

Legal Requirements for Detention Facilities

Presented by Grace Philips June 19, 2024



NEW MEXICO
COUNTIES

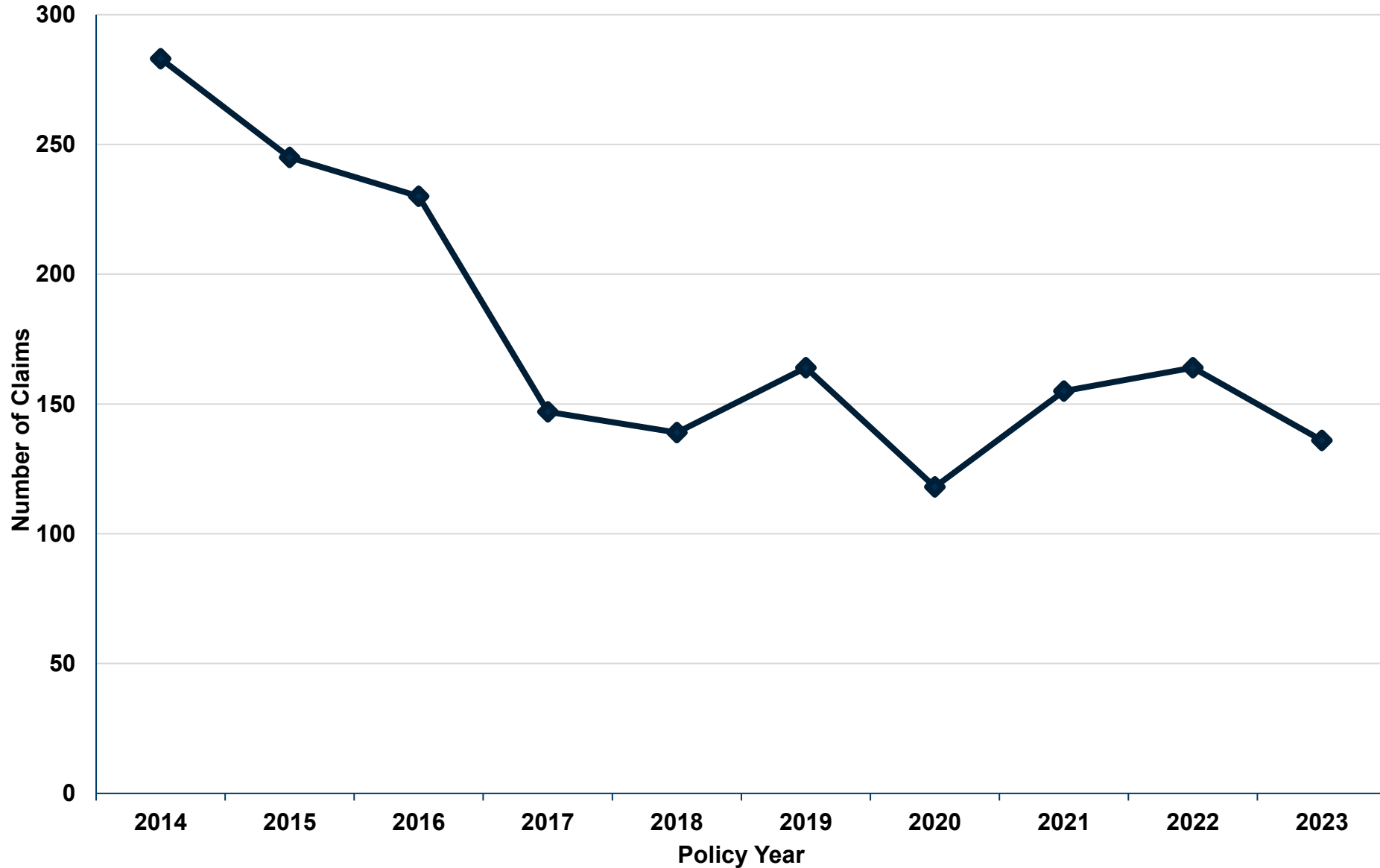
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Duties

Responsibilities

- Keep detainees in custody
- Provide safe and secure operation for detainees and staff
- Attend to detainee health needs
- Attend to detainee mental health needs
- Attend to detainee hygiene needs
- Accommodate detainee religious beliefs

Number of Adult Detention Center Claims 2014-2023

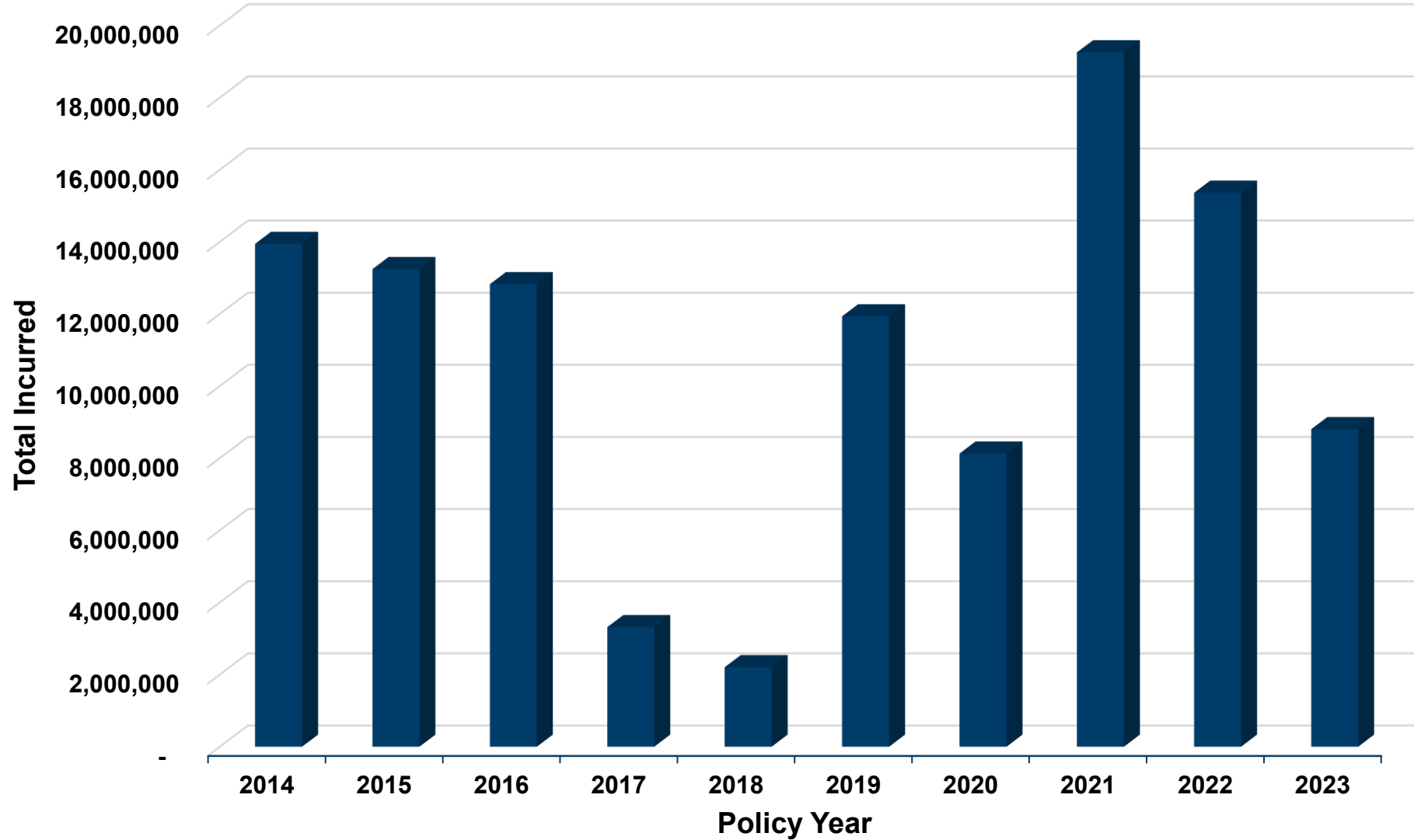


Note:

Data includes all New Mexico counties except Lea, Los Alamos, Rio Arriba, and San Juan.

Data is as of 6/17/2024.

Adult Detention Center Incurred Losses 2014 - 2023



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**United
States
Constitution**

**Which constitutional
amendments protect
detainees in your
detention facility?**

United States Constitution

1st Amendment

- Religion
- Association
- Speech

United States Constitution

4th Amendment

- Inmate Searches
- Shake downs
- Search of mail

United States Constitution

5th / 14th Amendments

- No punishment without due process
- Equal Protection

**United
States
Constitution**

8th Amendment

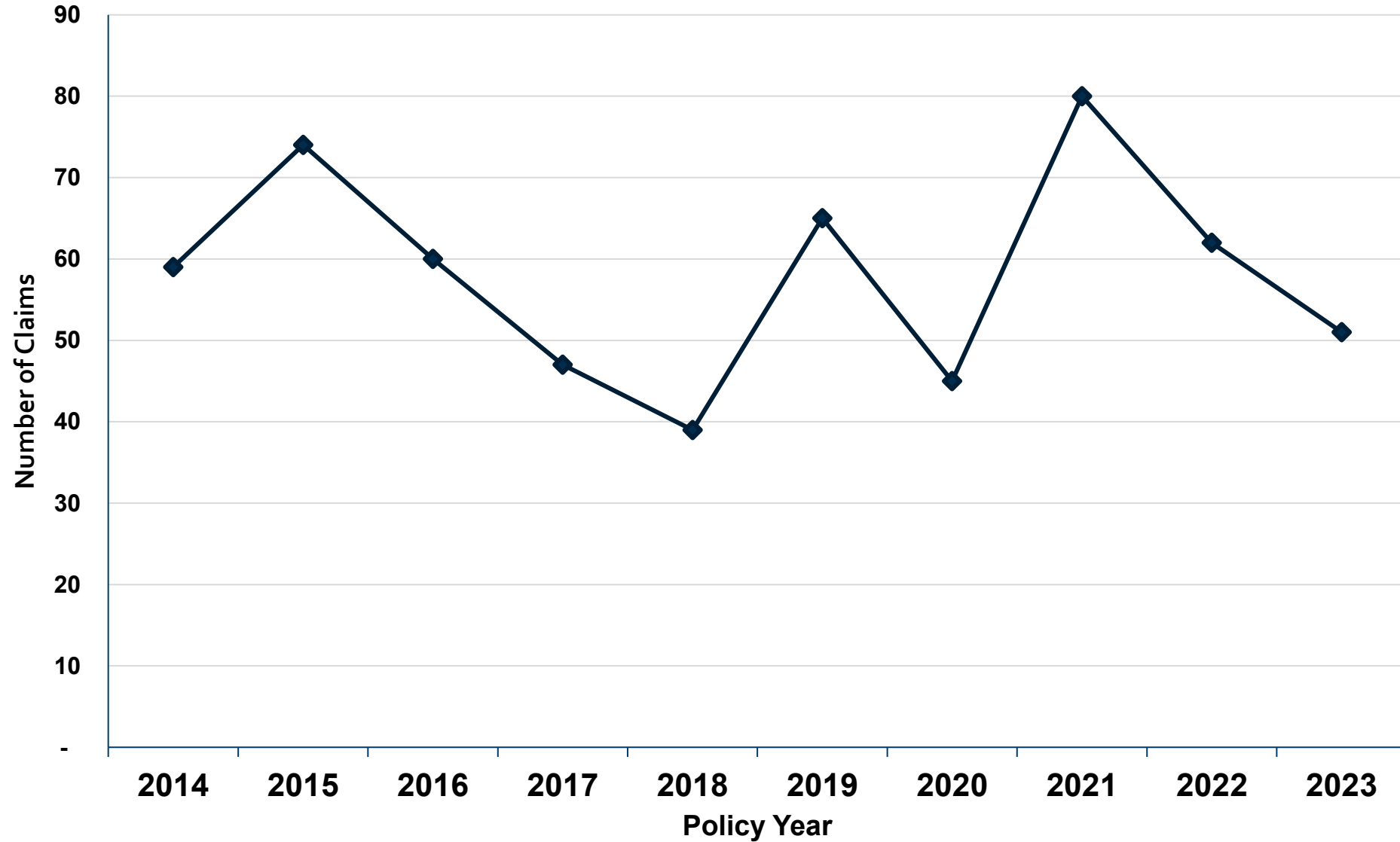
Medical/mental healthcare

**Failure to protect (violence,
sexual misconduct)**

Use of Force

**Conditions of confinement
(restricted housing,
overcrowding, necessities of Life)**

Adult Detention Center Inadequate Medical Treatment Claims 2014-2023

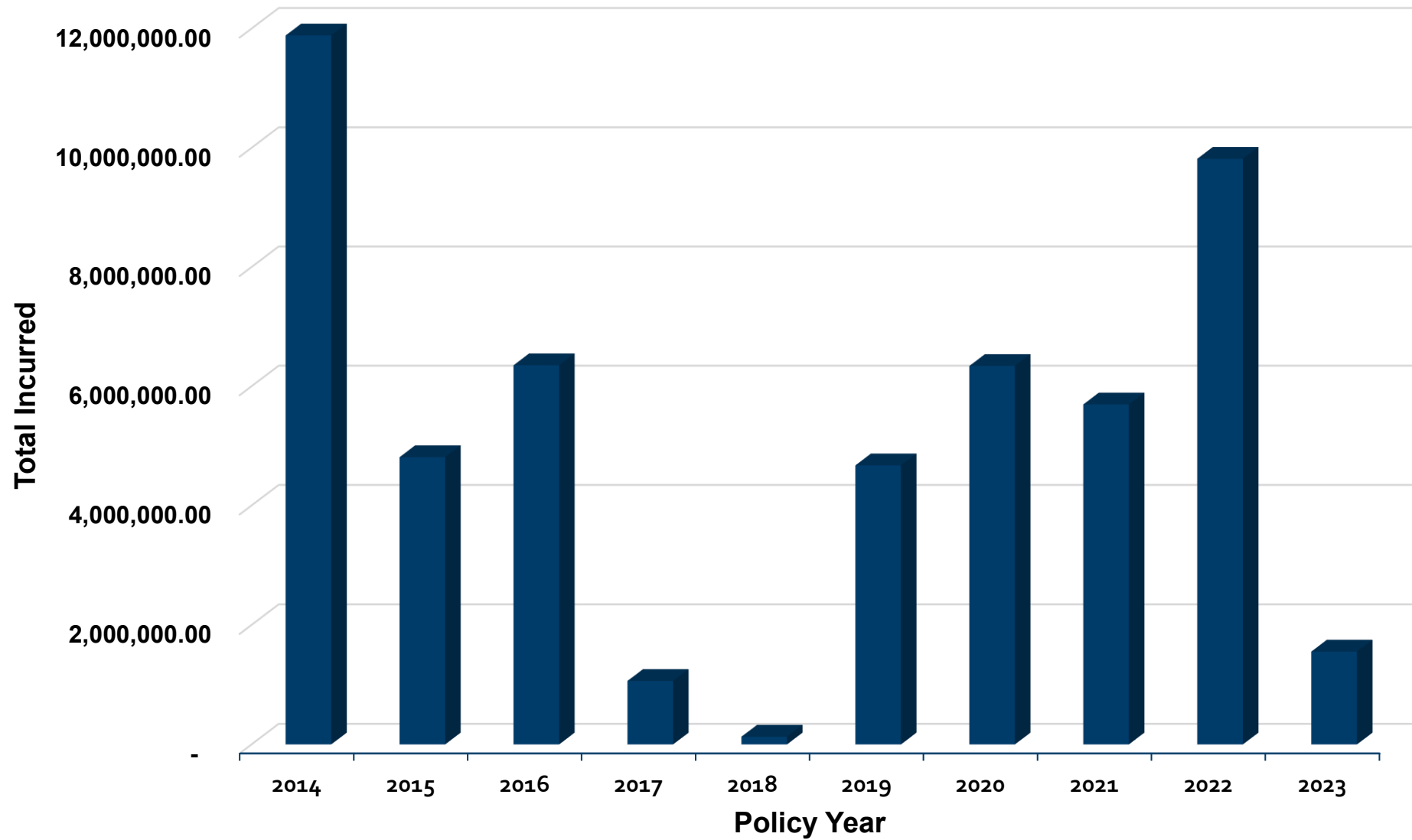


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Adult Detention Center Inadequate Medical Treatment Losses 2014 - 2023



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Tort Claims Act

New Mexico State Law NMSA 1978, Sections 41-4-1 through 41-4-27

- The Tort Claims Act (TCA) **WAIVES** immunity, under certain circumstances, for liability for damages resulting from bodily injury, wrongful death, or property damage caused by a public employee while acting within the scope of his duty
- The TCA **REQUIRES** a governmental entity to provide a defense, including costs and attorney fees for any public employee
- The TCA **REQUIRES** a governmental entity to pay any award for punitive or exemplary damages awarded against a public employee
- The TCA **REQUIRES** a governmental entity to pay any settlement or any final judgment entered against a public employee

Tort Claims Act

Limits of Liability

- \$400,000 bodily injury, personal injury (per person/per occurrence)
- \$200,000 property damage (per property address/per occurrence)
- \$300,000 medical expenses (per occurrence)
- \$750,000 total liability limit for bodily injury, personal injury, and property damage combined (per occurrence)
- \$1,050,000 combined limit (per occurrence)

NEW MEXICO CIVIL RIGHTS ACT



New Mexico Civil Rights Act

New Mexico State Law NMSA 1978, Sections 41-4A-1 through 41-4A-13

- Applies to a violation of rights established pursuant to the bill of rights of the constitution of New Mexico
- PROHIBITS the use of qualified immunity for a defense
- Attorney's fees may be awarded by the court
- "Limit" on recovery: \$2.4MM per claimant, per occurrence (so no aggregate limit)
- The CRA REQUIRES a governmental entity to pay any settlement or any final judgment entered against a public employee
- Incident giving rise to a claim must occur after June 30, 2021

Who Pays?

“A municipality may use the county jail for the confinement or punishment of offenders subject to the requirements imposed by law and the board of county commissioners.”

NMSA 1978 § 3-18-20

Thank you!

Progress happens
when all 33 come together.



**NEW MEXICO
COUNTIES**

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