

# Justice Reinvestment in New Mexico

## Overview



DECEMBER 2018

## Background

**A**t a time when many states have lowered prison populations and seen crime rates fall, New Mexico's prison population is projected to increase 16 percent by FY2028 unless action is taken to curb the growth.<sup>1</sup> The state also had the highest property crime rate and the second-highest violent crime rate in the country as of 2016.<sup>2</sup>

In the summer of 2018, Governor Susana Martinez, Chief Justice Judith K. Nakamura, Senate President Pro Tempore Mary Kay Papen, Speaker of the House Brian Egolf, Senate Minority Floor Leader Stuart Ingle, and House Minority Floor Leader Nate Gentry requested support from the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew) to explore a Justice Reinvestment approach to address these challenges. As public-private partners in the federal Justice Reinvestment Initiative (JRI), BJA and Pew approved New Mexico state leaders' request and asked The Council of State Governments (CSG) Justice Center to provide intensive technical assistance. CSG Justice Center staff will help collect and

analyze data and develop appropriate policy options to help contain corrections spending and reinvest in strategies that can reduce recidivism, improve responses to behavioral health challenges, and increase public safety.

Under the direction of New Mexico's Justice Reinvestment Working Group, CSG Justice Center staff will conduct a comprehensive analysis of data collected from various relevant state agencies and departments. CSG Justice Center staff will also convene focus groups and lead interviews with key stakeholders in New Mexico's criminal justice system. Based on the findings from these extensive quantitative and qualitative analyses, CSG Justice Center staff, in collaboration with the working group, will develop policy options that are designed to increase public safety, reduce recidivism, and contain the cost of corrections in the state.

This overview highlights some recent criminal justice trends in New Mexico. The working group will explore these issues, and many others, in greater depth in the coming months.

## Criminal Justice System Trends in New Mexico

### New Mexico has the second-highest violent crime rate in the country.

- New Mexico's violent crime rate increased 18 percent between 2007 and 2017, jumping from the country's seventh-highest violent crime rate in 2007 to the second-highest in 2017.<sup>3</sup>
- The robbery rate increased 51 percent between 2007 and 2017, from 118 to 178 robberies per 100,000 residents, making New Mexico one of only six states with an increase in the rate of robberies during this period.<sup>4</sup>
- The aggravated assault rate increased 11 percent between 2007 and 2017, from 486 to 538 aggravated assaults per 100,000 residents. In 2017, New Mexico had the second-highest rate of aggravated assaults in the country, up from the fifth-highest in 2007.<sup>5</sup>

### New Mexico has the highest property crime rate in the country.

- Between 2007 and 2017, New Mexico went from having the 15th-highest property crime rate to the highest property crime rate in the U.S. New Mexico is one of only four states that saw an increase in the property crime rate during this period.<sup>6</sup>
- Motor vehicle theft in New Mexico increased 24 percent between 2007 and 2017, from 454 to 564 thefts per 100,000 residents.<sup>7</sup>
- During the same period, burglaries in New Mexico decreased 11 percent, from 964 to 858 burglaries per 100,000 residents.<sup>8</sup>



## New Mexico has one of the highest rates of overdose deaths in the nation.

- In 2006, New Mexico had the highest rate of overdose deaths in the country, with 22 overdose deaths per 100,000 residents. Although the state's overdose death rate was no longer the highest by 2016, it had risen to 25 overdose deaths per 100,000 residents.<sup>9</sup>
- Between 2006 and 2016, the number of drug overdose deaths in New Mexico increased 20 percent, from 418 to 500. New Mexico was one of only three states where drug overdose deaths increased 20 percent or less during this time.<sup>10</sup>

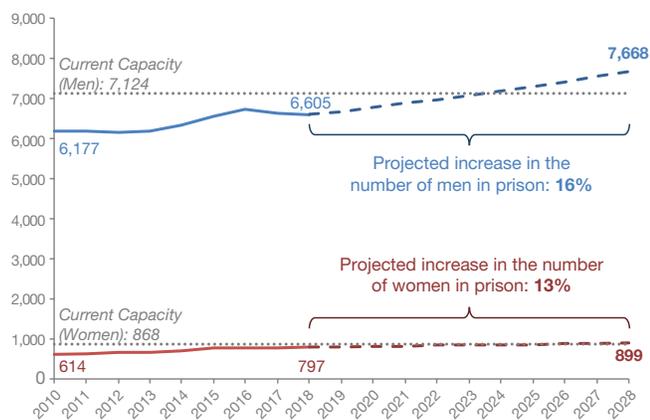
## Court cases and prison admissions for drug offenses are also increasing.

- Between FY2007 and FY2017, the number of new felony drug cases opened in New Mexico district courts increased 6 percent, and the number of felony drug cases reopened increased 49 percent.<sup>11</sup>
- In the same period, prison admissions for drug offenses increased 13 percent overall and more than doubled for women (an increase of 111 percent).<sup>12</sup>

## New Mexico's prison population has increased, while parole and probation populations have declined.

- Between FY2008 and FY2018, New Mexico's prison population increased 11 percent, from 6,641 to 7,402 people. The prison population is projected to grow an additional 16 percent by FY2028.<sup>13</sup> (See Figure 1.)

Figure 1. New Mexico's Historical and Projected Prison Population, FY2010–FY2028<sup>14</sup>



New Mexico operates six state-owned prisons with a capacity of 4,000 beds and contracts with five private prison operators to run facilities with a capacity of 3,900 beds.

- The number of men in New Mexico prisons increased 10 percent between FY2008 and FY2018, from 6,012 to 6,605, and is projected to grow an additional 16 percent by FY2028.<sup>15</sup>
- Between FY2008 and FY2018, the number of women in prison increased 27 percent, from 629 to 797. The female prison population is projected to grow an additional 13 percent by FY2028.<sup>16</sup>
- To accommodate the prison population growth, New Mexico's Corrections Department has been contracting with private prisons. In 2016, 43 percent of their prison population was housed in private facilities, leading the nation in their reliance on private prisons.<sup>17</sup>
- As the state's prison population has grown, its probation and parole populations have decreased. Between 2006 and 2016, New Mexico's probation population declined 23 percent, and its parole population declined 5 percent.<sup>18</sup>

## Corrections spending has increased to keep pace with growth in the state's prison population.

- Corrections spending in New Mexico increased 23 percent in recent years, from \$268 million in FY2012 to \$329 million in FY2017.<sup>19</sup>
- In FY2017, New Mexico spent 8 times more on prisons than on probation and parole, with \$271 million allocated to prisons and only \$33 million allocated to community corrections.<sup>20</sup>

## Increases in prison admissions are largely driven by women.

- Between FY2007 and FY2017, total admissions for women increased 25 percent, from 474 to 594. During the same period, total admissions for men decreased 6 percent, from 3,511 to 3,317.<sup>21</sup>
- In FY2017, women accounted for just 15 percent of all prison admissions, but the number of women admitted to prison has increased at a much faster rate than the number of men.<sup>22</sup>
- Between FY2007 and FY2017, the number of women admitted to prison for a new offense increased 75 percent, from 203 to 356. During the same period, the number of men admitted to prison for a new offense decreased 4 percent.<sup>23</sup>

- For both men and women, about one-third of all admissions to prison during FY2017 were due to revocations from parole. Between FY2007 and FY2017, admissions due to revocations from parole increased 2 percent for men and 8 percent for women.<sup>24</sup>

### **The number of people released from prison in New Mexico has decreased, but the reincarceration rate has increased, particularly for women.**

- The number of people released from prison decreased 5 percent between FY2007 and FY2014, from 3,529 to 3,347. During the same period, the number of people who returned to prison at least once within three years of release increased 9 percent.<sup>25</sup>

- Just under half—49 percent—of all people released from prison in FY2014 returned to prison at least once within three years of release. In comparison, 43 percent of people released from prison in FY2007 returned to prison within three years.<sup>26</sup>

- While the three-year reincarceration rate for women is lower than it is for men, it has increased 11 percentage points in the last 8 years, from 33 percent of women released in FY2007 to 44 percent released in FY2014.<sup>27</sup> During the same period, the reincarceration rate for men increased just 5 percentage points, from 45 percent of men released in FY2007 to 50 percent released in FY2014.<sup>28</sup>

## **The Justice Reinvestment Approach**

### **Step 1: Analyze data and develop policy options**

Under the direction of the Justice Reinvestment Working Group, CSG Justice Center staff will conduct a comprehensive analysis of crime, arrest, conviction, sentencing, probation, incarceration, behavioral health, parole, and recidivism data, using hundreds of thousands of individual data records. CSG Justice Center staff will examine probation, parole, and incarcerated population trends; length of time served in prison or jail and on supervision; statutory and administrative policies; availability of treatment and programs designed to reduce recidivism; and other factors. To the extent data are available, CSG Justice Center staff will also assess how felony sentencing trends impact probation, parole, and incarcerated populations, and explore contributors to recidivism trends. If available, CSG Justice Center staff will examine rates of crime by locality to determine where local crime trends are contributing to the overall state crime trends. The analyses will result in findings related to the sources of correctional population growth, correctional bed capacity, and effectiveness of agency policies and procedures.

To incorporate perspectives and recommendations from across the state, the CSG Justice Center will collect input from criminal justice system stakeholders, including judges, district and county attorneys, public defenders, sheriffs, police chiefs, probation and parole agents, community correction program providers, behavioral health treatment providers, New Mexico's Native American communities, victims and their advocates, people in the criminal justice system and their advocates, residents and leaders in communities and neighborhoods where confidence in the criminal justice system may be low, local officials, and others.

CSG Justice Center staff, in collaboration with the Justice Reinvestment Working Group, will develop data-driven policy options focused on increasing public safety, with an emphasis on crime reduction—especially violent crime—and recidivism reduction; and better managing corrections spending. Policy options will be available for the working group's approval in December 2018 and recommendations will be provided to the legislature for consideration in early 2019.

### **Step 2: Adopt new policies and put reinvestment strategies into place**

If the policy options are enacted as legislation, CSG Justice Center staff will work with New Mexico policymakers to translate the new policies into practice. This assistance will help ensure that related programs and system investments achieve projected outcomes and are implemented using the latest research-based, data-driven strategies. CSG Justice Center staff will develop implementation plans with state and local officials, provide policymakers with frequent progress reports, and deliver testimony to relevant legislative committees.

## Step 3: Measure performance

Finally, the CSG Justice Center will help New Mexico officials improve statewide data collection and sharing to measure and monitor performance as well as, ultimately, increase the state's capacity for making data-driven decisions in criminal justice policymaking and budgeting. This could include identifying key data points to record and officials who are best positioned to collect data, as well as exploring best practices to track, monitor, share, and analyze data. Improvements in this area will allow state leaders to assess the impact of enacted policies on pretrial, probation, post-release supervision, and incarcerated populations, including recidivism rates, and to develop strategies to monitor these outcomes.

## Notes

1. New Mexico Sentencing Commission (NMSC), *New Mexico Prison Population Forecast: FY2019–FY2028* (Albuquerque, NM: NMSC, 2018), <https://nmsc.unm.edu/reports/2018/new-mexico-prison-population-forecast-fy2019---fy2028.pdf>. The 16-percent projected increase is based on the sum of the projected male and female populations. All years in this report are calendar years unless otherwise noted. Dates or time spans pertaining to fiscal years are denoted with "FY."
2. Federal Bureau of Investigation, *Crime in the United States, 2017* (Washington, DC: United States Department of Justice, 2018), <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017>.
3. Federal Bureau of Investigation, *Crime in the United States, 2007* (Washington, DC: United States Department of Justice, 2008), <https://ucr.fbi.gov/crime-in-the-u.s/2007>; Federal Bureau of Investigation, *Crime in the United States, 2017*. In 2013, the FBI expanded its definition of "rape" to include more behaviors. Some of the increase in violent crime from 2007 to 2017 may be due to the increase in the number of reported offenses that are categorized as "rape."
4. Ibid.
5. Ibid.
6. Ibid.
7. Ibid.
8. Ibid.
9. National Center for Health Statistics, *Underlying Cause of Death 1999–2016* on CDC Wonder Database (Atlanta, GA: Centers for Disease Control and Prevention, 2017), <http://wonder.cdc.gov/ucd-icd10.html>. The overdose death rates used in this report are the age-adjusted rates calculated by the Centers for Disease Control and Prevention.
10. Ibid.
11. Administrative Office of the Courts (AOC), *New Mexico Judiciary 2007 Annual Report, 2007 Statistical Addendum* (Santa Fe, NM: Administrative Office of the Courts, 2008). AOC, *New Mexico Judiciary Statistical Addendum to the 2017 Annual Report* (Santa Fe, NM: AOC, 2018). Reopened cases include any cases with post-judgment activity, such as probation violations, failure to meet the conditions of the sentence, and any other issues of noncompliance.
12. NMSC, *New Mexico Prison Population Forecast: FY2019–FY2028*. NMSC, *New Mexico Prison Population Forecast: FY2014–FY2023*, (Albuquerque, NM: NMSC, 2013), <https://nmsc.unm.edu/reports/2013/new-mexico-prison-population-forecast-fy-2014-fy2023.pdf>. Prison admissions are reported by fiscal year.
13. NMSC, *New Mexico Prison Population Forecast: FY2019–FY2028*.
14. Ibid. Numbers shown in chart are the actual populations for FY2010 through FY2018 and the long-term forecast population for FY2019 through FY2028.
15. Ibid.
16. Ibid.
17. Kara Gotsch and Vinay Basti, *Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons* (Washington, DC: The Sentencing Project, 2018).
18. Thomas P. Bonczar and Joseph Mulako-Wangota, *Count of Total Year-End Parole Population* (Washington, DC: Bureau of Justice Statistics, 2018); Thomas P. Bonczar and Joseph Mulako-Wangota, *Count of Total Year-End Probation Population* (Washington, DC: Bureau of Justice Statistics, 2018). Tables were generated using the Correctional Statistical Analysis Tool at [www.bjs.gov](http://www.bjs.gov).
19. New Mexico Corrections Department (NMCD), *FY17 Annual Report* (Santa Fe, NM: New Mexico Corrections Department, 2018), [http://cd.nm.gov/pio/docs/2016-2017\\_Annual\\_Report.pdf](http://cd.nm.gov/pio/docs/2016-2017_Annual_Report.pdf); NMCD, *2011–2012 Annual Report* (Santa Fe, NM: NMCD, 2013), [http://cd.nm.gov/pio/docs/2011-2012\\_Annual\\_Report.pdf](http://cd.nm.gov/pio/docs/2011-2012_Annual_Report.pdf). Expenditure information was not provided in Annual Reports prior to 2012. In odd-numbered years, New Mexico enacts a budget to cover the following two fiscal years of state operations. In even-numbered years, amendments may be made to the budget enacted the previous year.
20. NMCD, *FY17 Annual Report*. Prison spending is based on the reported expenditures for the Inmate Management and Control division, and community corrections spending is based on the reported expenditures for the Community Offender Management division.
21. NMSC, *New Mexico Prison Population Forecast: FY2019–FY2028*; NMSC, *New Mexico Prison Population Forecast: FY2014–FY2023* (Albuquerque, NM: NMSC, 2013), <https://nmsc.unm.edu/reports/2013/new-mexico-prison-population-forecast-fy-2014-fy2023.pdf>. Fiscal year 2007 was the earliest year of admission information available in NMSC's published reports.
22. Ibid.
23. Ibid.
24. Ibid.
25. NMSC, *Understanding Recidivism: Definitions and Return to Prison Rates for Individuals Released from New Mexico Prisons FY2007–FY2014* (Albuquerque, NM: NMSC, 2018), <https://nmsc.unm.edu/reports/2018/recidivism-for-new-mexico-prisons-fy-2007fy-2014-cohorts.pdf>. Reincarceration is defined as the percentage of people released from NMCD facilities who return to prison for any reason within three years of release. Recidivism rates for people released from prison prior to FY2007 were not available in NMSC's published reports.
26. Ibid.
27. Ibid.
28. Ibid.



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