

*Blueprint for Smart Justice*  
**Pennsylvania**





# Blueprint *for* Smart Justice Pennsylvania

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# Executive Summary

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

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

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

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

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

The analysis was eye-opening.

In every state, we found that reducing the prison population by itself does little to diminish racial disparities in incarceration — and in some cases would worsen them. In Pennsylvania — where Black people account for 47 percent of the prison population but only 10 percent of the total adult state population<sup>1</sup> — reducing the number of people imprisoned will not on its own reduce racial disparities within the prison system. This finding confirms that urgent work remains for advocates, policymakers, and communities across the nation to focus on efforts like policing or prosecutorial reform that are specific to combatting these disparities.

Another key finding in Pennsylvania is that a majority (58 percent) of new prison admissions in 2016 were for crimes that did not involve violence, with drug offenses<sup>2</sup> making up a significant portion of these offenses.<sup>3</sup> In 2016, 1 in every 5 new admissions to Pennsylvania prisons was for a drug offense.<sup>4</sup>

In 2015, Pennsylvania also had the third-highest per capita rate in the country of people on parole, probation, or other community supervision.<sup>5</sup> The length of time people in Pennsylvania are imprisoned for is another striking finding: 28 percent of people imprisoned in the state have minimum sentences that are longer than 10 years,<sup>6</sup> and Pennsylvania has the second largest population of people serving life without parole sentences in the country as of 2012.<sup>7</sup>

So what's the path forward? Any meaningful reform effort will need to include both a fundamental shift in drug policy and probation and parole reform — for example, alternatives to imprisonment for many people charged with drug distribution and parole and probation reforms so people cannot be sent back to prison for driving a car without permission, going into a bar, or breaking other rules that technically violate their probation or parole but are not on their own illegal.

Pennsylvania should also consider new, more effective approaches to how it prevents and responds to violence. For example, reducing high maximum sentences for certain offenses involving violence, like armed robbery and assault, and instituting alternatives to incarceration like restorative justice programs that have been proven to effectively hold people accountable and reduce recidivism.

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

# The State of the Pennsylvania Prison System

As of 2016 Pennsylvania has the highest adult incarceration per capita rate in the Northeast,<sup>8</sup> with 47,177 people in state prisons in 2018<sup>9</sup> and approximately 33,000 people incarcerated in local or county jails in 2016.<sup>10</sup> While the 2018 state prison population is down from its peak in 2011, when it was more than 50,000,<sup>11</sup> progress has been slow, especially compared with other states.<sup>12</sup> Pennsylvania also keeps a disproportionately high percentage of its citizens under community supervision, with 296,200 Pennsylvanians on probation or parole in 2015. With a rate of 2,923 per 100,000 adults, Pennsylvania had the third-highest rate of community supervision in the country.<sup>13</sup> In Philadelphia alone, the Adult Probation and Parole Department supervises around 44,000 people, which means that approximately 1 out of every 35 Philadelphians are under some form of community supervision.<sup>14</sup>

## AT A GLANCE

### PENNSYLVANIA PRISONS

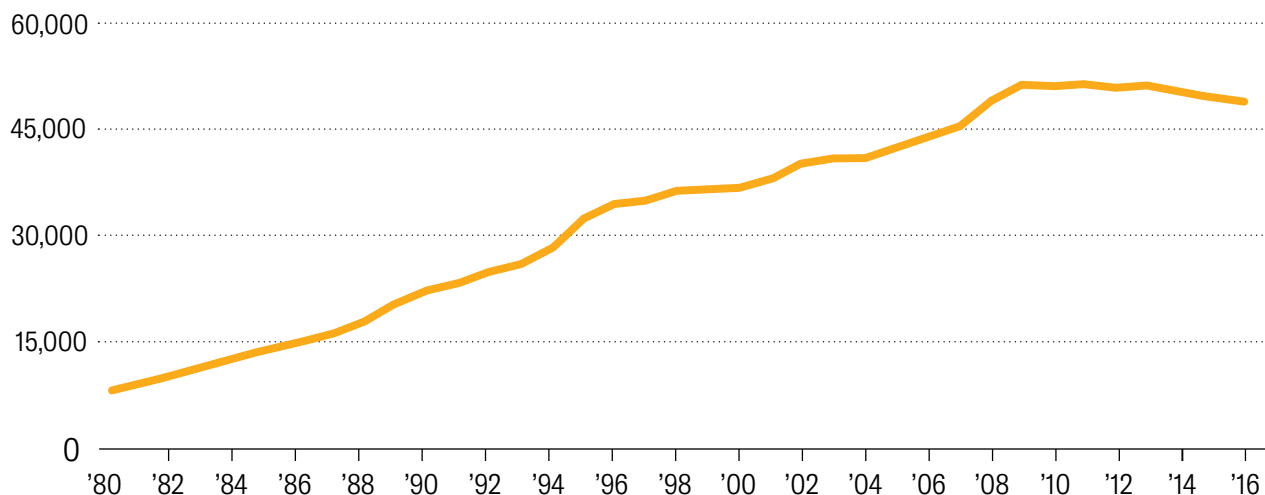
Pennsylvania's prison population increased **504 percent** between 1980 and 2016.

In 2016 Pennsylvania had the **highest per capita rate** of adult incarceration in the Northeast.

Pennsylvania had the **third-highest per capita rate** in the country of adults on community supervision, like parole and probation.

Prison admissions increased **20 percent** between 2006 and 2016.

## PENNSYLVANIA PRISON POPULATION



With approximately 375,000 people incarcerated or under community supervision, Pennsylvania had more people under correctional control than the entire population of Pittsburgh (305,928) in 2015.<sup>15</sup>

Pennsylvania's prison population has expanded exponentially over the past three decades. Between 1980 and 2016, the prison population increased six-fold.<sup>16</sup> Over the past decade, the number of people admitted annually into Pennsylvania prisons increased by 20 percent from 16,160 in 2006 to 19,396 in 2016.<sup>17</sup>

## What Is Driving People Into Prison?

In Pennsylvania, a litany of offenses drives people into prisons. In 2016, common offenses among new admissions to Pennsylvania prisons were: drug offenses, including possession and distribution (21 percent); theft/larceny (11 percent); assault (10 percent); robbery (9 percent); weapons offenses (9 percent); and burglary (6 percent). New admissions include all court commitments and exclude admissions for parole violations and county transfers. Forty-seven percent of all admissions to Pennsylvania prisons in 2016 were new admissions.<sup>18</sup>

While drug admissions have declined in recent years — down 18 percent since 2000 — they still accounted for 1

### AT A GLANCE

## PENNSYLVANIA JAIL AND PRISON POPULATION

**47,177 people** were imprisoned in Pennsylvania state prisons in 2018.

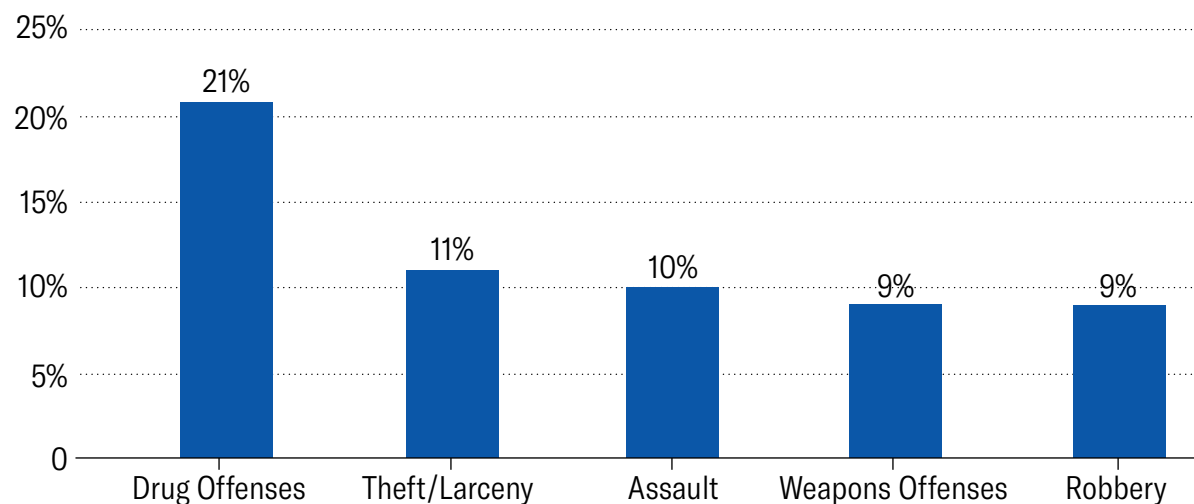
**15 percent** of the prison population in 2016 was serving time for a parole violation.

The average daily in-house population of Pennsylvania local jails in 2016 was **32,848**.

in every 5 new admissions to Pennsylvania prisons in 2016. During that same time period, new admissions for theft and larceny nearly tripled, and new admissions for weapons offenses increased more than eightfold.<sup>19</sup>

Parole<sup>20</sup> and probation<sup>21</sup> violations are also key drivers of incarceration in Pennsylvania. The number of people entering prison for parole violations has increased by 56.5 percent over the past decade, from 6,517 people admitted in 2006 to 10,199 people admitted in 2016.<sup>22</sup>

## PENNSYLVANIA COURT COMMITMENTS BY TOP OFFENSE TYPES (2016)



Note: Drug possession and distribution offenses are combined in this chart.

## The Current Prison and Jail Population<sup>23</sup>

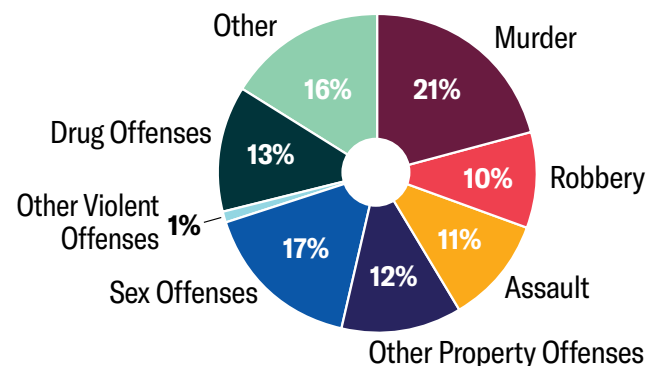
In 2016, the sentenced population<sup>24</sup> accounted for 84 percent of the Pennsylvania prison population.<sup>25</sup> More than one-third (34 percent) of the sentenced population was serving time for an offense that did not involve violence. Within the sentenced population, 1 in 8 individuals was imprisoned for a drug-related offense. Other common offenses in the sentenced population included assault (11 percent) and robbery (10 percent). Fifteen percent of the total Pennsylvania prison population was imprisoned for a parole violation.<sup>26</sup>

Pennsylvania has more than 60 local jails — often referred to as “county prisons” — that confine people serving up to two-year sentences. In 2016, the jails had a combined average in-house daily population of nearly 33,000.<sup>27</sup> While this population is significant to prison reform across the state, it is not included throughout the rest of this document.

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

In Pennsylvania, a minimum sentence is the minimum amount of time that a prisoner must serve before being eligible for parole, and a maximum sentence is

## PENNSYLVANIA PRISON POPULATION BY OFFENSE TYPE (FY 2016)



Note: Pie chart excludes parole violations.

the maximum amount of time that a prisoner can be required to serve before being released.

In 2016, 28 percent of the Pennsylvania prison population were “long-term inmates” — individuals with a minimum sentence of more than 10 years.<sup>28</sup> The number of “long-term inmates” has nearly doubled since 2000.<sup>29</sup>

The average minimum sentence within the sentenced population in Pennsylvania prisons grew 30 percent between 2000 and 2016, from 6.1 years to 7.9 years. Over the same time period, the average maximum sentence grew 23 percent, reaching 17.5 years in 2016.<sup>30</sup>

Low parole rates and harsh sentencing guidelines also contribute to why people are imprisoned for so long.

The number of people on parole is controlled by both admissions to parole and length of stay on parole. Thus, it’s possible to have a large parole population and a low parole grant rate because other factors — like length of stay on parole and the absolute number (instead of the rate) released to parole — can contribute to a large parole population despite low parole grant rates. Although parole approval rates have stayed relatively constant since 2010, an average of 2 out of every 5 eligible cases are denied.<sup>31</sup> In 2014, people with a minimum sentence of two or fewer years (accounting for 58 percent of people sent to prison in that year)

### AT A GLANCE

## LENGTH OF IMPRISONMENT

**28 percent** of the 2016 prison population was serving a minimum sentence longer than 10 years.

Average maximum sentence length increased **23 percent** between 2000 and 2016.

**5,478** individuals were serving a life sentence in 2016.

**43 percent** of eligible parole cases were denied in 2017.

## AT A GLANCE

### PRISON DEMOGRAPHICS

**47 percent** of Pennsylvania's prison population in 2016 was Black.

Pennsylvania's Latino per capita imprisonment rate was the **second-highest** in the country in 2014.

The female prison population increased **28 percent** between 2006 and 2016.

**21 percent** of Pennsylvania's prison population was age 50 and older in 2016.

were held an average of 5.3 months beyond their minimum sentence, costing the state \$73 million.<sup>32</sup>

Pennsylvania is also one of only six states that deny any opportunity for parole to individuals serving life sentences. Consequently, in 2012, the state had the second-largest population of individuals serving life-without-parole sentences in the country.<sup>33</sup> In 2016, 5,478 individuals in the Pennsylvania prison population were serving a life sentence, accounting for 11 percent of the prison population.<sup>34</sup> This is an increase of 26 percent from 2006.<sup>35</sup> In 2016, the average age of those serving life sentences in Pennsylvania was 47.5 years.<sup>36</sup>

Pennsylvania has an indeterminate sentencing system that allows judges to determine the minimum and maximum sentence using sentence guidelines. The guidelines take into account the seriousness of the offense and the person's prior criminal history, but the resulting sentencing options are wide-ranging, with high maximum sentence possibilities and few limitations on when to use harsher penalties. Thus, courts have broad discretion to decide whether to impose community supervision or a prison term. Although judges must consider the guidelines during sentences and must articulate reasons for departure from the guidelines, the guidelines are not legally enforced on appeal and are thus purely advisory.<sup>37</sup> Due to these sentencing options, many people receive

lengthy prison sentences instead of probation or other less punitive alternatives, which would be possible under the guidelines.

## Who Is Imprisoned

**Black Pennsylvanians:** Black people are disproportionately imprisoned in Pennsylvania — with 1 in 20 Black men imprisoned across the state in 2014.<sup>38</sup> In 2016, Black people accounted for 47 percent of the Pennsylvania prison population but only 10 percent of the adult state population.<sup>39</sup> The 2016 Black adult imprisonment rate in Pennsylvania (2,254 per 100,000) was almost nine times the white adult imprisonment rate.<sup>40</sup> In 2014, the Black imprisonment rate in Pennsylvania was the 11th highest in the country.<sup>41</sup>

**Latino Pennsylvanians:** In 2014, the Latino imprisonment rate in Pennsylvania (668 per 100,000) was the second highest in the country — behind only Arizona — and more than three times that of white people.<sup>42</sup> In 2016, Latinos accounted for 10 percent of the Pennsylvania prison population but only 6 percent of Pennsylvania's adult population.<sup>43</sup>

**Female Pennsylvanians:** Over the past decade, the female prison population in Pennsylvania has increased 28 percent (from 2,248 women in 2006 to 2,870 women in 2016), while the male population has increased by 10 percent during the same time period (from 42,202 in 2006 to 46,431 in 2016).<sup>44</sup>

**Older Pennsylvanians:** Pennsylvania's imprisoned population is also rapidly aging. Though generally considered to pose a low risk to public safety, the number of people age 50 and older in Pennsylvania prisons increased by 70 percent between 2006 and 2016 and accounted for 21 percent of the total 2016 Pennsylvania prison population.<sup>45</sup>

#### AT A GLANCE

## MENTAL HEALTH AND SUBSTANCE USE DISORDER

**29 percent** of the total Pennsylvania prison population was on the Mental Health Roster in 2016.

**71 percent** of the female prison population was on the Mental Health Roster in 2016.

**65 percent** of people imprisoned in Pennsylvania in 2016 had drug or alcohol treatment needs.

### People With Mental Health and Substance Use Disorders

In Pennsylvania, mental health and substance-use disorder issues are prevalent within the prison population. Twenty-nine percent of the 2016 prison population was on the Mental Health Roster, which classifies people's mental health needs on a four-level status of psychiatric needs. In Pennsylvania prisons, 9 percent were considered seriously mentally ill. For females, these numbers are considerably higher, with 71 percent on the roster and 20 percent considered seriously mentally ill.<sup>46</sup>

In addition, 65 percent of people imprisoned across the state in 2016 had been identified as needing some type of alcohol or drug treatment.<sup>47</sup> In 2004, the Pennsylvania General Assembly created the State Intermediate Punishment (SIP) program as a sentencing alternative for those convicted of an offense motivated by the use of alcohol or drugs. As of September 2016, 74 percent of the 5,598 people sentenced to the SIP program since its inception had either graduated or were still enrolled in the program. Only 26 percent of people admitted to the SIP program had subsequently been removed from the program for reasons such as escape and relapse. The program has produced an estimated savings of \$33,736 per SIP participant since its inception. SIP is a diversionary program that saves the Commonwealth

#### AT A GLANCE

## SPENDING ON CORRECTIONS

Pennsylvania spent **\$2.5 billion** of general funds on corrections in 2016.

General fund spending on higher education decreased **22 percent** between 1986 and 2016.

thousands of dollars and improves public safety, and yet, many of the system actors ignore and underutilize it. Of the 25,948 people who appeared eligible for SIP from May 2005 to September 2016, 26 percent were court referred for a SIP evaluation and 84 percent of those referred were found ultimately eligible for the program. As of September 2016, 3,142 individuals have graduated from SIP.<sup>48</sup>

### Budget Strains

As Pennsylvania's incarcerated population has risen, so has the cost burden. Between 1986 and 2016, spending on corrections increased more than sixfold in Pennsylvania, forcing tradeoffs in other state priorities, like higher education general fund spending, which decreased by 22 percent over the same time period. In 2016, Pennsylvania spent more than \$2.5 billion of its general fund on corrections, while in 1986, the state spent \$405 million of its general fund (adjusted for inflation) on corrections.<sup>49</sup>

# Ending Mass Incarceration in Pennsylvania: A Path Forward

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

## Reducing Admissions

To end mass incarceration, Pennsylvania must break its overreliance on prisons to hold people accountable for their crimes. In fact, evidence indicates that prisons seldom offer adequate solutions to wrongful behavior. At worst, imprisonment can be counterproductive – failing to end cycles of misbehavior and violence or to provide rehabilitation for incarcerated people or adequate accountability to the survivors of crime.<sup>50</sup> Here are some strategies:

- **Alternatives to incarceration:** Several types of alternative-to-incarceration programs have shown great success in reducing criminal activity. Programs offering support services such as substance-use disorder treatment, mental health care, employment, housing, health care, and vocational training – often with some community service requirement – have significantly reduced recidivism rates for participants. For crimes involving violence, restorative justice programs – which are designed to hold responsible people accountable and support those who were harmed – are particularly promising. When they are rigorous and well-implemented, these processes have not

only been demonstrated to reduce recidivism for defendants,<sup>51</sup> but they have also been shown to decrease symptoms of posttraumatic stress in victims of crime.<sup>52</sup>

- Prosecutors and judges who embrace these solutions can fulfill their responsibilities to the public safety and to supporting victims in their healing – and can often generate far better results than imprisonment can deliver. Other successful models include law-enforcement-led programs that divert people to treatment and support services at the time of arrest and prosecutor-led programs that divert people before they are charged.
- **Sentencing reform through diversion/treatment:** Drug offenses, for example, continue to be key contributors to mass incarceration in Pennsylvania when there are sound evidence-based alternatives such as substance-use disorder treatment and decriminalization. Substance-use disorders and mental health problems are often underlying drivers of all kinds of other offenses – including burglaries, assaults, and robberies – that could be more effectively addressed through evidence-based responses instead of prison time.
- **Sentencing reform generally:** Core sentencing reform strategies to reduce admissions can include reclassifying lower-level offenses as misdemeanors instead of felonies (and reducing the misdemeanor or felony degree) and adjusting the monetary and weight thresholds that trigger more serious sentences for property and drug crimes. Strategies to

reduce admissions to prison should also include ensuring that the mandatory minimums that the courts struck down are not reinstated.

- **Reducing revocations from supervision:** Pennsylvania must implement reforms to limit the number of people sent to prison due to supervision violations, especially minor ones. These reforms are critical, given the high number of people on probation and parole in Pennsylvania and the state's lengthy probation sentences.

Pennsylvania should reduce the lengthy parole terms and probation sentences often imposed in conjunction with a lengthy period of state incarceration. Evidence shows that the likelihood of recidivism is highest in the first year on supervision and decreases over subsequent years.<sup>53</sup> Policies that can achieve these goals include: capping how much, if any, jail time can be imposed for violations of probation and parole rules; diversionary treatment programs for parole violations because of drug usage or mental health issues; and providing avenues for early termination of supervision terms, especially when the underlying problem is based in a substance use disorder or mental health problem.

## Reducing Time Served

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

- **Sentencing reform:** The Pennsylvania General Assembly can amend the state's criminal code to significantly reduce high maximum sentences across the board, in particular for drug offenses, assault, robbery, and burglary.

The Pennsylvania Commission on Sentencing can revamp the sentencing guidelines to reduce lengthy sentences. The commission has the authority to create, alter, and promulgate sentencing guidelines, which the courts

rely on.<sup>54</sup> At sentencing, judges calculate the guidelines by using a matrix that takes into account the "offense gravity score" of the most serious offense and the defendant's prior record. The Sentencing Commission could limit the instances in which prison is the recommended sanction and reduce the overall suggested length of sentences. Specifically, the Sentencing Commission could reduce the offense gravity score for most drug offenses. In 2016, 10.5 percent of the state prison population was serving a sentence for drug offenses.<sup>55</sup> Under current guidelines, drug offenses often carry weighty offense gravity scores that lead to lengthy sentences.

Stakeholders, including the courts and district attorneys, can also work to increase the availability and use of shorter-term incarceration programs, a number of which are already on the books, such as State Intermediate Punishment, Boot Camp, Recidivism Risk Reduction Incentive, and County Intermediate Punishment.

- **Release reform — parole:** Another key component to reducing time served can be accomplished by improving parole and release policies and practices to ensure that more people are released earlier from prison. The Pennsylvania Board of Probation and Parole,<sup>56</sup> an independent administrative board with discretionary release authority over individuals confined in state prison, could establish a presumptive parole program whereby individuals serving fewer than five years would automatically be granted parole when they reach their minimum sentence. The Legislature could also establish some form of parole eligibility for the thousands of people serving life sentences in Pennsylvania.
- **Release reform — credits:** The General Assembly could create legislation that expands reforms to allow people to earn time to accelerate their release, including through participation in educational, vocational, and other rehabilitative opportunities while in

prison. For example, the General Assembly could look to the Recidivism Risk Reduction Initiative, which allows people the opportunity to participate in programs intended to reduce recidivism and their minimum sentence as a result. Expanding the number of people participating in this program and building other new programs could be potential next steps.

## Reducing Racial Disparities

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

People of color (especially Black, Latino, and Native American people) are at a higher risk of becoming involved in the justice system, including living under heightened police surveillance and being at higher risk for arrest. This imbalance cannot be accounted for by disparate involvement in illegal activity, and it grows at each stage in the justice system, beginning with initial law enforcement contact and increasing at subsequent stages such as pretrial detention, conviction, sentencing, and postrelease opportunity.<sup>57</sup> Focusing on only one of the factors that drives racial disparity does not address issues across the whole system.

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

New Jersey, for example, is often heralded as one of the most successful examples of reversing mass incarceration, passing justice reforms that led to a 26 percent decline in the state prison population between 1999 and 2012.<sup>58</sup> However, the state did not target racial disparities in incarceration and, in 2016, Black

people in New Jersey were still more than 12 times as likely to be imprisoned as white people — the highest disparity of any state in the nation.<sup>59</sup>

Ending mass incarceration is critical to eliminating racial disparities, but not sufficient without companion efforts that take aim at other drivers of racial inequities outside of the criminal justice system. Reductions in disparate imprisonment rates require implementing explicit racial justice strategies.

Some examples include:

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

## Forecaster Chart

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

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“Merely reducing sentence lengths, by itself, does not disturb the basic architecture of the New Jim Crow. So long as large numbers of African Americans continue to be arrested and labeled drug criminals, they will continue to be relegated to a permanent second-class status upon their release, no matter how much (or how little) time they spend behind bars. The system of mass incarceration is based on the prison label, not prison time.”<sup>60</sup>

— From *The New Jim Crow*, Michelle Alexander

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## TAKING THE LEAD

**Prosecutors:** Prosecutors are a significant driver of mass incarceration.<sup>61</sup> They hold expansive and largely unchecked power within the criminal justice system. Prosecutors make crucial decisions at every stage of the criminal process. They decide whether to charge or dismiss a case. They determine the type and seriousness of the charges to bring, choose who gets offered diversion programs, make guilty plea offers and recommendations at sentencing, and can even object to early parole. When considering that a vast majority (95 percent) of all criminal cases resolve with guilty pleas and that prosecutors have near complete control over the plea process, it becomes clear that prosecutors have inordinate power within the criminal justice system.<sup>62</sup>

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

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

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

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

Impact Compared to 2025 Baseline*				
Offense category**	Policy Outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
<b>Drug offenses</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 1.12 to 0.56 years).</li> <li>Institute alternatives that reduce admissions by 70% (4,531 fewer people admitted).</li> </ul>	12.05% reduction (6,169 fewer people)	White: 2.2% increase Black: 0.8% decrease Hispanic/Latino: 6.0% decrease Native American: 7.1% increase Asian: 4.8% increase Other: 4.0% increase	\$177,819,417
<b>Theft</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 1.50 to 0.75 years).</li> <li>Institute alternatives that reduce admissions by 60% (2,246 fewer people admitted).</li> </ul>	8.45% reduction (4,324 fewer people)	White: 1.9% decrease Black: 1.5% increase Hispanic/Latino: 1.0% increase Native American: 2.0% increase Asian: 5.1% increase Other: 6.9% increase	\$106,679,914
<b>Public order offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 1.12 to 0.56 years).</li> <li>Institute alternatives that reduce admissions by 80% (3,290 fewer people admitted).</li> </ul>	8.11% reduction (4,153 fewer people)	White: 2.0% decrease Black: 1.8% increase Hispanic/Latino: No change Native American: 1.8% increase Asian: 4.4% increase Other: 4.1% decrease	\$118,121,400
<b>Assault</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 2.15 to 1.08 years).</li> <li>Institute alternatives that reduce admissions by 40% (882 fewer people admitted).</li> </ul>	6.57% reduction (3,362 fewer people)	White: 0.4% increase Black: 0.3% decrease Hispanic/Latino: 0.2% decrease Native American: 1.9% decrease Asian: 0.8% decrease Other: 1.7% decrease	\$83,056,874

Impact Compared to 2025 Baseline*				
Offense category**	Policy Outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
<b>Robbery</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 1.67 to 0.83 years).</li> <li>Institute alternatives that reduce admissions by 30% (821 fewer people admitted).</li> </ul>	5.87% reduction (3,006 fewer people)	White: 1.4% increase Black: 1.5% decrease Hispanic/Latino: 0.9% increase Native American: 3.8% increase Asian: 1.2% decrease Other: No change	\$75,703,133
<b>Fraud</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 2.67 to 1.34 years).</li> <li>Institute alternatives that reduce admissions by 60% (587 fewer people admitted).</li> </ul>	3.48% reduction (1,781 fewer people)	White: 1.7% decrease Black: 1.4% increase Hispanic/Latino: 1.0% increase Native American: 7.5% decrease Asian: 0.6% decrease Other: 1.2% decrease	\$40,730,660
<b>Burglary</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 1.21 to 0.61 years).</li> <li>Institute alternatives that reduce admissions by 30% (667 fewer people admitted).</li> </ul>	3.44% reduction (1,761 fewer people)	White: 0.8% decrease Black: 0.6% increase Hispanic/Latino: 0.5% increase Native American: 1.2% decrease Asian: 0.5% decrease Other: No change	\$46,518,868
<b>Other property offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 2.46 to 1.23 years).</li> <li>Institute alternatives that reduce admissions by 70% (467 fewer people admitted).</li> </ul>	2.41% reduction (1,234 fewer people)	White: 0.8% decrease Black: 0.6% increase Hispanic/Latino: 0.5% increase Native American: 2.5% increase Asian: 0.9% increase Other: 0.2% decrease	\$29,131,713
<b>DWI</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 1.03 to 0.52 years).</li> <li>Institute alternatives that reduce admissions by 30% (469 fewer people admitted).</li> </ul>	2.05% reduction (1,049 fewer people)	White: 0.6% decrease Black: 0.6% increase Hispanic/Latino: 0.1% increase Native American: 0.5% increase Asian: 2.1% increase Other: 1.0% decrease	\$27,082,181

### Impact Compared to 2025 Baseline\*

Offense category**	Policy Outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
<b>Weapons offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 40% (from 1.39 to 0.83 years).</li> </ul>	1.72% reduction (878 fewer people)	White: 0.5% increase Black: 0.5% decrease Hispanic/Latino: No change Native American: 1.0% increase Asian: 0.9% increase Other: No change	\$20,408,924

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

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

\*\*\* Racial and ethnic disproportionality is traditionally measured by comparing the number of people in prison — of a certain race — to the number of people in the state's general population of that same race. For example, nationally, Black people comprise 13 percent of the population, while white people comprise 77 percent. Meanwhile, 35 percent of people in state or federal prison are Black, compared to 34 percent who are white. While the proportion of people in prison who are Black or white is equal, Black people are incarcerated at nearly three times their representation in the general population. This is evident in Pennsylvania where Black people make up 47 percent of the prison population but only constitute 10 percent of the state's adult population. The Latino community faces a similar struggle with Latinos accounting for 10 percent of the prison population but only 6 percent of the state's adult population.

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

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

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

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

## Total Fiscal Impact

If Pennsylvania were to carry out reforms leading to the changes above, 27,715 fewer people would be in prison in Pennsylvania by 2025, a 54.15 percent decrease. This would lead to a total cost savings of \$2,401,108,591 by 2025.

## Methodology Overview

This analysis uses prison term record data from the National Corrections Reporting Program to estimate the impact of different policy outcomes on the size of Pennsylvania's prison population, racial and ethnic representation in the prison population, and state corrections spending. First, trends in admissions and exit rates for each offense category in recent years are analyzed and projected out to estimate a baseline state prison population projection through 2025, assuming recent trends will continue. Then, a mathematical model was used to estimate how various offense-specific reform scenarios (for example, a 10 percent reduction in admissions for drug possession or a 15 percent reduction in length of stay for robbery) would change the 2025 baseline projected prison population. The model allows for reform scenarios to include changes to the number of people admitted to prison and/or the average length of time served for specific offenses. The model then estimates the effect that these changes would have by 2025 on the number of people in prison, the racial and ethnic makeup of the prison population, and spending on prison. The analysis assumes that the changes outlined will occur incrementally and be fully realized by 2025.

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

# Endnotes

- 1 [Pennsylvania DOC, Year End Inmate Statistics, 2016; US Census, ACS Estimates 2016.](#)
- 2 Offense breakdowns in this blueprint are based on the most serious, or “controlling” offense for which a person in prison is serving time. Some people in prison are serving time for multiple convictions, and are categorized here only under the controlling offense types.
- 3 Pennsylvania DOC Annual Statistical Report, 2016.
- 4 Pennsylvania DOC Annual Statistical Report, 2016.
- 5 BJS, Correctional Populations in the United States, 2015.
- 6 Pennsylvania DOC Annual Statistical Report, 2016.
- 7 [The Sentencing Project, Life Goes On: The Historic Rise in Life Sentences in America.](#)
- 8 Council of State Governments, [Justice Reinvestment in Pennsylvania](#), June 2017. Note: While the analysis in this blueprint contemplates both Pennsylvania jail and prison populations, the decarceration, fiscal, and racial impact analysis found in the chart on pages 15 to 17 only examines Pennsylvania’s prison population.
- 9 Pennsylvania DOC, Monthly Population Report (January 2018). Note: This population does not include people under DOC jurisdiction housed in federal prisons, county jails, community contract facilities, or community corrections centers.
- 10 [Pennsylvania DOC, 2016 County Statistics General Information.](#) Pennsylvania has more than 60 local jails – often referred to as “county prisons” – that confine people serving up to two-year sentences.
- 11 BJS, Correctional Statistical Analysis Tool.
- 12 BJS, Correctional Statistical Analysis Tool. Note: Between 2011 and 2016, Pennsylvania’s prison population decreased by 5 percent. In comparison, over the same time period, Massachusetts’s prison population decreased by 18 percent, Connecticut’s prison population decreased by 17 percent, and Maryland’s prison population decreased by 11 percent.
- 13 Bureau of Justice Statistics, *Probation and Parole in the United States*, 2015.
- 14 2016 First Judicial District Annual Report, <https://www.courts.phila.gov/pdf/report/2016-First-Judicial-District-Annual-Report.pdf>; U.S. Census Quick Facts, Philadelphia, 2016.
- 15 Bureau of Justice Statistics, *Correctional Populations in the United States*, 2015; U.S. Census, ACS Estimates 2015.
- 16 BJS, Correctional Statistical Analysis Tool.
- 17 Pennsylvania DOC Annual Statistical Report, 2016.
- 18 Pennsylvania DOC Annual Statistical Report, 2016.
- 19 Pennsylvania DOC Annual Statistical Report, 2016; Pennsylvania DOC Annual Statistical Report, 2000.
- 20 Parole is when someone serves the remainder of their incarceration sentence in the community. Once an incarcerated person has completed the minimum term of their sentence, the parole board will determine whether they are eligible for parole. If paroled, the person will remain under supervision by the Pennsylvania Probation and Parole Board and will be subject to extensive terms and conditions for the remainder of their sentence. If the Probation and Parole Board determines that someone under its control violated the terms and/or condition of parole, that person will be re-incarcerated for an additional length of time.
- 21 Probation is a sentence to a term of court supervision. Probation is generally given in lieu of incarceration, although in Pennsylvania judges give “split sentences”: a sentence where someone must first complete a term of incarceration then serve a separate probationary term. Someone on probation will be under correctional supervision and subject to extensive terms and conditions, and will remain under correctional control until the expiration of their sentence.
- 22 [Pennsylvania DOC Annual Statistical Report, 2016.](#)
- 23 The term incarceration refers to people incarcerated in a prison or local jail. The term imprisonment refers to people incarcerated in prison only.
- 24 “Sentenced population” does not include people imprisoned for parole violations.
- 25 Pennsylvania breaks down its prison admission data into three categories: “sentenced” (new crime), “parole violators,” and “detentions/other.” Given this breakdown, the percentages of people serving time for new crimes and of people serving time for parole violations might not add to 100 percent.
- 26 Pennsylvania DOC Annual Statistical Report, 2016.
- 27 [PA DOC, 2016 County Statistics General Information.](#)
- 28 Pennsylvania DOC Annual Statistical Report, 2016.
- 29 Pennsylvania DOC Annual Statistical Report, 2000; Pennsylvania DOC Annual Statistical Report, 2016.
- 30 Pennsylvania DOC Annual Statistical Report, 2016; Pennsylvania DOC Annual Statistical Report, 2000.
- 31 [PA Board of Probation and Parole, Monthly Statistics Reports, December 2017; PA Board of Probation and Parole, Monthly Statistics Reports, December 2010.](#)
- 32 [Council of State Governments, Justice Reinvestment In Pennsylvania: Policy Framework \(2017\).](#)
- 33 [The Sentencing Project, Life Goes On: The Historic Rise in Life Sentences in America.](#)
- 34 Pennsylvania DOC Annual Statistical Report, 2016.
- 35 Pennsylvania DOC Annual Statistical Report, 2006; Pennsylvania DOC Annual Statistical Report, 2016.
- 36 Pennsylvania DOC Annual Statistical Report, 2016.
- 37 Robina Institute of Criminal Law and Criminal Justice, University of Minnesota, [Profiles in Parole Release and Revocation: Examining the Legal Framework in the United States, Pennsylvania](#), 2016. See also, *Commonwealth v. Walls* 926 A.2d 957 (Pa. 2007) (holding that Pennsylvania’s sentencing guidelines are voluntary not presumptive).
- 38 [The Sentencing Project, The Color of Race and Justice: Racial and Ethnic Disparity in State Prisons, 2016.](#)
- 39 [Pennsylvania DOC, Year End Inmate Statistics, 2016; US Census, ACS Estimates 2016.](#)
- 40 Urban Institute analysis of: [Pennsylvania DOC, Annual Statistical Report 2016; US Census, ACS Estimates 2016.](#)
- 41 [The Sentencing Project, The Color of Race and Justice: Racial and Ethnic Disparity in State Prisons, 2016.](#)
- 42 [The Sentencing Project, The Color of Race and Justice: Racial and Ethnic Disparity in State Prisons, 2016.](#)
- 43 [Pennsylvania DOC, Year End Inmate Statistics, 2016; US Census, ACS Estimates 2016.](#)
- 44 Pennsylvania DOC Annual Statistical Report, 2016; Pennsylvania DOC Annual Statistical Report, 2006.
- 45 Pennsylvania DOC Annual Statistical Report, 2016; Pennsylvania DOC Annual Statistical Report, 2006.
- 46 [Pennsylvania DOC, Year End Inmate Statistics, 2016.](#)

- 47 Pennsylvania DOC, Year End Inmate Statistics, 2016.
- 48 Pennsylvania DOC, SIP Program 2017 Performance Report.
- 49 NASBO, State Expenditure Report 1985-2016.
- 50 Vera Institute of Justice 'Accounting for Violence: How to Increase Safety & Break our Failed Reliance on Mass Incarceration' 2017.
- 51 Mark S. Umbreit, Robert B. Coates, and Betty Vos, "Victim-Offender Mediation: Three Decades of Practice and Research," *Conflict Resolution Quarterly*, 22, nos. 1-2 (2004), 279-303 and National Council on Crime & Delinquency, *Scaling Restorative Community Conferencing Through a Pay for Success Model: A Feasibility Assessment Report* (Oakland, CA: NCCD, 2015), 9.
- 52 Research Gate, [https://www.researchgate.net/publication/271659858\\_Short-term\\_effects\\_of\\_restorative\\_justice\\_conferences\\_on\\_post-traumatic\\_stress\\_symptoms\\_among\\_robbery\\_and\\_burglary\\_victims\\_a\\_randomized\\_controlled\\_trial](https://www.researchgate.net/publication/271659858_Short-term_effects_of_restorative_justice_conferences_on_post-traumatic_stress_symptoms_among_robbery_and_burglary_victims_a_randomized_controlled_trial).
- 53 Pennsylvania Department of Corrections, Recidivism Report (2013).
- 54 42 Pa.C.S. § 2153. Guidelines promulgated by the Sentencing Commission automatically become effective 90 days after publication in the Pennsylvania Bulletin unless rejected by the General Assembly. 42 Pa.C.S. § 2155.
- 55 Pennsylvania DOC Annual Statistical Report, 2016.
- 56 A recent merger of the Pennsylvania's Department of Corrections and the Pennsylvania Board of Probation and Parole combined several of the agencies structures but does not change the Boards independent role as arbiter of a state prisoner inmate's release. See Charles Thompson, *Wolf Administration moves to consolidate certain state prison parole board functions*, PENN LIVE, Oct. 20, 2017 avail at. [http://www.pennlive.com/politics/index.ssf/2017/10/wolf\\_administration\\_moves\\_to\\_c.html](http://www.pennlive.com/politics/index.ssf/2017/10/wolf_administration_moves_to_c.html).
- 57 See, for example, Katherine B. Spencer, Amanda K. Charbonneau and Jack Glaser. "Implicit Bias and Policing." *Social and Personality Psychology Compass* 10/1 (2016): 50–63, 10.1111/spc3.12210. Accessed from <https://gspp.berkeley.edu/assets/uploads/research/pdf/SpencerCharbonneauGlaser.Compass.2016.pdf>; Kutateladze, B., Lynn, V., & Liang, E., Do race and ethnicity matter in prosecution? A review of empirical studies (New York: Vera Institute of Justice, June 2012). Accessed from <http://archive.vera.org/sites/default/files/resources/downloads/race-and-ethnicity-in-prosecution-first-edition.pdf>; Racial Disparity in Sentencing: A Review of the Literature (Washington D.C.: Sentencing Project, January 2005). Accessed from <https://www.opensocietyfoundations.org/sites/default/files/disparity.pdf>; See, for example, Michael Pinard, "Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity." *New York University Law Review* 85, no. 2 (2010): 457-534; Lisa Stolzberg, Stewart J D'Alessio, and David Eitle. "Race and Cumulative Discrimination in the Prosecution of Criminal Defendants." *Race and Justice* 3, no. 4 (2013), p. 275. Accessed from <http://raj.sagepub.com/content/3/4/275.abstract>.
- 58 The Sentencing Project, Fewer Prisoners, Less Crime: A Tale of Three States (2014).
- 59 <http://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.
- 60 Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: [Jackson, Tenn.]: New Press; Distributed by Perseus Distribution, 2010. Print.
- 61 See John Pfaff, *Locked In: True Causes of Mass Incarceration* (Basic 2017).
- 62 Angela J. Davis, *Federal Prosecutors have Way Too Much Power*, N.Y. Times, Jan. 14, 2015.



