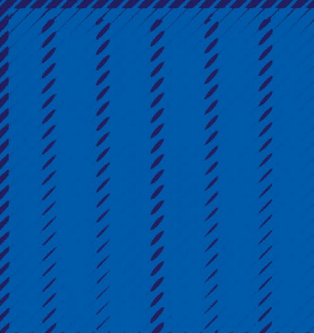


*Blueprint for Smart Justice*  
**Delaware**





# Blueprint *for* Smart Justice Delaware

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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, poverty, and broken schools. As a result, the United States today incarcerates more people, both in absolute numbers and per capita, than any other nation in the world. Millions of lives have been upended and families torn apart. The mass incarceration crisis has transformed American society, damaged families and communities, and 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 dramatically reduce its reliance on incarceration and invest instead in alternatives to prison, including approaches better designed to break the cycle of crime and recidivism by helping 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 combating 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 kinds of changes needed to cut the number of people in prison in each state by half and reduce racial disparities in incarceration. In every state, Urban Institute researchers identified primary drivers of incarceration. They then 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 Delaware – where the imprisonment rate of Black adults was more than five times that of white adults as of 2017<sup>1</sup> – reducing the number of people imprisoned will not on its own reduce racial disparities within the prison system. These findings confirm for the Campaign that urgent work remains for advocates, policymakers, and communities across the nation to focus on efforts like policing and prosecutorial reform that are specific to combating these disparities.

Like many states, Delaware's incarcerated population<sup>2</sup> has experienced explosive growth in recent years. Between 1980 and 2016, the incarcerated population grew by 347 percent.<sup>3</sup> There were 6,307 people incarcerated in Delaware Department of Correction (DOC) correctional institutions, including prisons and community corrections facilities, as of June 2017.<sup>4</sup>

In 2017, 21 percent of people in Delaware prisons were incarcerated pretrial and hadn't been convicted of a crime. Of the state's sentenced population, 59 percent of people were serving time in 2017 for a nonviolent offense.<sup>5</sup> In 2015, 25 percent of admissions<sup>6</sup> to Delaware prisons were for offenses classified as "public order or other," which includes offenses like perjury, disorderly conduct, and minor traffic offenses. Roughly half of people convicted and admitted to the state's prisons that year were serving time for violations of probation or parole.<sup>7</sup> Delaware also has an abysmal record when

it comes to recidivism: 65 percent of people who were released in 2013 after serving sentences of more than one year were reconvicted within three years.<sup>8</sup> These violations of supervision and readmissions to prison speak to the lack of reentry services in the state, coupled with the inherently challenging task of reintegrating into the community following incarceration.

Delaware's mass incarceration crisis has a profound effect on Black Delawareans. Although they made up just 21 percent of the state's adult population,<sup>9</sup> Black people made up 60 percent of the prison population in the state in 2017.<sup>10</sup> In 2014, one in 18 adult Black men in Delaware was in prison, giving the state the fourth highest rate of adult Black male imprisonment in the country.<sup>11</sup>

Further, the number of women in incarcerated in Delaware is growing. Between 1980 and 2016, this population grew by 844 percent. Over the same time period, the total incarcerated population grew by 347 percent.<sup>12</sup>

So, what's the path forward?

Delaware lawmakers must invest in both rehabilitation programming inside of prisons and community organizations that prevent crime and help people reenter society after incarceration. The General Assembly should also amend the laws that make reentry even more difficult for Delawareans to ensure that people are able to participate in their local economies and communities and rebuild their lives. In particular, the General Assembly should expand adult expungement opportunities to remove some of the many barriers faced by people with criminal records. These reforms will help ensure that once people are released from prison, they don't return.

Delaware can also reduce its incarcerated population by enacting bail reform and not incarcerating people who have not been convicted of a crime. No one should be incarcerated pretrial simply because they are unable to pay bail.

State lawmakers should reform the parts of the criminal code that mandate excessive sentences, and

abolish mandatory minimums. The state's unusual requirement that many criminal sentences be served consecutively rather than concurrently should be eliminated, and discretion should be restored to judges. Finally, Delaware should expand the availability of "good time" credit, which allows a person to reduce their time in prison by participating in education, vocational, and other opportunities while imprisoned.

If Delaware were to adopt the changes outlined in this report, the state could achieve a 50 percent reduction in its prison population and save more than \$233 million by 2025 – money that could be better spent on schools, infrastructure, and services for Delawareans.

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

# The State of the Delaware Prison System

Delaware's incarcerated population has soared in recent decades, growing 347 percent between 1980 and 2016.<sup>13</sup> As of June 2017, there were 6,307 people incarcerated in DOC correctional institutions, including prisons and community corrections facilities.<sup>14</sup> Delaware has a unified corrections system that holds both people in pretrial detention and people serving sentences in facilities under DOC jurisdiction. As of June 2017, the DOC reported a total of 5,500 people in Level V facilities (referred to hereafter as prisons), which includes anyone under 24-hour incarceration. This Level V population included 1,135 people being held pretrial. Additionally, the DOC reported a total of 807 people held in Level IV facilities, which are community corrections facilities such as work release centers.<sup>15</sup> In this Blueprint, the term "state correctional facilities" is used to refer collectively to Level IV and Level V facilities.

## AT A GLANCE

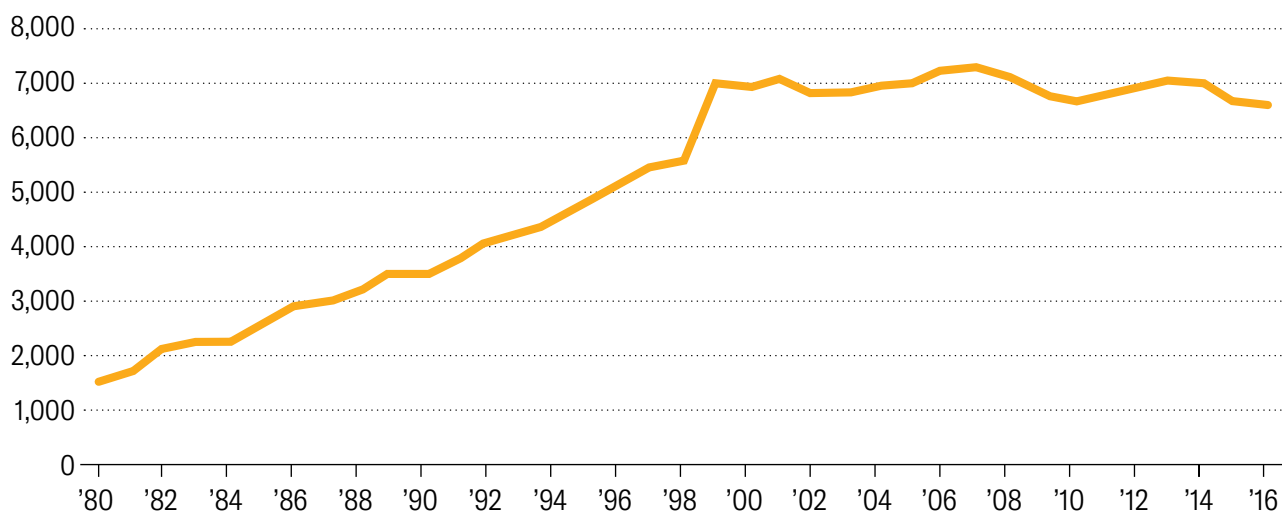
### DELAWARE PRISONS

Between 1980 and 2016, Delaware's incarcerated population grew **347 percent**.

**6,307** people were incarcerated in Delaware DOC correctional institutions as of June 2017.

**3 percent** of Delaware's total adult population was under some form of correctional control in 2016.

## DELAWARE INCARCERATED POPULATION



Altogether, 3 percent of Delaware’s adult population was under some form of correctional control in 2016, either incarcerated or on community supervision.<sup>16</sup>

## What Is Driving People Into Prison?<sup>17</sup>

In Delaware, a litany of offenses<sup>18</sup> drives people into state correctional facilities.<sup>19</sup> In 2015, of the 7,108 people who were convicted and admitted into the state’s correctional facilities, approximately half were admitted for violations of probation or parole.<sup>20</sup>

Of all other admissions (not for supervision violations), one-quarter (25 percent) were for offenses classified as “public order or other.” This category includes offenses such as perjury, disorderly conduct, and minor traffic offenses. The prevalence of these low-level offenses in Delaware admissions to state correctional facilities is likely due to Delaware’s unified correctional system, in which people convicted of any offense, even relatively minor ones, are held in state correctional facilities instead of jails because of the absence of a local jail system. An additional 15 percent of admissions not for supervision violations were for drug offenses, including 8 percent for drug trafficking and 3 percent for drug possession. Other common offenses leading to

admission to state correctional facilities in Delaware in 2015 included driving while intoxicated (14 percent), theft (10 percent), and burglary (7 percent).<sup>21</sup>

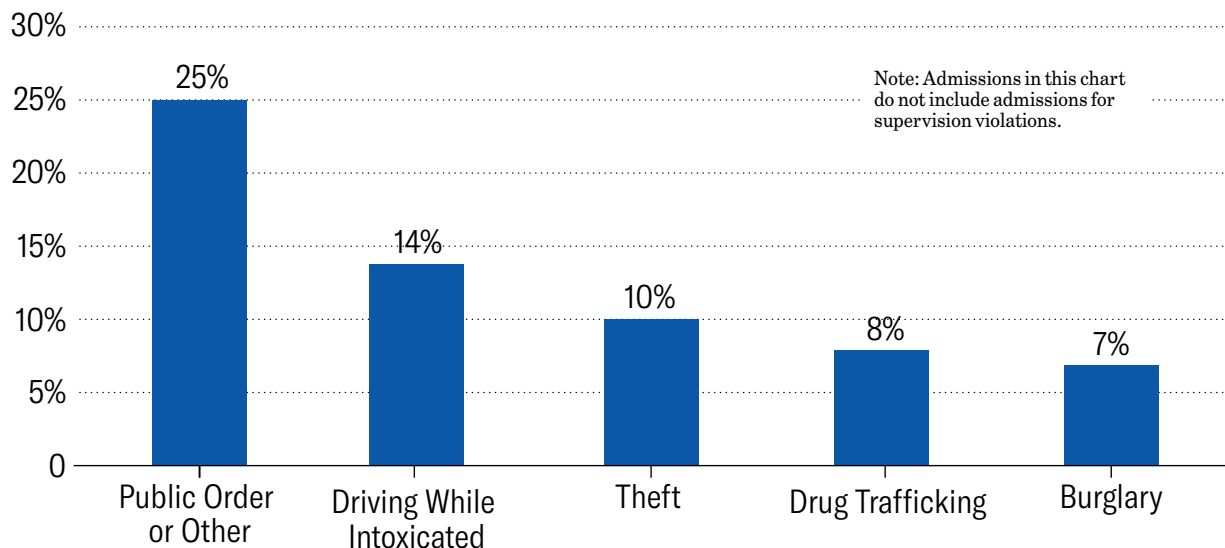
Lack of access to treatment options and reentry support for people who have served time in Delaware prisons can contribute to continued justice system involvement. Of those who were released in 2012 after serving more than one year in Delaware prisons, for example, 76 percent were rearrested within three years.<sup>22</sup>

In addition, a Vera Institute analysis from 2012 revealed violations of probation as a main driver of the state’s large prison population. Vera’s analysis also showed that technical violations — such as missed appointments, curfew violations, and positive drug tests — made up the vast majority (87 percent) of probation revocations in 2010.<sup>23</sup>

## The Current Prison Population

In 2017, 21 percent of people in Delaware prisons were incarcerated pretrial and had not been convicted of a crime. The remaining 4,365 people in prison who had

## NEW ADMISSIONS TO DELAWARE STATE CORRECTIONAL FACILITIES BY TOP OFFENSES (2015)



## AT A GLANCE

# DELAWARE PRISON POPULATION

**76 percent** of people released in 2012 after serving at least one year in Delaware prisons were rearrested within three years.

**59 percent** of Delaware's sentenced prison population was serving time for a nonviolent offense in 2017.

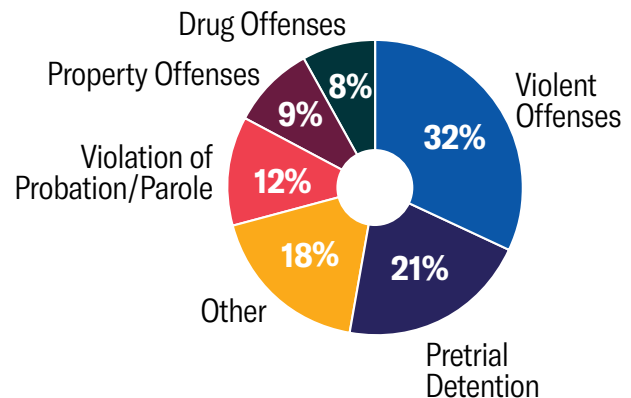
**Roughly half** of people admitted to Delaware correctional facilities in 2015 were admitted for violations of parole or probation.

been convicted and were sentenced are referred to hereafter as the “sentenced prison population.”<sup>24</sup>

More than half (59 percent) of the 2017 sentenced prison population in Delaware was serving time for a nonviolent offense. One in 10 people was serving time for drug offenses, 15 percent of which were drug possession. An additional 11 percent of the sentenced population was serving time for property offenses, including 6 percent for burglary. One in five people in the 2017 sentenced prison population was serving time for a public order offense or driving under the influence.<sup>25</sup>

In addition to the Level V population in Delaware prisons, the DOC holds a number of people (on both Level IV and Level V supervision) in community corrections facilities. Six Level IV correctional facilities hold people serving Level IV sentences, people serving Level V sentences who have been classified by DOC to a less secure facility, and people who have violated the conditions of their probation. Although these people are not housed in Level V facilities, they are kept under a high level of surveillance. Level IV facilities include work release centers, residential drug treatment, home confinement, and violation of probation centers. In 2017, Level IV facilities held 807 people, 21 percent of whom were serving a sentence of more than one

# DELAWARE PRISON POPULATION BY OFFENSE TYPE (2017)



year.<sup>26</sup> Of everyone held in Level IV facilities in 2017 who received a risk assessment, two in five people (39 percent) were assessed as low or moderate risk.<sup>27</sup>

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

In 2017, 88 percent of the sentenced population in Delaware prisons was serving a sentence of more than one year.<sup>28</sup> As of December 2017, nearly one in five (18 percent) people serving sentences in Delaware prisons had been there for at least 10 years, and 12 percent of the sentenced population was serving life sentences.<sup>29</sup>

Between 2010 and 2015, the average time served for people released from a state correctional facility

## AT A GLANCE

# LENGTH OF IMPRISONMENT

**88 percent** of Delaware's sentenced prison population in 2017 was serving a sentence of more than one year.

The average time served at release for people convicted of violent offenses increased by **21 percent** between 2010 and 2015.

remained relatively constant. Over the same time period, however, the average time served at release by people convicted of property offenses and violent offenses increased, by 15 percent and 21 percent respectively.<sup>30</sup>

One factor that contributes to long periods of incarceration for some people in prison is Delaware’s “habitual offender” statute, which mandates that people with prior convictions be given lengthy sentences.<sup>31</sup> In 2014, 15 percent of Delaware’s sentenced prison population was serving time under the habitual offender statute.<sup>32</sup>

## Who Is Imprisoned

**Female Delawareans:** Between 1980 and 2016, the number of women incarcerated in Delaware increased more than ninefold (844 percent), far outpacing the growth of the total incarcerated population, which grew 347 percent over the same time period.<sup>33</sup>

**Older Delawareans:** In 2017, one in five (20 percent) people in Delaware prisons was over the age of 50,<sup>34</sup> a population generally considered to pose a negligible risk to public safety.<sup>35</sup> Of this group, 34 percent were serving life sentences.<sup>36</sup>

**Black Delawareans:** In 2017, the imprisonment rate of Black adults (2,109 per 100,000) in Delaware was more than five times that of white adults.<sup>37</sup> In 2014, one in 18 adult Black men in Delaware were in

### AT A GLANCE

## DEMOGRAPHICS

The number of women incarcerated in Delaware grew by **844 percent** between 1980 and 2016.

**1 in 18** adult Black men in Delaware was in prison in 2014.

Black adults made up **60 percent** of Delaware’s prison population in 2017.

### AT A GLANCE

## BUDGET

Delaware spent **\$305 million** of its general fund on corrections in 2017.

Corrections general fund spending in Delaware increased by **228 percent** between 1985 and 2017.

prison, giving the state the fourth highest rate for imprisonment of Black men in the country.<sup>38</sup> Although they made up just 21 percent of the adult state population,<sup>39</sup> Black people made up 60 percent of the prison population in Delaware in 2017.<sup>40</sup>

## People With Mental Health and Substance Use Disorders

In 2016, 52 percent of people in Delaware prisons had a self-reported “emotional/personal problem,” and half (50 percent) of people in Delaware prisons had a self-reported alcohol or drug problem.<sup>41</sup>

## Budget Strains

As Delaware’s incarcerated population has risen, so has the cost burden. In 2017, Delaware spent \$305 million of its general fund on corrections.<sup>42</sup> Corrections general fund spending more than tripled (228 percent) between 1985 and 2017, forcing tradeoffs in other state priorities. Over the same time period, for example, higher education spending grew by just 12 percent.<sup>43</sup> In fiscal year 2017, the DOC spent 54 percent of its budget on prisons, compared to 19 percent on community corrections.<sup>44</sup>

# Ending Mass Incarceration in Delaware: A Path Forward

There are many potential policy changes that can help Delaware end its mass incarceration crisis, but it will be up to the people and policymakers of Delaware 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, reduce the number of people entering prison in the first place, or both.

## Reducing Admissions

To end mass incarceration, Delaware 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, provide rehabilitation for incarcerated people, or deliver adequate accountability to the survivors of crime.<sup>45</sup> Here are some strategies:

- **Expanded diversion and treatment:** The good news is that alternatives exist. Diversion and treatment programs have shown great success in reducing both violent and nonviolent criminal activity.<sup>46</sup> Programs offering support services such as substance abuse treatment, mental health care, employment, housing, health care, and vocational training – often with some community service requirement – have significantly reduced recidivism rates for participants.<sup>47</sup> The Delaware Senate established a multidisciplinary Behavioral Health Consortium in 2017, responding in part to the extraordinarily high rates of psychiatric disability among incarcerated people in

Delaware. This interdisciplinary consortium is a positive step toward using a model of health care, treatment, and community support to keep people with disabilities from entering the criminal legal system. Other successful models include programs that divert people to treatment and support services before arrest and prosecutor-led programs that divert people before they are charged. Delaware has a number of specialized courts focused on substance abuse and mental illness, but they are underfunded and need monitoring. Delaware also has some diversion and civil citation programs that can be expanded and better supported.

- **Prosecutorial reform:** Prosecutors determine whom to charge, what to charge them with, and what kind of sentence to negotiate. They therefore hold the most power in determining both Delaware’s prison admissions and a person’s length of stay in prison. The Delaware Department of Justice should publicize fair-minded charging and plea guidelines designed to reduce overcharging and shorten sentences.
- **Reentry services:** Inside prison, Delaware’s rehabilitation programming is underfunded and poorly structured. Outside prison, Delaware has much room for improvement when it comes to investing in community organizations that both prevent crime and help people who have committed crimes lead stable, crime-free lives. Delaware has a web of laws making it unnecessarily difficult to return to society after serving a prison sentence. The state should make reentry for released individuals a smoother process and ensure that people who have

committed felonies have economic opportunities and are not stigmatized in their communities.

- **Probation reform:** A large driver of prison admissions in Delaware is probation violations resulting in a revocation of probation. Approximately half of Delaware’s prison admissions result from probation officers citing individuals on probation for violations, thereby returning them to prison for failure to comply with the terms of their probation.<sup>48</sup> While this is a major driver of prison admissions in Delaware, there is no data available to determine whether these probation violations are for technical violations, such as missing an appointment with a probation officer or missing curfew, or for committing a new criminal offense. Combined with a lack of reentry services and the difficulty that people face when returning to society, Delaware’s 65 percent reconviction rate after three years from release after serving a sentence of more than one year in prison demonstrates that Delaware could curb its prison admissions by investing in returning citizens and restructuring community corrections to help people succeed.<sup>49</sup>
- **Expungement:** People who have arrests and criminal convictions often suffer the consequences of involvement with the criminal justice system long after they have been acquitted of charges or served their sentences. The persistence of public criminal histories creates significant barriers for Delawareans who are trying to move on from their past, and harms society as a whole. A criminal history makes it harder to get a job, secure stable housing, access credit, and gain additional skills or education – making it more likely that people will return to criminal behavior. Currently, Delaware only allows adults to seek an expungement in narrow circumstances, with no possibility of expunging unpardoned convictions. In 2019, the General Assembly considered an adult expungement bill, but at the time of this publication it had not yet been passed.<sup>50</sup> Expanding adult expungement

opportunities would give returning citizens a true second chance.

- **Bail reform:** Delaware can start to lower its incarceration rate by not imprisoning people who have not been convicted of a crime. Almost a quarter of Delaware’s prison population is composed of people held in pretrial detention.<sup>51</sup> Risk should be the deciding factor for pretrial detention, not wealth.

## Reducing Time Served

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

- **Enact sentencing reform:** Delaware should continue to reform the parts of the criminal code that mandate overly long sentences, especially for drug charges, burglary and other property charges, robbery, public order charges, and assault. Mandatory minimums – which prevent judges from issuing the sentence they believe is appropriate – should be abolished. Additionally, Delaware is unusual in requiring many criminal sentences to be served consecutively instead of concurrently, without giving judges the ability to exercise discretion in sentencing based on the facts of the case. This requirement should be eliminated, restoring discretion for judges.
- **Expand and streamline sentence modification procedure:** Some people can demonstrate that they have been rehabilitated before the end of their sentence, or that they otherwise no longer pose any threat to society because of their advanced age or illness. Although Delaware has provisions for early release, the process must be initiated by the DOC and historically has been rarely used. These laws should be streamlined and expanded.
- **Ensure availability of “good time” credit:** Delaware can expand the availability of earned “good time” credits against a prison sentence through participation in educational, vocational,

and other opportunities. Good time allows people in prison to earn sentence reductions for good behavior, while also providing an incentive to build skills and better ensure successful reentry after leaving prison. When programming is not made available, good time credits cannot be earned. Moreover, good time credits can be taken away because of arbitrary or improper disciplinary practices. Delaware must ensure that programming is available and reform its prison discipline system.

## Reducing Racial Disparities

Reducing the number of people who are imprisoned in Delaware will not on its own significantly reduce racial disparities in the prison system. Racial disparities need to be addressed both in the community and at every stage of the criminal justice process.

People of color (especially Black, Latinx, and Native American people) are at a higher risk of becoming involved in the justice system, due to 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 post-release opportunity.<sup>52</sup> Focusing on only one of the factors that drives racial disparity does not address issues across the system.

Racial disparity is so ingrained in the system that it cannot be mitigated by simply reducing the scale of mass incarceration. Shrinking the prison population across the board will likely result in lower imprisonment rates for all racial and ethnic populations but 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

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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>62</sup>

— From *The New Jim Crow*, Michelle Alexander

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greatly to the racial disparities that plague the prison system.

New Jersey 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>53</sup> However, the state did not intentionally 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>54</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
- Collecting and publicly disseminating data about the criminal justice system to better understand and track disparities based on race

- Investing in diversion and community-based alternatives to detention in communities of color
- Reducing the use of pretrial detention and eliminating wealth-based incarceration
- Ending sentencing enhancements based on location (e.g., drug-free school zones and public property, such as parks and public housing)
- 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 from new laws or rules
- Eliminating considerations in the legal system that disproportionately target people of color, such as discriminatory gang sentencing enhancements or the consideration of witness tampering/intimidation in the pretrial state
- Addressing any potential racial bias in risk assessment instruments used to assist decision-making in the criminal justice system
- Encouraging judges to use their power to dismiss cases that originate with school officials or on school grounds when the matter may be adequately addressed through school disciplinary or regulatory process to avoid incarcerating children during their most formative years
- Eliminating fines and fees, which effectively criminalize poverty
- Shifting funding from law enforcement and corrections to community organizations, job creation, schools, drug and mental health treatment, and other social service providers

## Reducing Disability Disparities

People with disabilities are more likely to come into contact with the criminal justice system than

people without disabilities.<sup>55</sup> In particular, people with psychiatric disabilities are dramatically overrepresented in jails and prisons across the country.<sup>56</sup>

- People showing signs of mental illness are twice as likely to be arrested as people without mental illness for the same behavior.<sup>57</sup>
- People with mental illness are sentenced to prison terms that are, on average, 12 percent longer than other people in prison.<sup>58</sup>
- People with mental illness stay in prison longer because they frequently face disciplinary action for conduct that arises due to their illness – such as attempted suicide – and they seldom qualify for early release because they are not able to participate in rehabilitative programming, such as educational or vocational classes.<sup>59</sup>

Furthermore, sentencing reforms appear to leave prisoners with psychiatric disabilities behind. In recent years in California, the prison population has decreased by more than 25 percent, but the number of people with a serious mental disorder in prison has increased by 150 percent.

Screening tools to evaluate psychiatric disabilities vary by state and jurisdiction, but the most reliable data indicates that more than half of jail populations and close to half of prison populations have mental health disabilities.<sup>60</sup> The fact that people with mental health disabilities are arrested more frequently, stay incarcerated longer, and return to prison faster is not due to any inherent criminality related to psychiatric disabilities. It arises in part because of the lack of accessible and appropriate mental health treatment in the community; in part because of a perception of dangerousness by police, prosecutors, and judges; and in part because prison staff and probation officers fail to recognize and accommodate disability.

A common practice in the criminal justice system involves diversion to “specialty courts” – namely mental health, behavioral, veterans’, and drug courts – for some people. These courts arose from the recognition that for many people, criminal behavior may stem from mental and physical health issues, and

were established as a means of providing treatment as a potential alternative to incarceration. While that goal is laudable, the ACLU has deep concerns about the growing use of specialty courts, which can trap people in the criminal justice system when they should have been referred to the health care system and can lead to sentences that are longer than would have been ordered by a regular court.

These courts must ensure that participation is voluntary and that guilty pleas are not required for entry. In addition, if people are going to interact with a prosecutor and/or the court as a part of the program, they must have access to counsel. Oversight by the specialty court should not last beyond the length of any sentence that would have been imposed for the underlying charge, and participants should be allowed to quit the program and either take a plea agreement or stand trial at any time. Finally, specialty court programs must be tailored to meet individual needs rather than providing a cookie-cutter approach to all participants, and ensure that noncompliance does not trigger an immediate return to incarceration.

Not surprisingly, many of the strategies to reduce disability disparities are similar to approaches that reduce racial disparities. Some examples include:

- Investing in pre-arrest diversion by:
  - creating behavioral health centers, run by state departments of health, as alternatives to jails, or emergency rooms for people experiencing mental health crises or addiction issues
  - training dispatchers and police to divert people with mental health issues who commit low-level nuisance crimes to these behavioral health centers. Jurisdictions that have followed this approach have significantly reduced their jail populations.<sup>61</sup>
- Ending arrest and incarceration for low-level public order charges, such as being drunk in public, urinating in public, loitering, trespassing, vandalism, and sleeping on the street. If needed, refer people who commit these crimes to behavioral health centers.

- Requiring prosecutors to offer diversion for people with mental health and substance abuse disabilities who are charged with low level crimes
- Evaluating prosecutors' charging and plea bargaining practices to identify and eliminate disability bias.
- Investing in diversion programs and alternatives to detention designed for people with disabilities, including programs that provide supportive housing, Assertive Community Treatment, wraparound services, and mental health supports
- Reducing the use of pretrial detention while increasing reminders of court dates and other supports to ensure compliance with pretrial requirements

## TAKING THE LEAD

**Prosecutors:** They decide what charges to bring and which plea deals to offer. They can decide to divert more people to treatment programs (for example, drug or mental health programs) rather than send them to prison. And they can decide to charge enhancements that require the imposition of prison sentences.

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

- Reducing recidivism due to parole or probation revocations through:
  - intensive case management
  - disability-competent training for officers on alternatives to incarceration and reasonable modifications to requirements of supervision
  - no return to incarceration for first and second technical violations
- Addressing bias against mental disabilities in risk assessment instruments used to assist decision-making in the criminal justice system
- Shifting funding away from law enforcement and corrections into supportive housing, intensive case management, schools, drug and mental

health treatment, community organizations, job creation, and other social service providers

## Forecaster Chart

There are many pathways to cutting the prison population in Delaware by 50 percent. To help end mass incarceration, communities and policymakers will need to determine the optimal strategy to do so. This 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 Delaware, visit the interactive online tool at <https://urbn.is/ppf>.

# 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>Violation of probation or parole</b>	<ul style="list-style-type: none"> <li>• Reduce average time served by 50% (from 0.34 to 0.17 years)</li> <li>• Institute alternatives that reduce admissions by 60% (2,438 fewer people admitted)</li> </ul>	18.19% reduction (1,092 fewer people)	White: 9.4% decrease Black: 6.2% increase Hispanic/Latino: 5.4% increase Asian: 5.0% increase	\$37,440,492
<b>Drug offenses</b>	<ul style="list-style-type: none"> <li>• Reduce average time served for drug distribution by 50% (from 1.44 to 0.72 years)</li> <li>• Institute alternatives that reduce admissions for drug distribution by 40% (133 fewer people admitted)</li> <li>• Institute alternatives that end all admissions for drug possession (100 fewer people admitted)</li> </ul>	7.49% reduction (449 fewer people)	White: 5.1% increase Black: 3.5% decrease Hispanic/Latino: 1.7% decrease Asian: 8.1% increase	\$11,458,349

**Impact Compared to 2025 Baseline\***

<b>Offense category**</b>	<b>Policy outcome</b>	<b>Prison population impact</b>	<b>Impact on racial and ethnic makeup of prison population***</b>	<b>Cost savings****</b>
<b>Weapons offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 2.91 to 1.45 years)</li> </ul>	5.96% reduction (358 fewer people)	White: 2.9% increase Black: 2.0% decrease Hispanic/Latino: 0.9% decrease Asian: 6.3% increase	\$7,382,478
<b>Robbery</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 40% (from 4.62 to 2.77 years)</li> <li>Institute alternatives that reduce admissions by 30% (44 fewer people admitted)</li> </ul>	5.3% reduction (318 fewer people)	White: 1.5% increase Black: 1.1% decrease Hispanic/Latino: 0.6% increase Asian: 2.9% decrease	\$7,046,668
<b>Burglary</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 40% (from 1.51 to 0.91 years)</li> <li>Institute alternatives that reduce admissions by 30% (76 fewer people admitted)</li> </ul>	3.65% reduction (219 fewer people)	White: 1.8% decrease Black: 1.3% increase Hispanic/Latino: 0.4% increase Asian: 3.8% increase	\$5,589,956
<b>Public order offenses*****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 0.30 to 0.15 years)</li> <li>Institute alternatives that reduce admissions by 50% (401 fewer people admitted)</li> </ul>	3.03% reduction (182 fewer people)	White: 0.2% increase Black: 0.2% decrease Hispanic/Latino: 0.5% increase Asian: 3.1% increase	\$5,219,906
<b>DWI</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 50% (from 0.44 to 0.22 years)</li> <li>Institute alternatives that reduce admissions by 50% (265 fewer people admitted)</li> </ul>	2.89% reduction (173 fewer people)	White: 2.8% decrease Black: 1.9% increase Hispanic/Latino: 0.7% increase Asian: 3.0% increase	\$4,631,488
<b>Assault</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 40% (from 1.66 to 1.00 years)</li> <li>Institute alternatives that reduce admissions by 30% (47 fewer people admitted)</li> </ul>	2.51% reduction (151 fewer people)	White: 0.6% increase Black: 0.5% decrease Hispanic/Latino: 0.7% increase Asian: 2.6% increase	\$3,890,022
<b>Theft</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 60% (from 0.16 to 0.06 years)</li> <li>Institute alternatives that reduce admissions by 40% (172 fewer people admitted)</li> </ul>	0.85% reduction (51 fewer people)	White: 0.4% decrease Black: 0.2% increase Hispanic/Latino: 0.4% increase Asian: 0.9% increase	\$1,398,431

\*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.

\*\*\* This column represents the percent change in the share of the prison population made up by each racial/ethnic group. It compares the proportion of the population made up by a group in the 2025 baseline prison population to the proportion of the population made up by that group when the reform scenario is applied. We then calculate the percent change between those two proportions. Racial and ethnic disproportionality is traditionally measured by comparing the number of people in prison of a certain race or ethnic group to the number of people in the state's general population of that same group. 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 Delaware, where Black people make up 60 percent of the prison population but constitute only 21 percent of the state's total 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 weapons offenses include unlawful possession, sale, or use of a firearm or other type of weapon (e.g., explosive device).

\*\*\*\*\* 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.

## Total Fiscal Impact

If Delaware were to implement reforms leading to the changes above, 2,993 fewer people would be in prison in the state by 2025, a 50 percent decrease. This would lead to a total cost savings of \$233,940,159 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 Delaware'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 is 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, and then added up to generate a measure of cumulative dollars saved over that time period.

# Endnotes

- 1 Urban Institute analysis of U.S. Census Bureau, “Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States,” 2017 population estimates; Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 2 Note: Delaware has a unified corrections system in which all people sentenced to incarceration are held under Delaware Department of Correction (DOC) jurisdiction. The DOC classifies its correctional population by Levels I-V, where Level V refers to people under 24-hour incarceration. In addition to four prisons that hold people under Level V supervision, the DOC operates six community corrections facilities, which include work release and residential drug treatment programs and can house people under both Level IV and Level V supervision. (Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).) This Blueprint uses “prison” to refer only to Level V facilities. Due to data limitations, some metrics included in this Blueprint cannot be limited to just Level V facilities. When the data describes all Level IV and Level V facilities, the Blueprint uses the term “state correctional facilities.”
- 3 Bureau of Justice Statistics (BJS), Corrections Statistical Analysis Tool.
- 4 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 5 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 6 Note: This excludes admission for violations of probation and parole.
- 7 BJS, National Corrections Reporting Program. Note: This includes all admissions categorized in the data under the offense type of “parole violation” or “probation violation” and those with an admission type of “probation revocation, new sentence.”
- 8 Delaware Criminal Justice Council Statistical Analysis Center, *Recidivism in Delaware: An Analysis of Prisoners Released in 2011 through 2013* (December 2017), <https://sac.delaware.gov/wp-content/uploads/sites/64/2018/01/Recidivism-2011-2013.pdf>.
- 9 U.S. Census Bureau, “Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States,” 2017 population estimates.
- 10 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 11 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.
- 12 BJS, Corrections Statistical Analysis Tool.
- 13 BJS, Corrections Statistical Analysis Tool.
- 14 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 15 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 16 Danielle Kaeble and Mary Cowhig, *Correctional Populations in the United States, 2016* (BJS, 2018), <https://www.bjs.gov/content/pub/pdf/cpus16.pdf>.
- 17 Prison admissions reflect the number of people entering Delaware correctional facilities in a given year, while the total prison population refers to the total number of people incarcerated at the end of each year.
- 18 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.
- 19 Note: Admissions data in this paragraph includes people incarcerated in both Level V and Level IV facilities. Admissions data does not include people admitted pretrial.
- 20 BJS, National Corrections Reporting Program. Note: This includes all admissions categorized in the data under the offense type of “parole violation” or “probation violation” and those with an admission type of “probation revocation, new sentence.”
- 21 BJS, National Corrections Reporting Program, 2015.
- 22 Delaware Criminal Justice Council, *Recidivism in Delaware: An Analysis of Prisoners Released in 2010 Through 2012* (November 2016), <https://sac.delaware.gov/wp-content/uploads/sites/64/2017/04/Recidivism-in-Delaware-An-Analysis-of-Prisoners-Released-in-2010-2012.pdf>. Note: In this source, rearrest includes all people rearrested for any criminal felony or misdemeanor with a potential incarceration sentence, as well as a variety of other offenses or events.
- 23 Juliene James and Suzanne Agha, *Justice Reinvestment in Action: The Delaware Model* (New York: Vera Institute of Justice, April 2013), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/justice-reinvestment-in-action-the-delaware-model/legacy\\_downloads/justice-reinvestment-in-action-delaware-v4.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/justice-reinvestment-in-action-the-delaware-model/legacy_downloads/justice-reinvestment-in-action-delaware-v4.pdf).
- 24 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 25 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 26 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf). Note: This number includes people serving life and indefinite sentences.
- 27 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 28 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
- 29 Charles Huenke, *Memorandum: DOC Population Breakout, 4th Quarter 2017* (Delaware Criminal Justice Council, January 2018), <https://sac.delaware.gov/wp-content/uploads/sites/64/2018/01/DOC-Population-Breakout-4th-Quarter-2017.pdf>.
- 30 BJS, National Corrections Reporting Program, 2015. Note: These numbers include people incarcerated in both Level IV and Level V facilities.
- 31 Delaware Criminal Code 11 Del. C. § 4214.
- 32 Thomas F. MacLeish, *Memorandum: Habitual Offender Information* (Delaware Criminal Justice Council, May 2014), <https://sac.delaware.gov/wp-content/uploads/sites/64/2017/04/Habitual-Offenders-in-Delaware.pdf>. Note: This number refers to DOC Level V population.
- 33 BJS, Corrections Statistical Analysis Tool.
- 34 Charles Huenke, *Memorandum: DOC Population Breakout, 4th Quarter 2017* (Delaware Criminal Justice Council, January 2018), <https://sac.delaware.gov/wp-content/uploads/sites/64/2018/01/DOC-Population-Breakout-4th-Quarter-2017.pdf>.

- delaware.gov/wp-content/uploads/sites/64/2018/01/DOC-Population-Breakout-4th-Quarter-2017.pdf.
- 35 American Civil Liberties Union, *At America's Expense: The Mass Incarceration of the Elderly* (June 2012), <https://www.aclu.org/report/americas-expense-mass-incarceration-elderly?redirect=criminal-law-reform/report-americas-expense-mass-incarceration-elderly>; Human Rights Watch, *Old Behind Bars: The Aging Prison Population in the United States* (January 2012), [https://www.hrw.org/sites/default/files/reports/usprisons0112webcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/usprisons0112webcover_0.pdf).
  - 36 Charles Huenke, *Memorandum: DOC Population Breakout, 4th Quarter 2017* (Delaware Criminal Justice Council, January 2018), <https://sac.delaware.gov/wp-content/uploads/sites/64/2018/01/DOC-Population-Breakout-4th-Quarter-2017.pdf>.
  - 37 Urban Institute analysis of U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates; Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
  - 38 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.
  - 39 U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates.
  - 40 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
  - 41 Delaware Department of Correction, *Annual Report 2016*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2016AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2016AnnualReport.pdf). Note: This population is identified in the source as "Level V prisoners."
  - 42 National Association of State Budget Officers, State Expenditure Report series, <https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives>.
  - 43 National Association of State Budget Officers, State Expenditure Report series, <https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives>.
  - 44 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
  - 45 Danielle Sered, *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration* (New York: Vera Institute of Justice, 2017), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/accounting-for-violence/legacy\\_downloads/accounting-for-violence.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/accounting-for-violence/legacy_downloads/accounting-for-violence.pdf).
  - 46 Center for Prison Reform, *Diversion Programs in America's Criminal Justice System* (August 2015), <https://centerforprisonreform.org/wp-content/uploads/2015/09/Jail-Diversion-Programs-in-America.pdf>
  - 47 Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives* (December 2013), [http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report\\_web.pdf](http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf).
  - 48 BJS, National Corrections Reporting Program. Note: This includes all admissions categorized in the data under the offense type of "parole violation" or "probation violation" and those with an admission type of "probation revocation, new sentence."
  - 49 Delaware Criminal Justice Council Statistical Analysis Center, *Recidivism in Delaware: An Analysis of Prisoners Released in 2011 through 2013* (December 2017), <https://sac.delaware.gov/wp-content/uploads/sites/64/2018/01/Recidivism-2011-2013.pdf>.
  - 50 An Act to Amend Title 4, Title 10, Title 11, And Title 16 of the Delaware Code Relating Expungement of Records of Adult Arrest and Conviction, Delaware S.B. 37, 150th General Assembly (2019).
  - 51 Delaware Department of Correction, *Annual Report 2017*, [https://doc.delaware.gov/assets/documents/annual\\_report/DOC\\_2017AnnualReport.pdf](https://doc.delaware.gov/assets/documents/annual_report/DOC_2017AnnualReport.pdf).
  - 52 See, for example, Katherine B. Spencer, Amanda K. Charbonneau, and Jack Glaser, "Implicit Bias and Policing," *Social and Personality Psychology Compass* 10, no. 1 (January 2016): 50-63, <https://doi.org/10.1111/spc3.12210>; Besiki Kutateladze, Vanessa Lynn, and Edward Liang, *Do Race and Ethnicity Matter in Prosecution? A Review of Empirical Studies* (New York: Vera Institute of Justice, June 2012), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/do-race-and-ethnicity-matter-in-prosecution-a-review-of-empirical-studies/legacy\\_downloads/race-and-ethnicity-in-prosecution-first-edition.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/do-race-and-ethnicity-matter-in-prosecution-a-review-of-empirical-studies/legacy_downloads/race-and-ethnicity-in-prosecution-first-edition.pdf); Tushar Kansal, *Racial Disparity in Sentencing: A Review of the Literature*, ed. Marc Maurer (Washington, D.C.: Sentencing Project, January 2005), <https://www.opensocietyfoundations.org/sites/default/files/disparity.pdf>; Michael Pinard, "Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity," *New York University Law Review* 85, no. 2 (May 2010): 457-534, <https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-85-2-Pinard.pdf>; Lisa Stolzenberg, Stewart J. D'Alessio, and David Eitle, "Race and Cumulative Discrimination in the Prosecution of Criminal Defendants," *Race and Justice* 3, no. 4 (August 2013): 275-299, <http://raj.sagepub.com/content/3/4/275.abstract>.
  - 53 Marc Maurer and Nazgol Ghandnoosh, *Fewer Prisoners, Less Crime: A Tale of Three States* (Washington, D.C.: Sentencing Project, July 2014), <https://sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf>.
  - 54 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.
  - 55 Elliot Oberholzer, "Police, Courts, and Jails All Fail Disabled People," Prison Policy Initiative (August 23, 2017), <https://www.prisonpolicy.org/blog/2017/08/23/disability/>.
  - 56 Elliot Oberholzer, "Police, Courts, and Jails All Fail Disabled People," Prison Policy Initiative (August 23, 2017), <https://www.prisonpolicy.org/blog/2017/08/23/disability/>.
  - 57 Linda A. Teplin, *Keeping the Peace: Police Discretion and Mentally Ill Persons* (National Institute of Justice Journal, July 2000): 12, <https://www.ncjrs.gov/pdffiles1/jr000244c.pdf>.
  - 58 Stanford Justice Advocacy Project, *The Prevalence and Severity of Mental Illness Among California Prisoners on the Rise* (2017), <https://law.stanford.edu/publications/the-prevalence-and-severity-of-mental-illness-among-california-prisoners-on-the-rise/>.
  - 59 Stanford Justice Advocacy Project, *The Prevalence and Severity of Mental Illness Among California Prisoners on the Rise* (2017), <https://law.stanford.edu/publications/the-prevalence-and-severity-of-mental-illness-among-california-prisoners-on-the-rise/>.
  - 60 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf>; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), <https://www.bjs.gov/content/pub/pdf/imhprjji1112.pdf>.
  - 61 John Buntin, "Miami's Model for Decriminalizing Mental Illness in America," *Governing* (August 2015), <http://www.governing.com/topics/public-justice-safety/gov-miami-mental-health-jail.html>; Michael T. Compton, Roger Bakeman, Beth Broussard, Dana Hankerson-Dyson, Letheshia Husbands, Shaily Krishan, Tarianna Stewart-Hutto, Barbara M. D'Orio, Janet R. Oliva, Nancy J. Thompson, and Amy C. Watson, "The Police-Based Crisis Intervention Team (CIT) Model: II. Effects on Level of Force and Resolution, Referral, and Arrest," *Psychiatric Services* 65, no. 4 (April 2014), <https://doi.org/10.1176/appi.ps.201300108>; see also, Michael T. Compton, Masuma Bahora, Amy C. Watson, and Janet R. Oliva, "A Comprehensive Review of Extant

Research on Crisis Intervention Team (CIT) Programs," *Journal of American Academy of Psychiatry Law* 36, no. 1 (March 2008), <http://jaapl.org/content/36/1/47.long>.

- 62 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.



