# On Bail Reform We Need Less Fear-Based Speculation—and More Data

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One metric of bail reform's success is its impact on the statewide jail population. Date from the New York State Division of Criminal Justice Services (DCJS) shows that between January 2019 and January 2020, the average daily jail census statewide dropped by 30 almost percent—from 21,406 a year ago to 14,983 today.

Change in average daily jail census between January 2019 and January 2020

Same or increase | 0-15% decrease | 15-30% decrease | 30-45% decrease | Greater than 45% decrease
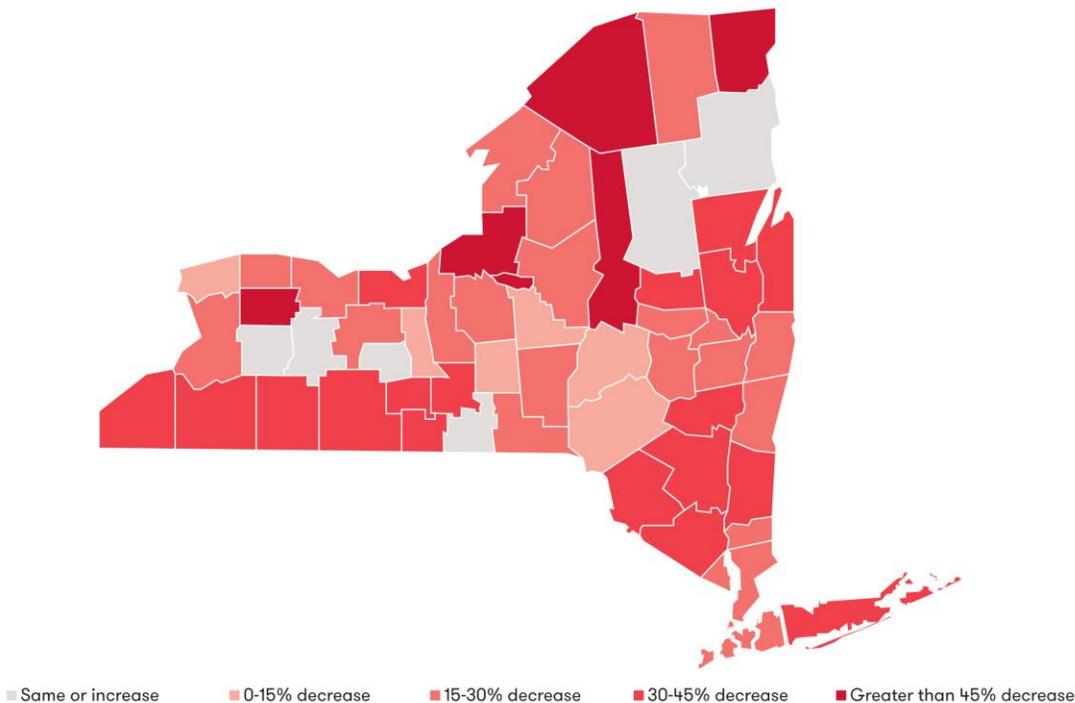
Before bail reform went into effect, 60 percent of people in New York jails were being held pretrial—most often because they couldn't afford to pay bail—creating two systems of justice: one for the rich and one for the poor. The drop in incarceration since bail reform went into effect translates into thousands of New Yorkers going home to their families, keeping their jobs, and staying connected to their communities instead of facing trial from inside a jail cell or having to scrape together money to pay bail.

The impacts of bail reform are statewide, with comparable drops in incarceration numbers in New York City and the rest of the state. Between January 2019 and January 2020, the jail census fell in all but four of New York's 62 counties. In four other counties, the jail population dropped by more than 50 percent. In Clinton County, for example, the daily jail population dropped from 222 people on any given day to 98 people—a 56 percent drop. And the number of people being held pretrial there dropped a remarkable 71 percent.

Bail reform is working. But in a moment when many are questioning the impact of the new law, a lack of publicly available data in real time about other critical metrics—including crime and arrest rates—leaves open the door for bail reform opponents to highlight outlier cases and anecdotal information to claim that bail reform makes us less safe. We know from other states, however, that the long-term data does not bear out those claims. When New Jersey passed bail reform in 2017, opponents there warned that crime would skyrocket. But state data showed that fewer than 3 percent of people released before trial were subsequently rearrested for a serious violent felony or gun possession. At the same time, violent crime in New Jersey continued to fall. Murders, in fact, fell by 30 percent. Lawmakers stayed the course and were rewarded for having done so.

The lack of publicly available data in New York leaves many questions unanswered about bail reform. How many people are being arrested across the state? How many people are being released following an arrest? How often are judges still setting bail in cases, and how much bail is being set? When judges are releasing people, what kinds of conditions of release are they setting? Are people returning to court? What are the race, ethnicity, and other demographic characteristics of people being held and those being released? It's not that this information isn't being recorded. Police, district attorneys, and other court actors, in fact, necessarily keep it. But none of it is available publicly in real time. And that information vacuum is allowing room for unfounded political conjecture to flourish, based on purely anecdotal evidence.

It's likely to take months before we see the data on arrest rates from DCJS that will demonstrate the success of the bail reform laws. In March 2019, for example, DCJS released data on arrest rates across the state—but only through 2018. Similarly, in April 2019, DCJS released data on case dispositions through the end of 2018. At that rate, there will be no publicly available statewide data on arrests and case dispositions from 2019 until at least a few months into 2020—and none from 2020 until at least 2021.

This is a terrible environment in which to make public policy. To help assess the impact of bail and future criminal justice reforms, the legislature should pass a new law requiring monthly reporting of these criminal justice statistics. Yes, it will take some work to collect and report this data in New York. But seeing the information in real time will help to assess the impact of policies, the efficacy of implementation, and the need for other reforms going forward.

For more information

The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely on for safety and justice and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America's increasingly diverse communities. For more information, visit www.vera.org.