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# The Impact of New York Bail Reform on Statewide Jail Populations: A First Look

New York State Jail Population Brief, January 2018–June 2020

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*Jaeok Kim, Quinn Hood, and Elliot Connors*

## Executive Summary

Over the last decade, thousands of New Yorkers have been held in jail pretrial, largely because they could not afford to pay bail.<sup>1</sup> In April 2019, New York legislators passed bail reform bills updating a set of laws that had remained largely untouched since 1971.<sup>2</sup> The laws, which went into effect on January 1, 2020, made release before trial automatic for most people accused of misdemeanors and nonviolent felonies. In cases that remained eligible for bail—including violent felonies and some domestic violence- or sex-related charges—the law mandated that the judge consider a person’s ability to pay bail.<sup>3</sup> However, an organized, immediate backlash by the opponents of bail reform led the New York legislature to amend the law in April 2020, only three months after the original reform went into effect.<sup>4</sup>

Meanwhile, in March 2020, New York became an epicenter of the COVID-19 pandemic. The pandemic changed the way the criminal legal system operated. Court hearings, including arraignments, became virtual. Jury trials were cancelled. And, understanding that jails could become COVID-19 hotspots and drive outbreaks outside of the jails, some court actors across the state began working to reduce jail populations.

This report by the Vera Institute of Justice (Vera) is the first to examine the impact of April 2019’s bail reform in New York State by exploring trends in jail populations and admissions in New York City and a sample of counties. (See Appendix A for the list of counties included in the study). This report also explores the effect of the COVID-19 pandemic on the state jail population after March 2020; however, given the proximity in time frame it is impossible to isolate the individual effects of bail reform and COVID-19. Vera’s analysis indicates that the initial impacts of bail reform were as follows:

1. Bail reform appears to have been effective in reducing incarceration rates. Jail populations in New York had been in decline for several years, but the statewide jail population dropped substantially after the passage of the new law. From January 2019 to January 2020, the jail population decreased 30.0 percent, largely in the last two to three months leading to January 2020 as judges began incorporating the new bail requirements in anticipation of the law’s effective date. Comparatively, the state experienced a mere 8.2 percent drop between January 2018 and January 2019.
2. Although bail reform led to a substantial reduction in the number of people held pretrial, in January 2020, still more than 70 percent of those incarcerated in New York City (NYC) jails and almost 50 percent of those incarcerated in non-NYC jails were held without being convicted of a crime.
3. New York jails were once filled with people held pretrial facing charges for low-level crimes, but the composition of pretrial detention changed after bail reform. Before bail reform, low-level assault ranked in the top five most common pretrial admission charges in New York City. After bail reform, however, it was no longer one of the largest drivers of pretrial detention. Similarly, outside of New York City, aggravated unlicensed operation of a motor vehicle was the most common pretrial admission charge before bail reform, but in January 2020, only 16 people were admitted to jail on that charge.

4. Bail reform appears to have had a bigger impact in counties outside of New York City. In counties outside of New York City, before bail reform more than 80 percent of people held in jail pretrial were charged with misdemeanors or nonviolent felonies. From January 2019 to January 2020, the number of people held on bail for misdemeanors or nonviolent felonies fell 83.3 percent outside of New York City.
5. Before bail reform, in counties outside of New York City, more than 3,000 people were admitted to jail each month because they could not afford to pay bail. The new law substantially reduced the number of people held pretrial with a cash bail set under \$1,000. In January 2020, 157 people were admitted to jails with a bail set under \$1,000, an 84.3 percent drop compared to January 2019.
6. Although bail reform reduced the overall number of people incarcerated in New York, it may have exacerbated racial disparities. In January 2020, Black people in New York City were 6.3 times more likely to be incarcerated than non-Hispanic white people, a considerable increase from 5.4 times in January 2019. In sampled counties outside of New York City, Black people were 5.7 times more likely to be incarcerated in January 2020, a marginal increase from 5.2 times in January 2019.

Vera's analysis indicates that the COVID-19 pandemic resulted in the following changes to New York jails:

1. The COVID-19 pandemic appears to have had a greater impact on the jail population in New York City than outside of New York City. From March to June 2020, New York City's jail population decreased 25.4 percent, compared to a 16.3 percent decrease in other counties.
2. The pandemic had the largest impact on people serving local sentences and people held for parole violations, particularly in New York City. From March to June 2020, the number of people serving a local sentence fell 81.3 percent, and the number of people held on parole violations decreased 71.0 percent. During this period, the number of people awaiting transfer to state prisons increased.
3. The trends in the pretrial jail population in the wake of the COVID-19 pandemic were very different between New York City and counties outside of New York City. The number of people detained pretrial in New York City jails decreased 10.4 percent between March and June 2020, but the number did not change in counties outside of New York City, except a small (5.3 percent) dip in April.
4. The longstanding racial disparities that appear to have been exacerbated by bail reform persisted during the COVID-19 pandemic, particularly in counties outside of New York City where the gap in incarceration rates between Black and non-Hispanic white people widened. In June 2020, Black people outside of New York City were 6.4 times more likely to be incarcerated in jail than non-Hispanic white people, an increase from 5.5 times in March.

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# Introduction

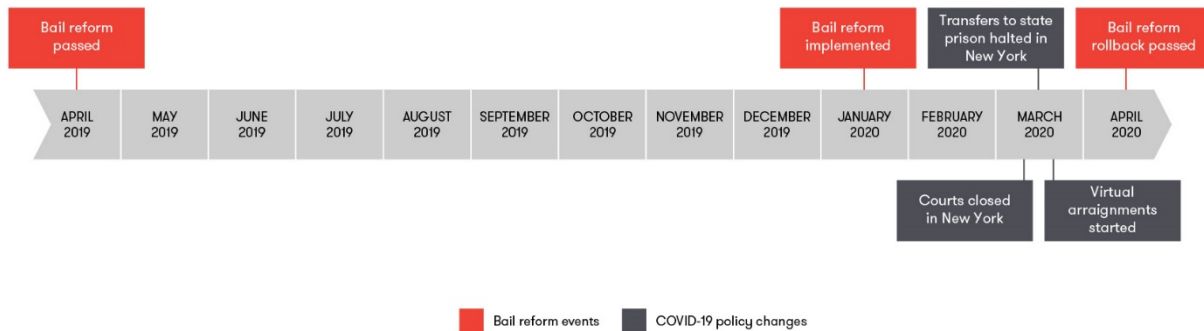
On any given day in 2018, there were approximately 23,000 people incarcerated in local jails across New York State.<sup>5</sup> Almost 70 percent of them were held pretrial.<sup>6</sup> Thousands remained jailed every day simply because they could not afford to pay for their freedom.

In April 2019, New York passed a bail reform law that made release before trial automatic for most people accused of misdemeanors and nonviolent felonies, meaning that judges were no longer permitted to set bail in those cases (Figure 1).<sup>7</sup> For cases still eligible for bail, judges were required to consider people's ability to pay without posing undue hardship. Initial indications suggest that the jail population in New York State has substantially decreased since the passage of the law.<sup>8</sup> Vera's collected data shows that, in January 2020, when the law went into effect, about 15,000 people were incarcerated in local jails across the state. From January 2018 to January 2020, the total jail population decreased by 35.7 percent, mostly during the fall of 2019, when some counties took an early initiative to implement the new law. The statewide jail population further dropped after New York became an epicenter of the COVID-19 pandemic in March 2020. In June 2020, just over 11,000 people were incarcerated in local jails across the state, the lowest number over the last five years.<sup>9</sup>

In March 2020, only three months after the first iteration of the bail reform went into effect, New York became a COVID-19 epicenter. The pandemic transformed the way the system operated. Arrests by law enforcement officers plummeted statewide.<sup>10</sup> Courts suspended in-person proceedings, including grand jury and sentencing hearings, and started arraignments virtually; several counties took steps to release people from jails to prevent outbreaks in the facilities, including reassessing cases in which bail was set, releasing some people close to the end of their sentences, and releasing people who were being held on a parole violation.<sup>11</sup>

In April 2020, facing a coordinated backlash from law enforcement and other opponents of bail reform, New York legislators amended parts of the original bail reform law, reinstating money bail for certain charges and expanding judges' discretion in setting nonmonetary conditions of release.<sup>12</sup> These changes took effect on July 2, 2020. Their potential impact on the state jail population will be examined and discussed in future briefs.

**Fig. 1: Major policy changes in New York, April 2019–April 2020**



This brief examines how New York State’s jail population, jail admissions, and use of pretrial detention have changed in response to bail reform and the COVID-19 pandemic. It is the first study that examines the changes in the use of jails and pretrial detention both before and after bail reform outside of New York City. Empirical evidence about the outcomes of the new law across the state will be crucial to ongoing policy discussions. Given that bail reform and the COVID-19 pandemic occurred around the same time, Vera’s analyses do not isolate the impact of bail reform from the pandemic or other factors that might have contributed to the changes in the use of jails. A number of possible explanations, including seasonality, the continuation of long-term trends, and other interventions by system actors could contribute to the changes explored throughout this brief. However, comparisons of incarceration trends before and after bail reform and after the COVID-19 outbreak help identify changes in the trends and explore if those changes correspond to the two major events—bail reform and the COVID-19 pandemic—that happened in the first half year of 2020. Additional analyses will illuminate the full impact of bail reform on the jail population in New York.

Vera collected data from multiple sources, including (1) monthly jail population reports for all 62 counties in New York published by the New York State Division of Criminal Justice Services (DCJS); (2) daily New York City jail population reports from the NYC Open Data website; and (3) individual-level jail booking and release data from 52 sheriff’s departments outside of New York City, acquired through either data sharing agreements or Freedom of Information Law (FOIL) requests.<sup>13</sup> For a detailed description of methodology, including the data collection and cleaning process, see Appendix B.

Because of disparities in county-level data availability, each section of this report studies a different set of counties. For a full list of counties in each section, see Appendix A.

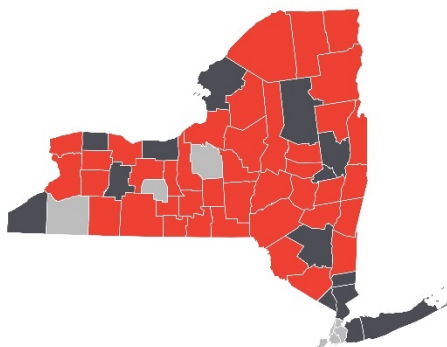
- **Section 1** analyzes changes in the statewide jail population and incarceration rates using DCJS data from all 62 counties in New York.
- **Section 2** analyzes racial disparities and median lengths of stay in the jail populations of New York City and 43 non-NYC counties, as well as trends in jail admissions to these counties, using data secured via FOIL requests and data-sharing agreements with sheriff’s departments. The counties included in the sections comprise 78.9 percent of the total New York State jail population and 67.8 percent of the total non-NYC jail population.

- **Section 3** analyzes changes in pretrial detention in New York City, as well as changes in pretrial detention and bail practices across 40 non-NYC counties. Three non-NYC counties included in Section 2 were excluded from Section 3 because they did not provide complete charge, bail, or custody status data. The counties included in Section 3 comprise 59.8 percent of the total non-NYC jail population.

The data represents a diverse set of counties outside of New York City (Appendix A). One limitation of this report, however, is that Sections 2 and 3 exclude three downstate suburban counties with large jail populations—Nassau, Suffolk, and Westchester—that did not provide complete data (Figure 2).

**Fig. 2: County jail data availability**

■ Bail, demographic, and population data (40 counties) ■ Demographic and population data (8 counties) ■ Population data (14 counties)



Source: County-level jail data

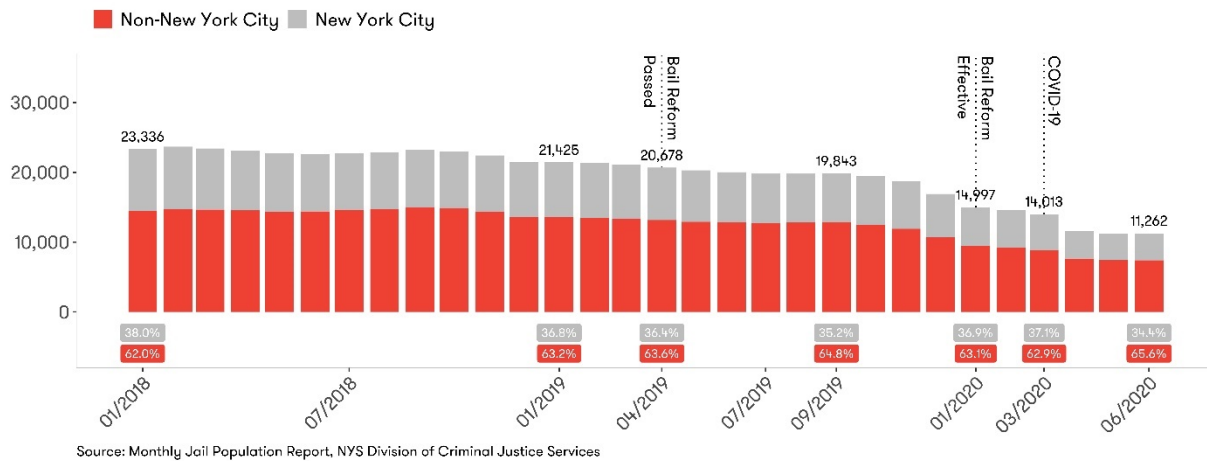


# 1. Statewide daily jail populations following bail reform and the onset of the COVID-19 pandemic

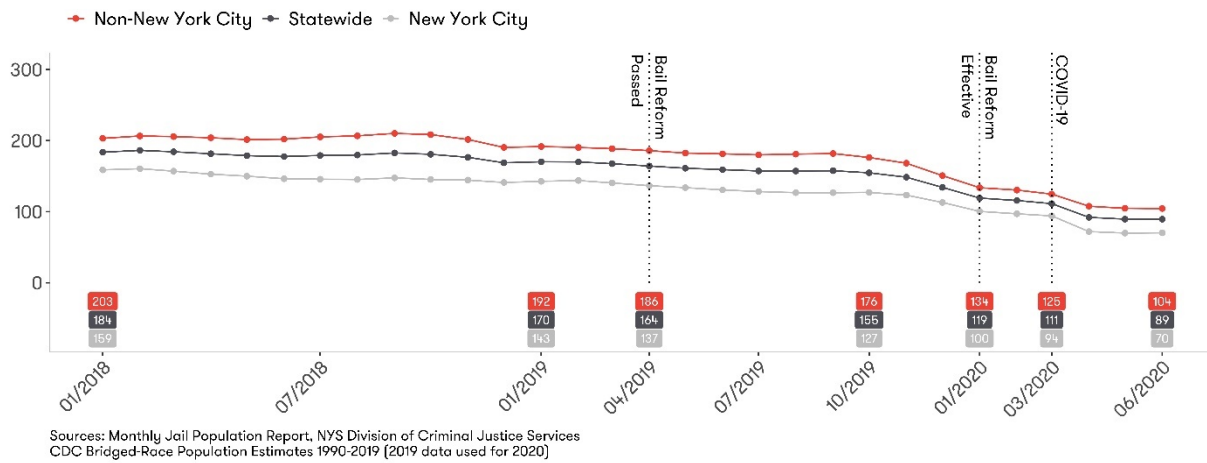
## Jail populations fell sharply as counties began to implement bail reform

New York’s jail population has been in decline for several years, but jail populations dropped sharply in the fall of 2019 as counties began to implement bail reform (Figure 3). In December 2019 alone, the statewide jail population fell almost 10 percent, the biggest monthly decline on record before the COVID-19 pandemic hit. The early impact of the new law was more pronounced in the 57 counties outside of New York City, where more people had been held pretrial on low-level charges before reform. From September to December 2019, New York City’s jail population dropped by 10.8 percent compared to 17.0 percent outside of New York City. In total, between September 2019 and the COVID-19 outbreak in March 2020, the jail population outside of New York City decreased by 31.4 percent, compared to 25.7 percent in New York City. Even with the greater rate of decline, in March 2020, the incarceration rate was still much higher outside of New York City (125 per 100,000) than inside New York City (94 per 100,000) (Figure 4).

**Fig. 3: New York State daily jail population**



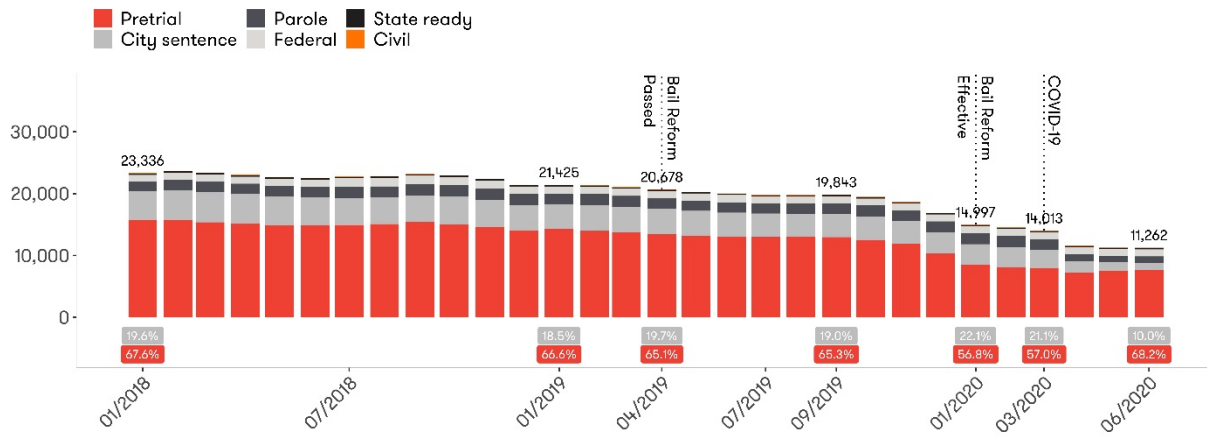
**Fig. 4: New York State daily jail incarceration rate**



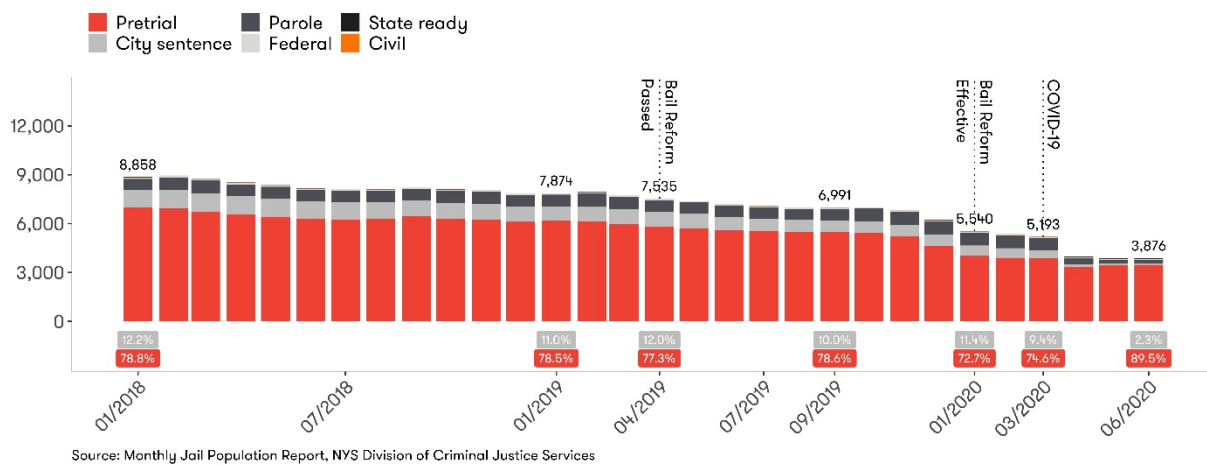
## Bail reform appeared to have the greatest impact on the pretrial population, but it also led to reductions in the number of people held on local jail sentences

It makes sense that bail reform, which mandated release for most people charged with misdemeanors and nonviolent felonies, would have the largest impact on the number of people held pretrial. But it also precipitated a substantial decline in the number of people sentenced to time in jail.<sup>14</sup> From September 2019 to January 2020, the number of people held pretrial decreased by more than one-third. During that time, the number of people serving a local sentence decreased by 12.1 percent (Figure 5). This suggests that limiting pretrial detention might have also influenced the likelihood that people would be convicted or take a plea resulting in a jail sentence for a misdemeanor.<sup>15</sup> It will take further analysis to identify the relationship between pretrial detention and the likelihood of misdemeanor conviction and to examine whether bail reform will impact jail sentences long-term. In the months leading up to bail reform implementation, the proportion of people held in jail pretrial was consistently higher in New York City than outside of the city. Nearly eight out of 10 people in New York City's jails were held pretrial, compared with six out of 10 people in non-NYC counties (Figures 5a and 5b). After bail reform went into effect, the proportion of people outside of New York City held pretrial fell below 50 percent.

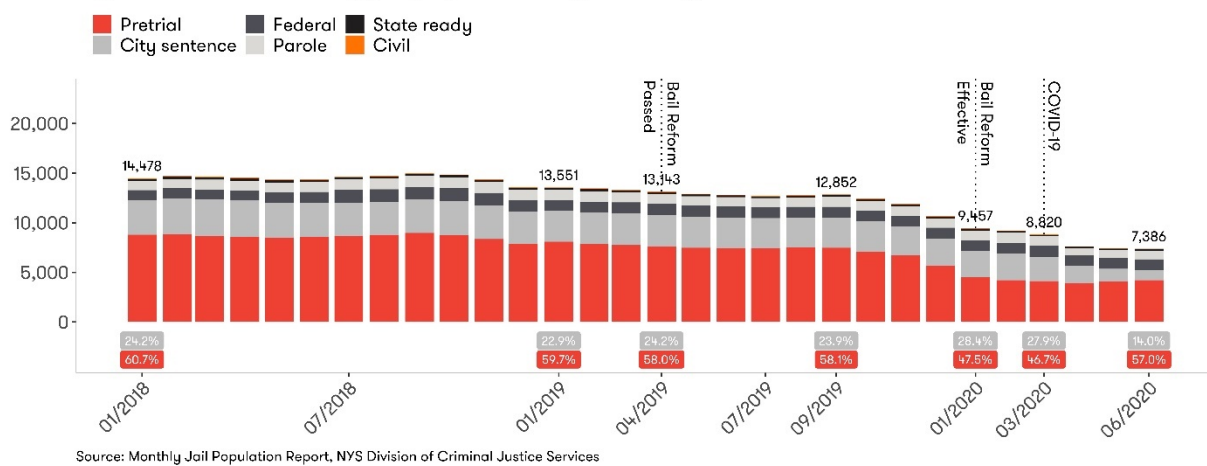
**Fig. 5: New York State daily jail population by custody status**



**Fig. 5a: NYC Daily jail population by custody status**



**Fig. 5b: Non- NYC Daily jail population by custody status**



## COVID-19 further reduced jail populations, particularly the number of people held on local jail sentences. As a result, the relative proportion of people held pretrial increased

In contrast to bail reform, the COVID-19 pandemic appears to have had a greater impact on New York City's jail population than on the jail populations of counties outside of the city. From March to June 2020, the New York City jail population decreased by 25.4 percent, whereas jail populations outside of New York City fell 16.3 percent.

The COVID-19 pandemic changed who was in jail and why. After the pandemic hit New York in March, the number of people in jail decreased for all custody status groups except those awaiting transfer to state prison.<sup>16</sup> The pandemic had the biggest impact on people who had been sentenced to time in jail. From March to June 2020, the number of people serving a local sentence decreased by more than 60 percent, the largest drop of any custody status group.<sup>17</sup> As a result, by June 2020, nearly 90 percent of people in New York City's jails were held pretrial. Outside of the city, the percentage of people held pretrial also grew—but only to 57 percent.

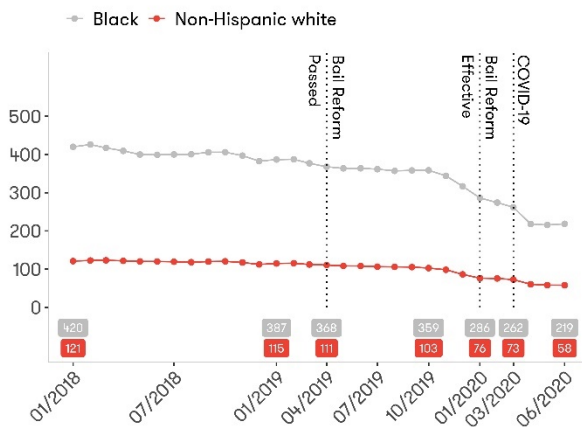
## 2. Jail populations and jail admissions for New York City and 43 non-NYC counties

This section analyzes trends in jail populations and jail admissions for New York City and 43 non-NYC counties that provided complete information regarding race/ethnicity and length of stay. This sample covers 79 percent of the statewide jail population and 68 percent of the jail population outside of New York City. The following sections also include analyses of racial disparities given the notable changes in trends. Other demographic characteristics of the jail population did not change before and after bail reform. Males made up about 90 percent of the jail population. About two-thirds of the jail population were between 25 years old and 54 years old. For incarceration trends by gender and age, see Appendix C.

**Although bail reform led to reductions in jail populations overall, it may have aggravated existing racial disparities**

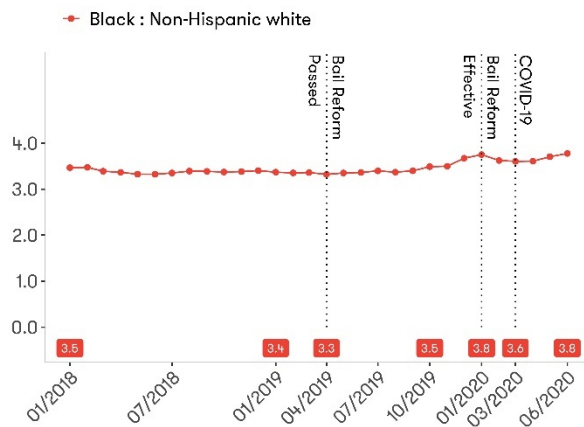
Vera’s analysis indicates that bail reform succeeded in reducing overall jail populations in New York State, but there was at least one unintended consequence of the law: racial disparities increased. Before September 2019, when counties began to implement the law, Black people in the counties sampled were consistently around 3.4 times more likely to be incarcerated in jail than non-Hispanic white people (See Figures 6.1 and 6.2).<sup>18</sup> Although incarceration rates for both Black and non-Hispanic white groups decreased as bail reform went into effect, the rate of decrease was much greater for non-Hispanic white people, resulting in the widening of racial disparities, which topped 3.8 in the first three months of 2020.

Fig. 6.1: Daily jail incarceration rate by race, NYC and 43 non-NYC counties



Source: County-level jail data for NYC and 43 non-NYC counties  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 6.2: Incarceration rate ratios by race, NYC and 43 non-NYC counties

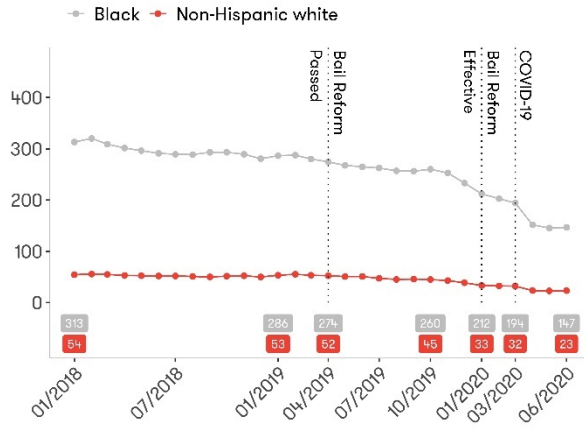


Source: County-level jail data for NYC and 43 non-NYC counties  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

This trend was particularly acute in New York City, where Black people were 5.4 times more likely to be incarcerated than non-Hispanic white people in January 2019 but 6.3 times as likely to be incarcerated in January 2020 (Figure 6a.2). Outside of New York City, racial disparities in

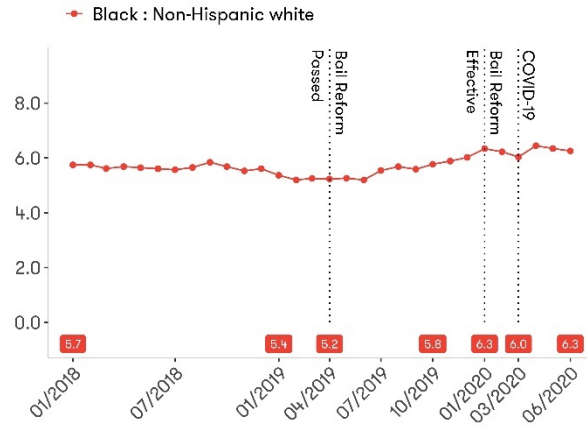
incarceration rates also increased after the new law took effect: in January 2019, Black people were 5.2 times as likely to be incarcerated in jail as non-Hispanic white people, but the disparity had grown to 5.7 by January 2020 (Figure 6b.2). The COVID-19 pandemic also exacerbated racial disparities in incarceration rates, particularly in counties outside of New York City. In June 2020, Black people outside of New York City were 6.4 times more likely to be incarcerated in jail as non-Hispanic white people, an increase from 5.5 in March 2020.

Fig. 6a.1: Daily jail incarceration rate by race, NYC



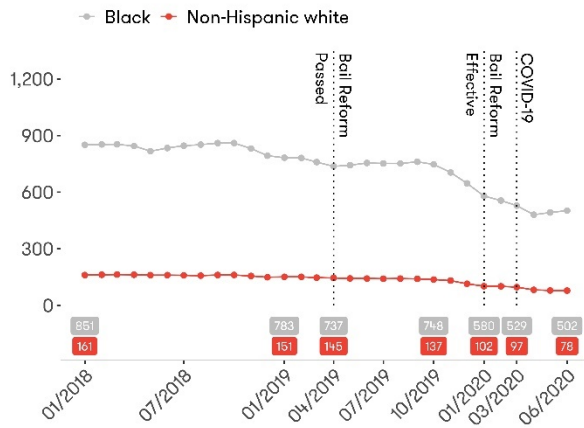
Source: NYC Open Data  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 6a.2: Incarceration rate ratios by race, NYC



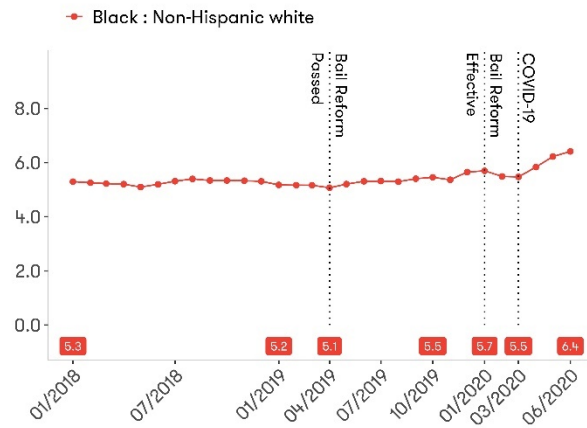
Source: NYC Open Data  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 6b.1: Daily jail incarceration rate by race, 43 non-NYC counties



Source: County-level jail data for 43 non-NYC counties  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 6b.2: Incarceration rate ratios by race, 43 non-NYC counties

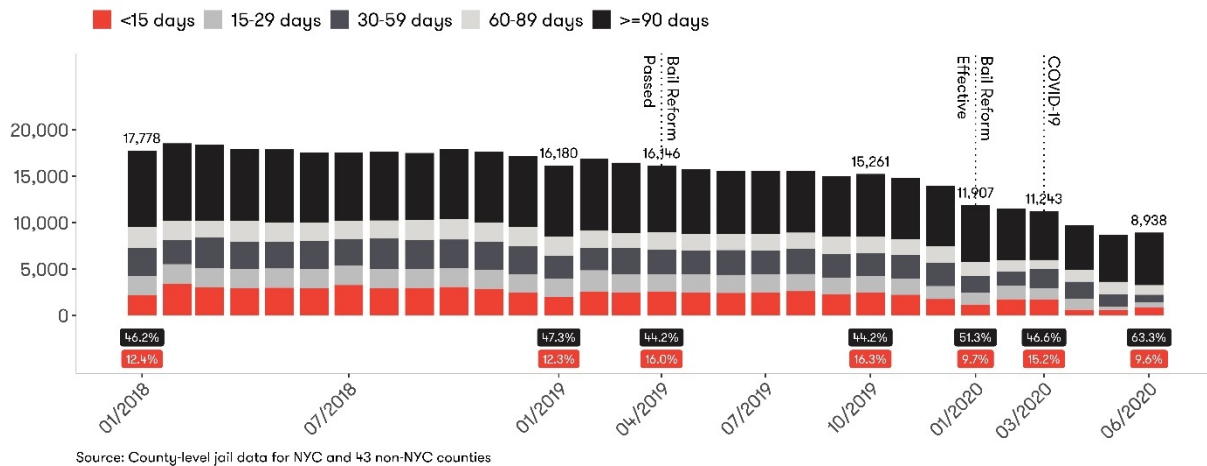


Source: County-level jail data for 43 non-NYC counties  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

## After bail reform, fewer people were admitted to jail for low-level charges. As a result, the average length of time that people spent in jail increased

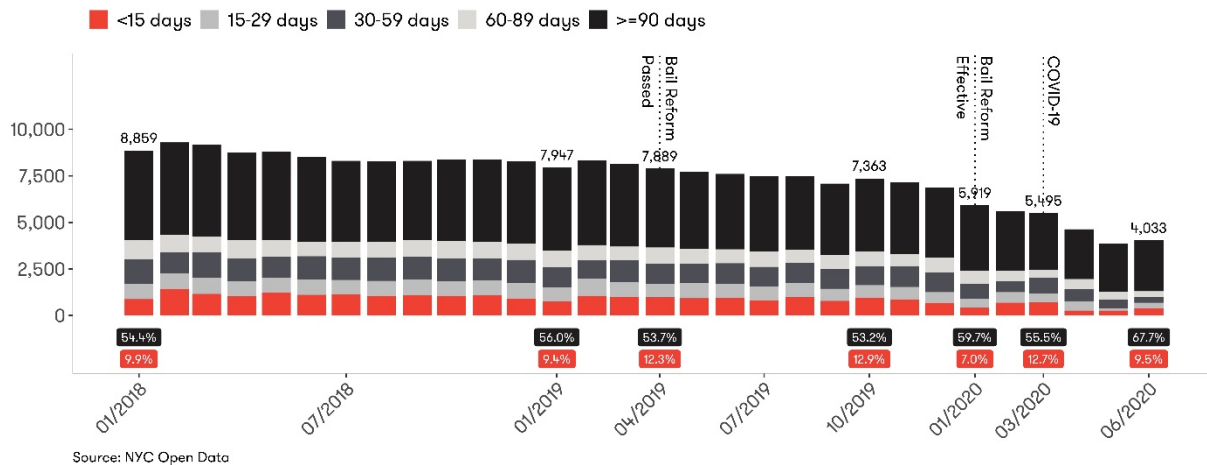
Because bail reform led to fewer people being held pretrial on low-level charges and serving short jail sentences, it increased the proportion of people who were held on more serious charges. This led to an increase in the average length of time that people spend in jail. In January 2020, the median length of stay increased to 90 days from 79 days in January 2019, the highest point in the last two years. The percentage of people in jail for 90 days or longer increased from 47.3 percent in January 2019 to 51.3 percent in January 2020 whereas the percentage of people in jail for less than 2 weeks decreased from 12.4 percent to 9.6 percent during this period (Figure 7).

**Fig. 7: Daily jail population on the 1st of the month by length of stay, NYC and 43 non-NYC counties**

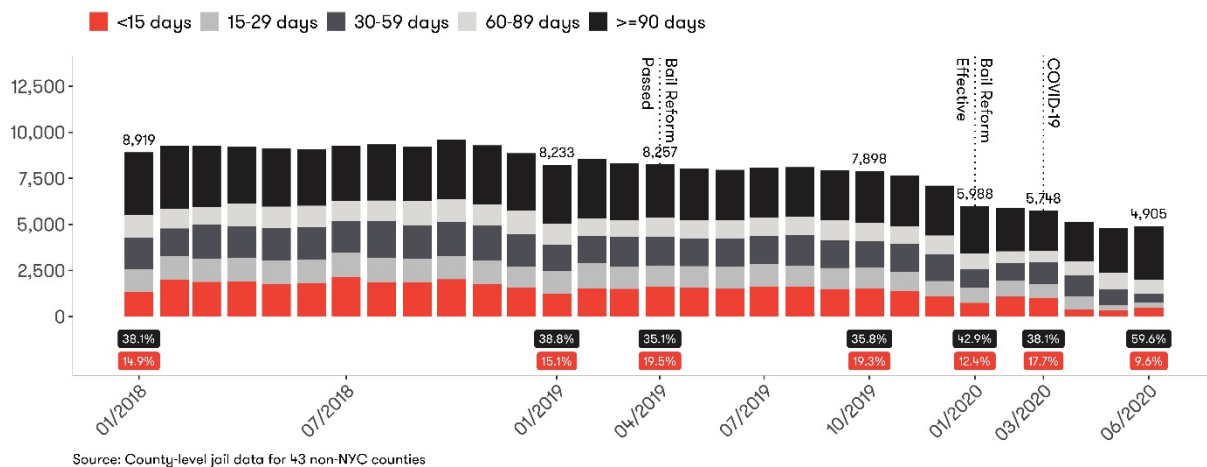


After the onset of the COVID-19 pandemic in March 2020, when New York suspended grand juries and jury trials, the median length of time people were held in jail climbed steeply, increasing from 78 days in March 2020 to 129 days in June 2020, an increase of 65.4 percent. More than 60 percent of people incarcerated on June 1 had been in jail at least for three months, an increase from 46.6 percent from March 1 (Figure 7). In the 43 counties outside of New York City, the median length of time in jail increased from 111 days in March 2020 to 172 days in June, compared to an increase from 60 days to 113 days in New York City. On June 1 in New York City, 67.7 percent of people in jail had been incarcerated for at least 90 days compared to 59.6 in 43 counties outside of New York City (Figures 7a and 7b).

**Fig. 7a: Daily jail population on the 1st of the month by length of stay, NYC**



**Fig. 7b: Daily jail population on the 1st of the month by length of stay, 43 non-NYC counties**

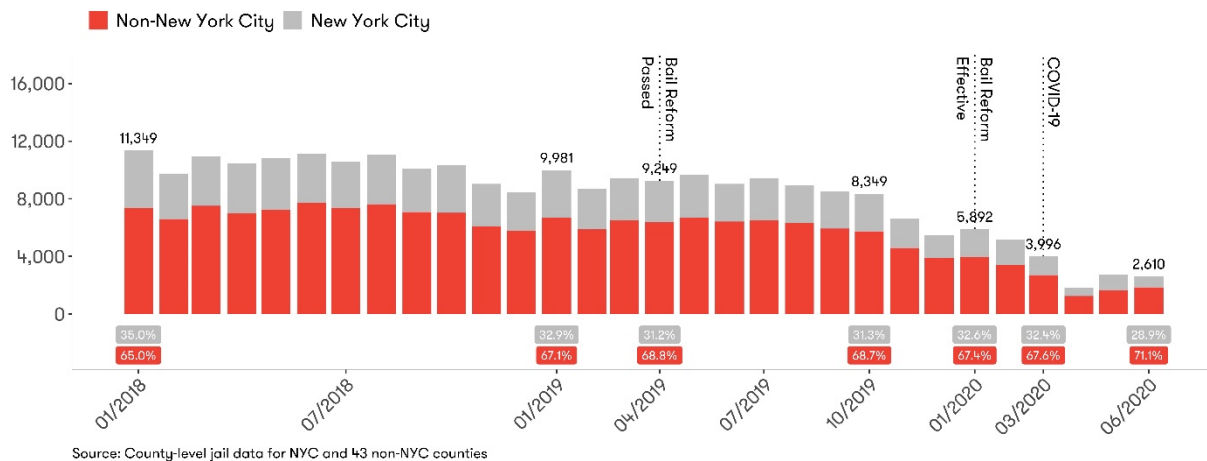


## Jail admissions decreased sharply in the months before bail reform was implemented

In addition to reducing the average daily jail population, bail reform led to fewer people entering jail. Although jail admissions in the sampled counties began to decline gradually before the passage of bail reform, they decreased more precipitously during the three months before the law went into effect (see Figure 8). From October to December 2019, the number of people entering jail dropped by almost one-third. The decrease in monthly jail admissions during this pre-implementation period was greater in New York City compared to the rest of the state. In January 2020, jail admissions did increase, mostly as a result of a seasonal increase in jail admissions in New York City.<sup>19</sup>



**Fig. 8: Monthly jail admissions, NYC and 43 non-NYC counties**

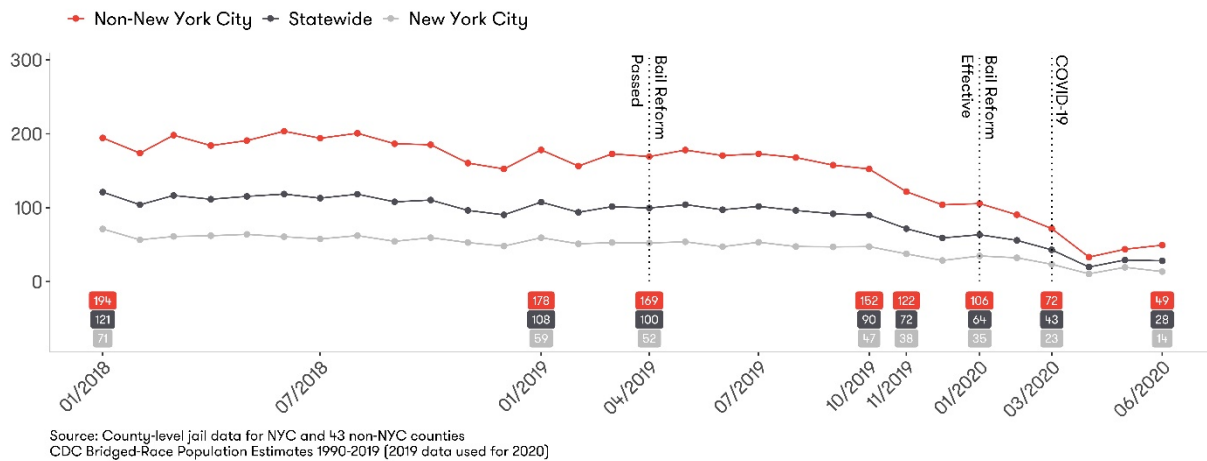


## Jail admissions decreased further after COVID-19, particularly in New York City

The analysis of jail admission trends suggests that the COVID-19 pandemic had a substantial but short-term impact on jail admissions. April 2020 jail admissions were less than half of March totals. In the 48 counties sampled, fewer than 1,900 people were admitted to jail in April, the lowest in the sample period. In May and June, admissions gradually increased, despite the ongoing pandemic.

Before the pandemic, the overall jail admission rate was consistently lower in New York City than outside of the city (Figure 9). In March 2020, counties outside of New York City had an admission rate 3.1 times higher than that of New York City. This gap in jail admission rates widened after the onset of the pandemic. In June 2020, approximately 49 per 100,000 residents outside of New York City were admitted to jail, a rate 3.6 times higher than the admission rate of New York City (approximately 14 per 100,000).

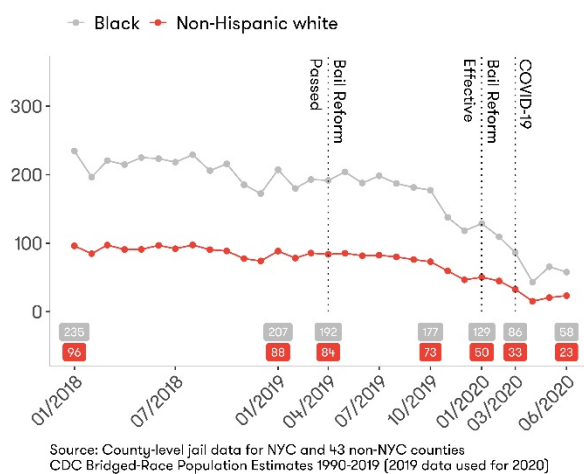
**Fig. 9: Monthly jail admission rate, NYC and 43 non-NYC counties**



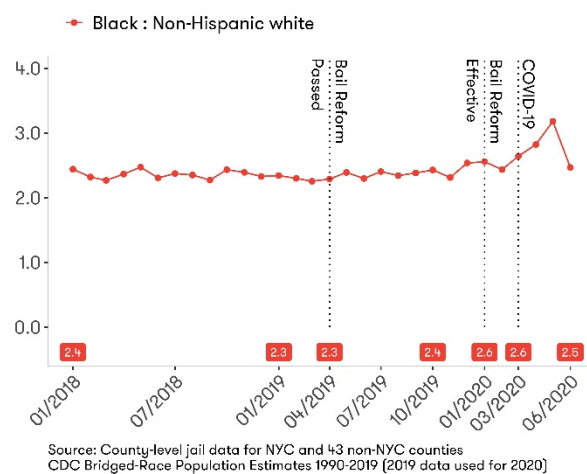
## Bail reform did not reduce the existing racial disparities in jail admissions

Although admission rates for all racial groups in the sampled counties declined substantially from January 2019 to January 2020, Black people in New York State were consistently more likely to be admitted to jail than non-Hispanic white people (see Figures 10.1 and 10.2). This disparity was somewhat stable throughout the period before the COVID-19 pandemic, including during the early implementation of bail reform, when jail admissions plummeted. In January 2020, 129 Black people per 100,000 residents were admitted to jail, 2.6 times the admission rate of non-Hispanic white people (50 per 100,000).

**Fig. 10.1: Monthly jail admission rate by race, NYC and 43 non-NYC counties**



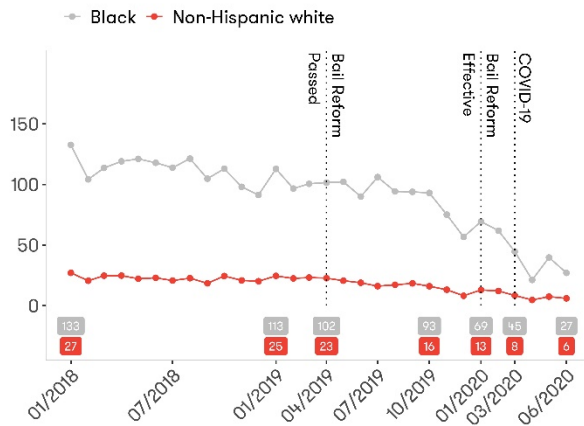
**Fig. 10.2: Admission rate ratios by race, NYC and 43 non-NYC counties**



## However, COVID-19 widened the gap between admission rates of Black and white people outside of New York City

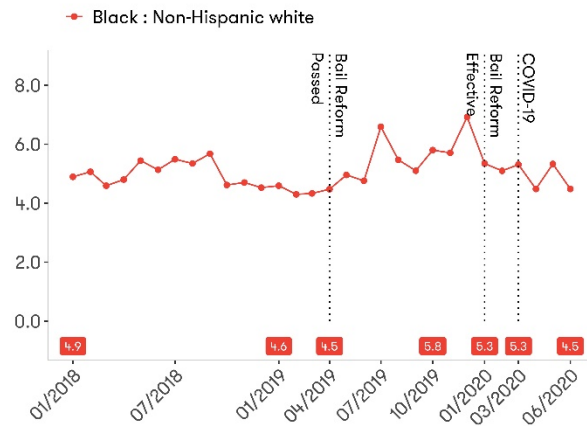
During the COVID-19 pandemic, the admission rate for non-Hispanic white people in counties outside of New York City decreased more steeply than the admission rate for Black people, exacerbating racial disparities in admission rates. In January 2020, Black people outside of New York City were 5.0 times more likely to go to jail than non-Hispanic white people; at the height of the pandemic in April, the disparity increased to 6.0 (Figure 10b.2).

Fig. 10a.1: Monthly jail admission rate by race, NYC



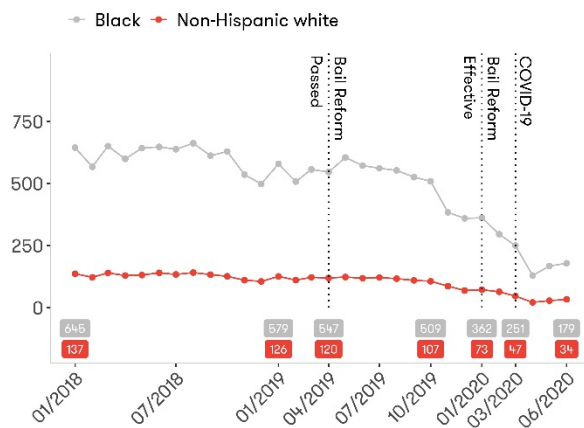
Source: NYC Open Data  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 10a.2: Admission rate ratios by race, NYC



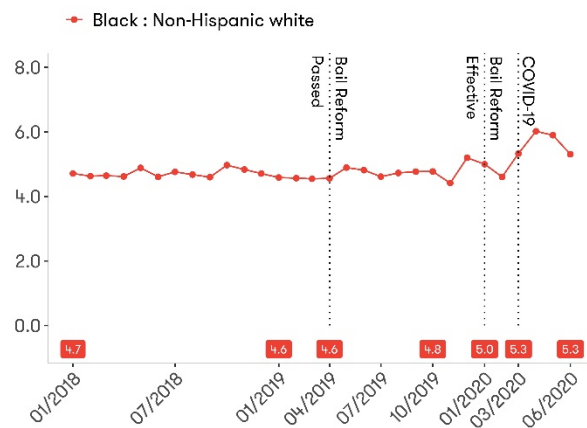
Source: NYC Open Data  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 10b.1: Monthly jail admission rate by race, 43 non-NYC counties



Source: County-level jail data for 43 non-NYC counties  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

Fig. 10b.2: Admission rate ratios by race, 43 non-NYC counties



Source: County-level jail data for 43 non-NYC counties  
CDC Bridged-Race Population Estimates 1990-2019 (2019 data used for 2020)

### 3. Pretrial detention in New York City and 40 non-NYC counties

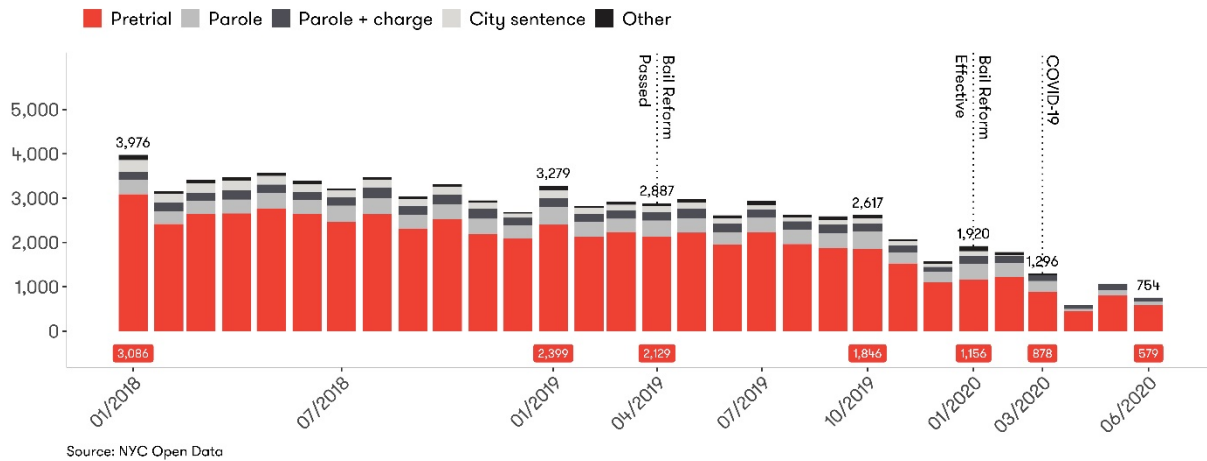
This section analyzes changes in pretrial admissions for New York City and 40 counties outside of New York City. This sample covers 74 percent of the statewide jail population and 60 percent of the jail population outside of New York City. Three counties included in section 2 were excluded from this section because they did not provide complete bail, charge, or custody status information. Due to the differences in the data sources, Vera used different approaches to define pretrial admissions for New York City and non-NYC counties. For New York City, Vera defined pretrial admission as anyone whose custody status is identified as ‘pretrial’ on the first day of custody. This includes people who were held on bail and those who were remanded without a bail set. Outside of New York City, pretrial admissions were limited to people admitted for a criminal charge with a set bail amount, which excludes people who were remanded and those with missing bail amounts. See the “Admission Status” section of Appendix B for a full discussion of how the researchers identified pretrial admissions. Due to the differences in the definition of pretrial between New York City and counties outside of New York City, comparisons of pretrial trends between two regions should be done with caution. The following section explores pretrial trends in New York City first, followed by the trends in counties outside of New York City.

#### Pretrial admissions in New York City

New York City’s pretrial admissions decreased sharply during the implementation of bail reform and then again during the pandemic

In New York City, pretrial admissions decreased from 1,846 in October 2019 to 1,156 in January 2020, a 37.4 percent drop. Before bail reform, three-quarters of people admitted to jails in New York City were admitted pretrial. The percentage of people admitted pretrial decreased as the city started to implement the new bail reform law in late 2019 (Figure 11). In January 2020, when the new law went into effect, only 60.2 percent of admissions were pretrial, reflecting a change in the way jails were being used. The COVID-19 pandemic led to a further reduction in pretrial admissions in New York City. Between March and June of 2020, pretrial admissions decreased from 878 to 579, a 34.1 percent drop.

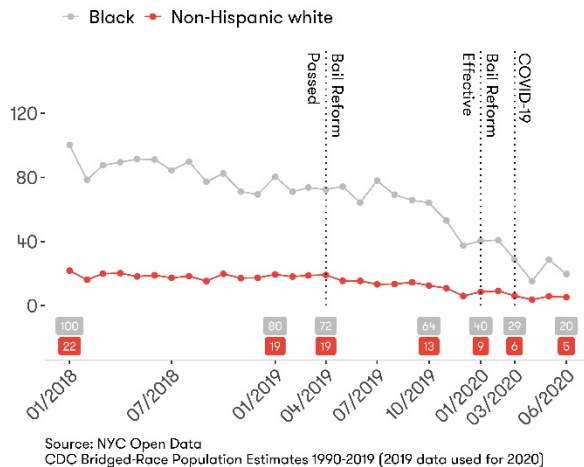
**Fig. 11: Monthly jail admissions by admission status, NYC**



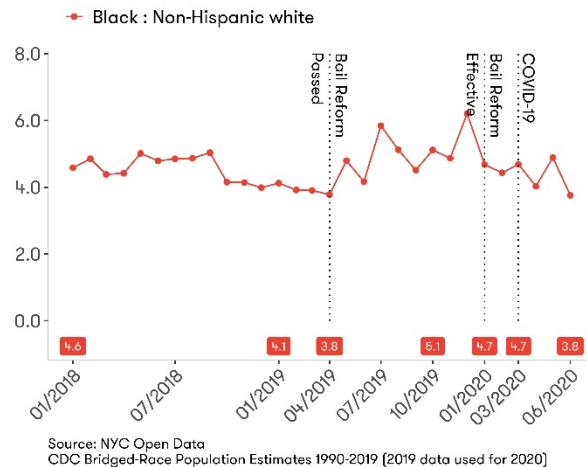
## Bail reform and COVID-19 did not reduce the existing racial disparities in NYC pretrial admissions

Although the New York City pretrial admission rate declined substantially due to bail reform among all racial groups, racial disparities persisted. The pretrial admission rate to New York City jails for Black people dropped from 80 per 100,000 in January 2019 to 40 per 100,000 in January 2020, while the rate for non-Hispanic white people dropped from 19 per 100,000 to 9 per 100,000 (Figure 12.1). In January 2020, the month when bail reform took effect, Black people were 4.7 times more likely to be admitted pretrial than non-Hispanic white people (Figure 12.2). This disparity fluctuated without a consistent trend throughout the COVID-19 pandemic.

**Fig. 12.1: Monthly pretrial admission rate by race, NYC**



**Fig. 12.2: Pretrial rate ratios by race, NYC**

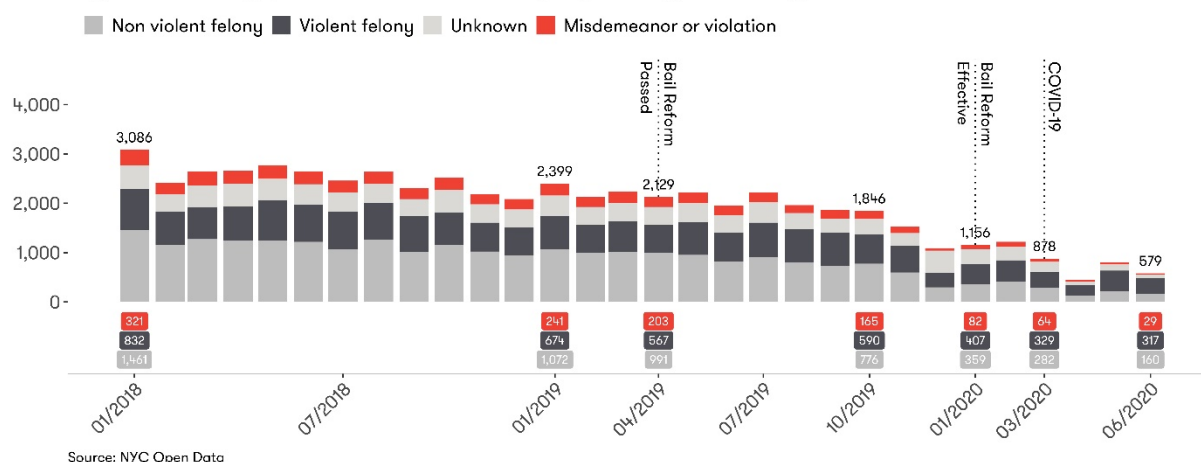


## NYC pretrial admissions for all charge severities decreased in response to bail reform

Following bail reform, fewer people were held in New York City jails on low-level charges. The number of people admitted pretrial for misdemeanors and nonviolent felonies dropped 66.4 percent. Although judges can still set bail for almost all violent felony charges under bail reform, those admissions also fell 39.6 percent during that time.

Bail reform has changed the composition of charges for which people are incarcerated pretrial in New York City. In January 2019, almost half of the people incarcerated pretrial were held on nonviolent felony charges (Figure 13). This decreased to 31.1 percent in January 2020 when the bail reform law was enacted and decreased further to 27.6 percent in June 2020. Pretrial admissions for misdemeanor or violation charges were rare in New York City even before bail reform, but decreased to consistently below 10 percent of all pretrial admissions starting in November 2019.

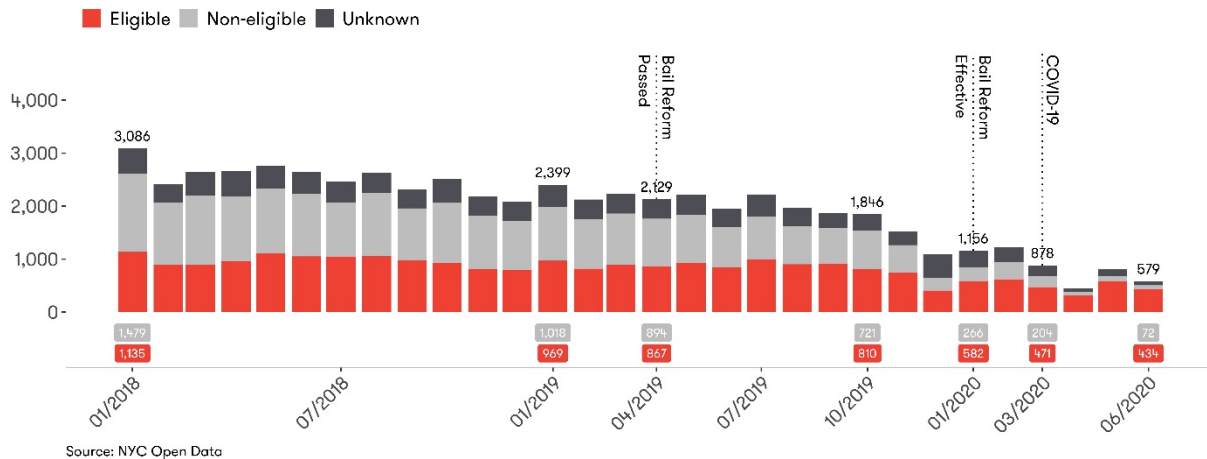
**Fig. 13: Monthly pretrial admissions by top charge severity, NYC**



## Both bail reform and the outbreak of COVID-19 were followed by reductions in NYC pretrial admissions for bail non-eligible charges

Trends in admissions for bail-eligible charges tell a similar story. Before the new law barred judges from setting bail on almost all misdemeanor and nonviolent felony charges, about 40 percent of pretrial admissions were for charges that are no longer eligible for bail (Figure 14). That percentage fell to 23.0 percent in January 2020. Although one might expect the percentage to be zero, it is possible that there are other charges besides the top charge that qualify for bail or some other reason the person was being held. Unfortunately, the current data do not provide complete information about other factors that might be associated with admissions to jail.<sup>20</sup> The COVID-19 pandemic further reduced pretrial admissions for non-eligible charges. In June 2020, 12.4 percent of pretrial admissions were for non-eligible charges, whereas 75.0 percent were for eligible charges.

**Fig. 14: Monthly pretrial admissions by top charge bail eligibility, NYC**



## NYC pretrial admissions for low-level assault and drug charges fell precipitously in the wake of bail reform

Vera’s analysis indicates that bail reform also impacted the most common charges for which people were incarcerated in New York City jails. Two of the five most common charges leading to pretrial detention in January 2019—assault in the third degree and criminal possession of a controlled substance in the third degree—were no longer eligible for bail after the reform law took effect (Figure 15). Consequently, admissions for those two charges decreased substantially from January 2019 to January 2020: assault in the third degree (penal law [PL] 120.00) fell from 132 pretrial admissions to 22 (an 83.3 percent drop), while criminal possession of a controlled substance in the third degree (PL 220.16) fell from 88 to 19 (a 78.4 percent drop).

In January 2020, the three most common charges were all bail eligible: assault in the second degree (PL 120.05), criminal possession of a weapon in the second degree (PL 265.03), and robbery in the first degree (PL 160.15). The fourth most common charge, criminal contempt in the first degree (PL 215.51), is bail eligible when associated with a violation of an order of protection in a domestic violence case. Certain subsections of the fifth most common charge, robbery in the second degree (PL 160.10), are also bail eligible. Notably, there was a substantial decline in jail admissions for assault in the second degree even though the charge was still eligible for bail.

Fig. 15. Top five pretrial admission charges in NYC counties in January 2019 and January 2020

January 2019		January 2020	
Charge	Number of Admissions (Percentage of Total Admissions)	Charge	Number of Admissions (Percentage of Total Admissions)
Assault in the 2 <sup>nd</sup> degree (PL 120.05)	132 (6.6%)	Assault in the 2 <sup>nd</sup> degree (PL 120.05)	84 (9.9%)
Assault in the 3 <sup>rd</sup> degree (PL 120.00)	132 (6.6%)	Criminal possession of a weapon in the 2 <sup>nd</sup> degree (PL 265.03)	73 (8.6%)
Criminal possession of a weapon in the 2 <sup>nd</sup> degree (PL 265.03)	110 (5.5%)	Robbery in the 1 <sup>st</sup> degree (PL 160.15)	64 (7.5%)
Criminal contempt in the 1 <sup>st</sup> degree (PL 215.51)	94 (4.7%)	Criminal contempt in the 1 <sup>st</sup> degree (PL 215.51)	58 (6.8%)
Criminal possession of a controlled substance in the 3 <sup>rd</sup> degree (PL 220.16)	88 (4.4%)	Robbery in the 2 <sup>nd</sup> degree (PL 160.10)	42 (5.0%)

## Pretrial admissions with a bail set in counties outside of New York City

### Bail reform appeared to have an even bigger impact on pretrial admissions outside of New York City

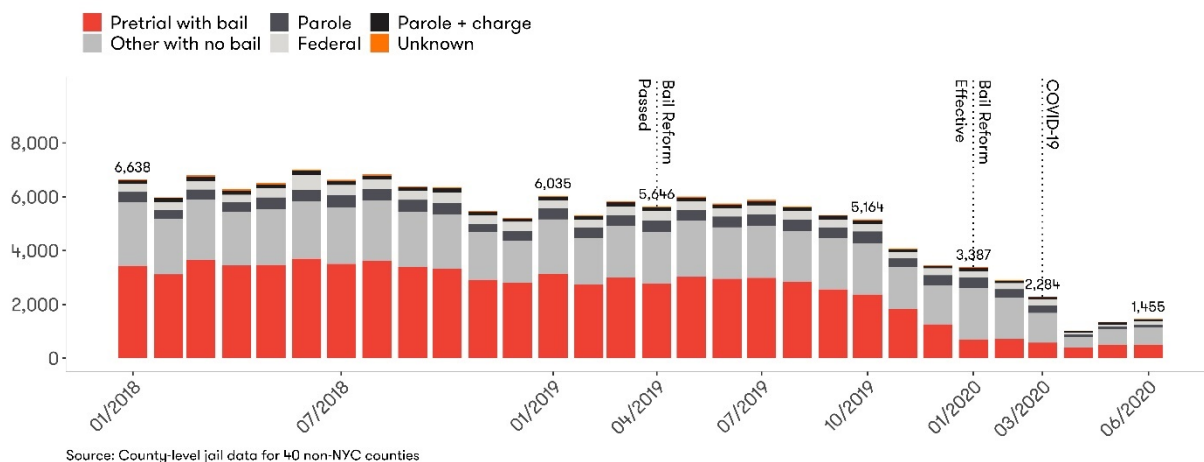
The analysis of pretrial admission trends suggests that the introduction of bail reform legislation had a substantial impact on the number of pretrial admissions in which a judge set bail (pretrial admissions hereafter) in counties sampled outside of New York City as well. From October 2019 to January 2020, the number of people admitted to jail with a bail set fell 70.8 percent, from nearly 2,400 admissions in October to less than 700 in January. From January to June 2020, the number of pretrial admissions fell by another 27.9 percent. In contrast, other admissions without bail set barely declined, from 2,040 in January 2019 to 1,906 in January 2020. This group is largely made up of people serving local sentences and those being held without bail.

The proportion of pretrial admissions decreased sharply as counties started implementing the law beginning in October 2019 (Figure 16). Before bail reform, almost half of people admitted to jails in 40 counties outside of New York City were admitted pretrial. In January



2020, after the new bail reform law went into effect, this group made up only 20.4 percent of admissions. That percentage increased back up to 34.2 percent in June 2020. Subsequent reports will explore whether this trend is temporary due to the COVID-19 pandemic or whether the trend continues and eventually reverts to the pre-reform percentage.

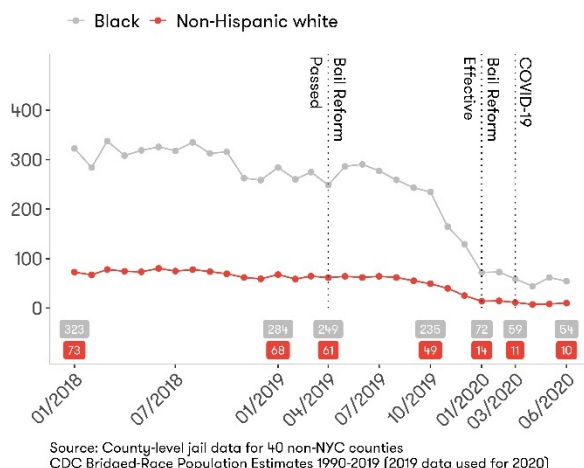
**Fig. 16: Monthly jail admissions by admission status, 40 non-NYC counties**



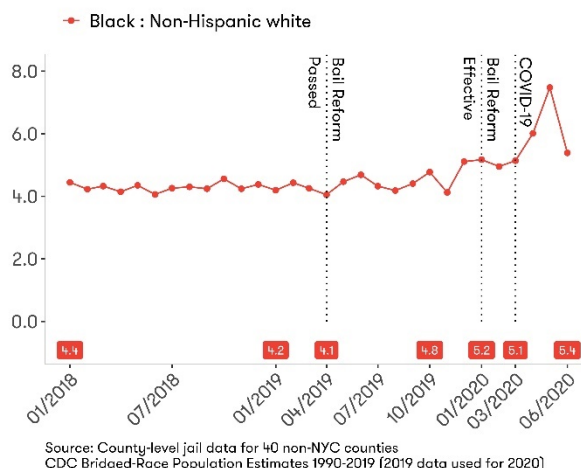
## Racial disparities in pretrial admissions outside of New York City increased following bail reform

The racial disparities in pretrial admissions widened, even as the jail admission rate decreased substantially in counties outside of New York City. In January 2019, Black people in 40 counties outside of New York City were admitted to jail pretrial 4.2 times more frequently than non-Hispanic white people. This disparity increased to 5.2 times in January 2020, despite the pretrial admission rate for Black people dropping from 284 per 100,000 in January 2019 to 72 per 100,000 in January 2020. See Figures 17.1 and 17.2.

**Fig. 17.1: Monthly pretrial admission rate by race, 40 non-NYC counties**



**Fig. 17.2: Pretrial rate ratios by race, 40 non-NYC counties**

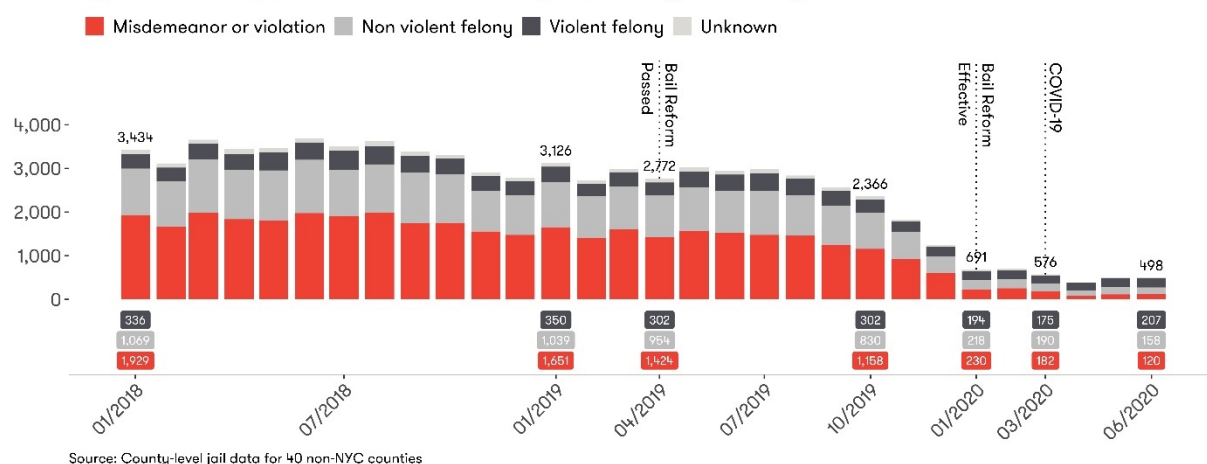


## Pretrial admissions for misdemeanor charges dropped substantially following bail reform but remained a large share of pretrial admissions outside of New York City

Pretrial jail admissions for misdemeanor or violation charges fell markedly following bail reform in counties outside of New York City. The number of pretrial admissions for misdemeanor or violation charges decreased from 1,651 in January 2019 to 230 in January 2020, a drop of 86.1 percent (Figure 18). Admissions for nonviolent felonies also dropped by almost 80 percent, from 1,039 in January 2019 to 218 in January 2020. Notably, the number of admissions for violent felony offenses fell 44.6 percent, from 350 in January 2019 to 194 in January 2020.

Although the number of pretrial admissions for lower-level charges decreased substantially, almost 60 percent of pretrial admissions were for either misdemeanor or nonviolent felony charges after bail reform. The relatively high percentage of pretrial admissions for lower-level charges suggests that these admissions might be associated with other factors, such as probation or drug court violations, that could not be identified in the current data.

**Fig. 18: Monthly pretrial admissions by top charge severity, 40 non- NYC counties**



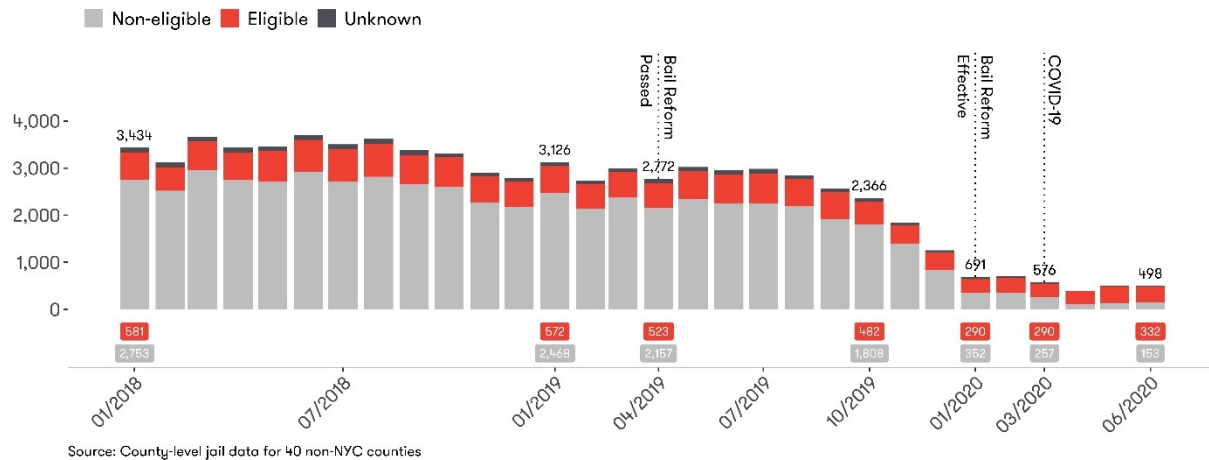
## The number of people admitted for charges that are no longer eligible for bail dropped substantially outside of New York City, leading to fewer pretrial admissions on bail non-eligible charges after bail reform

There was a drastic decline in the number of admissions for bail non-eligible charges following the implementation of bail reform. From January 2019 to January 2020, the number of admissions for non-eligible charges dropped by 85.7 percent from 2,468 to 352 (Figure 19). The number of admissions for bail eligible charges also substantially declined from 572 in January 2019 to 290 in January 2020, a 49.3 percent decline.

As expected, given the change in the charge severity of admissions, the percentage of pretrial admissions for charges eligible for bail under the new law increased dramatically starting in December 2019. From November 2019 to January 2020, the percentage of pretrial admissions with charges eligible for bail jumped from 21.3 percent to 42.0 percent. This percentage

increased to 66.7 percent in June 2020. The fact that people were still being admitted to jail on charges that are no longer eligible for bail indicates that they may have underlying charges that qualify for bail, charges that are associated with probation or drug court violations, or some other factors of the case that allowed the judge to set bail.<sup>21</sup>

**Fig. 19: Monthly pretrial admissions by top charge bail eligibility, 40 non-NYC counties**



### Non-NYC pretrial admissions for petit larceny, possession of controlled substance in the seventh degree, and certain traffic law offenses dropped precipitously after bail reform

Between January 2019 and January 2020, there was a clear shift in the most common pretrial admission charges. Four of the five most common charges in January 2019 (all but criminal contempt in the second degree) were no longer eligible for bail under the new law (Figure 20). Pretrial admissions for these charges dropped substantially between January 2019 and January 2020. Pretrial admissions for aggravated unlicensed operation of a motor vehicle (vehicle and traffic law 511), the most common charge outside of New York City, dropped from 297 in January 2019 to 16 in January 2020 (a 94.6 percent decrease). Admissions for the other three charges—petit larceny (PL 155.25), criminal possession of a controlled substance in the seventh degree (PL 220.03), and operating a motor vehicle while under the influence of alcohol (vehicle and traffic law 1192)—also decreased by more than 70 percent between January 2019 and January 2020.

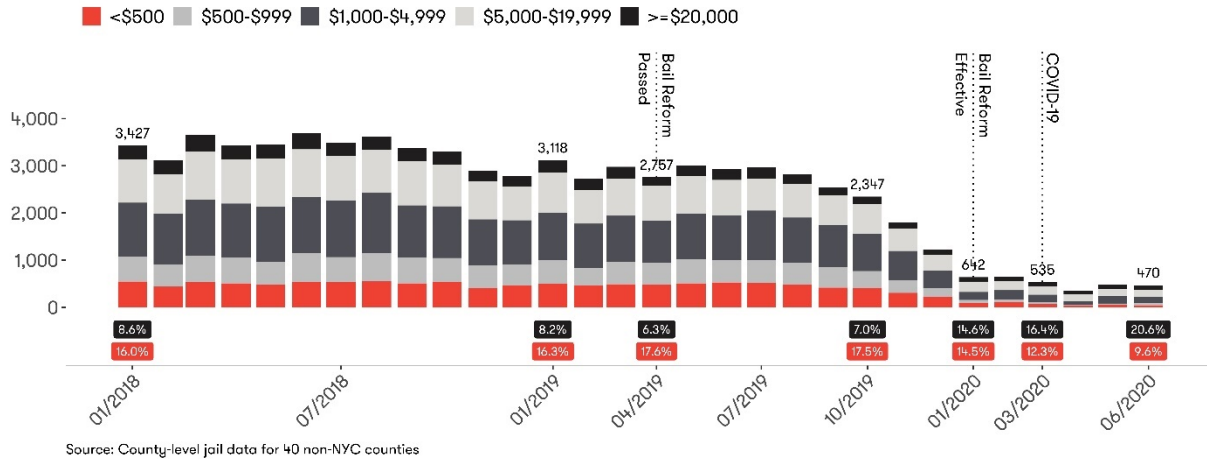
Fig. 20. Top five pretrial admission charges in 40 non-NYC counties in January 2019 and January 2020

January 2019		January 2020	
Charge	Number of admissions (percentage of total admissions)	Charge	Number of admissions (percentage of total admissions)
Aggravated unlicensed operation of a motor vehicle (Vehicle and Traffic Law [VTL] 0511)	297 (9.8%)	Criminal contempt in the 1st degree (PL 215.51)	53 (8.3%)
Petit larceny (PL 155.25)	281 (9.2%)	Operating a motor vehicle while under the influence of alcohol (VTL 1192)	45 (7.0%)
Criminal possession of a controlled substance in the 7 <sup>th</sup> degree (PL 220.03)	233 (7.7%)	Criminal possession of a controlled substance in the 7 <sup>th</sup> degree (PL 220.03)	45 (7.0%)
Operating a motor vehicle while under the influence of alcohol (VTL 1192)	162 (5.3%)	Assault in the 2 <sup>nd</sup> degree (PL 120.05)	44 (6.9%)
Criminal contempt in the 2 <sup>nd</sup> degree (PL 215.50)	118 (3.9%)	Petit larceny (PL 155.25)	41 (6.4%)

## After bail reform, judges set bail less often but still set bail higher than a person can afford

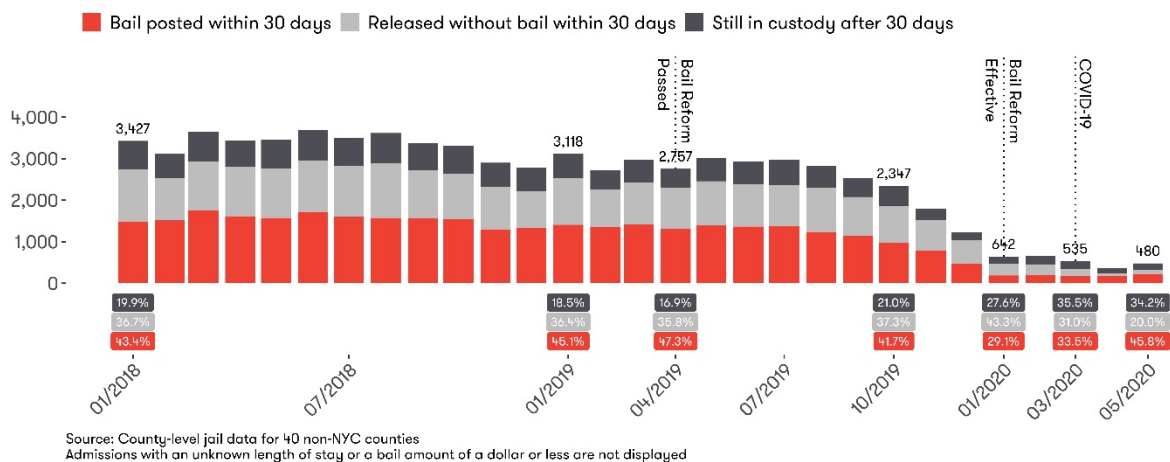
Prior to bail reform, thousands of people were held in jail every day because they could not afford to pay bail, which was sometimes set at as little as \$500. Before November 2019, close to 1,000 people were admitted to jail each month with a bail set lower than \$1,000 (Figure 21). The number started to drop abruptly in October 2019 as counties implemented the new bail reform law and decreased to below 800 for the first time since January 2018. In January 2020, about 160 people were admitted to jail with a bail under \$1,000. The number of people held on higher bail amounts also decreased substantially from 1,111 in January 2019 to 317 in January 2020—an 83.3 percent decline for bail amounts between \$1,000–\$4,999 and a 71.5 percent decline for bail amounts greater than \$5,000.

**Fig. 21: Monthly pretrial admissions by cash bail set amount, 40 non- NYC counties**

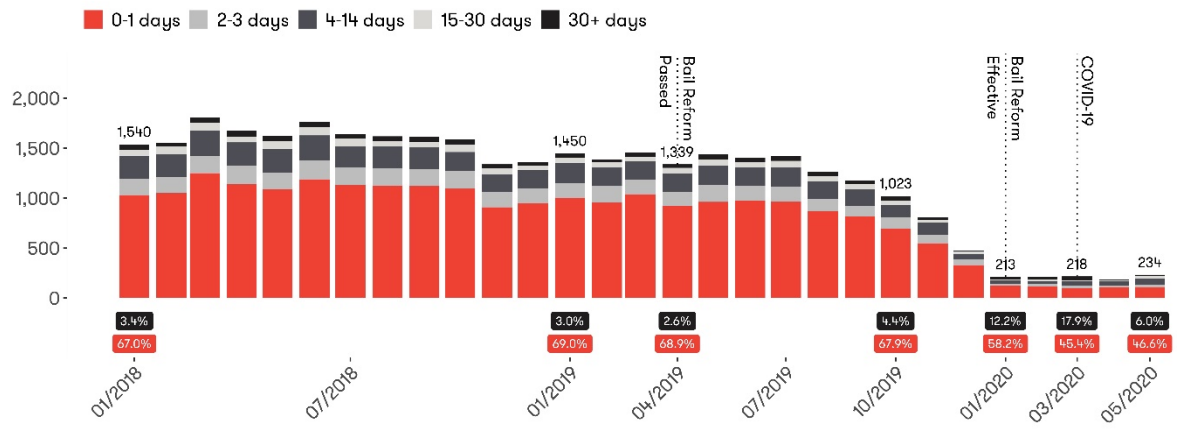


Although the number of people held on bail decreased substantially after bail reform went into effect, the percentage of people who paid bail within 30 days of jail admission decreased from 40 percent in months before implementation of reform to 29.1 percent after January 2020 (Figure 22). The percentage of people who were able to pay bail within one day decreased as well, most likely due to the increase in the percentage of people facing larger bail amounts. In January 2019, 69.0 percent of people who posted bail were able to pay within a day, compared to 58.2 percent in January 2020 (Figure 23). This suggests that judges still set bail higher than a person can afford on some bail eligible cases and casts doubt on whether judges are accounting for people’s ability to pay when they set bail, a crucial aspect of the new legislation. Vera’s upcoming studies will examine the process by which judges make bail decisions and how judges assess financial circumstances.

**Fig. 22: Monthly pretrial admissions by release status after 30 days, 40 non- NYC counties**



**Fig. 23: Monthly pretrial admissions by length of stay before making bail, 40 non-NYC counties**



Source: County-level jail data for 40 non-NYC counties  
 Admissions with an unknown length of stay or a bail amount of a dollar or less are not displayed

## Conclusion

New York State passed a bail reform law in 2019 to reduce the use of cash bail and heavy reliance on incarceration. It is too early to understand the full impact of bail reform on New York's criminal legal system; however, Vera's analyses are exploring trends in incarceration to document the changes as they happen. Although the analyses do not isolate the impact of bail reform from other factors that are associated with these changes, exploring incarceration trends is still valuable for ongoing policy discussions. The current brief is the first of Vera's six-part jail brief series, which will be updated every six months from 2021 to 2023. Vera's findings suggest that the New York State jail population decreased substantially as a result of the 2019 bail reform legislation. Even though the decrease was ongoing before the bail reform law passed, a substantial drop that started in the two to three months before the reform went into effect suggests that the early implementation of bail reform was a main driving force of this trend. The dramatic declines in admissions for misdemeanor and nonviolent felony charges, particularly outside of New York City, also suggest that the new law effectively reduced the statewide jail population. Interestingly, the number of people admitted for charges still eligible for bail also declined considerably. This might indicate a change in the front end of the system, such as arrest and crime trends or a broader cultural change in bail setting practices that might not be the direct result of bail reform. Further analysis is needed to examine possible causes of the decrease among charges that are not expected to be affected by the bail reform.

The jail population continued to decline after the start of the COVID-19 pandemic in March. Understanding the full impact of bail reform and its interplay with the COVID-19 pandemic will require further analyses with a longer observation period. Moreover, as COVID-19 was spreading unchecked throughout New York State, the legislature voted to amend parts of the bail reform law and allow judges to set bail for additional charges. Those changes went into effect in July 2020 and their influence on the jail population will be investigated in future briefs. Preliminary data from the New York State Division of Criminal Justice Services show that the jail population, particularly for people detained pretrial, has been increasing since July.<sup>22</sup> Vera's subsequent reports will explore the reasons behind this recent uptick to better understand the changes in the jail population during the second half of 2020.

## Appendix A: List of counties by data availability

<b>County</b>	<b>Average daily jail population (June 2020)</b>	<b>Section 1</b>	<b>Section 2</b>	<b>Section 3</b>
Albany	261	✓	✓	✓
Allegany	63	✓	✓	✓
Broome	302	✓	✓	✓
Cattaraugus	80	✓	✓	
Cayuga	147	✓	✓	✓
Chautauqua	117	✓		
Chemung	68	✓	✓	✓
Chenango	56	✓	✓	✓
Clinton	99	✓	✓	✓
Columbia	33	✓	✓	✓
Cortland	38	✓	✓	✓
Delaware	29	✓	✓	✓
Dutchess	131	✓	✓	✓
Erie	504	✓	✓	✓
Essex	49	✓	✓	✓



<b>County</b>	<b>Average daily jail population (June 2020)</b>	<b>Section 1</b>	<b>Section 2</b>	<b>Section 3</b>
Franklin	55	✓	✓	✓
Fulton	41	✓	✓	✓
Genesee	37	✓	✓	✓
Greene	26	✓	✓	✓
Hamilton	1	✓		
Herkimer	27	✓	✓	✓
Jefferson	82	✓		
Lewis	18	✓	✓	✓
Livingston	81	✓		
Madison	52	✓	✓	✓
Monroe	597	✓	✓	✓
Montgomery	78	✓	✓	✓
Nassau	608	✓		
Niagara	242	✓	✓	✓
Oneida	222	✓	✓	✓
Onondaga	480	✓	✓	

<b>County</b>	<b>Average daily jail population (June 2020)</b>	<b>Section 1</b>	<b>Section 2</b>	<b>Section 3</b>
Ontario	81	✓	✓	✓
Orange	366	✓	✓	✓
Orleans	19	✓		
Oswego	72	✓	✓	✓
Otsego	33	✓	✓	✓
Putnam	27	✓		
Rensselaer	194	✓	✓	✓
Rockland	85	✓		
Saratoga	105	✓		
Schenectady	130	✓		
Schoharie	10	✓	✓	✓
Schuyler	8	✓	✓	✓
Seneca	38	✓	✓	✓
St. Lawrence	57	✓	✓	✓
Steuben	125	✓	✓	✓
Suffolk	485	✓		

<b>County</b>	<b>Average daily jail population (June 2020)</b>	<b>Section 1</b>	<b>Section 2</b>	<b>Section 3</b>
Sullivan	78	✓	✓	✓
Tioga	34	✓	✓	✓
Tompkins	36	✓	✓	✓
Ulster	92	✓		
Warren	59	✓	✓	✓
Washington	32	✓	✓	✓
Wayne	39	✓		
Westchester	506	✓		
Wyoming	19	✓	✓	✓
Yates	27	✓	✓	
New York City	3,878	✓	✓	

## Appendix B: Methodology

### Data collection

For Section 1, Vera researchers analyzed monthly jail population data published by the Division of Criminal Justice Services (DCJS) between January 2018 and June 2020.<sup>23</sup> For Section 2, researchers analyzed 48 county-level jail admission and release datasets obtained from (a) Freedom of Information Law (FOIL) requests (41 counties), (b) data-sharing agreements with sheriff's departments (two counties) and (c) the NYC Open Data site (five counties).<sup>24</sup> For Section 3, researchers analyzed data from the 40 counties that provided complete demographic, charge, bail, and custody status data. Fourteen counties (Chautauqua, Hamilton, Jefferson, Livingston, Nassau, Orleans, Putnam, Rockland, Saratoga, Schenectady, Suffolk, Ulster, Wayne, and Westchester) were excluded from this report entirely because they did not provide complete demographic data or because there was a large discrepancy between monthly jail population estimated from the data and the monthly jail population reported by DCJS. See Appendix A for the complete list of counties by data availability. For each county, research removed entries with a missing release date and an inordinately long (90<sup>th</sup> to 100<sup>th</sup> percentile, varied by county) length of stay to minimize the discrepancy between FOIL population counts and DCJS population counts.

Researchers used yearly county-level estimates of the 16- to 64-year-old population from the Center for Disease Control's Bridged-Race Population Estimates to calculate incarceration rates. The 2019 population data was used in lieu of 2020 population estimates. All rates are calculated per 100,000 residents.

### Data standardization

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

**Admission status.** Researchers defined New York City pretrial admissions as entries with a "DE" inmate status code on the first date they appeared in daily custody files published on NYC Open Data. None of the non-NYC counties sampled provided sufficient data to isolate pretrial admissions. Instead, researchers created a "Pretrial with Bail" category—non-federal, non-parole admissions for which a top charge and cash bail amount were listed—as a proxy for pretrial admissions, as well as an "Other with No Bail" category—non-federal, non-parole admissions for which a top charge was listed but not a bail amount. The "Other with No Bail" category includes people who were remanded, people serving local sentences, and people awaiting prison transfer after a conviction. Federal and parole admissions were identified using county-specific variables, such as long-form charge descriptions and custody status flags (where available). 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 they 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 June 30, 2020, the last date of the sample period. Admission entries with no release date recorded and an inordinately long length of stay on June 30, 2020, 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 three groups: Black (or Hispanic), non-Hispanic white, and other. Vera’s analysis focuses on comparisons between the Black and non-Hispanic white groups. Forty-four counties provided both race and ethnicity information, and eight provided only race information (including three that recorded “Hispanic” as a race). For those eight counties, all “white” admissions were assumed as non-Hispanic 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.<sup>25</sup> Only penal law (PL) charges are recorded in NYC Open Data, resulting in a higher percentage of unknown charges. Thirty-three non-NYC counties provided long-form charge descriptions in lieu of charge codes. Though researchers were able to map most of these descriptions to codes using the DCJS Code Manual, some descriptions (for example, descriptions of local ordinances and probation violations, as well as mistyped or irregular descriptions of state statutes) could not be parsed, resulting in 4.1 percent of non-NYC “pretrial” admission entries with an unknown top charge.

**Bail eligibility.** Charge bail eligibility was determined from the list of January 2020 reform qualifying offenses in NY CLS CPL § 510.10.<sup>26</sup> Only 12 counties provided charge subsection data, so 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.

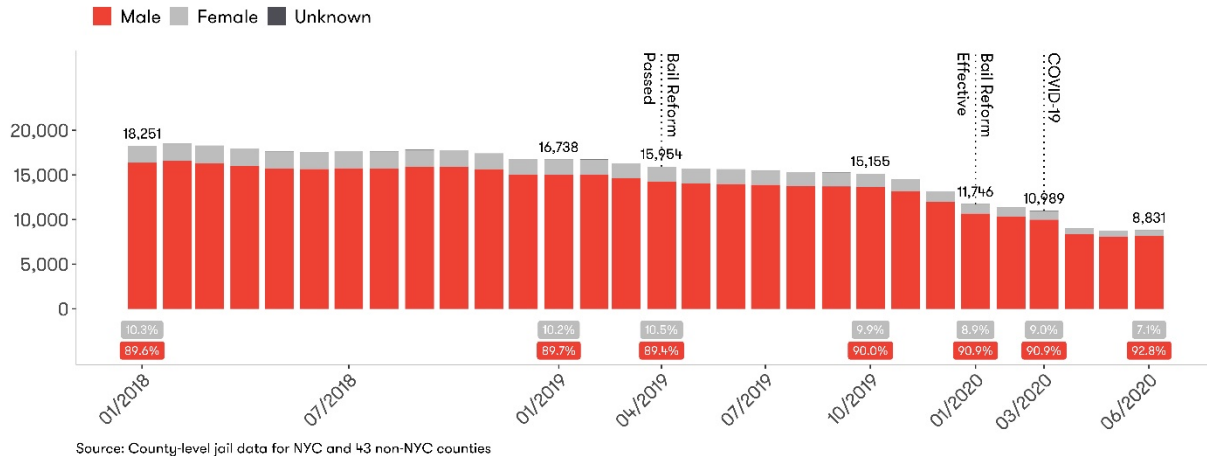
**Bail amounts.** Bail amount information was available only in counties outside of New York City. The researchers used the maximum cash bail amount for admission records with multiple bail amounts listed.

**Median bail amounts.** Median cash bail amount was calculated excluding a \$1 bail, an administrative bail set for a person accused of a crime to get credit for the time they are held in custody.

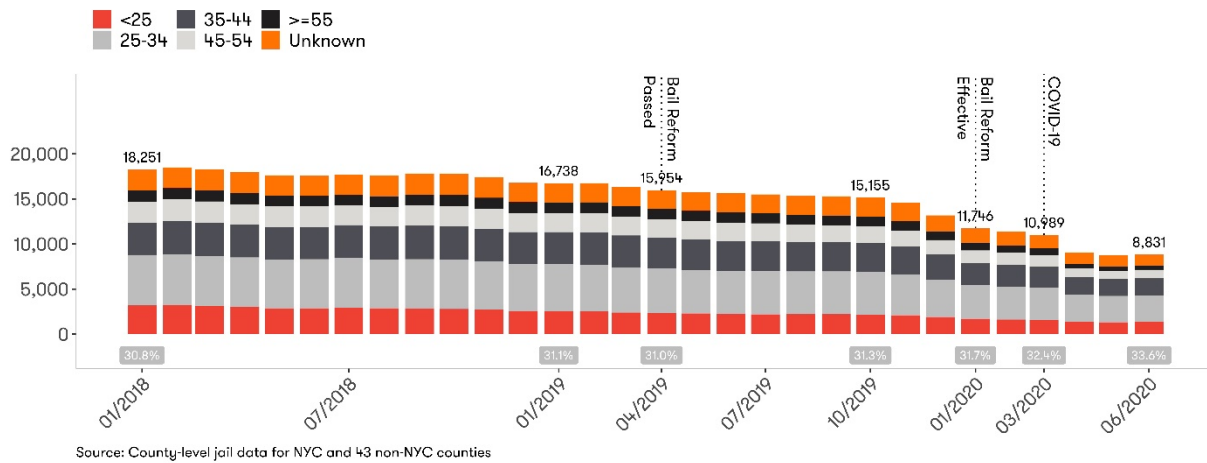
**Bail posting status.** Bail posting status was determined by whether a person was released within 30 days either after paying bail or for other unspecified reasons. “Pretrial” admissions with a length of stay less than 30 days and an indication of “bail” or “bond” in their discharge status were categorized as admissions with “bail posted within 30 days.” “Pretrial” admissions with a length of stay less than 30 days and no indication of “bail” or “bond” in their discharge status were categorized as admissions “released without bail within 30 days.” All other “pretrial” admissions were categorized as “still in custody after 30 days.”

# Appendix C: Daily jail population and admission by gender and age

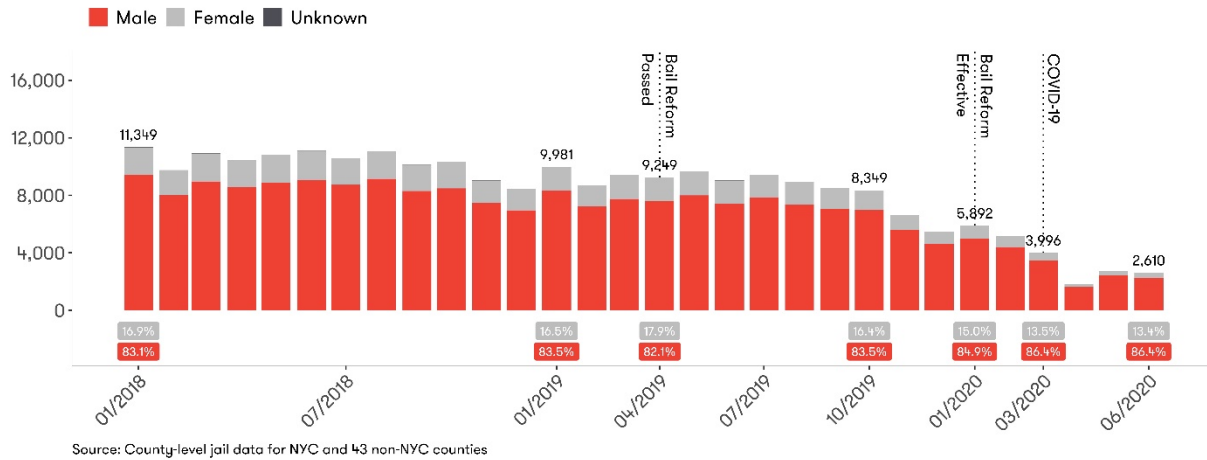
**Appendix C.1: Daily jail population by gender, NYC and 43 non-NYC counties**



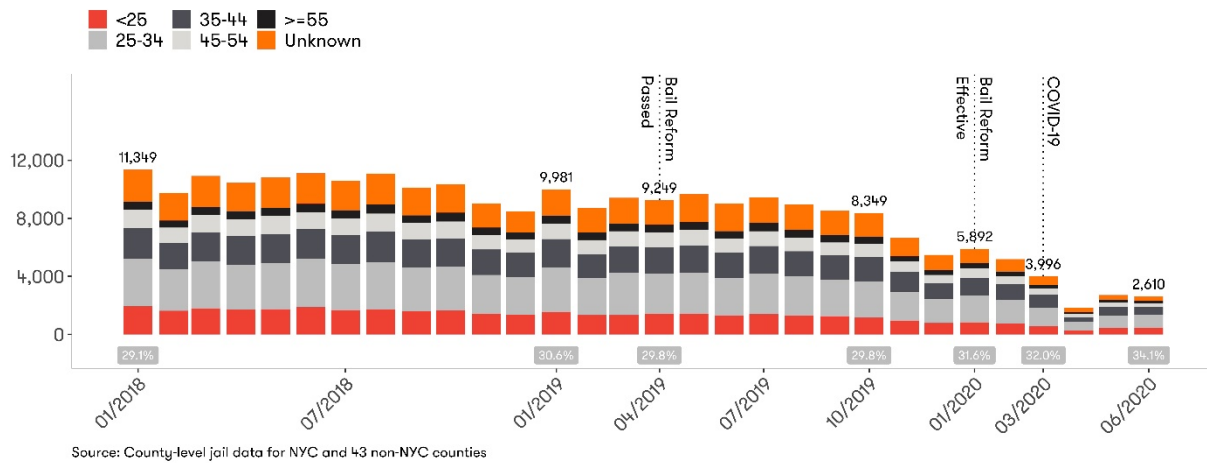
**Appendix C.2: Daily jail population by age, NYC and 43 non-NYC counties**



### Appendix C.3: Monthly jail admissions by gender, NYC and 43 non-NYC counties



### Appendix C.4: Monthly jail admissions by age, NYC and 43 non-NYC counties





## Endnotes

- 1 Vera Institute of Justice, "Incarceration Trends," <http://trends.vera.org/rates/new-york-city-ny>.
- 2 New York SB S1509-C (2019) and New York AB A2009-C (2019).
- 3 Insha Rahman, *New York, New York: Highlights of the 2019 Bail Reform Law* (New York: Vera Institute of Justice, 2019), <https://www.vera.org/downloads/publications/new-york-new-york-2019-bail-reform-law-highlights.pdf>; and New York S1509C, Sess. of 2020 (NY 2020), <https://www.nysenate.gov/legislation/bills/2019/s1509>.
- 4 The amendments to the bail law went into effect in July 2020. Barry Kamins gives an overview of the changes. See B. Kamins, "Bail, Discovery, and Speedy Trial: The New Reforms," *New York Law Journal*, June 1, 2020, <https://www.law.com/newyorklawjournal/2020/06/01/bail-discovery-and-speedy-trial-the-new-reforms/>.
- 5 New York State Division of Criminal Justice Services, "New York State Jail Population 10 Year Trends: 2009–2018," <https://perma.cc/R4JP-F859>.
- 6 Vera Institute of Justice, "Empire State of Incarceration," [www.vera.org/state-of-incarceration](http://www.vera.org/state-of-incarceration).
- 7 Cash bail is still an option for misdemeanor sex offense and criminal contempt (violating an order of protection). Nonviolent felonies involving sex offense, criminal contempt, witness intimidation or tampering, conspiracy to commit murder, and terrorism related charges are still eligible for bail. For a detailed description of the bail reform laws, see Rahman, 2019.
- 8 Vera Institute of Justice, "Bail Reform's Impact on Jail Incarceration: What We Know Thus Far," <https://www.vera.org/downloads/publications/bail-reforms-impact-on-jail-incarceration.pdf>.
- 9 Although the current report focuses on the incarceration trends between January 2018 and June 2020, the statewide jail incarceration data collected by Vera go back to 2016. The statewide jail population has consistently decreased since 2016. See New York State Division of Criminal Justice Services, "New York State Jail Population 10 Year Trends: 2010–2019," [https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_pop\\_y.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf). Unless stated

otherwise, the number of people incarcerated in a given month is measured as the average daily jail population in that month.

10 Dan Clark, "Why Arrests Plummeted During New York's COVID-19 Peak," *City and State New York*, May 21, 2020, <https://www.cityandstateny.com/articles/policy/criminal-justice/why-arrests-plummeted-during-new-yorks-covid-19-peak.html>.

11 Douglass Dowty, "Have a Court Date? Here's the List of 'Essential' Cases; NYC Trying Out 'Virtual' Courts," *Syracuse.com*, March 23, 2020, <https://www.syracuse.com/crime/2020/03/have-a-court-date-heres-the-list-of-essential-cases-nyc-trying-out-virtual-courts.html>; Tess Owen, "New York City Has Released 900 Inmates Over Coronavirus Fears," *VICE.com*, March 31, 2020, <https://www.vice.com/en/article/4agmem/new-york-city-has-released-900-inmates-over-coronavirus-fears>; and Ryan Whalen, "17 Inmates From Erie County Jails in Effort to Combat Coronavirus," *Spectrum News*, April 7, 2020, <https://spectrumlocalnews.com/nys/central-ny/politics/2020/04/07/17-inmates-released-from-erie-county-jails->.

12 "Local Sheriffs Attend State Rally to Repeal Bail Reform Measures," *The Leader-Herald*, February 5, 2020, <https://www.leaderherald.com/news/community-news/2020/02/local-sheriffs-attend-state-rally-to-repeal-bail-reform-measures/>; and Todd Maisel, "New York Budget Bill Includes Criminal Justice Reform Roll-backs, Hate Crimes Become 'Domestic Terrorism,'" *AMNY*, April 3, 2020, <https://www.amny.com/politics/new-york-budget-bill-includes-criminal-justice-reform-roll-backs-hate-crimes-become-domestic-terrorism/>.

13 Division of Criminal Justice Services data from <https://www.criminaljustice.ny.gov/crimnet/ojsa/stats.htm>; New York City data from <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>. Daily files were not collected between December 11, 2019, and January 3, 2020. As many entries as possible were recovered from the jail admissions file on NYC Open Data: <https://data.cityofnewyork.us/Public-Safety/Inmate-Admissions/6teu-xtgp>.

14 In New York, people who are convicted of misdemeanor charges and sentenced up to one year serve that time in local jails instead of state prisons.

15 Several empirical studies have found that pretrial detention increases the probability of conviction and the probability of taking guilty pleas. See Will Dobbie, Jacob Goldin, and

Crystal S. Yang, "The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges," *American Economic Review* 108, no. 2 (2018): 201-240, <https://pubs.aeaweb.org/doi/pdf/10.1257/aer.20161503>; Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *Investigating the Impact of Pretrial Detention on Sentencing Outcomes* (Arnold Foundation, November 2013), <https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=172dd7bf-96cf-aa8d-75d0-399b1a9b17e3&forceDialog=0>.

**16** On March 19, 2020, the New York State Department of Corrections and Community Supervision temporarily stopped transporting newly sentenced people to state facilities, increasing the number of people awaiting transfer to prison. See "NY Should Halt Unnecessary Inmate Transports, Union Says," 7 News, March 19, 2020, <https://www.wwnytv.com/2020/03/19/ny-should-halt-unnecessary-inmate-transports-union-says/>.

**17** Between March 16 and March 25, 2020, New York City jails released 480 people who were sentenced to jail. See New York City Mayor's Office of Criminal Justice, "New York City Jail Population Reduction in the Time of COVID-19," <https://criminaljustice.cityofnewyork.us/wp-content/uploads/2020/05/COVID-factsheet-MAY-25-2020.pdf>.

**18** The reporting of race and ethnicity data varied across counties. In light of this limitation, the researchers standardized the data into three categories: Black, non-Hispanic white, and other. Please see the methodology section for a complete description.

**19** A short-term increase in jail admissions from December to January also occurred in 2018 and 2019. This pattern also mirrors the increase in arrests that happens every year in New York City from December to January. See NYPD Arrests (Historic), NYC OpenData, <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrests-Data-Historic-/8h9b-rp9u>.

**20** Analysis of individual counties indicates a small percentage of people being held on a bail eligible charge, others being held for an unrelated case, and some being held after initially being released at arraignment.

**21** Additional analyses of individual counties indicate that a small percentage of people have another charge that is eligible for bail, others have additional cases for which they are being held, and some admissions are unexplained with the available data.

22 New York State Division of Criminal Justice Services, "Jail Population in New York State," <https://www.criminaljustice.ny.gov/crimnet/ojsa/stats.htm>.

23 Ibid.

24 NYC Open Data, "Daily Inmates in Custody," <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>.

25 New York State Division of Criminal Justice Services, "DCJS Charge Code Manual," revised August 25, 2020, <https://www.criminaljustice.ny.gov/crimnet/ccman/ccman.htm>.

26 N.Y. Criminal Procedure Law §510.10, <https://www.nysenate.gov/legislation/laws/CPL/510.10>.

### **Credits**

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For more information about this report, contact Jaeok Kim, senior research associate, Center on Sentencing and Corrections, at [jkim@vera.org](mailto:jkim@vera.org).