

NOVEMBER 2022



# SM6/HM11 TASK FORCE REPORT

Requested by the New Mexico State Legislature

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Special thanks to HM11 sponsors, **Representatives Micaela Lara Cadena** and **T. Ryan Lane**, and SM6 sponsors, **Senators Steven P. Neville** and **Gerald Ortiz y Pino**

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<sup>1</sup> Jennifer Albright served as the Deputy Director of Administrative Office of the Courts until October 2022 and participated in meetings leading to the release of this report.

<sup>2</sup> Steve Kopelman served as Director of New Mexico Association of Counties until October 2022 and participated in meetings leading to the release of this report.

## EXECUTIVE SUMMARY

### BACKGROUND:

In February 2022, the New Mexico Legislature passed Senate Memorial 6 (SM6) and House Memorial 11 (HM11) calling for an evaluation of the costs, benefits, and feasibility of unifying the jail and prison systems. The legislation requested the New Mexico Association of Counties (NMC) to convene a Task Force including members of NMC, the New Mexico Corrections Department (NMCD), and the Administrative Office of the Courts (AOC) to discuss the prospect of unification and report findings to a legislative committee by December 1, 2022.

To facilitate the SM6/HM11 Task Force process, NMC sought technical assistance from the Crime and Justice Institute (CJI), funded by the Department of Justice Office of Justice Programs, Bureau of Justice Assistance. CJI was asked to support the planning and facilitation of Task Force meetings, conduct research on states with unified systems, assist the group in identifying priorities for recommendations, and organize findings for a presentation to the Legislature.

### PROCESS:

The Task Force convened in Santa Fe four times from April to October 2022. In addition to NMC, NMCD and AOC, members of the New Mexico Sentencing Commission and the Legislative Finance Committee actively participated in Task Force meetings.

### TASKFORCE MEETING TIMELINE

#### APRIL

- Reviewed unified state systems and discussed opportunities and drawbacks of unification
- Brainstormed outstanding questions and information needed to consider unifying

#### JUNE

- Considered lessons learned from unified systems
- Discussed top challenges faced by justice partners in NM
- Developed a shared vision for NM justice systems

#### AUGUST

- Identified system areas and challenges to prioritize prior to restructuring state and local justice systems

#### OCTOBER

- Developed clear recommendations for making improvements to the top system priority areas

## OUTCOME:

The Task Force **does not recommend unification of New Mexico's corrections systems**, concluding that unifying New Mexico's county detention and state prison systems, **at this time**, is not a responsive solution to the specific challenges faced by criminal justice partners. This finding should not preclude future considerations of regionalization or unification of certain aspects of detention and corrections. The Task Force has determined there are many challenges at the state and local levels that unification cannot resolve and must be properly evaluated and addressed before state leaders should contemplate structural changes to and within the systems.

This report includes a snapshot of New Mexico's criminal justice system, an overview of states with unified jail and prison systems, and a review of the key findings and recommendations developed during this process.

The Task Force encourages state leaders to prioritize efforts in the following system areas to mitigate challenges currently experienced by state and local criminal justice partners:



Information  
Systems & Data  
Sharing



Behavioral Health  
Resources - Support  
in Communities



Training & Unified  
Practices Across  
Agencies



Cross-Agency  
Collaboration &  
Communication



Connectivity  
& Internet  
Bandwidth



Funding &  
Resource  
Allocation



Behavioral Health  
Resources -  
Support in Custody



Staffing &  
Workforce  
Development



Population  
Tracking &  
Trend Analysis

## NEW MEXICO SNAPSHOT

**Legislative Context:** Over the past several years, conversations related to criminal justice policy and system improvements have found traction in the Roundhouse. Since 2019, the Legislature has decriminalized possession of marijuana paraphernalia, legalized marijuana for personal use, funded a data-sharing network for participating criminal justice and behavioral health agencies, funded the RISE program to provide clinical services in detention facilities, in addition to debating several other adjustments to system operations and policy.

**Crime Trends:** Publicly available reports show overall declines in crime rates each year from 2018 through 2020, with an average yearly decline of eight percent.<sup>3i</sup> These declines were driven by reductions in both violent and property offenses, with particularly steep declines for both violence (-6 percent) and property offenses (-11 percent) in 2020.<sup>4</sup>

**Prison Populations:** New Mexico's prison population has also decreased since 2018, with both admissions to prison for parole violations and for new offenses across all charge types decreasing since 2017. Demographic trends from the most recent Sentencing Commission forecast report indicate the male prison population will continue to decline over the next decade while slight increases are expected for the female prison population.<sup>ii</sup>

While declines in the prison population began prior to the COVID-19 pandemic, more releases combined with fewer admissions during this period hastened the downward trends. During the pandemic, NMCD emphasized identifying individuals eligible and appropriate for early release and Probation and Parole sought to avoid returning people to prison for technical violations. As with most other states during the pandemic, new crime case filings declined, and the judiciary experienced a backlog in processing cases due to court closures.

It is still too soon to determine the pandemic's long-term effects on New Mexico's prison population. For example, the state's total prison population increased by around one percent each year over the decade prior to 2018. Between 2018 and 2019, however, this trend shifted downward with an approximate four percent decline in population each of those two years.

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<sup>3</sup> Due to gaps in data collection and the ongoing transition to the National Incident-Based Reporting System (NIBRS), the most recent official crime data are insufficient to compare to 2021 trends with prior years. As an example, at the time of this report only 33 percent of New Mexico's 128 law enforcement agencies had reported their 2021 crime data compared to 95 percent of the state's agencies that reported in 2020.

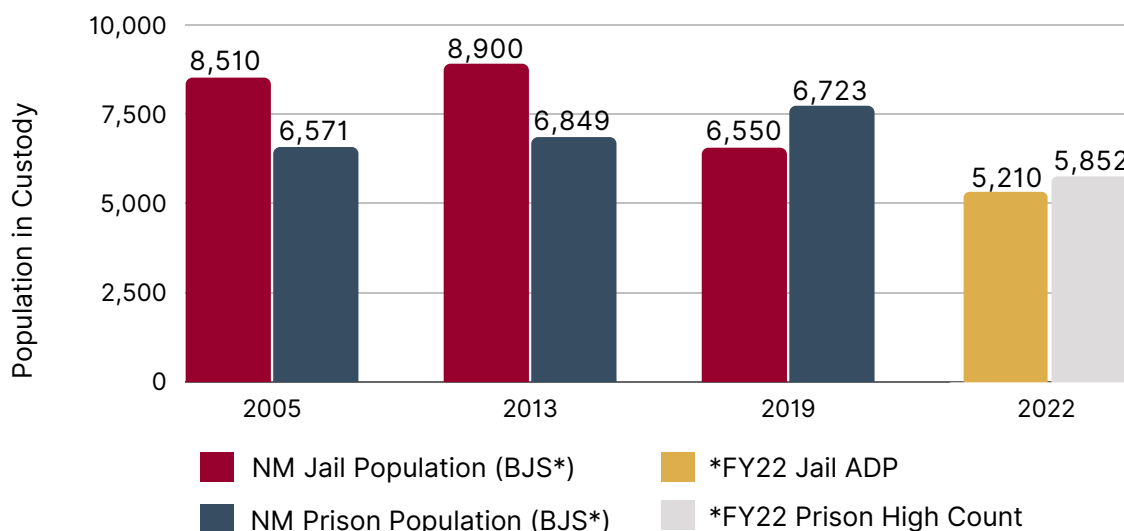
<sup>4</sup> Violent offenses include murder, rape, robbery, and aggravated assault. Property offenses include burglary, larceny-theft, and motor vehicle theft.

In 2020, due to pandemic-related changes, there was an 18 percent drop in the state's prison population in just one year.<sup>iii</sup> With consistent declines since 2018, the prison population data indicate this trend may continue for males but not for females.<sup>iv</sup> Still, the lack of clarity about what contributed to declines prior to the pandemic, along with changes since the pandemic, warrants deeper analysis of causes of these trends so state and local leaders can understand future trends as well as policy and funding needs.

**Jail vs. Prison Populations:** New Mexico is among the few states where the number of people in jails has historically been greater than or very close to the number of people in prisons. The number of unconvicted individuals in New Mexico jails is also uncommon. The state ranked third highest in the country in 2019, behind only Illinois and North Carolina, with 83 percent of the jail population awaiting court action on a current charge or being held for other reasons while unconvicted.<sup>v</sup>

Official reports of state-level jail populations are infrequently published, limiting year-to-year comparisons; however, Figure 1 displays the most recent publicly available data, supplemented by NMC jail population data, showing a clear trend that the state's jail population was on the rise after 2005 but declined both prior to and since COVID-19. There were around 5,200 individuals in custody in fiscal year 2022 compared to 8,500 in 2005.<sup>vi</sup> These jail numbers in Figure 1 are shown in comparison to New Mexico's prison population, which historically was comprised of fewer individuals than county jails. This gap has narrowed since 2019 according to population estimates.

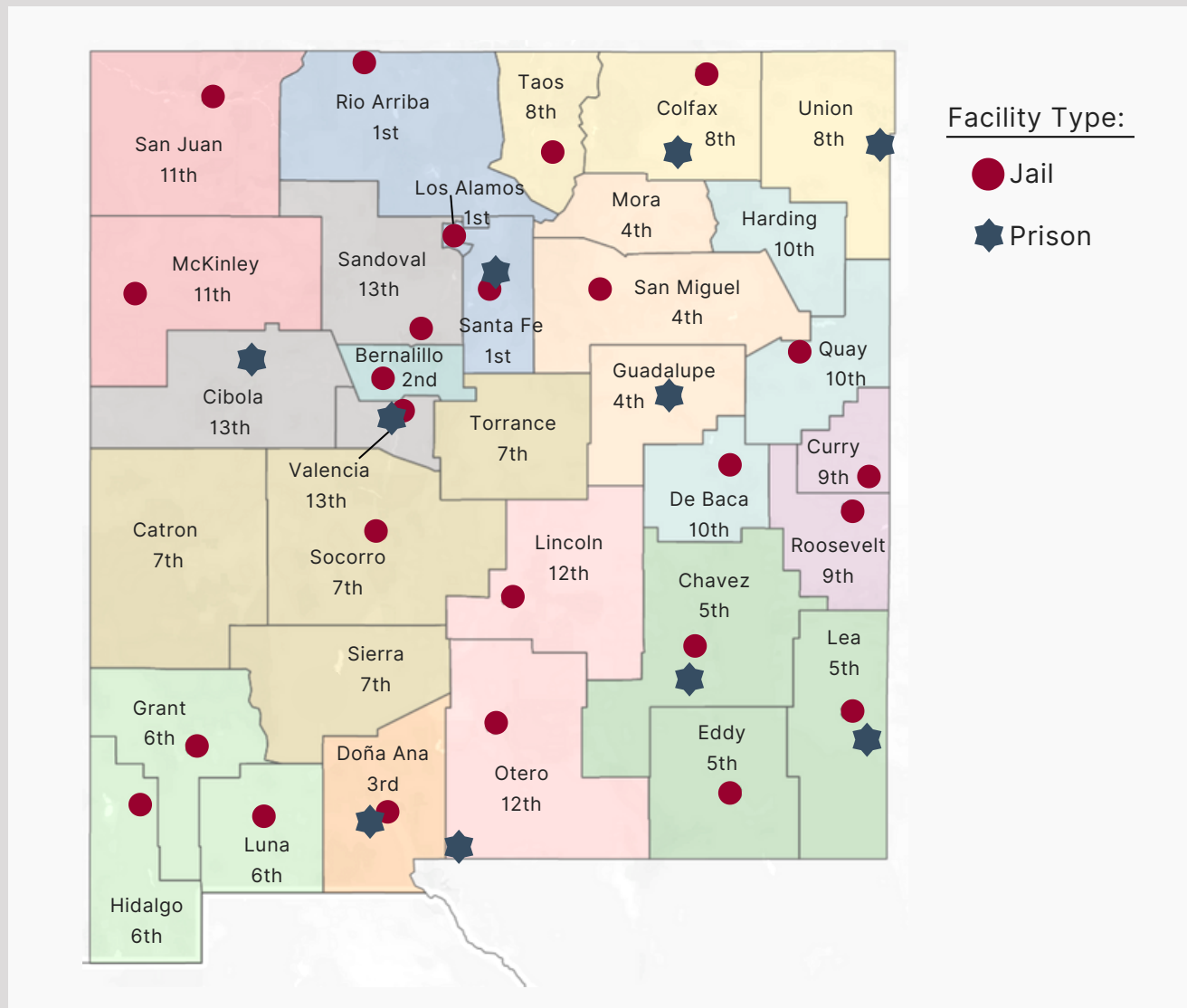
Figure 1. Comparison of Jail vs. Prison Populations in New Mexico



\*Note: Direct comparison of 2022 populations to prior years is cautioned. Data for all years except 2022 were obtained from Bureau of Justice Statistics (BJS) reports. Jail populations for 2022 were provided by NMC and calculated as the sum of each jail's average daily population (ADP). The 2022 prison estimates are the sum of male and female high counts, as reported by New Mexico Sentencing Commission, thus likely closer to the jail population than indicated in this graph.

In October 2022, there were 25 adult county detention facilities<sup>5</sup> and 11 prisons across the state's 33 counties. One county jail (Lincoln) and two male prisons were privately operated, compared to 24 county-run jails, seven state-run male prisons, and two state-run female prisons. As for the geographic distribution of facilities, six counties (Chaves, Colfax, Doña Ana, San Juan, Santa Fe, and Valencia) had both a county jail and a state prison. Lea County and Otero County operate county jails and house the two private prisons in the state. Three other counties (Cibola, Guadalupe, and Union) have no jail facility, but each has a state prison, with Cibola County hosting two separate facilities at Western New Mexico Correctional Facility, one for men and another for women. Five counties (Catron, Mora, Harding, Sierra, and Torraine) have neither an adult prison nor a detention facility.

Figure 2. New Mexico Adult Jail & Prison Facilities by County and Judicial District, FY22



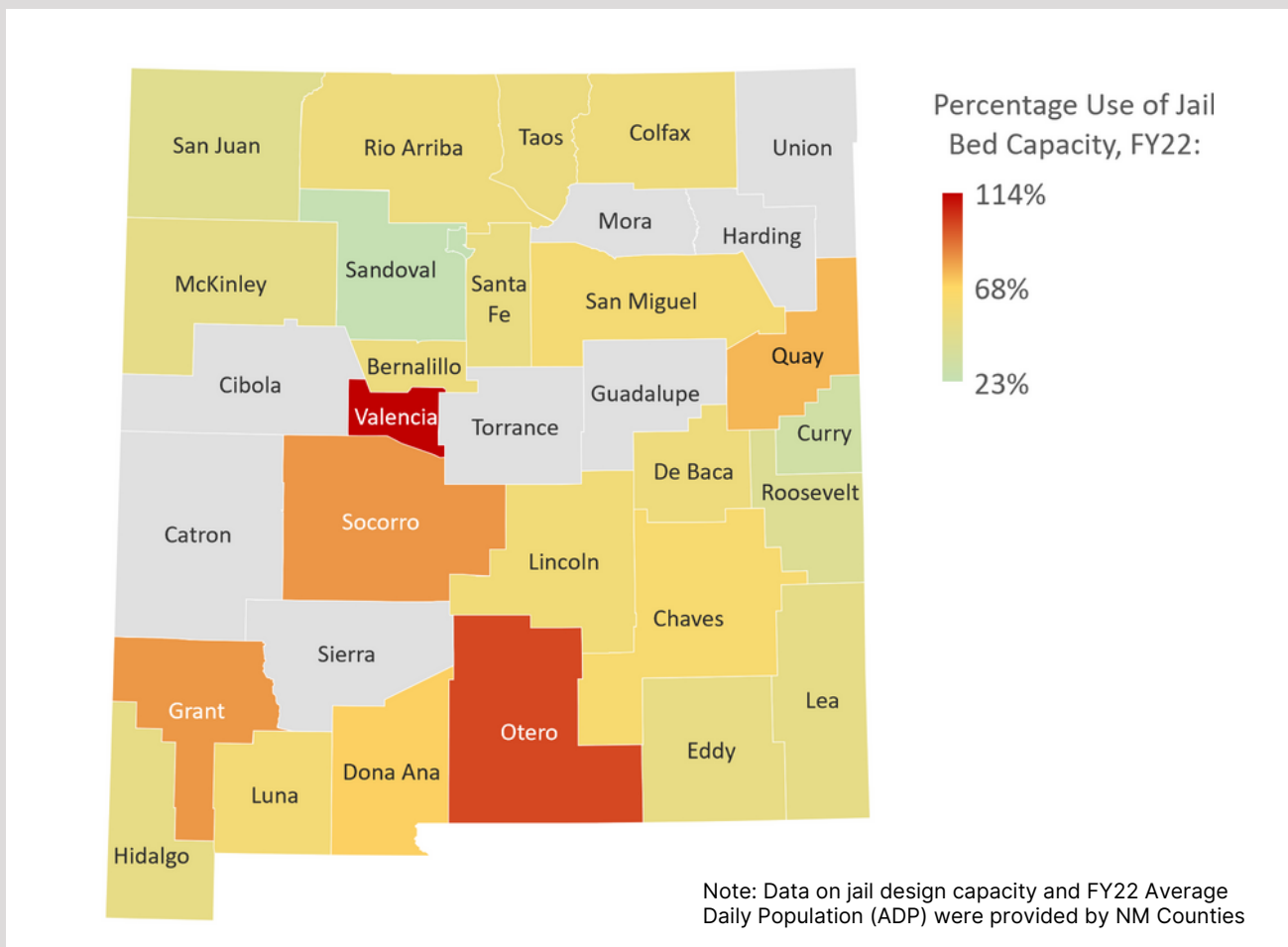
<sup>5</sup> The Task Force did not include municipal facilities (e.g., city jails) in the scope of its work.



**System Costs:** The grand total detention budget reported by 25 counties for FY22 was just over \$282.5 million, with 9,224 beds statewide. An estimated annual cost per jail bed was \$30,628 in FY22, or around \$84 per day if every available bed was utilized each day. In FY22, an average of 55 percent of available jail beds were used on any given day, raising the average daily cost to \$186 per bed. All but three of the 25 counties projected increased detention budgets for FY23, for a grand total near \$315.6 million — an increase of over \$33 million from FY22.

The FY22 operating budget for NMCD’s 11 prisons was just under \$364 million, with a total prison capacity of 7,645 beds.<sup>6</sup> An estimated annual cost per available prison bed was \$47,609 (\$130 per day) in FY22. The average daily bed cost for FY21 was \$135. FY22 estimates are still pending but are anticipated to be slightly higher, around \$150 per bed. For FY23, the annual cost per bed was estimated to increase by \$235, for an annual average of \$47,844 per bed (\$131 per day) and a total FY23 projected budget of just under \$365.8 million – about \$50 million more than detention center projected costs.

Figure 3. Percentage Use of Jail Bed Capacity, FY22

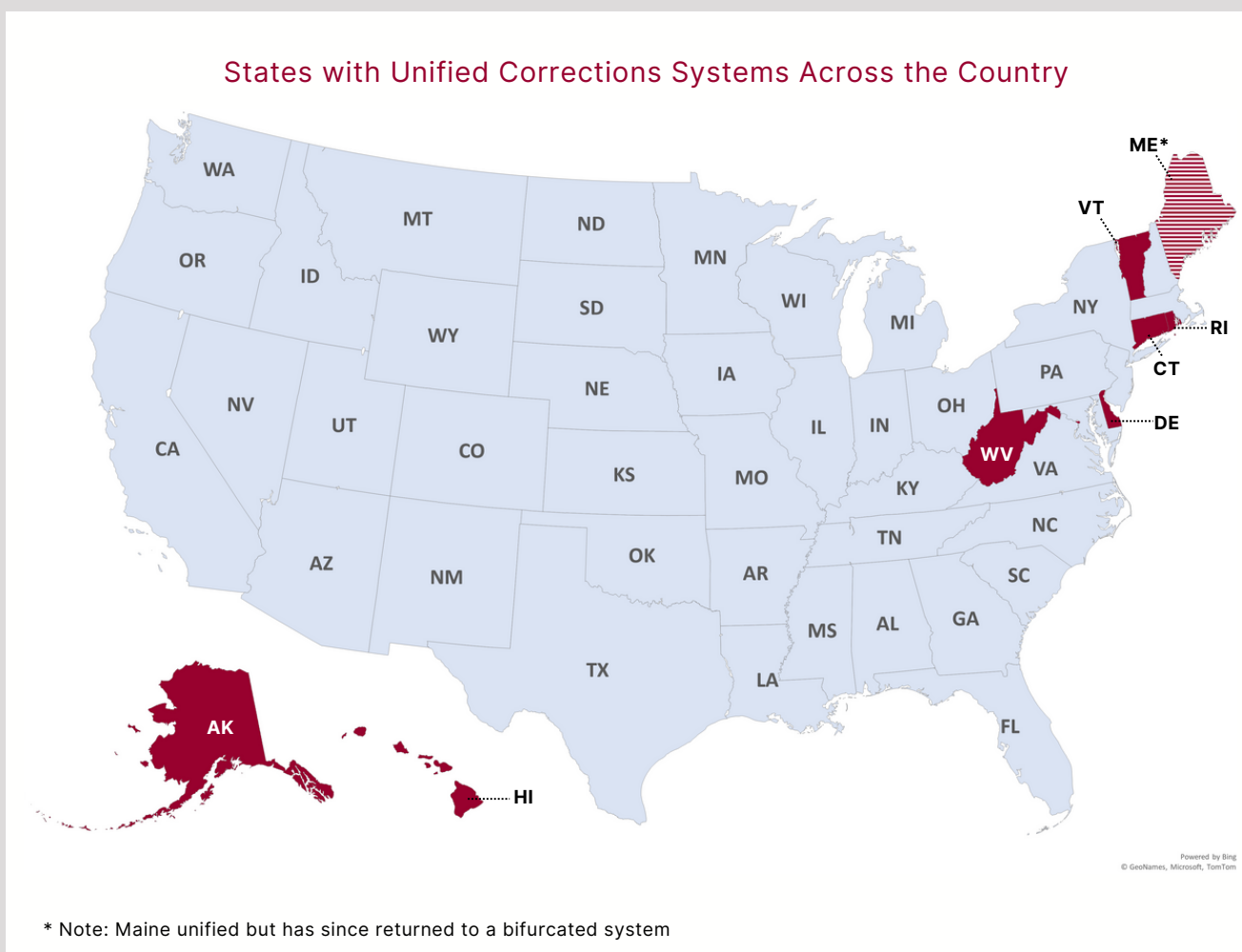


<sup>6</sup> Of the total prison bed capacity, female capacity is 651 beds.

## NATIONAL CONTEXT

Most states in the U.S. have bifurcated systems when it comes to the funding and operation of jails and prisons. Jails are typically a responsibility of counties, while prisons fall under the jurisdiction of the state. Seven states – Alaska, Delaware, Connecticut, Hawaii, Rhode Island, Vermont, and West Virginia – operate unified corrections systems paid for and run by the state. Alaska and Delaware have always operated both corrections and detention centers at the state level, while West Virginia unified gradually, exploring regionalization and incremental levels of unification before merging jail and prison operations under one entity. Maine attempted to unify county jail and prison operations, but dismantled this effort about a decade ago, returning to a bifurcated system.

Figure 4. Map of Unified Corrections Systems in the U.S.



## UNIFICATION IN THE CONTEXT OF NEW MEXICO

As the Task Force reviewed unified state examples, members recognized significant differences between New Mexico and the unified states — a key distinction being the geographic size of most of those states (aside from Alaska) compared to New Mexico. Sharing resources between jails and prisons can be more feasible when the facilities are in close proximity. For a large state like New Mexico, sharing resources among detention and corrections may have added obstacles.

Several states unified their systems long ago, which made it challenging for the Task Force to form realistic expectations from their examples. Members discussed the various challenges New Mexico leaders would need to address to restructure, such as local concerns about consolidating facilities, shifts in funding sources necessary to support this change, and the need to better understand the drivers of incarceration. The group acknowledged that these considerations require further evaluation.

Pressures facing New Mexico such as severe staffing shortages in jails and prisons, lack of behavioral health and medical providers, transportation challenges, and lack of data sharing and integration still occur in unified states. Moreover, some anticipated benefits of restructuring have not been realized years after unifying, in part because a structural change of this size takes considerable time to implement.

Unification in West Virginia came in several waves — first with regionalization of jails, then, over a decade later, jails were merged under state control. Years later, state leaders continue to grapple with centralizing elements of the system such as transportation. In contrast, the Maine state legislature created a statewide unification commission early on in their restructuring; however, as that governance body moved to operationalize the unified system, barriers in funding, a lack of clear objectives, and limited stakeholder buy-in led to an unraveling of the process despite years of effort. Task Force members acknowledged any action to unify in New Mexico would take many years to accomplish and could come with unanticipated challenges.

Armed with the knowledge of the national landscape, and the challenges unification would present, the Task Force agreed restructuring is premature and there are several system improvements that should precede unification. Regionalization of county detention centers remains an area deserving of exploration but will also require additional research and information.

## KEY FINDINGS AND RECOMMENDATIONS

With agreement that unification is not a solution for New Mexico at this time, the Task Force turned to targeting the steps necessary to address the top challenges faced by justice partners in the state.

During Task Force meetings and interviews with individual stakeholders, dozens of issues impacting New Mexico's incarceration system were raised ranging from day-to-day operational challenges, such as transportation between jails and courts, to larger, more philosophical issues, such as the different objectives of state and local corrections systems. Ultimately, the Task Force settled on nine priorities. Several other concerns, including access to transitional and stable housing, the impact of jail and county liability costs, transportation, pretrial practices, and jail and prison oversight, were also raised but did not result in recommendations due to limited time.

The Task Force developed a shared vision for New Mexico's criminal justice system to ground their conversations before diving into recommendations for the nine priority areas identified. Members reached consensus on a set of elements they believe are critical for an effective, efficient criminal justice system.

The Task Force agreed that an effective criminal justice system:

- » Has sufficient and consistent staffing across the system, including for behavioral health practitioners;
- » Has access to behavioral healthcare in the community, including options to divert people from incarceration;
- » Establishes clarity of the roles and purposes of each agency and system partner; and
- » Uses strong, multi-level channels of communication and systems for data sharing across justice system partners;
- » Shares system costs across partners and authorities (counties, municipalities, and the state sharing the burden of mental health and medical services, transportation, etc.);
- » Promotes public safety by prioritizing prison and jail space for high risk and high need individuals in the system.

Based on this shared vision for the system, the Task Force considered recommendations for each of the priority categories. These recommendations should serve as building blocks for improving the criminal justice system in New Mexico.

***Please note recommendations are not listed in order of priority.***

## INFORMATION SYSTEMS AND DATA SHARING

**WHY THIS MATTERS:** Complex systems – those involving multiple agencies that collect, use, and share different data sets and have different immediate goals – require a reliable communications system. Communications between and among corrections and justice agencies are vital to ensuring constitutional protections as well as public safety. Data-driven decision making is also a key component of high-functioning, efficient correctional systems. Systems, and their chosen technologies, need to be able to talk to each other, to collect and aggregate data to understand population trends and needs, and to keep track of the needs and movements of incarcerated and supervised individuals.

### FINDINGS INDICATE A NEED FOR CHANGE:

- State leaders prioritized data integration with the passage of the 2019 Crime Reduction Act, which included funding, building, and maintaining a shared network for different partners to access data. To date, few agencies participate in this network, and expansion has stalled.
- County detention facilities utilize up to ten different inmate management system providers, which complicates information sharing, data integration and tracking, and analysis of trends. In some cases, the counties themselves do not have direct access to their data for downloading or sharing across jurisdictions and must rely on third-party or outsourced vendors.
- There is no official guidance concerning what information should be collected and shared across agencies and no standardized format for the transfer of information.
- In a June 2022 survey conducted by the Task Force, County Detention Administrators ranked data tracking, reporting, information-sharing, and communication between criminal justice system partners as the fourth biggest challenge they face. Other survey responses revealed 48 percent of 25 county jails felt their current level of IT support was insufficient for their needs, a consistent trend across all three groupings of IT support (internal/on-site IT, county-provided IT, or an external, third-party vendor).

## RECOMMENDATIONS

» **Clarify statutes** surrounding the role of the New Mexico Sentencing Commission in managing the statewide criminal justice data integration process.

» **Expand the Justice Information Sharing Council (JISC)**, perhaps by formalizing the JISC in statute under the authority of the New Mexico Sentencing Commission, to oversee the data integration process.<sup>7</sup>

- The JISC should:
  - Add additional stakeholders, including end users (people who use existing information sharing platforms/software in the system).
  - Consider the statutory changes needed to provide incentives or accountability for participation in the data sharing system.
  - Consider the funding needs necessary to broaden participation in a statewide data sharing platform.
  - Conduct relationship building necessary to get more criminal justice partners utilizing the data sharing system.
  - Determine other measures necessary to ensure that data integration efforts and information sharing systems meet the needs of end users.

» **Finalize data governance policies.**

“ *Decision makers need to have accurate and timely information on how policies are impacting the length of stay in both county and state correctional facilities.*

*With this information, we can make decisions about the efficiency of current processes and use policy as a tool to manage population while maintaining public safety.* ”

- Linda Freeman

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<sup>7</sup> The Justice Information Sharing Council is a statewide criminal and juvenile justice agency team with the core mission of improving efficient and timely sharing of criminal justice data through the use of information technology. At present JISC is a non-statutory body.

## CROSS-AGENCY COLLABORATION AND COMMUNICATION

**WHY THIS MATTERS:** Functional system operations of any kind are dependent on effective collaboration. With several pieces to the puzzle and many moving parts, a strong network enables each piece to work together. Criminal justice systems are comprised of several agencies, partnerships, and stakeholders. Establishing effective communication channels and encouraging collaboration among system partners is critical for smooth and organized operations and can be an important element for reducing recidivism and supporting successful reentry.

### FINDINGS INDICATE A NEED FOR CHANGE:

- The New Mexico Sentencing Commission convenes stakeholders across the system by providing impartial information, analysis, recommendations, and assistance from a coordinated cross-agency perspective. However, due to limited resources and staffing and the absence of clear authority, the Commission cannot reach its potential and meet expectations in a timely manner.
- Individual members of the Task Force had limited understanding of how other agencies function, and these gaps lead to operational challenges.
- Agencies acknowledge that cross-agency communications improve during crises, such as during the COVID-19 pandemic; however, the improvements are often temporary and the opportunities for sustainable change are lost as agencies return to “normal.”
- Many Task Force members noted that this process was the first time they were meeting several representatives from other agencies and expressed a need for more regular opportunities for cross-agency collaboration.

“ As a state, we have historically approached individual needs in a fragmented manner without working across systems. In order to improve outcomes, we need to work across systems in a manner that centers the individual and community needs. ”

- Scott Patterson

## RECOMMENDATIONS

*“ We all have a piece of the answer, we cannot afford to duplicate efforts while other needs go unfilled.*

*Relationships and building those connections goes a long way toward getting problems resolved. ”*

- Chris A. Brice

### » **Review New Mexico Sentencing Commission membership, mission, and structure to consider:**

- Changing the composition of its membership, particularly to add voices representing detention center interests.
- Possible changes to structure and mission, including member term limits and infrastructure/staffing/resources to meet current and future responsibilities of the Commission.
- Establishing a clear mandate for the Commission to serve as the statewide link to local Criminal Justice Coordinating Councils (CJCCs), including overseeing development of guidelines and success measures for CJCCs.
- Additional funding for more full-time researchers to support increased regularity of jail and prison population analyses and reports.

### » **Strengthen working relationships between county detention centers and NMCD, including:**

- Annual meetings between NMCD leadership and wardens and county detention administrators and managers.
- Distribution of quarterly updated contact lists and organizational charts to improve communication.



## BEHAVIORAL HEALTH RESOURCES - SUPPORT IN CUSTODY

**WHY THIS MATTERS:** Prisons and jails across the country are experiencing high and growing numbers of individuals with substance use disorders, mental illness, trauma, and overall poor behavioral health. While there are efforts in virtually every state to improve responses to mental health crises and study behavioral health needs before individuals enter the criminal justice system, the reality is that prisons and jails currently serve as the de facto behavioral health centers in many places. According to the National Alliance on Mental Illness, about two in five people who are incarcerated have a history of mental illness, a rate two times higher than that for mental illness in the overall adult population.<sup>vii</sup> Given the expectations that corrections officials address these needs prior to release, custodial settings require skilled personnel (i.e., psychiatrists, psychologists, behavioral health professionals) and funding for providing specialized treatment to meet these demands.

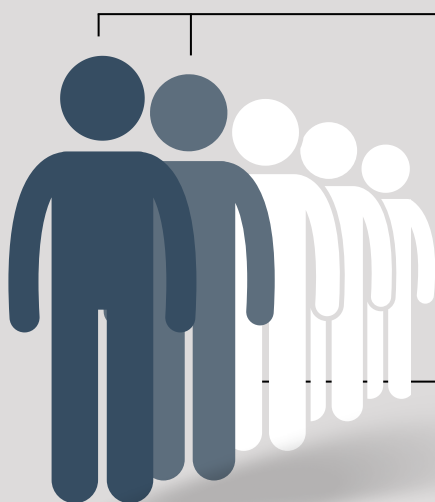
### FINDINGS INDICATE A NEED FOR CHANGE:

- Across the state, access to behavioral health treatment is limited by the lack of qualified and credentialed professionals to treat justice-involved populations. This is in part due to a general shortage of providers residing in certain parts of the state, as well as challenges in both incentivizing and permitting individuals with out-of-state licenses to practice in New Mexico.
- Programming and treatment practices in New Mexico prisons and jails are inconsistent, leading to challenges with continuing care for individuals moving between systems or exiting custody and entering the community.
- The high costs of treating the behavioral health needs of those in jail impacts the access and quality of the services provided.
- Other states, like West Virginia, have recently explored unified approaches to providing behavioral health services in custodial settings, but findings from their system change are not yet available. New Mexico stakeholders remain interested in opportunities to regionalize behavioral health and medical services to conserve costs, increase access to treatment, and improve continuity of care between custodial settings.
- Of all responding counties to the June 2022 survey, 22 listed the need for additional services and treatment inside jails as one of the top five challenges facing jails currently.

## RECOMMENDATIONS

- » **Create an internal guide** for NMCD and NMC that clarifies the skills and licensure necessary for various types of clinical jobs in state prisons and county jails.
- » **Partner with behavioral health agencies to create a workforce development and incentive plan** to attract workers to the corrections system.
- » **Examine certification** for behavioral health professionals across the local and state corrections systems to ensure standard qualifications and training.
- » **Continue examining the feasibility of regional behavioral health centers** for jails and prisons.

According to the National Alliance on Mental Illness:



**2 out of 5**  
incarcerated individuals  
have a history of  
mental illness

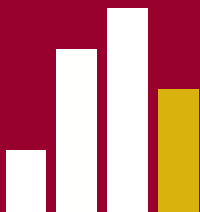
**2x** the rate  
of mental illness in the  
overall U.S. population<sup>viii</sup>

## BEHAVIORAL HEALTH RESOURCES - SUPPORT IN COMMUNITIES

**WHY THIS MATTERS:** Criminal justice systems were not designed to be the epicenters of behavioral health treatment and services. To mitigate the growing and complex behavioral health needs of individuals who become detained or incarcerated, comprehensive wraparound community-based interventions and services are critical. Community-based behavioral health supports can address the needs of individuals experiencing mental health crises or addictions in ways many jails and prisons cannot. If those needs are met in the community, individuals may avoid jail and prison and the system can reduce the use of incarceration.

### FINDINGS INDICATE A NEED FOR CHANGE:

- Access to behavioral healthcare in the community, especially in rural jurisdictions, is limited.
- For many parts of the state, the cost of services and the lack of staff are major causes of the paucity of behavioral health services.
- New Mexico lacks reciprocity for behavioral health professions licensed or trained outside of the state.
- County jail administrators and managers surveyed through this process ranked the need to improve mental healthcare and treatment in the community as the third most pressing issue facing jails across the state.



County jail administrators and managers ranked the **need to improve mental health care and treatment in the community** as the **third** most pressing issue facing jails across the state.

## RECOMMENDATIONS

- » **Develop a strategic plan to increase New Mexico's competitiveness for attracting skilled professionals**, to include:
  - Specific focus on those who work with justice-involved individuals.
  - New or expanded loan repayment or forgiveness policies to attract and incentivize health professionals to provide care to justice-involved populations, particularly in rural areas.
  - License reciprocity for skilled professionals interested in moving to New Mexico.
  
- » **Support the expansion, staffing, and funding of Crisis Triage Centers** across the state.
  
- » **Study the possibility of regional mental health facilities** that serve as an alternative to incarceration, and that are accessible to community members.
  
- » **Support and encourage responsible agencies to conduct a gap analysis of provider access**, including those willing to work with justice-involved populations.
  
- » **Recognize housing is a critical component to criminal justice rehabilitation** and support efforts in the state to address housing insecurity and inaccessibility in all communities.

“ For many individuals involved in the justice system, connection to meaningful supports has been eroded or is non-existent. By increasing community resources, we have the opportunity to assist folks in building connection to their community which, in turn, may serve to keep them from returning to justice system involvement. ”

- Scott Patterson

## CONNECTIVITY AND INTERNET BANDWIDTH

**WHY THIS MATTERS:** Consistent and strong internet access is critical for criminal justice partners to collaborate and share timely public safety information. The importance of such technologies became especially prevalent during the COVID-19 pandemic, as use of virtual platforms emerged as a timely alternative to in-person court hearings, community supervision checks, or mental and physical health visits.

### FINDINGS INDICATE A NEED FOR CHANGE:

- In 2021, the Legislature established the Connect New Mexico Council and the Office of Broadband Access and Expansion to coordinate connectivity expansion and increased speed.<sup>ix</sup> The Council expects to establish rules for applications to access the Connect NM Fund before the new year. Once the rules are established, governmental entities may apply.
- In September of 2022, the Governor established a Cyber Security Task Force to implement a cyber security plan for the state. The Legislature has also appropriated millions to the state's office of technology to establish a cyber security plan.
- Federal funds have been allocated to support New Mexico in expanding broadband connectivity, providing an opportunity for providers, including state agencies, to apply for grants to fund improved connections across the state. Applications for funding began in August 2022.
- The largest jail facilities in the state (i.e., over 750 beds) reported no issues with reliability or connectivity; however, survey responses noted poor connectivity or unreliable access clustered in comparatively smaller counties with smaller jail facilities (i.e., 75-100 beds), as well as a few medium to large jails (i.e., 450-750 beds).
- Due to COVID-19, the New Mexico Judiciary utilized remote hearings for some court processes. However, detention stakeholders have noted inconsistencies in which hearings continue to be performed virtually.
- Even if remote hearings are permitted, some detention centers report having connectivity problems that sometimes make them impossible. Additionally, not all facilities are designed to accommodate hearings that ensure the protection of due process rights and privacy.

## RECOMMENDATIONS

- » **Support the Judiciary’s effort to establish clear guidelines and standards for conducting remote hearings.**
  - Ensure there are clear rules, guidelines, and processes in place for remote hearings (including the appropriate platform and space within a detention center or prison to conduct hearings), and that such hearings protect an individual’s due process rights.
  - Utilize virtual hearings uniformly across the state.
- » **Provide NMC and NMCD with the necessary support to implement court guidelines for remote hearings,** including resources to track the outcomes, cost savings, and other impacts of remote hearings, in order to evaluate effectiveness.



In 2022, NM ranked 39th in overall internet coverage, speed, and availability compared to other states, and 43rd in the nation for speeds that meet service standards (access to 100mbps broadband).<sup>x</sup>

- » **Set aside broadband funding specifically for criminal justice entities to improve connectivity for detention facilities and prisons.**
- » **Establish a workgroup of justice partners to develop a proposal for bandwidth expansion funds.**
- » **Provide guidance to counties** applying for bandwidth expansion funds for public safety functions on how to develop their requests to include the specific needs of justice partners.

## STAFFING AND WORKFORCE DEVELOPMENT

**WHY THIS MATTERS:** Functioning corrections institutions depend on well-trained and highly skilled staff to operate. Workforce shortages cause many challenges, including difficulty in ensuring the safety of staff and individuals housed inside jails and prisons, access to programming, access to visitation, and the overall management of facilities.

### FINDINGS INDICATE A NEED FOR CHANGE:

- NMC data from August 2022 showed staffing in some facilities reaching crisis levels, with six county detention centers having more than 50 percent staff vacancies.
  - In Otero County, this led officials to close the jail and relocate incarcerated individuals to other facilities.
  - In Bernalillo County, detention officials launched an aggressive hiring campaign, trying to encourage potential employees with bonuses and incentives.
- Officials with NMCD reported a **29.2 percent staff vacancy** overall at the end of FY22.
  - High staff vacancy rates led NMCD to close sections of two prisons earlier this year, leaving both Guadalupe County Correctional Facility and Northeast New Mexico Correctional Facility in Union County operating at less than 50 percent capacity.
  - NMCD staffing shortages include probation and parole officers, which had a 23 percent vacancy rate in the third quarter of FY22.



Photo Credit: NMCD

## RECOMMENDATIONS

- » **Develop a plan to address staffing shortages and develop long-term staffing capacity** that includes:
  - A study of why retention and hiring challenges are occurring in specific facilities and regions.
  - Strategies for growing the workforce, including tools like retention bonuses, tuition reimbursements, salary increases, etc., and a plan for implementing such strategies.
  - A recruitment and marketing approach that utilizes higher education partners, tourism partners and social media, not only to fill vacancies but also to inspire interest in the profession and grow the workforce.
  
- » **Provide funding** for retention bonuses, salary increases, tuition reimbursements, etc., for corrections and detention professions. Funding should initially go to pilot programs that have a plan to track and analyze the impact of those incentives on hiring and retaining staff.
  
- » **Amend relevant statutes so Return to Work (RTW) policies can be implemented** for retired public employees to return to work in corrections and detention facilities.

County managers and jail administrators ranked **staffing shortages** as their **greatest challenge**.





## TRAINING AND UNIFIED PRACTICES ACROSS AGENCIES

**WHY THIS MATTERS:** Training is the foundation of well-run organizations, ensuring all employees understand the mission and expectations for their work. To elevate the profession of correctional officers, both at the county and state level, it is important to provide quality education to employees that includes trauma-informed care, institutional safety, de-escalation, and inmate management.

### FINDINGS INDICATE A NEED FOR CHANGE:

- NMCD conducts an eight-week basic training academy for all new correctional and probation/parole officers, which includes two weeks practical training in the facility where the trainee will work.
- NMCD's academy completion results in a Corrections Officer certification.
- NMCD has offered training academy spots to those working in private prisons, and thus has a process in place and the capacity to train non-NMCD employees.
- Each county detention center establishes its own training requirements for staff, leading to wide variation in how county detention officers are trained.
- NMC has an established accreditation program that sets standards for training.
- County officials indicate there is a need to standardize training for detention center employees.

To date, **10** of 25 adult detention facilities have achieved accreditation:

Chaves County

Sandoval County

Curry County

San Juan County

Dona Ana County

San Miguel County

Lea County

Santa Fe County

Roosevelt County

Valencia County

## RECOMMENDATIONS

### » Develop, fund, and conduct a core training academy for detention staff through the NMCD Training Academy.

- The NMC detention affiliate will work with NMCD to establish uniform courses and standards and develop a training and implementation plan.
  - Uniform curriculum should include trauma-informed trainings and data collection practices in addition to established core curriculum.
  - Detention staff who successfully complete the program should be awarded with a transferrable certification to professionalize the workforce.
  - The planning process for this joint academy should assess funding needs and whether statutory or regulatory changes need to be made.



Photo Credit: NMCD

## FUNDING AND RESOURCE ALLOCATION

**WHY THIS MATTERS:** Criminal justice systems include multiple agencies, stakeholders, services, and resources. Because of this, they are inherently very expensive. States across the nation have watched the costs for operating county and state facilities rise. Even with declining jail and prison populations, maintaining infrastructure, staffing, programming, and medical and behavioral healthcare comes with a high price tag. Careful budget balancing and system planning are crucial to ensure that costs are shared appropriately across the system.

### FINDINGS INDICATE A NEED FOR CHANGE:

- NMCD's taking on the management of previously privately operated prisons led to increased costs for the state budget.
- Despite using significant detention resources due to the high number of arrests, some municipalities do not contribute consistently, if at all, to the cost of detention.
- Stakeholders describe confusion over and discrepancies in how billing for detainees occurs and inconsistency in how this billing is paid, if at all. The process is described as inefficient and time-consuming.
- The utilization of jail beds varies from county to county and affects facilities' average cost estimates.
- Even with declining crime rates, drops in jail and prison populations, and a high portion of unused jail beds across the state, the sum of county-reported projected detention budgets for FY23 was over \$33 million higher than budgets reported for FY22. For FY23, all but two counties projected higher medical costs, with three of the state's larger jail facilities each projecting medical cost increases over \$1.3 million.

#### Recent data show:

- » **5** county detention centers were operating at or above **75%** design capacity
- » Another **17** facilities were operating below **60%** design capacity

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This disparity results in a higher average daily cost per bed for the vast majority of county jails.

## RECOMMENDATIONS

- » **All users of detention services, including municipalities, should cover the cost of detention.**
  
- » **Develop an accurate and reliable billing system** that reduces the complexity and inconsistency of recovering costs for incarcerating, treating, supervising, and transporting individuals.
  - Revise and adequately fund the County Detention Reimbursement Act to compensate counties for their actual costs.
  
- » **Assess the funding challenges of the corrections system:**
  - Understand how much medical and behavioral health expenses contribute to costs.
  - Understand prison and jail transportation costs and needs, including most used routes, costs per route, cost of liability insurance and payouts, etc.
  - Understand the causes of jail population fluctuations in recent years to effectively anticipate future populations and costs.

“*New Mexico is not a state with a wealth of financial resources. We need to do things smarter and better to maximize the tax payers dollar and to create a healthier state.*”

- Chris A. Brice

- » **Develop a more effective tool for tracking county expenses and developing budgets and require counties to report funding and budgetary information annually** to the NMC to better understand how incarceration is impacting county costs. A tool has already been tested and will be refined and systematized through the NMC.

## POPULATION TRACKING AND TREND ANALYSIS

**WHY THIS MATTERS:** Understanding what fuels populations in jails and prisons is an essential element of sound, data-driven decision making. The state established the Sentencing Commission with the statutory responsibility for several tasks related to data collection and analysis. The Commission conducts regular prison forecasting reports, analyzes criminal justice legislation for potential impact, and conducts other research, such as length of stay studies and policy briefs.

### FINDINGS INDICATE A NEED FOR CHANGE:

- Time-consuming challenges with data access and collection, along with staffing and funding limitations, hinder the Sentencing Commission’s capabilities.
- Jail and prison officials have been unable to identify causes of population reductions in recent years, leaving them with limited information to develop reliable long-term plans and budgets.
- The absence of information explaining prison population decreases that started prior to COVID-19 further complicates understanding the impact of post-pandemic policies and practices on future prison populations.
- Jails utilize a variety of inmate management systems that often cannot be accessed for data, be integrated, or communicate with other systems, while some jails still rely on paper systems.
- NMCD is adopting a new case management system, called OMNI, that is expected to go online in Spring 2023. It is also implementing a new electronic medical records system. Both are expected to aid data collection and information sharing.



Photo Credit: Luna County

## RECOMMENDATIONS

- » **Support future research efforts and continued data analysis** to uncover the context of New Mexico's prison and jail population trends (drivers, technical violations, projections for future growth).
- » **Work with existing research entities** to identify gaps in research, better promote and disseminate work already done, and utilize research for decision-making.

Figure 5. 2010-2020 Yearly Prison Population Percent Change



## LOOKING FORWARD

The SM6/HM11 Task Force process resulted in the 29 recommendations outlined in this report. A significant undertaking lies ahead to sufficiently implement these recommendations. While this work will not entail the same costs, time, and disruptions associated with the kind of total system restructuring that unifying the jail and prison systems would entail, the priority areas identified by the Task Force are challenges local and state corrections have faced for many years. These recommendations will require thoughtful planning and broad stakeholder support for progress to be made.

As active, committed practitioners and leaders in New Mexico's justice system, we strongly encourage the Legislature to develop a process for continuing this work that includes the following elements:

- Cross-jurisdictional analysis,
- An assessment of drivers of the systems' incarcerated and detained populations,
- Involvement from a work group with a broader range of in-state stakeholders and experts,
- Continued discussion on areas of opportunity in the state criminal justice systems,
- Support by experienced consultants and technical experts,
- A data-driven approach, and
- Funding from a combination of in-state resources and other grant dollars.

An effective and efficient corrections system, at both the local and state level, is achievable. New Mexico benefits from the quality and dedication of its workforce, its recognition of the vital public interests at stake, and leadership committed to excellence. Members of the Task Force are already moving ahead on recommendations within their purview and are looking forward to the commitment and partnership of state leaders to ensure sustainable, systemic improvement.

*“The Task Force work product has proven to be an effective tool in drawing a diverse representation of key stakeholders and of decision-makers into a collaborative discussion. There are many expansive issues facing New Mexico in terms of detention and incarceration; and it is going to take a monumental team effort to effect positive and permanent change to the splintered system.”*

- Amber Hamilton

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## ENDNOTES

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<sup>ii</sup> New Mexico Sentencing Commission, New Mexico Prison Population Forecast: FY 2022-FY 2023 (Albuquerque, NM: July 2022), 3, <https://nmsc.unm.edu/reports/index.html>

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<sup>iv</sup> New Mexico Sentencing Commission, New Mexico Prison Population Forecast: FY 2022-FY 2023, 2.

<sup>v</sup> Zhen Zeng, et al., Census of Jails, 2005-2019 – Statistical Tables, (Washington, D.C.: Bureau of Justice Statistics, October 2021), 14, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cj0519st.pdf>

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<sup>vii</sup> "Mental Health Treatment While Incarcerated," National Alliance on Mental Illness, Accessed October 24, 2022, <https://www.nami.org/Advocacy/Policy-Priorities/Improving-Health/Mental-Health-Treatment-While-Incarcerated>

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<sup>ix</sup> HB10 (2021); SB93 (2021).

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