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New York State Jail Population Brief, January 2019–June 2021

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Executive Summary

The New York State legislature passed bail reform more than three years ago. The historic reforms were meant to, among other things, limit the use of wealth-based pretrial detention. They were intended to change the common practice of pretrial detention through bail, making most misdemeanors and nonviolent felonies ineligible for bail and requiring release without monetary conditions, such as release on their recognizance or release to pretrial supervision. The new laws also require judges to choose “the least restrictive alternative and condition” to ensure a person’s court appearance when making pretrial release decisions.¹ In doing this, the law emphasized the fundamental purpose of bail in New York—a collateral to ensure someone’s court appearance—with an explicit statement that judges should consider an accused person’s ability to pay in determining bail. Legislators have twice amended parts of the original laws—first in April 2020 and again in January 2022—even though the first amendment was passed before empirical evidence could enable any meaningful assessment of the law’s impact. Understanding the full impact of bail reform is a multi-year project in ordinary times. The global COVID-19 pandemic, which began in early 2020, has made it more difficult to estimate the impact of bail reform because researchers must disentangle the effects of the pandemic and its impact on New York’s criminal legal system. Nevertheless, monitoring and documenting New York’s changing pretrial scene (for example, pretrial detention trends and outcomes of pretrial release) as the state continues to recover from the ongoing pandemic is critical, especially when there is an ongoing push to return to the pre-reform state and enact further amendments.²

This report is the third in the Vera Institute of Justice’s (Vera’s) jail population brief series, which explores changes in statewide jail admissions and populations by demographics, charge severity, bail eligibility based on a charge, and region. The previous report examined incarceration trends from April 2019 to December 2020 and found that the statewide jail population decreased by more than 32 percent after the implementation of bail reform and by another 21 percent after the onset of the COVID-19 pandemic.³ Although the jail population decreased, racial disparities in jail incarceration rates increased. The report also found that the jail population was trending upward by the end of 2020, approaching pre-pandemic levels.

The current report continues to explore incarceration trends in New York City and non-New York City counties through June 2021, adding six months of data from the last reporting period. The key findings of this report are as follows:

- (1) From April 2019 to June 2021, the jail population decreased by 25.3 percent in New York City and 25.8 percent in non-New York City counties. The decrease was mainly driven by a reduction in the number of people held on misdemeanors or violations, as well as nonviolent felonies. The number of people incarcerated for violent felony charges increased in both New York City (+8.5 percent) and non-New York City counties (+25.4 percent).
- (2) From December 2020 to June 2021, the jail population increased by 16.4 percent in New York City and 11.2 percent in non-New York City counties. More than half of the increase was from pretrial detention, particularly for violent felony charges, suggesting the continued influence of bail reform on reducing pretrial detention for misdemeanors and nonviolent felonies.

- (3) The racial disparities in jail incarceration that were aggravated after bail reform—and discussed in the prior jail brief—persisted through June 2021. Black people were about six times more likely to be incarcerated than non-Latinx white people in both New York City and non-New York City counties, which is in line with December 2020 levels.
- (4) As the number of COVID-19 cases increased across the state at the beginning of the pandemic, the number of statewide jail admissions decreased. The biggest drop in jail admissions from January 2020 to June 2021 occurred in April 2020, which coincided with the first peak of the pandemic. The rapid decline in new positive cases after the peak also coincided with a shift in the jail admission trend—admissions, which had been decreasing, began to increase.
- (5) The pattern of change in incarceration varied by region and geography. Urban and suburban regions were more affected by the pandemic and for much longer periods. Rural regions showed the largest decrease in jail populations during the implementation of bail reform.

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Introduction

New York criminal legal policies have shifted substantially since 2019. In April 2019, New York legislators passed bail reform laws that included limiting judges' discretion to set bail on most misdemeanors and felonies.⁴ Around the same time the new laws went into effect in early 2020, the COVID-19 virus started to spread throughout New York, which had taken more than 70,000 lives in New York as of October 2022.⁵ The pandemic led to the state shutting down, adopting a virtual arraignment system, and halting other court proceedings.⁶ Bail reform laws were amended in the middle of the pandemic, only four months after the original laws went into effect. The amendments added a list of charges and circumstances in which judges can set bail, reducing the scope of the original bail reform laws.⁷

The jail population fluctuated as state and local policies changed. Jail populations across New York started decreasing in late 2019, as counties adopted the forthcoming changes early. Immediately after the bail reform laws went into effect in January 2020, the statewide jail population decreased more than 25 percent compared to April 2019, the month bail reform passed.⁸ The jail population further decreased with the onset of the COVID-19 pandemic and dropped to about 11,000 in July 2020. The amendments to bail reform went into effect in July 2020 and coincided with the reopening of the state. The jail population that was trending downward started to increase after July and ended at 13,575 in December 2020, nearing the pre-pandemic level. Vera's previous report examining incarceration trends from April 2019 to December 2020 found that the bail reform amendments likely had a limited influence on the increase in jail populations in the second half of 2020.⁹ The report also noted that Black people continued to be incarcerated at rates 5 to 6 times higher than non-Latinx white people. (For additional information about the data on race and ethnicity, see Section 1 on page 3 of this report.)

In this report, researchers explore the incarceration trends through June 2021 in both New York City and 48 counties outside of New York City. The New York State Division of Criminal Justice Services (DCJS) provides up-to-date monthly average daily jail population numbers, aggregated by custody status (pretrial, sentenced, civil, federal, technical parole violation, and state ready). As of November 2022, slightly more than 16,000 people were incarcerated in jails across New York State.¹⁰ However, the DCJS data does not provide any detailed information about incarcerated people, such as demographics, charge details, length of incarceration, bail amounts, and bail posting. For a more detailed analysis of incarceration trends, researchers collected individual-level county jail data from sheriff's departments through either Freedom of Information Law (FOIL) requests or direct data sharing agreements that include more specific information about incarcerated people and their case characteristics. New York City jail records were downloaded from an open data source.¹¹ Vera's efforts to collect individual-level data from each county sheriff's department led to the analysis time period extending through June 2021. The next brief will analyze the incarceration trends through June 2022.

The current report focuses on (1) short-term incarceration trends from December 2020 to June 2021 as an update from the previous report; and (2) long-term incarceration trends from April 2019 to June 2021. For the analysis of short-term trends from December 2020 to June

2021, researchers calculated average daily jail population and average monthly jail admissions. Researchers also calculated the share of the difference in jail population from December 2020 to June 2021 for each charge category to explore the main drivers of the population change. For a longer-term trend analysis, researchers calculated average monthly jail admissions averaged quarterly and daily jail populations averaged quarterly. Although this is a descriptive analysis of incarceration trends, this approach explores changes in jail admissions and populations by charges that are affected by the laws. (For more details on the methodology, see Appendix A.)

Researchers found that the jail population continued to increase from December 2020 through June 2021, returning to pre-pandemic levels but still much lower than pre-bail reform levels. The current brief explores: (1) what factors led to the increase in jail population in the first six months of 2021; (2) how jail admissions changed as New York navigated the COVID-19 pandemic; (3) whether racial disparities in incarceration continued in 2021; and (4) how jail population trends differed by rural-urban classification and geography.

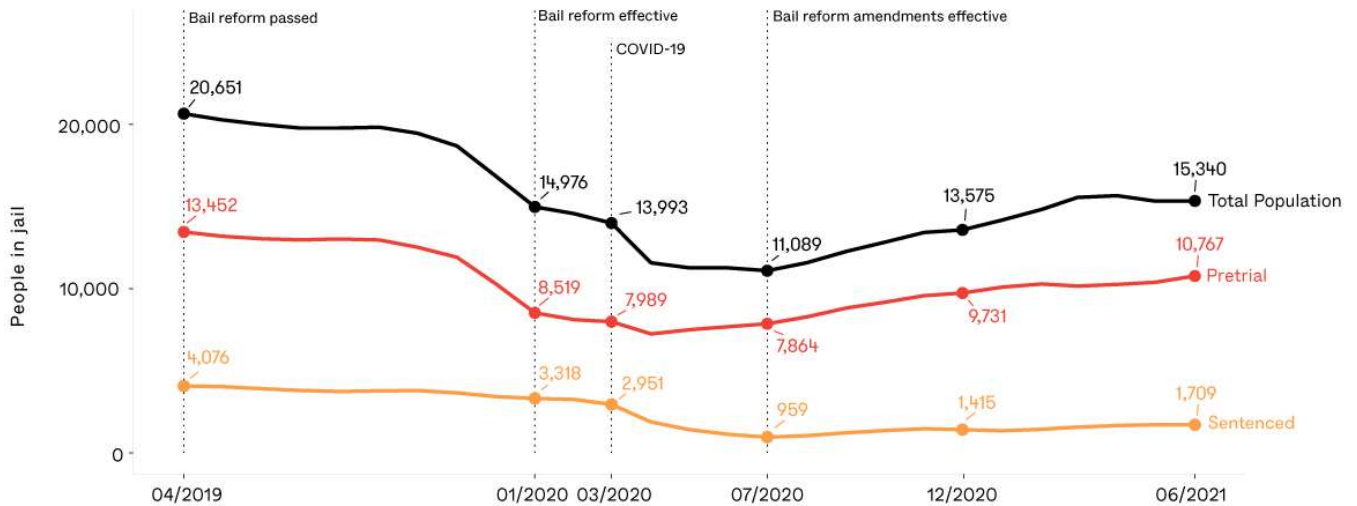
Section 1: State of jail incarceration in June 2021

On any given day in June 2021, about 15,000 people were incarcerated in jails across New York, which was markedly lower (-25.7 percent) than when bail reform was passed in April 2019. (See Figure 1.) From April 2019 to June 2021, the pretrial jail population decreased by 20 percent (from 13,452 people to 10,767 people) and the locally sentenced population (people serving sentences less than one year in the local jail) decreased roughly 60 percent (from 4,076 people to 1,709 people). The lower jail population could be attributed to the combination of bail reform and the onset of the COVID-19 pandemic, although it is hard to measure the extent of each impact.

Although it is difficult to isolate the effect of each factor given the temporal proximity of the events, the jail population returned to above the pre-pandemic level, suggesting that the effect of the pandemic on jail populations was waning by mid-2021. The decreasing population reversed its trend in July 2020, which coincided with the month that the first bail reform rollbacks went into effect. Vera’s previous report found that the population increase was mainly driven by violent felony charges that were least affected by the amendment, suggesting the limited influence of bail reform amendments on the jail population.¹²

Figure 1

Average daily pretrial and locally sentenced population, April 2019–June 2021



Source: NYS Division of Criminal Justice Services Monthly Jail Population Trends (July 2021). Data included New York City and all 57 non-NYC counties.

Jail population by charge profile

Since bail reform’s passage in April 2019, the most notable change in the jail population concerns the charge profile of incarcerated people. From April 2019 to June 2021, the statewide average daily population of people charged with misdemeanors or violations, as well as nonviolent felonies, decreased while the daily population of people charged with violent felony offenses increased.¹³ In this report, researchers combined two groups—people admitted pretrial and people serving a sentence of less than one year—and refer to the combined group as “people admitted on local charges.”¹⁴

From April 2019 to June 2021, the number of people held for misdemeanors or violations outside of New York City fell by 57.6 percent and the number of people held for nonviolent felonies fell by 38.4 percent. (See Figure 2.) Similarly, in New York City, the number of people held for misdemeanors or violations fell by 58.2 percent and the number of people held for nonviolent felonies dropped by 58.8 percent. In contrast, the number of people detained for violent felony offenses increased by 8.5 percent in New York City and 25.4 percent outside of New York City. In June 2021, more than 60 percent of people in New York City jails and more than 30 percent of people in non–New York City jails were held on violent felony charges.

Figure 2

Average daily population of people admitted on local charges by charge severity, April 2019 versus June 2021

	NYC				Non-NYC			
	Local charges				Local charges			
	Misdemeanor or violation	Nonviolent felony	Violent felony	Other [†]	Misdemeanor or violation	Nonviolent felony	Violent felony	Other [†]
April 2019	669	2,375	3,308	1,460	2,786	3,575	1,979	2,345
June 2021	280	978	3,588	991	1,180	2,202	2,482	2,065
Percent change	-58.2%	-58.8%	8.5%	-32.1%	-57.6%	-38.4%	25.4%	-11.9%

[†]Other refers to people whose charge information is missing or who are detained on probation or parole violations, immigration or federal charges, or civil warrants.

Source: County-level jail data collected and analyzed by Vera.

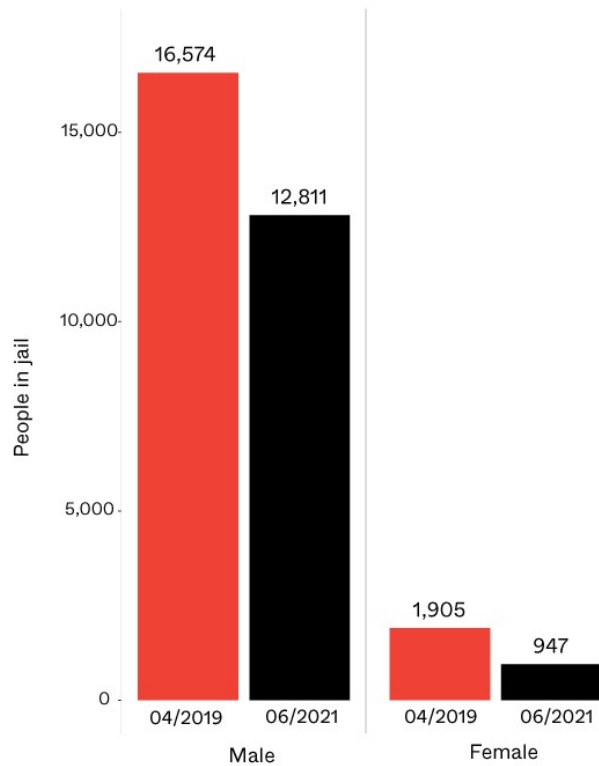
The data includes New York City and 48 of 57 non–NYC counties (86.9 percent of total jail population in June 2021).

Jail population by sex

The relative population decrease was much greater for women than for men.¹⁵ From April 2019 to June 2021, the number of men in jails statewide declined by 22.7 percent and the number of women declined by 50.3 percent. (See Figure 3.) In June 2021, men made up 93.1 percent of the jail population, an increase from 89.7 percent in April 2019.

Figure 3

Average number of people in jail by sex, April 2019 versus June 2021



Source: County-level jail data collected and analyzed by Vera.¹⁶ The data includes New York City and 48 of 57 non-New York City counties (86.9 percent of total jail population in June 2021).

Average daily jail population by race

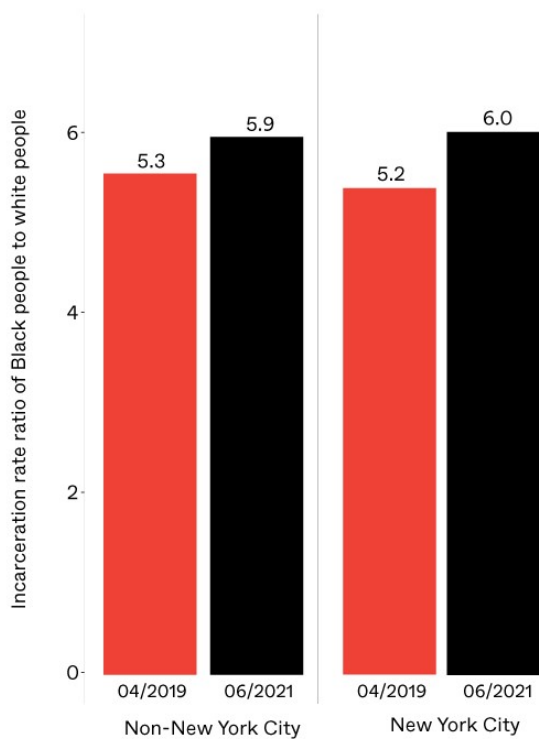
For this brief, race and ethnicity were categorized into five groups: Black people (including Latinx Black people), non-Black Latinx people, non-Latinx white people, people of another race, and people of unknown race.¹⁷ Vera’s analysis focused on comparisons between the Black and non-Latinx white groups, the two largest racial and ethnic groups in the data.

Each racial group experienced a decrease in the jail population to similar degrees in New York City and non-New York City counties. However, the decrease in the daily population was lower for Black people than for non-Latinx white people. From April 2019 to June 2021, the average daily number of Black people in jail decreased 20.5 percent in New York City and 20.4 percent outside of New York City. The average daily jail population for non-Latinx white people decreased 31.1 percent in New York City and 30.3 percent outside of New York City.

The larger decrease among non-Latinx white people widened the gap between the incarceration rate of Black people and that of non-Latinx white people, aggravating existing racial disparities both in and outside of New York City. In June 2021, Black people outside of New York City were 5.9 times more likely to be incarcerated in jail than non-Latinx white people (535 per 100,000 versus 90 per 100,000)—an increase from 5.3 in April 2019.¹⁸ (See Figure 4.) Similarly, Black people in New York City were 6 times more likely to be incarcerated in jail than non-Latinx white people (222 per 100,000 Black people versus 37 per 100,000 non-Latinx white people)—an increase from 5.2 times in April 2019.

Figure 4

Ratio of Black incarceration rate to non-Latinx white incarceration rate, April 2019 versus June 2021



Source: County-level jail data collected and analyzed by Vera. The data included New York City and 48 of 57 non-New York City counties (86.9 percent of total jail population in June 2021).

Section 2: Exploring factors that led to the continued rise of jail populations in 2021

As reported above, the statewide jail population has remained lower than when bail reform passed, but the increasing jail populations reported in the previous brief have continued since December 2020.¹⁹ (See Figure 1.) The statewide jail population increased gradually, and in June 2021, the population (15,340 people) was 13 percent higher than it was in December 2020 (13,575 people). The population increase was larger in New York City (+16.4 percent since December 2020) than in the rest of the state (+11.2 percent since December 2020). This marks a 36 percent increase in jail population from June 2020, two months after COVID-19 cases peaked during New York’s first wave of infections and an almost 10 percent increase from pre-pandemic levels in March 2020.

Increase in pretrial populations as New York reopened with pandemic still active

Statewide, the increase in jail populations from December 2020 to June 2021 was driven mainly by increases in the pretrial population. (See Figure 5.)

Figure 5

Average daily population by custody type, December 2020 versus June 2021

	NYC				Non-NYC			
	December 2020	June 2021	Difference (% change)	Share of difference	December 2020	June 2021	Difference (% change)	Share of difference
Pretrial	4,370	4,804	434 (9.9%)	55.2%	5,361	5,963	602 (11.2%)	58.1%
Sentenced	138	232	94 (68.1%)	12.0%	1,277	1,477	200 (15.7%)	19.3%
Technical parole violation	222	274	52 (23.4%)	6.6%	640	628	-12 (-1.9%)	-1.2%
State ready	1	197	196 (19,600%)	24.9%	288	401	113 (39.1%)	
Federal	65	73	8 (12.3%)	1.0%	1,191	1,325	134 (11.3%)	12.9%
Civil	0	2	2 (-)	0.3%	18	19	1 (5.0%)	0%
Total	4,796	5,580	786	100%	8,775	9,813	1,038	100%

Source: NYS Division of Criminal Justice Services Monthly Jail Population Trends (July 2021).

Since December 2020, the number of people held pretrial increased 9.9 percent in New York City and 11.2 percent in non–New York City counties. In that same period, 37 counties

experienced increases in their pretrial populations, with 25 counties experiencing an increase of more than 10 percent.²⁰ Overall, increases in the pretrial population accounted for more than 55 percent of the overall population increase from December 2020 to June 2021 in both New York City and outside of New York City.

Increase in jail populations with reopening of courts

Pretrial populations increased at similar rates both in and outside of New York City. However, different regions showed different trends for people held on other custody types—local sentence, state ready (prison transfer), and technical parole violation.²¹ From December 2020 to June 2021, the locally sentenced population increased 68.1 percent in New York City and 15.7 percent in non–New York City counties. (See Figure 5.) These increases accounted for 12 percent of the total population increase in New York City and almost 20 percent of the increase in non–New York City counties.

In New York City, state-ready populations accounted for almost a quarter of the increase in jail population from December 2020 to June 2021. (See Figure 5.) The increase in state-ready populations is likely due to the backlog of cases caused by court closures for much of 2020 due to the COVID-19 pandemic. When the courts fully reopened in March 2021, trials resumed, which led to the disposition of cases that had been pending during court closure.²² For example, New York City incarcerated only one person under state-ready status in December 2020, but the population sharply increased to a peak of 299 in March 2021, ultimately ending at 197 in June 2021. Counties outside of New York City showed a less dramatic increase but a similar trend. In December 2020, non–New York City counties incarcerated 288 people as state ready, but the population increased to a peak of 939 in March 2021, ultimately ending at 401 in June 2021.

Unlike the other custody types that increased statewide, the number of people incarcerated for technical parole violations differed by region. The number increased almost 25 percent in New York City from December 2020 to June 2021 but decreased by 2 percent in counties outside of New York City.²³

Regional differences in the increase of locally charged populations

In New York City, more than 80 percent of the jail population increase in the first half of 2021 was attributable to people admitted for local charges (either as pretrial detention or local sentence), compared to about two-thirds of the increase in non–New York City counties. (See Figure 6.) The population increase was most notable for violent felonies, particularly in New York City. More than 50 percent of the increase in New York City’s local charge population was from violent felony charges. (See Figure 6.) In counties outside of New York City, 30.4 percent of the population increase was from violent felony charges, and 36 percent of the increase was from other admissions.

Figure 6

Average daily population of people admitted for local charges by charge severity, December 2020 versus June 2021

Charge severity	NYC				48 Non-NYC counties			
	December 2020	June 2021	Difference (% change)	Share of difference	December 2020	June 2021	Difference (% change)	Share of difference
Misdemeanor or violation	238	280	42 (17.1%)	+4.6%	1,099	1,180	81 (7.5%)	+9.7%
Nonviolent felony	787	978	191 (24.3%)	+21.0%	2,001	2,202	201 (10.1%)	+24.0%
Violent felony	3,078	3,588	510 (20.4%)	+56.0%	2,227	2,482	255 (17.1%)	+30.4%
Other [†]	823	991	168 (16.6%)	+18.4%	1,763	2,065	302 (11.4%)	+36.0%
Total	4,926	5,837	911 (18.5%)	100.0%	7,090	7,929	839 (11.8%)	100.0%

[†]Other refers to people whose charge information is missing or who are detained on probation or parole violations, immigration or federal charges, or civil warrants. Source: County-level jail data collected and analyzed by Vera.

Monitoring jail population by bail eligibility suggests the continued limited role of the 2020 bail amendments on the population increase.²⁴ In both New York City and non-New York City counties, more than 50 percent of the population increase in the first half of 2021 was attributable to charges that have always been bail eligible.²⁵ (See Figure 7.) The share of the increase for charges never eligible for bail was 17.1 percent in New York City and 24.1 percent in counties outside of New York City. Following the amendments in April 2020, newly bail-eligible charges made up about 6 percent of the increase across the state, remaining a small share of the population increase.

Compared to the change during the second half of 2020 (reported in the previous brief), New York City continued to report little change in the share of charges that were always eligible for bail and charges that were never eligible for bail in the first half of 2021, suggesting that the bail reform amendments had a limited influence on the jail incarceration trend.²⁶ Charges that were always eligible for bail made up about 60 percent of the increase in both the second half of 2020 and the first half of 2021. Charges that were never eligible for bail made up 22.7 percent of the increase in the second half of 2020 and 17.1 percent of the increase in the first half of 2021.

Counties outside of New York City, however, reported a substantial increase in the share of charges always eligible for bail and a decrease in the share of charges never eligible for bail, when compared to the change during the second half of 2020. Charges that were always eligible for bail made up 37.5 percent of the increase in the second half of 2020, but the share increased to 53.7 percent in the first half of 2021. Charges that were never eligible for bail made up 42.7 percent of the population increase in the second half of 2020, but the share decreased to 24.1 percent in the first half of 2021. Similar to the findings from the previous brief, the increase in jail population in New York City was mostly from charges that were always bail eligible. Non-

New York City counties showed the same trend; however, unlike New York City, where there was little change in the share of charges always eligible for bail, there was a 16.2 percentage point increase in non–New York City counties in the share of charges that were always eligible for bail.

Figure 7

Change in average daily population of people admitted on local charges by bail eligibility status, December 2020 versus June 2021

Charge based bail eligibility	NYC				48 Non-NYC Counties			
	December 2020	June 2021	Difference (% change)	Share of difference	December 2020	June 2021	Difference (% change)	Share of difference
Charges always eligible	3,064	3,592	529 (17.3%)	60.3%	2,742	3,094	352 (12.8%)	53.7%
Charges never eligible	751	900	150 (20.0%)	17.1%	2,228	2,386	158 (7.1%)	24.1%
Burglary 2 nd	218	233	15 (6.9%)	1.7%	226	210	-16 (-7.1%)	-2.4%
Charge newly eligible ²⁷	70	119	50 (71.4%)	5.7%	131	174	43 (32.8%)	6.5%
Missing/Unknown	512	646	133 (26.0%)	15.1%	578	696	119 (20.6%)	18.1%
Total	4,615	5,490	876 (19.0%)	99.9%	5,906	6,560	656 (11.1%)	100.0%

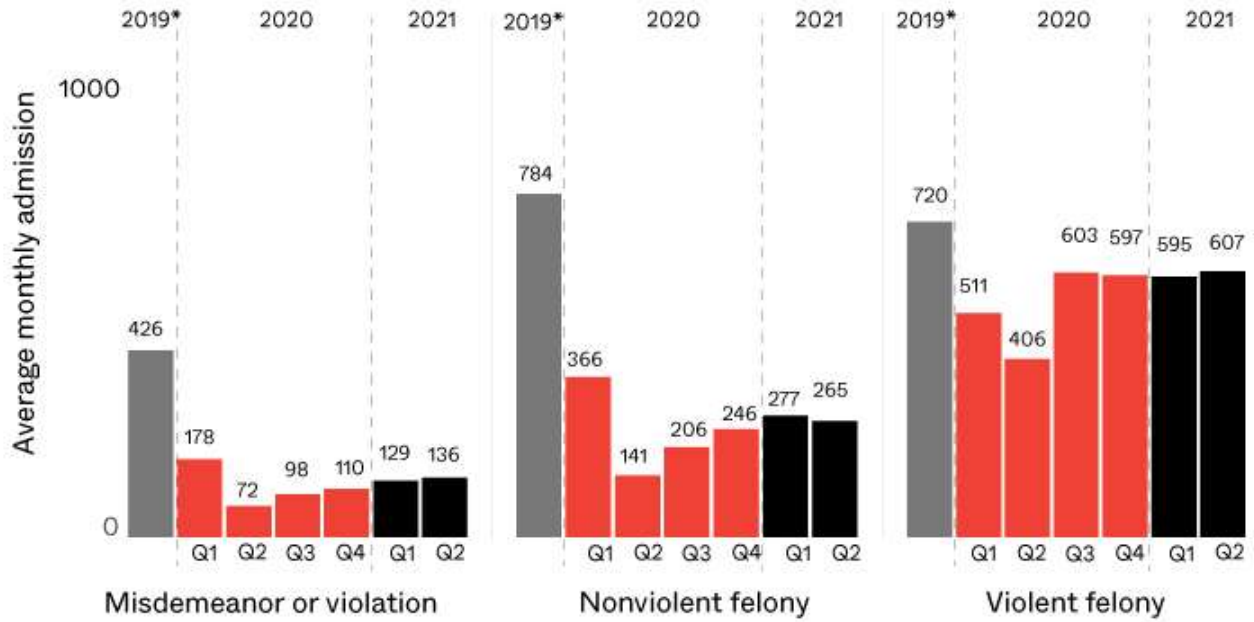
Source: County-level jail data collected and analyzed by Vera.

Regional differences in the increase of jail admissions

On a quarterly basis, the average monthly jail admission trends suggest differences in the pattern and timing of admission increases between New York City and outside of New York City. In New York City, average monthly admissions for misdemeanors or violations increased by nearly 24 percent from the fourth quarter of 2020 to the second quarter of 2021, while other charges showed a less than 10 percent increase (+7.7 percent for nonviolent felonies and +1.7 percent for violent felonies). (See Figure 8a.) Counties outside of New York City also showed consistent increases in jail admissions during this time frame, but of similar magnitude across charge severities (+17.6 percent for misdemeanors or violations; +17.0 percent for nonviolent felonies; and +14.2 percent for violent felonies). (See Figure 8b.) Further, New York City jails experienced the increase in admissions mainly from the fourth quarter of 2020 to the first quarter of 2021, whereas jails outside of New York City saw their largest increase from the first quarter of 2021 to the second quarter of 2021. New York City experienced a 17.3 percent increase in misdemeanors or violations between the fourth quarter of 2020 and the first quarter of 2021. Non–New York City counties, on the other hand, showed little change in admissions from the third quarter of 2020 to the first quarter of 2021.

Figure 8a

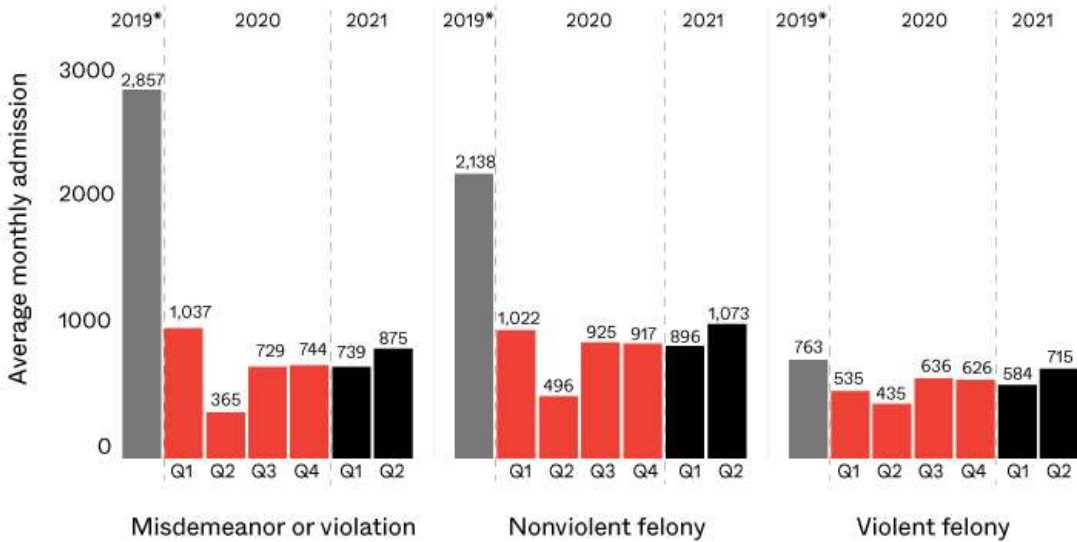
Monthly admissions averaged quarterly for local charges by charge severity in New York City, 2019–June 2021



Source: County-level jail data collected and analyzed by Vera (100.0 percent of New York City jail population).
*Indicates average of entire year

Figure 8b

Monthly admissions averaged quarterly for local charges by charge severity in 48 Non–New York City counties, 2019–June 2021



Source: County-level jail data collected and analyzed by Vera (79.5 percent of total non–New York City jail population).

*Indicates average of entire year

Sex and racial differences in jail population change

Changes in the jail population differed by intersection of race, sex, and region. The male population in jail increased by more than 10 percent in both regions, regardless of race. (See Figure 9.) On the other hand, the number of women of all races in jail increased more than 25 percent in New York City, but non–New York City jails saw a decrease of 9.8 percent for Black women and 1.6 percent for non-Latinx white women.

Figure 9

Monthly jail population and percent change in population by sex, race, charge severity, and geography from December 2020 to June 2021

Month	Race	NYC			48 Non-NYC counties		
		Male	Female	Total	Male	Female	Total
December 2020	Black	2,327	96	2,423	2,064	122	2,186
June 2021	Black	2,721	121	2,842	2,301	110	2,411
December 2020	Non-Latinx white	438	32	470	2,137	368	2,505
June 2021	Non-Latinx white	505	41	546	2,376	362	2,738
Difference	Black	16.9%	26.0%	17.3%	11.5%	-9.8%	10.3%
	Non-Latinx white	15.3%	28.1%	16.2%	11.2%	-1.6%	9.3%

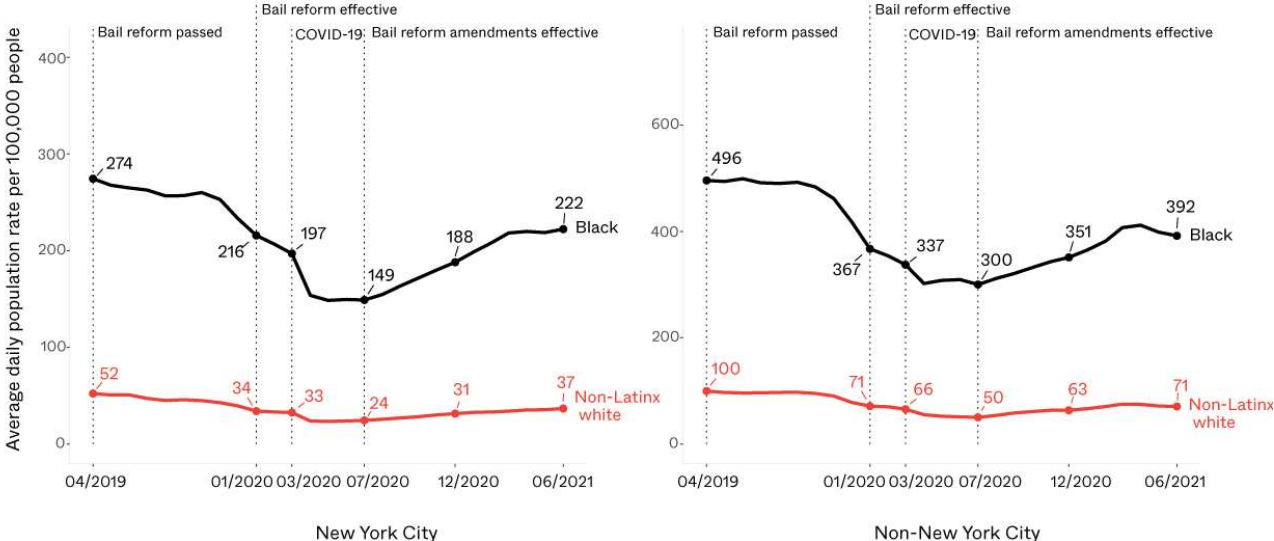
Source: County-level jail data collected and analyzed by Vera.

Section 3: Changes in racial disparities in jail incarceration

As mentioned in the previous section, the statewide jail population exceeded pre-pandemic levels by June 2021, and longstanding racial disparities endured. Since December 2020, the incarceration rate of Black people in New York City jails increased by 18.1 percent (from 188 to 222), slightly lower than the 19.4 percent increase for non-Latinx white people (from 31 to 37). (See Figure 10.) Outside of New York City during the same time period, the incarceration rate of Black people increased (+11.7 percent from 351 to 392) similar to the change in the incarceration rate of non-Latinx white people (+12.7 percent from 63 to 71). (See Figure 10.)

Figure 10

Average daily jail population rates by race/ethnicity from April 2019 to June 2021, NYC versus 48 non-New York City counties



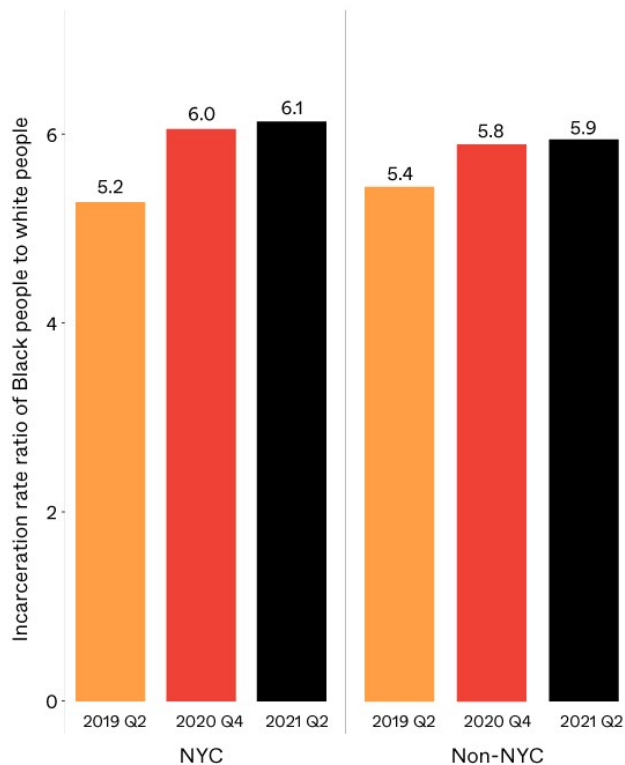
Because New York’s pandemic recovery led to similar increases in the jail population of both Black and non-Latinx white people, the well-documented racial disparities in New York’s jails continued. In New York City, the incarceration rates for Black people were 6.1 times higher than the incarceration rates for non-Latinx white people in the second quarter of 2021, similar to the 6 times higher incarceration rates in the fourth quarter of 2020. (See Figure 11.) In counties outside of New York City, the incarceration rates for Black people (544 per 100,000 Black county residents) were 5.9 times higher than the incarceration rates for non-Latinx white people (92 per 100,000 white county residents) in the second quarter of 2021, similar to the 5.8 times higher incarceration rates in the fourth quarter of 2020.

Although racial disparities changed slightly from the fourth quarter of 2020 to the second quarter of 2021, the increase in racial disparity was more noticeable when compared to pre-bail reform levels (the second quarter of 2019). In counties outside of New York City, the ratio of the

Black incarceration rates to the non-Latinx white incarceration rates increased from 5.4 times in the second quarter of 2019 to 5.9 times in the second quarter of 2021. The increase was much greater in New York City (5.2 times in the second quarter of 2019 to 6.1 times in the second quarter of 2021). (See Figure 11.)

Figure 11

Ratio of Black jail population rates to non-Latinx white jail population rates



The disparities in jail admissions show a different pattern than the disparities in jail population. Overall, racial disparities in the average monthly admissions decreased from 5.8 times in the fourth quarter of 2020 to 5.1 times in the second quarter of 2021 in New York City and from 4.8 times to 4.2 times in counties outside of New York City. (See Figures 12a and 12b.) Charge-specific analysis shows regional variation in the patterns of decrease. Although racial disparities in jail admissions consistently decreased in all charge severities for counties outside New York City, racial disparities in New York City admissions increased in the first quarter of 2021 before a decline in the second quarter of 2021.

Figure 12a

Ratio of the Black local charge admission rate to the non-Latinx white local charge admission rate by charge severity in New York City

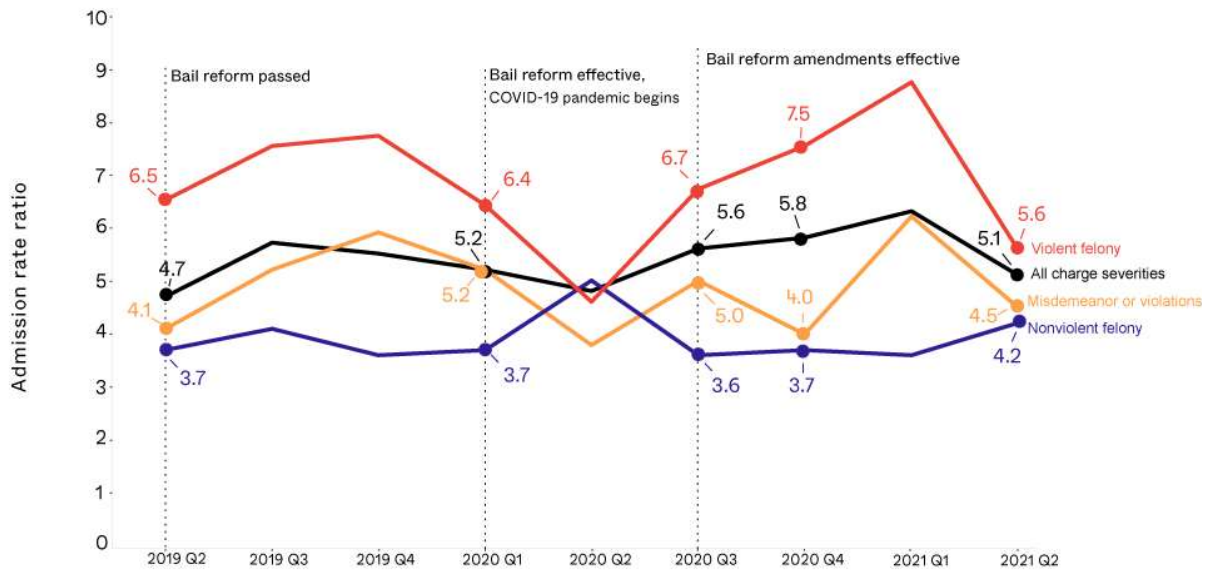
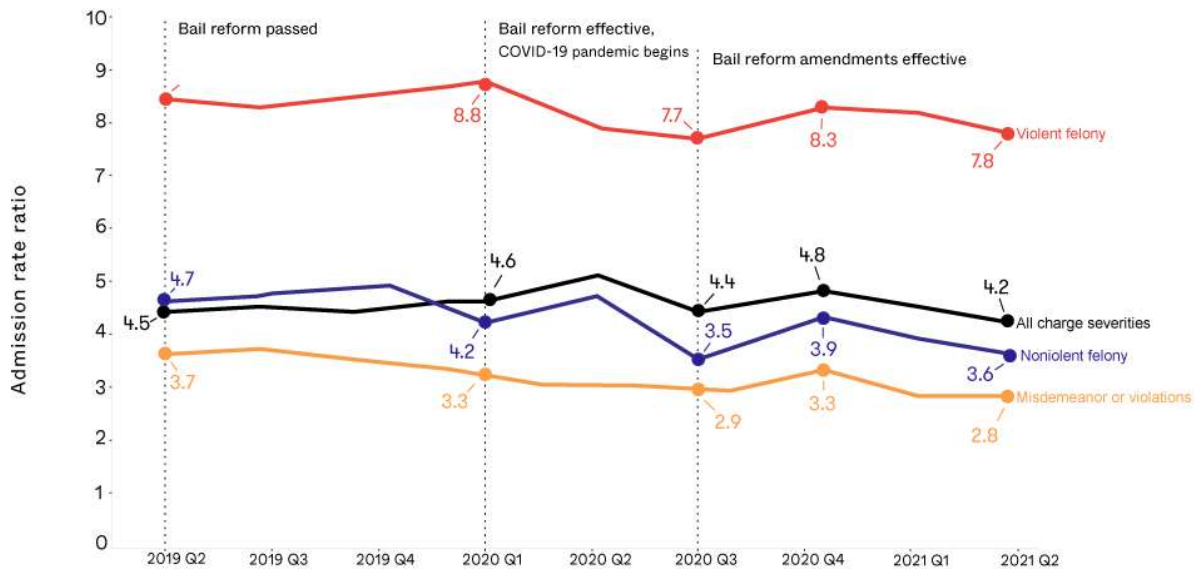


Figure 12b

Ratio of the Black local charge admission rate to the non-Latinx white local charge admission rate by charge severity in non-New York City counties



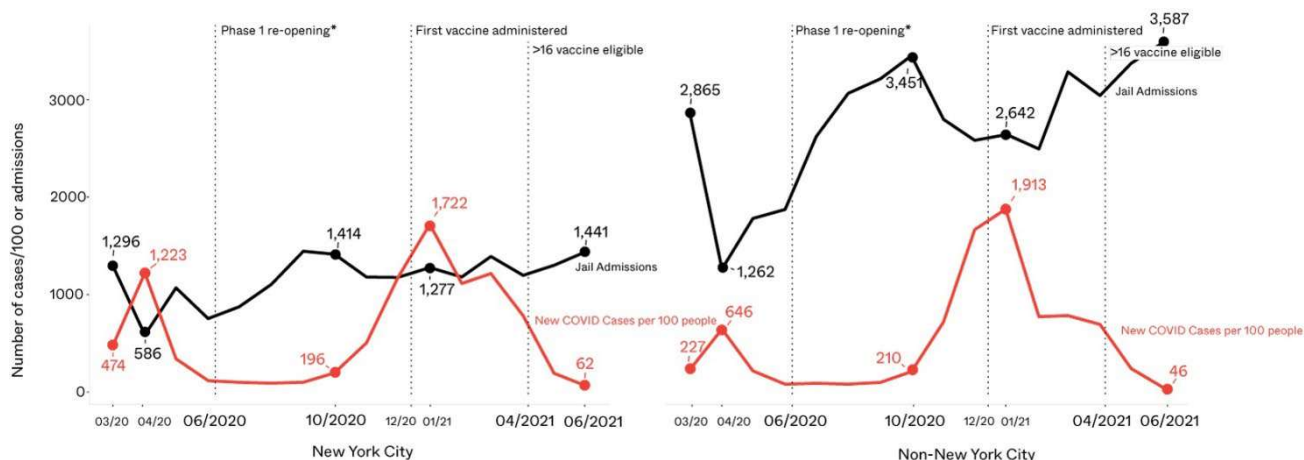
Section 4: Jail admission trends as New York navigates the COVID-19 pandemic

The COVID-19 pandemic has had a profound impact on people’s lives across New York, particularly for Latinx people and people who work low-paying jobs.²⁸ As of October 2022, it had resulted in more than 70,000 deaths in the state.²⁹ People held in jails and prisons were particularly susceptible to the COVID-19 virus.³⁰ In both New York City and counties outside of New York City, criminal legal system actors implemented several initiatives that led to the release of hundreds of people from jail. For example, New York City jails released about 300 people serving local sentences to community supervision.³¹ Several counties outside of New York City also released people serving local sentences.³² The New York State Department of Corrections and Community Supervision estimated about 1,100 people incarcerated in jails across New York on parole violations would be released based on their low risk to public safety and the availability of post-release housing.³³ However, there is no comprehensive statewide data or reliable estimates identifying the total number of people who were released due to COVID-19 concerns.

Comparing the number of new COVID-19 cases to total jail admissions suggests a weak relationship between positive COVID-19 cases and jail admissions in New York City, but the relationship appears inverted outside of New York City. Researchers did not find a statistically significant correlation in either geography.³⁴ (See Figure 13.)

Figure 13

New COVID-19 cases divided by 100 and jail admissions by month, NYC versus 48 non-New York City counties



For non-New York City counties: Admission data for 48 of 57 counties (79.5 percent of total jail population); COVID-19 case count data for 48 of 57 counties (73.3 percent of total COVID-19 case count); COVID cases are represented as total number of new reported cases divided by 100.

*Indicates the date that all of New York’s regions entered phase 1 of reopening

A surge in new COVID-19 cases coincided with a large drop in jail admissions. The biggest decrease in monthly jail admission corresponded with the first pandemic peak in April 2020. From March 2020 to April 2020, jail admissions decreased by 54.8 percent in New York City and 56.0 percent in counties outside of New York City. As the new positive case numbers stabilized following the first peak and New York entered phase one of its reopening, jail admissions began increasing in both regions.³⁵ The second surge of COVID-19 cases seemed to have less of an effect on jail admissions. From October 2020 to January 2021, new positive cases jumped by 780 percent in New York City and 812 percent in non–New York City counties. During that time, jail admissions decreased by 9.7 percent in New York City and 23.4 percent in non–New York City counties. New COVID-19 cases sharply dropped after the second peak, as more New Yorkers received the first dose of the COVID-19 vaccine.³⁶

The rapid decline in COVID-19 cases after January 2021 coincided with a large increase in jail admissions outside New York City. From January 2021 to June 2021, new COVID-19 cases dropped by 97.6 percent while jail admissions increased by 35.8 percent. New York City also experienced a rapid decline in COVID-19 cases during this period, but jail admissions in the city did not increase in the same magnitude as areas outside of New York City. Jail admissions in New York City increased 12.8 percent from January 2021 to June 2021, and new COVID-19 cases decreased by 96.4 percent.

Section 5: Regional differences in jail population trends

The researchers examined jail incarceration trends by urbanicity and geography to explore how incarceration trends have changed both after bail reform and throughout different stages of the pandemic. The quarterly numbers for the following two subsections were calculated using the monthly jail population numbers reported to DCJS.³⁷ Researchers averaged the monthly jail population numbers by quarter according to the calendar year.

Jail population trend by rural-urban classification

Quarterly analysis of jail population by urbanicity showed both similarities and differences in the jail population trends following the implementation of bail reform and the onset of COVID-19. Counties were categorized into four rural-urban groups—rural, small/midtown, suburban, or urban—based on the rural-urban classification from the National Center for Health Statistics (NCHS).³⁸ (See Appendix B.) From the second quarter of 2019 to the second quarter of 2021, jail populations decreased across all groups, with the largest decrease in suburban regions (-29.3 percent) and the smallest decrease in small/midtown regions (-17.0 percent). (See Figure 14.) All rural-urban categories experienced an average population decrease of more than 20 percent, but rural regions showed the largest decrease during the implementation of bail reform (the fourth quarter of 2019 and the first quarter of 2020), suggesting that the bail reform law might have the largest influence on rural regions.

The impact of the COVID-19 pandemic on jail populations varied by urbanicity, particularly between the first and third quarters of 2020. The pandemic impacted urban and suburban regions more heavily and for much longer periods. From the first to the second quarter of 2020, all rural-urban groups averaged a decrease in jail populations between 15.1 percent and 25.1 percent. (See Figure 14.) However, the urban category was the only classification to experience a larger population decrease in this period (-25.1 percent) than the decrease in the previous period (-20.1 percent), immediately after the implementation of bail reform.

In the third quarter of 2020, jail populations increased in all regions except the suburban category, which saw continuing decreases. The quick rebound of the jail population in the third quarter of 2020 and continued increase in the subsequent period suggest that the population decrease during the start of the COVID-19 pandemic was erased in the subsequent periods. However, the jail population in the second quarter of 2021 remained lower than pre-pandemic levels, suggesting a clear, long-term impact of bail reform on reducing jail incarceration.

Figure 14

Change in average monthly jail population by rural-urban classification

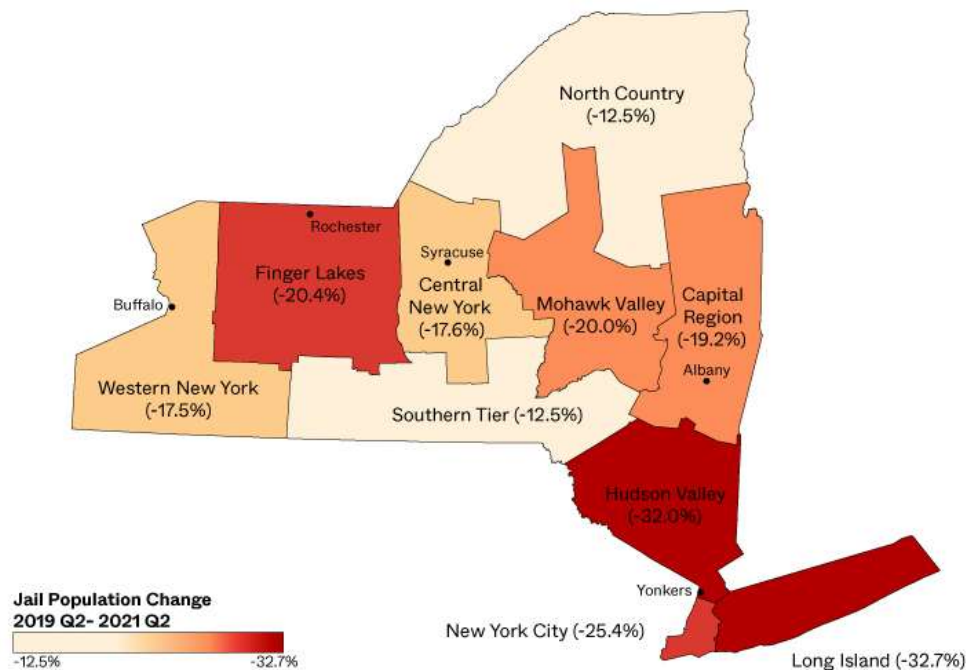
	Monthly population		Quarterly averaged monthly percent change								Total (19Q2-21Q2)
	Q2 2019	Q2 2021	19Q2-19Q3	19Q3-19Q4	19Q4-20Q1	20Q1-20Q2	20Q2-20Q3	20Q3-20Q4	20Q4-21Q1	21Q1-21Q2	
Rural	2,202	1,699	0.5%	-10.8%	-22.5%	-15.1%	8.8%	13.6%	8.5%	-2.4%	-22.9%
Small/mid	3,798	3,154	-0.3%	-7.6%	-20.8%	-18.1%	5.6%	14.2%	13.1%	1.9%	-17.0%
Suburban	5,109	3,612	-3.9%	-9.0%	-21.8%	-20.7%	-2.4%	14.3%	9.8%	6.4%	-29.3%
Urban	9,197	6,977	-3.4%	-5.4%	-20.1%	-25.1%	2.1%	13.8%	13.3%	5.4%	-24.1%

Jail population trend by region

Analysis of jail population trends by geography shows a substantial regional variation in both the pattern and magnitude of change across New York. Counties are grouped into 10 regions—Capital, Central New York, Finger Lakes, Hudson Valley, Long Island, Mohawk Valley, New York City, North Country, Southern Tier, and Western New York—based on the Empire State Development’s classification, and their populations are aggregated within each region.³⁹ From the second quarter of 2019 to the second quarter of 2021, jail populations decreased in all geographies, with the largest decrease in Long Island (-32.7 percent) and the smallest decrease in the Southern Tier (-12.5 percent). (See Figure 15.)

Figure 15.

New York State jail population change between the second quarter of 2019 and the second quarter of 2021 by region



All regions experienced their largest decrease in jail population from the last quarter of 2019 to the first quarter of 2020 except New York City, Central New York, and Western New York—regions containing some of the largest cities in the state.⁴⁰ Instead, New York City, Central New York, and Western New York experienced their largest decreases in jail populations from the first to the second quarter of 2020, when COVID-19 was first declared a pandemic. This is consistent with the findings in the previous section indicating that the implementation of bail reform led to a larger reduction in jail population in rural areas, whereas the COVID-19 pandemic had a greater influence on urban and suburban regions.

The Southern Tier region showed the largest drop in the jail population during the implementation of bail reform (the fourth quarter of 2019 and the first quarter of 2020), but the region was least influenced by the COVID-19 pandemic. In the Southern Tier region, the jail population decreased by 12.8 percent from the third quarter of 2019 to the fourth quarter of 2019 and by 24.5 percent from the fourth quarter of 2019 to the first quarter of 2020, the largest reductions in jail populations for those quarters among New York’s 10 regions. (See Figure 16.) However, the Southern Tier experienced the smallest decrease in jail population immediately after the onset of the COVID-19 pandemic (the second quarter of 2020), followed by the largest increase in the third quarter of 2020. Across the entire period of analysis, the second quarter of 2019 to the second quarter of 2021, the Southern Tier’s jail population decreased by 12.5 percent, the smallest reduction in jail population of any region during the time.

Figure 16

Average quarterly change (Q_a-Q_{a-1}) in jail population by region

Region	Monthly population		Quarterly averaged monthly percent change								
	Q2 2019	Q2 2021	19Q2-19Q3	19Q3-19Q4	19Q4-20Q1	20Q1-20Q2	20Q2-20Q3	20Q3-20Q4	20Q4-21Q1	21Q1-21Q2	Total (19Q2-21Q2)
Capital	1,517	1,123	1.1%	-5.5%	-21.2%	-17.6%	-3.7%	19.9%	13.5%	-0.7%	-19.2%
Central New York	1,338	1,012	1.2%	-8.7%	-15.7%	-18.1%	7.3%	7.0%	11.3%	1.1%	-17.6%
Finger Lakes	1,714	1,255	2.8%	-4.2%	-23.7%	-19.4%	5.3%	10.1%	10.8%	2.2%	-20.4%
Hudson Valley	2,655	1,705	-6.4%	-9.6%	-22.1%	-19.8%	-1.0%	13.7%	9.1%	4.7%	-32.0%
Long Island	2,189	1,492	-4.3%	-11.1%	-23.8%	-21.9%	-2.8%	15.6%	8.7%	8.8%	-32.7%
Mohawk Valley	683	539	-0.7%	-10.6%	-22.9%	-11.9%	2.1%	10.3%	13.3%	4.0%	-20.0%
New York City	7,880	5,508	-4.8%	-4.8%	-19.8%	-27.2%	2.6%	15.6%	13.0%	5.4%	-25.4%
North Country	663	521	-2.4%	-9.1%	-22.4%	-18.1%	11.7%	21.6%	9.4%	-0.1%	-16.3%
Southern Tier	1,052	906	2.2%	-12.8%	-24.5%	-10.9%	17.0%	11.6%	10.6%	0.9%	-12.5%
Western New York	1,718	1,379	1.2%	-8.1%	-17.8%	-19.2%	-0.8%	11.4%	16.1%	4.3%	-17.5%

Long Island, on the other hand, experienced the largest reduction in jail population (-32.7 percent) of any region during the period of analysis. (See Figure 16.) Long Island experienced the second largest reduction in jail population for three consecutive quarters—starting from the fourth quarter of 2019 to the first quarter of 2020 and ending in the third quarter of 2020. The region experienced large reductions during bail reform implementation (-23.8 percent) and the COVID-19 pandemic (-21.9 percent). Long Island did not experience a large rebound in jail population until the last quarter of 2021, during which it experienced the largest increase in jail population (+8.8 percent) compared to other regions in that quarter. The Capital region experienced decreases in its jail population every quarter after bail reform was implemented, followed by the second largest jail population increases of any region in the third quarter and fourth quarter of 2020.

Conclusion

As the third in Vera's jail population brief series, this research brief uses six months of additional jail data to explore the influence of bail reform and the COVID-19 pandemic on people in New York state jails along race, sex, and geographic lines. The brief explores statewide jail incarceration trends from the passage of the initial bail reform laws in April 2019 to June 2021.

The analysis findings suggest that the COVID-19 pandemic had a large but short-term influence. The statewide jail population had decreased by one-fifth four months into the pandemic and reached a two-decade low of 11,000 in July 2020. As New York recovered from the initial waves of the COVID-19 pandemic, CDC guidelines became less restrictive—resulting, eventually, in COVID-19 becoming part of the fabric of everyday life. Around that time, all 10 New York regions completed reopening, and the state's jail population started to increase. Case backlogs that accumulated because of court closures during New York's widespread shutdown started to clear following the reopening. The population in New York jails rose during all but one of the subsequent 11 months. By June 2021, New York's jail population exceeded pre-pandemic numbers but remained below pre-bail reform numbers.

The statewide jail population remained three-fourths of the pre-bail reform level in June 2021, demonstrating a clear and continued success of bail reform in reducing the number of people in jail, particularly for pretrial detention. Similarly, a report by Data Collaborative for Justice found that the bail set or remand rate in 2021 was 7 percentage points lower than the rate in 2019.⁴¹ Further, Vera's analysis found that the bail reform law contributed to a change in the charge makeup of the jail population. Prior to bail reform, more than 9,000 people in jails in the sample counties (New York City and 48 non-New York City counties) were held for misdemeanors or nonviolent felonies. Just 18 months after the initial laws went into effect, the number decreased to less than 5,000. Notably, the number of people held on violent felony charges increased during this time. Additional research should examine whether this increase is caused by changes in judicial behavior in bail setting, changes in law enforcement charging practices like upcharging, or other factors.

Bail reform led to a decrease in jail population for both Black people and non-Latinx white people. The population decrease was much greater for non-Latinx white people, which increased already well-known racial disparities. In June 2021, Black people were about six times more likely to be incarcerated than non-Latinx white people, an increase from five times in 2019. This finding suggests that race-neutral policy reforms aimed at reducing the number of people in jail may not necessarily reduce the racial disparities in incarceration and may, in fact, aggravate them. Policymakers developing future legislation and amendments should assess the laws' estimated impacts on racial disparity and be intentional in reducing any harmful effects from the stage of the bill crafting. Although the overall worsening of racial disparities in New York jail incarceration is discouraging, the analysis of racial disparities in jail admissions by charge severity did demonstrate one positive outcome for counties outside of New York City: Racial disparities in non-New York City jail admissions decreased in all charge types, whereas in New York City, racial disparities slightly decreased only for violent felonies. Continued monitoring of

admission trends by race and ethnicity in both regions is critical to assess the long-term effect of bail reform on racial disparities.

The bail reform laws were amended twice—in April 2020 and January 2022—since the state legislature passed the original bill in April 2019.⁴² And there are continuing calls for further rollbacks to the legislation, some of which would expand the list of charges and circumstances in which bail can be set. Discussions about further amendments to bail reform should be based on empirical evidence. The current brief suggests that bail reform had a clear influence on reducing jail incarceration, particularly for less serious charges. More than 4,000 people remained free while their cases were pending.⁴³ The remaining question is whether the increase in pretrial release resulting from the bail reform law has made communities less safe. Although it is still too early to know the full impact of bail reform, an annual report by DCJS shows little change in reported crime, which is often used as a proxy measure for public safety.⁴⁴ From 2019 to 2021, the reported crime increased by 10 percent in New York City, largely in the property crimes category.⁴⁵ Counties outside of New York City reported about 1 percent decrease in crime. Future studies should account for the impact of the COVID-19 pandemic on public safety. More granular individual-level pre-bail reform data will be critical to examining the relationship between public safety and bail reform.

Appendix A: Methodology

Data collection

Vera researchers collected data from multiple sources. For the overall statewide jail population, Vera researchers analyzed monthly jail population data published by the New York Division of Criminal Justice Services (DCJS) between January 2018 and June 2021.⁴⁶ For the demographic and charge analysis of people in jail, researchers analyzed 49 county-level jail admission and release datasets obtained from (a) Freedom of Information Law (FOIL) requests (46 non–New York City counties and one FOIL request for the five counties of New York City) and (b) data-sharing agreements with sheriff’s departments (two counties). Nine counties (Chemung, Genesee, Hamilton, Jefferson, Nassau, Onondaga, Putnam, Rockland, and Ulster) were excluded from the demographic and charge analysis because they did not provide complete data or because there was a large discrepancy between the monthly jail population estimated from the data and the monthly jail population reported by DCJS. The counties for New York City’s five boroughs (New York County, Kings County, Bronx County, Richmond County, and Queens County) were considered one geographical area for the purpose of analysis. (See Appendix B for the complete list of counties by data availability.) Researchers used yearly county-level estimates of the 16- to 64-year-old population from the Centers for Disease Control and Prevention’s Bridged-Race Population Estimates to calculate incarceration and admission rates.⁴⁷ The 2020 population data, the most recent population data available at the time of analysis, was used in lieu of 2021 population estimates. All rates are calculated per 100,000 residents.

Data standardization

Researchers reconciled disparate county-level datasets that had incompatible variables into one file with the following standardized variables.

Admission status. Admission status was standardized into six groups: pretrial, sentenced, parole, federal, probation, and unknown. Researchers defined New York City pretrial admissions as entries with a “DE” status code on the first date they appeared in daily custody files published on NYC Open Data. Similarly, entries with a “CS” status code were considered to be sentenced admissions. Non–New York City pretrial and sentenced admissions were identified using admission status and bail variables for each county. People admitted on a parole violation with a new arrest or on a probation violation were counted as people admitted pretrial. People awaiting transfer to state prison were assumed to have been admitted pretrial.

For 18 counties with a centralized arraignment part (CAP), researchers could identify and remove CAP arraignments recorded as jail admissions. However, for three counties with a CAP (Onondaga, Orleans, and Yates), researchers could not identify and remove CAP admissions.

Federal and parole admissions were identified using admission status variables as well as long-form charge descriptions and county-specific variables, such as “parole violator” flags. Admission entries for people “housed in” from other counties were removed to avoid double-

counting admissions. Admissions were counted in their originating county, not the county where people were held. For example, people whose cases were under the jurisdiction of Greene County but who were boarded in Albany County during the construction of Greene County Jail were counted in the Greene County Jail population.

Admission and release date. The release date for each person in custody in New York City was assumed as the day after they stopped appearing in daily custody files published on NYC Open Data. For all other county datasets, release date data was available. Admission entries with no release date recorded were considered in custody as of December 31, 2020, the last date of the sample period. Admission entries with no release date recorded and an inordinately long length of stay on December 31, 2020 (90th to 100th percentile, varied by county) were removed to minimize the discrepancy between each county’s monthly jail population as calculated from the sample data (excluding same-day admission-releases) and the monthly jail population reported by DCJS.

Race and ethnicity. Race and ethnicity were categorized into five groups: Black people (including Latinx Black people), non-Black Latinx people, non-Latinx white people, people of another race, and people of unknown race. Vera’s analysis focuses on comparisons between the Black and non-Latinx white groups. Forty-three counties provided both race and ethnicity information, and seven provided only race information (including two that recorded Latinx as a race). For those seven counties, all “white” admissions were assumed to be non-Latinx white admissions.

Length of stay. Monthly median length of stay was determined by calculating the length of stay of each person in custody on each day of a given month and then calculating the median of those values.

Top charge. When a pretrial admission included more than one charge, researchers selected the most serious charge as the top charge. Charge severity was based on the Division of Criminal Justice Services Code Manual.⁴⁸ Only penal law (PL) and vehicle and traffic law charges were considered; all other charges were categorized as unknown. Only PL charges were recorded in NYC Open Data, resulting in a higher percentage of unknown charges than outside New York City.

Bail eligibility. Charge bail eligibility was determined from the January 2020 and July 2020 lists of reform-qualifying offenses in PL § 510.10.⁴⁹ Bail eligibility for a given admission was determined based on all charges associated with that admission. Charge subsections were ignored across the sample for the sake of consistency. As a result, all burglary in the second degree (PL § 140.25), robbery in the second degree (PL § 160.10), and criminal contempt in the second degree (PL § 215.50) charges were considered bail eligible regardless of subsection. In addition, none of the counties provided a “domestic violence” flag, which was another criterion for cases to be bail eligible. Criminal contempt in the first degree (PL § 215.51) and aggravated criminal contempt (PL § 215.52) charges (which are often associated with domestic violence charges) were considered bail eligible regardless of whether they were associated with a domestic violence charge.

Appendix B: List of counties by data availability

County	Average daily population (June 2021)	Included in demographic and charge analysis	Race and ethnicity	Rural-urban classification	Region
Albany	378	Yes	Hispanic as race	Small	Capital
Allegany	63	Yes	Complete	Rural	Western
Broome	378	Yes	Complete	Small	Southern Tier
Cattaraugus	101	Yes	Complete	Rural	Western
Cayuga	152	Yes	Complete	Rural	Central
Chautauqua	188	Yes	Complete	Rural	Western
Chemung	129	No	N/A	Small	Southern Tier
Chenango	87	Yes	Complete	Rural	Southern Tier
Clinton	126	Yes	Complete	Rural	North Country
Columbia	38	Yes	Complete	Rural	Capital
Cortland	56	Yes	Complete	Rural	Central
Delaware	37	Yes	Complete	Rural	Southern Tier
Dutchess	190	Yes	Complete	Suburban	Hudson Valley
Erie	706	Yes	Complete	Urban	Western
Essex	53	Yes	Complete	Rural	North Country
Franklin	40	Yes	Complete	Rural	North Country
Fulton	61	Yes	Complete	Rural	Mohawk Valley
Genesee	50	No	N/A	Rural	Finger Lakes
Greene	31	Yes	Complete	Rural	Capital
Hamilton	3	No	N/A	Rural	North Country
Herkimer	43	Yes	Complete	Small	Mohawk Valley
Jefferson	144	No	N/A	Small	North Country
Lewis	21	Yes	Complete	Rural	North Country
Livingston	113	Yes	Complete	Suburban	Finger Lakes
Madison	68	Yes	Complete	Small	Central
Monroe	763	Yes	Complete	Urban	Finger Lakes
Montgomery	72	Yes	Complete	Rural	Mohawk Valley
Nassau	766	No	N/A	Suburban	Long Island
New York City ⁵⁰	5,586	Yes	No ethnicity	Urban	New York City
Niagara	766	Yes	Complete	Urban	Western
Oneida	304	Yes	Complete	Small	Mohawk Valley
Onondaga	592	No	No ethnicity	Small	Central

Ontario	84	Yes	Complete	Suburban	Finger Lakes
Orange	433	Yes	Complete	Suburban	Hudson Valley
Orleans	38	Yes	Complete	Suburban	Finger Lakes
Oswego	115	Yes	Complete	Small	Central
Otsego	31	Yes	Complete	Rural	Mohawk Valley
Putnam	60	No	N/A	Suburban	Hudson Valley
Rensselaer	172	Yes	Complete	Small	Capital
Rockland	97	No	N/A	Suburban	Hudson Valley
Saratoga	148	Yes	Complete	Small	Capital
Schenectady	153	Yes	Complete	Small	Capital
Schoharie	13	Yes	Complete	Small	Mohawk Valley
Schuyler	10	Yes	Complete	Rural	Southern Tier
Seneca	48	Yes	Complete	Rural	Finger Lakes
St. Lawrence	109	Yes	Complete	Rural	North Country
Steuben	144	Yes	Complete	Rural	Southern Tier
Suffolk	692	Yes	Complete	Suburban	Long Island
Sullivan	104	Yes	Complete	Rural	Hudson Valley
Tioga	60	Yes	Complete	Small	Southern Tier
Tompkins	36	Yes	Complete	Small	Southern Tier
Ulster	161	No	N/A	Small	Hudson Valley
Warren	74	Yes	Complete	Small	Capital
Washington	62	Yes	Complete	Small	Capital
Wayne	59	Yes	Complete	Suburban	Finger Lakes
Westchester	678	Yes	Hispanic as race	Suburban	Hudson Valley
Wyoming	35	Yes	Complete	Rural	Finger Lakes
Yates	38	Yes	No ethnicity	Suburban	Finger Lakes

Endnotes

¹ New York Criminal Procedure Law (CPL) § 510.10, <https://www.nysenate.gov/legislation/laws/CPL/510.10>.

² Anna Gronewold, "New York Democrats Didn't Defend Their Bail Law Changes. It Bit Them at the Polls," *Politico*, November 27, 2022, <https://perma.cc/V3AC-FQ3P>; and Zach Williams and Bruce Golding, "Gov. Kathy Hochul Kicks the Can on Crime Reform After Narrow Election Win," *New York Post*, November 16, 2022, <https://perma.cc/3YU6-DWW2>.

3 From April 2019 to July 2020, the overall statewide jail population decreased by 46.3 percent (from 20,651 to 11,089). The jail population decreased by 32.2 percent from April 2019 to March 2020 (from 20,651 to 13,993) and by another 20.7 percent from March 2020 to July 2020 (from 13,993 to 11,089). Jaeok Kim, Quinn Hood, and Elliot Connors, *New York State Jail Population Brief*, January 2019–December 2020 (New York: Vera Institute of Justice, 2022), 7, <https://perma.cc/VED4-SX89>.

4 New York SB S1509-C (2019) and New York AB A2009-C (2019).

5 Johns Hopkins Coronavirus Resources Center, “New York,” accessed October 26, 2022, <https://coronavirus.jhu.edu/region/us/new-york>.

6 Memorandum from Chief Administrative Judge Lawrence K. Marks to All Judicial and Non-Judicial Personnel of the Unified Court System, re: “Updated Protocols,” March 15, 2020, <https://perma.cc/SA9L-J2EJ>; and Norman St. George, “Virtual Bench Trial Protocols and Procedures,” State of New York Unified Court System, <https://perma.cc/7H2E-B8KC>.

7 The amendments (1) reclassified charges that previously required release without monetary conditions, expanding the number of possible cases eligible for bail; and (2) added categories of cases that were eligible for bail, including a felony or Class A misdemeanor in which “harm to an identifiable person or property” occurred after the person was previously released for another charge in which “harm to an identifiable person or property” occurred.

8 Kim, Hood, and Connors, *New York State Jail Population Brief*, 2022, 11.

9 *Ibid.*, 18.

10 New York Division of Criminal Justice Services, “Monthly Jail Population Trends,” DCJS, December 5, 2022, <https://perma.cc/Z5FQ-EW52>.

11 NYC Open Data, “Daily Inmates in Custody” (database), <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>.

12 Kim, Hood, and Connors, *New York State Jail Population Brief*, 2022, 18-19.

13 A violation is an offense other than a traffic infraction that may result in imprisonment for up to 15 days (for example, harassment, trespassing, or disorderly conduct). A misdemeanor is an offense other than a traffic infraction that may result in imprisonment for more than 15 days but less than one year (for example, petit larceny and criminal

mischief in the fourth degree). Researchers combined violations and misdemeanors because violations represented less than 2 percent of all charges. Violent felonies are a distinct classification of charges defined in the New York Criminal Penal Law (PL) § 70.02, including assault in the second degree (PL § 120.05), criminal possession of a weapon in the second degree (PL § 265.03), and burglary in the second degree (PL § 140.25), among others. Researchers included Class A felony charges that are considered violent, like murder in the second degree, in the violent felony category. NY PEN § 70.02, <https://perma.cc/EUL4-UUWQ>.

14 Seven out of the total 48 non–New York City counties in the sample provided jail data containing incomplete pretrial information. In the 42 counties with complete pretrial information, pretrial admissions made up nearly 95 percent of admissions for local charges. The percentage is nearly 100 percent in New York City and around 91 percent outside of New York City.

15 For population comparisons by sex and/or gender, researchers rely on the sex categorization in the jail administrative data. Because New York State jails house incarcerated people based on binary male and female statuses, the county-level jail data sources do not routinely document self-reported sex and gender identities. This means that the calculations presented here might include trans, nonbinary, and/or gender-nonconforming people in a sex category that conflicts with their gender identity.

16 There were 18 people categorized as “unknown sex” in April 2019 and eight people categorized as “unknown sex” in June 2021.

17 Vera researchers rely on race and ethnicity data as reported in the jail data, which may be different from someone’s self-identified race and ethnicity. Latinx people are particularly more likely to be miscategorized, as ethnicity is not reliably recorded—if it is recorded at all—in criminal legal data. Ram Subramanian, Kristine Riley, and Chris Mai, *Divided Justice: Trends in Black and White Jail Incarceration, 1990–2003* (New York: Vera Institute of Justice, 2018), 26, <https://perma.cc/CE52-6LJ2>.

18 The ratio was calculated by determining the rate of incarceration per 100,000 people for non-Latinx white people and Black people and then dividing the Black incarceration rate by the non-Latinx white incarceration rate.

19 Kim, Hood, and Connors, *New York State Jail Population Brief*, 2022, 17.

20 The pretrial population stayed the same or decreased in 20 counties: Allegany, Cattaraugus, Chenango, Cortland, Delaware, Essex, Franklin, Fulton, Hamilton, Lewis, Livingston, Madison, Ontario, Rensselaer, Saratoga, Schoharie, Warren, Washington, Wayne, and Yates. All 15 counties with more than 100 people detained pretrial in December 2020 experienced an increase in their pretrial population from December 2020 to June 2021, with Oneida County experiencing the greatest increase in its pretrial population (+47.3 percent). All 16 counties with pretrial populations of greater than 100 people in June 2021 remained below their pre-bail reform numbers except Jefferson and Niagara.

21 Custody types are based on the DCJS jail population trend report. The local sentence group refers to people serving a sentence of less than one year. In New York State, people whose sentences are shorter than a year serve time in county jails, whereas people whose sentences are longer than a year serve time in state correctional facilities. State ready refers to people who are sentenced and awaiting transfer to state prisons.

22 New York State Unified Court System, "March 22, 2021 – Statewide Resumption of Jury Trials," Latest News (Archive of COVID-19 content), accessed October 6, 2022, <https://www.nycourts.gov/covid-archive.shtml>, archived at <https://perma.cc/XWS5-GK4E>.

23 The number of people incarcerated for technical parole violations peaked in New York City in March 2021 at 300 before ending at 274 in June 2021. Similarly, people incarcerated for technical parole violations in non-New York City counties peaked in March 2021 at 913 before ending at 628 in June 2021.

24 For more information on the bail reform amendments, see note 7.

25 Vera researchers separated charges into four groups: (1) always eligible for bail pre- and post-reform amendments, (2) never eligible for bail pre- and post-reform amendments, (3) newly eligible for bail post-reform amendment, and (4) burglary in the second degree. The bail reform amendments introduced new bail eligibility conditions that are not associated with charge severity. For example, people accused of a non-eligible felony or a Class A misdemeanor that involved harm to an identifiable person or property could have bail set if they had previously been released on a similar charge. Without detailed court data, Vera researchers were unable to identify which cases fit this and other categories. Therefore, one can assume that some, if not most, of the "never eligible" charges include those charges that are eligible for bail because they meet additional conditions. Similarly, researchers

separated out burglary in the second degree because the reform amendments made subsection 2 an eligible charge if a person is charged with “entering the living area of the dwelling.” NY CPL § 530.40 (a), <https://www.nysenate.gov/legislation/laws/CPL/530.40>. Research from the Center for Court Innovation suggests that these two new stipulations made up 85 percent of bail set cases attributable to the rollbacks. See Michael Rempel and Joanna Weill, *One Year Later: Bail Reform and Judicial Decision-Making in New York City* (New York: Center for Court Innovation, 2020), 13, <https://perma.cc/K43D-5JSF>.

26 Statistics on change in average daily population of people admitted on local charges for the second half of 2020 are drawn from Vera’s prior analysis. See Kim, Hood, and Connors, *New York State Jail Population Brief*, 2022, 20, Figure 13a.

27 Charges made newly eligible for bail include vehicular assault in the first degree (PL §120.04), aggravated vehicular assault (PL §120.04-a), and aggravated assault on a person less than 11 years old (PL §120.12), among others. For a full list of charges and descriptions of the amendments, see Michael Rempel and Krystal Rodriguez, *Bail Reform Revisited: The Impact of New York’s Amended Bail Law on Pretrial Detention* (New York: Center for Court Innovation, 2020), <https://perma.cc/MSR7-9FCY>.

28 Lauren A. Clay and Stephanie Rogus, “Primary and Secondary Health Impacts of COVID-19 among Minority Individuals in New York State,” *International Journal of Environmental Research and Public Health* 18, no. 2 (2021), 1-11, <https://doi.org/10.3390/ijerph18020683>.

29 Johns Hopkins Coronavirus Resources Center, “New York,” accessed October 26, 2022, <https://coronavirus.jhu.edu/region/us/new-york>.

30 Brendan Saloner, Kalind Parish, Julie A. Ward, et al., “COVID-19 Cases and Deaths in Federal and State Prisons,” *JAMA* 324, no. 6 (2020), <https://jamanetwork.com/journals/jama/fullarticle/2768249>.

31 Andrew Martinez, Joanna Weill, Lina Villegas, et al., *The Will to Decarcerate: COVID-19 and New York City’s Early Release (6-A) Program* (New York: Center for Court Innovation, 2022), <https://perma.cc/87UB-PYU9>.

32 See for example Kathy Reakes, “COVID-19: 65 Prisoners Released From Westchester County Jail,” *Lewisboro Daily Voice*, April 14, 2020, <https://perma.cc/2K98-PNJ9/>; and Sarah Taddeo, “NY to Release Up to 1,100 Low-Level Parole Violators from Jails to Stop

Coronavirus Spread," *Democrat and Chronicle*, March 28, 2020, <https://perma.cc/Q8AU-DBMG>.

33 Asher Stockler, "New York to Release 1,100 Low-Level Parole Violators, as Worries over Prison System's Vulnerability to COVID-19 Mount," *Newsweek*, March 28, 2020, <https://perma.cc/B5VT-EZ34>.

34 Researchers used admissions instead of jail population because jail admissions generally fluctuate in response to political and environmental changes sooner than jail populations.

35 Office of the Governor, "Governor Cuomo Announces Lowest Percentage of Positive COVID-19 Test Results Since Pandemic Began," June 17, 2020, <https://perma.cc/B6KL-KXDY>.

36 Sydney Pereira, "NYC COVID Cases Are Falling but the Positive Testing Rate Is Flat. Here's What It Means for Reopening," *Gothamist*, March 17, 2021, <https://gothamist.com/news/nyc-covid-cases-are-falling-positive-testing-rate-flat-heres-what-it-means-reopening>.

37 New York Division of Criminal Justice Services, "Monthly Jail Population Trends," DCJS, October 3, 2022, <https://perma.cc/V48F-VQE9>.

38 Researchers categorized New York counties using the same methodology as Vera's Incarceration Trends project. The researchers collapsed six categories of urban-rural classification defined by the National Center for Health Statistics (NCHS) into four: three "urban" counties with 1 million or more people that contain at least 250,000 inhabitants of any principal city; 13 "suburban" counties that include 1 million or more people but do not qualify as urban counties; 18 "small/midtown" counties that have a metropolitan statistical area population of less than 250,000; and 24 "rural" counties that do not include metropolitan areas. For more information on the methodology of Vera's Incarceration Trends project, see Vera Institute of Justice, "Incarceration Trends: About," archived October 19, 2022, <https://perma.cc/NM7Y-ZZDP>. For more information on the NCHS county codes, see Centers for Disease Control and Prevention, "2013 NCHS Urban-Rural Classification Scheme for Counties," Vital and Health Statistics series 2, no. 166 (2014), <https://perma.cc/5JGR-A444>.

39 Empire State Development, "Regions," accessed October 7, 2022, <https://esd.ny.gov/regions>.

40 According to the 2020 Census, New York City was the largest city (8.8 million people) in the state of New York. Buffalo, located in the Western New York Region, was the second largest city (278,349 people). Syracuse, located in Central New York, was the fifth largest city (148,620 people). Centers for Disease Control and Prevention, “Vintage 2020 Bridged-Race Postcensal Population Estimates,” (dataset), https://www.cdc.gov/nchs/nvss/bridged_race/data_documentation.htm#vintage2020.

41 A 2022 report by Data Collaborative for Justice (DCJ) explores pretrial release decisions from 2019 to 2021 using Office of Court Administration Data. Key findings of the report—namely, racial disparities and the limited role of the bail reform amendments on pretrial decisions—are generally consistent with Vera’s current brief. However, the researchers also recognize that some results do not align with Vera’s report. For example, DCJ’s report found that although there were 30 percent fewer arraignments in 2021 compared to 2019, by the final months of 2021, arraignment volume had returned to near 2019 levels. Vera’s report found that the jail population in June 2021 stayed lower than the population in April 2019 (-25.3 percent in NYC; -25.8 percent in non-NYC). These combined results suggest how bail reform might be working: With the volume of arraignments similar to pre-bail reform, jail populations stayed lower than pre-bail reform levels. Readers should take caution in comparing the two reports directly because they differ in terms of data source, unit of analysis, time frame, and geographic coverage. DCJ and the Vera shared their reports and compared data sources and methods in advance of publication to reach this conclusion. DCJ’s report can be found here: Olive Lu and Michael Rempel, *Two Years In: 2020 Bail Reforms in Action in New York State* (New York: Data Collaborative for Justice, 2022), <https://perma.cc/8939-5WHW>.

42 Both amendments rolled back parts of the original reform, expanding the list of charges and circumstances in which bail can be set. One study projected that the first bail reform amendment would lead to a 16 percent increase in bail setting or remand in New York City. See Michael Rempel and Krystal Rodriguez, *Bail Reform Revisited: The Impact of New York’s Amended Law* (New York: Center for Court Innovation, 2020), <https://perma.cc/Y4J5-NBZ4>. A prior Vera analysis found that about 11 percent of the population increase from June 2020 to December 2020 was attributed to the changes that are affected by the amendment. See Kim, Hood, and Connors, *New York State Jail Population Brief*, 2022.

43 New York State Office of Court Administration, "Pretrial Release Data" (dataset), <https://ww2.nycourts.gov/pretrial-release-data-33136>.

44 New York Division of Criminal Justice Services, "Index Crimes Reported to Police by Region: 2012-2021 (preliminary data)," <https://www.criminaljustice.ny.gov/crimnet/ojsa/indexcrimes/Regions.xls>. For official 2020 data, see Division of Criminal Justice Services, *Crime in New York State: 2020 Final Data*, December 2021, <https://perma.cc/86BD-ETXB>.

45 Ibid.

46 New York Division of Criminal Justice Services, "Monthly Jail Population Trends," DCJS, October 3, 2022, <https://perma.cc/V48F-VQE9>.

47 Centers for Disease Control and Prevention, "U.S. Census Populations With Bridged Race Categories" (database), https://www.cdc.gov/nchs/nvss/bridged_race.htm.

48 DCJS, *DCJS Coded Law File as of 05/12/2021* (New York: DCJS, 2021), <https://perma.cc/U7EM-ZBPK>.

49 Criminal Procedure Law (CPL) §510.10, <https://www.nysenate.gov/legislation/laws/CPL/510.10>.

50 A single entity collects data for all five New York City counties as a whole and does not provide individual county-level information.

Credits

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The Vera Institute of Justice is powered by hundreds of advocates, researchers, and policy experts working to transform the criminal legal and immigration systems until they're fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn't determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is

treated with dignity. Vera's headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles. For more information, visit www.vera.org. For more information about this report, contact Jaeok Kim, associate director of research, Greater Justice New York, at jkim@vera.org.