single entity to the state. The plan should be presented to the Legislative Finance Committee by September of 2012.

The Legislature should support increasing ISP caseload size stipulating that the conditions outlined in the report.

The NMCD should review PPD officer salary ranges with the intent of bringing them into line with comparable market rates as soon as possible.

Finally Madam Chair I would like to thank a few people.

First, Charles Sallee and the program evaluation team at LFC. Also, I would like to acknowledge the NMSC and the AOC for their contributions, particularly in providing data for the cost-benefit model. Continued partnership between NMCD, the NMSC, and AOC will result in a more complete cost-benefit model which has the potential to be a key tool in strategic budget development.

Most importantly, the staff at the Corrections Department has been a pleasure to work with. We were treated courteously and professionally and it has made the evaluation go very smoothly.

Thank You