

Jul 25, 2021 santafenewmexican.com

### **As New Mexico regains control of some private prisons, questions**

New Mexico's decades long dalliance with privately operated prisons hasn't come to an end, but it's clear things are changing. By the end of the year, the state Corrections Department is expected to assume control of three of the five private prisons operating in New Mexico, a shift that began in 2019 during Gov. Michelle Lujan Grisham's administration. When the state takes over at the Guadalupe County Correctional Facility in Santa Rosa and the Northwest New Mexico Correctional Center near Grants this fall, only 24.5 percent of the state's prison beds will be under the auspices of private operators. New Mexico has 11 state prisons. Whether the decision to move away from private prisons was driven by philosophy or economic reality is up for debate. Though state officials have said they have been interested in reclaiming day-to-day operations at some private facilities, a reduction in the overall prison population, staffing issues and other problems have reduced revenue for private operators and hastened the transfer of control. The result? A fundamental shift within the state's prison system, perhaps the biggest since New Mexico began contracting with private operators in the 1990s. Eric Harrison, a spokesman for the Corrections Department, said Cabinet Secretary Alisha Tafoya Lucero was not available for an interview last week, but he noted she has been on record as saying the state has been interested in taking back the day-to-day operations at more of its prisons. But in a Legislative Finance Committee hearing last week, Tafoya Lucero expanded on the reasons behind the change, noting chronic staffing shortages at privately run facilities, plus declining inmate populations. The state's prison population, which once hovered around 7,000, has dropped to about 5,600, according to the Corrections Department. The state's prisons are at 73 percent of capacity. Tafoya Lucero told lawmakers some of the problems had combined to create a "terrifying situation" at the Guadalupe County facility — a 590-bed, 191,400-square-foot prison operated by the GEO Group, a Florida-based operator that also runs the 1,293-bed Lea County Correctional Facility near Hobbs. She described a scenario in Santa Rosa in which short staffing — a 71 percent vacancy rate among correctional staff, with only 28 of 97 correctional staff positions filled — had created conditions that felt "wrong" and "dangerous." The situation prompted her to supplement the staff with state employees and move inmates to other prisons in an attempt to reduce the population for safety reasons. She told lawmakers that created a reduction in revenue for the Geo Group, which threatened to pull out unless its contract was renegotiated. The compromise, Tafoya Lucero told lawmakers, was for the state to agree to lease the building from Geo. The cost of the lease has yet to be determined. The state, she said, will be responsible for the Santa Rosa prison's operations and employees. The department plans a similar takeover of the Northwest New Mexico Correctional Center in Grants, where it would lease the property from CoreCivic, another large national private prison operator. Harrison said in an email that "fiscal savings along with CoreCivic's change in their nationwide business model" were driving concerns at that facility. Tafoya Lucero said the plan in Grants is to consolidate the men's and women's facilities into one institution, which she said would save the state money on overhead costs. But Ellen Rabin, the Legislative Finance Committee's senior fiscal analyst, told committee members the department's planned and in-process takeovers of private prisons would cost the state an estimated \$10 million per year through the 2024 fiscal year. Rabin and LFC program evaluator Cally Carswell wrote a hearing brief published ahead of the committee's meeting Thursday, warning lawmakers the Corrections Department's current approach could be ineffective as well as costly. "While falling populations and classification reforms provide opportunities for [New Mexico Corrections Department] to realize substantial cost savings, the agency's plan to continue to convert private prison facilities to public operation, rather than reducing unused bed space, will likely lead to further cost escalation," the brief says. "While the state pays to maintain empty beds at its prisons, inmate programming continues to lag behind the levels necessary to improve New Mexico's high recidivism rate." Tafoya Lucero's presentation had some lawmakers wondering whether taking over the private prisons is the best strategy, or if closing them altogether is a better option. "As I was sitting here this afternoon, I thought to myself, 'OK we have a declining prison population, and the state is moving into the business of owning and operating more prisons,'" Rep. Phelps Anderson, a Roswell independent, said Thursday. "Where am I missing the logic of that?" "I hear that," Tafoya Lucero responded. But, she said, "We don't know what the prison population ultimately will look like. We know there is a lot of flux right now. It's really sort of an unknowable thing." Tafoya Lucero said the New Mexico Sentencing Commission is forecasting further reductions in prison populations. She added the state is just now shedding itself from mandates under the decades-old Duran consent decree — a legal settlement aimed at addressing problems in the state's prisons, including overcrowding, that led to a horrific, deadly riot at the Penitentiary of New Mexico in 1980. Tafoya Lucero

said she wants to make sure the state doesn't downsize too quickly. "We are down to 73 percent [of capacity] right now ... but we don't want to end up in a situation where we don't have enough beds and then we are overcrowded," she said. Rep. Moe Maestas, D-Albuquerque, said that while the riot at the prison just south of Santa Fe happened more than four decades ago, it has created a culture in which state officials are afraid to cut or question the Correction Department's \$363 million annual budget. The department's budget grew by \$35.9 million, or 11 percent, between fiscal year 2017 and fiscal year 2021, according to the Legislative Finance Committee, even as the inmate population decreased 17.6 percent over the same period. Critics of the Corrections Department, including some legislators, say the state has the power to control its own inmate population and should take that into account when making long-term decisions about operations. "Its not just that we need to eliminate privatization. We didn't and don't need many of those prisons in the first place," Mark Donatelli, one of the lead attorneys in the Duran case, wrote in an email. Several lawmakers at last week's hearing talked about the need to address a variety of issues at New Mexico's prisons, including overall populations, classification, recidivism and programming. An overarching strategy, some said, is badly needed. But lawmakers also expressed concerns about the economic impact closing rural prisons could have on the communities that rely on them for support, noting that if the state does decide to consolidate inmates and shut down prisons, it should start with those located near larger cities, which have more employment opportunities. "If we are going to do that, let's look at Santa Fe first before we move to other areas," Sen. George K. Muñoz, a Gallup Democrat who is the committee's vice chairman, said Thursday.