



Committee on Public Safety

~AGENDA~

Monday, February 24, 2020

3:00 PM

Committee Chair: Colin Smith

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

MINUTES APPROVAL

1. Monday, February 03, 2020 at 10:01 AM

I. ITEMS FOR DISCUSSION

Department of Corrections Organizational Overview

Guests: Commissioner Joe Spano, First Deputy Commissioner Louis Molina and Deputy Commissioner Leandro Diaz

-Presentation from the Department of Corrections

Other Items:

-Staffing and Census

-Update on recent incidents at County Correctional Facilities

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

1. **(ID # 12385) Communication – HON. DAMON R. MAHER: NYTimes Article - "There's a Strong Case for Sticking with Bail Reform":**

Forwarding a *New York Times* article entitled, "There's a Strong Case for Sticking with Bail Reform."

2. **(ID # 12386) Communication – HON. DAMON R. MAHER: The Tribune Article - "Impact of ending most cash bail in NY: Hundreds of empty jail cells":**

Forwarding an article from *The Tribune* entitled, "Impact of ending most cash bail in NY: Hundreds of empty jail cells" as well as questions regarding reallocation of resources.

ADJOURNMENT



Committee on Public Safety

~MINUTES~

Monday, February 3, 2020

10:01 AM

DRAFT

Committee Chair: Colin Smith

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Meeting jointly with the Committee on Budget & Appropriations

Attendee Name	Title	Status	Arrived
Colin Smith	Chair	Present	
Nancy Barr	D6 Legislator	Present	
Margaret A Cunzio	D3 Legislator (Minority Leader)	Present	
Kitley Covill	D2 Legislator	Present	
Christopher Johnson	D16 Legislator (Majority Whip)	Present	
MaryJane Shimsky	D12 Legislator (Majority Leader)	Present	
Benjamin Boykin	D5 Legislator (Chairman)	Present	

Others In Attendance: BOL: Catherine Borgia, Vedat Gashi, Ruth Walter, Damon Maher, Catherine Parker, David Tubiolo, Greg Casciato, Jaevon Boxhill, Carolyn Stevens, Lisa Hochman, Tatyana Martinez, Beth Lobello, Alessandra Restiano GUESTS: Mark Stefeno

MINUTES APPROVAL

1. Tuesday, January 21, 2020 at 3:00 PM

On motion of Legislator Cunzio, seconded by Legislator Shimsky the minutes were approved 7 - 0.

I. ITEMS FOR DISCUSSION

1. **(ID # 12342) Act – IMA-Fire Protection Services-Pound Ridge Fire District:**

AN ACT authorizing the County of Westchester to enter into an intermunicipal agreement with the Pound Ridge Fire District to provide fire protection services for a term of five (5) years commencing on January 1, 2020 and expiring on December 31, 2024, in an amount not to exceed FORTY-ONE THOUSAND, SIX HUNDRED SIXTY-SIX DOLLARS AND SIXTY-FIVE CENTS (\$41,666.65).

Joint with B&A.

DES: John Cullen, Commissioner

Commissioner Cullen appeared before the Committee to discuss item #12342 Act-IMA-Fire Protection Services-Pound Ridge Fire District. Commissioner Cullen gave an overview of the IMA beginning January 1, 2020 and expiring on December 31, 2024. The term of this IMA will last for five (5) years and is not to exceed forty-one thousand, six hundred sixty-six dollars and sixty-five cents (\$41,666.65), subject to appropriation, eight thousand, three

hundred thirty-three dollars and thirty-three cents (\$8,333.33) per year. The district will provide fire services to the county facilities located in the northern portion of the Ward Pound Ridge Reservation. The current agreement expired on December 31, 2019. Since 1992, the district has provided fire protection services to the northern portion of the Ward Pound Ridge Reservation, which lies inside the boundaries of the Town of Lewisboro and Westchester County, however it is outside the boundaries of their fire district. Commissioner Cullen noted the amount of money stays the same. The only difference between the old agreement and the new agreement is the length. Previously the term lasted three (3) years. The new agreement is for five (5) years.

With a motion by Legislator Covill and seconded by Legislator Shimsky the item was approved with a vote of 7-0.

RESULT: SIGNED BY COMMITTEE

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

1. **(ID # 12352) Communication – HON. MARYJANE SHIMSKY: Interfaith Caring Community of Greenburgh Statement on Hate Activities:**

Forwarding a Statement from the Interfaith Caring Community of Greenburgh on Hate Activities.

With a motion by Legislator Cunzio and seconded by Legislator Shimsky the item below was received & filed with a vote of 7 to 0.

RESULT: RECEIVED AND FILED

2. **(ID # 12356) Communication – HON. MARYJANE SHIMSKY: FEMA Intergovernmental Affairs Advisory - "FEMA Releases 2019 National Preparedness Report":**

Forwarding the FEMA 2019 National Preparedness Report.

With a motion by Legislator Cunzio and seconded by Legislator Shimsky the item below was received & filed with a vote of 7 to 0.

RESULT: RECEIVED AND FILED

3. **(ID # 12357) Communication – HON. MARYJANE SHIMSKY: Village of Ardsley Resolution against Anti-Semitism:**

Forwarding a Resolution from the Village Board of the Village of Ardsley against anti-Semitism.

With a motion by Legislator Cunzio and seconded by Legislator Shimsky the item below was received & filed with a vote of 7 to 0.

RESULT: RECEIVED AND FILED

ADJOURNMENT

Moved by Legislator Cunzio seconded by Legislator Shimsky the Committee adjourned at 10:30 PM.

Minutes Acceptance: Minutes of Feb 3, 2020 10:01 AM (MINUTES APPROVAL)



Voice of the People of Westchester County for over 300 years.

MEMORANDUM

TO: Benjamin Boykin, Chair

CC: NY State Senator Andrea Stewart-Cousins
NY State Senator Shelly Mayer
Assembly Member Amy Paulin
Assembly Member Steven Otis

FROM: Damon R. Maher, Legislator – 10th District

DATE: January 27, 2020

RE: **NYT Article on Bail Reform Ending Mass Incarceration**

Please add the attached NY Times article date January 24, 2020 entitled “ *There’s a Strong Case for Sticking With Bail Reform* ” by Emily Bazelon and Insha Rahman to the Public Safety, Social Services and Legislation committees on behalf of Legislator Maher.

Here is a link to the article: <https://www.nytimes.com/2020/01/24/opinion/sunday/bail-reform-new-york.html>.

There's a Strong Case for Sticking With Bail Reform

The New York law has been on the books for less than a month and already the critics are on the attack.

By **Emily Bazelon** and **Insha Rahman**

Ms. Bazelon is a staff writer for The New York Times Magazine. Ms. Rahman is the director of strategy and new initiatives at the Vera Institute of Justice.

Jan. 24, 2020

Since bail reform began in New York on Jan. 1, opponents have been hard at work to create a backlash against the new law, sometimes wrongly blaming it for the commission of crimes by people they say should have been jailed for earlier offenses, and warning of broad danger to the public.

Using this old script, prosecutors and police chiefs are demanding rollbacks as a public opinion survey shows that support for bail reform is falling. Largely untold are the stories of thousands of New Yorkers who have been released without incident, and allowed to return to their families, jobs and communities while charges against them are pending. The law is unusual, compared with those in some other states, and that's one reason it's politically vulnerable. But it has the potential to end mass incarceration as we know it in New York, with an anticipated drop in the jail population statewide of 40 percent. It deserves a chance to prove itself.

Before the new law, 21,000 New Yorkers were in jail on any given night around the state. More than 60 percent were being held before trial, primarily because they couldn't afford to pay bail. The new law has already reduced the number to 15,000 by making release before trial automatic for people accused of most misdemeanors and nonviolent felonies, which make up 90 percent of the roughly 400,000 arrests each year.

Judges still have the authority in all cases to impose conditions like oversight by a case manager, referrals to treatment or counseling, and in some cases, electronic monitoring. For example, take the case of Tiffany Harris, who was arrested and charged with slapping three Orthodox Jewish women on the street in Brooklyn, released without bail, and then rearrested for hitting someone else. A judge could have ordered mental health counseling after the first incident that might have helped her instead of just letting her go.

Judges can also still set bail on almost all violent felony offenses, any case involving sexual abuse or misconduct, all felony and some misdemeanor domestic violence offenses, and witness intimidation and tampering cases. The most common charges for which release must now be allowed are drug possession, theft and unlicensed driving.

The best evidence for the success of bail reform comes from Brooklyn. Prosecutors there stopped demanding bail for almost all misdemeanors in April 2017. Over the next year, the number of people held on bail in Brooklyn declined by 43 percent, and Brooklyn has also experienced a decline in crime, with fewer shootings and the lowest number of murders in the borough's history in 2019, according to the district attorney's office.

In 2019, the Bronx and Manhattan followed Brooklyn's lead with similar results. The real impact of bail reform is being felt in upstate New York, where 60 percent of the people in jail are charged with misdemeanors. Already, there have been major drops in the number of people in jail in counties like Herkimer and Onondaga, with no upticks in crime.

Despite those facts, bail reform is in political trouble mainly because the state is the only one in the country that bars a judge who is deciding if bail is warranted from considering whether a person poses a threat to public safety. For decades, New York judges have been allowed to consider only the likelihood that the defendant will appear for

future court dates (though it is likely that at least some judges factor in public safety in their calculus).

When bail reform was debated last year, the New York State Legislature considered adding a public-safety provision for a small subset of serious cases. But many proponents of reform, especially defense lawyers, feared such a provision would give judges too much leeway to impose preventive detention. The Legislature and Gov. Andrew Cuomo instead struck a compromise that left money bail as an option for almost all violent crimes, the same small subset of serious cases for which a public-safety provision was considered and rejected. Now the governor is mostly defending bail reform, but he also called it an “ongoing process” in his budget address Tuesday.

If New York decides to tweak its law, it should do so based on months, not weeks, of data. Any amendments should safeguard the principle that the state cannot have two systems of justice, one for the rich and one for the poor. If the Legislature decides to allow judges to detain people for the sake of public safety, it should also eliminate money bail entirely, so that wealthy people aren't released while others facing the same charges are jailed. And a public-safety provision should apply only to serious offenses, and require a hearing with facts showing that the person is likely to threaten someone else's physical safety.

The results of bail reform in New Jersey show the benefits of staying the course. In 2017, New Jersey courts essentially stopped imposing cash bail for all criminal charges. Early on, opponents said things like, “Nobody's afraid to commit crimes anymore,” and one mother sued the state after her son was killed, allegedly by a man who had been released on a gun possession charge. The New Jersey Supreme Court made it easier to detain people accused of gun crimes or repeat offenses, but otherwise, the state weathered the criticism. In 2017, according to state data, less than 3 percent of people released before trial were rearrested for a serious violent felony or for gun possession. On any given day in 2018, 6,000 fewer people were in jail than had been six years earlier. At the same time, violent crime in New Jersey continued to fall.

The experience of other states also shows the value of another element of New York's new law: reducing the time that prosecutors have to turn over evidence in their possession to the defense. New York's so-called blindfold law had allowed prosecutors to withhold key evidence until the morning of trial, and had contributed to wrongful convictions, according to the state bar association.

North Carolina and Texas enacted laws in the last decade requiring broad disclosure of evidence, known as discovery. At first, prosecutors said the requirements were unworkable and put witnesses and victims at risk by potentially disclosing their identities. But judges in those states — and in New York — can limit disclosure when necessary. Over time, the laws in North Carolina and Texas proved their worth. A 2016 study of North Carolina's law found that 91 percent of prosecutors reported the law was working well. Texas prosecutors have urged New York to view their state as a model for discovery practices.

Studies show that it takes only two or three days behind bars to increase the risk that someone charged with a minor, nonviolent crime will be arrested again. It may seem counterintuitive, but jailing people leads to less, not more, public safety. Jail destabilizes people who may already be struggling to pay the rent or get to work. Fear-mongering makes for spicy headlines but terrible policy. New Yorkers should not give in to it.

Insha Rahman is the director of strategy and new initiatives at the Vera Institute of Justice.



MEMORANDUM

TO: Benjamin Boykin, Chair of Board of Legislators
 Catherine Borgia, Chair of the Budget & Appropriations Committee
 Colin Smith, Chair of the Public Safety Committee
 Christopher Johnson, Chair of the Social Services Committee

FROM: Damon R. Maher, Legislator – 10th District

DATE: January 27, 2020

RE: **Jail population and reallocation of resources**

The attached article says Westchester jail population is now at 469, down from 653 since six weeks ago, in light of bail reform. I don't know whether this takes into account (either for the December of January numbers) the 100 or so prisoners that is the inmate population of post-plea/trial/sentence prisoners serving out one year terms and the 100 federal prisoners, but that would still be just around 670 vs 850 in December 2019, vs 1050 in 2018, and vs 1214 in 2014 vs 1468 in 2011.

On the other hand, staffing was at 877 in 2011 and is at 877 in 2020. Public Safety, Budget and Social Services should bring in Corrections to talk about:

- Vacancy levels; implementation of overtime reductions, planning for its incoming classes, if any.
- CMH, SS & Probation to talk about supportive services, defendants will miss out but not being in jail and how to staff then
- Pre-trial advocacy groups.

Questions for all: Is some correction officer training transferrable to the work of supportive services (getting defendants to show up for court date, getting or keeping jobs, go to drug and/or mental health diagnosis treatment, training/school)?

To read this article on line here is the link: <https://www.eveningtribune.com/news/20200127/impact-of-ending-most-cash-bail-in-ny-hundreds-of-empty-jail-cells>

THE EVENING The Tribune

Impact of ending most cash bail in NY: Hundreds of empty jail cells

By Joseph Spector, Chad Arnold, Jonathan Bandler, Steve Lieberman, Gannett

Posted at 10:03 AM

Counties estimate their jail populations have dropped about 25% since most cash bail was ended Jan. 1

ALBANY — An end to most cash bail in New York has led to an exodus of inmates in county jails.

The state's largest counties said they have released roughly 25% of their jail populations in the lead up to the new law taking effect Jan. 1 and since then, a review by the USA TODAY Network New York found.

"We lost 25% of our population," said Monroe County Capt. James McGowan, who oversees the security at the county's prison.

The drop off began in November when judges began ordering the release of inmates held on bail ahead of the law's enactment.

And the numbers have continued to drop since then, county officials said.

"I've watched the trends go up and down," McGowan said of jail populations over decades. "This is not a trend; this is a rapid off-the-cliff dive."

Counties estimated last month about 3,800 inmates would be released as they await the adjudication of their cases, rather than stay in jail because they couldn't post bail.

Locally, Steuben County ranked ninth in the state with 125 prisoners set to be released. Allegany County had 28 prisoners slated for release Jan. 1, while Livingston County had 20.

The law ends cash bail for most most misdemeanors and non-violent felonies. So two things have been happening: Inmates previously held on cash bail are being released if their cases qualify and new arrestees are being released without bail.

Meanwhile, state lawmakers and Gov. Andrew Cuomo are considering ways to modify the law amid an outcry from police and prosecutors that the measure is leading to dangerous people being released back into communities.

“Reform is an ongoing process. It’s not that you reform a system once and then you walk away,” Cuomo said in his budget address.

“You make a change in the system. It has consequences, and you have to understand those consequences. We need to respond to the facts, but not the politics.”

Impact of ending cash bail across NY

Sheriffs said it is hard to say how many cases would have had cash bail that are now being disposed of without any bail, but the proof is partially in the numbers: Their jail populations have significantly dropped in recent months.

Dutchess County Col. Michael Walters said the county had 277 inmates at the beginning of December, but now are down to 190, a 31% decrease in seven weeks.

As of mid-January, Orange County had about 450 people housed in the county jail, down 118 — or about 21% — from the beginning of December.

“It really takes away the discretion of the judges,” Orange County Sheriff Carl DuBois, himself a former village and town judge, said of the law. “You cannot arraign a prisoner who is down in Orange County from behind a desk in Albany.”

The drop across counties is having a fiscal impact. Dutchess has 15 openings for jail guards that won’t be filled, Walters said, and plans for a new jail are being scaled back from 600 beds to about 330.

He said he thinks the jail population could grow if lawmakers make changes to the bail laws this year.

Other counties reported similar or even greater declines in the number of occupied beds.

Steuben County, a mostly rural community in the Southern Tier, had been implementing the bail reforms for months in advance of the law.

The county didn't want to be "caught at the end of December with a mass exodus," said James Allard, the county's sheriff.

The jail has 265 beds spread throughout seven housing units — 205 of which were filled this time last year, Allard said. Just 117 beds were filled earlier this month, a 43% decline, he said.

Meanwhile, he said, warrants issued in the county have increased 15% as more people are not showing up for their court dates after being released, Allard said.

Proponents of the reforms have argued that jails shouldn't be a pathway to recovery or treatment or as money-makers for governments. Nor should people be held in jail just because they do not have enough money to be released, they said.

Advocates said having people in prison leads to more problems for their recovery rather than being freed and returning to their families and jobs.

The Legal Aid Society said the law has freed "thousands of presumed innocent New Yorkers who could not buy their freedom from pretrial detention."

And any effort to repeal parts of the law "because of fear mongering and falsehoods from law enforcement and other critics" would be a "direct affront to New York's progressive promise," the group said.

Counties respond to bail reform impact on jails

Allard said he understands the need for bail reform, but worried that those arrested will be deprived of social services like addiction treatment.

"I wish I had a nickel for every time I talked to a recovering addict that said if they didn't go to jail after being arrested they never would have changed," Allard said.

In Westchester, its jail population was at 469 last week, down from 653 on Dec. 2, a 28% decrease. In Rockland, the population fell 22%.

Broome County has released 100 inmates, dropping its count 22% to 350 prisoners in its jail,

officials said. In Oneida County, 25% of its population has been released.

Some Westchester lawmakers recently questioned whether staffing levels at the jail could be lowered to save money, which drew a sharp rebuke from Neil Pellone, the president of the Westchester Correction Officers Benevolent Association.

In an op-ed to The Journal News/LoHud.com, he said it is unknown the long-term impact of bail reform and “a potential increase in the population of sentenced inmates” could occur when cases are adjudicated.

“There is no question that current staffing levels are necessary,” he wrote.

New York City couldn’t specify how many inmates were released due to bail reform. But on Dec. 2, the inmate population was 6,811 and on Jan. 2, the number was down to 5,724, a 16% drop.

“While the population is now dropping at a faster rate, it is continuing the trend we’ve had throughout this entire administration,” said Peter Thorne, spokesman for the city Department of Corrections.

“Since 2013, we’ve seen a historic 49% percent drop in the population in our jails, driven by intentional efforts to end unnecessary arrests and focus on alternative to incarceration programs like supervised release.”

Long Island jails also had large declines in their prison populations in recent months: about 300 fewer inmates each in Nassau and Suffolk counties, local officials said.

That’s a roughly 30% decline in Suffolk and 25% drop in Nassau.

“We began releasing inmates under the provisions of the new bail reform law in the last two weeks of November,” said Suffolk County Sgt. Paul Spinella.

“From that time until January 1st, we released 301 inmates to comply with the law.”

What happens next?

The bail reform continues to draw criticism from law enforcement amid a series of cases where people were arrested, released without bail and then apprehended soon after for another alleged crime.

A New Paltz man this week, police said, was charged in a domestic dispute, released and then arrested again 20 minutes after leaving court.

In New Rochelle, a man who pleaded guilty to a New York City bank robbery was released as he awaited sentencing. A day later he allegedly attacked and robbed a shop owner.

Some Democratic lawmakers and police want to change New York law so judges have more discretion to set bail, as is the case in New Jersey after it ended most cash bail cases.

“Now these low-levels offenders may never have a chance to get clean and healthy” because judges can’t set bail so the offenders can get help in jail, said Albany County Sheriff Craig Apple, a Democrat, said.

The maelstrom has impacted public opinion. By a 49% to 37% margin, New York voters said the new law is bad for New York, a Siena College poll released Tuesday found.

Last April, a Siena poll found voters supported the law 55% to 38%

“While small majorities of suburban and upstate voters had thought the law would be ‘good,’ today, 56% of upstaters and 64% of downstate suburbanites think the law is ‘bad,’” said Siena College poll spokesman Steve Greenberg.

Legislative leaders and Cuomo, a Democrat, are expected to discuss potential changes during budget negotiations for the fiscal year that starts April 1. Democrats run the state Legislature.

Senate Majority Leader Andrea Stewart-Cousins, D-Yonkers, said any changes should not be the result of “fear mongering,” saying incarceration should not be based on an ability to pay bail. She met with law-enforcement officials this week at the state Capitol.

“We want to look at the facts, and we want to make sure we are meeting the intended objective, and we want to continue to talk to our stakeholders — that’s the people on the front line as well as the communities that have rightfully advocated for change to this system,” she said.