

# Safe & Just Michigan

Spring  
2020



Troy Rienstra, left, outreach director of Safe & Just Michigan, and Hassan Latif, founding executive director of the Second Chance Center of Aurora, Colo., stand outside Providence at the Heights in Aurora. Rienstra visited the housing development for formerly incarcerated people as part of a Michigan delegation to learn more about community reinvestment. To learn more, please turn to page 7.

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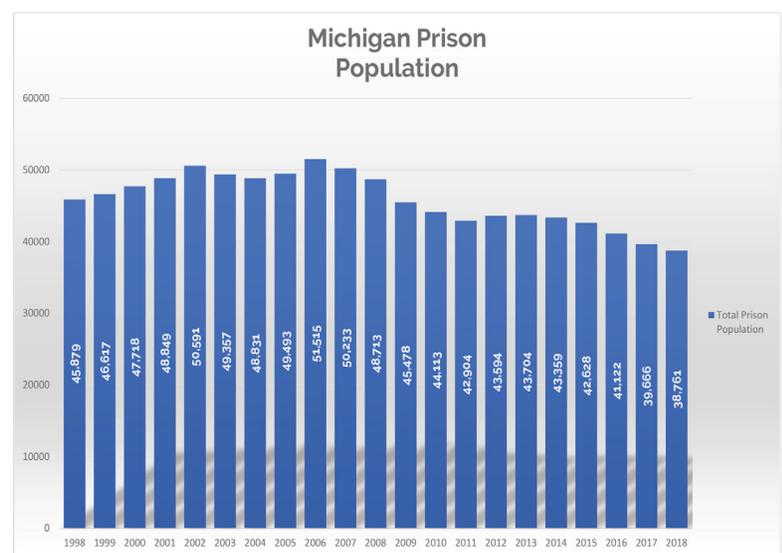
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**L**earn to communicate effectively with diverse groups of people. It's extremely difficult and uncomfortable to address the trauma that you faced in prison and on the streets before your incarceration, but it's necessary for your mental health. — Aaron T. Kinzel, page 7

## Prison population continues to fall Average length of stay rises to 10.6 years



The Michigan Department of Corrections has published their most recent annual statistical book, and it shows that the state's prison population continued its drop another year, ending at 38,761 people by the end of 2018. However, the average length of stay continues to grow, and now stands at 10.6 years. Learn more on page 6.

# Safe & Just Michigan

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Monday-Friday  
9 a.m.-5 p.m.

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[www.facebook.com/safeandjustmi](https://www.facebook.com/safeandjustmi)



[twitter.com/safeandjustmi](https://twitter.com/safeandjustmi)

**Stay Connected After Your Parole**

We are always delighted when any incarcerated member is paroled. If you would like to stay in touch, please call or write us with your new information.

**Take Action**

Encourage your friends, family and networks to tell their legislators, pastors and leaders of organizations about Safe & Just Michigan, our latest reports and the need for sensible justice reforms that will make our communities safe.

## From the director's corner

The Sentencing Project has released a fact sheet showing there are more people serving life sentences today (206,000) than were in prison nationally in 1970 (196,000).

Much attention has been paid to the 11-fold increase increase to the prison population in the U.S. in the last 50 years. Far less attention has been paid to the increase in life sentences, which is just as extreme and plays a central role in the growth of the prison population.

That national trend occurred in Michigan, too. There were a little more than 9,000 people in prison in Michigan in 1970; today, there are more than 5,000 people serving life sentences and almost 2,800 more serving minimum sentences greater than 25 years — groups that combined represent 20 percent of Michigan's total prison population. They have an outsized

influence on prison population numbers.

Passing reforms to shrink this population is critical to reducing Michigan's prison population. Before that can happen, political support for reform must be built to overcome strong opposition. Safe & Just Michigan is committed to working toward these goals through research, public education, storytelling and organizing. We'll keep you informed of our progress.

Thanks,

John S. Cooper  
Executive Director



*Executive Director  
John S. Cooper*

## SJM welcomes new development director; previous director retires

Safe & Just Michigan has a new development director to protect its fiscal health and guide its growth.

Previous Development Director Mary Lynn Stevens retired in January, and we wish her the best!

Before she left, she helped incoming Development Director Amy Smitter step into the position. SJM is excited to welcome Smitter, as we're confident she can blend development know-how and her passion for reform to make SJM shine.

"I have great empathy for people and need to help," Smitter said. "I've seen the power of people to affect change, and I want to be part of that."

Smitter spent much of her

career working for nonprofits in the education sector, including Michigan Campus Compact, which brings classroom learning to the wider community. This includes prison communities, she said.

Smitter felt the tug to become involved in the realm of social justice, and she was particularly drawn to criminal justice reform.

"I hope to continue to build a stable base of funding for Safe & Just Michigan so that we will go on expanding our work," Smitter said. "I still have a lot to learn, but already I see there is so much that needs to be done. I want to be a part of it. I'm proud to have spent my career helping people, and I'm glad I can continue to do that here."

# A force of habit: bills aim to overhaul Michigan's habitual offender laws

New legislation from state Sens. **Curt VanderWall** (R-Ludington), **Jeff Irwin** (D-Ann Arbor) and **Sylvia Santana** (D-Detroit) could change how Michigan applies habitual sentencing enhancements.

Prosecutors use habitual sentencing enhancements at their discretion. The status can be applied to anyone with a prior felony conviction — even if the offense occurred long ago or is unrelated to a current offense. It results in a

greatly increased sentence.

The bills in the package are:

- Senate Bill 698 (VanderWall): for 4<sup>th</sup> habitual offenders, which can double maximum sentences.
- SB 698 (Irwin): for 3<sup>rd</sup> habitual offenders, which can increase maximum sentences 50 percent.
- SB 699 (Santana): for 2<sup>nd</sup> habitual offenders, which can increase maximum sentences 25 percent.

The bills tackle double-counting of prior felony convictions. A

charge from prison, parole or probation. A prosecutor can't include a record before that point among factors considered in a prior record variable scoring.

For instance, imagine a person discharged from prison in 2010 after a maximum sentence. If he was convicted again in 2019, the judge must consider the earlier conviction under prior record variable scoring. If he were convicted in 2020, a decade after prison, the prior conviction couldn't be used against him.

No such gap exists with habitual enhancements, which prosecutors use at their discretion. They can use any conviction, no matter when it happened or how long someone went without involvement with the law. Someone convicted of vandalism at 18 and robbery in their 40s could be deemed "habitual."

The bills expand the 10-year gap to habitual offender enhancements, similar to prior record variable scoring.

Another reform permits only similar offenses to be grouped together as habitual offending behavior.

A further change bundles multiple offenses occurring on "one bad night" into a single act for consideration of habitual status. That would end the practice of people going from a clean record to being habitual offenders in one night.

A last proposal would eliminate a 25-year mandatory minimum for 4<sup>th</sup> offender habitual status. That would empower a judge to decide sentences based on individual circumstances.

These changes won't eliminate habitual sentencing, but they reduce disparities. SJM supports these reforms, and we'll keep you updated.

## Can My Prior Record Be Used Against Me?

Understanding Michigan's prior record variable scoring, habitual sentencing enhancements & proposed reforms

Prior felony convictions can lengthen sentences in two ways:

- 1. Prior record variable scoring:**  
A prior record used to lengthen sentencing guidelines can greatly extend a sentence, depending on the number and types of offenses.
- 2. Habitual sentencing enhancement:**  
Prosecutors may use a prior record to apply habitual offender enhancements, extending sentences already lengthened by prior record variable scoring by another 100%.

### Double-counting and the 10-year gap

If 10 years have passed since the discharge of the previous sentence, prosecutors can't consider that felony conviction under variable scoring. Consider a person facing a new charge this year who had had three prior convictions, whose sentences were discharged in 1996, 2007 & 2012:

Notice above that prior convictions are double-counted in sentencing, first in prior record variable scoring and again under habitual offender sentencing enhancement.

### Proposed Reforms

Senate Bills 697-699 would:

- Establish a 10-year gap for the habitual offender sentencing enhancement.
- Only include "true habitual behavior," meaning that only similar offenses would be counted as habitual offending behavior.
- Treat multiple convictions arising from a single incident as one conviction, rather than allowing one event to be considered habitual behavior.

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# POLICY UPDATE

## 18 ways to reform Michigan jails

What happens when you draft a task force of Democrats, Republicans, legislators, victim advocates, county commissioners, law enforcement officers and formerly incarcerated people?

A list of 18 recommendations designed to reduce the jail population across the entire state.

Gov. **Gretchen Whitmer** assembled the the Michigan Task Force on Jail and Pretrial Incarceration last year to develop policy recommendations to expand alternatives to jail, safely reduce jail admissions and length of stay, and improve the effectiveness of Michigan's justice systems.

The task force unveiled the recommendations Jan. 14.:

### Traffic Violations

1. Driver license suspensions are a major reason people end up incarcerated in jail. To change that, the task force recommends ending the suspension or revocation of drivers licenses unrelated to unsafe driving.
2. Most arrests are for non-person misdemeanors. Reclassify low-level misdemeanors as civil infractions to reduce the number of people with criminal records and save law enforcement resources.

### Arrest

3. Law enforcement officers may issue appearance tickets for misdemeanors punishable by 93 days of incarceration or less. The task force suggests making appearance tickets the presumption, rather than an option, for nearly all misdemeanors.
4. Failure to appear is the most common reason for arrest in Michigan. The task force suggests issuing summons to appear rather than bench warrants to reduce arrests, and allowing a 48-hour grace period before a bench warrant is issued for a first failure to appear.

### Behavioral Health

5. Divert people with behavioral health needs away from the justice system by deflecting them to treatment and supportive

**Michigan Joint Task Force on Jail & Pretrial Incarceration's 18 Legislative Recommendations**

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1. Massively reduce arrests by limiting driver's license suspensions to offenses directly related to driver safety.
2. Reclassify some misdemeanors as civil infractions, including non-moving traffic violations that don't involve intoxication.
3. Expand officer discretion to use appearance tickets as an alternative to arrest; create a presumption of citation for 90-93 day misdemeanors.
4. Reduce use of bench warrants for failures to appear, failure to pay court fines, fees & child support, among other changes.
5. Divert people with behavioral health to treatment & dedicate funding for diversion to law enforcement, service providers & community organizations.
6. Make Jail Overcrowding Act proactive by authorizing sheriffs to divert & release some incarcerated people.
7. Provide and fund behavioral health crisis response training for law enforcement, dispatch and jail officers.
8. Shorten time people spend in jail between arrest and arraignment to 24 hours, extendable to 48 hours with good cause.
9. Reform bail system to establish presumption of release on personal recognizance or non-monetary release conditions in many or most cases.
10. For people still detained 48 hours after arraignment: provide due process hearing to determine if conditions of release were unattainable.
11. Limit use of restrictive pretrial release conditions, such as drug testing, electronic monitoring and in-person check ins.
12. Strengthen speedy trial laws; require defendants to be tried within 18 months, absent waiver, acquiescence or agreement.
13. Reduce incarceration for simple misdemeanors by creating the presumption they should not result in incarceration.
14. Presume non-jail & non-probation sentences for less serious misdemeanors; eliminate mandatory jail sentences for all misdemeanors.
15. Reduce the length of probation/parole supervision; lower thresholds for parole/probation revocation as punishment for technical violations.
16. Address financial barriers to compliance; reduce fine amounts & require that those unable to pay be allowed community service.
17. Invest in services and supports for crime victims; train law enforcement in best practices for interviewing crime victims & survivors.
18. Standardize criminal justice data collecting and reporting at the state and local levels.

To read the full report and recommendations, please visit <http://bit.ly/JailsTaskForce>

See: *Jails*, page 5

## Jails: Task force recommendations point way to smarter policies

services before arrest and diverting them out of the justice system after arrest.

6. Enable sheriffs to work with courts to manage jail populations and avoid overcrowding by releasing people with mental health needs to therapeutic placement or deny booking people with mental health needs facing misdemeanors or non-assaultive felonies who don't pose a threat to the community.
7. Law enforcement officers often work with people in mental health crisis, but have little mental health training. The task force suggests providing behavioral health crisis response training for law enforcement, dispatch and jail officers.

### The First 24 Hours

8. Shorten the time people are in jail between arrest and arraignment by requiring people to be arraigned by a judicial officer within 24-48 hours of arrest.

### Pretrial Release and Detention

9. Money bail often results in lower-income people charged with minor offenses remaining in jail, while wealthier people charged with more serious offenses who can make bail are released. The task force suggests making release on personal recognizance the standard in most cases unless there's a risk of nonappearance.
10. Providing due process hearings for defendants still detained 48 hours after arraignment to see if conditions of release can be met.
11. Requirements of release, such as drug testing, are often costly for defendants. The task force suggests limiting these conditions and requiring governments to cover the cost for indigent people.

### Speedy Trial

12. Americans have a right to a speedy trial, but some people wait in Michigan jails four years for trial. The task force suggests requiring defendants get a trial within 18 months of arrest, unless the right is waived.

### Alternatives to Jail Sentences

13. Reduce the number of people sentenced to jail time for misdemeanors with a rebuttable presumption that people convicted of non-serious misdemeanors receive a sentence other than jail.
14. Reclassify punishments for some low-level felonies and create a presumption that more felonies be sentenced to probation.

### Probation and Parole

15. Probation or parole violations are a common cause for jail admission. The task force recommends limiting probation terms, lowering jail exposure for technical violations and allowing people on probation to earn early release.

### Address financial barriers

16. Involvement with the justice system often traps families in cycles of poverty. The recommendations include reducing fines for civil infractions, allowing alternatives like community service and ending jail "pay to stay" policies.

### Victim Services

17. Invest in services and supports for crime victims and improve protection order enforcement.

### Data Collection

18. Transparency is critical to guiding future decision-making, the task forces suggests directing local and state criminal justice

agencies to collect, record, and report data from arrests.

As task force member and former Michigan House Speaker **Craig DeRoche** said in an op-ed in the Detroit News: "Incarceration is the most expensive and least effective tool in any government's arsenal."

These recommendations are smart on crime. We urge legislators to prioritize making policies based on these research-backed, thoughtful recommendations into policy.

## Clean Slate awaits Senate hearing

Passage of the Clean Slate legislative package, seven bills that would expand access to expungements and automate the expungement process in many cases, remains a priority of Safe & Just Michigan.

Expungements are known to help formerly incarcerated people find good jobs, good housing and education opportunities.

However, passage of the bills has slowed down after the House of Representatives voted the bills to the Senate with overwhelming bipartisan support on Nov. 6.

We are still waiting for Senate Judiciary and Public Safety Committee Chairman **Pete Lucido** (R-Sterling Heights) to schedule a hearing on the bills.

We and many of our community partners, such as JustLeadershipUSA, are asking people to contact committee members to voice support for the bills and request a hearing. Names and phone numbers of the senators are listed on the back page of this newsletter, if you or your loved ones would like to add your support to the bills as well.

# Michigan prison population continues decline

Population declines while average length of stay continues to rise

## Michigan's Prison Population in 2018

### Michigan's prison population continues to fall ...

**2018**  
38,761  
people incarcerated



**2017**  
39,666  
people incarcerated



**24.8%**

The amount Michigan's prison population has fallen from its high of 51,515 reached in 2006.

**49.3%**

The amount Michigan's average prison sentence has increased since 1998, when it was 7.1 years.

### ... but the length of stay continues to increase.

**2018**  
10.6 years  
average sentence length



**2017**  
10.3 years  
average sentence length

### Incarcerated Women

**2,079**

Number of women incarcerated in Michigan's women's prison, down 3.3% from 2017.



**7.1 years**

The average sentence of a woman incarcerated in prison in Michigan in 2018, up 6% from the previous year.



### Almost a third of incarcerated people are serving sentences of 20 or more years.

**12,603**

Number of people serving sentences of 20 or more years in Michigan prisons in 2018.



**13%**

Percent of Michigan's prison population — or 5,056 people — serving a life sentence in 2018.

### Health care is a growing share of the corrections budget

**\$287.1 Million**

Amount the Michigan Department of Corrections spent on health care in 2018, down 2% from 2017.



**15.2%**

The portion of the Michigan Department of Corrections' budget spent on health care costs, up from 14.9% in 2017.

One reason the share of health care costs is rising is that Michigan has the oldest prison population in the country.

### Health care cost per incarcerated person

**2018**  
\$9,076



**2017**  
\$8,899

... a 2% increase

Source: Michigan Department of Corrections

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### Corrections spending decreased last year

**2018**  
\$1.89 Billion



**2017**  
\$1.97 Billion

... a 3.8 percent decrease

note: two prisons were closed in 2018

Each year, the Michigan Department of Corrections releases a factbook of statistics describing their department, the state prisons and the people who are incarcerated inside them. This most recent factbook takes a look at statistics from 2018.

Facts and figures show continuing trends: Michigan's prison population continues to fall, while our overall average length of stay rises.

On the last day of 2018, there were 38,761 people incarcerated in Michigan prisons, down 2.3 percent from the year before and down 24.8 percent from a high reached in 2006.

However, at the same time, people who are incarcerated are staying for a longer time, on average. The average stay in 2018 was 10.6 years, up from 10.3 years the year before.

This is true for incarcerated women as well — their overall numbers are falling, but their average length of stay is increasing.

This is leading to an aging prison population and rising health care costs, which can be seen particularly on a per-person basis.

We will be delving into these statistics and other facts in the coming months, using data and research to inform our advocacy and policy work.

# OUTREACH UPDATE

Safe & Just Michigan staff have been active both throughout Michigan and across the nation to advance criminal justice reform, including:

- Outreach Director **Troy Rienstra** joined a Michigan delegation to Colorado to learn about community reinvestment. Also taking part was the Detroit Justice Center, Michigan Liberation, Detroit Action, Detroit Force, and We The People.
- Communications Specialist **Barbara Wieland** attended a program titled “Disrupting the Trauma to Prison Pipeline” in Lansing, where panelists included University of Michigan-Dearborn criminal justice lecturer **Aaron Kinzel**, State Appellate Defender Office Paralegal **Frank Rodriguez** and American Friends Service Committee - Michigan

Criminal Justice Program Project Manager **Daniel Jones**.

- Rienstra and Wieland attended a special viewing of the film “Just Mercy,” showcasing the work of Bryan Stevenson and the Equal Justice Initiative, and Rienstra took part in a panel discussion after the movie. The event was hosted by the Campaign for the Fair Sentencing of Youth. Other panelists included Oakland County prosecutor candidate **Karen McDonald** and State Appellate Defender Office re-entry specialist **Jose Burgos**.
- Policy Analyst **Josh Hoe** went to the Conservative Political Action Conference in Baltimore to talk with right-leaning politicians and activists about criminal justice reform and interview them for his independent podcast, Decarceration Nation.

## Three things I wish I knew *Life after release*

**Name:** Aaron T. Kinzel

**Title:** Executive Director of the Youth Justice Fund, Lecturer in Criminology and Criminal Justice at the University of



Michigan Dearborn, consultant

**City:** Dundee

**Years since release:** 12

*Advice to others looking forward to release:*

**1** Lose the penitentiary mentality and learn to communicate effectively with diverse groups of people. It’s extremely difficult and uncomfortable to address the trauma that you faced in prison and on the streets before your incarceration, but it’s necessary for your mental health, so reach out for support!

**2** Post-secondary education is the key to a successful future! Whether it’s a vocational trade in carpentry or an academic degree in business, you’ll be given more opportunities to pursue a lifelong career.

**3** Having felony convictions will create numerous barriers for you upon release, but you can mitigate this damage by building a strong network of professionals that can mentor and vouch for you in the community.

# MEDIA MENTIONS

Safe & Just Michigan is a trusted source for reporters working on criminal justice stories. When Capitol newsletter Gongwer decided to name criminal justice advocates its 2019 Newsmakers of the Year, it turned to SJM to explain why this is the moment for reform:

**Newsmaker 2019: Criminal Justice Reform Advocates (Feb. 28, 2020):**

If you’re new to town, the blizzard of landmark criminal justice reform bills moving through the Legislature in the past year probably seemed easy. Noncontroversial even.

It was anything but. ...

“Some things that look like they were happening over months were six-year battles,” said (former SJM Executive Director) **Laura**

**Sager**. “There’s a little bit of not understanding sort of how the groundwork was laid.” ...

Virtually every one of the now successful new criminal justice laws suffered defeat at least once, sometimes multiple defeats, in previous legislative terms.

“There were a lot of low points. Every time you lose a two-year battle that you put your whole heart into,” Ms. Sager said. ...

(Current SJM Executive Director **John Cooper** said it can sometimes take years to build enough support to pass a bill.)

“It takes more than two years sometimes to do all the stakeholder work that’s necessary to make a bill legislatively viable and address concerns and opposition,” he said.

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## Help get Clean Slate passed into law

We're still waiting for the Michigan Senate to call a hearing on the Clean Slate legislative package. This is disappointing, as the bills passed the House with overwhelming bipartisan support in November.

Safe & Just Michigan and our partners at JustLeadershipUSA invite people to get involved

**Sen. Pete Lucido, chair**  
(R-Sterling Heights)

517.373.7670

**Sen. Curt VanderWall**  
(R-Ludington)

517.373.1725

by calling members of the Senate Judiciary and Public Safety Committee to demand they bring the bills up for a hearing. These bills would make a dramatic difference in the lives of hundreds of thousands of Michiganders who have a criminal record by expanding access to expungements and

**Sen. Jim Runestad**  
(R-White Lake)

517.373.1758

**Sen. Ruth Johnson**  
(R-Holly)

517.373.1636

**Sen. Tom Barrett**  
(R-Pottersville)

517.373.3447

automating the expungement process in many cases.

Once a record is cleared, research shows people are far more likely to get a good-paying job, safe and affordable housing and further their education — which are all things that thriving communities rely on.

The committee's senators are:

**Sen. Stephanie Chang**  
(D-Detroit)

517.373.7346

**Sen. Jeff Irwin**  
(D-Ann Arbor)

517.373.2406

If your loved ones would like to learn more about these bills or see some suggested call scripts, they can visit our guide at <http://bit.ly/CSCallScript>