

*Blueprint for Smart Justice*  
**New Mexico**







# Blueprint *for* Smart Justice New Mexico

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# Executive Summary

Over the past five decades, the United States has dramatically increased its reliance on the criminal justice system as a way to respond to drug addiction, mental illness, poverty, and underfunded schools. As a result, the United States today incarcerates more people, in both absolute numbers and per capita, than any other nation in the world. Millions of lives have been upended and families torn apart. This mass incarceration crisis has transformed American society, damaged families and communities, and wasted trillions of taxpayer dollars.

We all want to live in safe and healthy communities, and our criminal justice policies should be focused on the most effective approaches to achieving that goal. But the current system has failed us. It's time for the United States to end its reliance on incarceration, invest instead in alternatives to prison and in approaches better designed to break the cycle of crime and recidivism, and help people rebuild their lives.

The ACLU's Campaign for Smart Justice is committed to transforming our nation's criminal justice system and building a new vision of safety and justice. The Campaign is dedicated to cutting the nation's incarcerated population in half and combatting racial disparities in the criminal justice system.

To advance these goals, the Campaign partnered with the Urban Institute to conduct a two-year research project to analyze the kind of changes needed to cut by half the number of people in prison in every state and reduce racial disparities in incarceration. In each state Urban Institute researchers identified primary drivers of incarceration. They then predicted the impact of reducing prison admissions and length of stay on

state prison populations, state budgets, and the racial disparity of those imprisoned.

The analysis was eye-opening.

In every state, we found that reducing the prison population by itself does little to diminish racial disparities in incarceration — and in some cases would worsen them. In New Mexico — where, in 2014, the proportion of the prison population that was Latino was the highest in the nation<sup>1</sup> and one in every 37 Black men was imprisoned<sup>2</sup> — reducing the number of people imprisoned will not on its own reduce racial disparities within the prison system. This finding confirms for the Campaign that urgent work remains for advocates, policymakers, and communities in New Mexico and across the nation to focus on efforts like prosecutorial reform that are specific to combatting these disparities.

In New Mexico, the prison population has grown a staggering 481 percent between 1980 and 2016.<sup>3</sup> While the U.S. state imprisonment rate decreased by 7 percent between 2000 and 2016, New Mexico's imprisonment rate increased by 31 percent.<sup>4</sup>

A key contributor to this increase is policymakers' belief that incarceration is an effective means of crime control, resulting in zealous prosecution and harsh sentences, particularly for drug and property crimes. Additionally, parole procedures and sentencing schemes that remove judicial discretion, such as New Mexico's habitual offender statute, have contributed to the growth. This means that New Mexico's prison population is rapidly growing older and, in the case of female prisoners, is quickly nearing capacity statewide.<sup>5</sup>

Using the penal system as a primary method of addressing New Mexico's social problems is not working. According to the most recent data, approximately one in four people in New Mexico prisons is treated for a serious mental illness on any given day,<sup>6</sup> and approximately 85 percent of those imprisoned suffer from substance abuse problems.<sup>7</sup>

Tragically, people released from New Mexico's prisons lack access to treatment options and reentry support, which leads to many people returning to prison after being released. Forty-seven percent of men and 38 percent of women released from New Mexico prisons in 2011 returned to prison within three years.<sup>8</sup> The number of annual admissions to New Mexico prisons for parole violations has also increased such that, by 2016, nearly one-third of prison admissions were for a parole violation.<sup>9</sup> This includes people imprisoned for actions that are not on their own illegal, like failing to report to a scheduled office visit or not having an approved place to live.

Fortunately, we have learned much about what works effectively and fairly in addressing public safety. Many states have demonstrated it is possible to decrease reliance on incarceration while producing large declines in crime.<sup>10</sup> To effectively increase public safety, policymakers need to move away from reactionary, tough-on-crime policies and instead embrace evidence-based solutions that actually increase public safety.

So, what's the path forward? Any meaningful effort to reach a 50 percent reduction in incarceration in New Mexico will, at a minimum, need to account for social factors that contribute to crime and recidivism. Responses to the state's increased crime rate must acknowledge, for example, the role played by high unemployment, a statewide reduction in behavioral health services, and a decades-long opioid epidemic.

New Mexico must reconsider its approach to substance use disorders and mental illness, treating them as the public health problems they are. This should include reducing penalties for drug offenses,<sup>11</sup> legalizing marijuana, reclassifying simple drug possession offenses as misdemeanors, and shifting the state's spending priorities to ensure that everyone who needs substance abuse or mental health treatment receives it.

Sentencing and parole reform is also critical—for example, alternatives to incarceration such as diversion programs, repealing the habitual offender statute that takes away judicial discretion, and shifting the presumption on parole in favor of the prisoner.

The answer is ultimately up to New Mexico's voters, policymakers, communities, and criminal justice advocates as they move forward with the urgent work of ending New Mexico's obsession with mass incarceration.

# The State of the New Mexico Prison System

New Mexico's prison population grew nearly six-fold between 1980 and 2016, by a staggering 481 percent.<sup>12</sup> As of June 2016, New Mexico imprisoned 7,373 people.<sup>13</sup> While the U.S. state imprisonment rate decreased by 7 percent between 2000 and 2016, New Mexico's imprisonment rate grew by 31 percent.<sup>14</sup> By 2016, 335 out of every 100,000 New Mexicans were in prison.<sup>15</sup> When community supervision programs like parole are included, the reach of the criminal justice system is even greater — in 2016, nearly 2 percent of New Mexico's adult population was under some form of correctional control.<sup>16</sup>

## What Is Driving People Into Prison?

In New Mexico, a litany of offenses drives people into prison.<sup>17</sup> In 2016, New Mexico sent 4,194 people to prison — an increase of 7 percent since 2012. More than

### AT A GLANCE

## NEW MEXICO PRISONS

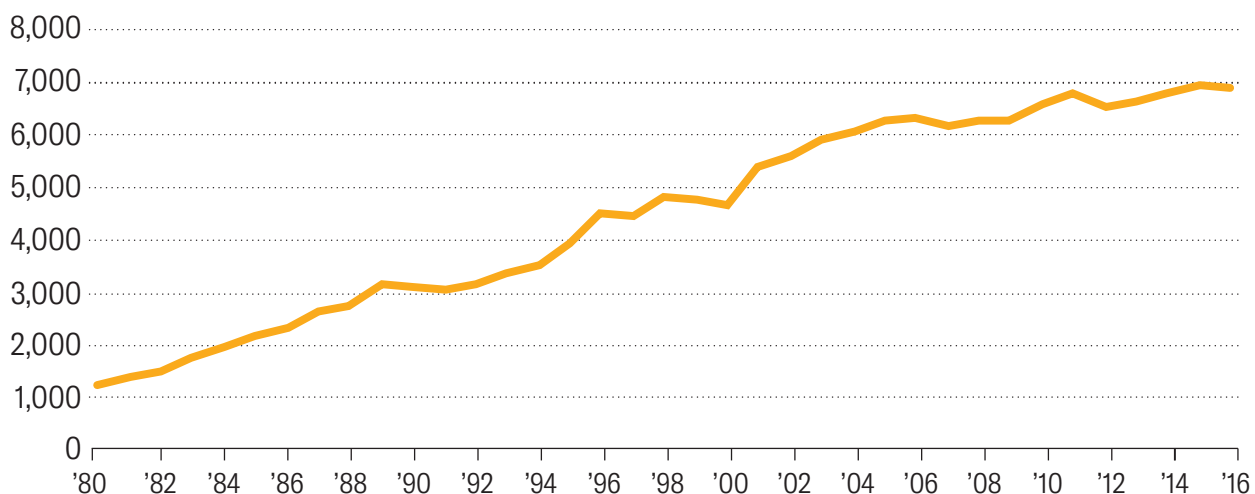
New Mexico's prison population grew by **481 percent** between 1980 and 2016.

New Mexico's imprisonment rate grew by **31 percent** between 2000 and 2016.

**7,373 people** were imprisoned in New Mexico in 2016.

**1.9 percent** of New Mexico's adult population was under correctional control in 2016.

## NEW MEXICO PRISON POPULATION





half (57 percent) of admissions in 2016 were for new convictions.<sup>18</sup>

Offenses not involving violence accounted for three out of five new admissions (60 percent) to New Mexico prisons in 2016.<sup>19</sup> Nearly half of all new admissions in 2016 were for drug and property offenses, including 24 percent for property offenses and 25 percent for drug offenses. The number of new admissions to New Mexico prisons for drug possession has increased by 36 percent since 2012, accounting for nearly one out of every seven people (14 percent) admitted for new offenses in 2016. Public order offenses such as driving while intoxicated accounted for another 12 percent of new admissions in 2016. Other common offenses included assault and battery (11 percent) and burglary (8 percent).<sup>20</sup>

The number of annual admissions to New Mexico prisons for parole violations increased by 16 percent between 2012 and 2016. In 2016, nearly one in three (32 percent) admissions were for a parole violation, including technical violations like missing a curfew as well as a sentence for a new crime.<sup>21</sup> According to a 2017 study, which followed people under community supervision in 2011 or 2012, people released early from prison to parole in New Mexico are much more likely than people on probation to be revoked to prison: of the sample, 76 percent of people on parole were revoked to prison within

three years compared to 18 percent of people sentenced to probation instead of jail or prison time.<sup>22</sup>

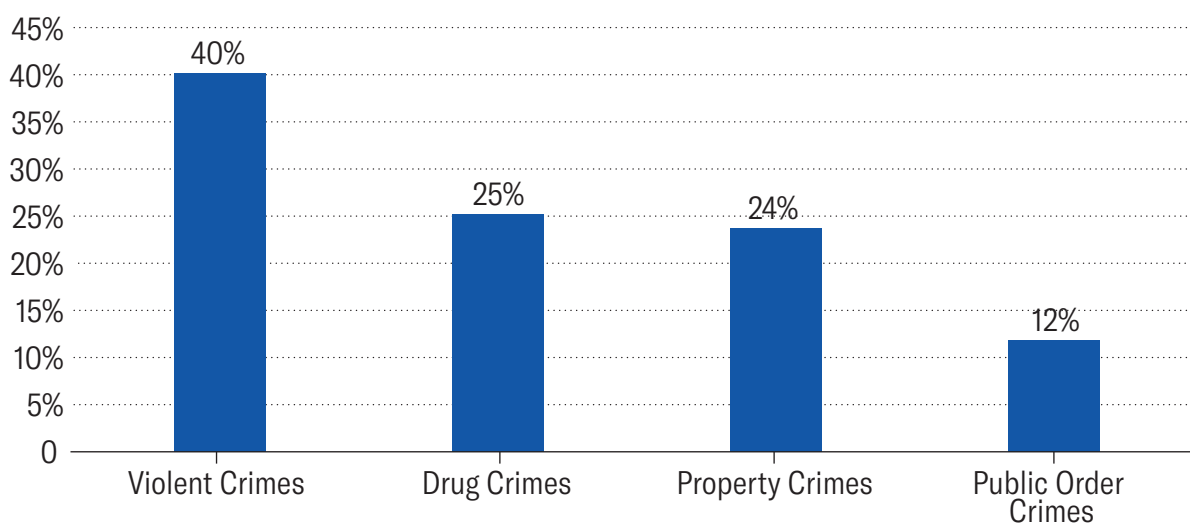
People released from New Mexico's prisons also lack access to treatment options and reentry support, which leads to a return to prison for many. Forty-seven percent of men and 38 percent of women released from New Mexico prisons in 2011 returned to prison within three years. Recidivism rates for both men and women increased between 2007 and 2011.<sup>23</sup>

## The Current Prison and Jail Population

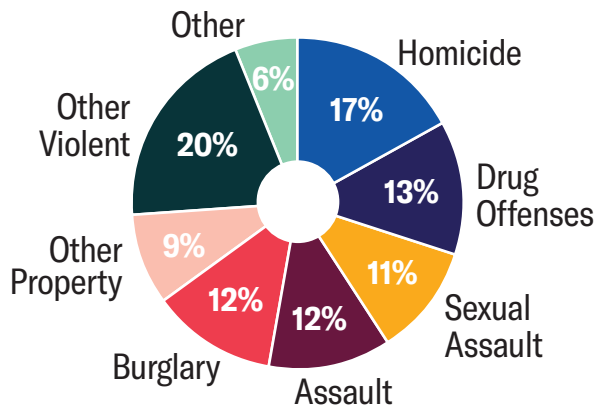
New Mexico is one of only a handful of states where there are about as many people in jails as there are in prisons.<sup>24</sup> As of June 2016, there were 6,367 people in New Mexico jails, compared to 7,373 people in state prison.<sup>25</sup> In 2015, 92 percent of the jail population in New Mexico, was being held in jail pretrial and had not been convicted of a crime.<sup>26</sup>

In 2015, two out of five people (40 percent) in New Mexico prisons were serving time for an offense not involving violence.<sup>27</sup> More than one in eight people (13 percent) were serving time for drug offenses. Between 2010 and 2015, the number of people imprisoned for burglary offenses increased by 26 percent — in 2015,

## NEW MEXICO NEW PRISON ADMISSIONS BY TOP OFFENSE TYPES (FY 2016)



## NEW MEXICO PRISON POPULATION BY TOP OFFENSE TYPE (2015)



they made up 12 percent of New Mexico's prison population. Other common offenses included assault (12 percent), robbery (8 percent), and homicide (17 percent).<sup>28</sup>

### Why Do People Stay in Prison for So Long?

The average length of imprisonment for people released from New Mexico prisons remained relatively constant between 2010 and 2015, averaging 1.58 years for people released in 2015. Drug offenses and property offenses are the exception to this rule: the average length of imprisonment for drug-related offenses increased by 12 percent over that time period – reaching nearly a year and a half (1.48 years) for people released from prison in 2015. For property offenses, the average length of imprisonment grew by 10 percent over the same time period, averaging 1.38 years for people released in 2015.<sup>29</sup>

Two out of five people (39 percent) in New Mexico prisons in 2015 were serving sentences of more than 10 years. The number of people serving life sentences grew by 9 percent between 2010 and 2015, accounting for 6 percent of the 2015 New Mexico prison population.<sup>30</sup>

#### AT A GLANCE

### NEW MEXICO STATE PRISON POPULATION

The average length of imprisonment for drug offenses increased by **12 percent** for people released between 2010 and 2015.

The average length of imprisonment for property offenses increased by **10 percent** for people released between 2010 and 2015.

**39 percent** of people in prison were serving sentences longer than 10 years in 2015.

**6 percent** of people in prison were serving life sentences in 2015.

New Mexico imposes harsh laws that trigger sentencing enhancements for people with previous convictions, even for relatively minor felonies. For example, under the state's habitual offender law, a person who has two separate prior felony convictions and is convicted of a third felony automatically receives an additional four years in prison, while a person with three prior felony convictions who is convicted of a fourth felony receives an additional eight years.<sup>31</sup>

In 2016, approximately 1 in 10 people eligible for release, including 9 percent of women and 10 percent of men, was kept in prison past their scheduled release date.<sup>32</sup> Often, this delay is solely due to the fact that they do not have an approved parole plan.<sup>33</sup> Parole plans are required for every person released from prison and must be approved by the Probation and Parole district office. They can be delayed if information or required documents are missing. In some cases, parole is delayed because the individual has psychiatric disabilities and needs supportive housing and mental health services.<sup>34</sup>

## AT A GLANCE

# PRISON DEMOGRAPHICS

**1 in 37** Black men in New Mexico were imprisoned in 2014.

**61 percent** of the 2015 New Mexico prison population was Latino.

**10 percent** of the 2017 New Mexico prison population was female.

**18 percent** of men in the 2015 New Mexico prison population were older than 50.

## Who Is Imprisoned

**Black New Mexicans:** At 1,677 per 100,000, the imprisonment rate for Black adults in New Mexico was over six times that of white adults in the state in 2015.<sup>35</sup> In 2014, one in every 37 Black men in New Mexico was in prison.<sup>36</sup> Although they made up less than 2 percent of the state adult population,<sup>37</sup> Black people made up 7 percent of the prison population in 2015.<sup>38</sup>

**Latino New Mexicans:** In 2014, the proportion of the New Mexico prison population that was Latino was the highest in the country.<sup>39</sup> At 609 per 100,000, the imprisonment rate of Latino adults in New Mexico was more than double that of white adults in 2015.<sup>40</sup> While they made up just 44 percent of the adult state population,<sup>41</sup> Latinos constituted 61 percent of the New Mexico prison population in 2015.<sup>42</sup> Between 2010 and 2015, the number of Latinos imprisoned in New Mexico grew by 13 percent.<sup>43</sup>

**Female New Mexicans:** The female prison population grew by 18 percent between 2012 and 2017, accounting for 10 percent of the 2017 New Mexico prison population.<sup>44</sup> The number of women in prison is projected to continue to increase, exceeding current prison capacity in the next few years.<sup>45</sup>

**Older New Mexicans:** New Mexico's prison population is rapidly graying. In 2015, 18 percent of

men and 15 percent of women in New Mexico prisons were over the age of 50 — a population generally considered to pose a negligible risk to public safety.<sup>46</sup>

## People With Mental Health and Substance Use Disorders

According to the most recent available data from 2010, approximately 1 in 4 people in New Mexico prisons is in treatment for a serious mental illness. In the same year, women were twice as likely as men to enter New Mexico prisons with pre-existing psychiatric disorders.<sup>47</sup> In addition, a 2013 report estimated that 85 percent of people under New Mexico Corrections Department jurisdiction suffer from substance abuse problems.<sup>48</sup>

Based on population numbers from one detention facility in New Mexico, the Sentencing Commission has estimated that 35 percent of people held in county jails across the state are taking a prescribed psychotropic medication, and even more have a mental health diagnosis that isn't treated with medication. In a 2012 report that examined people in two New Mexico local detention facilities, the Sentencing Commission found that receiving mental health services increased a person's length of stay in jail by 36 days and that having a very serious mental health diagnosis, such as a psychotic disorder, increased the median length of stay in jail by 121 days.<sup>49</sup>

## AT A GLANCE

# MENTAL HEALTH AND SUBSTANCE USE DISORDERS

Approximately **1 in 4** people imprisoned in New Mexico were being treated for a serious mental illness as of 2010.

Approximately **85 percent** of people under New Mexico Corrections Department jurisdiction were reported to have substance abuse problems as of 2013.

#### AT A GLANCE

## SPENDING ON CORRECTIONS

New Mexico spent **\$297 million** from its general fund on corrections in 2016.

There has been a **105 percent** increase in general funds spent on corrections between 1986 and 2016.

### Budget Strains

As New Mexico's prison population has risen, so has the cost burden. New Mexico spent \$297 million of its general fund on corrections in 2016.<sup>50</sup> Corrections spending from New Mexico's general fund more than doubled between 1986 and 2016, forcing tradeoffs in other state priorities like education.<sup>51</sup>

# Ending Mass Incarceration in New Mexico: A Path Forward

There are many potential policy changes that can help New Mexico end its mass incarceration crisis, but it will be up to the people and policymakers of New Mexico to decide which changes to pursue. To reach a 50 percent reduction, policy reforms will need to reduce the amount of time people serve in prisons and/or reduce the number of people entering prison in the first place.

## Reducing Admissions

To end mass incarceration, New Mexico must break its overreliance on prisons to hold people accountable for their crimes. In fact, evidence indicates that prisons seldom offer adequate solutions to wrongful behavior. In fact, imprisonment can be counterproductive — failing to end cycles of misbehavior and violence or to provide rehabilitation for incarcerated people or adequate accountability to the survivors of crime.<sup>52</sup> Here are some strategies:

- **Alternatives to incarceration:** Several types of alternative to incarceration programs have shown great success in reducing criminal activity. Programs offering support services such as substance use disorder treatment, mental health care, employment, housing, health care, and vocational training — often with some element of court supervision and/or a community service requirement — have significantly reduced recidivism rates for participants. For crimes involving violence, restorative justice programs — which are designed to hold people accountable and support those who were harmed — are particularly

promising. When they are rigorous and well-implemented, these programs have not only been determined to reduce recidivism for defendants,<sup>53</sup> they have also been shown to decrease symptoms of post-traumatic stress in victims of crime.<sup>54</sup> Prosecutors and judges who embrace these solutions can fulfill their responsibility to protect public safety and support victims in their healing, while also often generating far better results than imprisonment can deliver. Other successful models include programs that divert people to treatment and support services before arrest, and programs led by prosecutors that divert people before they are charged.

- **Expanded treatment:** Sentencing drug offenders to jail and prison time contributes significantly to mass incarceration in New Mexico, yet there are evidence-based alternatives, including substance use disorder treatment as well as decriminalization. Substance use disorders are often underlying drivers of all kinds of other offenses — including burglaries, assaults, and robberies — that could be more effectively addressed through evidence-based responses rather than prison time.

New Mexico needs to shift priorities to ensure that everyone who needs community-based substance use or mental health treatment receives it, regardless of whether they are involved with the criminal justice system. People are more likely to seek treatment if they don't fear arrest and prosecution, and when treatment programs are adequately financed



and accessible so they don't have to wait months to receive treatment.

- **Reclassifying crimes:** Reclassifying lower-level offenses, such as simple drug possession, to misdemeanors instead of felonies can reduce prison admissions. A number of incarcerated people in New Mexico are in prison or jail because they were charged with simple drug possession.
- **Reducing revocations:** As in many states, a significant portion of people in New Mexico prisons are incarcerated because of violations of parole and probation. Many people in prison must serve "in-house" parole, in which they are held in prison even though they should have been released on parole. New Mexico must implement reforms to limit the number of people sent to prison due to violations of parole and probation, especially for minor or technical violations.

New Mexico should reduce lengthy parole terms and probation sentences, which are often imposed in conjunction with long periods of incarceration. More effective policies include capping how much (if any) jail time may be

imposed for parole or probation violations, diversionary treatment programs for parole violations, and early termination of supervision terms, especially when the underlying problem is a substance use disorder or mental health issue.

## Reducing Time Served

Reducing the amount of time people serve, even by just a few months, can lead to thousands of fewer people in New Mexico's prisons. Here's how:

- **Sentencing reform:** The New Mexico Legislature should reform or repeal the habitual offender statute, which contributes significantly to the number of individuals serving lengthy prison sentences and includes prior convictions for drug offenses. A judge, not the legislature, is in the best position to consider all the relevant circumstances, including but not limited to the person's prior criminal record, in determining an appropriate sentence.

People incarcerated on drug-related charges make up a significant portion of the state

## TAKING THE LEAD

**Prosecutors:** They decide on what charges to bring and which plea deals to offer. They can decide to divert more people to treatment programs (for example, drug or mental health programs) rather than send them to prison. And they can decide not to charge enhancements that require the imposition of prison sentences.

**State lawmakers:** They decide which offenses to criminalize, how long sentences can be, and when to take away judges' discretion. They can change criminal laws to remove prison as an option when better alternatives exist, and they can also fund the creation of new alternatives.

**Parole boards:** They decide when to allow people to leave prison. In New Mexico, the parole board is an especially important player when it comes to reforming how long people spend in prison.

**Judges:** They often have discretion over pretrial conditions imposed on defendants, which can make a difference. For example, individuals who are jailed while awaiting trial are more likely to plead guilty and accept longer prison sentences than people who are not held in jail pretrial. Judges can also have discretion in sentencing and should consider alternatives to incarceration when possible.

prison population.<sup>55</sup> New Mexico should reduce penalties for felony drug offenses by one class or more. Some drug crimes in New Mexico currently carry penalties harsher than crimes involving violence like robbery or aggravated battery.

- **Release policy reform:** New Mexico should allow elderly and infirm prisoners who pose no public safety risk to be released to home confinement or other forms of community supervision. Treating geriatric individuals for serious conditions in a prison setting places an expensive burden on New Mexico's already inadequate prison health system; these individuals could be treated at lower expense outside of prison.

New Mexico should change current parole board procedure by shifting the burden of proof for people sentenced to life imprisonment. Current law requires the parole board, after the prisoner has served 30 years, to 1) hold a parole hearing, 2) consider certain information related to the crime for which they were convicted, and 3) before recommending parole, make a finding that parole is in the best interests of the prisoner and society in general. A better approach would be to provide that the prisoner "shall be paroled" unless the prisoner is unwilling or unable to fulfill the obligations of a law-abiding citizen. In making that determination, parole should not be denied solely on the fact that the prisoner intentionally took the life of another person.

## Reducing Racial Disparities

Reducing the number of people who are imprisoned in New Mexico will not on its own significantly reduce racial disparities in the prison system.

People of color (especially Black, Latino, and Native American people) are at a higher risk of becoming involved in the justice system, including living under heightened police surveillance and being at higher risk for arrest. This imbalance cannot be accounted for by disparate involvement in illegal activity, and it grows at each stage in the justice system, beginning with initial law enforcement contact and increasing at subsequent stages such as pretrial detention, conviction, sentencing, and postrelease opportunity.<sup>56</sup> Focusing on only one of the factors that drives racial disparity does not address issues across the system.

Racial disparity is so ingrained in the system that it cannot be mitigated by solely reducing the scale of mass incarceration. Shrinking the prison population across the board will likely result in lowering imprisonment rates for all racial and ethnic populations, but it will not address comparative disproportionality across populations. For example, focusing on reductions to prison admissions and length of stay in prison is critically important, but those reforms do not address the policies and practices among police, prosecutors, and judges that contribute greatly to the racial disparities that plague the prison system.

New Jersey, for example, is often heralded as one of the most successful examples of reversing mass incarceration, passing justice reforms that led to a 26 percent decline in the state prison population between 1999 and 2012.<sup>57</sup> However, the state did not target racial disparities in incarceration and, in 2014, Black people in New Jersey were still more than 12 times as likely to be imprisoned as white people — the highest disparity of any state in the nation.<sup>58</sup>

Ending mass incarceration is critical to eliminating racial disparities, but insufficient without companion efforts that take aim at other drivers of racial inequities outside of the criminal justice system. Reductions in disparate imprisonment rates require implementing explicit racial justice strategies.

Some examples include:

- Ending overpolicing in communities of color
- Evaluating prosecutors' charging and plea-bargaining practices to identify and eliminate bias
- Investing in diversion/alternatives to detention in communities of color
- Reducing the use of pretrial detention and eliminating wealth-based incarceration
- Ending sentencing enhancements based on location (drug-free school zones)
- Reducing exposure to reincarceration due to revocations from supervision
- Requiring racial impact statements before any new criminal law or regulation is passed and requiring legislation to proactively rectify any potential disparities that may result with new laws or rules
- Fighting discriminatory gang sentencing enhancements that disproportionately target people of color
- Addressing any potential racial bias in risk assessment instruments used to assist decision-making in the criminal justice system
- Shifting funding from law enforcement and corrections to community organizations, job creation, schools, drug and mental health treatment, and other social service providers

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“Merely reducing sentence lengths, by itself, does not disturb the basic architecture of the New Jim Crow. So long as large numbers of African Americans continue to be arrested and labeled drug criminals, they will continue to be relegated to a permanent second-class status upon their release, no matter how much (or how little) time they spend behind bars. The system of mass incarceration is based on the prison label, not prison time.”<sup>59</sup>

— From *The New Jim Crow*, Michelle Alexander

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## Forecaster Chart

There are many pathways to cutting the prison population in New Mexico by 50 percent. To help end mass incarceration, communities and policymakers will need to determine the optimal strategy to do so. This table presents one potential matrix of reductions that can contribute to cutting the state prison population in half by 2025. The reductions in admissions and length of stay for each offense category were selected based on the potential to reduce the prison population, as well as other factors. To chart your own path to reducing mass incarceration in New Mexico, visit the interactive online tool at <https://urbn.is/ppf>.



# CUTTING BY 50%: PROJECTED REFORM IMPACTS ON POPULATION, DISPARITIES, AND BUDGET

Impact Compared to 2025 Baseline*				
Offense category**	Policy outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
<b>Burglary</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 1.94 to 0.39 years).</li> <li>Institute alternatives that reduce admissions by 70% (415 fewer people admitted).</li> </ul>	12.90% reduction (1,062 fewer people)	White: 1.0% decrease Black: 3.9% increase Hispanic/Latino: 0.9% decrease Native American: 7.7% increase Asian: 1.7% decrease Hawaiian/Pacific Islander: 7.3% increase	\$33,746,888
<b>Assault</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 2.06 to 0.41 years).</li> <li>Institute alternatives that reduce admissions by 70% (308 fewer people admitted).</li> </ul>	10.38% reduction (854 fewer people)	White: 3.1% increase Black: 1.7% decrease Hispanic/Latino: 0.5% decrease Native American: 4.9% decrease Asian: 1.3% decrease Hawaiian/Pacific Islander: 6.0% decrease	\$27,618,723
<b>Robbery</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 70% (from 3.81 to 1.14 years).</li> <li>Institute alternatives that reduce admissions by 70% (125 fewer people admitted).</li> </ul>	7.27% reduction (598 fewer people)	White: 3.3% increase Black: 3.7% decrease Hispanic/Latino: 1.1% decrease Native American: 1.3% increase Asian: 1.2% increase Hawaiian/Pacific Islander: 1.8% increase	\$16,660,872
<b>Drug offenses</b>	<ul style="list-style-type: none"> <li>Reduce average time served for all drug offenses by 80% (from 0.98 to 0.20 years).</li> <li>Institute alternatives that reduce admissions for all drug offenses by 80% (793 fewer people admitted).</li> </ul>	11.32% reduction (932 fewer people)	White: 3.0% increase Black: 2.7% decrease Hispanic/Latino: 2.0% decrease Native American: 8.8% increase Asian: 6.1% decrease Hawaiian/Pacific Islander: 12.8% increase	\$31,701,791

Impact Compared to 2025 Baseline*				
Offense category**	Policy outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
<b>Fraud</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 1.45 to 0.29 years).</li> <li>Institute alternatives that reduce admissions by 80% (146 fewer people admitted).</li> </ul>	3.07% reduction (253 fewer people)	White: 1.5% decrease Black: 0.1% decrease Hispanic/Latino: 0.4% increase Native American: 1.6% increase Asian: 2.7% decrease Hawaiian/Pacific Islander: 2.2% decrease	\$8,477,867
<b>Public order offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 0.77 to 0.15 years).</li> <li>Institute alternatives that reduce admissions by 80% (214 fewer people admitted).</li> </ul>	2.41% reduction (198 fewer people)	White: 0.6% decrease Black: 0.7% increase Hispanic/Latino: 0.1% increase Native American: 0.4% increase Asian: 2.5% increase Hawaiian/Pacific Islander: 2.5% increase	\$6,868,705
<b>DWI</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 0.86 to 0.17 years).</li> <li>Institute alternatives that reduce admissions by 80% (153 fewer people admitted).</li> </ul>	1.91% reduction (157 fewer people)	White: 0.7% increase Black: 1.9% increase Hispanic/Latino: 0.4% increase Native American: 7.8% decrease Asian: 1.9% increase Hawaiian/Pacific Islander: 1.9% increase	\$5,203,258
<b>Theft</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 0.85 to 0.17 years).</li> <li>Institute alternatives that reduce admissions by 80% (139 fewer people admitted).</li> </ul>	1.73% reduction (142 fewer people)	White: 0.2% decrease Black: 0.4% increase Hispanic/Latino: No change Native American: 1.0% increase Asian: 1.8% increase Hawaiian/Pacific Islander: 1.8% increase	\$4,768,299
<b>Other property offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 0.68 to 0.14 years).</li> <li>Institute alternatives that reduce admissions by 80% (77 fewer people admitted).</li> </ul>	0.76% reduction (62 fewer people)	White: 0.3% decrease Black: No change Hispanic/Latino: No change Native American: 0.2% increase Asian: 0.8% increase Hawaiian/Pacific Islander: 0.8% increase	\$2,176,048



Impact Compared to 2025 Baseline*				
Offense category**	Policy outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
<b>Weapons offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 80% (from 0.62 to 0.12 years).</li> <li>Institute alternatives that reduce admissions by 70% (57 fewer people admitted).</li> </ul>	0.58% reduction (48 fewer people)	White: No change Black: No change Hispanic/Latino: No change Native American: 0.1% increase Asian: 0.6% increase Hawaiian/Pacific Islander: 0.6% increase	\$1,633,477

\*The baseline refers to the projected prison population based on historical trends, assuming that no significant policy or practice changes are made.

\*\*The projections in this table are based on the offense that carries the longest sentence for any given prison term. People serving prison terms may be convicted of multiple offenses in addition to this primary offense, but this model categorizes the total prison term according to the primary offense only.

\*\*\*Racial and ethnic disproportionality is traditionally measured by comparing the number of people in prison — of a certain race — to the number of people in the state's general population of that same race. For example, nationally, Black people comprise 13 percent of the population, while white people comprise 77 percent. Meanwhile, 35 percent of people in state or federal prison are Black, compared to 34 percent who are white. While the proportion of people in prison who are Black or white is equal, Black people are incarcerated at nearly three times their representation in the general population. This is evident in New Mexico, where Black people make up 7 percent of the prison population but constitute only 2 percent of the state's total population. This column represents the percent change in the share of the prison population made up by each racial/ethnic group. It compares the proportion of the population made up by a group in the 2025 baseline prison population to the proportion of the population made up by that group when the reform scenario is applied. We then calculate the percent change between those two proportions.

\*\*\*\*Note: Cost impact for each individual policy change represents the effect of implementing that change alone and in 2015 dollars. The combined cost savings from implementing two or more of these changes would be greater than the sum of their combined individual cost savings since more capital costs would be affected by the population reductions.

\*\*\*\*\*Some public order offenses include drunk or disorderly conduct, escape from custody, obstruction of law enforcement, court offenses, failure to comply with sex offense registration requirements, prostitution, and stalking, as well as other uncategorized offenses.

\*\*\*\*\*Some other property offenses include stolen property trafficking, vandalism, property damage, criminal mischief, unauthorized vehicle use, and trespassing.

\*\*\*\*\*Some weapons offenses include unlawful possession, sale, or use of a firearm or other type of weapon (e.g., explosive device).

## Total Fiscal Impact

If New Mexico were to carry out reforms leading to the changes described above, 4,306 fewer people would be in prison in the state by 2025, a 52.33 percent decrease. This would lead to a total cost savings of \$469,244,875 by 2025.

## Methodology Overview

This analysis uses prison term record data from the National Corrections Reporting Program to estimate the impact of different policy outcomes on the size of New Mexico's prison population, racial and ethnic representation in the prison population, and state

corrections spending. First, trends in admissions and exit rates for each offense category in recent years are analyzed and projected out to estimate a baseline state prison population projection through 2025, assuming recent trends will continue. Then, a mathematical model was used to estimate how various offense-specific reform scenarios (for example, a 10 percent reduction in admissions for drug possession or a 15 percent reduction in length of stay for robbery) would change the 2025 baseline projected prison population. The model allows for reform scenarios to include changes to the number of people admitted to prison and/or average length of time served for specific offenses. The model then estimates the effect that these changes would have by 2025 on the number of people in prison,

the racial and ethnic makeup of the prison population, and spending on prison. The analysis assumes that the changes outlined will occur incrementally and be fully realized by 2025.

All results are measured in terms of how outcomes under the reform scenario differ from the baseline projection for 2025. Prison population size impacts are measured as the difference between the 2025 prison population under the baseline scenario and the forecasted population in that year with the specified changes applied. Impacts on the racial and ethnic makeup of the 2025 prison population are measured by comparing the share of the prison population made up by a certain racial or ethnic group in the 2025 baseline population to that same statistic under the reform scenario, and calculating the percent change between these two proportions. Cost savings are calculated by estimating the funds that would be saved each year based on prison population reductions relative to the baseline estimate, assuming that annual savings grow as less infrastructure is needed to maintain a shrinking prison population. Savings relative to baseline spending are calculated in each year between the last year of available data and 2025, then added up to generate a measure of cumulative dollars saved over that time period.

# Endnotes

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