

# DEPARTMENT OF CORRECTIONS AND REHABILITATION REVIEW COMMITTEE

The Department of Corrections and Rehabilitation Review Committee was assigned two studies:

- Section 9 of House Bill No. 1015 (2019) directed a comprehensive study of the Department of Corrections and Rehabilitation (DOCR). The study must include:
  1. A review, with input from a consultant engaged by DOCR, of gender-responsive correctional and rehabilitation facility and service needs. The review must include:
    - a. The preferable location of facilities;
    - b. The service needs of individuals sentenced to DOCR; and
    - c. The impact on families of individuals sentenced to DOCR.
  2. An assessment of facilities at the Missouri River Correctional Center (MRCC), the James River Correctional Center (JRCC), and the State Hospital, with input from a consultant engaged by DOCR. The assessment must:
    - a. Include the DOCR master plan, staffing plan, comprehensive service delivery strategy, and cost estimates;
    - b. Be based on providing comprehensive services to those committed to the care, custody, and control of DOCR;
    - c. Include options for community-based and family-involved environments; and
    - d. Consider the opportunity for vocational and workforce development.
  3. A review of vocational opportunities, educational opportunities, workforce development, and medical and behavioral health treatment for those committed to the care, custody, and control of DOCR.
- House Concurrent Resolution No. 3015 (2019) directed a study of best practices to reduce offender recidivism, increase educational opportunities, prepare incarcerated offenders to rejoin their communities, establish and implement a community transitional housing program, including independent host homes, and encourage communities to reintegrate previously incarcerated individuals into society.

Committee members were Representatives Jon O. Nelson (Chairman), Richard G. Holman, and Randy A. Schobinger and Senators Jay Elkin, Tim Mathern, and Terry M. Wanzek.

## DEPARTMENT OF CORRECTIONS AND REHABILITATION STUDY

### Background

The 2019 Legislative Assembly appropriated \$229,678,076 from the general fund and \$41,955,889 from other funds to DOCR for the 2019-21 biennium. The appropriation for the department provided for an increase of 54.5 full-time equivalent (FTE) positions, which increased the total number of FTE positions within the department to 899.79.

Inmate counts through August 2020, as documented by DOCR, indicate an average inmate count for the 2019-21 biennium of 1,496 males and 196 females. The average inmate count for the 2017-19 biennium was 1,533 males and 206 females. The department reported an additional 92 males and 21 females sentenced to DOCR were being held in county jails in August 2020 due to the Coronavirus (COVID-19) pandemic.

### Adult Services Division

North Dakota Century Code Section 12-47-01 provides for the establishment of the North Dakota State Penitentiary (NDSP). The main prison complex in Bismarck houses maximum and medium security male inmates. In August 2020, NDSP housed 610 male inmates. The James River Correctional Center in Jamestown is classified as a medium security housing facility and, in August 2020, housed 419 male inmates. The Missouri River Correctional Center in Bismarck houses minimum security male inmates whose sentences are not less than 30 days or more than 1 year. The Adult Services Division offers addiction treatment services, a sex offender treatment program, and mental health programs through its treatment department. The division's education program offers a variety of education programs, skills training, and vocational programs. In addition, the division offers work experience through Roughrider Industries.

### Parole and Probation Division

The Department of Corrections and Rehabilitation has 16 offices across the state staffed by parole and probation officers who manage offenders on parole or supervised probation and complete presentence investigations ordered by courts. The officers supervise offender compliance with the supervision conditions and provide cognitive, behavioral, and other forms of counseling services.

The division operates or participates in drug court programs, GPS monitoring of offenders, drug and alcohol testing of offenders, and monitoring of sex offenders, and contracts for services with halfway houses and the Bismarck Transition Center to provide transition services.

### **Dakota Women's Correctional and Rehabilitation Center**

During the 2003-05 biennium, DOCR began to contract with the Dakota Women's Correctional and Rehabilitation Center (DWCRC) in New England to house its female inmates. The Dakota Women's Correctional and Rehabilitation Center is owned and operated by the Southwest Multi-County Correction Center Board. The prison at DWCRC consists of a 70-bed minimum security unit, a 45-bed medium security unit, and a 16-bed orientation unit. In May 2006, a 5-bed high security unit was added to the facility.

### **Division of Juvenile Services**

The Division of Juvenile Services has eight regional offices serving the eight human service regions across the state and is staffed to provide supervision to juveniles committed by the courts. The division also oversees the Youth Correctional Center (YCC), which is located west of Mandan and is the state's secure juvenile correctional institution.

Juvenile programming at YCC includes drug and alcohol programming; child psychiatric and psychological services; sex offender programming; a pretreatment program for juveniles who are difficult to manage; and a security intervention group program to inform, educate, and provide juveniles with alternatives to gang activity and gang affiliation. The Youth Correctional Center provides adjudicated adolescents an opportunity to complete or progress toward completing their education coursework while in residence through an accredited junior high and high school.

### **Tompkins Rehabilitation and Corrections Center**

The Tompkins Rehabilitation and Corrections Center TRCC is located on the State Hospital campus and historically has been operated by the Department of Human Services (DHS) in collaboration with DOCR. The center provides a cognitive behavioral treatment approach utilizing cognitive restructuring groups to reduce risks to reoffend. The center consists of three 30-bed wards--one ward (30 beds) for females and two wards (60 beds) for males. The 2019 Legislative Assembly provided for DOCR to assume control of the 60-bed male unit of TRCC. The department has renamed the 60-bed male unit the James River Minimum Unit.

### **Free Through Recovery Program**

The 2017 Legislative Assembly provided for the establishment of a community behavioral health program as a term of parole or an alternative to incarceration. The Department of Corrections and Rehabilitation, in cooperation with DHS, developed and implemented the free through recovery program. The Department of Corrections and Rehabilitation reported the program eventually should grow to serve 600 people, but there is a lack of services available in certain geographic areas.

### **Pretrial Services**

The 2019 Legislative Assembly appropriated \$755,034 from the general fund and 7 FTE positions for a pretrial services pilot program in three judicial districts.

## **Testimony and Committee Considerations**

In its study of DOCR, the committee received testimony from representatives of DOCR, DWCRC, and The Moss Group, Inc. and The CGL Group (the consultants). The committee also toured JRCC, TRCC, the State Hospital, MRCC, and NDSP.

### **Department of Corrections and Rehabilitation Facilities**

The Department of Corrections and Rehabilitation contracted with the consultants to assist the committee in its study of DOCR. The department reported the bid included a total project cost of \$458,830, \$16,170 less than the \$475,000 available for the study. The consultants conducted site visits at each DOCR facility, the State Hospital, and DWCRC. The consultants also held visioning sessions and workshops with DOCR staff, state and local partners, community partners, advocacy groups, and clergy.

The consultants, which were requested to explore multiple options for DOCR based on the department's vision for its 10-year master plan, reported the following priorities were considered in the development of options for DOCR:

- Expand community services capacity;
- Do not increase the number of beds;
- Relocate female residents from DWCRC to YCC using a phased approach;
- Continue using DWCRC for community-based services;

- Modify or relocate juvenile facilities; and
- Complete a phased program for deferred maintenance.

The consultants presented two options to address facility needs of DOCR. Option 1 converts YCC to a women's campus, maintains DWCRC as a community corrections resource center, and provides for 350 beds at JRCC and 100 beds at MRCC for male inmates, with estimated costs as follows:

| Description   | 2021-23 Biennium    | 2023-25 Biennium    | 2025-27 Biennium    | 2027-29 Biennium   | 2029-31 Biennium   | Total Estimated Cost |
|---|---------------------|---------------------|---------------------|--------------------|--------------------|----------------------|
| Develop regional reporting centers for females          | \$500,000           | \$250,000           |                     |                    |                    | \$750,000            |
| Improve Hickory and Maple Cottages at YCC               | 3,781,800           |                     |                     |                    |                    | 3,781,800            |
| Upgrade YCC to include a vocation and employment center | 1,612,250           |                     |                     |                    |                    | 1,612,250            |
| Deferred maintenance at YCC                             | 1,332,985           | 1,332,985           |                     |                    |                    | 2,665,970            |
| Expand community reporting centers for males            | 750,000             | 750,000             |                     |                    |                    | 1,500,000            |
| Deferred maintenance at JRCC                            | 2,332,470           | 2,332,470           |                     |                    |                    | 4,664,940            |
| Renovate JRCC   |                     |                     | \$12,441,150        |                    |                    | 12,441,150           |
| Upgrade MRCC  |                     | 15,563,000          |                     |                    |                    | 15,563,000           |
| Deferred maintenance at NDSP                            | 1,772,020           | 886,010             | 886,010             |                    |                    | 3,544,040            |
| Renovate NDSP for special beds                          |                     | 1,911,000           |                     |                    |                    | 1,911,000            |
| Renovate or replace west housing unit at NDSP           |                     |                     |                     | \$4,170,000        |                    | 4,170,000            |
| Construct new 20-bed juvenile facility                  |                     | 6,000,000           |                     |                    |                    | 6,000,000            |
| Construct two new 8-bed juvenile residential centers    |                     |                     | 1,680,000           |                    | \$1,680,000        | 3,360,000            |
| <b>Total</b>  | <b>\$12,081,525</b> | <b>\$29,025,465</b> | <b>\$15,007,160</b> | <b>\$4,170,000</b> | <b>\$1,680,000</b> | <b>\$61,964,150</b>  |

The consultants reported option 2 provides for the design and construction of a new 100-bed female facility and for YCC to be converted into a 100-bed male regional transition center, with estimated costs as follows:

| Description  | 2021-23 Biennium   | 2023-25 Biennium    | 2025-27 Biennium    | 2027-29 Biennium    | 2029-31 Biennium   | Total Estimated Cost |
|--|--------------------|---------------------|---------------------|---------------------|--------------------|----------------------|
| Develop regional reporting centers for females       | \$500,000          | \$250,000           |                     |                     |                    | \$750,000            |
| Upgrade Hickory Cottage at YCC                       | 2,673,000          |                     |                     |                     |                    | 2,673,000            |
| Design and construct 100-bed female facility         |                    | 27,500,000          |                     |                     |                    | 27,500,000           |
| Expand community reporting centers for males         | 750,000            | 750,000             |                     |                     |                    | 1,500,000            |
| Deferred maintenance at JRCC                         |                    | 2,332,470           | \$2,332,470         |                     |                    | 4,664,940            |
| Deferred maintenance at YCC                          | 141,765            |                     | 2,612,018           |                     |                    | 2,753,783            |
| Repurpose YCC for 100-bed male re-entry facility     |                    |                     |                     | \$21,264,750        |                    | 21,264,750           |
| Renovate JRCC  |                    | 6,220,575           | 6,220,575           |                     |                    | 12,441,150           |
| Upgrade MRCC   |                    | 7,781,500           | 7,781,500           |                     |                    | 15,563,000           |
| Deferred maintenance at NDSP                         |                    | 2,658,030           |                     | 886,010             |                    | 3,544,040            |
| Renovate NDSP for special beds                       | 1,911,000          |                     |                     |                     |                    | 1,911,000            |
| Renovate or replace west housing unit at NDSP        |                    |                     |                     |                     | \$4,170,000        | 4,170,000            |
| Construct new 20-bed juvenile facility               |                    | 6,000,000           |                     |                     |                    | 6,000,000            |
| Construct two new 8-bed juvenile residential centers |                    | 1,680,000           |                     |                     | 1,680,000          | 3,360,000            |
| <b>Total</b>   | <b>\$5,975,765</b> | <b>\$55,172,575</b> | <b>\$18,946,563</b> | <b>\$22,150,760</b> | <b>\$5,850,000</b> | <b>\$108,095,663</b> |

According to the consultants, both option 1 and option 2:

- Use YCC to initiate the transfer of female inmates from DWCRC;
- Recommend similar internal renovations to JRCC, MRCC, and NDSP and the maintenance of existing facility missions;

- Include funding to construct three new juvenile facilities, including a 20-bed secure facility and two 8-bed residential centers; and
- Assume an expansion of locations and staff for the Parole and Probation Services Division.

### **Pretrial Services**

The committee received testimony indicating the goal of pretrial services is to reduce incarceration, criminal activity, and "failure to appear" at trial while connecting defendants with services in the community. Testimony indicated pretrial services include collection and analysis of defendant information, provision of information to the court, and supervision of defendants. Testimony also indicated the pilot project would randomly select defendants in the North Central, South Central, and East Central Judicial Districts to receive pretrial services with the intention to be more selective in the population of defendants selected to receive pretrial services in the future.

The committee received testimony indicating support from the Standing Rock Reservation to work with its members. Testimony indicated the pretrial services pilot program launched on July 1, 2020, and as of September 2020, 89 of the 110 individuals interviewed to participate in the pretrial pilot program were placed on supervision with 9 cases being closed successfully and 2 absconding.

### **Recommendations**

The committee recommends DOCR and the Legislative Assembly support option 1 for future capital project and operations requests.

## **BEST PRACTICES TO REDUCE RECIDIVISM STUDY**

### **Background**

In 2005 the Legislative Assembly created the Commission on Alternatives to Incarceration through House Bill No. 1473 (2005), codified as Section 54-35-24. The commission, which studied sentencing alternatives, mandatory sentences, treatment options, and various criminal justice-related issues during each interim from 2005-06 through 2015-16, expired on August 1, 2017.

The 2015-16 interim Incarceration Issues Committee studied pretrial sentencing alternatives, treatment options, and other related issues, which included an analysis of justice reinvestment reforms to seek cost-effective and evidence-based strategies to enhance public safety and properly manage corrections and supervision populations. The committee recommended House Bill No. 1041 (2017), which authorized sentence reductions for good conduct and medical paroles, authorized a court to use incarceration for a period not to exceed 30 days in lieu of a petition for revocation of probation, and required a sentencing court to sentence an individual who has pled guilty to, or has been found guilty of, a Class C felony offense or Class A misdemeanor offense to a term of probation at the time of initial sentencing, except for a violent offense.

The 2015-16 interim Human Services Committee reviewed behavioral health-related information, including an overview of behavioral health, an overview of a behavioral health system of care, key legal obligations related to behavioral health services, and the DHS behavioral health services delivery system. The committee recommended Senate Bill No. 2038 (2017), which extended the holding period from 24 to 72 hours for emergency involuntary commitments for individuals with a serious physical condition or illness, and House Bill No. 1040 (2017), which would have appropriated funds to DHS to allow for drug and alcohol programming, support services, and targeted case management services for individuals with severe mental illness and severe emotional disturbance. Although House Bill No. 1040 was amended to remove a \$12 million appropriation for targeted case management services, the bill included funding for children's prevention and early intervention behavioral health services, peer-to-peer support services, and family-to-family support services.

Senate Bill No. 2015 (2017) directed DOCR to establish and implement a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions as a term and condition of parole and probation and as a sentencing alternative under Section 12.1-32-02. The bill appropriated \$7 million to DHS for the purpose of implementing the community behavioral health program during the 2017-19 biennium and created the Justice Reinvestment Oversight Committee to study the implementation of the community behavioral health program and justice reinvestment policies.

### **Testimony and Committee Considerations**

The committee received information and testimony from representatives of DOCR which indicated DOCR provides a multitude of options in terms of educational and vocational opportunities for individuals incarcerated within DOCR facilities. In addition to various educational and enrichment programs, testimony indicated DOCR offers general education degree testing, adult basic education, high school education, and career and technical education. The committee received testimony indicating studies have showed significant reductions in recidivism rates for individuals

participating in correctional industry programs, and minimum security inmates are eligible for work release to establish employment with private employers in the community. Testimony indicated individuals who work for Roughrider Industries for a period of 24 months or longer are nearly half as likely to return to prison than individuals who do not participate. Roughrider Industries employs a total of 76 individuals at NDSP, 44 individuals at JRCC, and 28 individuals at MRCC.

According to testimony, although the availability of community-based treatment has increased, certain individuals still may be sentenced to DOCR to receive treatment. Testimony also indicated DOCR is continuing to engage outside behavioral health providers for treatment services. According to the testimony, the number of individuals in parole and probation increased 260 percent from 1992 to 2019. The Department of Corrections and Rehabilitation has approximately 94 staff managing the parole and probation caseload, with an average ratio of 74 cases for every 1 officer. The committee received testimony indicating, of the young adults on probation or parole, 41 percent end in revocation; of the Native Americans on probation or parole, 47 percent end in revocation; and of the women on probation or parole, 34 percent end in revocation. The committee received testimony indicating although there is opportunity for improvement and innovation in the area of transitional housing, independent host homes may not be the most beneficial option as leveraging existing resources and improving the delivery of those resources would better improve outcomes.

### **Recommendation**

The committee makes no recommendation regarding the study of the best practices to reduce recidivism.