

## New York Should Establish and Fully Fund a Statewide Network of Community-Based Pretrial Services

All New Yorkers, from Binghamton to Oswego to New York City, should benefit from the same services after an arrest. Instead of giving in to scare tactics, the governor and legislature must look to real solutions to fulfill the potential of bail reform. Recent data shows that bail reform is working as intended to end the two-tiered system of justice in which wealth, not safety, determined who stayed in jail and who was released pending trial, but it suffers from a lack of concurrent investment in other public safety measures, including pretrial services.<sup>1</sup>

Pretrial services remain an effective way to maintain public safety and support people released pending trial, but only if properly funded and implemented.<sup>2</sup> Many jurisdictions across the country have successful pretrial services programs with low rates of rearrest and high rates of court appearance. In New Jersey, which has a well-funded statewide pretrial services agency, over 86 percent of participants were not rearrested for an indictable offense from 2017 to 2019 (dropping to almost 80 percent in 2020 in line with national crime trends).<sup>3</sup> Court appearance rates were approximately 90 percent from 2017 to 2019, rising to 97 percent in 2020.<sup>4</sup> In New York City's nonprofit-operated program, 87 percent of participants avoided rearrest for a felony in 2020 and the court appearance rate for participants was also 87 percent.<sup>5</sup>

New York State's pretrial services programs have not reached their full potential because of a lack of funding and effective implementation. While New York's 2019 bail reform law required the NYS Office of Court Administration (OCA) to certify pretrial services agencies in every county, the legislation failed to provide funding or guidance.<sup>6</sup> Moving forward, New York should:

- **Increase funding for pretrial services.** The state should allocate at least \$72 million in this year's budget to expand pretrial services across New York and match New York City's investment.<sup>7</sup> This will build upon last year's commitment, wherein the governor provided \$20 million and the Assembly another \$5 million for pretrial services outside of New York City.<sup>8</sup>
- **Move pretrial services out of probation.** Pretrial services programs run by independent, nonprofit service providers are more effective at providing necessary pretrial supports—like court reminders and referrals to community-based treatment and programming—than programs run by probation. Yet, outside New York City, more than 40 counties selected their local probation agency to be certified as their pretrial services provider.<sup>9</sup> The state should mandate every county transition pretrial services out of the local probation department to an independent, nonprofit provider over the next three years.
- **Establish an Office of Pretrial Services within the Division of Criminal Justice Services.** Following the lead of places like New Jersey, New York should establish a statewide pretrial services agency responsible for implementation and oversight. Currently, no one entity exists to manage funding, provide guidance, share best practices, monitor service quality, and collect and disseminate data.

While budgetary constraints always exist, recent prison closures offer an opportunity to invest in statewide pretrial services. From 2011 to 2021, the state saved nearly \$300 million by closing 18 prisons.<sup>10</sup> Six additional prison closures in 2022 are expected to save an additional \$142 million.<sup>11</sup> Funneling those savings into pretrial services that reduce the number of people behind bars and protect public safety would be a fitting use for those dollars.

## Notes

<sup>1</sup> Vera Institute of Justice, *A Great Start on Bail Reform with Room to Improve: Five Takeaways from Newly Released New York Pretrial Data* (New York: Vera Institute of Justice, 2023), [perma.cc/9PHU-ZQB6](https://perma.cc/9PHU-ZQB6).

<sup>2</sup> Aiden Cotter and Madeline Bailey, *Successful Pretrial Systems Rely on Supportive Pretrial Services* (New York: Vera Institute of Justice, 2022), [perma.cc/8EAA-X86Q](https://perma.cc/8EAA-X86Q); see also Courtney Lam, *Pretrial Services: An Effective Alternative to Monetary Bail* (San Francisco: Center on Juvenile and Criminal Justice, 2014), [perma.cc/KXQ4-EFXX](https://perma.cc/KXQ4-EFXX).

<sup>3</sup> Glenn A. Grant, *Annual Report to the Governor and the Legislature, Jan 1 – Dec 31, 2021* (New Jersey: New Jersey Courts, 2022), 16, [perma.cc/2Q3N-4Q4C](https://perma.cc/2Q3N-4Q4C).

<sup>4</sup> *Ibid.*, 19.

<sup>5</sup> NYC Mayor's Office of Criminal Justice, *Supervised Release Annual Scorecard 2020* (New York: NYC Criminal Justice, 2021), 2, [perma.cc/5SCH-W2C3](https://perma.cc/5SCH-W2C3).

<sup>6</sup> Criminal Procedure (CPL) CHAPTER 11-A, PART 3, TITLE P, ARTICLE 510, Section 510.45, [perma.cc/2F99-ZASY](https://perma.cc/2F99-ZASY).

<sup>7</sup> The Council of the City of New York, *Report of the Finance Division on the Fiscal 2022 Preliminary Plan and the Fiscal 2021 Preliminary Mayor's Management Report for the Mayor's Office of Criminal Justice* (New York: NYC Council, 2021), 9, [perma.cc/B5R5-DW3H](https://perma.cc/B5R5-DW3H).

<sup>8</sup> Governor Kathy Hochul, "Governor Hochul Announces \$50 Million in Public Safety Funding at 2022 Division of Criminal Justice Services Symposium," press release, September 28, 2022, [perma.cc/9H3P-HLQU](https://perma.cc/9H3P-HLQU); and Assembly Speaker Carl E. Heastie, "Assembly SFY 2022-23 Spending Plan Includes Critical Investments in Mental Health and Substance Use Disorder Services," press release, March 14, 2022, [perma.cc/6J5G-HGZG](https://perma.cc/6J5G-HGZG).

<sup>9</sup> New York State Unified Court System, Division of Technology & Court Research, "OCA Certified Pretrial Services Agencies, Pretrial Services Information - List of Agencies," [perma.cc/9CHT-SQ2Y](https://perma.cc/9CHT-SQ2Y).

<sup>10</sup> Robert Harding, "Gov. Cuomo Eyeing More NY Prison Closures Over Next 2 Years," *The Citizen*, February 12, 2021, [perma.cc/X39X-X8ZP](https://perma.cc/X39X-X8ZP).

<sup>11</sup> Luis Ferré-Sadurní, "Why New York Is Closing 6 Prisons," *The New York Times*, November 9, 2021, [nytimes.com/2021/11/09/nyregion/prisons-closing-new-york-hochul.html](https://nytimes.com/2021/11/09/nyregion/prisons-closing-new-york-hochul.html).