

# New Mexico Justice Reinvestment

Working Group Meeting - December 14, 2018

**Carl Reynolds**, Senior Legal & Policy Advisor

**Celine Villongco**, Policy Analyst

**Michelle Rodriguez**, Policy Analyst

**Rachael Druckhammer**, Senior Research Associate



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

The Justice Center is part of The Council of State Governments but works across all four CSG regions at the state and local levels.



### CSG Regions



[www.csg.org](http://www.csg.org)



**Justice  
Center**

[www.csgjusticecenter.org](http://www.csgjusticecenter.org)

The CSG Justice Center helps states facing criminal justice challenges.



Advising leaders on how to connect reentry and employment



Helping policymakers understand and reform their criminal record clearance laws



Leading a county movement to reduce the number of people with mental illnesses in jails



Guiding projects to reduce cost and recidivism

Justice Reinvestment (JR) is an approach, not a prescription.

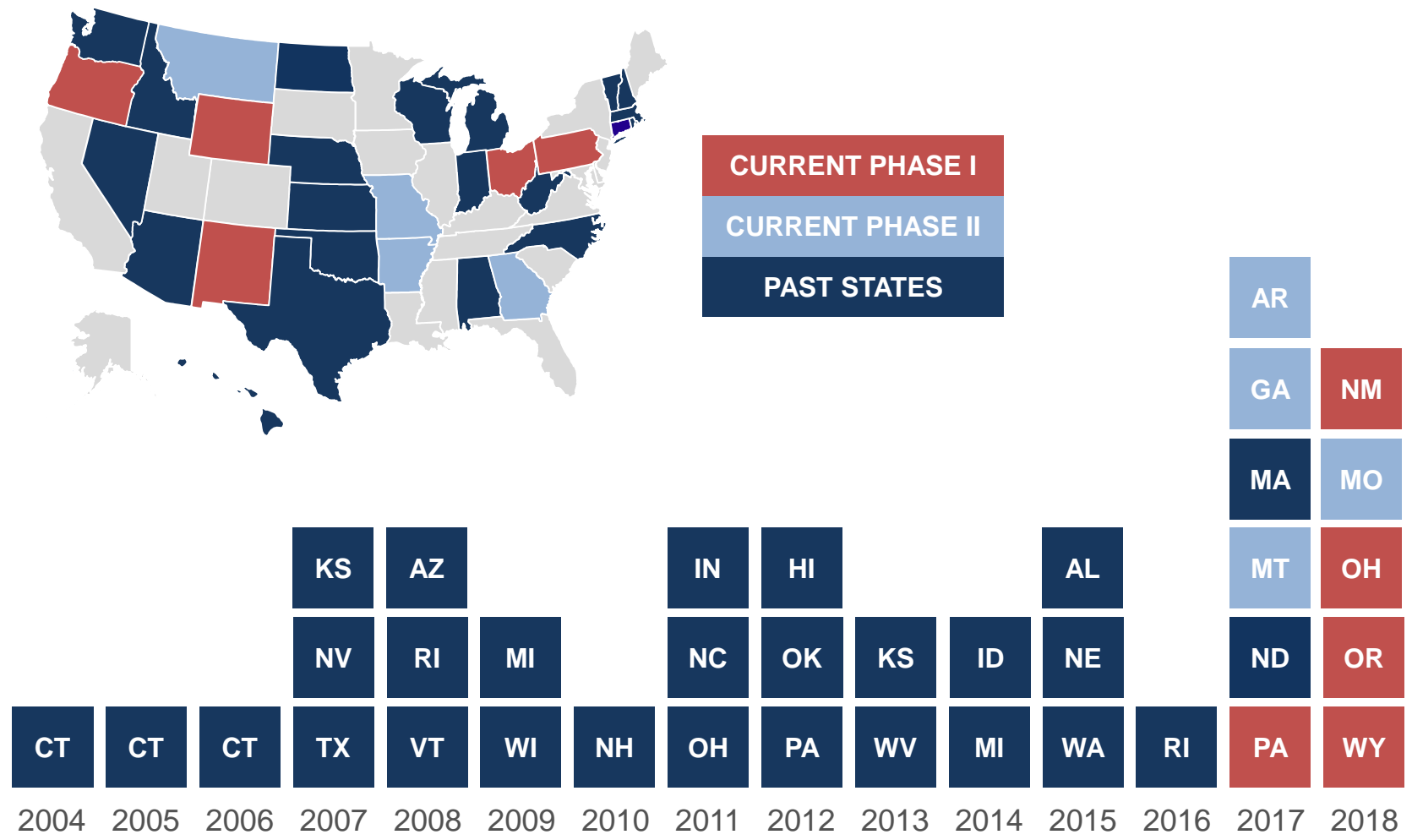


# JUSTICE REINVESTMENT

**A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety**

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**.

The CSG Justice Center has worked with 30 states, some twice, on a JR approach.



# The CSG Justice Center's JR team in New Mexico



**Michelle Rodriguez**  
Policy Analyst  
& Project Manager

Formerly mitigation specialist for King County Office of Public Defense (WA).

BS, Seattle University  
MSW, University of WA  
School of Social Work



**Carl Reynolds**  
Senior Legal  
& Policy Advisor

Formerly state court administrator and corrections general counsel (TX).

BA, University of Cincinnati  
MA, LBJ School  
JD, University of Texas



**Rachael Druckhammer**  
Senior Research Associate

Formerly lead researcher for the Travis County Juvenile Probation Department (TX).

BS & MS, Texas State  
University, San Marcus



**Celine Villongco**  
Policy Analyst

Formerly statewide human trafficking coordinator for the Iowa Department of Justice.

BS, Cornell University  
MPP, Duke University



New Mexico state leaders requested JR assistance in August, and funding was approved in September.

The legislative leaders, the governor, and the chief justice requested technical assistance from the CSG Justice Center to use a Justice Reinvestment approach. The formal request was issued by:

Governor  
**SUSANA  
MARTINEZ**

Speaker of the  
House  
**BRIAN  
EGOLF**

Senate  
President Pro  
Tempore  
**MARY KAY  
PAPEN**

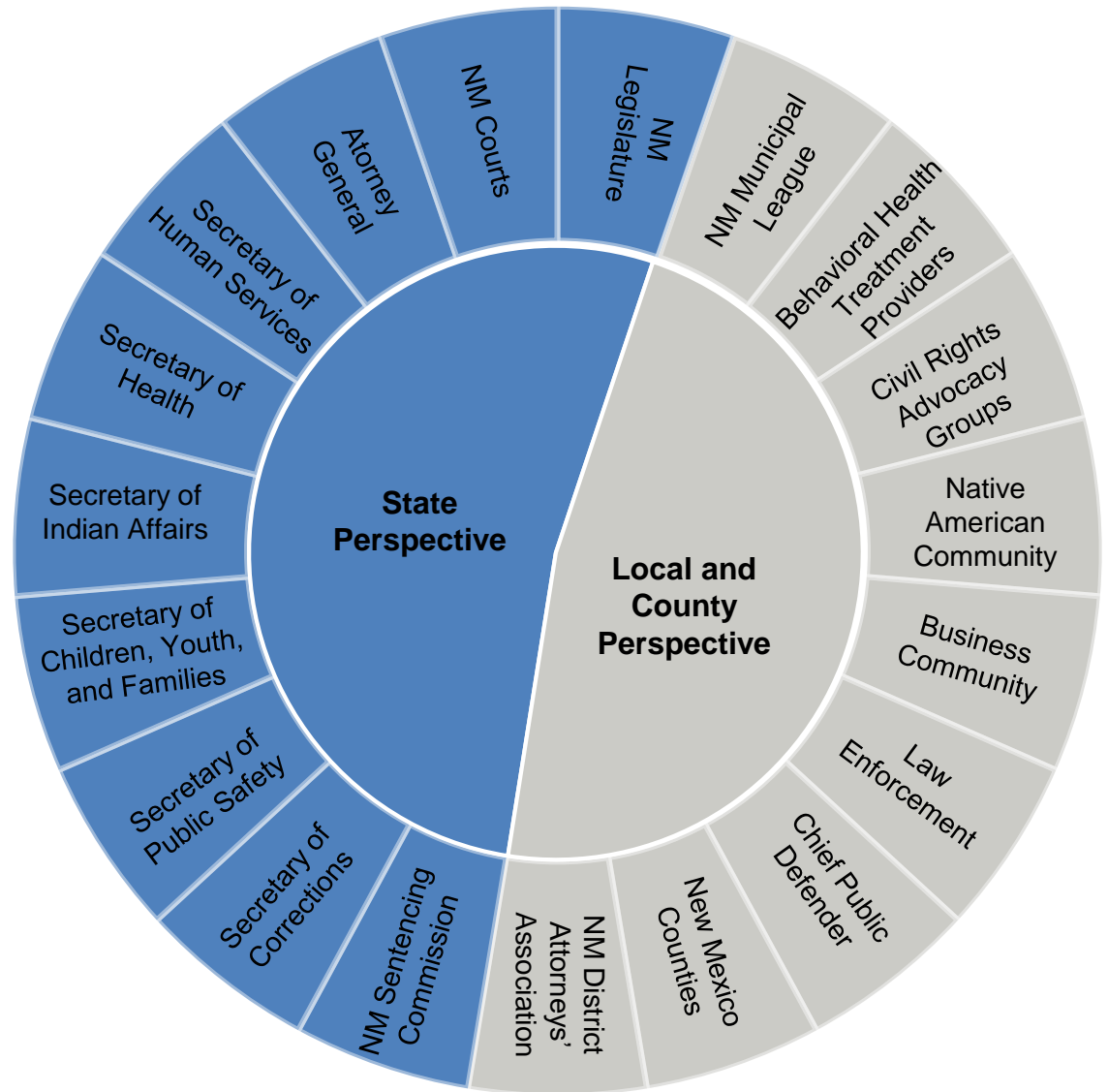
Chief Justice  
**JUDITH K.  
NAKAMURA**

House Minority  
Leader  
**NATE  
GENTRY**

Senate Minority  
Leader  
**STUART  
INGLE**



The New Mexico Working Group will help inform the JR process.





# New Mexico is using the JR approach to address an array of criminal justice and behavioral health system challenges.



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



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



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



Arrests and prison admissions for drug offenses are increasing.



New Mexico's prison population has increased and is projected to continue to grow.



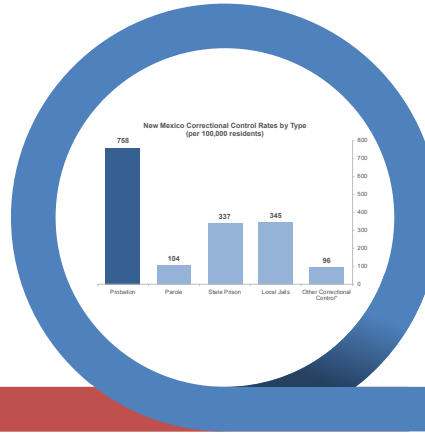
The number of people released from prison in New Mexico has decreased, but the reincarceration rate has increased, particularly for women.

JR will help bridge multiple ongoing efforts and result in policy recommendations to increase public safety across New Mexico.



## Statewide Impact

Much of New Mexico's efforts related to public safety have been focused on Bernalillo County. JR will identify policies that have statewide impact.



## Supported by Research

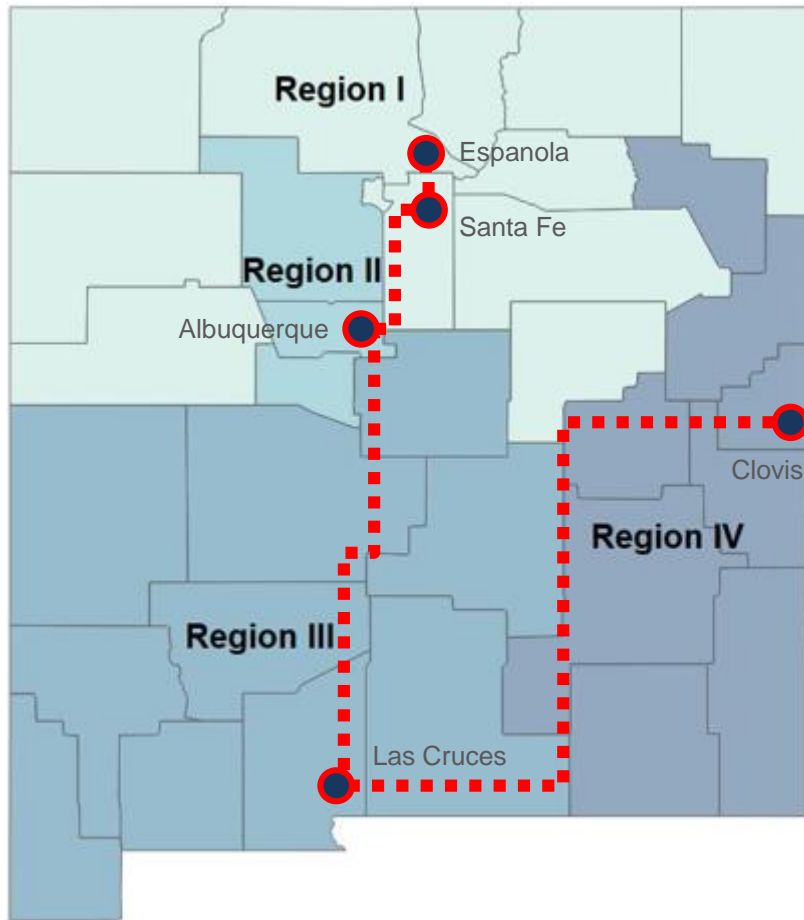
JR leverages data to inform policy by providing fresh analysis of system dynamics and offering projected policy impacts.



## Outside Perspective

JR can inform the process with experience from many states, a bipartisan mission, and respect for the roles of all three branches.

CSG Justice Center staff are gathering regional perspectives during stakeholder engagement, reflecting the state's size and diversity.



**75+** CALLS & MEETINGS

**10** ON-SITE VISITS

SINCE JUNE 2018



On June 19, more than 50 people attended the New Mexico State Forum on Public Safety.

# Stakeholder input greatly informs the analysis presented today.



## JR Working Group

Contacts (meetings or calls) with working group members and their staff



## Corrections

Contacts with NMCD and parole officials and staff, observation of probation reporting sessions. Contacts with Sentencing Commission staff.



## New Mexico Legislature

Meetings with senators and House representatives. Presentations to the CCJ and CJRS. Calls/meetings with LFC and LCS.



## Behavioral Health

Contacts with Behavioral Health Services Division, Managed Care Organizations, Bernalillo County officials, and individual behavioral health service providers



## Courts

Contacts with AOC, individual judges, prosecutors, and defense attorneys



## Law Enforcement

Contacts with the Department of Public Safety, Attorney General's Office, and local law enforcement officials



## Community and Tribal Organizations

Contacts with Department of Indian Affairs, Judicial Tribal Consortium, Coalition to Stop Violence Against Native Women, Tribal Courts Judges, ACLU of New Mexico



## Victim Services

Contacts with the Crime Victims Reparation Commission, Coalition of Sexual Assault Programs, and Attorney General's Victim Services Unit

# Data analysis update and challenges identified in source data

Justice Reinvestment Data Request Update		
Data Requested	Source	Status
Court Case Dispositions	Administrative Office of the Courts, via Sentencing Commission	Received; analyzed
Charges Received; Pre-Prosecution Diversions; Court Case Filings, Dispositions, & Sentences	Administrative Office of the District Attorneys	Received; Analyzed and additional analysis pending
Probation Supervision; Prison Admissions & Releases	Corrections Department, via Sentencing Commission	Received; Analyzed and additional analysis pending
County Jail Bookings & ADP	New Mexico Counties	Received; analyzed

## Challenges with Source Data Used in Today's Presentation

**Statewide identifiers** not used across all data systems to facilitate sharing and matching

**Gaps in data**  
(e.g. no information on probation case management)

**Unexamined data**, never before analyzed, requires additional validation

# Overview



**1** Crime and Policy

**2** Victim Services

**3** Behavioral Health

**4** Probation

**5** Next Steps



# Overview

## 1 Crime and Policy

Measuring Crime

Trends in New Mexico

Albuquerque's Influence

Policies Affecting Crime



Crime is typically measured by looking at reports of crime to the police and arrests.

Both crime reports and arrests are gathered at the state level from local law enforcement and then reported to the FBI.

To standardize reporting, the FBI uses “index crimes.”

Violent index crimes are murder/non-negligent manslaughter, rape, robbery, and aggravated assault.

Property index crimes are burglary, larceny/theft, motor vehicle theft, and arson.

Index crimes do not include drug offenses.

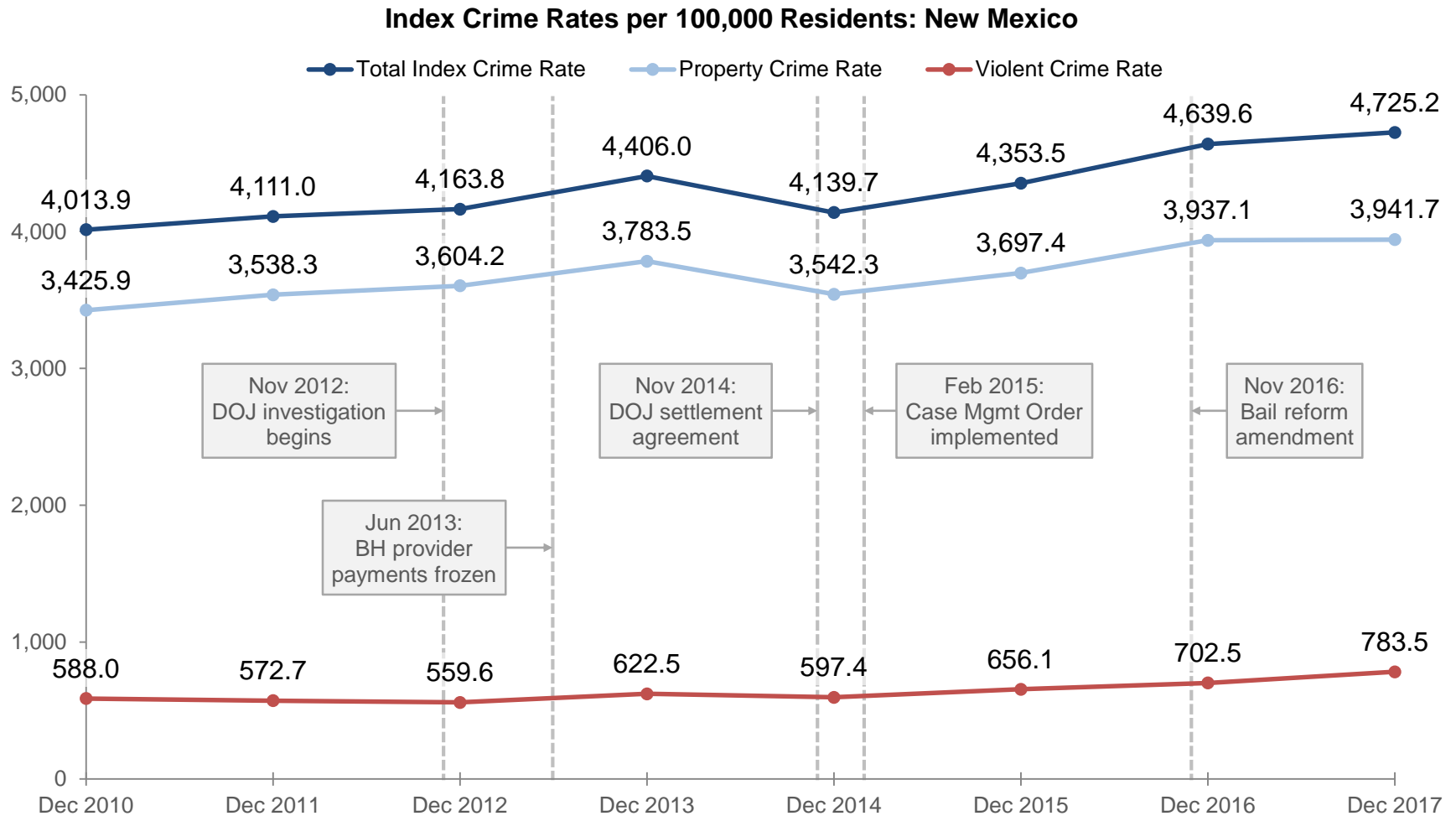
Changes in the reported number of arrests are largely due to variation in how many New Mexico agencies report arrests to the FBI.

New Mexico DPS reported crime statistics to the FBI from over 100 law enforcement agencies in 2017.

But FBI arrest reports in 2017 included information from only 23 agencies in New Mexico.

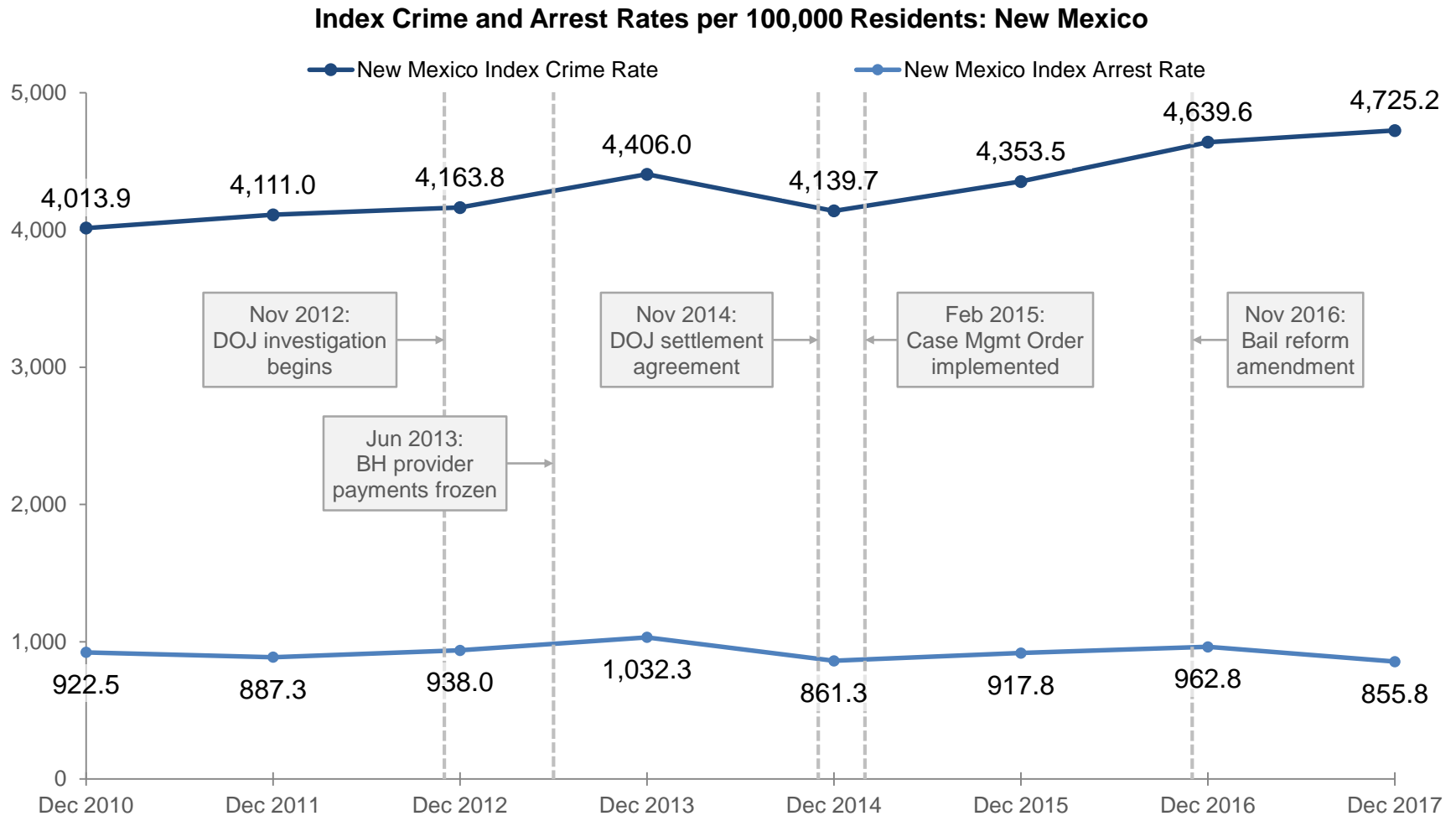
Between 2007 and 2017, the largest number of agencies included in FBI reports was 87 (2011).

New Mexico's index crime rate increased 18 percent between 2010 and 2017, with notable increases in property crime rates.



*Index crimes are divided into violent and property categories and do not include drug offenses. Violent index crimes are murder/non-negligent manslaughter, rape, robbery, and aggravated assault; property index crimes are burglary, larceny/theft, motor vehicle theft, and arson.*

While New Mexico's index crime rate has steadily increased, the index crime *arrest* rate has slightly decreased (but there are arrest reporting gaps).

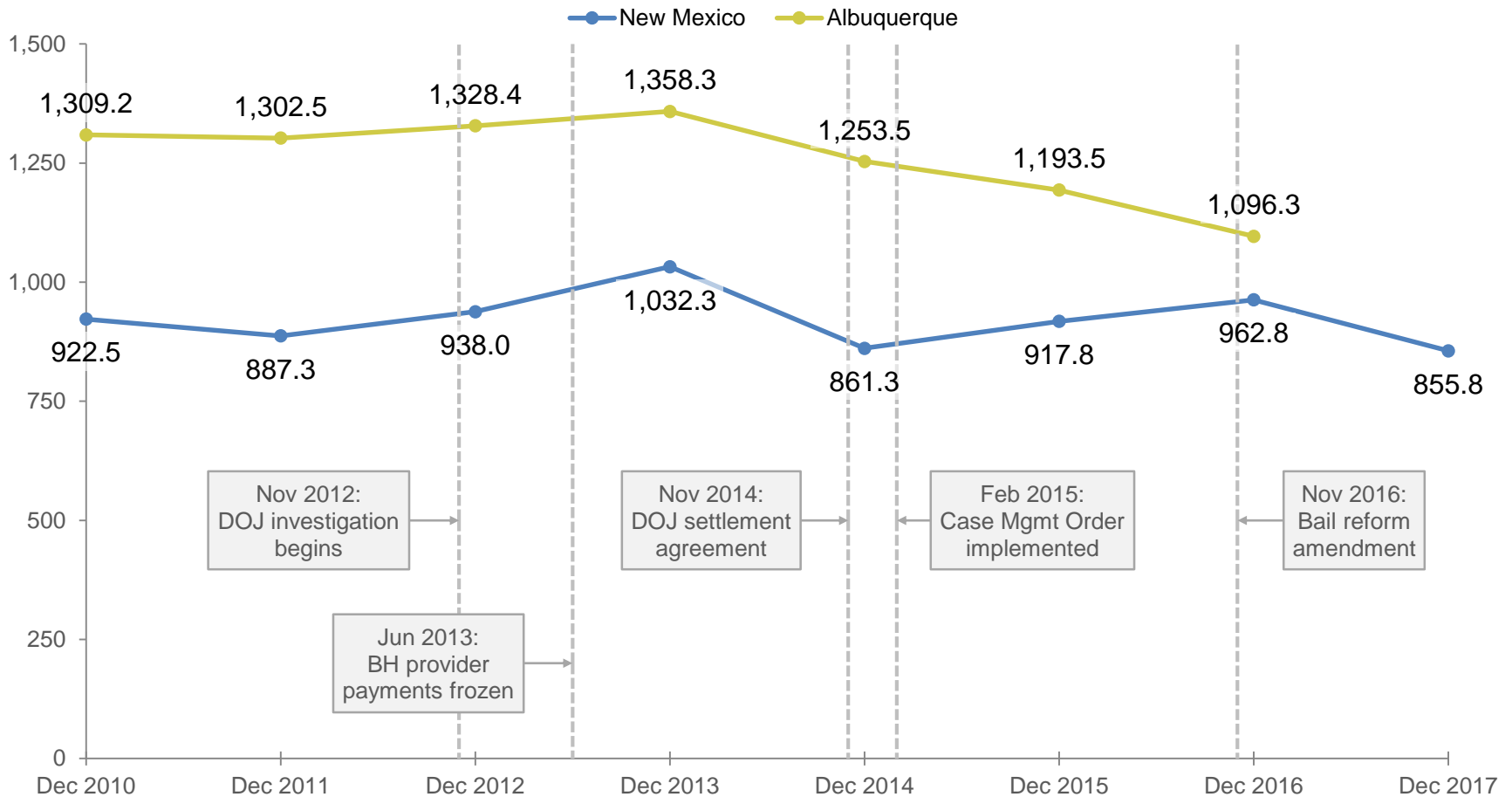


*Index crimes are murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.*

Source: FBI, "Crime in the United States" reports by year; Albuquerque Police Department annual reports by year; US Census American Communities Survey 1-Year Population Estimates for Albuquerque by year. Albuquerque crime numbers for all years and arrest numbers for 2017 were not available as of November 2018.

The statewide index crime *arrest* rate increased 4 percent between 2010 and 2016, while Albuquerque's rate decreased 16 percent.

**Index Arrest Rates per 100,000 Residents: New Mexico and Albuquerque**

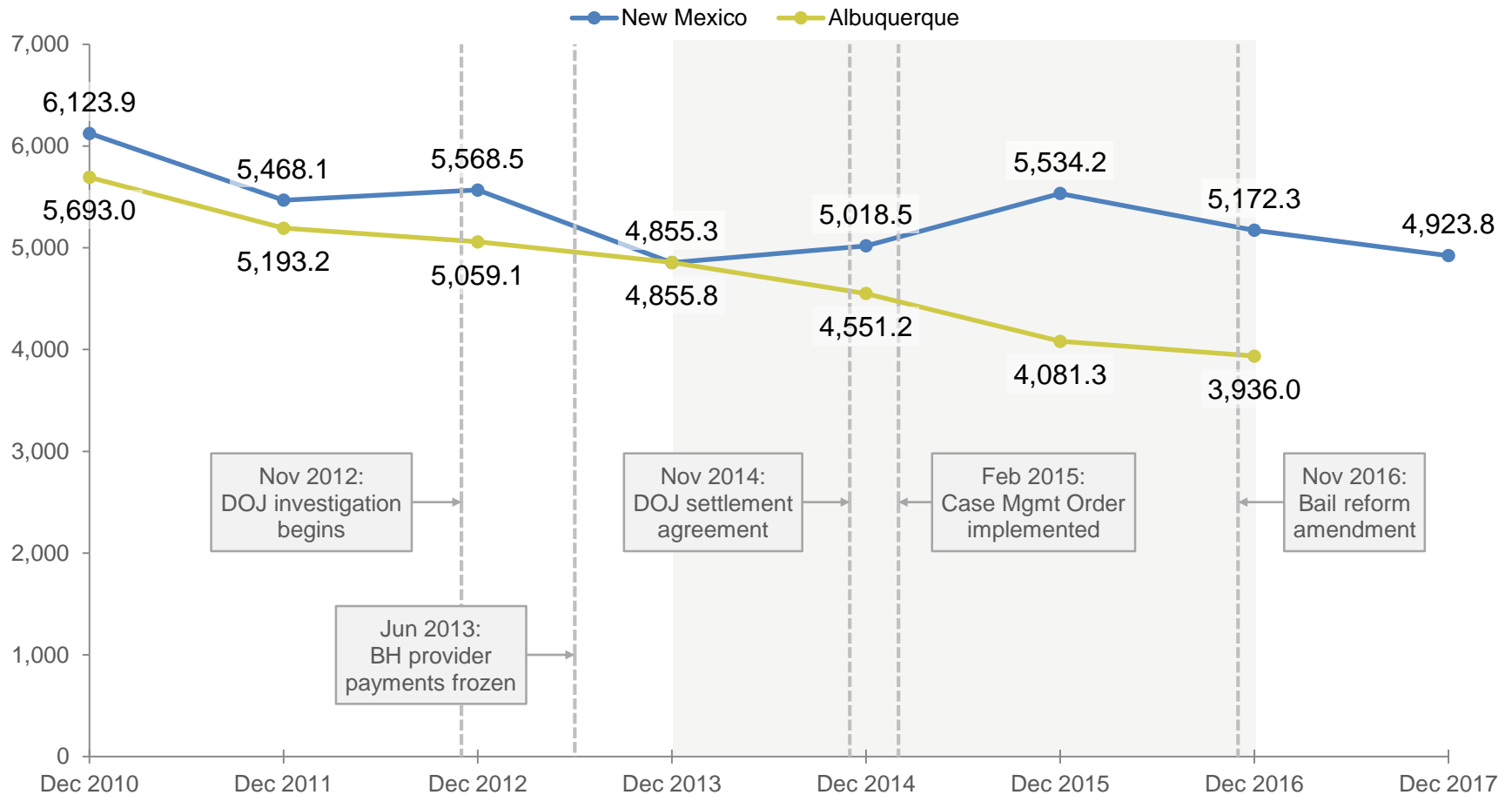


*Index crimes are murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.*

Source: FBI, "Crime in the United States" reports by year; Albuquerque Police Department annual reports by year; US Census American Communities Survey 1-Year Population Estimates for Albuquerque by year. Albuquerque arrest numbers for 2017 were not available as of November 2018.

New Mexico's total (not just index crime) arrest rate for all offenses increased between 2013 and 2016, while Albuquerque's rate continued to decline.

**Total Arrest Rates per 100,000 Residents: New Mexico and Albuquerque**



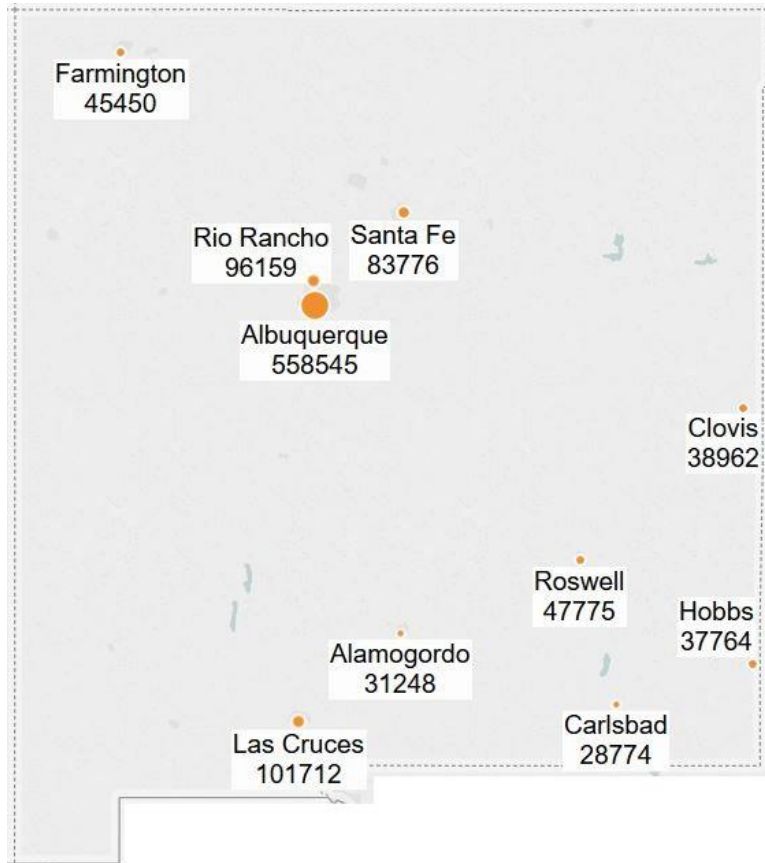
Total arrest rate is based on arrests for all offenses.

Source: FBI, "Crime in the United States" reports by year; Albuquerque Police Department annual reports by year; US Census American Communities Survey 1-Year Population Estimates for Albuquerque by year. Albuquerque arrest numbers for 2017 were not available as of November 2018.



# Crime in New Mexico is not just a “big city problem.”

Top 10 Cities – Largest Population



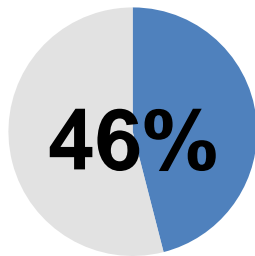
Top 10 Cities – Highest Index Crime\* Rate



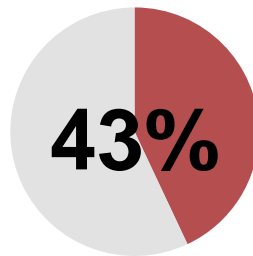
\*Index crimes are murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson. Rates are calculated per 100,000 residents.

# Crime in Albuquerque accounts for a large share of the state's overall crime rate.

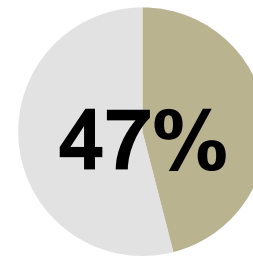
In 2016, Albuquerque accounted for **27%** of New Mexico's resident population, but:



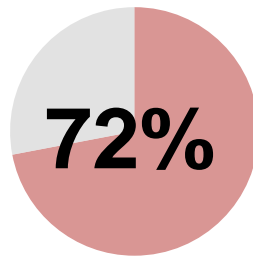
of reported  
index crime



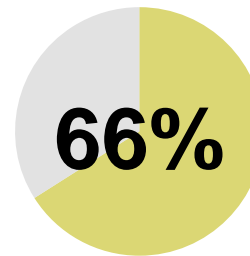
of reported  
violent crime



of reported  
property crime



of reported  
robberies



of reported motor  
vehicle thefts

*Index crimes include murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.*

Deterrence through strategic law enforcement is the most cost-effective approach to preventing violent crime.

**Deter  
crime**

Increase law enforcement’s ability to use hot-spot strategies and deploy additional officers to increase the perceived certainty of apprehension.

**Reduce  
recidivism**

High-quality supervision (risk, need, responsivity), consistent sanctioning, and high-quality treatment programs tailored to needs.

**Prolong  
incapacitation**

Increase length of stay to hold moderate- to high-risk people in prison for an additional three months, adding 250 to the prison population.

**Benefit to  
Cost Ratio**

Benefits per dollar of cost.



Effective law enforcement strategies exist; the challenge is providing effective state support for local efforts to achieve those strategies.

Strategy	Can be used to address
Hot-spot policing	robberies, burglaries
Focused deterrence	gang member-involved violence, homicides, shootings
Place-based problem solving	robberies, shootings, property crime, drug markets
Alternatives to arrest	minor misdemeanors, drug-related crimes, juvenile crime, and incidents involving people who have mental illnesses
Problem solving, including strategic use of crime analysis	identification of patterns and repeat victims, offenders, crimes, locations, times, etc.

## Keys to success:

### Select and tailor a strategy to local problem

Rely on analysis rather than anecdotes, intuition, or external influences (e.g., media, politicians, stakeholders, etc.).

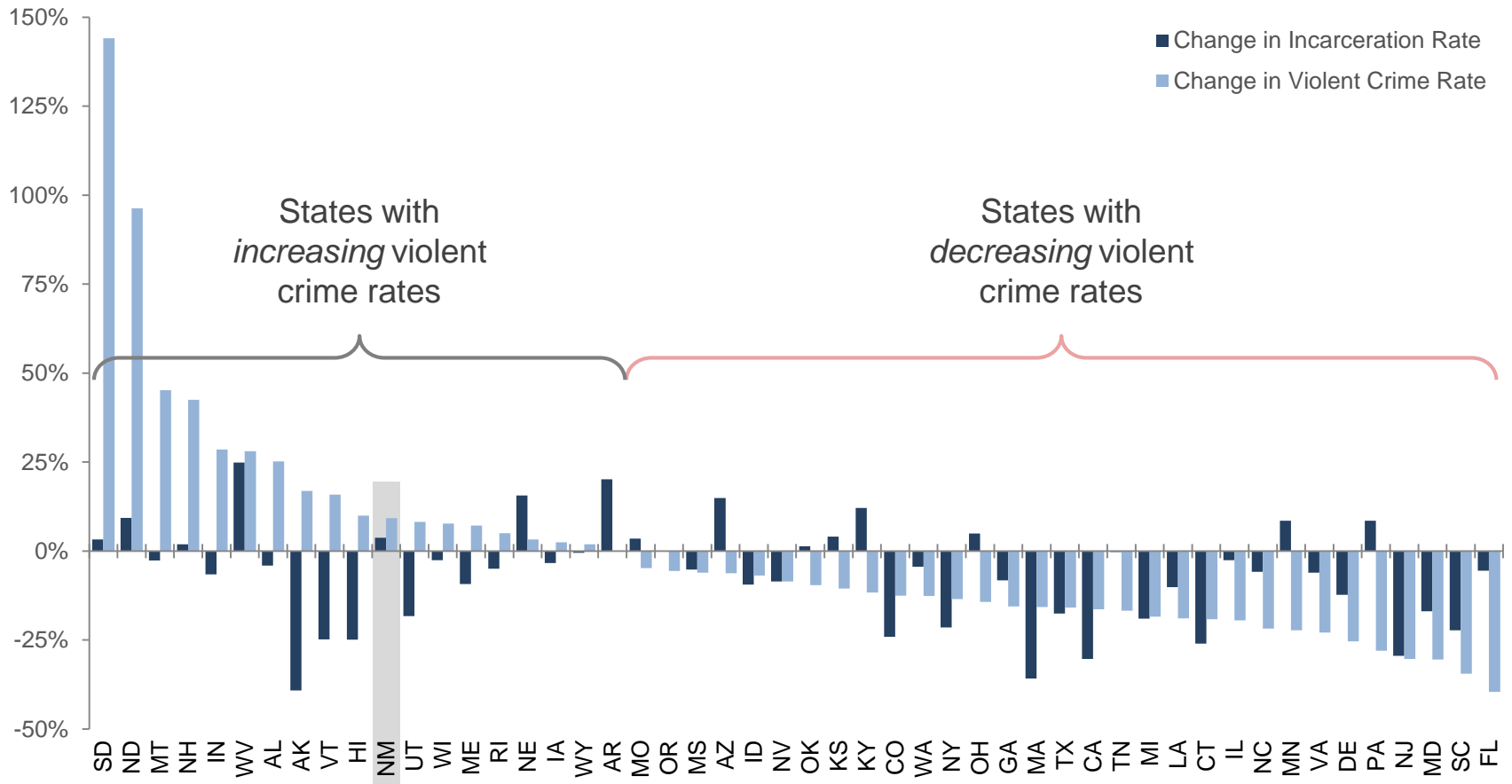
### Gather community input and buy-in

Strategies that are effective for reducing crime may not be viewed by community members and other stakeholders as legitimate.

Some “effective” strategies may result in unintended consequences, such as an increased use of arrest/incarceration or reduced community trust in law enforcement.

Incapacitation can decrease crime, but changes in violent crime rates across the country show little correlation with increases or decreases in incarceration rates.

**Change in Incarceration and Violent Index Crime Rates by State, 2006–2016**



*Violent index crimes are murder/non-negligent manslaughter, rape, robbery, and aggravated assault. Rates are per 100,000 residents.*

Sources: FBI, "Crime in the United States, 2006" and "Crime in the United States, 2016"; Bureau of Justice Statistics, "Prisoners in 2006" and "Prisoners in 2016." BJS prison population numbers for 2017 were not available as of November 2018.

# Key takeaways about crime and policy

1. Measuring crime depends on **complete reporting by law enforcement**, which does not appear to be occurring.
2. **Crime rates have increased** steadily since 2010, and key events in New Mexico's recent history do not correspond to notable increases in crime.
3. Arrest rates in Albuquerque and statewide did go down during the DOJ investigation. Total arrests (as opposed to index crime arrests) in Albuquerque went down the most.
4. **Effective law enforcement strategies exist** and are the most cost-effective approach to reducing crime.
5. **Increasing incapacitation can reduce crime but is less cost-effective**, and shifting incarceration rates do not correlate with shifting crime rates.

*The policy challenge is providing effective state support for local efforts to consistently employ crime-reduction strategies.*



# Overview



**1** Crime and Policy

**2** Victim Services

**3** Behavioral Health

**4** Probation

**5** Next Steps

# Overview

## 2 Victim Services

Orders of Protection

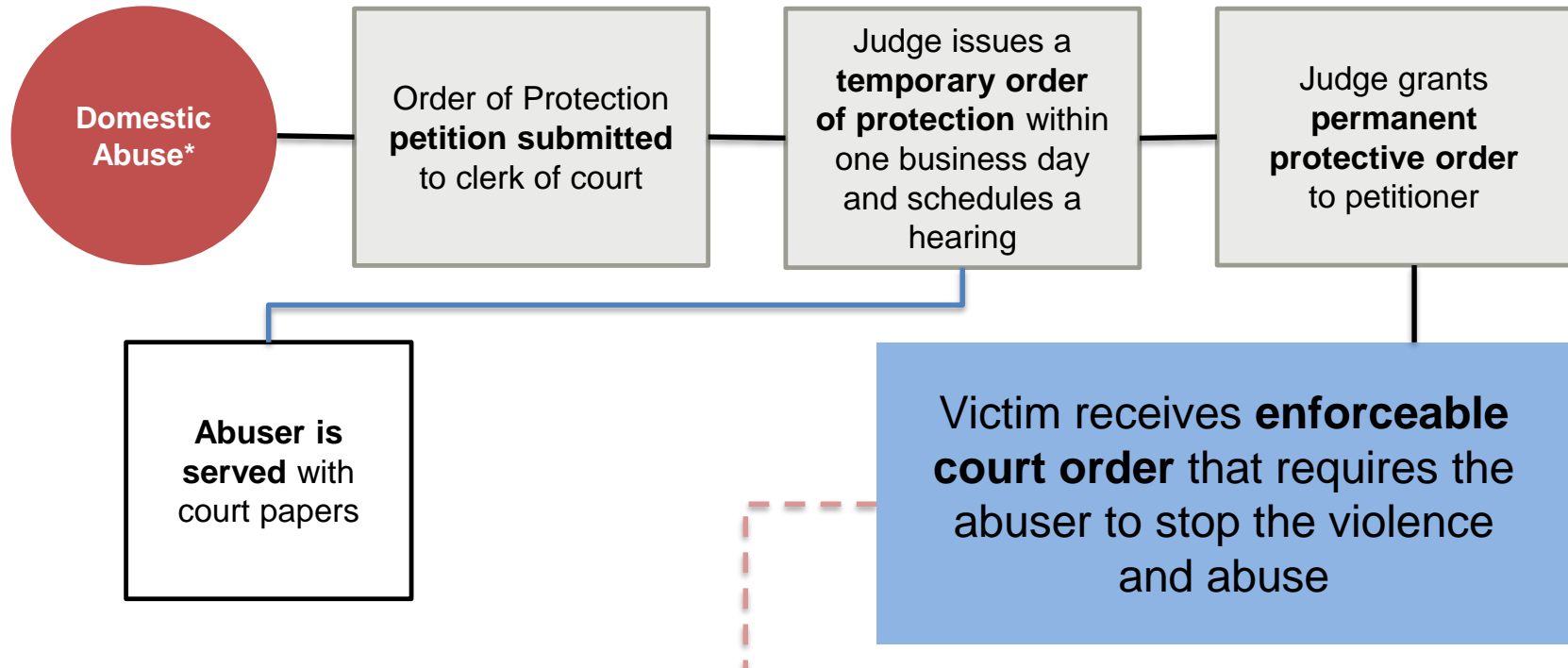
Strategies to Support Victims

Focus on Compensation

Policies in Motion



The New Mexico Family Violence Protection Act allows a victim of domestic violence to petition for an order of protection against their abuser.



### Protection for victim is lost if:

1. Protective order is not readily verifiable by law enforcement
2. Protective order is not recognized across all jurisdictions

*Domestic abuse includes stalking, sexual assault, actual or threatened physical harm to individual or children, emotional distress, harassment, and other behaviors. (Section 40-13-2 NMSA)*

*Source: New Mexico Courts "Self Help Guide" for domestic violence victims; Sections 40-13-1 through 40-13-12 NMSA.*

More crime means more victims, and New Mexico, like all states, has three strategies to directly support victims of crime.



### **Assistance to Crime Victims through Program Grants**

Funding provided to assist survivors of homicide victims; children who witness violence; and victims of child abuse, domestic violence, sexual assault, drunk driving, hate crimes, and elder abuse. The state provides funding for civil legal services, human trafficking, and Intimate Partner Violence Review. The federal government provides funding through the Victims of Crime Act (VOCA) and STOP Violence Against Women Act (VAWA).



### **Crime Victim Compensation**

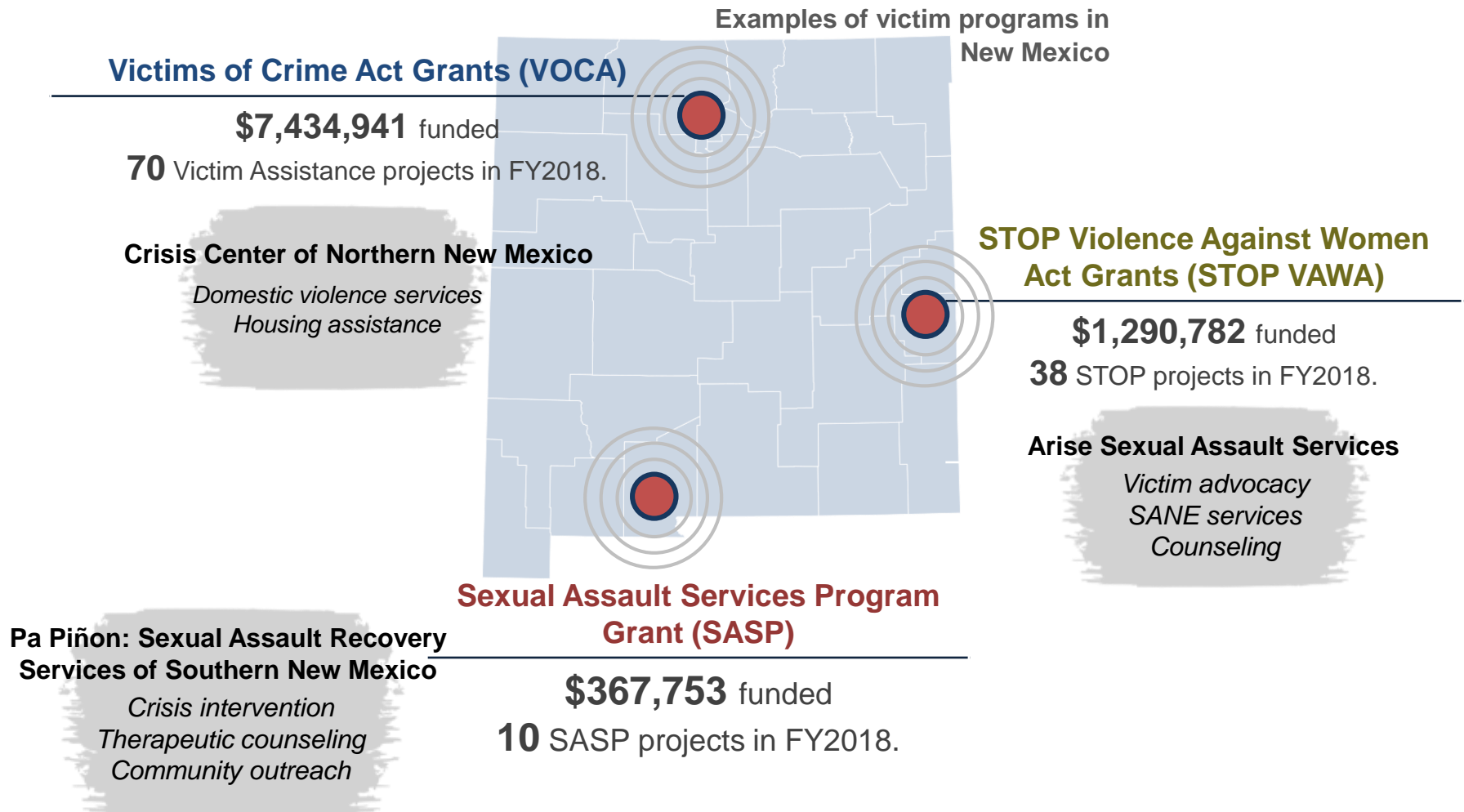
State and federal funding that provides reimbursement for eligible victims of violent crime. Expenses covered by the Crime Victim Reparation Commission include medical and dental care, mental health counseling, and loss of income.



### **Victim Restitution**

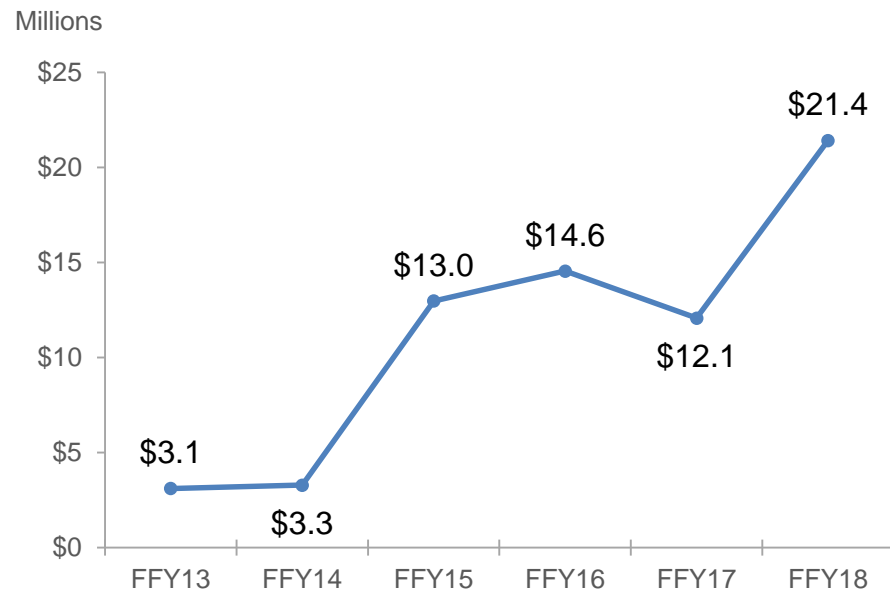
Payments made by the defendant to the victim for the harm caused by the crime.

The Crime Victim Reparation Commission leverages over nine million dollars in federal funding that helps support 120 victim service programs statewide.



The VOCA Assistance award has increased dramatically since FY2015, and New Mexico is leveraging these funds to address victim service gaps.

### New Mexico's VOCA Assistance Formula Award Amount



Award amounts by federal fiscal year (October 1 to September 30).

Source: <https://ojp.gov/ovc/grants/cvfa2017.html>; email communication from National Association of VOCA Assistance Administrators, March 23, 2018.

### A 2017 Crime Victim Reparation Commission needs assessment identified populations in need of increased services

#### Top “*unserved*” populations

Those in extreme rural isolation, human trafficking victims, non-English speaking Asian communities, homeless victims, immigrant communities

#### Greatest “*underserved*” populations

Those who are impoverished or low income, persons identifying as LGBTQ, individuals with limited English proficiency

#### “*Inadequately served*” populations

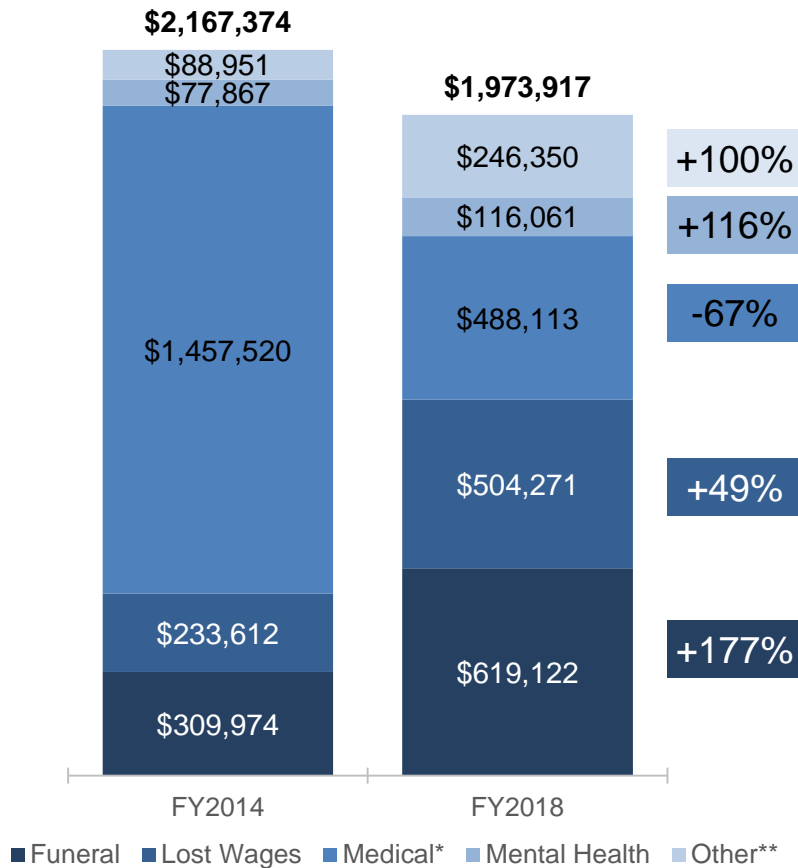
Individuals with substance addictions, persons with developmental disabilities, persons with mental illnesses

**A Strategic Implementation Plan has been developed to guide targeted outreach and service provision in these communities**



# New Mexico's crime victim compensation program should be an essential resource for victims of crime and violence.

Victim Reparation Payments by Type



To be eligible, an injured crime victim or survivor must:

- **Report** the crime to law enforcement
- Cooperate with the **investigation** and **prosecution**;<sup>+</sup> and
- Apply for compensation within **two years** of injury

*Compensation is a payor of last resort, covering expenses only if there is no third party payor (typically insurance) able to make those payments.*

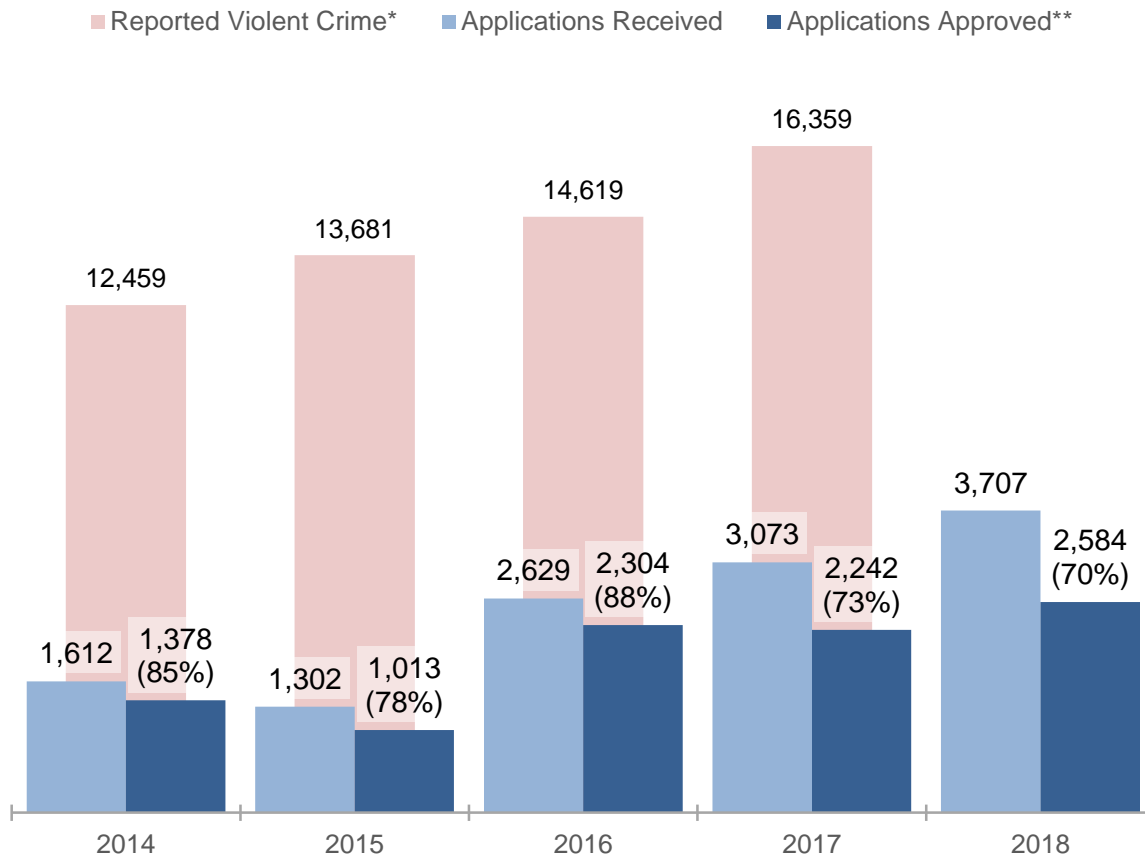
\* Medical expenses include hospital, medical, ambulance, and dental expense categories.

\*\* Other expenses include pecuniary, rent and relocation, travel, and crime scene clean-up expense categories.

<sup>+</sup> An applicant is only required to cooperate with the investigation and prosecution in order to receive compensation if an active investigation is being conducted by a law enforcement agency and/or a case has been brought by a prosecuting attorney.

As violent crime has increased in the state, applications to the New Mexico Crime Victim Reparation Commission have also increased.

### Violent Crime and Victim Compensation Applications



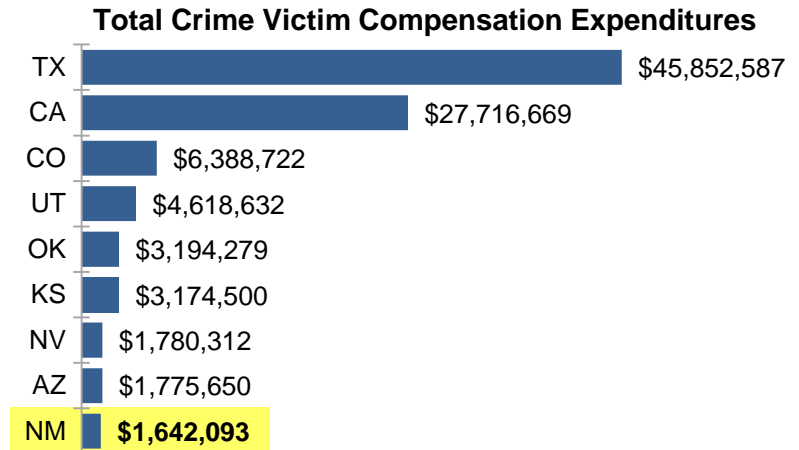
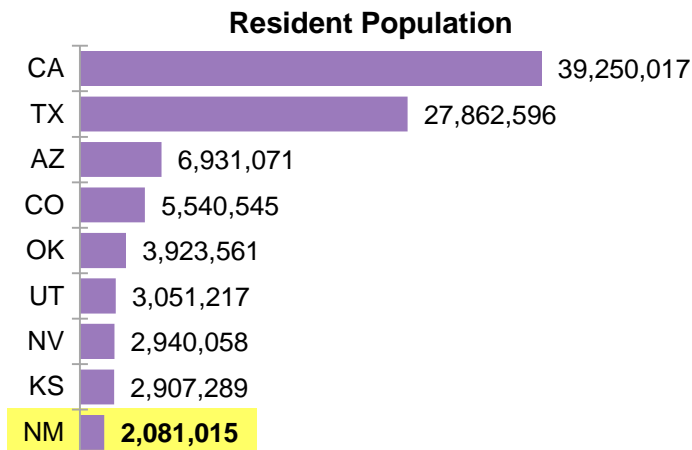
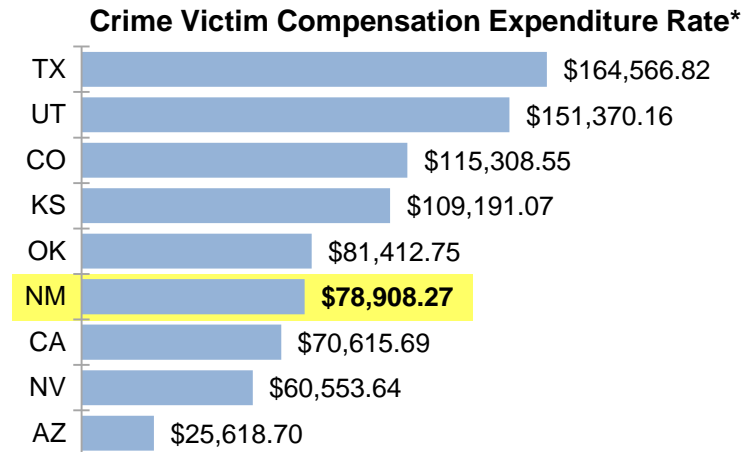
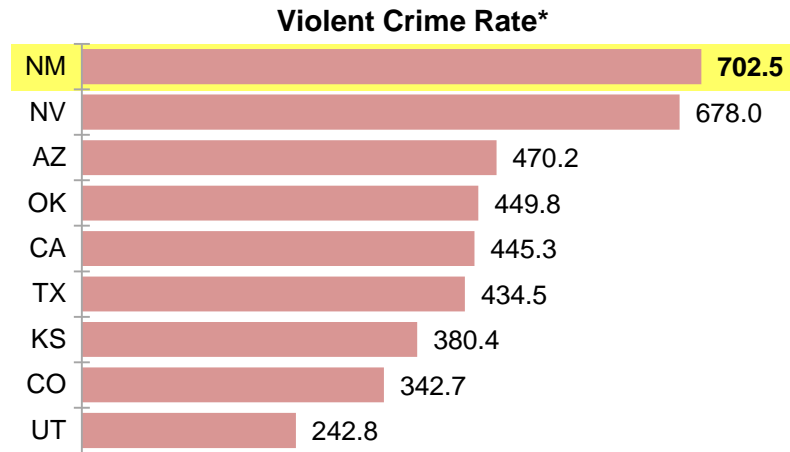
The total number of victims of violent crime in New Mexico is unknown, but based on the number of reported violent crimes, we can infer that a large number of victims do not apply for compensation.

\*Violent crime offenses are: murder/non-negligent manslaughter, rape, robbery, and aggravated assault. (Eligible crimes in New Mexico are: aggravated assault; aggravated battery; criminal sexual contact of a minor; criminal sexual penetration; murder; voluntary manslaughter; involuntary manslaughter; abandonment or abuse of a child; homicide by vehicle or great bodily injury by vehicle; aggravated stalking; kidnapping; arson resulting in bodily injury; aggravated arson; aggravated indecent exposure; dangerous use of explosives; negligent use of a deadly weapon; and human trafficking)

\*\*Applications approved includes applications with pending expenses.

Source: FBI, "Crime in the United States" reports by year; New Mexico Crime Victims Reparation Commission "NMCVRC Annual Report" by year; CSG Justice Center correspondence with CVRC. Crime numbers are based on calendar year and compensation application numbers are based on state fiscal year (July 1 – June 30).

In 2016, New Mexico had the highest violent crime rate and the fourth-lowest compensation expenditures per 100,000 residents in the region.



\*Rates are per 100,000 residents

JR policies in Missouri have significantly increased access to compensation for victims of crime.

## The Washington Times

Reliable Reporting. The Right Opinion.

### Advocates: Missouri crime victim aid law changes are working

By SUMMER BALLENTINE - Associated Press - Saturday, November 24, 2018

JEFFERSON CITY, Mo. — A new law meant to make it easier for Missouri crime victims to request financial aid to help pay for medical coverage, counseling and other expenses appears to be working, advocates say.

Only a few months after a legislative overhaul of the program took effect, it is noticeably easier for victims to request such aid, said Katie Dalton, the director of programs and volunteers at the Crime Victim Center, a St. Louis group that helps victims apply for such aid.

Before the changes took effect in August, victims had to submit a notarized application to receive the aid, which can also cover lost wages or other expenses related to crimes committed against them. They'd need to send in official documents and medical paperwork by mail, and hospitals and other physicians were not allowed to do so on their behalf. Furthermore, they were required to report crimes to police within 48 hours and to cooperate with prosecutions that might not occur until years later.

Dalton said the hotline, sometimes called the "Crime Victim Center," has been helpful in many ways.

## THE KANSAS CITY STAR.

### Advocates: Missouri crime victim aid law changes are working

BY SUMMER BALLENTINE

Associated Press

November 24, 2018 08:58 AM

Updated November 24, 2018 08:59 AM

JEFFERSON CITY, Mo. — A new law meant to make it easier for Missouri crime victims to request financial aid to help pay for medical coverage, counseling and other expenses appears to be working, advocates say.

Only a few months after a legislative overhaul of the program took effect, it is noticeably easier for victims to request such aid, said Katie Dalton, the director of programs and volunteers at the Crime Victim Center, a St. Louis group that helps victims apply for such aid.

Before the changes took effect in August, victims had to submit a notarized application to receive the aid, which can also cover lost wages or other expenses related to crimes committed against them. They'd need to send in official documents and medical paperwork by mail, and hospitals and other physicians were not allowed to do so on their behalf. Furthermore, they were required to report crimes to police within 48 hours and to cooperate with prosecutions that might not occur until years later.

*“Only a few months after a legislative overhaul of the program took effect, it is noticeably easier for victims to request [victims’ compensation].”*

*“...Dropping the police report requirement has led to more domestic violence victims applying for help who might not have been eligible before.”*

# Victim-centered policies already in motion

1

Expand statutory language stipulating who a crime victim may report to in order to receive crime victims' compensation.

---

2

Provide Crime Victim Reparation Commission with good cause exceptions for the requirement that victims must report to law enforcement within two years.

---

3

Require law enforcement and district attorneys to notify identified victims of crime victims' compensation and their eligibility to apply.

---

# Key takeaways about victim services

1. Orders of protection are ineffective if not supported by a statewide structure that ensures recognition across all jurisdictions and law enforcement agencies.
2. Crime victims compensation is funded by both state and federal dollars, and federal contribution depends on prior state contribution. Increased funding for crime victims compensation can ensure robust services for future victims of crime.

*Therefore the policy challenges are:*

*ensuring that protective orders from any court in the state are accessible to law enforcement, and  
providing additional resources for victim compensation in order to meet need and maximize federal dollars.*

# Overview

**1** Crime and Policy

**2** Victim Services

**3** Behavioral Health

**4** Probation

**5** Next Steps



# Overview

## 3 Behavioral Health

National Trends

Addressing Criminogenic  
Needs

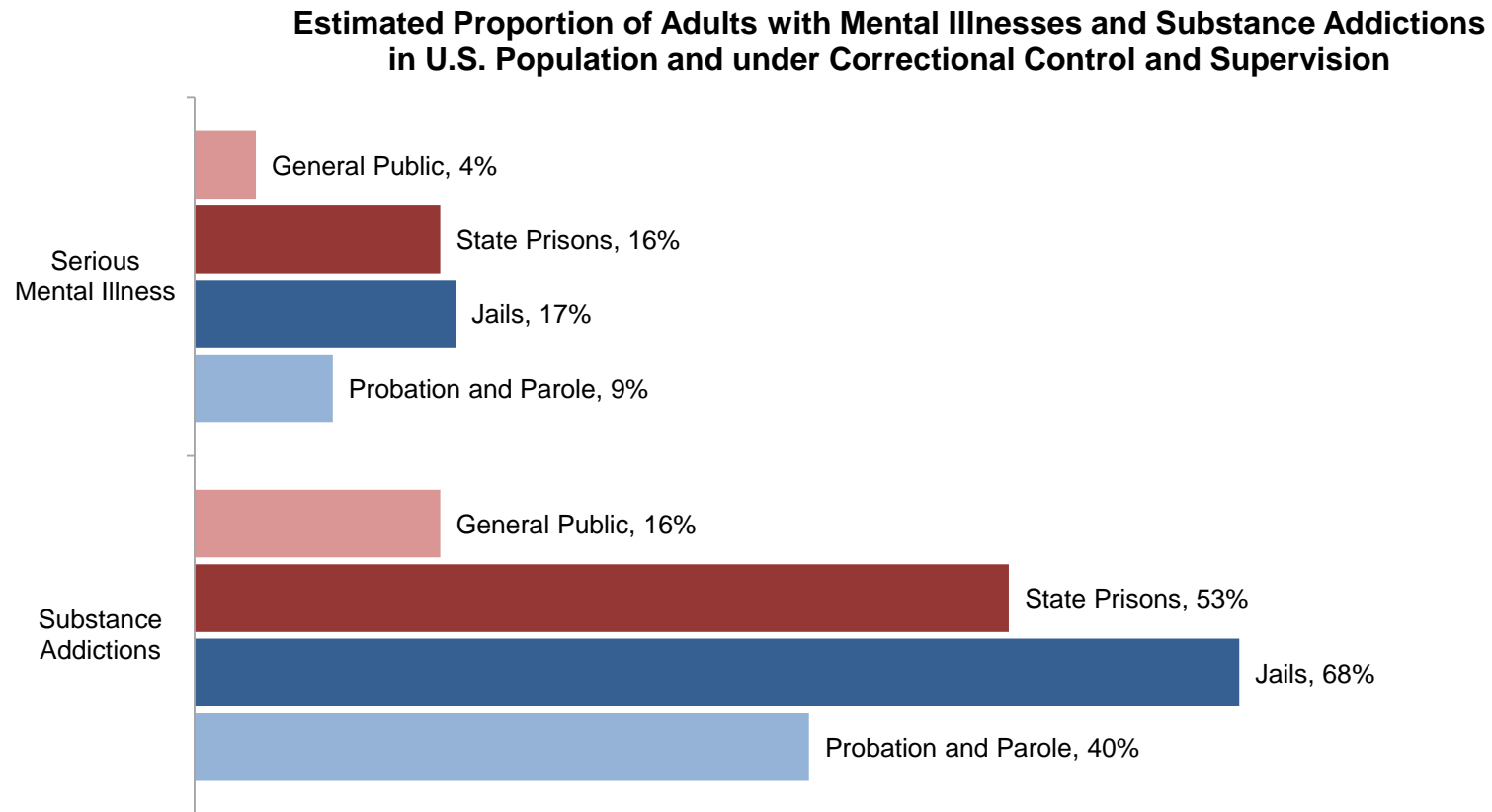
Impact in New Mexico

State Examples



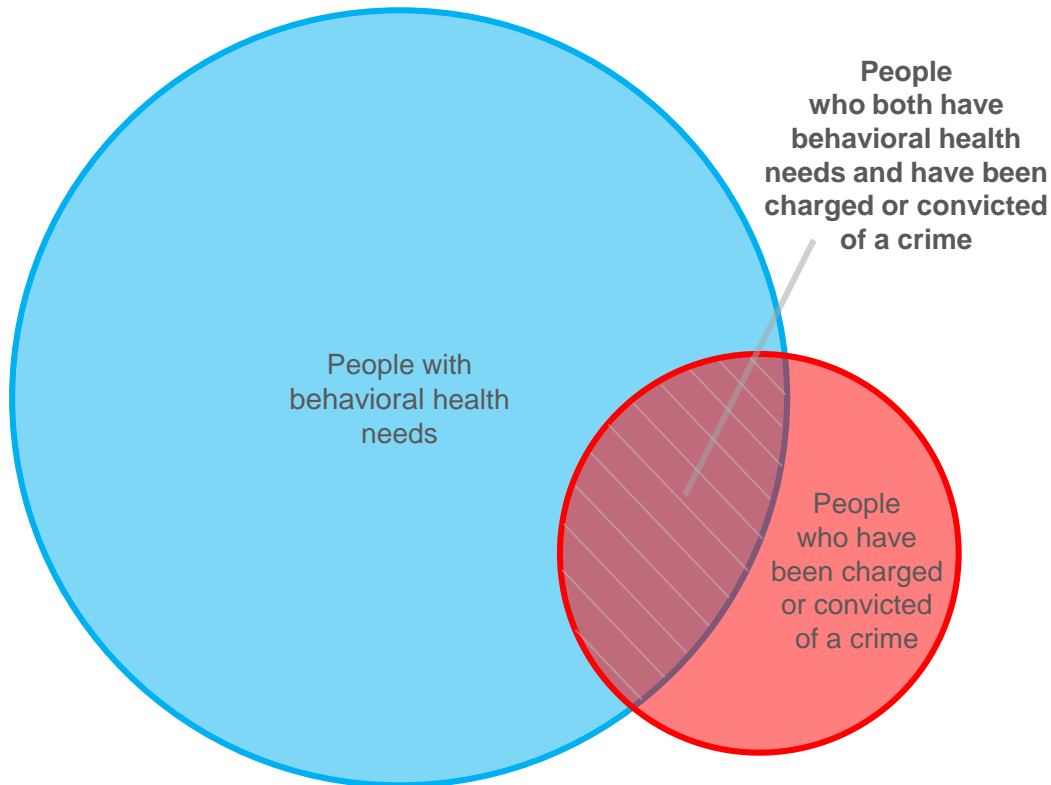


Nationally, a large number of people who enter the criminal justice system have behavioral health needs.



Source: Alex M. Blandford and Fred Osher, *Guidelines for the Successful Transition of People with Behavioral Health Disorders from Jail and Prison* (New York: SAMHSA's GAINS Center and The Council of State Governments Justice Center, November 2013). <https://csgjusticecenter.org/wp-content/uploads/2013/12/Guidelines-for-Successful-Transition.pdf>

Addressing the behavioral health needs of this population can improve public safety outcomes by reducing recidivism.





















To effectively reduce recidivism, an array of services must be available:

- inside county **jails**;
- inside state **prisons**; and
- in the **community**.

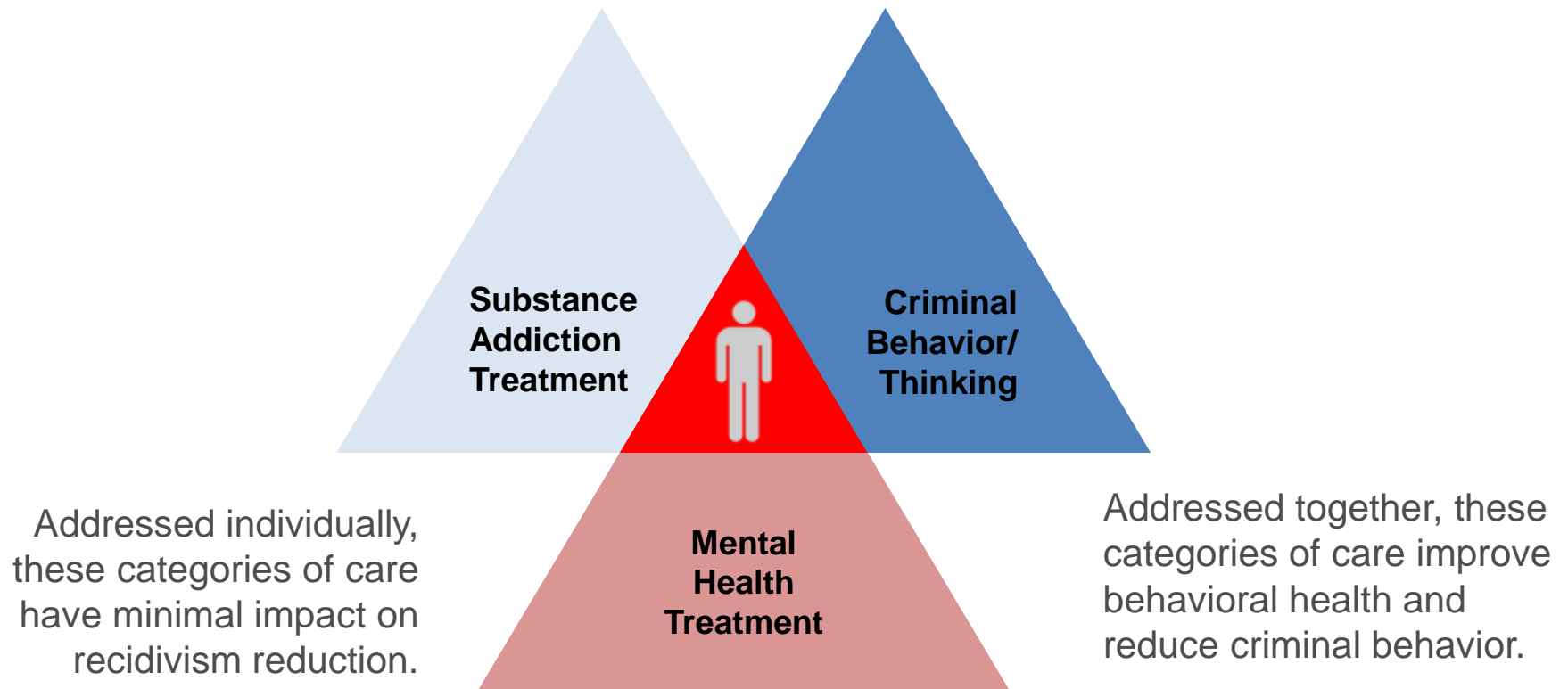
In many places, behavioral health needs go unmet until a person has progressed farther into the criminal justice system.

At what point do state or local systems administer behavioral health screenings or assessments?

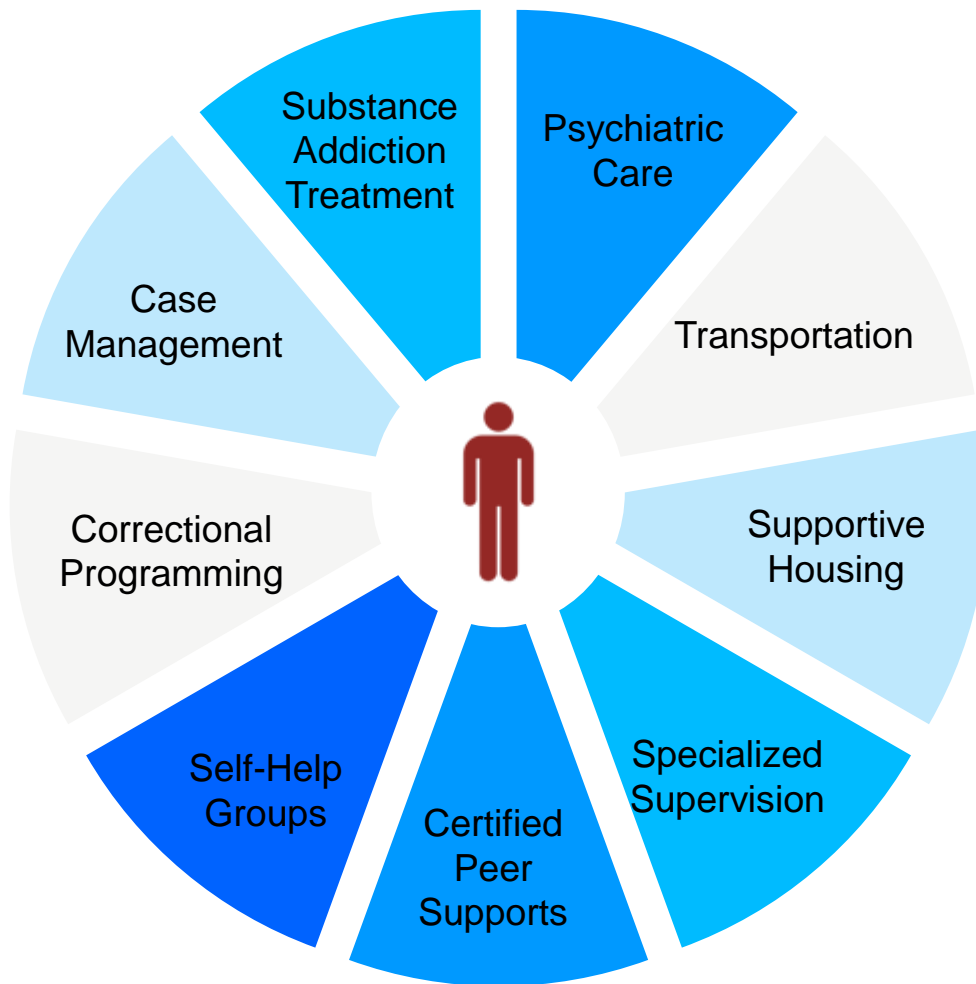
	Common state/local administration of screens/ assessments	New Mexico's administration of screens/ assessments	Frequency of Occurrence
Law enforcement encounter			 RARELY
Arrest			 SOMETIMES
Pretrial jail commitment			 OFTEN
Jail sentence			 ALWAYS
Prison sentence			
Probation			
Parole			

# Effective treatment for people in the criminal justice system addresses both criminogenic and behavioral health needs.

Core Treatment Competencies Required for Behavioral Health and Recidivism-Reduction Improvements.



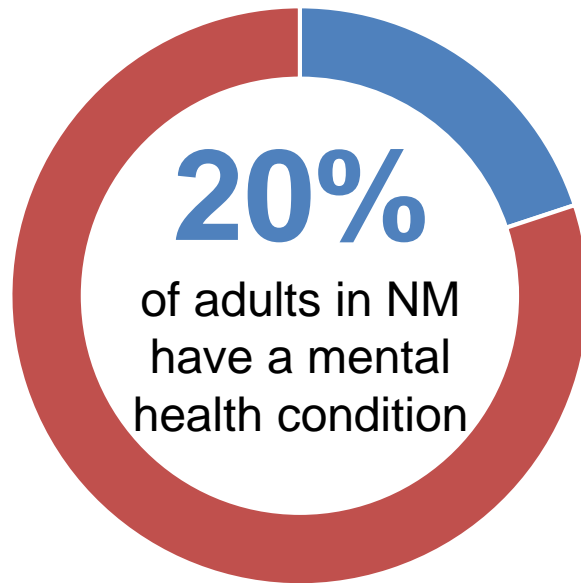
Accessing the complicated and numerous needs of people who have behavioral health needs can be challenging because of the nature and the quantity of services they require.



### **Common Access Challenges:**

- Funding limitations
- Practical barriers (transportation, child care)
- Workforce and capacity shortages

# New Mexico has poor behavioral health outcomes.



Over  
**300,000**  
people in New  
Mexico



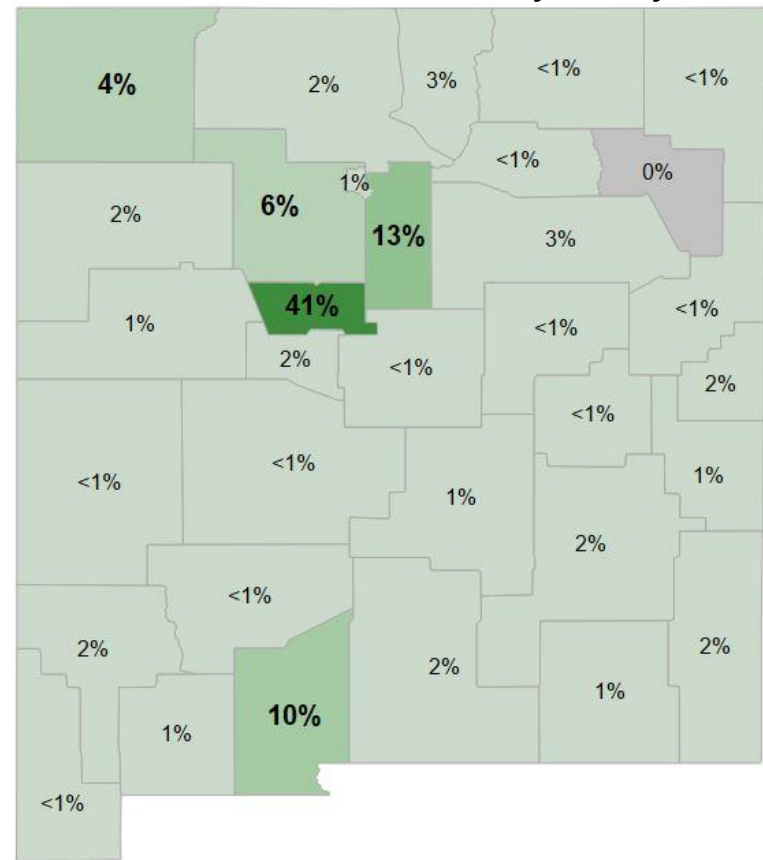
Over **4%** of adults in  
New Mexico report  
having alcohol  
dependence, which  
is the highest rate in  
the country.

In 2016, New Mexico had one of the highest ratios of mental health providers to residents in the nation, but stakeholders all report workforce shortages and concerns about the “pipeline.”

Rank	State	Ratio of Residents to MH Providers
1	Massachusetts	200:1
2	Maine	240:1
3	Oregon	250:1
4	Vermont	260:1
5	Oklahoma	270:1
<b>6</b>	<b>New Mexico</b>	<b>280:1</b>
7	Rhode Island	290:1
8	Alaska	300:1
9	Connecticut	310:1
10	California	350:1
...		
46	Arizona	850:1
47	Georgia	900:1
48	West Virginia	950:1
49	Texas	1,070:1
50	Alabama	1,260:1
<b>National Average</b>		<b>536:1</b>

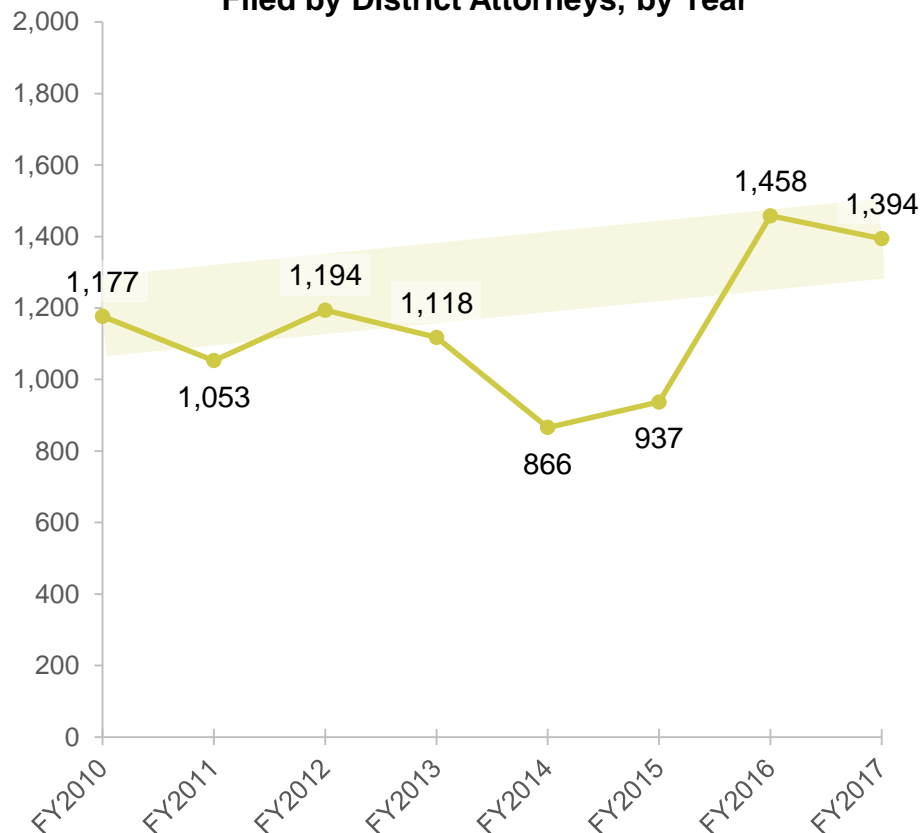
Rankings are based on provider ID counts. Data limitations exist: not all providers are required to obtain an ID number, and some ID numbers are for providers who are no longer active.

Percent of State's Total Mental Health and/or Substance Use Providers by County



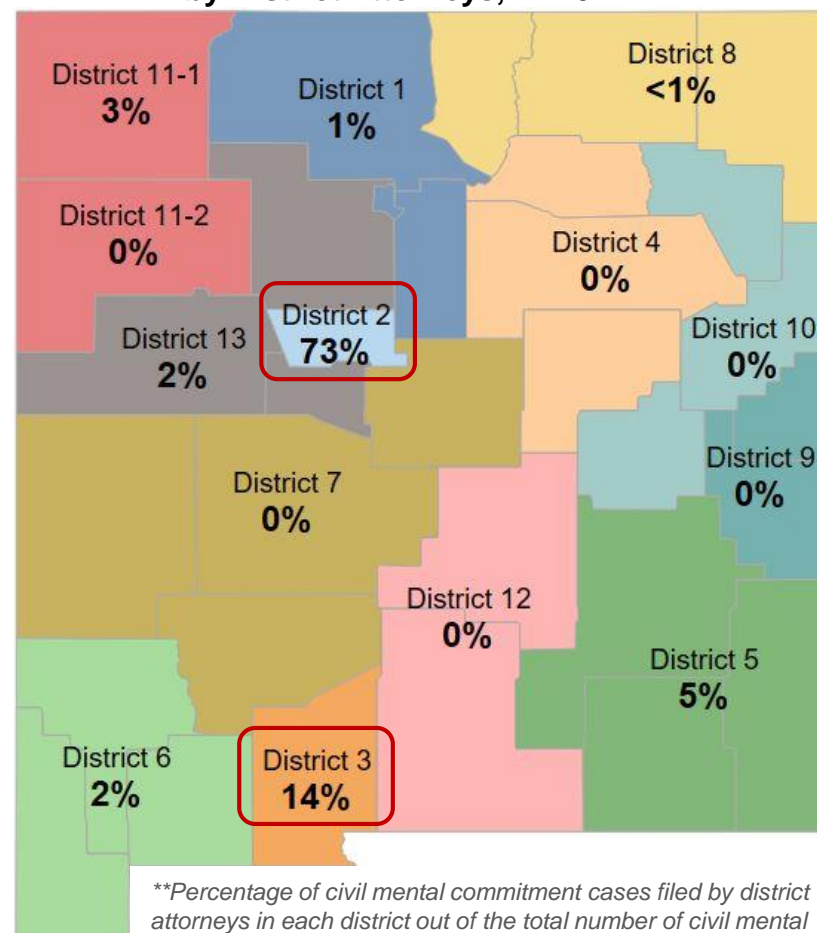
The number of civil commitment cases filed by district attorneys increased 18 percent from 2010 to 2017.

**Number of Civil Mental Commitment Cases\* Filed by District Attorneys, by Year**



\*Case numbers shown here do not include civil mental commitment and petition for treatment guardian cases that were not referred to district attorneys. The increase in the number of cases is partially due to changes made to the data entry process in certain judicial districts.

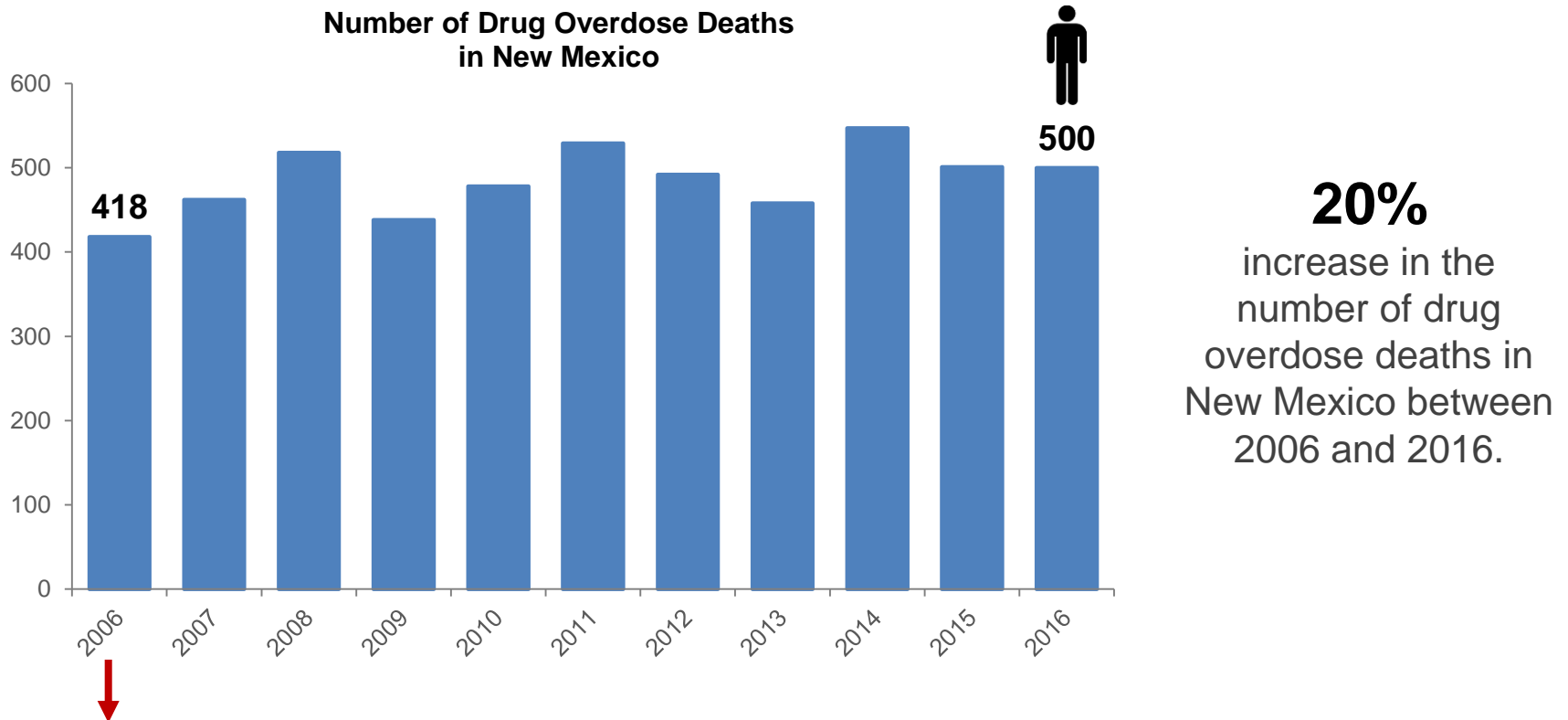
**Civil Mental Commitment Cases Filed by District Attorneys, FY2017\*\***



\*\*Percentage of civil mental commitment cases filed by district attorneys in each district out of the total number of civil mental commitment cases filed by district attorneys in the state.



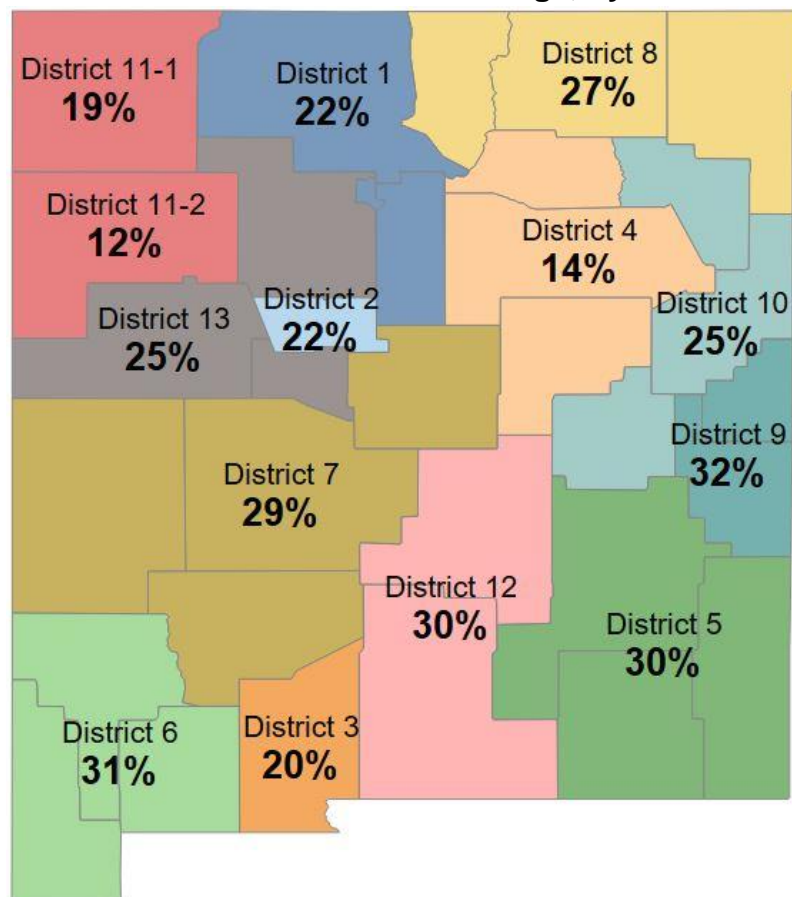
New Mexico has experienced increases in the number and rate of drug overdose deaths.



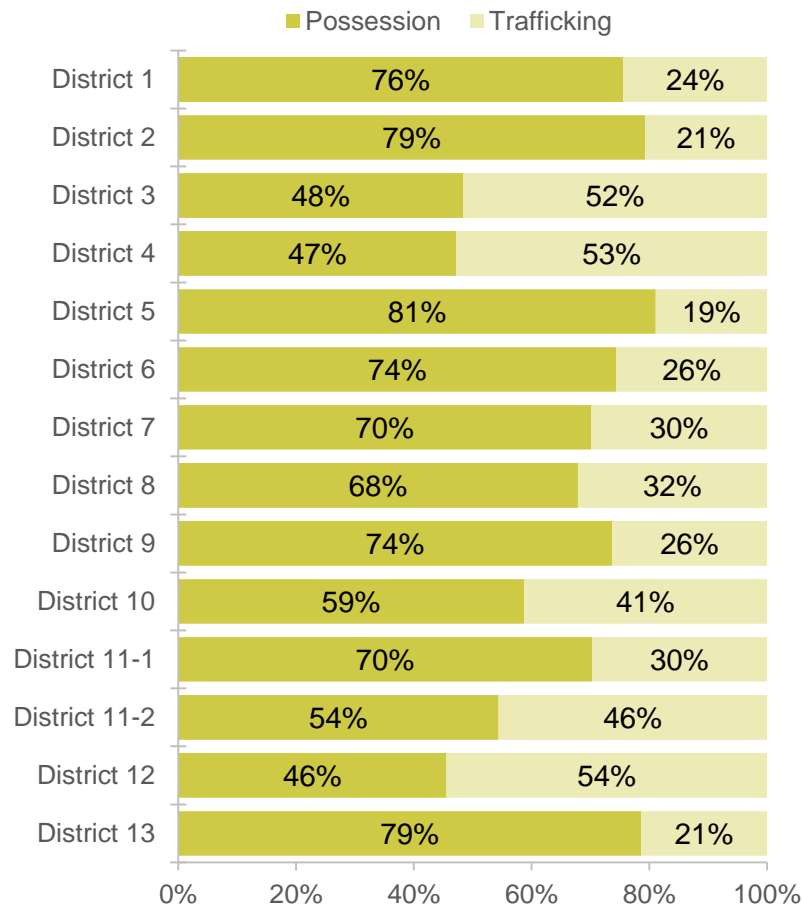
In 2006, New Mexico had the highest rate of overdose deaths in the country, with 22 overdose deaths per 100,000 residents. Although the state's overdose death rate was no longer the highest by 2016, it had risen to 25 overdose deaths per 100,000 residents.

Drug offenses make up 12 to 32 percent of all felony cases referred for prosecution, and most are for possession.

**Percent of FY2017 Felony Cases Referred for Prosecution That Involved Drugs, by District**

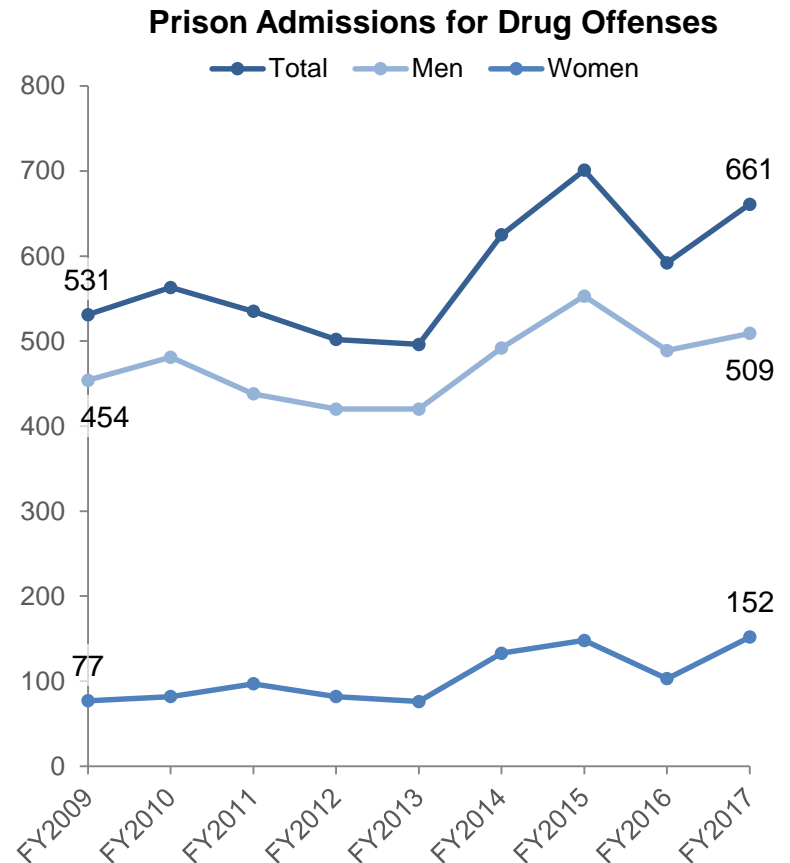
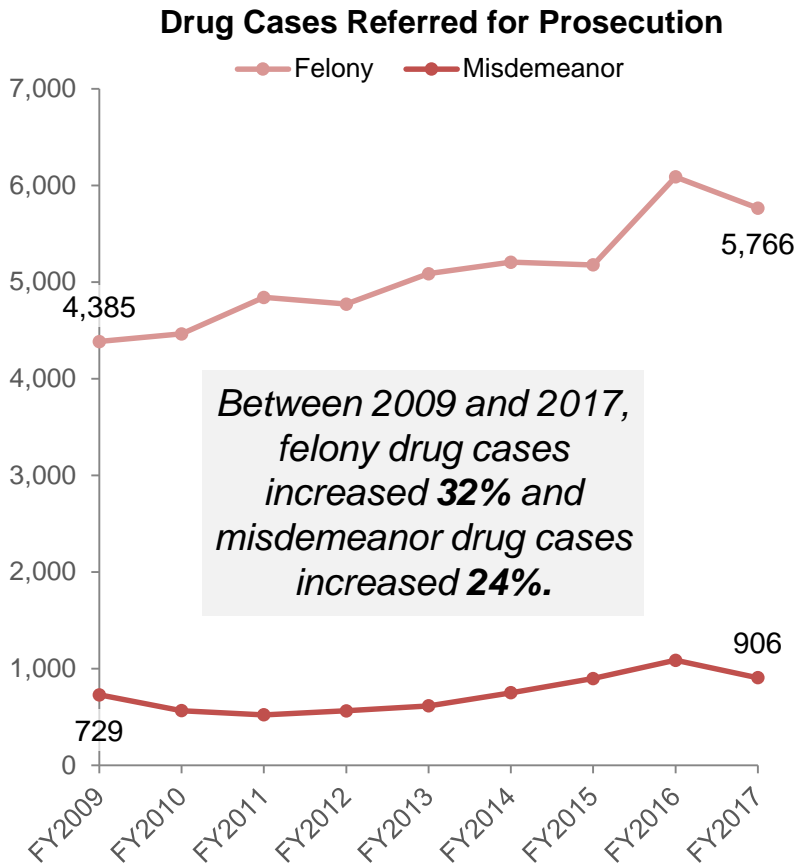


**FY2017 Felony Drug Cases Referred for Prosecution**



*Note: Because not every case referred for prosecution is ultimately filed with the courts, the figures shown here may be different than case numbers reported by the courts.*

# Drug cases referred for prosecution and prison admissions for drug offenses are increasing.



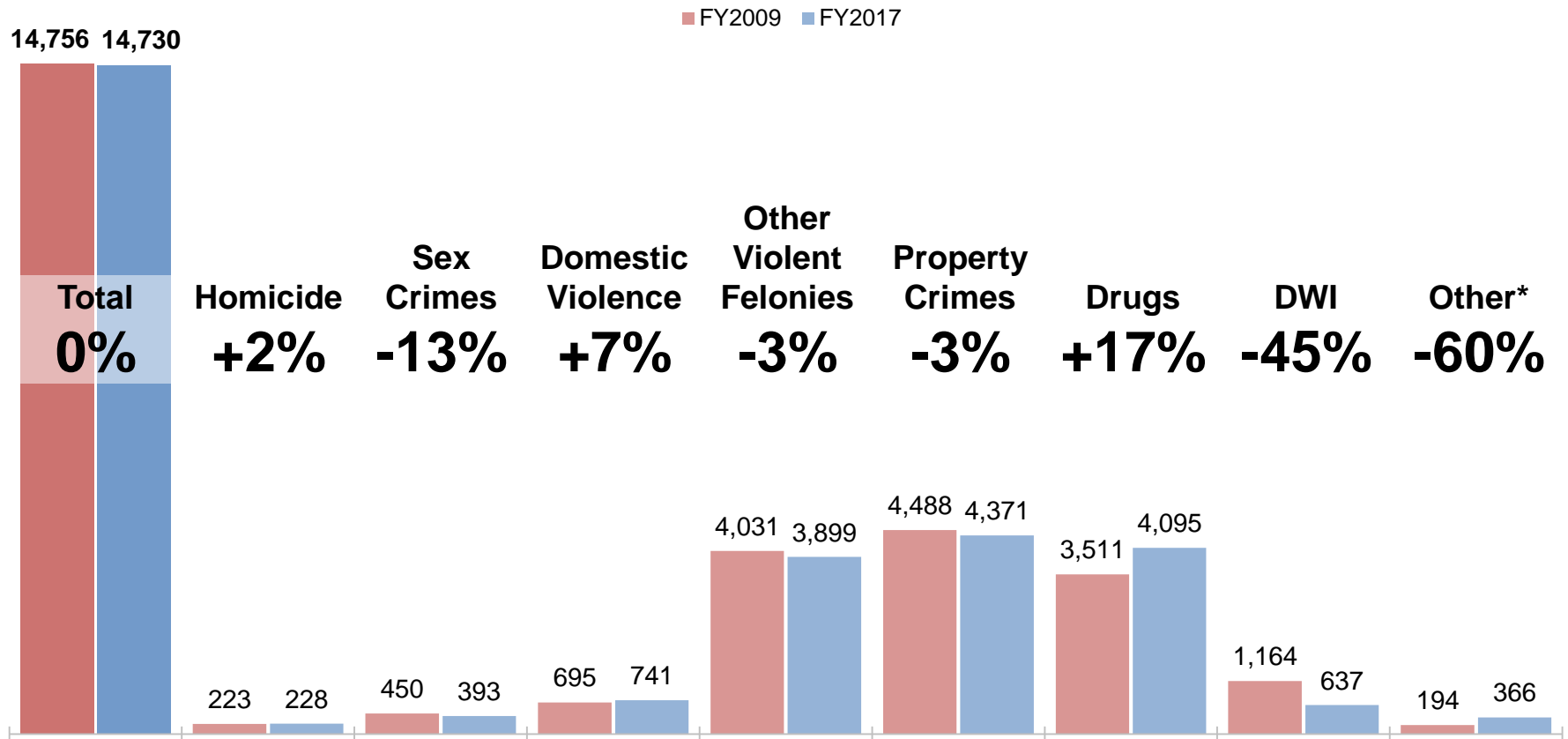
Note: Because not every case referred for prosecution is ultimately filed with the courts, the figures shown here may be different than case numbers reported by the courts.

Drug cases were identified via case class and include "Drug - Federal Law Enforcement Agent," "Drug Cases," "Drug Possession Cases," "Drug Prescription Cases," and "Drug Trafficking Cases" class types.

Offense level is based on the primary (most serious) charge for each case. Less than 1 percent of cases were missing offense level information.

The total number of felony cases filed in district courts has remained consistent, and felony drug cases have increased 17 percent.

**Felony Cases Filed in District Courts, FY2009 and FY2017**



Felony case categories were provided by AODA. "Homicide" includes vehicular homicide cases.

\*Non-violent felonies and unclassified cases were combined into "Other" due to low numbers in both categories.

Other states provide community behavioral health treatment targeting the probation and parole population.

### Idaho



**\$8.3M** for Substance Use Disorder (SUD) services for drug treatment serving approximately 4,500 people on supervision annually (FY2017)

### Montana



**\$7.5M** in community treatment facilities primarily for people on supervision (FY2017)

### Utah



**\$5M** to expand community treatment access for people in the justice system and established standards based on evidence-based practices (2015)

### Colorado



**\$9M** in correctional treatment cash fund for the community supervision and other populations to offset treatment costs (FY2019)

# Key takeaways about behavioral health

1. A large number of people who enter the criminal justice system have behavioral health needs and **addressing those needs can improve public safety outcomes by reducing recidivism.**
2. This population often has complex behavioral health needs, and **states must ensure access** to the range of treatment and services necessary to adequately address both criminogenic and behavioral health needs.
3. The poor behavioral health outcomes in New Mexico take a toll on multiple systems—the **increasing overdose death rate** illuminates the public health impact of unaddressed substance addictions, and the **increase in charges and filings** related to drug offenses shows the impact on New Mexico's criminal justice system.

*The policy challenge is providing state support and structure to ensure that behavioral health and criminal justice system actors work collaboratively to promote behavior change.*

# Overview

**1** Crime and Policy

**2** Victim Services

**3** Behavioral Health

**4** Probation

**5** Next Steps



# Overview

## 4 Probation

Importance of Probation

Sentencing and Revocation

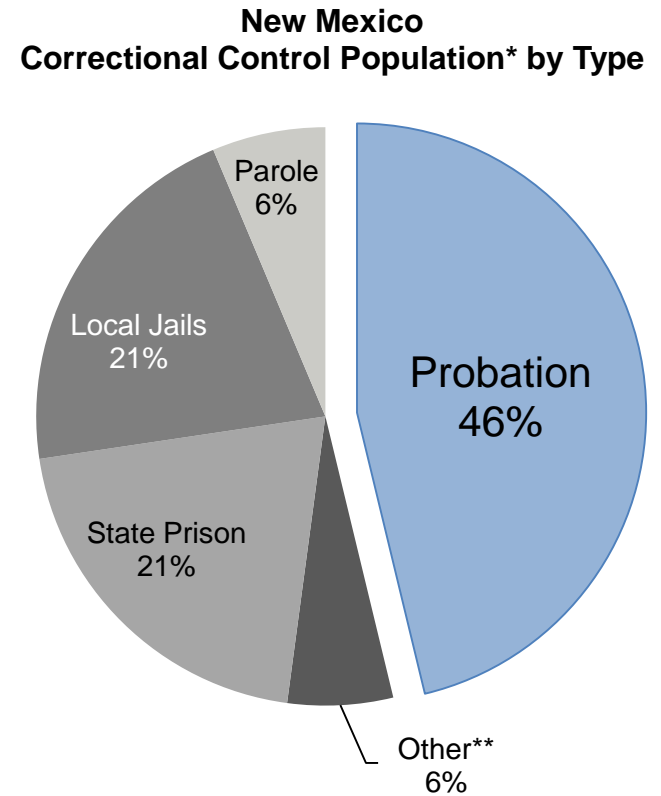
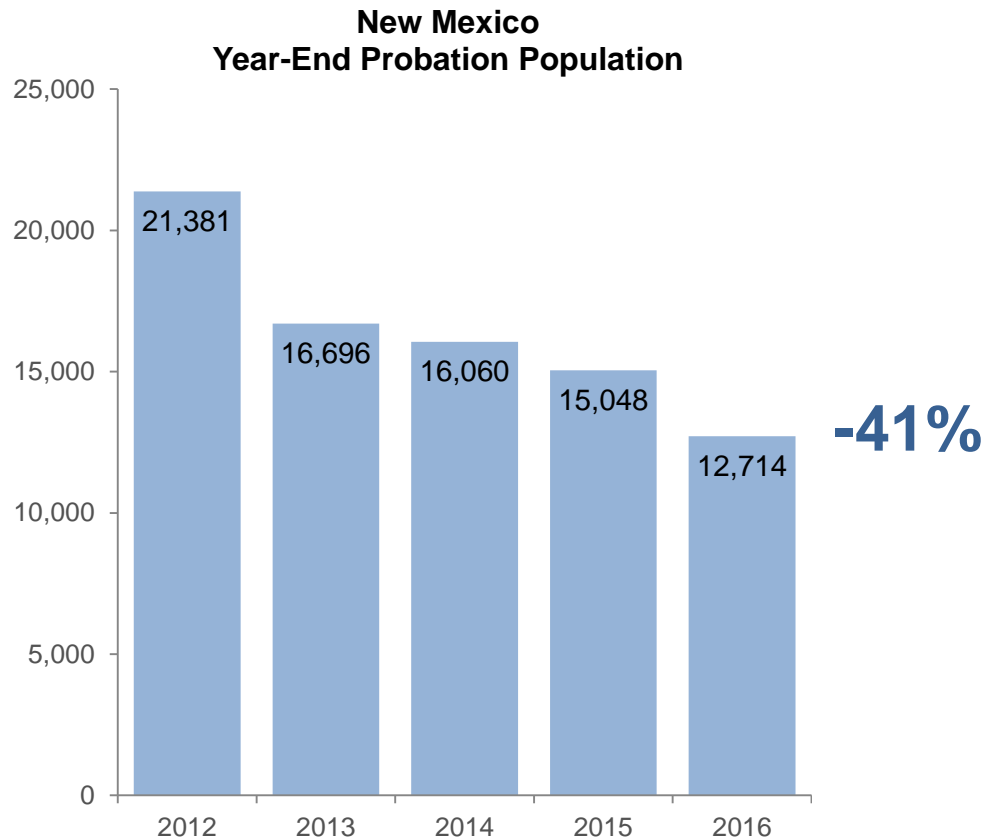
Reducing Recidivism

Probation Policies





People on probation make up almost half of all people under some form of correctional control.

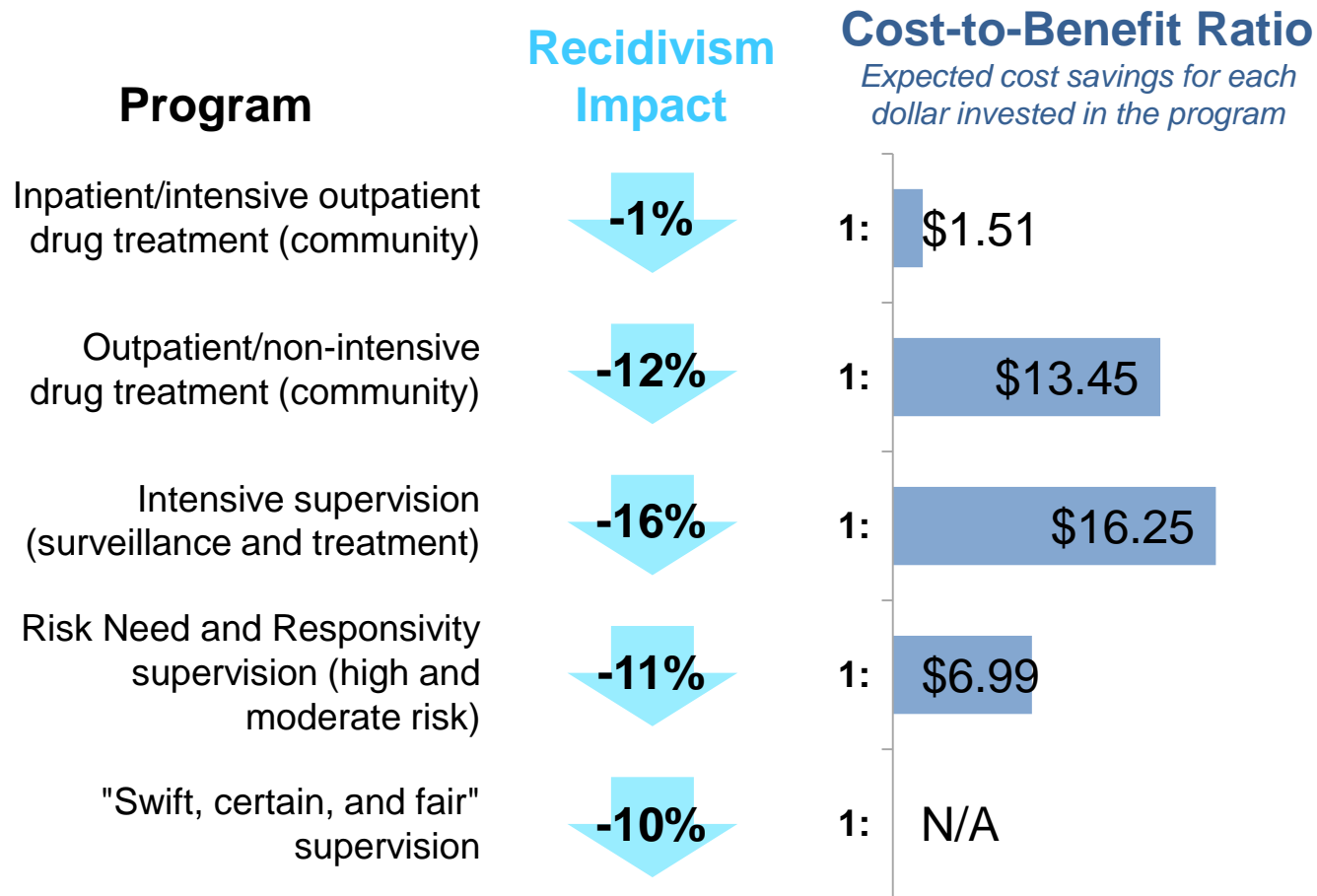


\*Correctional control population numbers are based on corrections population counts gathered between 2013 and 2016.

\*\*Other correctional control includes reported categories of federal prison, juvenile incarceration, civil commitments, and Indian Country jails.

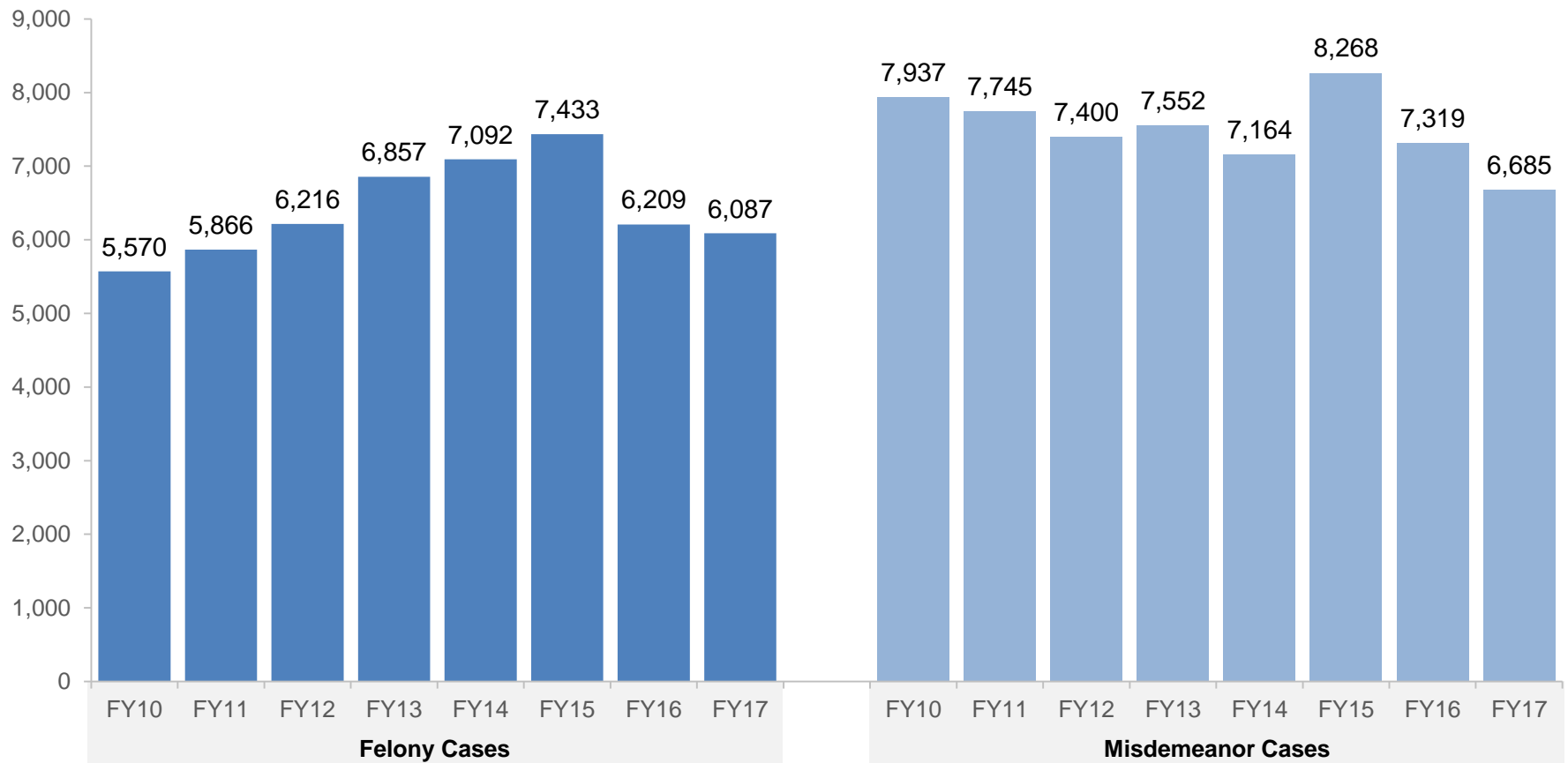
Source: BJS, Correctional Statistical Analysis Tool (CSAT); Prison Policy Initiative, "Correctional Control: Incarceration and supervision by state" (<http://www.prisonpolicy.org/reports/50statepie.html>).

Existing research shows that when done well, probation and treatment have the greatest potential to reduce recidivism.



# New Mexico courts contributed nearly 13,000 new cases to probation caseloads in 2017.

**Cases Sentenced to Probation, by Offense Level**



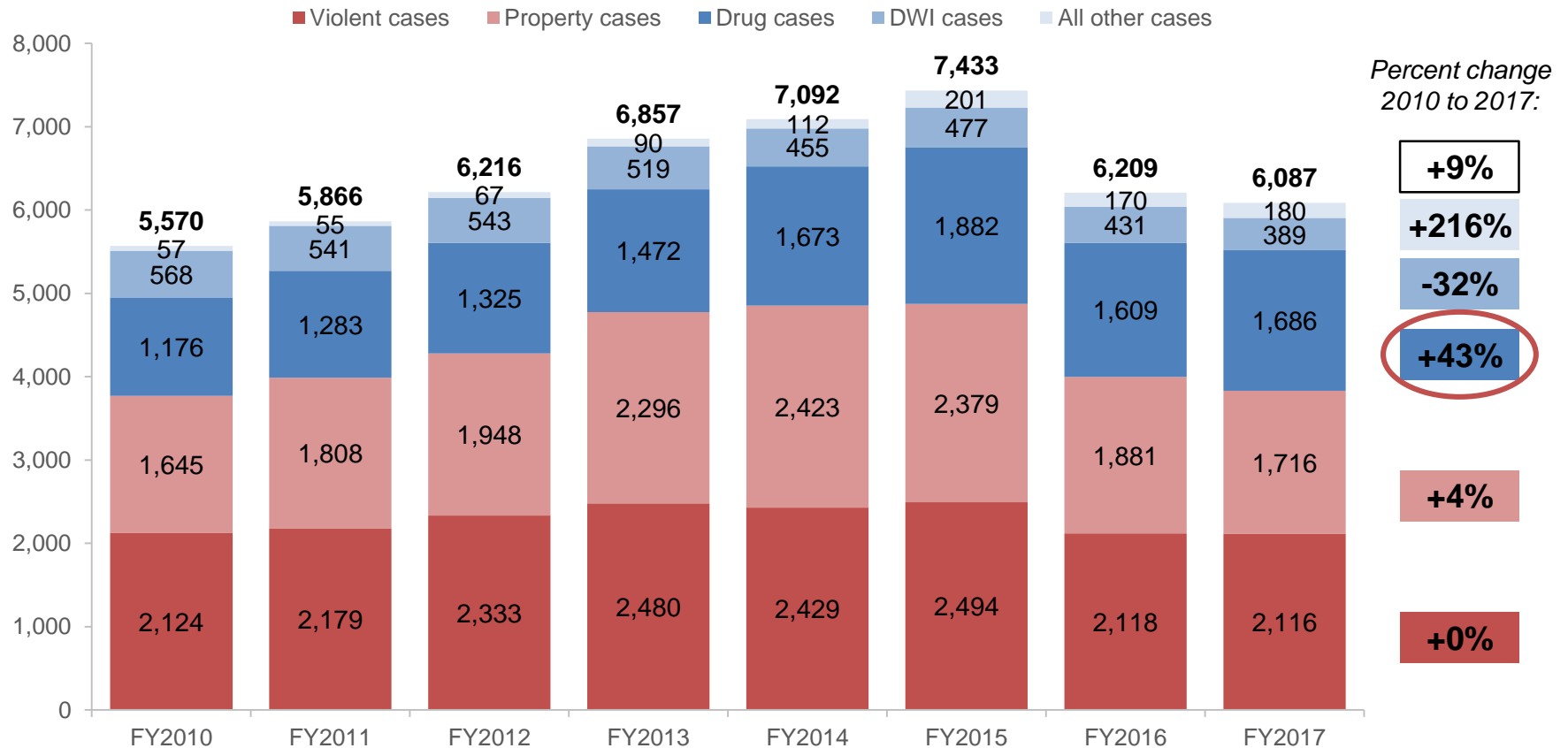
*Numbers are based on cases sentenced in all courts, excluding probation revocation cases. Sentences to probation includes partially suspended jail and prison sentences and excludes deferred sentences and conditional discharges.*

*Sentence records were limited to cases received between FY2009 and FY2017 and included sentence information for all charges in a case.*

*Offense level is based on the primary (most serious) charge at disposition for each case. Less than 1 percent of cases were missing offense level information.*

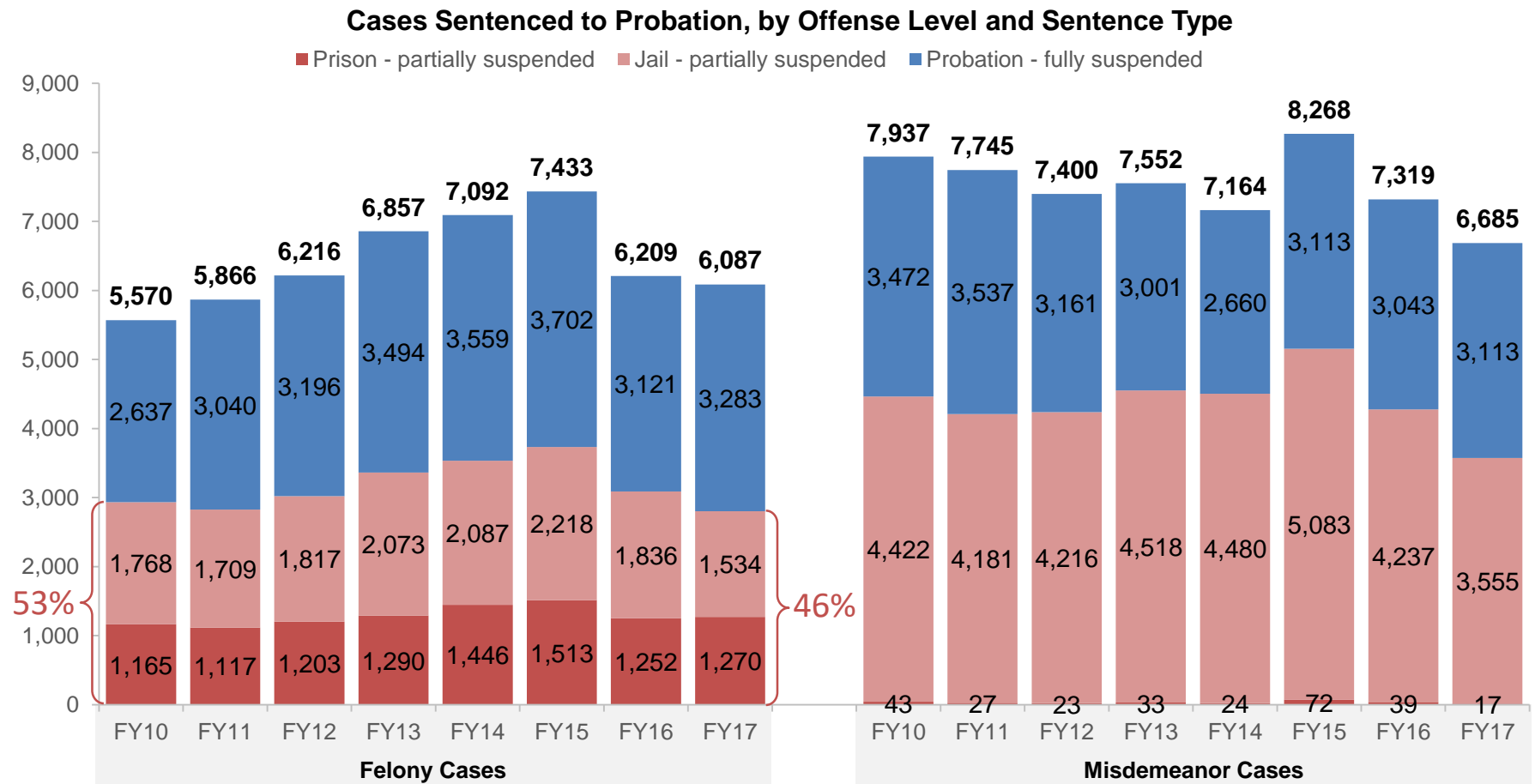
# Sentences to probation for felony drug cases increased 43 percent between 2010 and 2017.

**Felony Cases Sentenced to Probation, by Offense Type**



Numbers are based on cases sentenced in all courts, excluding probation revocation cases. Sentences to probation includes partially suspended jail and prison sentences and excludes deferred sentences and conditional discharges. Sentence records were limited to cases received between FY2009 and FY2017 and included sentence information for all charges in a case. Offense level is based on the primary (most serious) charge at disposition for each case. Less than 1 percent of cases were missing offense level information. Offense type is based on case class. "All other cases" are Dept. of Game and Fish, Misdemeanor, Non-Violent Felony, Out of State Fugitive, Public Corruption Cases, Traffic Citations, and Truancy case classes.

About half of felony cases sentenced to probation each year are confinement sentences that are partially suspended.

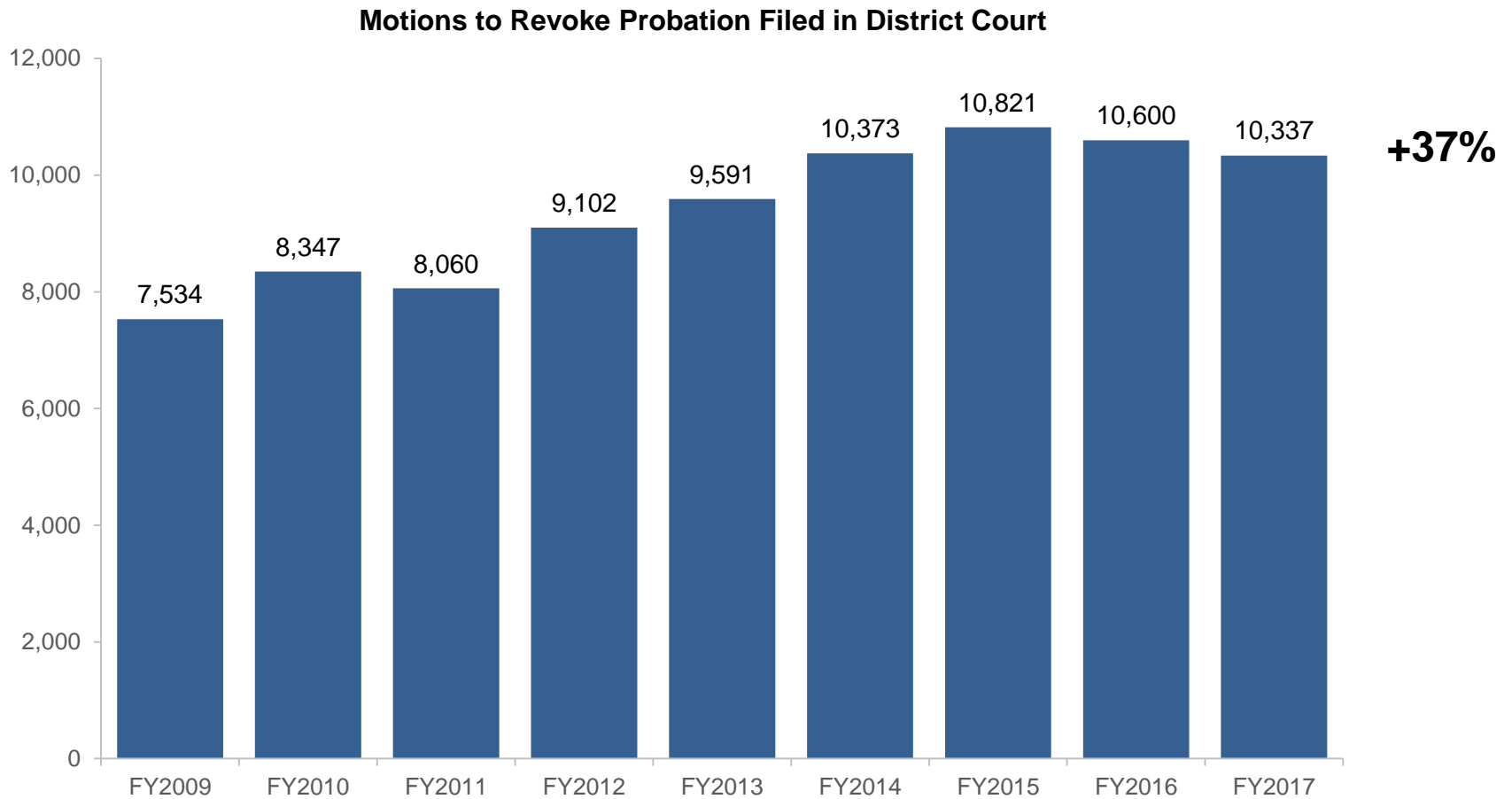


Numbers are based on cases sentenced in all courts, excluding probation revocation cases. Sentences to probation includes partially suspended jail and prison sentences and excludes deferred sentences and conditional discharges.

Sentence records were limited to cases received between FY2009 and FY2017 and included sentence information for all charges in a case.

Offense level is based on the primary (most serious) charge at disposition for each case. Less than 1 percent of cases were missing offense level information.

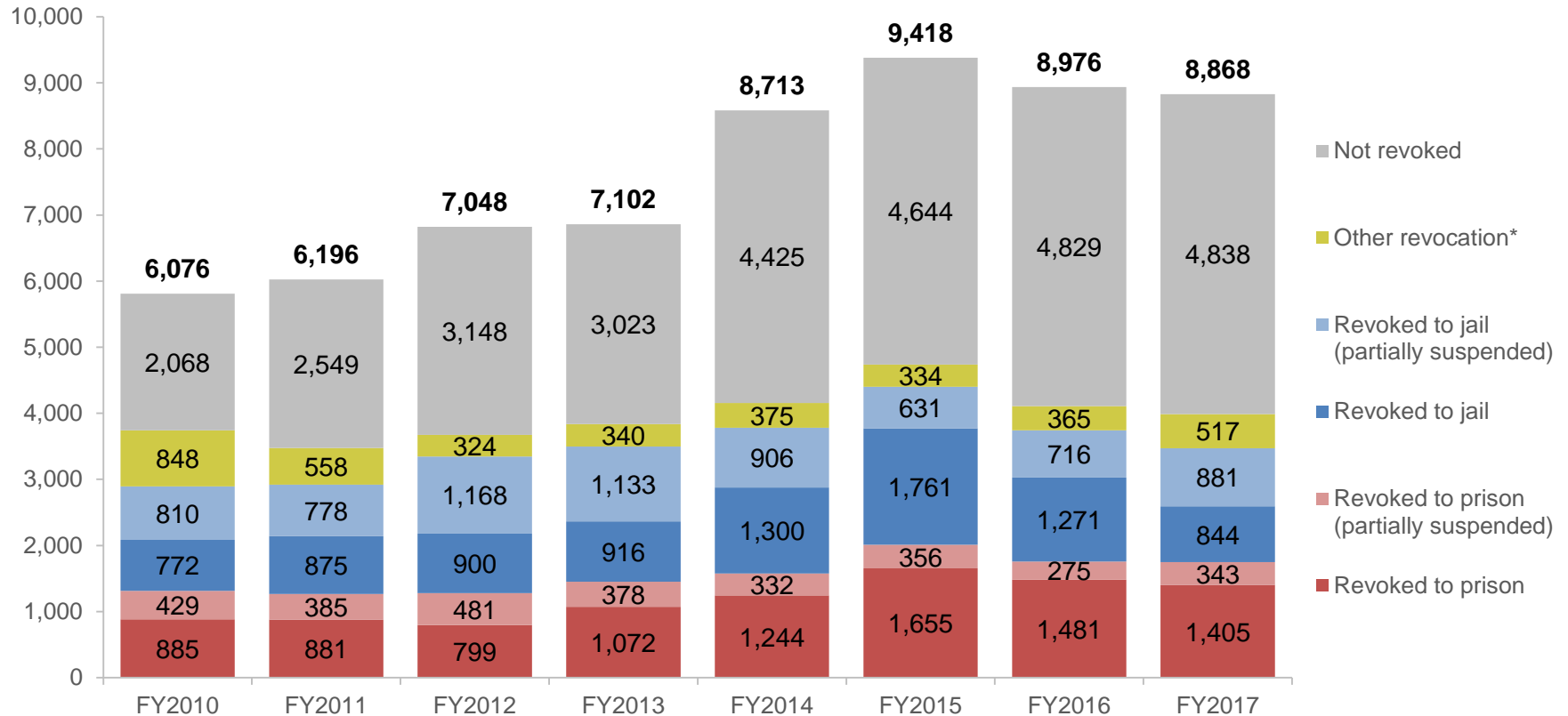
Probation revocation cases filed in district courts increased 37 percent between 2009 and 2017.



*AODA numbers for motions to revoke probation did not include offense level information.*

About half of felony probation revocation cases end with a revocation sentence, and those that result in prison or jail may be partially suspended.

**Felony Probation Revocation Sentences, by Type**

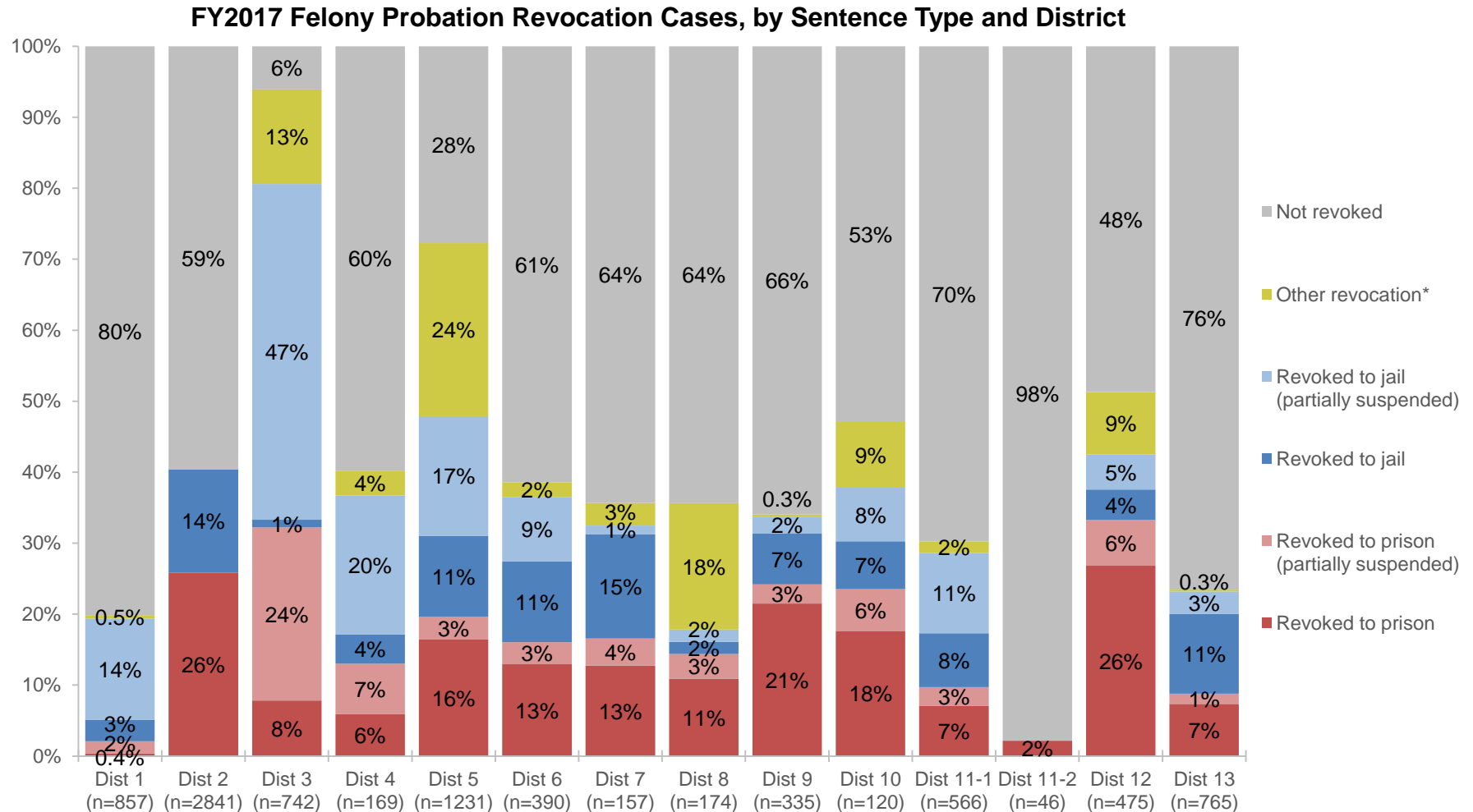


\*Other revocations are based on sentence information in AODA data and include: revocations to probation or deferred sentence, conditional discharges, and fine only sentences.

Numbers are based on felony probation revocation cases sentenced in all courts, by fiscal year of sentence. Probation revocation cases were identified by case class. Sentence records were limited to cases received between FY2009 and FY2017 and included sentence information for all charges in a case. Approximately 2% of revocation sentences were missing sentence type information.

Offense level is based on the primary (most serious) charge at disposition for each case. Less than 1% of sentences were missing offense level information.

# Responses to felony probation revocations vary widely by district.



\*Other revocations are based on sentence information in AODA data and include: revocations to probation or deferred sentence, conditional discharges, and fine only sentences.

Numbers are based on felony probation revocation cases sentenced in all courts in fiscal year 2017. Probation revocation cases were identified by case class. Sentence records were limited to cases received between FY2009 and FY2017 and included sentence information for all charges in a case. Less than 1% of FY2017 revocation sentences were missing sentence type information.

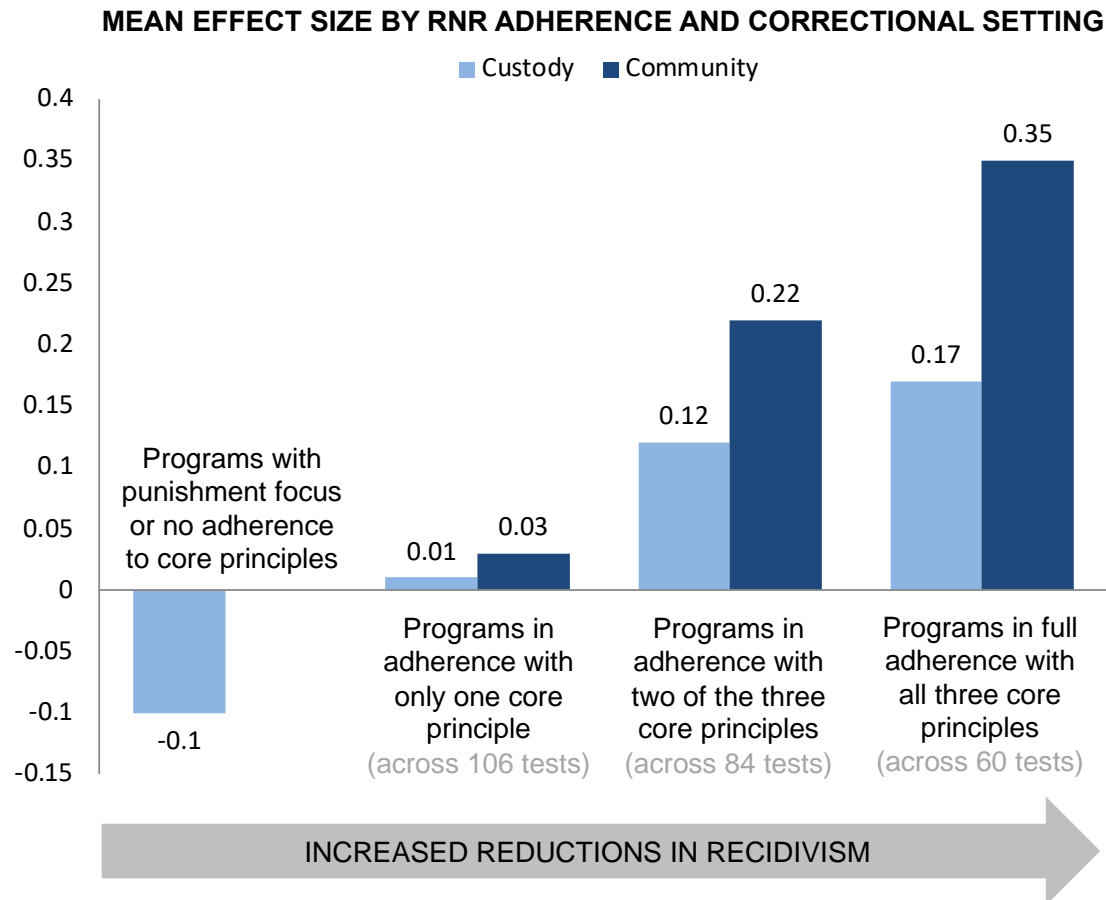
Offense level is based on the primary (most serious) charge at disposition for each case. Less than 1% of sentences were missing offense level information.

Source: CSG Justice Center analysis of AODA case sentencing data (February 2019).



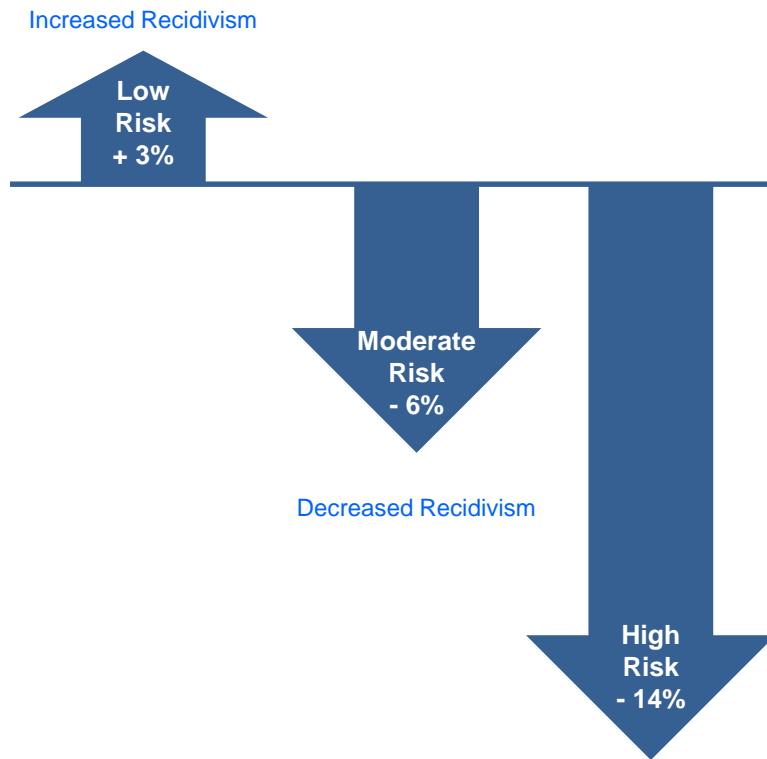
Strong adherence to risk, need, and responsivity (RNR) principles increases the effectiveness of recidivism-reduction programming.

RNR program approaches within prisons are important, but maximum recidivism reduction is achieved when those RNR programs are also delivered in the community after release.



# Failing to adhere to the risk principle can actually increase recidivism for low-risk individuals.

## Average Difference in Recidivism by Risk for Individuals in Ohio Halfway House



Individuals who are at a **low risk** of recidivating

- Do well with minimal intervention;
- Have protective factors which are disrupted with intensive services and supervision; and
- Learn more ingrained criminal behaviors when put with individuals who are at a higher risk.

Reducing recidivism among people on probation requires many processes to work well and requires buy-in from judges, in particular.

- 1 **Assess** risk and need
- 2 **Target** the right people
- 3 **Frontload** supervision and treatment
- 4 **Ensure** adequate linkage to **proven programs**
- 5 Use **case planning** to facilitate behavior change
- 6 **Respond** to both positive and negative behaviors
- 7 Hold individuals **accountable**

**Are the right approaches being taken with the right people?**

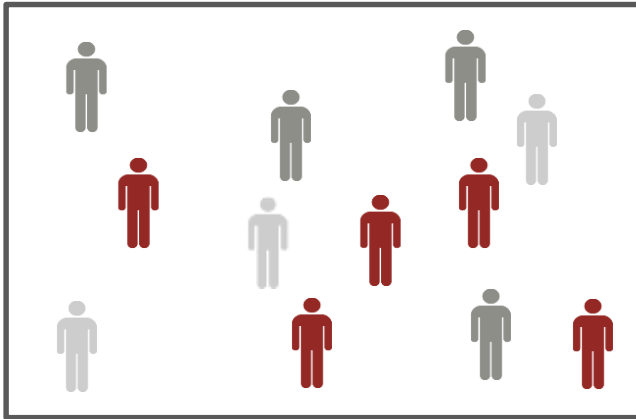
If not, efforts to change behavior (and reduce recidivism) will be much less effective and sometimes counterproductive.

*NMCD supervises based on risk level but a high level of overrides counteracts effectiveness.*

The results of standardized risk assessments should be used to group people according to their relative risk of recidivism.

The **Risk Principle**—tells us *whom* to target

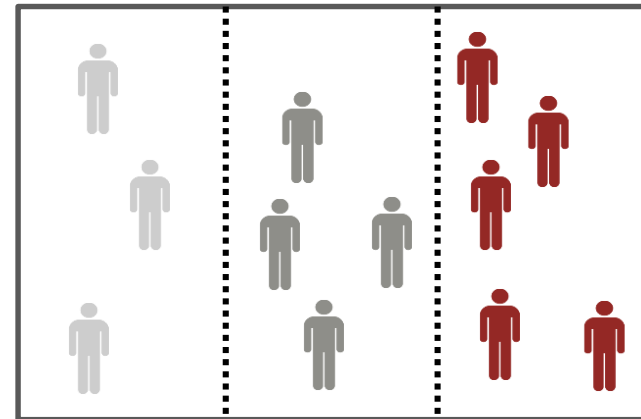
Without Risk Assessment...



Risk level is not an indicator of:

- ≠ Dangerousness
- ≠ Severity of offense
- ≠ Guaranteed individual prediction
- ≠ Offense-specific reoffending

With Risk Assessment...



**Risk of Reoffending**

**Low  
Risk**

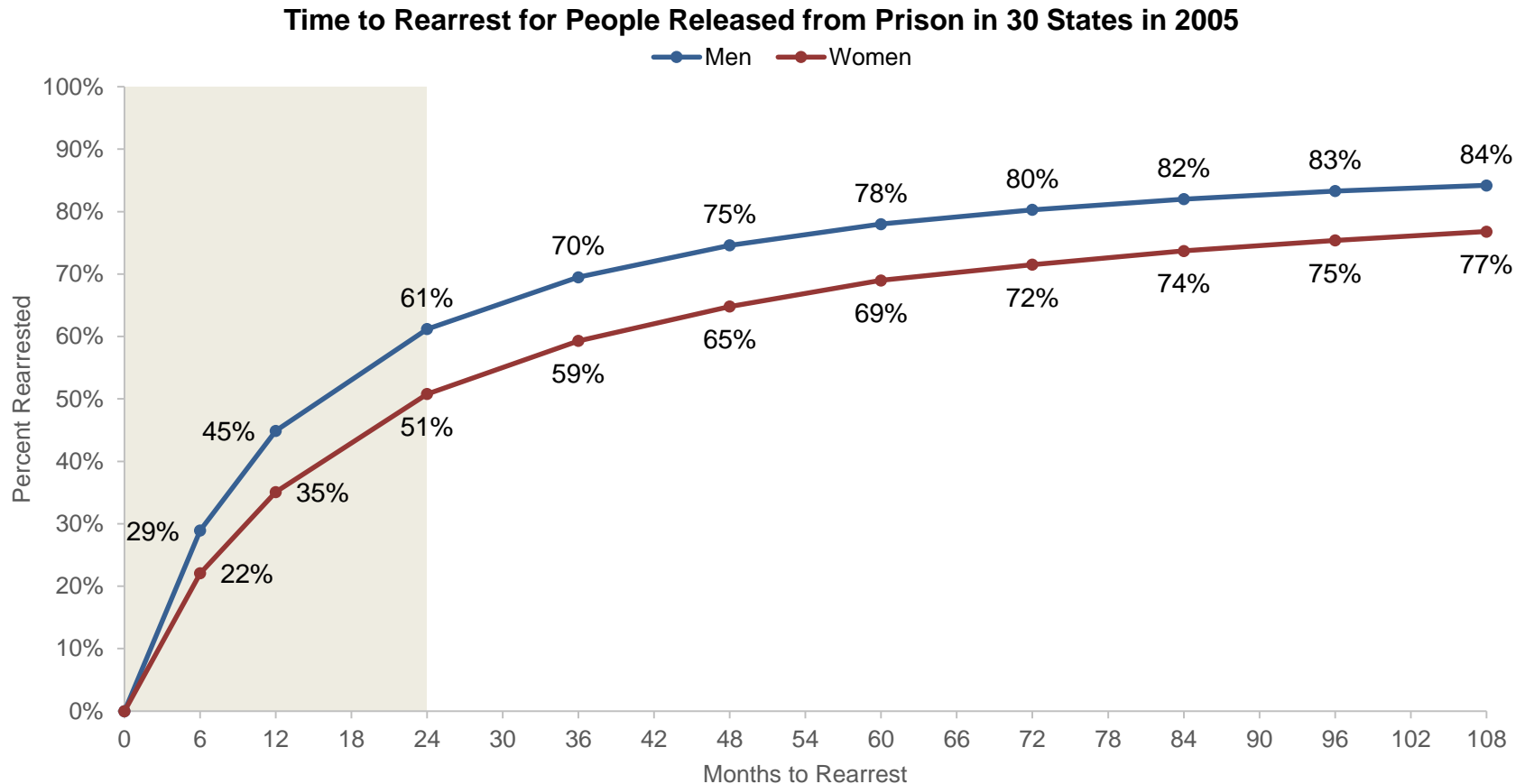
**Moderate  
Risk**

**High  
Risk**

Typically one-third of the population falls into each category

*NMCD utilizes the COMPAS risk assessment tool, but it has not been validated on the New Mexico correction population.*

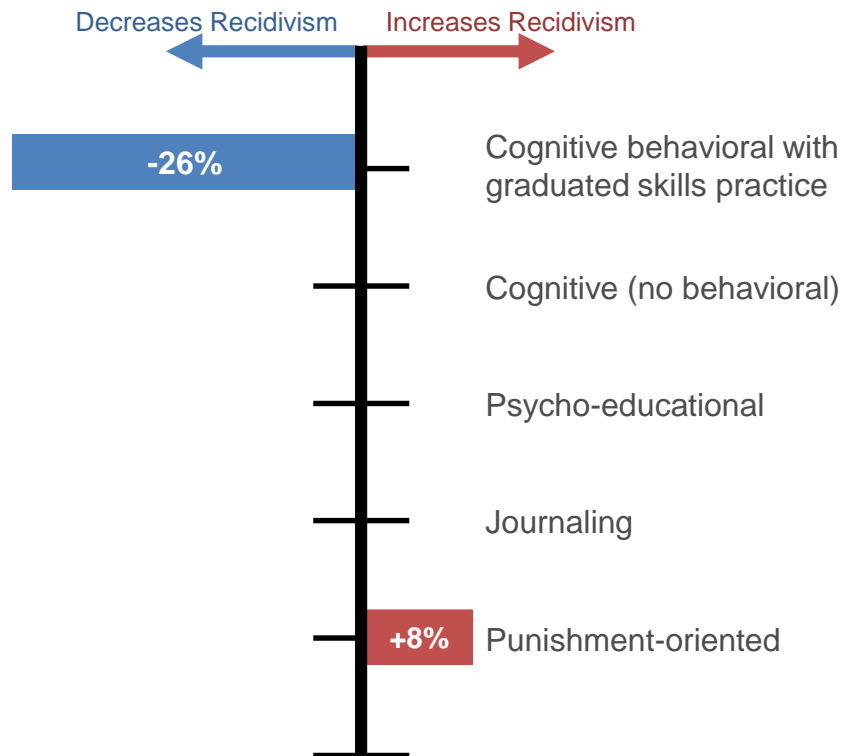
Failure on supervision usually occurs early in the supervision term, so resources should be dedicated to people during this time.



*NMCD has an early discharge policy for early release from supervision, which would free up officer time, but it is rarely used.*

Programs should be proven effective and meet the unique needs of people in the criminal justice system.

### Changes in Recidivism by Program Type



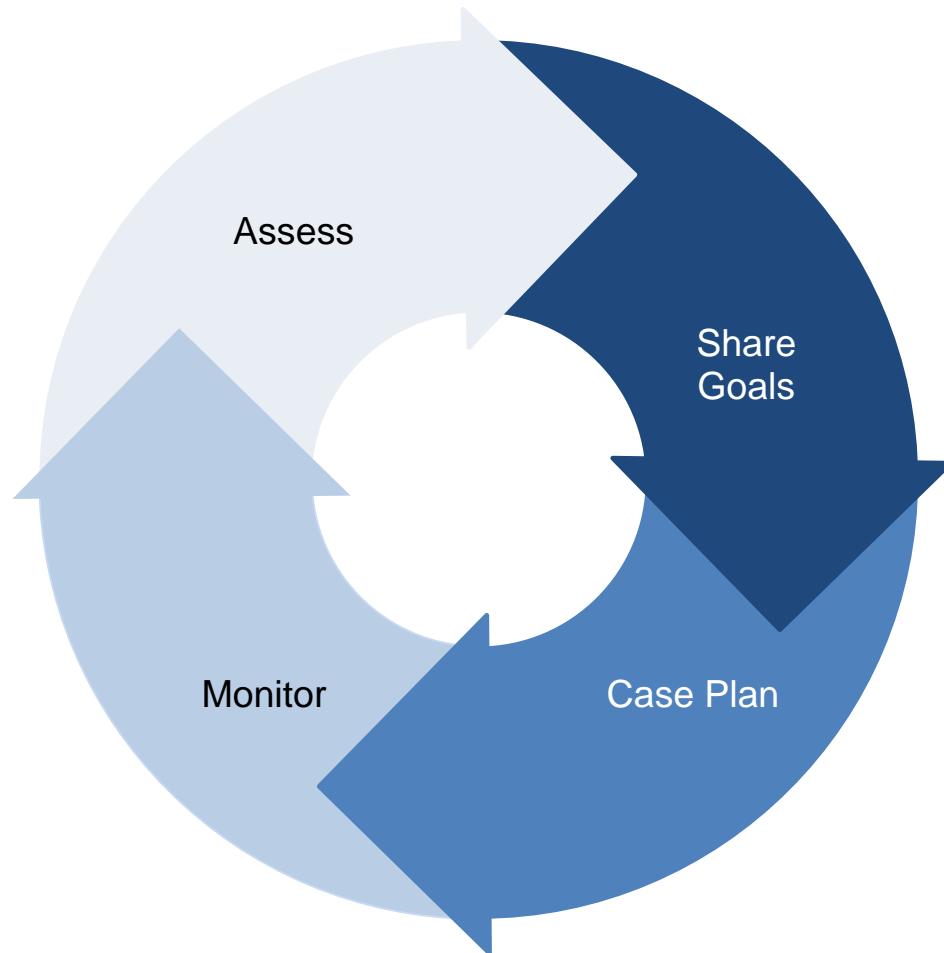
Programs should utilize **cognitive behavioral approaches** regardless of area of focus (e.g., criminal thinking, substance addiction, sex offender).

**Skill building** with structured **skills practice** is an essential component of effective programs.

Women should receive **gender-responsive** services with a **trauma-informed** approach.

*Some, but not all, programs used by NMCD are based on what works to reduce recidivism.*

Proactive case planning allows for a collaborative approach to behavior change that minimizes reactive supervision.



#### Case Planning and Supervision Best Practices:



Motivational interviewing



Case planning based on risk and need assessment



Use of cognitive behavioral interventions



Skills practice

*NMCD case plans are not updated throughout the course of supervision, and skills practice is not utilized with people on supervision.*

# Research highlights the challenge of balancing punishment and behavior change.

## Pretrial detention:

More than 1 day



Failure-to-appear rates for low-risk individuals



Recidivism for low- and moderate-risk individuals

## Community-Based Sanctions vs. Jail Sanctions

Both have the same:

- ✓ Time to next violation
- ✓ # of subsequent violations
- ✓ Likelihood of successful completion of supervision

## Prison:

Not shown to reduce recidivism

- Increasing severity of punishment does little to deter crime
- Certainty of being caught is more powerful deterrent than punishment
- Prison may exacerbate recidivism

*NMCD's "StePS" is a technical violation program, but it is inconsistent across judicial districts and there is no structured system for providing incentives.*

Sources: Christopher T Lowenkamp, Marie VanNostrand, and Alexander Holsinger, "The Hidden Costs of Pretrial Detention," (Laura and John Arnold Foundation, 2013); E.J. Wodahl et al. "Responding to probation and parole violations: Are jail sanctions more effective than community-based graduated sanctions?" (Journal of Criminal Justice, 43: 242-250); National Institute of Justice, "Five Things about Deterrence" (2016), <https://www.ncjrs.gov/pdffiles1/nij/247350.pdf>



Swift, certain, and fair punishment coupled with cognitive behavioral interventions and incentives effectively promotes positive behavior change.

### Swift

Sanctions are quick. Limit the time between violation and consequence.

### Certain

Sanctions are predictable. Consequences are not random. There are set responses for certain violations.

### Fair and Appropriate

The severity and duration of a response to a violation is proportionate to the violation.

### Punishment Is Not Enough



Punishment stops behavior



Use of reinforcement and cognitive behavioral interventions (CBI) teaches new skills and promotes long-term behavior change

- Case planning
- Homework assignments
- Referral for treatment or programming
- 1-on-1 CBI strategies utilized by probation and parole officers

*NMCD officers are not trained to utilize CBI in conjunction with violation behavior to promote behavior change.*

# Probation policy changes already in motion

**1**

Spell out in law the purposes of probation.

---

**2**

Require validated risk and needs assessment and principles of effective intervention.

---

**3**

Use a statewide system of incentives and sanctions to respond to behavior under supervision.

---

# Key takeaways about probation

1. Probation is critically important as an opportunity to reduce recidivism for a large population. States tend to overlook this significance, underfund probation, and focus on prisons.
2. Sentences to felony probation:
  - Occur about 6,000 times a year, with drug cases notably increasing
  - Involve confinement in jail or prison about half the time
3. Revocation cases on felony probation:
  - Are growing significantly
  - Are often disposed without resulting in actual revocation
  - Differ dramatically, in terms of revocation rate, by judicial district
4. NMCD probation officials know where and how their system needs to evolve and improve.

*The policy challenge is providing resources and policy support for NMCD to achieve greater success with probation. This also requires education and buy-in from judges, the parole board, and others.*

# Overview

**1** Crime and Policy

**2** Victim Services

**3** Behavioral Health

**4** Probation

**5** Next Steps



# Revisiting the proposed policy challenges for input from the working group

Providing effective state support for local efforts to consistently employ crime-reduction strategies

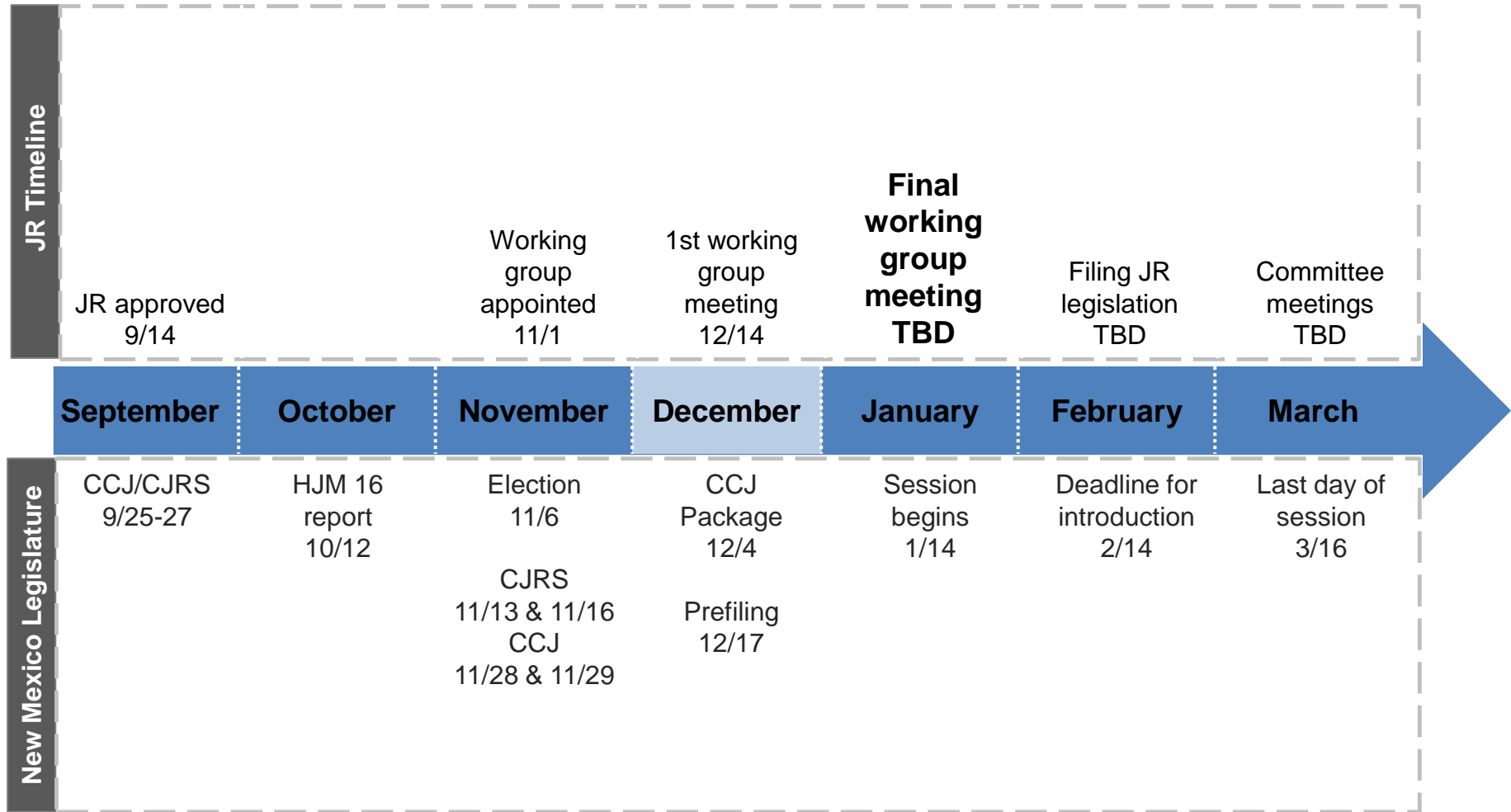
Providing additional resources for victim compensation, in order to meet need and maximize federal dollars

Ensuring that protective orders from any court in the state are accessible to law enforcement

Providing state support and structure to ensure that behavioral health and criminal justice system actors work collaboratively to promote behavior change

Providing resources and policy support for NMCD to achieve greater success with probation. This also requires education and buy-in from judges, the parole board, and others.

The accelerated Justice Reinvestment timeline and the New Mexico legislative timeline will converge in January.



# THANK YOU



Michelle Rodriguez, Policy Analyst  
mrodriguez@csg.org

Receive monthly updates about Justice Reinvestment states across the country as well as other CSG Justice Center Programs.

Sign up at:

**[CSGJUSTICECENTER.ORG/SUBSCRIBE](https://CSGJUSTICECENTER.ORG/SUBSCRIBE)**

This material was prepared for the State of New Mexico. The presentation was developed by members of The Council of State Governments Justice Center staff. Because presentations are not subject to the same rigorous review process as other printed materials, the statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of The Council of State Governments, or the funding agencies supporting the work.



**Justice Center**  
THE COUNCIL OF STATE GOVERNMENTS

This project was supported by Grant No. 2015-ZB-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.