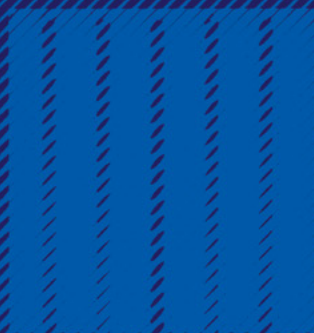


Blueprint for Smart Justice
Kansas



Blueprint *for* Smart Justice Kansas

© 2018 AMERICAN CIVIL LIBERTIES UNION



COVER PHOTO: SHUTTERSTOCK/MOPICE

Contents

Executive Summary.....	4
The State of the Kansas Prison System.....	6
What Is Driving People Into Prison?.....	7
The Current Prison and Jail Population.....	7
Why Do People Stay in Prison for So Long?.....	8
Who Is Imprisoned.....	9
People With Mental Health and Substance Use Disorders.....	9
Effect of Incarceration on Public Safety.....	9
Budget Strains.....	10
Ending Mass Incarceration in Kansas: A Path Forward.....	11
Reducing Admissions.....	11
Reducing Time Served.....	11
Reducing Racial Disparities.....	12
Taking the Lead.....	12
Forecaster Chart.....	13
Total Fiscal Impact.....	16
Methodology Overview.....	16

Executive Summary

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

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

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

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

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

The analysis was eye-opening.

In every state, we found that reducing the prison population by itself does little to diminish racial disparities in incarceration — and in some cases would worsen them. In Kansas — where Black people constitute 30 percent of the prison population but only make up 6 percent of the state population¹ — reducing the number of people imprisoned will not on its own reduce racial disparities within the prison system. This finding confirms that urgent work remains for advocates, policymakers, and communities across the nation to focus on efforts like policing or prosecutorial reform that are specific to combatting these disparities.

In Kansas, the prison population has nearly quadrupled since 1980.² Roughly 70 percent of people sent to prison in 2015 were imprisoned for an offense that did not include violence,³ including 17 percent and 11 percent imprisoned⁴ for drug possession and drug trafficking, respectively.⁵ Due in part to harsh sentencing requirements, drug offenses contributed to nearly one-third of all admissions to Kansas prisons in 2015.⁶

So, what's the path forward? Any meaningful effort to reach a 50 percent reduction in incarceration will need to include a fundamental shift in drug policy — for example, reducing harsh sentencing requirements for drug possession or reforming the Kansas sentencing rule that requires mandatory sentences for some offenses. And while Kansas recently defelonized first- and second-time marijuana possession, it could do much more to reduce long prison sentences for those

with subsequent offenses. Kansas prosecutors should also consider increasing felony diversions, which give adults charged with crimes the opportunity to complete an alternative to incarceration like treatment or community service. Right now, Kansas has a felony diversion⁷ rate of just 5 percent – half the national average.

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

The State of the Kansas Prison System

The Kansas prison population has nearly quadrupled since 1980.⁸ As of 2017, 9,803 people were imprisoned in Kansas — a 12 percent increase since 2000. While many other states have downsized their prison systems, Kansas has expanded its prison capacity by nearly 20 percent between 2000 and 2017 to accommodate such rapid growth.⁹ Between 2000 and 2016, Kansas' per capita imprisonment rate grew 7 percent, despite criminal justice policy reform through the Justice Reinvestment Initiative¹⁰ in recent years.¹¹

Due to overcrowding and overincarceration, Kansas prisons have been unable to meet the needs of this rapidly growing population. Kansas prisons were at 94 percent capacity in October 2017 and are expected to be over capacity by 1,020 people by 2027.¹² In

AT A GLANCE

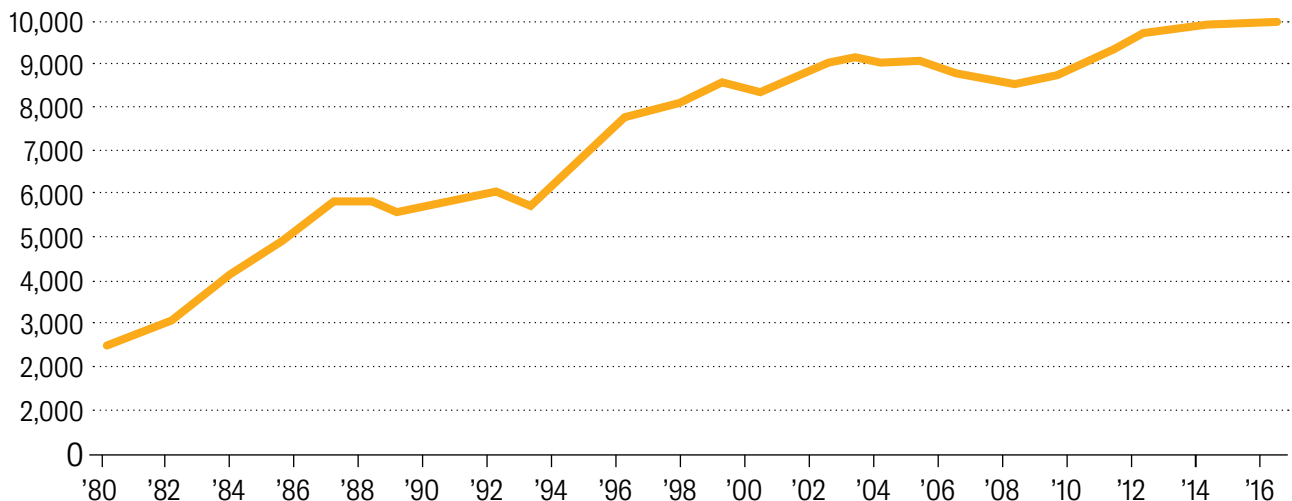
KANSAS PRISONS

Kansas' prison population has increased **12 percent** between 2000 and 2017.

9,803 people were imprisoned in Kansas as of 2017.

Kansas has expanded its prison capacity by **18 percent** between 2000 and 2017 to accommodate rapid growth.

KANSAS PRISON POPULATION



2017, understaffing and poor prison conditions led to uprisings at the El Dorado Correctional Facility in Butler County, the Hutchinson Correctional Facility in Reno County, and the Norton Correctional Facility in Norton County, which placed correctional officers and the people incarcerated there at risk. There was a 75 percent increase in disciplinary incidents at Norton Correctional Facility between July and August 2017.¹³

What Is Driving People Into Prison?

In Kansas, a litany of offenses drives people into prisons.¹⁴ In 2015, the most common offense was drug possession (17 percent), followed by burglary (12 percent), drug trafficking (11 percent), theft (10 percent), and assault (10 percent).¹⁵ In 2017, probation and parole condition violations accounted for 56 percent of all admissions to Kansas prisons, and new court commitments accounted for about 1 in 3 admissions. The remainder of admissions include jurisdictional transfers, conditional release violations, and other returns.¹⁶

The number of people admitted to Kansas prisons each year has spiked recently, growing 33 percent over the past decade, after a period of decline in the early 2000s. This increase has been driven in part by a 38 percent

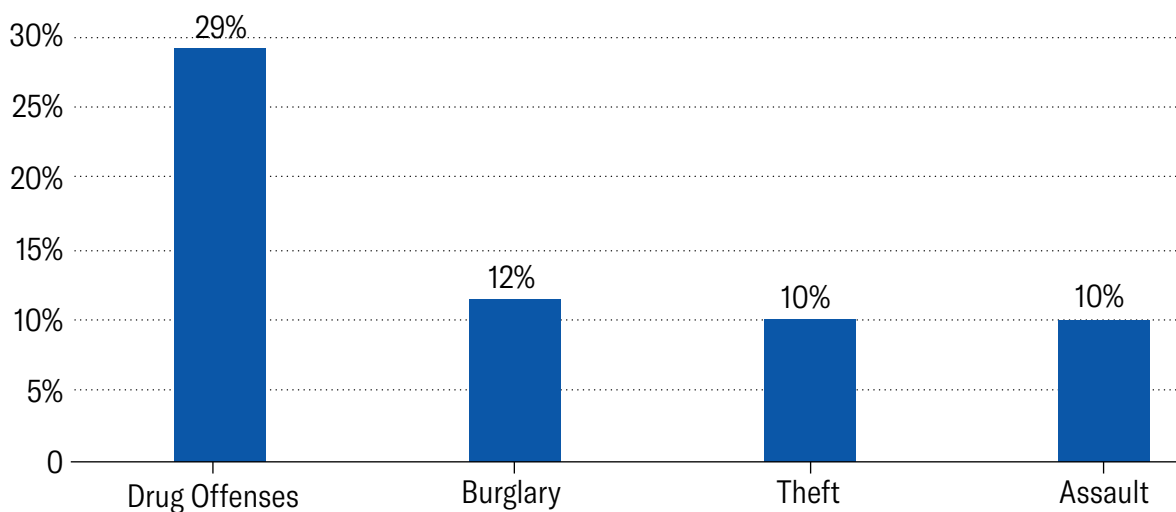
increase in admissions for probation violations.¹⁷ In 2017, 1 in 5 people in Kansas prisons was admitted for a probation violation, the majority of whom (57 percent) were admitted for a violation of supervision conditions, without having committed a new offense.¹⁸ Kansas' criminal code also includes harsh sentencing laws that trigger mandatory prison sentences, including habitual offense laws for people with prior felony convictions.¹⁹ These sentencing enhancement laws can require a prison sentence for someone who would otherwise be eligible for probation or other alternative programs.

The Current Prison and Jail Population

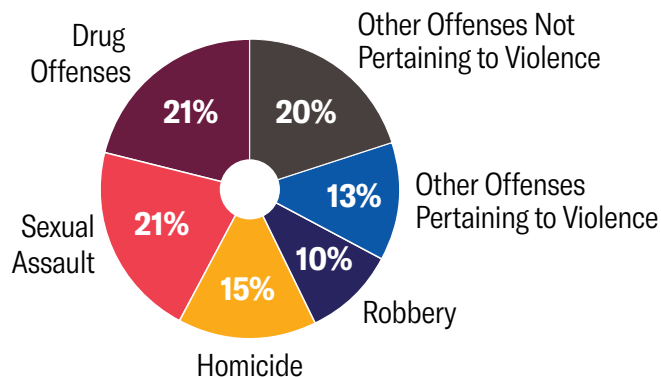
Kansas incarcerates an estimated 5,964 people in county jails, according to most recently available data (2015), approximately 65 percent of whom are awaiting trial and have not been convicted of any crime. The remaining 35 percent have been convicted of a crime and sentenced to serve time in jail, which in Kansas means they are serving a sentence of fewer than 12 months.²⁰

As of 2017, only half (53 percent) of people imprisoned in Kansas had graduated from high school or earned

KANSAS PRISON ADMISSIONS BY TOP OFFENSE TYPES (2015)



KANSAS PRISON POPULATION BY OFFENSE TYPE (2015)*



* BJS, National Corrections Reporting Program, 2015

a GED diploma, and fewer than 1 in 10 (9 percent) had obtained an education beyond high school.²¹

Despite an 11 percent decrease in the number of people serving time for a drug offense between 2005 and 2017, drug offenses still account for 1 in 5 people in prison in Kansas. At least 3 in 10 people in Kansas prisons in 2017 entered with no prior history of a felony committed against people.²²

Why Do People Stay in Prison for So Long?

The average and median length of imprisonment in Kansas prisons have grown considerably in recent years. Between 2011 and 2015, the median length of imprisonment for people in Kansas prisons grew 18 percent (from 1.8 years to 2.1 years). As of 2015, the average length of imprisonment in Kansas was 4.7 years.²³ In 2017, nearly 1 in 3 people (30 percent) had been in prison for more than five years, a 21 percent increase from 2011.²⁴

The number of parole cases considered in Kansas has declined 15 percent from 2012 to 2017. While fewer people are being considered for parole, a larger proportion of those considered are being approved: In 2017, 36 percent of parole petitions were granted, up from 32 percent in 2012.²⁵

AT A GLANCE

KANSAS JAIL AND PRISON POPULATION

As of 2017, **53 percent** of people imprisoned in Kansas had graduated from high school or earned a G.E.D.

1 in 5 people in prison was serving time for a drug offense in 2017.

At least 3 in 10 people serving time in prison in 2017 had no prior history of a felony committed against people.

In addition, Kansas offers limited alternatives to prison. For example, the state program “Good Time” allows someone to earn time off of a sentence for participating in programs and treatment, but that time is limited despite the fact that these programs have been shown to improve reentry outcomes. People serving determinate sentences — where the judge sentences the individuals to a specific time period — must serve at least 80 or 85 percent of their sentence (depending on the offense) before they are eligible to be considered for release.²⁶

AT A GLANCE

LENGTH OF IMPRISONMENT

As of 2015, the average length of imprisonment was **4.7 years**.

Between 2011 and 2015, the median length of imprisonment increased **18 percent**.

From 2012 to 2017, the number of parole cases considered decreased **15 percent**.

36 percent of parole petitions were granted in 2017.

AT A GLANCE

DEMOGRAPHICS

As of 2014, Kansas ranked **14th** nationally in the per capita rate of Black people imprisoned.

In 2017, **38 percent** of the female prison population had been convicted of a drug offense.

Between 2005 and 2017, the prison population older than 50 years has increased **92 percent**.

Who Is Imprisoned

Black Kansans: As of most recently available national data (2014), the per capita imprisonment rate for Black people in Kansas was the 14th highest in the country. In 2016, at 2,214 per 100,000 adult residents, it was nearly seven times that of white adults in the state. That year, Black people constituted 30 percent of the prison population, but only 6 percent of the state population. The result is that 1 in 23 Black men in Kansas was imprisoned as of 2014.²⁷

Female Kansans: Over the past decade, the number of women in Kansas prisons has grown at three times the rate of men. In 2017, more than half of the women imprisoned had been convicted of an offense not involving violence, and 38 percent had been convicted of a drug offense.²⁸

Older Kansans: Kansas' prison population is also rapidly aging. Though generally considered to pose a negligible risk to public safety, the prison population older than 50 years has increased 92 percent since 2005 and accounted for nearly 1 in 5 people (19 percent) in Kansas prisons in 2017.²⁹

People With Mental Health and Substance Use Disorders

The Department of Corrections reports that 2 in 5 (39 percent) people serving time in Kansas prisons in 2017 had been diagnosed with a mental illness, and 22 percent had serious mental health needs.³⁰

That proportion is even higher among people returning to prison for a parole violation. In 2017, 41 percent of people with parole condition violations (meaning they were not convicted of a new crime) had been identified as having mental health needs, and nearly half (47 percent) demonstrated substance use disorder challenges.³¹

Effect of Incarceration on Public Safety

Data has consistently demonstrated that incarceration is not the most effective tool to increase public safety. Because recidivism rates drop precipitously with age, lengthy prison sentences are an inefficient approach to preventing crime.³² In Kansas, though rates of crime have generally decreased in the past four decades (with a slight uptick from 2014 to 2015), the prison population has quadrupled.³³ The National Research Council has concluded that “spending on prisons

AT A GLANCE

MENTAL HEALTH AND SUBSTANCE USE DISORDERS

In 2017, **2 in 5** people imprisoned in Kansas had been diagnosed with a mental illness.

41 percent of people in 2017 who returned to prison for a parole condition violation were identified as having mental health needs.

47 percent of people in 2017 who returned to prison for a parole condition violation demonstrated needs involving substance use disorders.

diverts resources from more effective public safety strategies, services for crime victims, or programs designed to help achieve effective reintegration of people who have been released from prisons.”³⁴

Incarcerating people with mental illnesses is expensive and ineffective.³⁵ Increasing community-based treatment options, the use of diversion, and postrelease care all have significantly greater impact than incarceration.

Budget Strains

As Kansas’ incarcerated population has risen, so has the cost burden. In 2016, Kansas spent \$347 million on corrections, accounting for nearly 6 percent of the state’s general fund expenditures. These costs have grown 179 percent since 1985, far outpacing growth in other areas like education.³⁶

In addition, the return on investment for incarceration has been poor. Despite spending 43 percent of the Department of Corrections budget on the operation of facilities, 36 percent of people released from Kansas prisons in 2013 were reincarcerated within three years. In 2017, Kansas spent around \$25,841 to imprison just one person for one year.³⁷

AT A GLANCE

BUDGET

Kansas spent **\$347 million** of general fund money on corrections in 2016.

Corrections costs have risen **179 percent** between 1985 and 2016.

In 2017, Kansas spent more than **\$25,800** to imprison one person for one year.

Ending Mass Incarceration in Kansas: A Path Forward

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

Reducing Admissions

To end mass incarceration, Kansas must break its overreliance on prisons to hold people accountable for their crimes. In fact, evidence indicates that prisons seldom offer adequate solutions to wrongful behavior. At worst, imprisonment can be counterproductive — failing to end cycles of misbehavior and violence, or to provide rehabilitation for incarcerated people or adequate accountability to the survivors of crime.³⁸

- **Alternatives to incarceration:** Kansas currently diverts³⁹ felony cases at a rate of 5 percent, just half the national average. The state has widely divergent policies, practices, and outcomes across its 105 counties, contributing to significant overincarceration and making communities less safe. Many reasons have been cited for the low usage of diversion — including lack of resources, little knowledge of diversion programs, enormous fines and fees, a near total lack of data, and prosecutors deciding not to use it.
- **Sentencing reform:** Drug offenses contribute nearly one-third of admissions to Kansas prisons because of unduly harsh sentencing requirements.⁴⁰ Kansas has defelonized

first- and second-time marijuana possession, resulting in hundreds of Kansans being able to receive much-needed treatment and health care instead of prison.⁴¹ However, more recent sentencing guidelines mean that subsequent offenses carry outrageously long prison sentences.

- **Increasing investment in substance treatment programs:** Money saved from reduced incarceration could be reinvested in substance treatment programs and locally funded alternatives.

Reducing Time Served

Reducing time served, even by just a few months, can lead to thousands fewer people in Kansas' prisons. Here's how:

- **Sentencing reform:** Designating low-level offenses as misdemeanors instead of felonies is a clear path forward for some offenses (see Reducing Admissions), but other reforms are necessary to reduce overly long terms of incarceration when a prison sentence is imposed for more serious offenses. Kansas has a sentencing grid that includes mandatory sentences for some crimes. Removing the mandatory minimums or expanding the suggested ranges can increase judicial discretion and prevent people from receiving excessive prison time.
- **Release policy reform:** Kansas currently offers good time credits if incarcerated people

demonstrate good work and behavior. These credits, however, are offered at varying rates depending on whether the person is sentenced under the determinate or indeterminate sentencing structure. People serving sentences under the indeterminate structure earn credits at 50 percent (one day earned for one day served), and those under the determinate structure earn credits at 15 percent or 20 percent, depending on when the crime was committed.⁴² Increasing the availability of good time credits could ensure that reduced time is a possibility for more incarcerated people.

Reducing Racial Disparities

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

People of color (especially Black, Latino, and Native American people) are at a higher risk of becoming involved in the justice system, including living under heightened police surveillance and being at higher risk for arrest. In 2017, around one third of people in Kansas prisons were people of color.⁴³ This imbalance cannot be accounted for by disparate involvement in illegal activity, and it grows at each stage in the justice system, beginning with initial law enforcement contact and increasing at subsequent stages such as pretrial detention, conviction, sentencing, and postrelease opportunity.⁴⁴ Focusing on only one of the factors that drives racial disparity does not address issues across the whole system.

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

TAKING THE LEAD

Prosecutors: They decide on 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 also fund the creation of new alternatives.

Prisoner Review Board: It decides when to allow people to leave prison. In Kansas, the parole board is an especially important player when it comes to reforming how long people spend in prison.

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.

Local law enforcement: They decide whom to arrest and whether to refer individuals to prosecutors. They also provide background and make recommendations to lawmakers on legislative initiatives.

disproportionality across populations. For example, focusing on reductions to prison admissions and length of stay in prison is critically important, but those reforms do not address the policies and practices among police, prosecutors, and judges that contribute greatly to the racial disparities that plague the prison system.

New Jersey, for example, is often heralded as one of the most successful examples of reversing mass incarceration, passing justice reforms that led to a 26 percent decline in the state prison population between 1999 and 2012.⁴⁵ However, the state did not target racial disparities in incarceration, and, in 2016, Black people in New Jersey were still more than 12 times as likely to be imprisoned as white people – the highest disparity of any state in the nation.⁴⁶

Ending mass incarceration is critical to eliminating racial disparities but is insufficient without companion efforts that take aim at other drivers of racial inequities outside of the criminal justice system. Reductions in disparate imprisonment rates require implementing explicit racial justice strategies.

Some examples include:

- Ending overpolicing in communities of color
- Evaluating prosecutors' charging and plea-bargaining practices to identify and eliminate bias
- Investing in diversion/alternatives to detention in communities of color
- Reducing the use of pretrial detention and eliminating wealth-based incarceration
- Ending sentencing enhancements based on location (drug-free school zones)
- Reducing exposure to reincarceration due to revocations from supervision
- Requiring racial impact statements before any new criminal law or regulation is passed and requiring legislation proactively rectify any potential disparities that may result with new laws or rules

“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.”⁴⁷

– From *The New Jim Crow*, Michelle Alexander

- Fighting discriminatory gang sentencing enhancements that disproportionately target people of color
- Addressing any potential racial bias in risk assessment instruments used to assist decision making in the criminal justice system
- Shifting funding from law enforcement and corrections to community organizations, job creation, schools, drug and mental health treatment, and other social service providers

Forecaster Chart

There are many pathways to cutting the prison population in Kansas 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 Kansas, 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****
Drug offenses	<ul style="list-style-type: none"> Institute alternatives that end all admissions for drug possession (1,264 fewer people admitted) Reduce average time served for drug distribution by 60% (from 2.02 to 0.81 years) Institute alternatives that reduce admissions for drug distribution by 60% (422 fewer people admitted) 	22.91% reduction (2,236 fewer people)	White: 5.6% decrease Black: 10.2% increase Hispanic/Latino: 2.9% increase Native American: 6.1% increase Asian: 9.5% decrease	\$60,283,048
Robbery	<ul style="list-style-type: none"> Reduce average time served by 60% (from 3.31 to 1.33 years) Institute alternatives that reduce admissions by 30% (84 fewer people admitted) 	6.63% reduction (647 fewer people)	White: 2.7% increase Black: 6.5% decrease Hispanic/Latino: 1.4% increase Native American: 3.8% increase Asian: 2.1% increase	\$10,866,597
Assault	<ul style="list-style-type: none"> Reduce average time served by 60% (from 1.52 to 0.61 years) Institute alternatives that reduce admissions by 40% (214 fewer people admitted) 	6.32% reduction (617 fewer people)	White: 1.4% increase Black: 1.7% decrease Hispanic/Latino: 2.5% decrease Native American: 1.3% decrease Asian: 0.9% increase	\$12,173,479
Burglary	<ul style="list-style-type: none"> Reduce average time served by 60% (from 1.12 to 0.45 years) Institute alternatives that reduce admissions by 40% (255 fewer people admitted) 	5.58% reduction (545 fewer people)	White: 0.4% decrease Black: No change Hispanic/Latino: 1.9% increase Native American: 1.1% decrease Asian: 2.1% increase	\$11,069,054

Impact Compared to 2025 Baseline*

Offense category**	Policy outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***	Cost savings****
Public order offenses*****	<ul style="list-style-type: none"> Reduce average time served by 60% (from 0.82 to 0.33 years) Institute alternatives that reduce admissions by 60% (361 fewer people admitted) 	4.27% reduction (416 fewer people)	White: 0.1% decrease Black: 0.3% increase Hispanic/Latino: 0.2% increase Native American: 1.8% decrease Asian: 1.7% increase	\$8,722,212
Theft	<ul style="list-style-type: none"> Reduce average time served by 60% (from 0.43 to 0.17 years) Institute alternatives that reduce admissions by 50% (364 fewer people admitted) 	2.58% reduction (251 fewer people)	White: 0.5% decrease Black: 0.6% increase Hispanic/Latino: 1.0% increase Native American: 1.6% increase Asian: 0.7% increase	\$5,051,018
Fraud	<ul style="list-style-type: none"> Reduce average time served by 60% (from 0.56 to 0.23 years) Institute alternatives that reduce admissions by 50% (137 fewer people admitted) 	1.27% reduction (124 fewer people)	White: 0.3% decrease Black: 0.2% increase Hispanic/Latino: 0.7% increase Native American: 0.9% increase Asian: 0.5% increase	\$2,580,832
Weapons offenses*****	<ul style="list-style-type: none"> Reduce average time served by 60% (from 0.77 to 0.31 years) 	0.59% reduction (58 fewer people)	White: 0.3% increase Black: 0.3% decrease Hispanic/Latino: 0.5% decrease Native American: No change Asian: 0.7% decrease	\$1,012,758

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

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

*** Racial and ethnic disproportionality is traditionally measured by comparing the number of people in prison – of a certain race – to the number of people in the state’s general population of that same race. For example, nationally, Black people comprise 13 percent of the population, while white people comprise 77 percent. Meanwhile, 35 percent of people in state or federal prison are Black, compared to 34 percent who are white. While the proportion of people in prison who are Black or white is equal, Black people are incarcerated at nearly three times their representation in the general population. This is evident in Kansas where Black people make up 30 percent of the prison population, but only constitute 6 percent of the state’s total population.

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

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

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

Total Fiscal Impact

If Kansas were to carry out reforms leading to the changes described above, 4,894 fewer people would be in prison in Kansas by 2025, a 50.15 percent decrease. This would lead to a total cost savings of \$282,486,472 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 Kansas' 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, then added up to generate a measure of cumulative dollars saved over that time period.

Endnotes

- 1 The Sentencing Project, *The Color of Race and Justice: Racial and Ethnic Disparity in State Prisons, 2016*; KDOC, [Annual Report 2016](#); Census Bureau, *Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States, 2016 population estimates*
- 2 BJS, *Correctional Statistical Analysis Tool*.
- 3 Offense breakdowns in this blueprint 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 blueprint categorizes both prison admissions and the total prison term according to the primary offense only.
- 4 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.
- 5 BJS, *National Corrections Reporting Program, 2015*.
- 6 BJS, *National Corrections Reporting Program, 2015*.
- 7 Diversion is defined as any time a prosecutor offers an opportunity, pre-conviction, for a person to avoid criminal charges through participation in prescribed treatment, restitution, and/or community service.
- 8 BJS, *Correctional Statistical Analysis Tool*. While the analysis in this blueprint contemplates both Kansas jail and prison populations, the decarceration, fiscal, and racial impact analysis found in the chart (pg. 14–15) only examines Kansas’ prison population.
- 9 KDOC, *Annual Report 2017*; KDOC, [2006 Corrections Briefing Report](#).
- 10 The Justice Reinvestment Initiative is a data-driven approach to state criminal justice reform policy that seeks to control costs and reinvest savings in practices demonstrated to improve safety. Kansas engaged in the JRI process in 2012, successfully passing legislation in 2013 through SB 1357. (Council of State Governments, *Justice Reinvestment in Kansas, 2015*)
- 11 BJS, *Correctional Statistical Analysis Tool*
- 12 *Judiciary, Corrections, and Juvenile Justice: G-5 Kansas Prison Population and Capacity*. Kansas Legislator Briefing Book 2018. Prepared by Mark Savoy, Fiscal Analyst; Adult Population Report. Kansas Department of Corrections.
- 13 J. Shorman, B. Lowry, M. Londberg. Another Kansas prison rocked by violence; inmates ‘tried to burn the place down.’ *The Wichita Eagle*. September 6, 2017.
- 14 Prison admissions reflect the number of people entering Kansas prisons in a given year, while the total prison population refers to the total number of people incarcerated at the end of each fiscal year (defined in this case as June 30)
- 15 BJS, *National Corrections Reporting Program, 2015*
- 16 KDOC, *Annual Report 2017*
- 17 KDOC, *Annual Report 2017*; KDOC [Annual Reports 2006-2011](#)
- 18 KDOC *Annual Report series*
- 19 Kansas Statute, 21-6706
- 20 Vera, [Incarceration Trends, 2015](#); Total jail population and pretrial jail population data are drawn from different sources in the cited source. Total jail population data is reported as average daily population in 2015 and excludes federal jail populations, while pretrial jail population is reported as a single day count (taken on June 30) and includes federal jail populations.
- 21 KDOC, *Annual Report 2017*
- 22 KDOC, *Annual Report 2017*
- 23 BJS, *National Corrections Reporting Program, 2015*
- 24 KDOC, *Annual Report 2017*; KDOC, *Annual Report 2011*
- 25 KDOC, *Annual Report 2016-2017*
- 26 Kansas Statute, 21-6821
- 27 The Sentencing Project, *The Color of Race and Justice: Racial and Ethnic Disparity in State Prisons, 2016*; KDOC, [Annual Report 2016](#); Census Bureau, *Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States, 2016 population estimates*
- 28 KDOC, *Annual Report 2008-2017*
- 29 Human Rights Watch, *Old Behind Bars, 2012*; KDOC, *Annual Report 2005–2017*
- 30 KDOC, *Annual Report 2017*
- 31 KDOC, *Annual Report 2017*
- 32 The Sentencing Project. *Criminal Justice Facts*.
- 33 FBI: *Uniform Crime Reporting Statistics – Kansas, 2015*. BJS, *Correctional Statistical Analysis Tool*.
- 34 National Research Council. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. 2014 (Washington, D.C., The National Academies Press).
- 35 Justice Policy Institute. *Pruning Prisons: How Cutting Corrections Can Save Money and Protect Public Safety*. May 2009.
- 36 NASBO, *State Expenditure Report 1985-2017*
- 37 KDOC, *Annual Report 2017*
- 38 Vera Institute of Justice ‘Accounting for Violence: How to Increase Safety & Break our Failed Reliance on Mass Incarceration’ 2017.
- 39 Diversion is defined as any time a prosecutor offers an opportunity, pre-conviction, for a person to avoid criminal charges through participation in prescribed treatment, restitution, and/or community service.
- 40 BJS, *National Corrections Reporting Program, 2015*.
- 41 Kansas Legislature, [HB 2462, 2016](#) (this is the bill that defelonized first and second time marijuana possession, worth noting that it still allows for 6-months jail time and \$1,000 fine, and therefore does not guarantee alternatives to incarceration); BJS, *National Corrections Reporting Program, 2015* (reports 877 admissions to prison for drug possession in 2015)
- 42 Kansas Department of Corrections, [Frequently Asked Questions](#), 2014.
- 43 KDOC, *Annual Report 2017*
- 44 See, for example, Katherine B. Spencer, Amanda K. Charbonneau and Jack Glaser. “Implicit Bias and Policing.” *Social and Personality Psychology Compass* 10/1 (2016): 50–63, 10.1111/spc3.12210. Accessed from <https://gspp.berkeley.edu/assets/uploads/research/pdf/SpencerCharbonneauGlaser.Compass.2016.pdf>; Kutateladze, B., Lynn, V., & Liang, E., Do race and ethnicity matter in prosecution? A review of empirical studies (New York: Vera Institute of Justice, June 2012). Accessed from <http://archive.vera.org/sites/default/files/resources/downloads/race-and-ethnicity-in-prosecution-first-edition.pdf>; Racial Disparity in Sentencing: A Review of the Literature (Washington D.C.: Sentencing Project, January 2005). Accessed

from <https://www.opensocietyfoundations.org/sites/default/files/disparity.pdf>; See, for example, Michael Pinard, "Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity." *New York University Law Review* 85, no. 2 (2010): 457-534; Lisa Stolzenberg, Stewart J D'Alessio, and David Eitle. "Race and Cumulative Discrimination in the Prosecution of Criminal Defendants." *Race and Justice* 3, no. 4 (2013), p. 275. Accessed from <http://raj.sagepub.com/content/3/4/275.abstract>

- 45 The Sentencing Project, *Fewer Prisoners, Less Crime: A Tale of Three States* (2014)
- 46 <http://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>
- 47 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.

