The CSG Justice Center helps policymakers apply data and research to improve public safety and strengthen communities.

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.
Six New Mexico officials attended the 50-State Summit on Public Safety to discuss crime, behavioral health, recidivism reduction, and managing corrections costs.

Representatives largely came from four areas:

- Law Enforcement
- State Legislators
- Behavioral Health
- Corrections Administrators
70-page workbooks containing national and state-specific data on crime, arrests, recidivism, correctional populations, and other criminal justice system metrics were provided at the summit.

The workbooks not only compiled a large amount of national data repackaged and presented in novel ways, but also included original research gathered from structured interviews conducted with all 50 states on such topics as:

- Recidivism measures tracked and published
- Risk assessment validation
- Use of common identification numbers
- Behavioral health screening
- Supervision expenditures
- Supervision revocation tracking
- Supervision officer training and evaluation

Workbooks for New Mexico and the 49 other states are available at 50statespublicsafety.us
Today’s sessions

9:45 a.m.  Improving responses to people in the criminal justice system who have behavioral health needs

11:00 a.m.  Advancing strategies to reduce crime

1:30 a.m.  Promoting strategies to reduce recidivism

2:45 a.m.  Collateral consequences of criminal convictions
Improving Responses to People in the Criminal Justice System Who Have Behavioral Health Needs

Panelists:

Wayne Lindstrom, Director, Behavioral Health Services Division, Human Services Department

Grace Philips, General Counsel, New Mexico Association of Counties

Maggie Hart Stebbins, Bernalillo County Commissioner

Rick Miera, Former Chair, Legislative Education Study Committee, Behavioral Health Counselor
Effectively treating people in the criminal justice system who have behavioral health needs is critical to improving overall health and public safety outcomes.

People with behavioral health needs are overrepresented in criminal justice systems

- Arrested at disproportionately higher rates
- Longer stays in jail and prison
- Limited access to health care
- More criminogenic risk factors

People who have substance addictions or other behavioral health needs have higher recidivism rates than those without specialized needs. Addressing these behavioral health needs improves both public health and public safety outcomes.
People on community supervision or in jail or prison have much higher rates of serious mental illness and substance addictions than the general population.

While substance addictions contribute to recidivism risk, mental illnesses are rarely a direct cause of criminal behavior.

However, both are factors in increased law enforcement calls for service and increased jail stays and can interfere with recidivism-reduction efforts and must be addressed through comprehensive case planning.

While New Mexico saw a smaller increase in overdose death rates between 2006 and 2016 than other states, it still has one of the highest rates in the nation.

Source: CDC, Increases in Drug and Opioid-Involved Overdose Deaths, United States.
On the front end, many states, including New Mexico, are trying to improve police responses to people who have behavioral health needs.

19 states do not have laws regarding training requirements for police on responding to people who have behavioral health needs

6 states have legislative requirements for the establishment of crisis intervention teams

21 states have laws requiring training for police on responding to people who have behavioral health needs

4 states have laws requiring training and legislative requirements establishing crisis intervention teams

*Crisis intervention teams are formal partnerships among police departments and mental health care providers with specific training models that agencies must follow. Training requirements related to responding to people who have behavioral health needs include any other training outside of crisis intervention teams.
10 counties in New Mexico have joined an initiative to reduce the number of people with mental illnesses in jails.

Stepping Up Resolutions as of March 2018

- Reducing the number of people with mental illnesses booked into jail
- Increasing connections to treatment
- Reducing the length of time spent in jail
- Reducing recidivism
Improving health and public safety outcomes requires states to address four key challenges at a systemic and statewide level.

1. **Improve identification** of people who have behavioral health needs in the criminal justice system

2. **Ensure availability** of a comprehensive array of treatment and services

3. **Increase effectiveness** of treatment to improve public safety and health outcomes

4. **Strengthen collaboration** between behavioral health and criminal justice agencies at the state and local level
Data and case information sharing is crucial, but is often impeded by structural barriers (real and imagined).

Data sharing for people in both criminal justice and behavioral health systems is necessary for
- Ensuring continuity of care;
- Eliminating duplication;
- Applying consistency in assessment, evaluation, and case planning; and
- Evaluating outcomes.

Policymakers and practitioners are often stymied by persistent beliefs about the impossibility of data sharing, such as
- No one can access addiction information;
- Only health care providers can share personal health information (“PHI”); and
- You always need a patient’s authorization to release information.
Key Takeaways

• Counties in New Mexico have successfully reduced the number of people in county jails, but the percentage of people with serious mental illnesses and substance addictions in county jails has increased.

• With a fragmented behavioral health system, the Bernalillo County jail has become the largest mental health care provider in the state.

• New Mexico had the eighth-highest drug overdose rate in 2015, down from the highest rate in the country in 2005. For decades, New Mexico has struggled to find effective responses to people who have opioid, alcohol, and/or methamphetamine addictions.

• Counties have taken the lead in increasing access to mental health and substance addiction treatment across the state.
Questions

How can your state improve behavioral health data collection, analysis, and information sharing between state and local criminal justice and behavioral health agencies to strengthen strategic planning, increase access to treatment and supports, and improve outcomes?

How can your state take steps to finance and incentivize the provision of treatment and services that effectively reduce recidivism and advance recovery for people in the criminal justice system who have behavioral health needs?

Are there county-level collaborative efforts to improve health and public safety outcomes for people in the criminal justice system who have behavioral health needs? If so, what can be done to replicate efforts in other counties?

What are the most significant barriers within your state to expanding access to services for people in the criminal justice system?
Advancing Strategies to Reduce Crime

Panelists:

**Honorable Edward L. Benavidez**, Chief Judge, Bernalillo County Metropolitan Court

**Honorable Raul Torrez**, District Attorney, Second Judicial District

**Susan Reyes**, Community Health Worker, La Plazita Institute, Leaders Organizing to Unite and Decriminalize (LOUD) Facilitator

**Representative Antonio Maestas**, Co-Chair, Criminal Justice Reform Subcommittee
New Mexico’s violent crime rate increased 9 percent between 2006 and 2016, while the overall property crime rate was stable.

The increase in total violent crime was driven by an increase in robbery offenses.

The increase in motor vehicle thefts was offset by a similar decrease in burglaries.

Source: FBI, Crime in the U.S., 2006–2016. Rates shown represent the number of incidents per 100,000 residents. Violent Crime Rate includes murder/non-negligent manslaughter, rape, robbery, and aggravated assault. Property Crime Rate includes burglary, larceny/theft, motor vehicle theft, and arson. In 2013, the FBI expanded its definition of rape, which may account for some increases in violent crime.
Advancing Strategies to Reduce Crime

Increases in arrests have been driven by arrests for larceny, drug offenses, and aggravated assaults.

The total number of arrests in New Mexico grew from 72,114 to 77,509, from 2006 to 2016, a 7% increase.

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

Top 10 Cities – Largest Population

Top 10 Cities – Highest Index Crime Rate

Source: FBI, Crime in the United States, 2016. Index Crime Rate includes murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.
Cities with the highest violent crime rates do not necessarily have the highest property crime rates.

While Albuquerque is not the only New Mexico city with a high crime rate, it does drive much of the state’s criminal activity.

Albuquerque accounts for 27% of New Mexico’s resident population, but

- 43% of reported violent crime
- 46% of violent crime arrests
- 47% of reported property crime
- 42% of property crime arrests
- 72% of reported robberies
- 62% of robbery arrests
- 13% of drug arrests

Source: FBI, Crime in the United States, 2016. Albuquerque Police Department, Uniform Crime Reports: Arrests, 2016 (http://www.cabq.gov/police/annual-reports/uniform-crime-reports-arrests). Drug offenses are not part of the FBI’s reported index crimes, so only arrest numbers were compared here.
Three major policy levers can impact crime: deterrence through law enforcement, reducing recidivism, and prolonging incapacitation.

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

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

**Prolong incapacitation**
Increase length of stay to hold moderate- to high-risk people in prison for an additional 3 months, adding 250 to the prison population.

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**Benefit to Cost Ratio**
Benefits per dollar of cost.

$ $$$$$$ $$$$ $$

**$** Deterrence through law enforcement has the highest ratio of benefit to cost

A comprehensive strategy is required to reduce violent crime.

Source: FBI Crime in the United States, 2016. Violent index crimes include murder/non-negligent manslaughter, rape, robbery, and aggravated assault.
Washington state conducted a similar analysis to develop strategies to address property crime.

Reported property index crimes (2013) 258,662
Arrests for property index crimes (2013) 35,954
Individuals arrested for felony property offenses 16,171

Figures based on CSG Justice Center analysis of criminal activity in Washington state

Source: FBI UCR data; CSG Justice Center analysis of Washington DOC and Washington State Police data. Property crimes include burglary, larceny/theft, motor vehicle theft, and arson.
Promising violence-reduction law enforcement strategies exist.

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

**Keys to success:**

- **Select and tailor a strategy to local problem**
  - Rely on analysis rather than anecdotes, intuition, or external influences (e.g., media, politicians, stakeholders, etc.)
- **Gather community input and buy-in**
  - Strategies that are effective for reducing crime may not be viewed by community members and other stakeholders as legitimate
  - Some “effective” strategies may result in unintended consequences such as an increased use of arrest/incarceration or reduced community trust in law enforcement

What can policymakers do at the state level to support law enforcement and reduce violence?

- Ensure that local law enforcement agencies use **evidence-based policing strategies** to combat violent crime
- Advance violent crime reduction efforts by **improving reciprocal trust between communities and police**
- Provide law enforcement officers with the **necessary resources to respond to the needs of their communities**
- **Support officer wellness initiatives** to help improve officer performance and citizen satisfaction
- **Develop and facilitate data-sharing systems** across agencies; across and within jurisdictions; and between law enforcement, health, and social services providers
- **Provide resources to address emerging problems (e.g., opioid epidemic, shifting drug markets)** and focus on long-term solutions rather than short-term responses

Reducing crime isn’t just about increasing the number of officers.

In 2016, New Mexico had 90 law enforcement agencies with 3,176 law enforcement officers – the sixth highest rate of officers to residents in the nation. Yet, New Mexico has the highest index crime rate and the third highest index arrest rate.

<table>
<thead>
<tr>
<th>State</th>
<th>Rate of Officers to 100k Residents</th>
<th>State Ranking: Rate of Officers</th>
<th>Index Crime Rate (per 100k residents)</th>
<th>State Ranking: Index Crime Rate</th>
<th>Index Arrest Rate (per 100k residents)</th>
<th>State Ranking: Index Arrest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Jersey</td>
<td>355.6</td>
<td>1</td>
<td>1,789.6</td>
<td>48</td>
<td>420.0</td>
<td>43</td>
</tr>
<tr>
<td>Louisiana</td>
<td>335.6</td>
<td>2</td>
<td>3,863.8</td>
<td>3</td>
<td>1,045.2</td>
<td>1</td>
</tr>
<tr>
<td>New York</td>
<td>326.3</td>
<td>3</td>
<td>1,921.8</td>
<td>46</td>
<td>587.8</td>
<td>25</td>
</tr>
<tr>
<td>Illinois</td>
<td>315.8</td>
<td>4</td>
<td>2,485.3</td>
<td>31</td>
<td>579.7</td>
<td>29</td>
</tr>
<tr>
<td>Maryland</td>
<td>285.2</td>
<td>5</td>
<td>2,756.5</td>
<td>28</td>
<td>682.1</td>
<td>13</td>
</tr>
<tr>
<td><strong>New Mexico</strong></td>
<td><strong>282.2</strong></td>
<td><strong>6</strong></td>
<td><strong>4,639.6</strong></td>
<td><strong>1</strong></td>
<td><strong>962.8</strong></td>
<td><strong>3</strong></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>263.6</td>
<td>7</td>
<td>1,938.0</td>
<td>45</td>
<td>382.7</td>
<td>48</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>259.2</td>
<td>8</td>
<td>2,059.1</td>
<td>42</td>
<td>585.8</td>
<td>27</td>
</tr>
<tr>
<td>Tennessee</td>
<td>252.4</td>
<td>9</td>
<td>3,487.0</td>
<td>7</td>
<td>837.3</td>
<td>4</td>
</tr>
<tr>
<td>Georgia</td>
<td>248.7</td>
<td>10</td>
<td>3,402.1</td>
<td>11</td>
<td>535.9</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: FBI, Crime in the United States 2016. Crime and arrest rates are per 100,000 residents. Index offenses include: murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.
New Mexico is one of 16 states with no recent legislation to improve policing policies and practices.

- In 2012, the Department of Justice opened a civil investigation into the Albuquerque Police Department (APD) in response to allegations of excessive use of force.
- As a result of this investigation and subsequent technical assistance, APD implemented comprehensive reforms to department policies and practices.
- However, no legislation was enacted to apply these reforms to law enforcement agencies across the state.

Changes in violent crime rates across the country show little correlation to increases and decreases in incarceration.

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

Key Takeaways

• New Mexico’s violent crime rate has increased since 2006, while the property crime rate has remained stable.

• The cities in New Mexico with the highest crime rates are not necessarily the cities with the largest populations.

• Increases in crime and arrests are being driven by a few select offenses – robbery, larceny, drug offenses, and aggravated assault.

• While some jurisdictions have made reforms to policing policies and practices, no statewide reforms have been made.

• Resources and deterrence efforts should target people who repeatedly commit crimes, who in many cases are responsible for a disproportionate amount of crime in New Mexico.

• Building and maintaining the trust and confidence of New Mexico citizens is key to improving public safety.
Questions

Which of the three policy levers (deterrence through law enforcement, reducing recidivism, and prolonging incapacitation) has the most inherent appeal in the current climate?

Which has been stressed the most in the legislative process?

What can be done to encourage a focus on deterrence through state support for local law enforcement?
Promoting Strategies to Reduce Recidivism

Panelists:

David Jablonski, Secretary, Corrections Department

Ben Baur, Chief Public Defender, Law Offices of the Public Defender

John Osborn, Deputy District Attorney, First Judicial District

Linda Freeman, Executive Director, New Mexico Sentencing Commission

Senator Sander Rue, Co-Chair, Criminal Justice Reform Subcommittee
New Mexico’s prison population has increased, while parole and probation populations have declined.

Correctional Populations in New Mexico, 2006–2016

-16% probation population  
+10% prison population  
-5% parole population

Correctional Spending in New Mexico (in millions)

- Probation/Parole (FY2017): $33 M
- Prison (FY2015): $264 M

New Mexico currently spends 8x more money on prison than on probation and parole.

Source: BJS, Correctional Statistical Analysis Tool (CSAT); Vera Institute, The Price of Prisons (prison expenditures); CSG Justice Center, structured interviews, Aug. 2017 (supervision expenditures).
Although the population is decreasing, almost half of all correctional control volume comes from probation.

46% of New Mexico’s total correctional control volume

*Other Correctional Control includes federal prison, juvenile incarceration, civil commitments, and Indian Country jails.

New Mexico uses probation at a lower rate than some of its neighbors, but probation makes up about the same percent of the total correctional control volume.


*Other Correctional Control includes federal prison, youth facilities, civil commitments, and Indian Country jails.
In 2014, New Mexico was one of 16 states where at least 40 percent of people serving sentences in state prison had been convicted of property or drug offenses.

Source: CSG Justice Center analysis of National Corrections Reporting Program data, obtained from ICPSR. [https://www.icpsr.umich.edu/icpsrweb/ICPSR/studies/36404](https://www.icpsr.umich.edu/icpsrweb/ICPSR/studies/36404)
Prison admissions for new offenses and parole revocations are increasing for both males and females, but the increases are much larger for females.

*Other admission types includes probation and diagnostic admissions

New Mexico’s female prison population is rapidly increasing and is projected to exceed capacity in FY2018.

The male prison population increased 7% between FY2010 and FY2017, from 6,177 to 6,639.

The female prison population increased 24% between FY2010 and FY2017, from 614 to 764.

Source: New Mexico Sentencing Commission, “NEW MEXICO PRISON POPULATION FORECAST: FY2018 — FY 2027” (July 2017). Numbers shown in chart are the actual populations for FY2010 through FY2017 and the long term forecast population for FY2018 through FY2027.
Three major policy levers can impact crime: deterrence through law enforcement, reducing recidivism, and prolonging incapacitation.

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

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

**Prolong incapacitation**
Increase length of stay to hold moderate- to high-risk people in prison for an additional 3 months, adding 250 to the prison population.

**Benefit to Cost Ratio**
Benefits per dollar of cost.

$ $$$$$$ $$$$$$$ $$

**Deterrence through law enforcement has the highest ratio of benefit to cost**

Use risk and needs assessments to inform key supervision and programming decisions.
Existing research shows that when done well, probation and treatment have the potential to curb recidivism.

<table>
<thead>
<tr>
<th>Program</th>
<th>Recidivism Impact</th>
<th>Cost to Benefit Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inpatient/intensive outpatient drug treatment (community)</td>
<td>-1%</td>
<td>1: $1.51</td>
</tr>
<tr>
<td>Outpatient/non-intensive drug treatment (community)</td>
<td>-12%</td>
<td>1: $13.45</td>
</tr>
<tr>
<td>Intensive supervision (surveillance and treatment)</td>
<td>-16%</td>
<td>1: $16.25</td>
</tr>
<tr>
<td>Risk Need and Responsivity supervision (high and moderate risk)</td>
<td>-11%</td>
<td>1: $6.99</td>
</tr>
<tr>
<td>&quot;Swift, certain, and fair&quot; supervision</td>
<td>-10%</td>
<td>1: N/A</td>
</tr>
</tbody>
</table>

New Mexico is among 16 states where probation agencies report universal screening for behavioral health needs by using specialized behavioral health screening tools.

7 states have probation agencies that report using screens for behavioral health needs intermittently or not at all.

16 states have probation agencies that report using criminogenic risk and needs assessment tools for everyone on probation.

11 states have probation agencies that report that the use of behavioral health screens varies by county or local jurisdiction.

16 states have probation agencies that report using specialized screens for behavioral health needs for everyone on probation.

New Mexico’s reincarceration rate has been stable in recent years, but it only represents one aspect of recidivism activity.

Other measures of recidivism include:
- Rearrest
- Reconviction
- Revocation of supervision

Reincarceration is defined as the percentage of people released from New Mexico Corrections Department facilities who return to prison for any reason within three years of release.

To analyze crime/recidivism trends, state databases must be able to link records of people across arrest, sentencing, and corrections data.

If a state has a system-wide identifier (e.g., state ID), information from these case data files can be linked, which allows for more detailed analysis of how people move through the state’s justice system.
Key Takeaways

• While probation and parole populations have decreased in New Mexico, almost half of all correctional control volume comes from probation.

• New Mexico’s prison population has grown 10% in the last decade and is projected to grow another 15% by 2027, driven by a rapidly increasing female prison population.

• Since 2012, prison admissions for parole revocations have increased 15% for males and 29% for females.

• New Mexico currently spends eight times more on prison than on probation and parole, and can expect to spend more as the prison population continues to grow.

• New Mexico is not using a state identifier to track people across criminal justice data systems, which can limit the types of crime and recidivism analyses that are possible.
## Questions

1. **What budgetary and policy deficits for the Corrections Department are preventing greater adoption of EBPs?**

2. **Where in the state does the Law Offices of the Public Defender see the greatest need for improved recidivism reduction?**

3. **Which is the bigger frustration for prosecutors, recidivism or prison and jail capacity?**

4. **What are critical deficits in data capture and quality that impair the Sentencing Commission’s ability to provide policy-relevant information?**

5. **With greater state resources becoming available, what are the legislature’s priorities for new investments?**
Collateral Consequences of Criminal Convictions

Panelists:

Paul Haidle, Senior Policy Strategist, ACLU of New Mexico

Sen. Bill B. O'Neill, Advisory Member, Courts, Corrections and Justice Committee

Cory Lee, Director of Therapeutic Services, Crossroads for Women

Adriann Barboa, Field Director, Forward Together
Criminal records impact individuals, families, and communities.

One in 15 working-age adults has a criminal record.

2.7 million children have a parent behind bars.

10 percent of the children in New Mexico have a parent behind bars.

Criminal records impair employment, which is an important part of successful reentry.

- For men, serving time reduces annual earnings by **40 percent**.
- Family income is reduced **22 percent** while a father is incarcerated.
- The effect of a criminal record is **more pronounced for black applicants** than for white applicants.
- Our economy loses **$78-87 billion** in annual GDP when people with records can’t work.

*Especially when earnings are above minimum wage and jobs are stable.*

In 2017, New Mexico had the second-highest unemployment rate in the country.

National reentry resources can be used to put state policies in context.


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**CSC**

Learn About Your State
Learn about policies for clearing records in your state.

Find A Lawyer
Find a lawyer who specializes in record clearance.

Compare States
Compare record clearance policies across all states and territories.

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**NICCC**

NATIONAL INVENTORY OF THE COLLATERAL CONSEQUENCES OF CONVICTION

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**CCRC**

Collateral Consequences of Criminal Conviction and Restoration of Rights: News, Commentary, and Tools

New Mexico
Restoration of Rights, Pardon, Expungement & Sealing

Collateral Consequences of Criminal Convictions

CSC summarizes New Mexico’s record clearance laws, which are minimal compared to other states.

Adult Criminal Record Policies

Convictions
Records relating to offenses committed by a victim of human trafficking due to duress, coercion, use of force, threat, or fraud can be sealed by the court. N.M. Stat. Ann. § 30-52-1.2.

Diversion/Deferral Program
Records relating to a case dismissed following the successful completion of probation in a first-time controlled substance charge can be expunged by the court if the petitioner was not over the age of 18 at the time of the offense. N.M. Stat. Ann. § 30-31-28(D).

Factual Innocence
Records of arrest and conviction containing the name of an identity theft victim as the perpetrator of a crime can be expunged. N.M. Stat. Ann. § 31-26-16.

Non-Conviction Arrests
Records of an arrest for a misdemeanor or petty misdemeanor not involving moral turpitude for which there is no final disposition can be expunged by the Department of Public Safety. N.M. Stat. Ann. § 29-3-8.1.

Source: https://cleanslateclearinghouse.org/states/new-mexico/policies/
NICCC identifies 680 collateral consequences in New Mexico statutes and rules.

448 consequences relate to employment or licensure, for example:


Deny/suspend/revoke barber/cosmetology license

Crimes of moral turpitude, dishonesty

Source: [https://niccc.csgjusticecenter.org/search/?jurisdiction=34](https://niccc.csgjusticecenter.org/search/?jurisdiction=34)
CCRC includes the Restoration of Rights Project, summarizing the law in each state.

NEW MEXICO

I. Restoration of Civil/Firearms Rights
   A. Vote
   B. Firearms
   C. Juvenile dispositions

II. Discretionary Restoration Mechanisms
   A. Executive pardon
   B. Judicial sealing or expungement

III. Nondiscrimination in Licensing and Employment
   B. Ban-the-Box for public employment
   C. Caregiver employment

New Mexico enacted the Criminal Offender Employment Act in 1974.

“. . . conviction **shall not operate as an automatic bar** to obtaining public employment or license or other authority to practice the trade, business or profession. A board, department or agency of the state or any of its political subdivisions **shall not make an inquiry regarding a conviction on an initial application** for employment and shall only take into consideration a conviction after the applicant has been selected as a finalist for the position.

B. The following criminal records shall not be used, distributed or disseminated in connection with an application for any public employment, license or other authority:

(1) records of arrest not followed by a valid conviction; and

(2) misdemeanor convictions not involving moral turpitude.”

New Mexico’s lack of statutory authority for expungement of arrest records stands out as a source of controversy.

The New Mexico Supreme Court has held that while courts have a degree of inherent authority to direct expungement of arrest records, a case must be “egregious” in order to justify this relief. 


“There is no statute, rule, or constitutional provision that provides for the expungement of an adult’s felony record in New Mexico.*

[*There have been at least eleven attempts since 2005 to pass a statute on expungement that would provide the type of relief Stump requests. . . .]*

Courts which recognize the inherent authority to expunge arrest records have done so sparingly and only under extraordinary circumstances.”
22 states have enacted legislative changes to facilitate adult record clearance since May 2017.

Legislative Changes to Adult Provisions Since May 2017

Examples

Nevada: reduced waiting periods
Texas: expanded eligibility for DWI
Illinois: substantially expanded eligibility

Source: Clean Slate Clearinghouse
Policymakers must consider different dimensions regarding criminal record clearance.

<table>
<thead>
<tr>
<th>Effect</th>
<th>Ensure purpose of legislation is achieved by clearing records from all publicly available sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eligibility</td>
<td>Frequently limited to nonviolent, non-sexual offenses</td>
</tr>
<tr>
<td></td>
<td>Fewer restrictions on misdemeanors, in general</td>
</tr>
<tr>
<td>Timing</td>
<td>Philosophy of clearance: to assist reintegration or to reward good behavior?</td>
</tr>
<tr>
<td></td>
<td>Use available research to ensure waiting periods are appropriate to offense</td>
</tr>
<tr>
<td>Process</td>
<td>Automating process ensures judicial economy, reduces costs, and increases access</td>
</tr>
<tr>
<td>Cost</td>
<td>High fees hinder access</td>
</tr>
<tr>
<td></td>
<td>Ensure waiver for indigence</td>
</tr>
</tbody>
</table>
Key Takeaways

• Including the voices of formerly incarcerated people and people who are impacted by the justice system is essential to making informed policy decisions.

• New Mexico lacks statutory authority for clearing arrest records.

• New Mexico has one of the highest unemployment rates in the country.

• There is a large pool of talented people who could contribute to New Mexico’s workforce, but are barred from contributing because of a criminal record.
Key Takeaways

• The state should support:
  • counties with investments in access to high-quality behavioral health treatment and interventions;
  • local law enforcement agencies to develop training and strategic programs to prevent crime; and
  • the Department of Corrections to strengthen supervision and reduce recidivism.

• Investments in components of the justice system should be balanced across the system, including treatment, law enforcement, prosecution, defense, courts, and corrections.

• Investments should be made in human capital to increase employability, including through record clearance policies.

• Policymakers must hear the voices of all the people affected by policies.
Thank You

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