

Senate Judiciary Committee
Senator Diane Larson, Chairman

March 16, 2021

Department of Corrections and Rehabilitation

Dave Krabbenhoft, Interim Director

House Bill 1112

Madam Chairman Larson and members of the Judiciary Committee, I am Dave Krabbenhoft the Interim Director of the Department of Corrections and Rehabilitation (DOCR). I am here to testify neutral on House Bill (HB) 1112 and to offer suggestions to address DOCR concerns regarding payment, access to individuals in custody, and reporting.

- Prioritization of admission of inmates – NDCC 54-23.3-11
 - Awareness that state and local correctional resources are finite and expensive
 - DOCR can refuse admissions when operating capacity is exceeded
 - Inmates remain in county facilities until DOCR facility space available at local correctional facility cost (county cost)
 - Prison admissions managed through population management plan (based on sentence and availability of space)
 - Since inception (8/1/2013) prioritization has been in effect one time – June 1, 2019 through September 30, 2019 applicable to only to women admissions
- HB1112 requires DOCR to pay local correctional facilities a minimum daily rate, including medical costs, for persons awaiting admission to prison due to prioritized admissions
 - Consider language to define the period DOCR is liable for costs from the day after court notification to the DOCR approved admission date

- Consider language that encourages the local correctional facility to provide DOCR with access (in-person and electronic) to individuals in custody to complete assessment, examination, treatment, and other appropriate services.
- Consider language that encourages the DOCR and local correctional facilities to develop annual reporting requirements regarding the status and use of state and local population management plans.
- Allow for the DOCR to request a deficiency appropriation from the sixty-eighth legislative assembly for the housing and medical costs incurred under this section.

HB1112 specifically addresses local correctional facility concerns regarding the financial obligation of housing DOCR sentenced individuals during prioritization. However, HB1112 is silent to correctional reform. Focus needs to be placed on resources needed in our communities that can deter or divert people from incarceration. The DOCR is committed to working with our county partners in a collaborative manner that will lead to safer communities and successful individual outcomes.

We have learned from COVID that it is possible to decrease the number of people in prisons and jails. We all need to recognize the lessons learned from this horrific pandemic and be responsive to opportunities to increase community resources and programs that will lessen the reliance on incarceration.

Attached Documents

- Prioritization Deferred Admissions – Women
- 21-23 Estimated Population – Women
- 21-23 Estimated Population – Men
- DOCR Inmate Admission

Department of Corrections and Rehabilitation

Prioritization Deferred Admissions - Women

County	7/1/17 - 6/30/19		7/1/19 - 12/31/20	
	Deferred Admission - ADP	Deferred Admission - Total Days	Deferred Admission - ADP	Deferred Admission - Total Days
Bottineau	-	-	0.02	9
Burleigh	0.10	70	0.28	156
Cass	0.04	26	0.16	89
Grand Forks	0.04	27	0.12	64
Grant	0.02	12	-	-
McHenry	0.01	9	-	-
McKenzie	-	-	0.02	9
McLean	-	-	0.01	4
Morton	0.04	29	0.03	18
Mountrail	0.01	7	0.03	18
Pierce	0.00	3	0.02	10
Ramsey	-	-	0.05	26
Rolette	-	-	0.03	18
Stark	-	-	0.02	9
Stutsman	0.02	15	0.01	7
Walsh	-	-	0.01	8
Ward	0.04	27	0.16	89
Williams	0.09	66	0.08	45
Total	0.40	291	1.05	579

North Dakota Department of Corrections and Rehabilitation

2021 - 2023 Estimated Population - Women

Based on actual population thru August 31, 2020

Date	Estimated Average Population	Deferred Admission Status	Estimated DOCR Population	---- Traditional Beds ----				---- Nontraditional Beds ----		
				Interstate Compact	DWCRC	DOCR Facilities	Transition	Holds	Total	
July-21	182	-	182	-	113	15	50	4	182	
August-21	183	-	183	-	114	15	50	4	183	
September-21	184	-	184	-	115	15	50	4	184	
October-21	185	-	185	-	85	46	50	4	185	
November-21	185	-	185	-	85	46	50	4	185	
December-21	186	-	186	-	86	46	50	4	186	
January-22	187	-	187	-	87	46	50	4	187	
February-22	188	-	188	-	88	46	50	4	188	
March-22	188	-	188	-	88	46	50	4	188	
April-22	189	-	189	-	89	46	50	4	189	
May-22	190	-	190	-	90	46	50	4	190	
June-22	191	-	191	-	91	46	50	4	191	
July-22	191	-	191	-	91	46	50	4	191	
August-22	192	-	192	-	92	46	50	4	192	
September-22	193	-	193	-	93	46	50	4	193	
October-22	194	-	194	-	94	46	50	4	194	
November-22	194	-	194	-	94	46	50	4	194	
December-22	195	-	195	-	95	46	50	4	195	
January-23	196	-	196	-	96	46	50	4	196	
February-23	196	-	196	-	96	46	50	4	196	
March-23	197	-	197	-	97	46	50	4	197	
April-23	198	-	198	-	98	46	50	4	198	
May-23	198	-	198	-	98	46	50	4	198	
June-23	199	-	199	-	99	46	50	4	199	

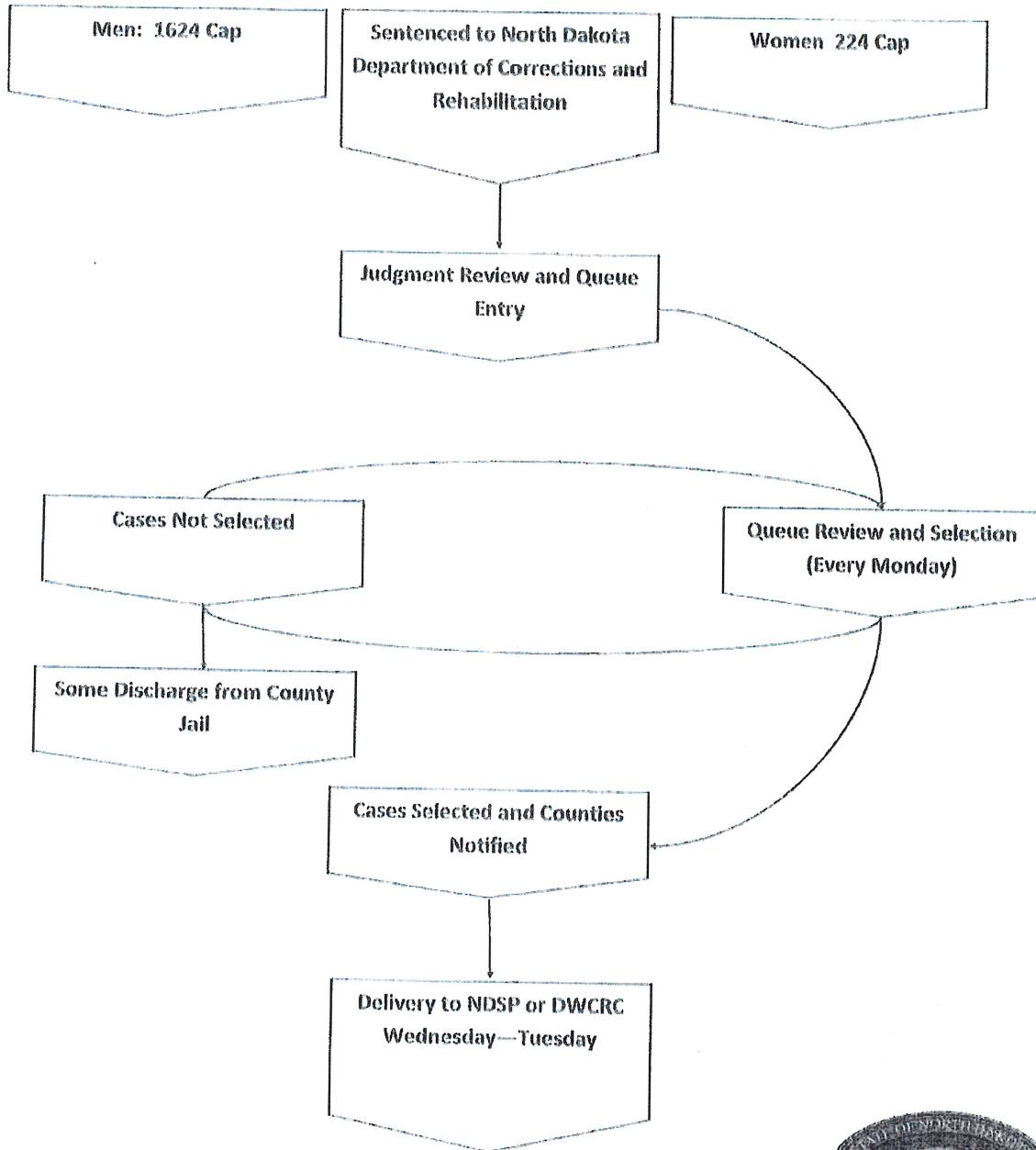
North Dakota Department of Corrections and Rehabilitation

2021 - 2023 Estimated Population - Men

Based on actual population thru August 31, 2020

Date	Estimated Average Population	Deferred Admission Status	Estimated DOCR Population	Traditional Prison Beds -----		Nontraditional Prison Beds -----		Holds	Total
				DOCR Facilities	Interstate Compact	James River Minimum Unit	Transition 14		
July-21	1,451	-	1,451	1,227	21	60	138	6	1,451
August-21	1,454	-	1,454	1,230	21	60	138	6	1,454
September-21	1,457	-	1,457	1,233	21	60	137	6	1,457
October-21	1,460	-	1,460	1,236	21	60	137	6	1,460
November-21	1,463	-	1,463	1,239	21	60	137	6	1,463
December-21	1,466	-	1,466	1,242	21	60	137	6	1,466
January-22	1,469	-	1,469	1,245	21	60	137	6	1,469
February-22	1,472	-	1,472	1,248	21	60	137	6	1,472
March-22	1,475	-	1,475	1,251	21	60	137	6	1,475
April-22	1,478	-	1,478	1,254	21	60	137	6	1,478
May-22	1,482	-	1,482	1,257	21	60	137	6	1,482
June-22	1,485	-	1,485	1,261	21	60	137	6	1,485
July-22	1,488	-	1,488	1,264	21	60	137	6	1,488
August-22	1,491	-	1,491	1,267	21	60	137	6	1,491
September-22	1,494	-	1,494	1,269	21	60	137	6	1,494
October-22	1,497	-	1,497	1,272	21	60	137	6	1,497
November-22	1,500	-	1,500	1,275	21	60	137	6	1,500
December-22	1,503	-	1,503	1,278	21	60	137	6	1,503
January-23	1,506	-	1,506	1,281	21	60	137	6	1,506
February-23	1,508	-	1,508	1,284	21	60	137	6	1,508
March-23	1,511	-	1,511	1,287	21	60	137	6	1,511
April-23	1,514	-	1,514	1,290	21	60	137	6	1,514
May-23	1,517	-	1,517	1,293	21	60	137	6	1,517
June-23	1,520	-	1,520	1,296	21	60	137	6	1,520

Inmate Admission Prioritization Plan



Level	Priority	Offense Level	Violent or Nonviolent
Level 1	Priority 1	Felony AA	Violent
Level 2	Priority 1	Felony A	Violent
Level 3	Priority 1	Felony B	Violent
Level 4	Priority 2	Felony AA	Nonviolent
Level 5	Priority 2	Felony A	Nonviolent
Level 6	Priority 2	Felony C	Violent
Level 7	Priority 3	Felony B	Nonviolent
Level 8	Priority 3	Misdemeanor A	Violent
Level 9	Priority 3	Felony C	Nonviolent
Level 10	Priority 3	Misdemeanor A	Nonviolent

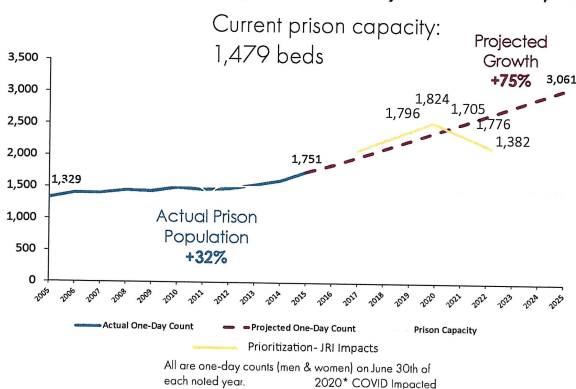
HB 1112 - Prioritization of admission of inmates

BACKGROUND

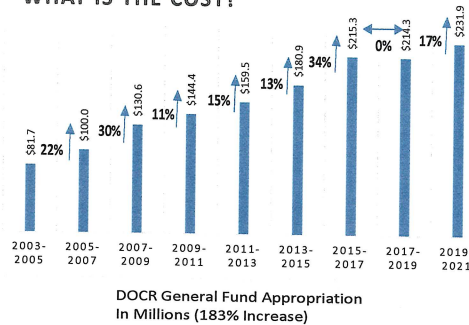
In 2016, in response to the cost of growing prison and correctional facility populations in North Dakota, key stakeholders embarked on a justice reinvestment initiative to implement evidence-based interventions to ensure:

- Justice-involved individuals with a low risk of re-offending receive care in the community, when possible, because incarceration increases their risk of reoffending.
- Individuals with serious behavioral health needs and those assessed as being at a high risk of reoffending receive services during incarceration and effective post-release supervision programming and treatment as necessary. This is important because nearly all will be released.

DOCR Historical and Projected One-Day Inmate Counts, 2005-2025



WHAT IS THE COST?



98%

of North Dakota incarcerated individuals return to communities

Prison population management plans, which are a partnership between state and local correctional facilities, have been successful at reducing prison populations and stabilizing costs.

- If DOCR's maximum operational capacity is exceeded, the DOCR is required to prioritize prison admissions and housing types based on sentence, offense, and risk of reoffending.
- As required by NDCC Section 12-44.1-07.1, all twenty-one North Dakota local correctional facilities have tools they can use for alternatives to incarceration to manage their population. Most typically have excess housing capacity and do not need urgent access to the DOCR.

21/21
Local Correctional
Facilities

54%

Use of Budgeted
Capacity (as of 3/8/21)

46%

Budgeted Local Correctional
Facility Beds Available

Cass County has implemented a Community Supervision Program to support the rehabilitation of qualified, non-violent offenders. Through risk assessments, interviews, GPS monitoring, case management, communication strategies, and community partnerships, over 70% of program participants successfully complete the program with 1-year non-recidivism rates of approximately 75%.