



Opportunities for Justice Reinvestment in New Mexico

Carl Reynolds
Senior Legal and Policy Advisor
Council of State Governments Justice Center

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THE COUNCIL OF STATE GOVERNMENTS

Introduction to the Council of State Governments Justice Center

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



National nonprofit, nonpartisan membership association of state government officials that engage members of **all three branches** of state government.



Justice Center provides **practical, nonpartisan advice** informed by the best available evidence.

Overview



- 1 Trends in New Mexico**
- 2 Using Justice Reinvestment
- 3 Moving Forward

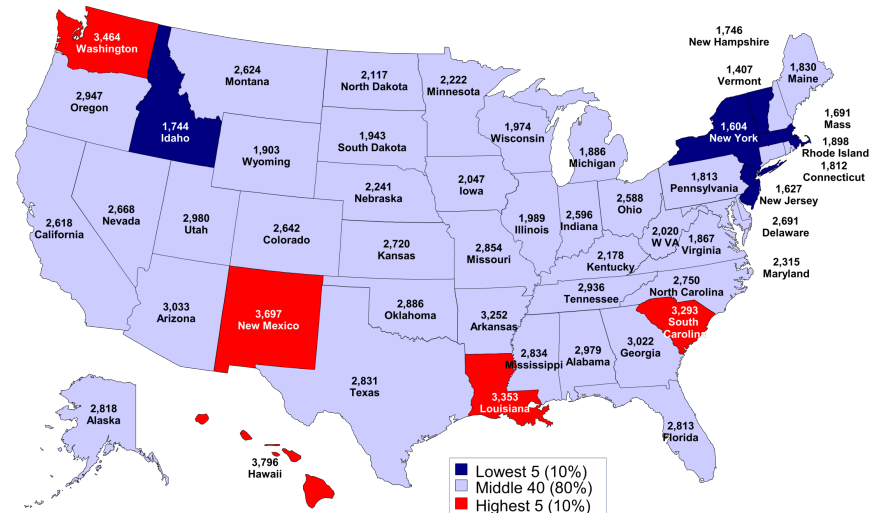
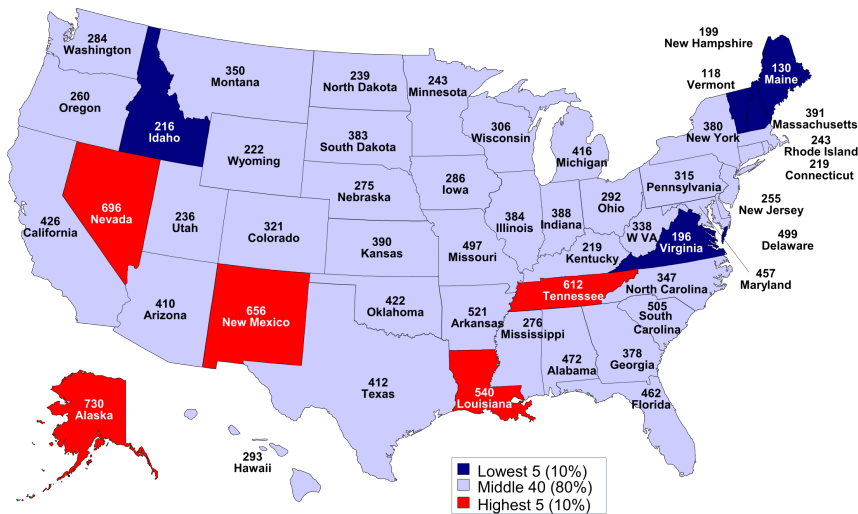
New Mexico reported crime rates are high, and arrests are increasing.

2015 Uniform Crime Reports

NM Violent Crime Report Rate 656
US Violent Crime Report Rate 373

2015 Uniform Crime Reports

NM Property Crime Report Rate 3,697
US Property Crime Report Rate 2,487



NM Violent crime arrests increased 10% from 2005-2015

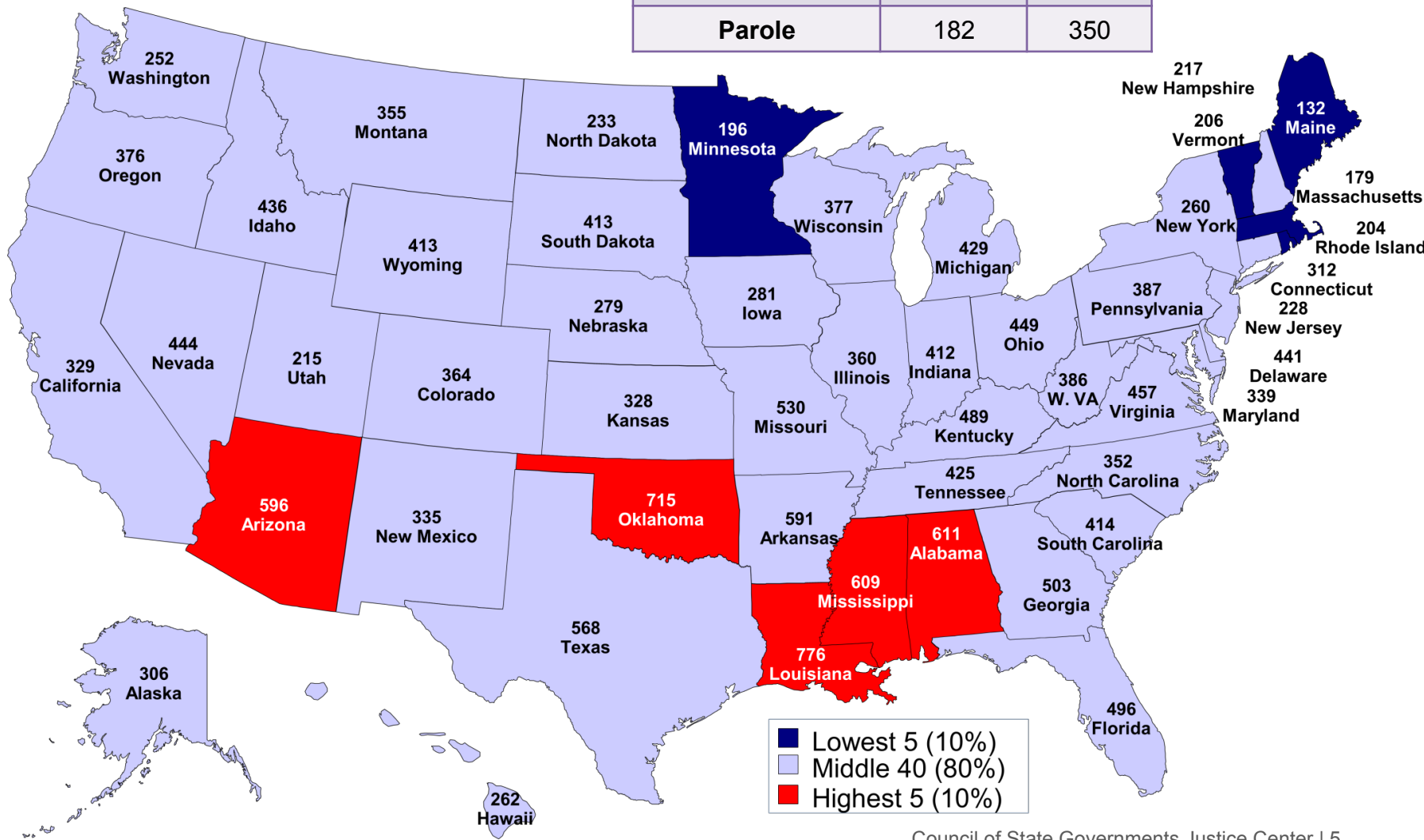
NM Property crime arrests increased 57% from 2005-2015

NM population increased 17% from 2005-2015

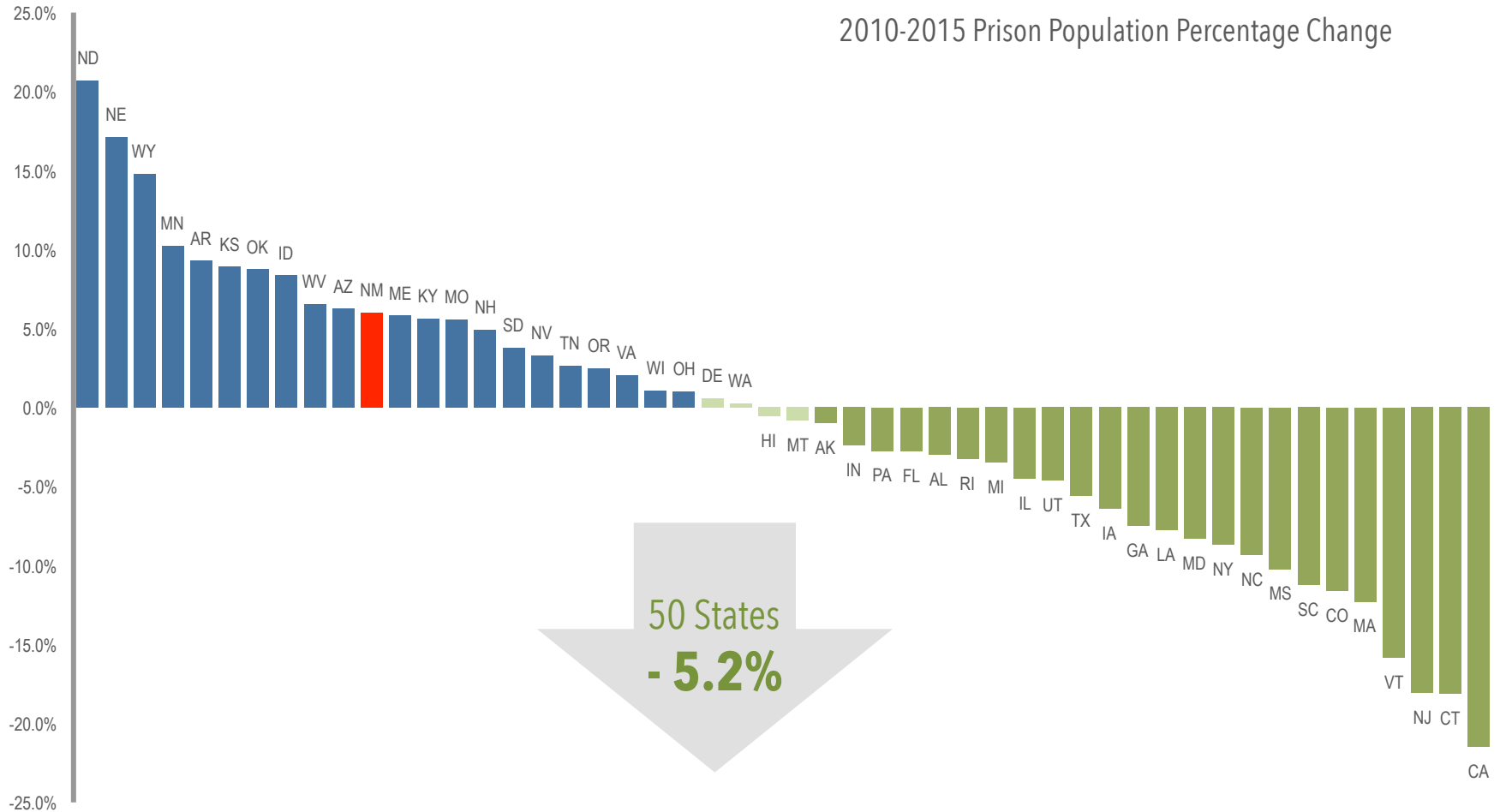
<https://ucr.fbi.gov/crime-in-the-u.s./2015/crime-in-the-u.s.-2015/tables/table-5>

New Mexico's imprisonment rate is 335 per 100,000 while the national average is 402 per 100,000.

Supervision Rates	New Mexico	U.S.
Probation	946	1,522
Parole	182	350



But New Mexico is among states that have seen prison population percentage growth since 2010.



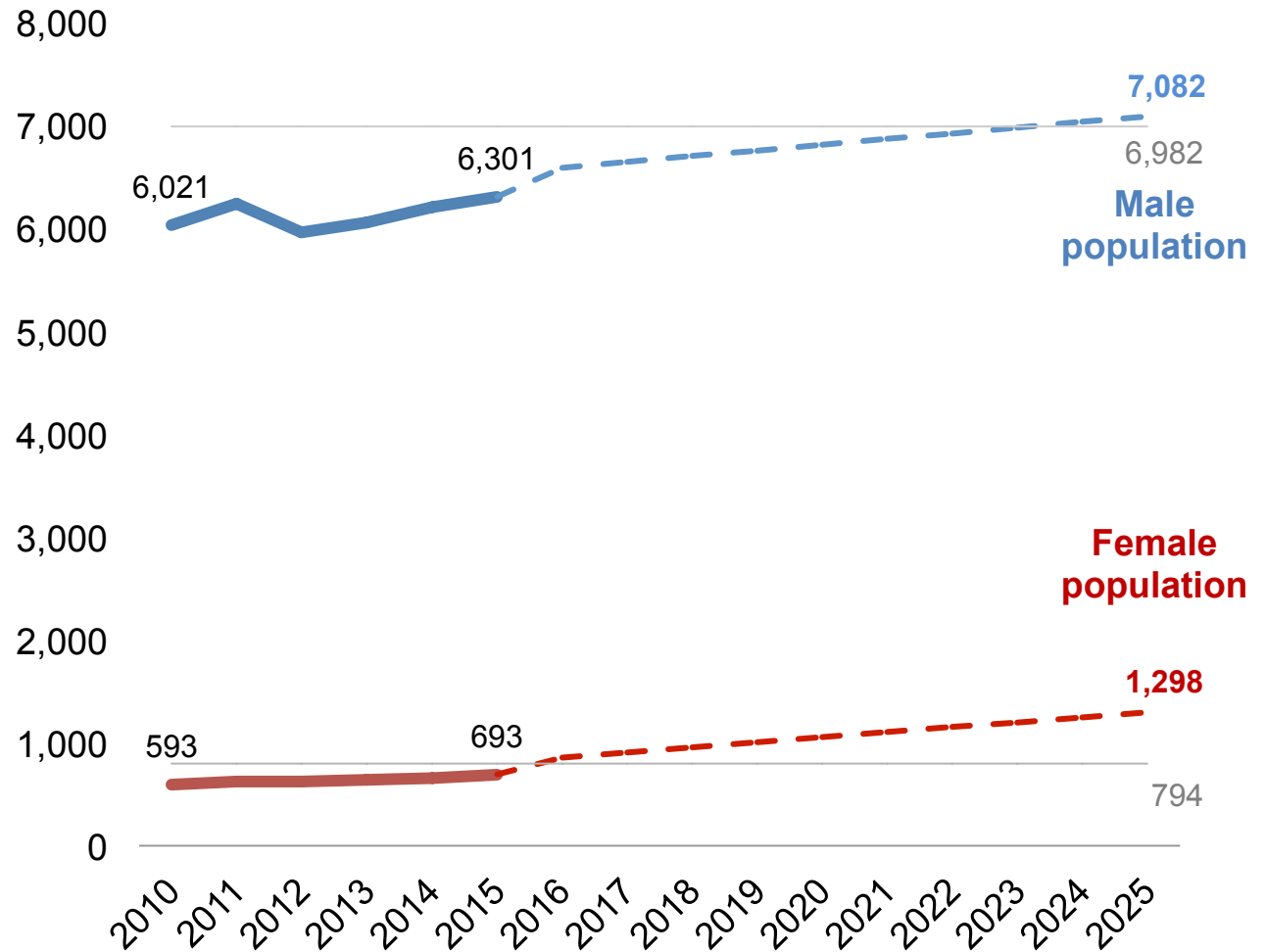
Source: BJS, Prisoners series using 2010 and 2015 data

New Mexico's female prison population increased 17% between 2010 and 2015 and is projected to exceed capacity in FY 2018.

The prisoner population increased 6% between 2010 and 2015

The male prison population increased 5%, from 6,021 to 6,301

The female population increased 17% from 593 to 693



Source: BJS Prisoners in U.S. 2011, 2015

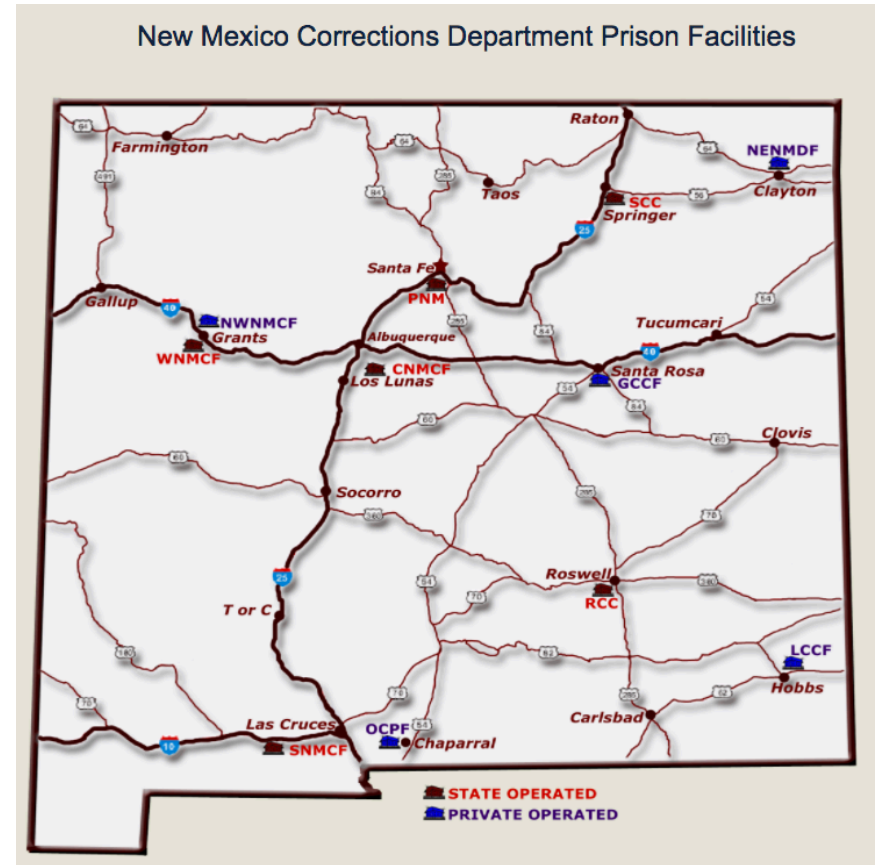
New Mexico relies heavily on privately-operated correctional facilities, particularly for women.

State Operated Capacity 3,846

- Penitentiary of New Mexico, Santa Fe (864)
- Central New Mexico Correctional Facility, Los Lunas (1,226)
- Southern New Mexico Correctional Facility, Las Cruces (768)
- Western New Mexico Correctional Facility, Grants (352)
- Roswell Correctional Center (340)
- Springer Correctional Center (296)

Privately Operated Capacity 3,928

- New Mexico Women's Correctional Facility, Grants (792)
- Lea County Correctional Facility, Hobbs (1,279)
- Guadalupe County Correctional Facility, Santa Rosa (601)
- Northeast New Mexico Detention Facility, Clayton (626)
- Otero County Prison Facility, Chaparral (630)



Sources: New Mexico Corrections Department Website <http://cd.nm.gov/apd/facilities.html> last visited 2/9/2017;


Recent analysis estimates 300+ individuals in prison are eligible for controlled release 12 months prior to parole eligibility.

The New Mexico Sentencing Commission found that more than 333 individuals would be eligible for controlled release between October 2016 and September 2017. More than one-third of these individuals are incarcerated for a drug offense.

Offense Type	Total	
Other Offenses	6	2%
Other Public Order	4	1%
Judicial Interference	14	4%
Drug Possession	124	37%
Other Property Offenses	10	3%
Stolen Property	10	3%
Fraud	38	11%
Arson	3	1%
MV Theft	7	2%
Larceny Theft	48	14%
Burglary	68	20%
Total	332	

Source: New Mexico Sentencing Commission: Estimated Number of Offenders in New Mexico Corrections Department Facilities in October Eligible for Controlled Release, 2016

**NEW MEXICO
SENTENCING COMMISSION**



AMIR CHAPEL

FALL 2016

**Estimated Number of Offenders in New Mexico
Corrections Department Facilities in October Eligible for
Controlled Release**

The New Mexico Corrections Department provided the following response to this analysis:

"In the face of a growing inmate population and limited resources, but through the lens of true public safety, the Department will remain open to all reasonable options for the transition of offenders back into the community. Based upon review of current opinions relating to the Department's custody under the controlled release statute, any such release at this time is not reasonable or realistic for three significant reasons.

First, while the Department continues to move forward with its efforts to implement a global risk and needs assessment for its offenders for better assessing and programming offenders remanded, by the courts to its custody and control, the Department's efforts in this regard have unfortunately not yet been funded by the New Mexico Legislature. To best inform its decisions relative to the most recent and relevant science available, the Department will require a more comprehensive screening and approval process to guide its judgment in balancing the release of candidates with its public safety mission.

Second, New Mexico has grown to recognize its inadequate transitional support and community based treatment infrastructure for offenders completing their prison sentences and returning to our communities. Specifically, the state lacks the statewide availability of drug/alcohol treatment, transitional living centers, and half-way houses to aid in the safe transition of all offenders, to include but not limited to those controlled release offenders outlined in the study. Accordingly, releasing these offenders abruptly and directly to the streets of New Mexico is not in the best interests of public safety, the state's economy, or the offenders themselves.

Finally, it is important to remember that offenders within twelve months of eligibility of parole, who are eligible for Community Corrections controlled (early) release, are still serving the last year of their original sentence as ordered by New Mexico judges. While judges have complete judicial immunity for their decisions and actions, the law provides no such immunity or protection to the Corrections Department for its early release decisions. As stewards of the state's resources, and given the potential impact of our current lack of a more comprehensive risk and needs assessment coupled with the state's current inadequate community based programming and treatment infrastructure, exposing the state to greater litigation via the controlled release statute would not appear to be reasonable.

In closing, while the law gives the Department the authority to release certain offenders, the Department will not arbitrarily exercise its authority in a vacuum. The Department instead must and will continue to reasonably manage its facilities and offenders through the lens of public safety."

This analysis by New Mexico Sentencing Commission (NMSC) staff is an estimate of the number of individuals in New Mexico Correction Department (NMCD) facilities who might be eligible for controlled release (1978 NMSA 33-9-5, Adult Community Corrections Act). Nine previous estimates have been published by the NMSC. The methodology we use to provide this estimate is identical to what has been used in the previous estimates.

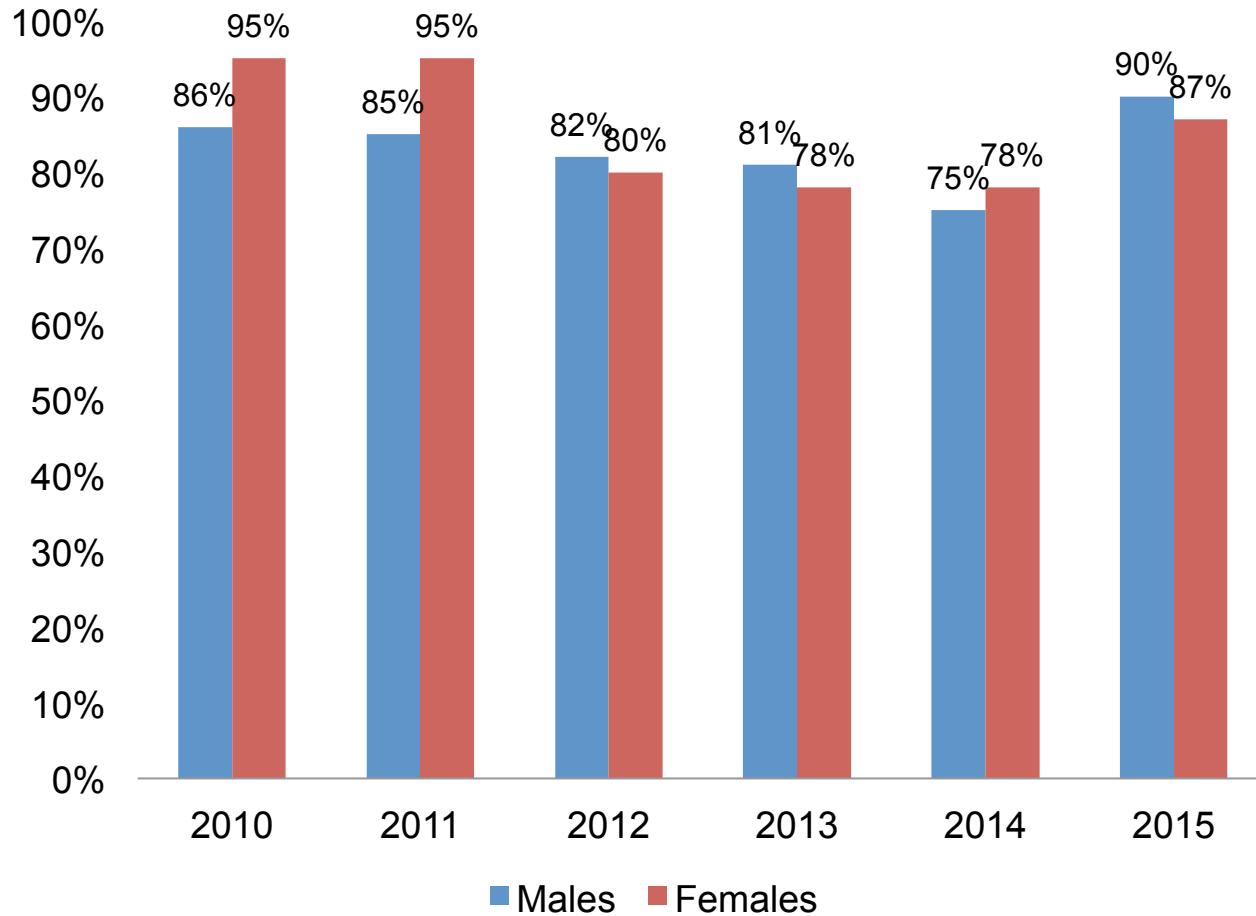
The NMCD may place offenders who are within twelve months of eligibility of parole in community-based settings, provided they have never been convicted of a felony offense involving a firearm. No other criteria have been established regarding eligibility for this type of controlled release program.

This analysis of offenders sentenced to prison in New Mexico and eligible for controlled release is derived from information provided to the New Mexico Sentencing Commission by the New Mexico Corrections Department. At the request of the NMSC, NMCD staff provided several different Microsoft Excel files that contain information on offenders released by calendar year; offenders admitted by calendar year; and offenders confined on a particular day. The information reported here comes from the confined file, which contains information on 7,118 inmates who were confined on June 30th, 2016.

The file contained a number of variables for each offender including their projected release date (release date assuming all future earned-time will be awarded), their flat time release date (this field represents the absolute latest day the offender will be released), the most serious charge (this field describes the most serious offense the offender is currently serving, even if it is not his/her longest sentence), the type of offender (parole violator technical, parole violator new charge, probation violator technical, probation violator new charge, new court commitment, escapee returned, etc.), final custody level (this field represents the offender custody level placement after overrides), and earned type class (this field represents the number of earned time days per month the offender is eligible to receive).

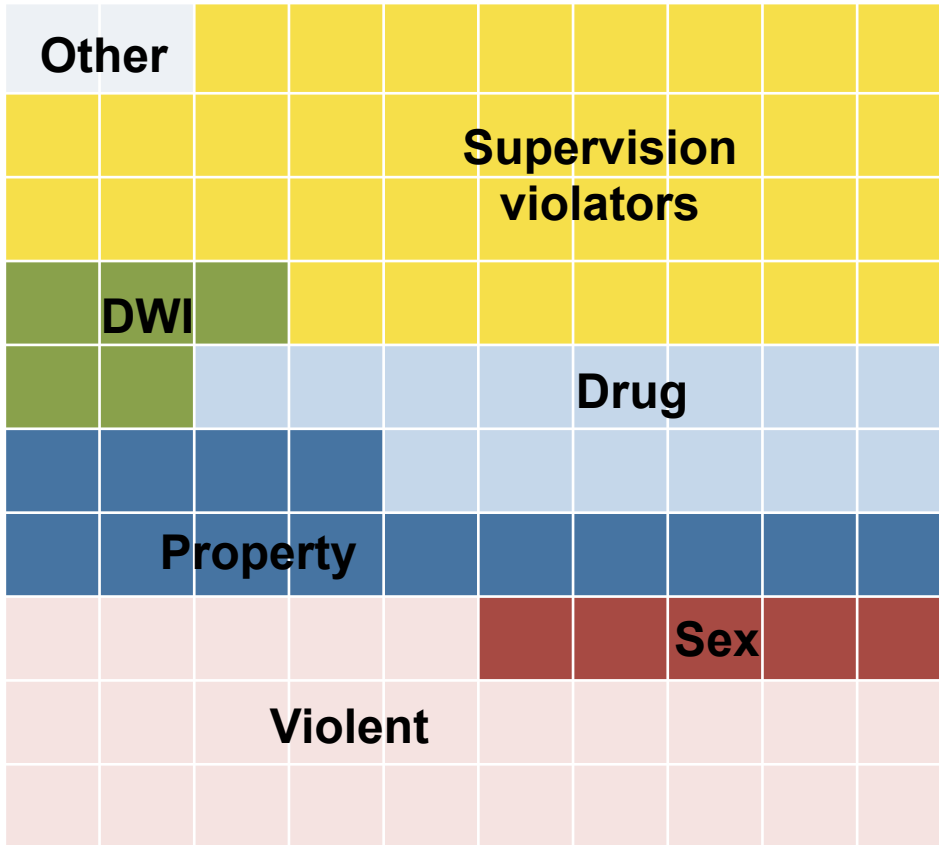
Scheduled release dates are achieved for 9 of 10 inmates.

Percentage of people released in accordance with their scheduled release date
2010-2015



Source: New Mexico Corrections Department Annual Report, 2014-2015

64 percent of prison releases in FY2015 were people incarcerated for a supervision violation, property offense, or drug offense.



In FY2015, 466 men were released from New Mexico prisons a total of 542 times

- 36% were incarcerated for a supervision violation
- 25% were incarcerated for a violent offense
- 5% were incarcerated for a sex offense
- 14% were incarcerated for property offenses
- 14% were incarcerated for drug offenses
- 5% were incarcerated for a DWI

Source: Time Served in New Mexico Prisons, FY2015

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What is Justice Reinvestment?



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**

Justice reinvestment prioritizes public safety.

“**Reduce recidivism**” means people who commit crimes are held accountable, receive the intervention needed to change the behavior, and do not reoffend.

“**Repair harm**” means victims are safe, have access to help, understand how the criminal justice system works, see accountability, and heal.

“**Prevent offenses**” means a state uses policing strategies and public safety approaches to decrease crime and violence, not just *reported incidents* of crime.

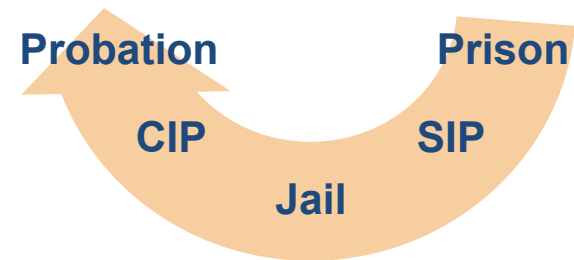
“**Build trust**” means communities heavily impacted by crime and incarceration are supported, and conditions of distrust are directly addressed.



Justice reinvestment policies most often aim to reduce risk of recidivism.

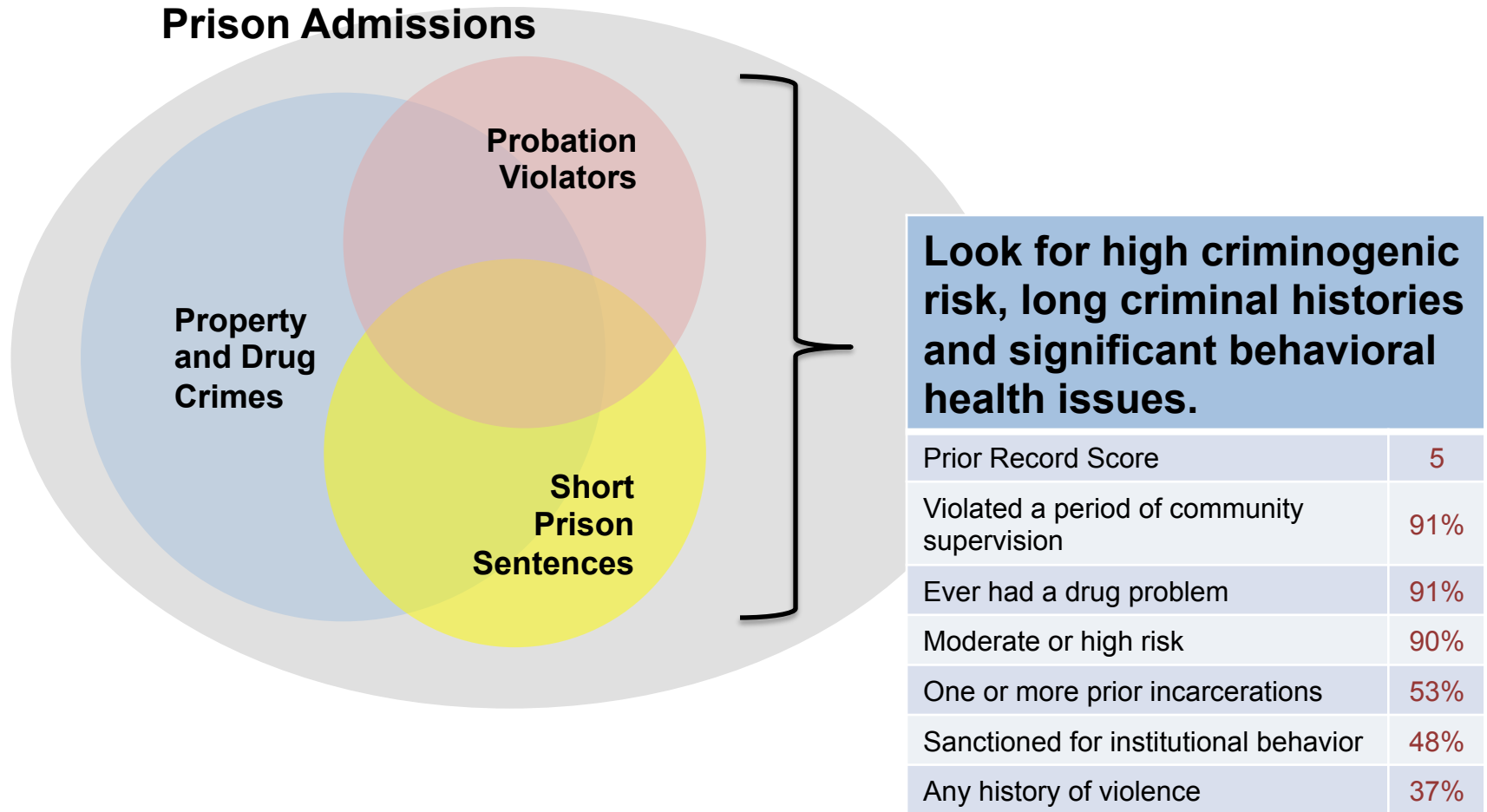
How do we increase the odds of interrupting criminal behavior across a broad population during the pretrial period, while on probation, and during incarceration?

- Early assessment
- Shift sentencing paradigm to include risk reduction
- Strengthen supervision with a continuum of interventions to cause behavior change
- Respond effectively to violations with swift, low-severity sanctions
- Reserve hard beds for dangerous people



Reinvest hard bed savings into pretrial assessment and diversion, supervision, and effective interventions.

For example, sentencing is an opportunity for risk reduction in many cases.



Justice Center analysis of DOC admission data and Pennsylvania Commission on Sentencing data.

Risk reduction at sentencing is best served by information and deliberation -- not the usual m/o.

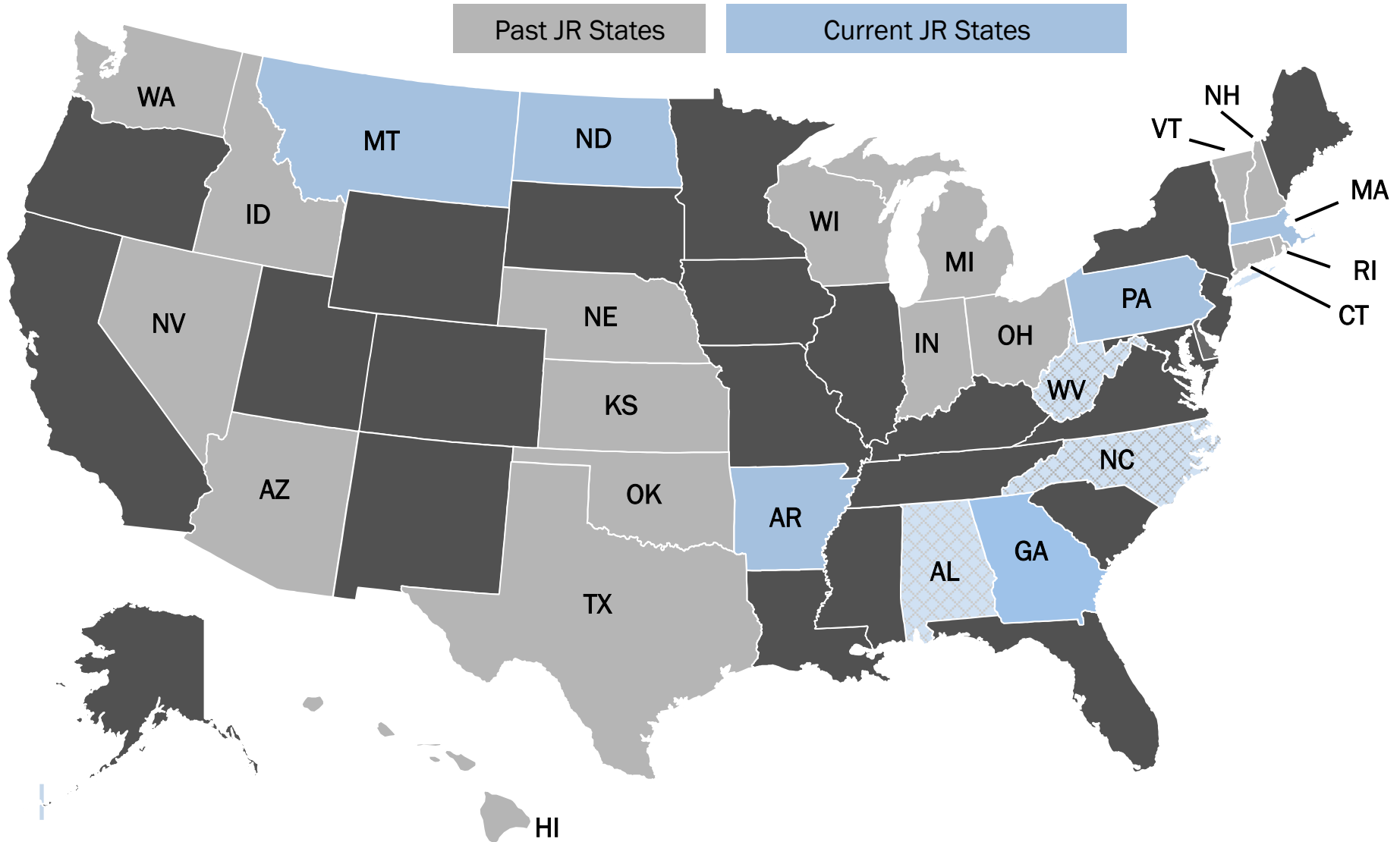
Current Practice

- +/-95% of sentences are resolved by a plea bargain that simply involves amounts of time -- a number for confinement with some assumptions about release, and another number (explicitly or implicitly) for supervision.
- The process is often hasty and oriented toward retribution as measured in time; it may lack needed information and may not focus on the best way to change the defendant's behavior.

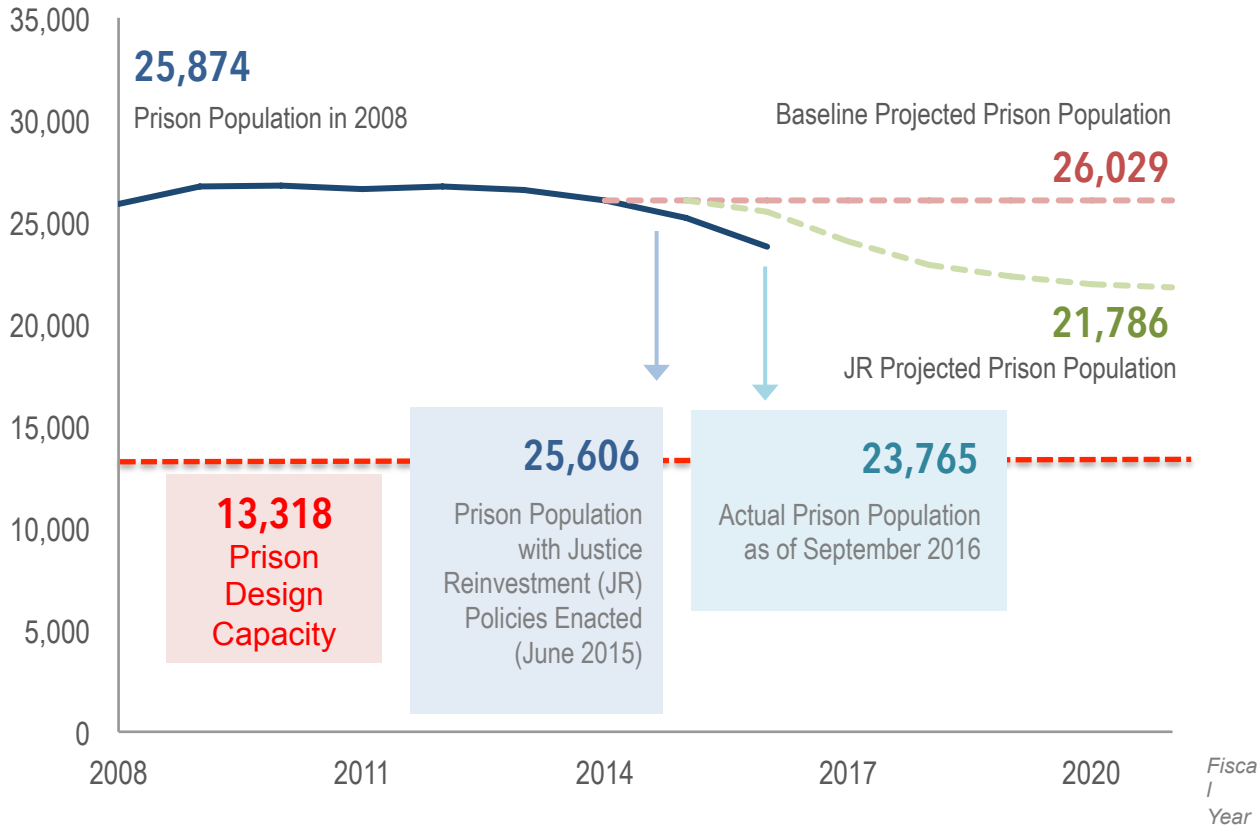
Aspirational Practice

- An explicit effort to shift the paradigm of sentencing at the state policy level, and the culture and practice of sentencing in courthouses around the state.
- Local systems should be challenged and incentivized to innovate a paradigm shift away from just moving cases to more purposeful resolutions, imitating the attention and focus of collaborative or problem-solving courts on a larger scale, and providing greater procedural fairness as well.

Over half of the states have used the JR approach with the CSG Justice Center.



Alabama faced continued prison overcrowding and federal lawsuits before embarking on JR.



PROJECTED OUTCOMES

- \$380M** averted costs and savings by FY2021
- 4,243** fewer people in prison by FY2021
- \$152M** recommended reinvestment by FY2021
- 3,000** more people supervised upon release by FY2021

Source: Alabama Department of Corrections FY2008-2016 custodial prison population, which includes those housed in contract facilities and special program facilities. The baseline population projection assumes no growth or a decline in the prison population

Alabama carved out lower felonies for community corrections programs and required post-release supervision for those who are confined.

PRISON POPULATION

PRISON DIVERSIONS

- ✓ Create a new felony category for the lowest-level property and drug offenses, and require sentences to Community Corrections Programs (CCPs) instead of prison

PAROLE DECISIONS

- ✓ Use objective actuarial tools to inform parole release decisions
- ✓ Mandate that the parole board record and share reasons for parole denial with the person denied parole, victims, and the Department of Corrections

REVOCACTION CAPS

- ✓ Limit certain supervision violations to 45-day lengths of stay in prison, and respond to less serious violations with brief jail detention

REINVESTMENTS

VICTIM SERVICES

- ✓ Complete the development of the electronic victim notification system
- ✓ Expand victim notification regarding releases from prison

COMMUNITY TREATMENT

- ✓ Invest in community-based behavioral health treatment and services for individuals supervised on probation and parole

SUPERVISION WORKFORCE

- ✓ Hire additional probation and parole officers and staff in order to reduce caseloads, and to ensure the use of evidence-based supervision practices

PUBLIC SAFETY

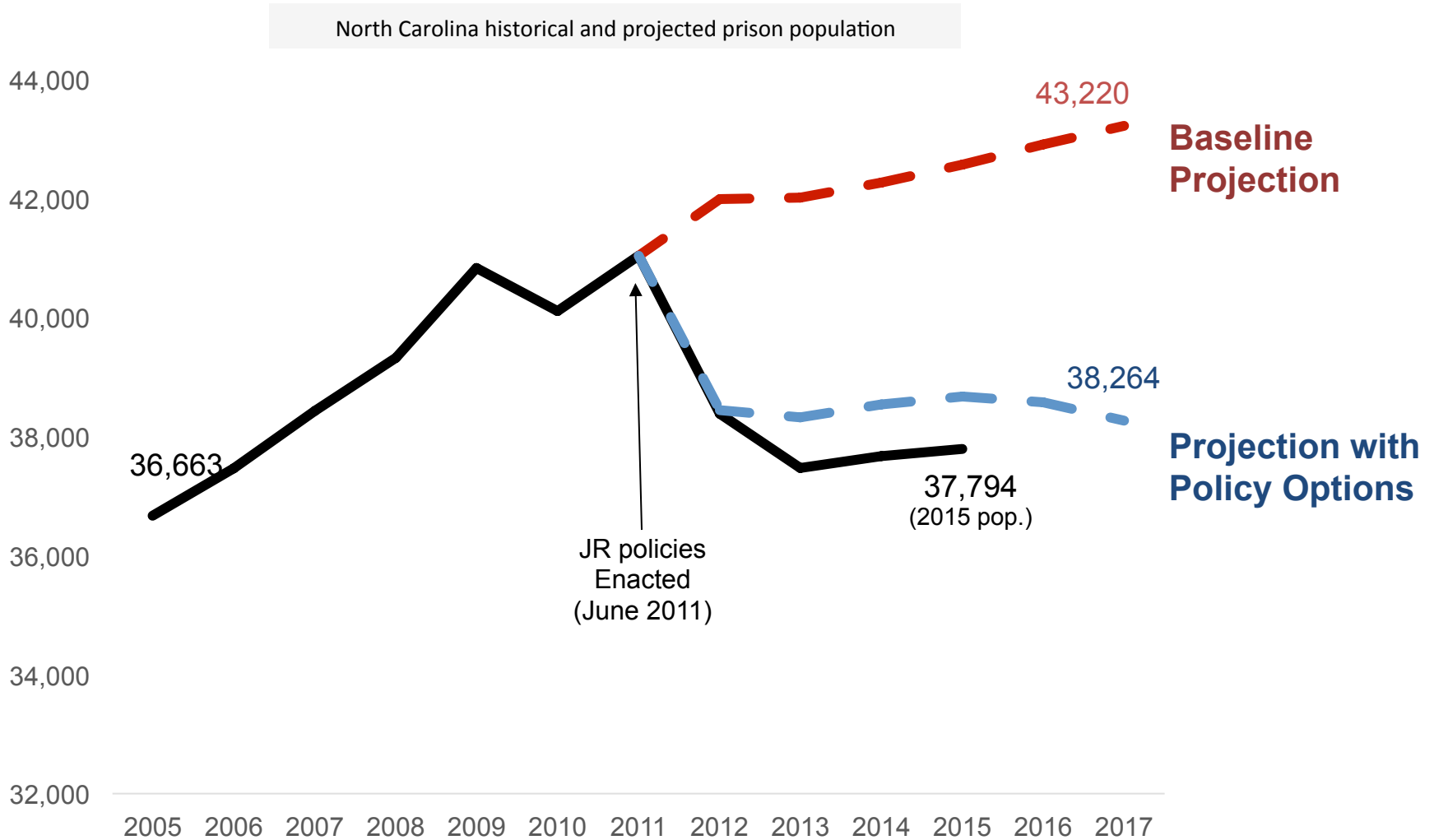
COMMUNITY SUPERVISION

- ✓ Standardize the use of risk and needs assessments in order to focus probation and parole supervision on those most likely to re-offend
- ✓ Require that probation and parole officers receive training in recidivism reduction strategies
- ✓ Improve the quality of Community Corrections Programs (CCPs) by requiring the use of evidence-based supervision strategies

MANDATORY SUPERVISION

- ✓ Require individuals convicted of certain property, drug, and person offenses to serve a guaranteed period of supervision after release from prison or jail

North Carolina's aggressive JR approach generated prison population impacts exceeding the projection.



North Carolina imposed violation sanction caps and boosted supervision by 175 well-trained officers.

PRISON POPULATION

PROBATION SUPERVISION

- ✓ Require that probationers be assessed for risk level, and supervise accordingly
- ✓ Allow for 90-day capped prison sanctions (dunks) for the probation and post-release supervision population in lieu of revocations; such responses must be used at least two times before a revocation is possible for technical violators, excluding absconders

SMCP

- ✓ The Statewide Misdemeanant Confinement Program diverts misdemeanants to county facilities rather than prison to serve out sentences of 91–180 days

REINVESTMENTS

TECS

- ✓ The Treatment for Effective Community Supervision (TECS) prioritizes substance abuse treatment for higher need individuals who are at higher risk of re-offending

PROBATION SUPERVISION

- ✓ Increases number of probation officers by 175 and provides for officer training in evidence-based supervision practices

PUBLIC SAFETY

ADVANCED SUPERVISED RELEASE

- ✓ This program allows judges to impose a sentence that can be reduced in prison for compliance with certain risk-reducing programs

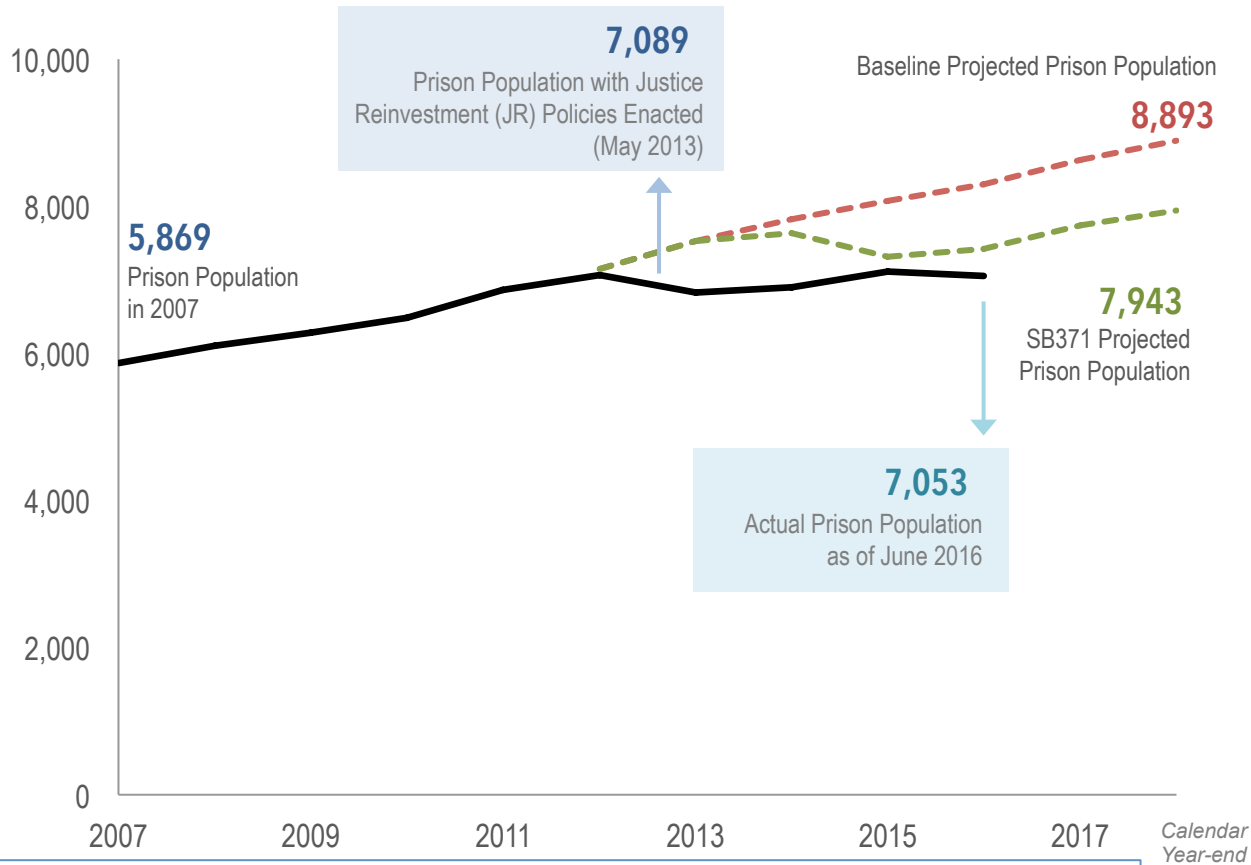
DELEGATED AUTHORITY

- ✓ Allow probation officers to respond to technical violations by imposing swift and certain sanctions of 2 or 3 day jail stays (dips), without first going to court for approval

POST-RELEASE SUPERVISION

- ✓ Require individuals leaving prison to serve a mandatory period of post-release supervision of 9–12 months

West Virginia's prison population decline has also exceeded the JR impact projection.



PROJECTED OUTCOMES

\$287M

averted costs and savings by CY2018

REALIZED OUTCOMES

1,251

fewer people in prison than the FY16 baseline projected population

\$11.1M

reinvested into Treatment Supervision

-26%

drop in delayed hearings by the parole board between CY2012 and CY2015

The crime rate has stayed steady, down 1.5 percent.*

*The change in crime rate is not due to Justice Reinvestment policies, but rather has occurred concurrently with various policy changes.

Source: Estimates and population figures can be found in the CSG Justice Center's "Justice Reinvestment in West Virginia: Analyses & Policy Options to Reduce Spending on Corrections & Reinvest in Strategies to Increase Public Safety." WVDOC provides actual prison population monthly to CSG.

West Virginia policy changes included court rules, statutory changes, and significant new appropriations.

PRISON POPULATION

PRETRIAL RISK ASSESSMENT

- ✓ Require the administration of a pre-trial risk assessment screening tool at booking in a regional jail facility

PAROLE RELEASE AND CORRECTIONS EFFICIENCIES

- ✓ Allow the Division of Corrections (DOC) to implement cognitive behavioral programs for DOC-sentenced individuals confined to regional jail facilities
- ✓ Reduce the number of parole deferrals for individuals lacking a home plan, and hire a director of housing to improve reentry planning
- ✓ Develop comprehensive parole release guidelines to facilitate review of parole-eligible individuals

REINVESTMENTS

SUBSTANCE ABUSE TREATMENT

- ✓ Invest in community-based treatment for individuals supervised on probation, parole, and drug court with substance use treatment needs
- ✓ Ensure effective substance abuse treatment within the state prisons, in order to improve the continuum of services for justice-involved individuals
- ✓ Establish partnerships between corrections and behavioral health agencies at the state and local level
- ✓ Maximize the impact of state reinvestments by utilizing Medicaid and other insurance
- ✓ Allow judges to sentence individuals to intensive supervision and treatment in lieu of prison
- ✓ Expand drug court statewide by 2016

PUBLIC SAFETY

COMMUNITY SUPERVISION

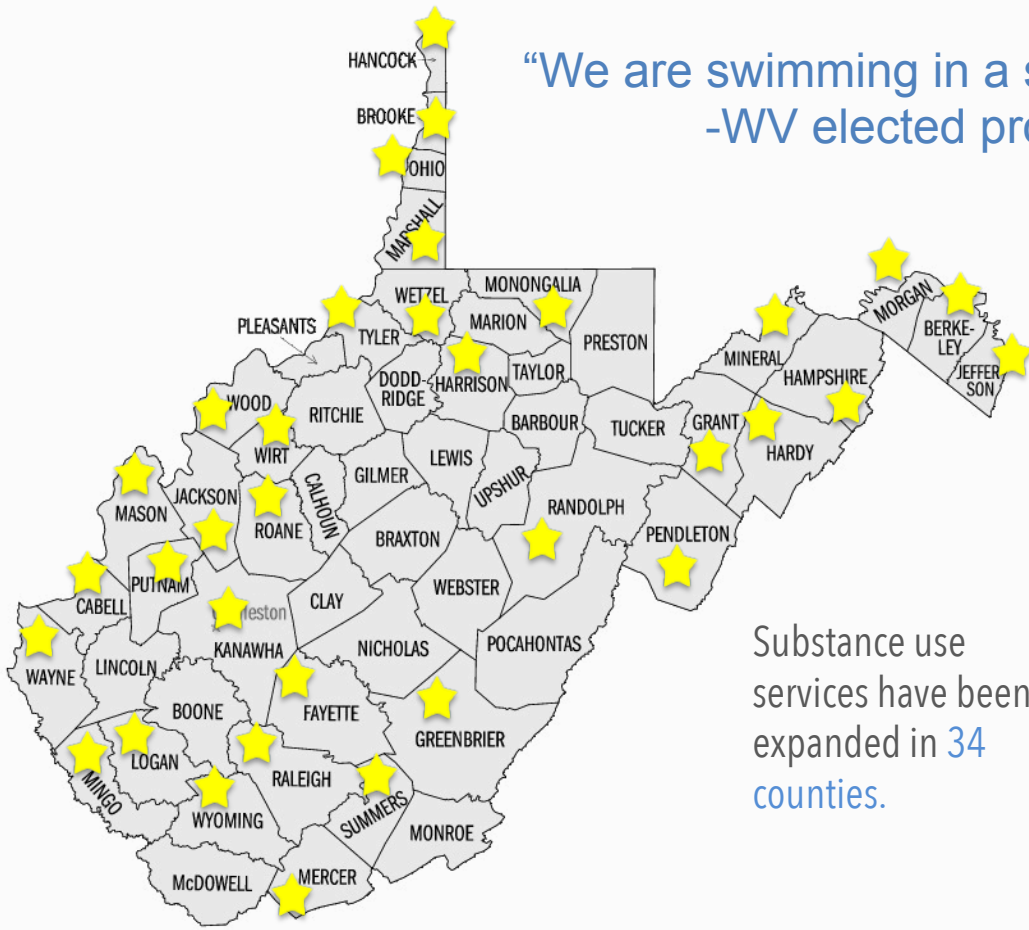
- ✓ Adopt a statewide risk and needs assessment and focus supervision resources on higher risk individuals
- ✓ Focus use of Day Report Centers on higher risk individuals
- ✓ Require mandatory post-release supervision for individuals convicted of certain violent offenses, who are not released on parole

GRADUATED SANCTIONS

- ✓ Respond to violations of supervision with swift, certain, and cost-effective sanctions by implementing graduated sanction responses for individuals on probation and parole, ranging from short term jail stays to 60-day and 120-day prison stays, prior to a full revocation

Since JR the West Virginia legislature has appropriated \$11.1 million for substance abuse treatment for people in the criminal justice system.

“We are swimming in a sea of addiction.”
-WV elected prosecutor



Substance use services have been expanded in 34 counties.

355

people served through Treatment Supervision reinvestment program as of May 2016

336

recovery residence beds expected to be available in 2016/2017

110

recovery residence beds currently available

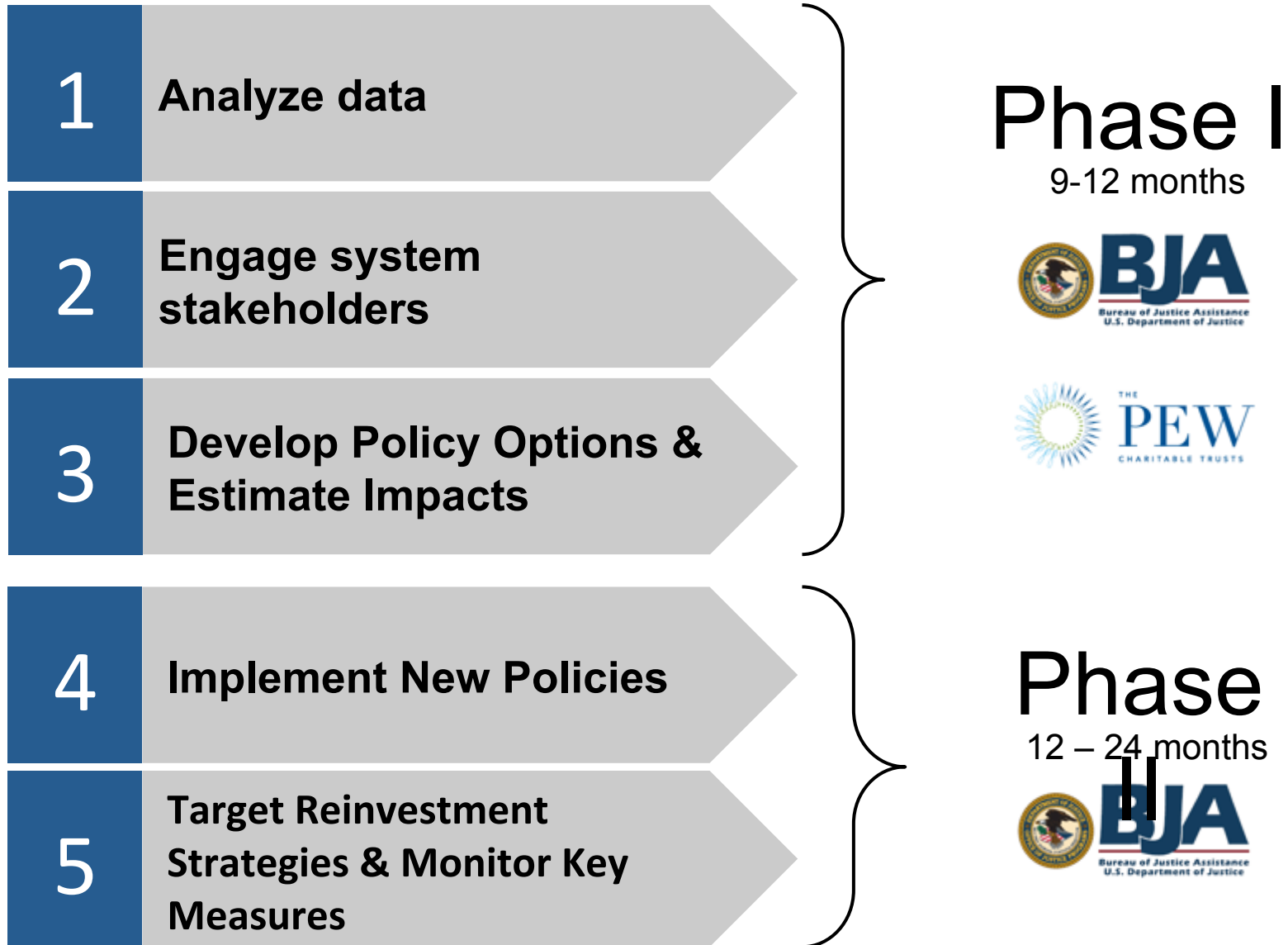
Source: DCJS Sept. 2015 annual JR report. Correspondence with DJCS staff, October 2015 and December 2016.

Overview

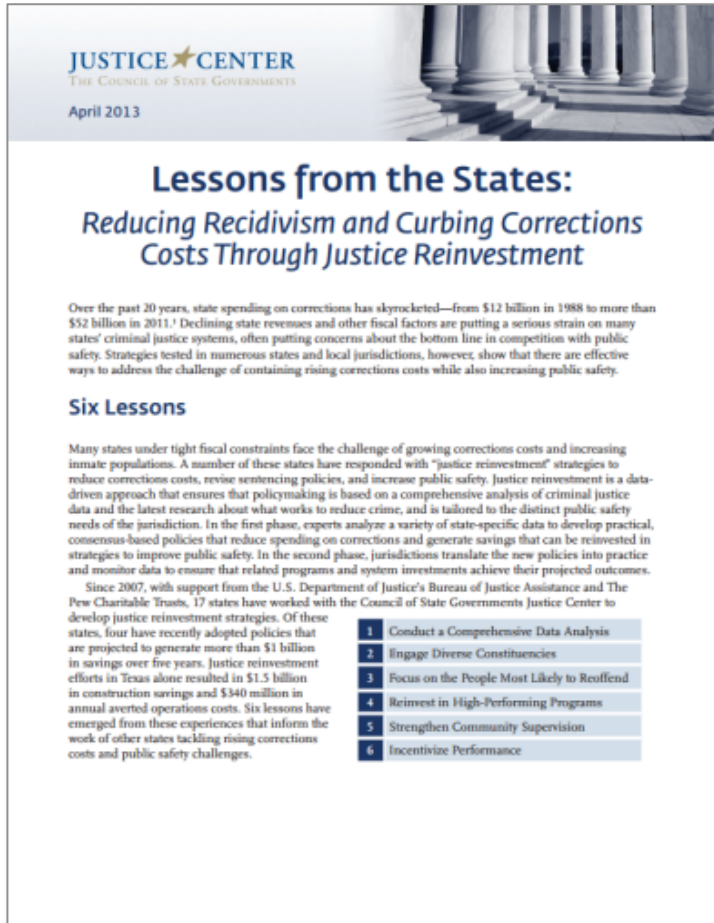
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- 2 Using Justice Reinvestment
- 3 **Moving Forward**



JR can take several years but the first phase is typically one year, culminating in legislative session.



All JR projects have common elements such as strong leadership, quality data analysis, and reinvesting in what works.



Successful criminal justice reform efforts have included:

Strong leadership

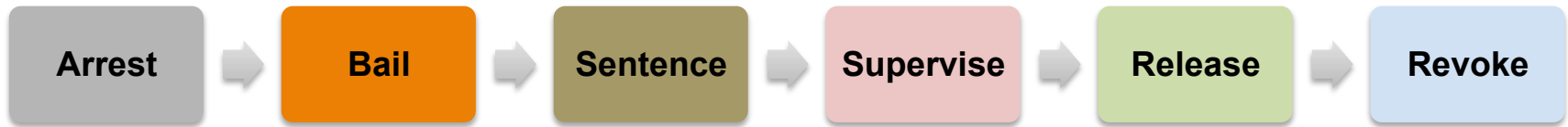
Broad stakeholder engagement

Comprehensive data analysis

Focus on evidence-based practices

Strengthen community supervision

You might frame your work by key decision points and policy goals.



Reduce recidivism

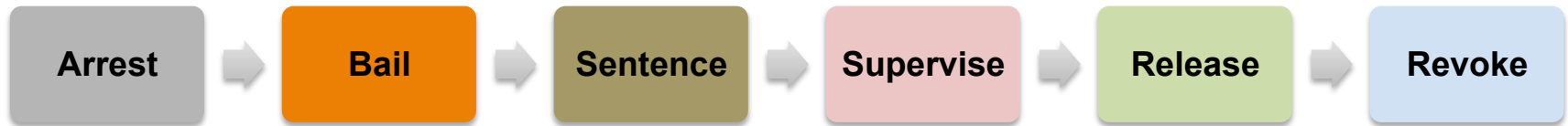
Repair harm

Prevent offenses

Build trust



That frame also helps order the effort to decide on scope, collect data, identify stakeholders, and develop policy ideas.



Data	Victimization Reported crime Arrests	Release eligible MH indicator LOS	Dispositions Durations	Workload BH resources	Approval/ denial rate and reasons	Violations committed Sanctions imposed
People	Victim Defendant Police	Judge Counsel Pretrial	+PO - Pretrial	PO BHT	BPP or Judge	BPP or Judge PO Counsel
Policy (examples)	-Cite -Divert -CIT etc.	-Assess -Defend -Release	-Target the lower third (P & D crimes) -Structure responses	-RNR -BH Treat. -Smart supervision -Incentives & Sanctions	-RNA in release guidelines -Decisions by release readiness, versus retribution	-Structure responses -Credit street time

Moving forward with JR will require planning and consensus among key players.

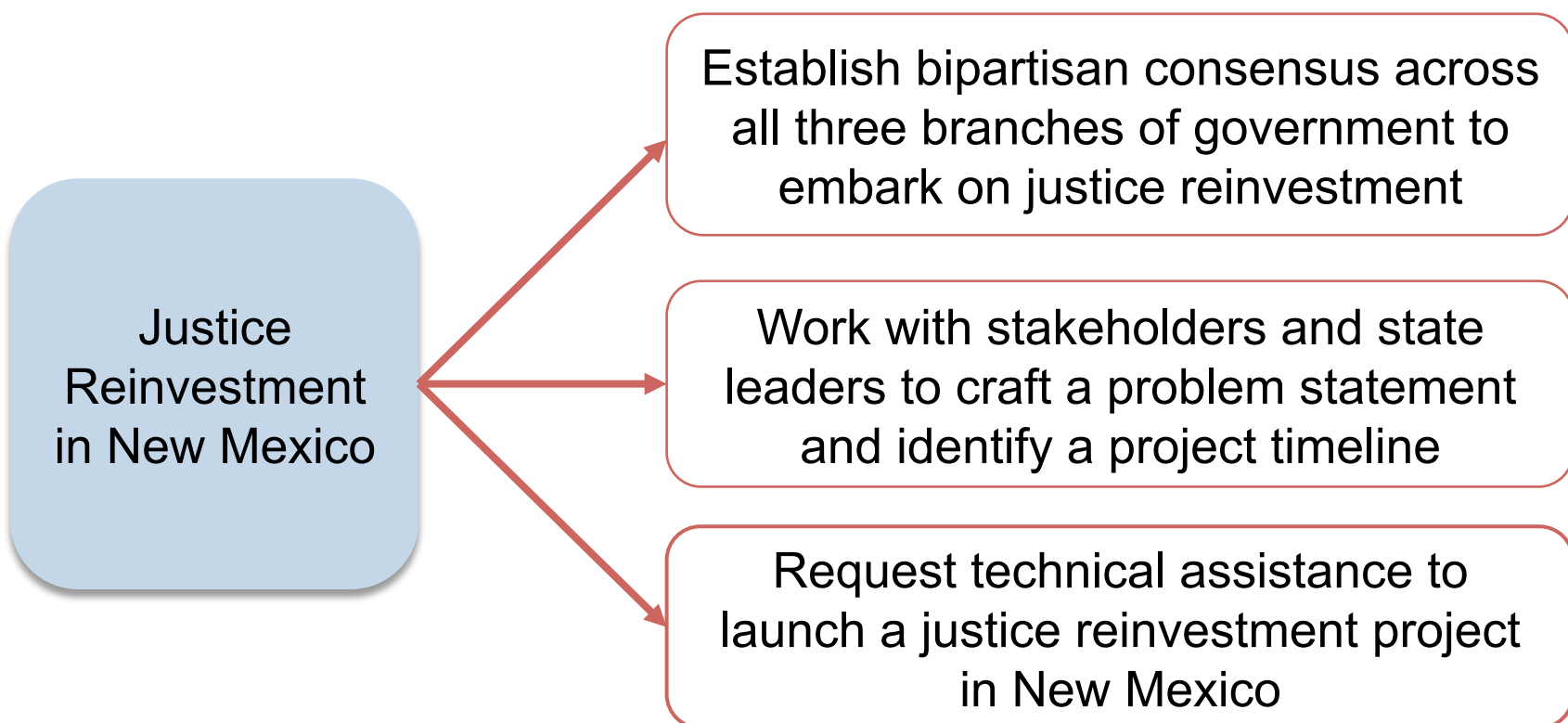
Next steps in pursuing justice reinvestment

Establish bipartisan consensus across all three branches of government to embark on justice reinvestment

Work with stakeholders and state leaders to craft a problem statement and identify a project timeline

Request technical assistance to launch a justice reinvestment project in New Mexico

Justice
Reinvestment
in New Mexico



Thank You

Carl Reynolds
creynolds@csg.org

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