



## 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 – 10<sup>th</sup> 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.