



NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

LFC Review of the Corrections Department

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Overview

- Executive agencies, including the Corrections Department (NMCD), are monitored by a variety of entities, including:
 - Department of Finance and Administration (DFA) – budgetary, financial, and personnel oversight
 - State Auditor – financial oversight
 - State Personnel Office – personnel oversight
 - Legislative committees, including the Legislative Finance Committee (LFC)
- Two primary mechanisms for agency review by LFC:
 - Budget development and review
 - Performance monitoring



Budget Development and Review

- Review agency budget requests and provide recommendations to the Legislature
- Review agency operating budgets to ensure they align with legislative appropriations
- Review budget adjustment requests (BARs) submitted by agencies during the fiscal year
- Use SHARE to track agency budgets, expenditures for certain projects or purposes, and individual expenditures and procurements



Performance Monitoring

- Performance monitoring plays a critical role in LFC's **Legislating for Results** framework
 - Five components of the Legislating for Results Framework:
 1. Identify priority areas and performance
 2. Review program inventory and effectiveness
 3. Budget development
 4. Implementation oversight
 5. Outcome monitoring
- Primary methods of conducting performance monitoring:
 - Agency performance reporting pursuant to the Accountability in Government Act
 - Projects completed by LFC's program evaluation unit

Click here!

For more information,
see LFC's document:
Legislating for Results



Background:

Accountability in Government Act

- 1999 – Accountability in Government Act (AGA) established (Chapter 6, Article 3A NMSA 1978)
 - Resource flexibility for accountability over performance
- 2016 – DFA-LFC performance measure overhaul
 - 600+ measures eliminated, multiple conversions (outcome to explanatory, quarterly to annually)
- 2019 – Chapter 23 (SB 58) enacted
 - Requires agencies to submit an inventory of evidence-based programs and demonstrate resource prioritization for these programs in the budget
 - NMCD submitted an inventory of its community corrections programs in the fall of 2019

A full list of NMCD's performance measures is included with LFC's budget recommendation in **Volume 2**



Process:

Accountability in Government Act

- Agencies report on all their performance measures annually and on a selection of “key” measures quarterly (for large agencies)
- In mid-July, agencies submit proposed changes to their annual performance measures for the following fiscal year and propose a set of key measures for the current fiscal year
- DFA and LFC analysts review agency proposals and collaborate to finalize the agency’s measures and key measures over the next month
 - Ultimately, DFA has the authority to set agency’s measures and key measures
- Performance measure targets are set as part of the development of the General Appropriation Act (GAA) during the legislative session
 - A selection of measures and targets may be included in the GAA
- LFC does not have the authority to determine what an agency’s performance measures are or how frequently they will be reported



Performance Report Cards

- For select agencies, LFC publishes quarterly report cards that evaluate how well the agency is performing on its key metrics
- Report cards provide useful information for legislators, members of the public, and agencies, and often help LFC analysts develop their budget recommendations



PERFORMANCE REPORT CARD: Fourth Quarter, FY20
Corrections Department

New Mexico's prisons are more violent and more understaffed than last year, and NMCD has shown no improvement in its ability to rehabilitate offenders and prevent them from reentering the prison system. With prison populations decreasing almost every month for over 18 months and unprecedented declines in prison admissions over the past two fiscal years, the Corrections Department (NMCD) has had a unique opportunity to reallocate resources to improve its performance, but its Inmate Management and Control (IMAC) program saw little improvement in its key metrics in FY20. Rates of inmate-on-inmate and inmate-on-staff assaults resulting in serious injury increased significantly in FY20 compared with FY19, on par with the 10-year high in assaults seen in FY18. Despite targeted pay increases, the average vacancy rate among public correctional officers in FY20 was 10 percentage points higher than in FY15. And while the three-year recidivism rate for inmates released from NMCD's custody remained steady between FY19 and FY20, it has increased 10 percentage points over the past decade, from 44 percent to 54 percent. NMCD proposed discontinuing all these performance measures in FY22.

ACTION PLAN

Submitted by agency?	Yes
Timeline assigned?	No
Responsibility assigned?	No

COVID-19 Cases at NMCD Facilities as of 8/14/2020

Facility	Number of Cases	Population	Percent of Population Infected

Budget: \$275,007.4 FTE: 1,869

	FY18 Actual	FY19 Actual	FY20 Target	FY20 Actual	Rating
Inmate-on-inmate assaults with serious injury	30	25	8	31	R
Inmate-on-staff assaults with serious injury	7	3	2	7	R
Prisoners reincarcerated within 36 months	49%	54%	45%	54%	R
Participating inmates who have completed adult basic education*	78%	77%**	N/A	74%	
Release-eligible female inmates still incarcerated past their scheduled release date	8.9%	9.4%	6%	7.7%	Y
Release-eligible male inmates still incarcerated past their scheduled release date	9.2%	9.3%	6%	6.4%	Y
Residential drug abuse program graduates reincarcerated within 36 months of release*	18%	28%	N/A	21%	
Random monthly drug tests administered to at least 10 percent of the inmate population testing positive for drug use*	3.9%	2.9%	N/A	2.5%	
Vacancy rate of state-employed correctional officers	22%	25%	20%	31%	R
Vacancy rate of privately-employed correctional officers	NEW	NEW	20%	46%	R
Program Rating	Y	R			R

All agency report cards can be viewed on LFC's website



NMCD Performance in FY20

The mission of the Corrections Department is to provide a balanced approach to corrections, from incarceration to community-based supervision, with training, education, and rehabilitation programs and services that provide opportunities for offenders to successfully transition to communities.

- Prison populations have decreased almost every month for over 18 months, and prison admissions have shown unprecedented declines over the past two fiscal years
- NMCD has not been able to take advantage of its declining population to reallocate resources to improve its performance
- New Mexico's prisons were more violent and more understaffed in FY20 than FY19
- NMCD has shown no improvement in its ability to rehabilitate offenders and prevent them from reentering the prison system
- *NMCD proposed discontinuing performance measures for **inmate-on-inmate assaults, inmate-on-staff assaults, public correctional officer vacancy rates, and its three-year recidivism rate in FY22***

To view NMCD's full
FY20 Q4 report card,
[click this box](#)



NMCD Performance in FY20:

Inmate Management and Control (IMAC)

<i>Measure</i>	FY19	FY20		
Inmate-on-inmate assaults with serious injury	25	31		<i>slightly exceeded the 10-year high of 30 inmate-on-inmate assaults in FY18</i>
Prisoners reincarcerated within 36 months	54%	54%		<i>increased 10 percentage points over the past 10 years</i>
Release-eligible female inmates still incarcerated past their scheduled release date	9.4%	7.7%		<i>significant improvements unlikely to be maintained due to reallocation of resources away from sex offender housing</i>
Release-eligible male inmates still incarcerated past their scheduled release date	9.3%	6.4%		<i>increased 9 percentage points since FY18 despite targeted pay increases totaling 12.5 percent</i>
Vacancy rate of state-employed correctional officers	25%	31%		

To view NMCD's full FY20 Q4 report card, [click this box](#)



NMCD Performance in FY20:

Community Offender Management (COM)

<i>Measure</i>	FY19	FY20		
Vacancy rate of probation and parole officers	24%	25%	+1pp	<i>increased 7 percentage points since FY18</i>
Average standard caseload per probation and parole officer	110	91	-19	<i>decreased despite significantly higher vacancy rates</i>
Graduates of the men's recovery center who are reincarcerated within 36 months	27%	23%	-4pp	<i>metrics are volatile from quarter to quarter and year to year, but averaged 25 percent (for men) and 22 percent (for women) over the past three years</i>
Graduates of the women's recovery center who are reincarcerated within 36 months	19%	25%	+6pp	
Prisoners reincarcerated within 36 months due to technical parole violations	15%	No Report		<i>NMCD refused to report quarterly in FY21, despite LFC's requests to do so</i>

To view NMCD's full FY20 Q4 report card, [click this box](#)



Program Evaluation Unit

- LFC's program evaluation unit reviews the costs, efficiency and effectiveness of activities of state agencies and political subdivisions and recommends changes to the Legislature
- Unit conducts in-depth studies of state government programs and agencies to determine whether the taxpayers' dollars are being spent effectively and to assess whether an agency or program is achieving the desired results, and makes recommendations for the Legislature and the agency to improve results
- Recent program evaluation unit publications related to NMCD:
 - [Policy Spotlight: Inmate Classification \(July 2020\)](#)
 - [Progress Report: Corrections Department Capital Outlay \(October 2019\)](#)
 - [Program Evaluation: Corrections Department – Status of Programs to Reduce Recidivism and Oversight of Medical Services \(October 2018\)](#)
- These projects usually take several months to develop and therefore cannot serve as a continuous oversight mechanism

For more information,
see LFC's **Finance
Facts: Program
Evaluation Unit**



Recommendations to the Legislature

- Expand funding for transitional living to adequately house hard-to-place release eligible inmates and to be used as a sanction for parole violations
 - Require and expand the use of evidence-based programs at those facilities*
- Appropriate to recidivism reduction programs as a separate line item in the NMCD budget
- Amend 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
- Appropriate funds for NMCD to complete a full 10-year facilities master plan**

*Additional funding for evidence-based community corrections programming was included in the department's FY20 and FY21 operating budgets

**Funding was appropriated for this purpose during the 2019 legislative session, but was vetoed

All program evaluation
unit publications can be
viewed on LFC's
website



Program Evaluation Unit's Recommendations to NMCD

- Collect performance measures for:
 - COMPAS assessments assigned and completed;
 - Need, participation, and completion for all recidivism reduction programs;*
 - Number of reentry plans recommending treatment/education needs and participation/completion rates;* and,
 - Housing/employment/treatment needs and outcomes
- Improve case management of paroles to maximize attempts to divert from full revocation
- Require private prison contracts to use performance-based funding based on recidivism reduction
- While validating its custody scoring tool, prioritize determining if decisions to “upclassify” inmates are justified to protect public safety or unnecessarily restricting access to minimum security and review the necessity of its most frequently used overrides
- Develop a full 10-year facilities master plan that is informed by classification data and projections for the security needs of the current and future population, as well as potential overclassification that may be occurring, and consider directing a portion of operating funds to ongoing facility master planning needs

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*NMCD added new performance measures for FY21 that partially implement these recommendations



Other Legislative Reporting Requirements

- Appropriations may have additional reporting requirements
 - A \$22 million appropriation for hepatitis c treatment and planning in the 2020 GAA required the Corrections Department to report quarterly to LFC and DFA
- Additional reporting requirements are established by statute
 - The Corrections Department is statutorily required to submit an annual report regarding community corrections to the governor and the Legislature
- Historically, the Corrections Department has not reliably complied with reporting requirements included in the GAA or other legislation
 - The department has not yet begun submitting quarterly reports on its hepatitis c appropriation, although funding was appropriated in FY20 Q3
 - The department has not submitted an annual report regarding community corrections in at least eight years



Areas for Improvement

- Department should respond to requests from LFC staff in a timely manner, consistent with statutory requirements
- Department should provide statutorily-mandated reports
- Department should add new, more useful measures and engage in discussions with DFA and LFC regarding changes to performance measures and how to best align measures to the its mission and goals
- Department should proactively provide essential details regarding their performance measures
 - Examples:
 - Numbers used to calculate percentage measures
 - Performance measures broken down by facility or probation and parole region
 - Narratives explaining significant changes in performance measures
- Department should provide specific, actionable, and accountable plans to address issues in its performance



Questions?



Attachments:

1. Legislating for Results
2. LFC FY21 Budget Recommendation for NMCD (Volume 2)
3. NMCD FY20 Q4 Performance Report Card
4. Finance Facts: Program Evaluation Unit
5. High Level Summary of FY21 Criminal Justice Reform Appropriations





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For More Information

- <http://www.nmlegis.gov/lcs/lfc/lfcdefault.aspx>
 - [Session Publications – Budgets](#)
 - [Performance Report Cards](#)
 - [Program Evaluations](#)

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