

ISSUE BRIEF #3: WE CAN REDUCE - AND EVENTUALLY END - JAIL INCARCERATION IN NEW YORK CITY

Thousands of New Yorkers have begun to voice their support for defunding and dismantling oppressive and ineffective carceral systems. Organizing efforts to close Rikers started with the idea that we could drastically reduce use of incarceration and improve safety without relying on law enforcement. The past few years have proven that - there were over 10,000 people in New York City jails when the #CLOSERikers campaign launched, and as of as of December 1, 2020 there were about 4,800 people.¹ **For more than 20 years, crime rates in New York City have dropped along with incarceration rates.** New York City is experiencing a rise in shootings this year, compared to last year’s historically low crime rates, but [data has proven](#) this is not connected to bail reform, or emergency jail releases during Covid - a connection NYPD leadership has falsely tried to make.²

We believe we can and must continue to reduce the number of people incarcerated, and eventually eliminate incarceration. Strategies for doing that must address both the continued excesses and injustices of the criminal legal system, and a new approach to public safety. **Our vision to invest in community resources³ to meet people’s needs - needs for housing, healthcare, employment, and more - is probably the most important part of reducing incarceration, by reducing crime and incidents of harm.** While it may be harder to predict the exact impact this will have on reducing the jail population, it does not take a mountain of data to understand that communities that have the most resources often have the most safety, and that Black and Brown communities have largely been denied those resources. This will require serious commitments to ending our reliance on law enforcement - for example, funding [successful community-based violence prevention programs](#) to scale, and building more supportive housing that is adequately funded.

Plans to reduce New York City’s jail population must be based on a commitment to invest in communities, and a clear analysis of the ways the legal system currently functions to jail New Yorkers, including:



People who are awaiting trial. This is the largest category of people detained - over over 3,600 people as of December 1, 2020. We believe that everyone deserves the presumption of innocence, regardless of what they are charged with. Releasing only people facing “petty” or “non-violent” or “low-level” charges will not empty City jails, since over 70% of people currently held pretrial are facing charges legally defined as violent.⁴ Charges categorized as violent may include incidents that did not involve physical harm ([like allegedly stealing a backpack](#)),⁵ or may be drastically inflated charges brought by prosecutors, but still, people serious about reducing the New York City jail population must support different methods for addressing more serious charges. Ending money bail is one strategy that we support, but doing so will not empty City jails - currently over 1,600⁶ people are remanded⁷ or have bail set over \$500K (cases for which judges would probably order remand if bail were not an option). With its commitment to shrink total jail capacity to less than 3,300, New York City has signaled an intention to continue reducing pretrial detention. **To reduce pretrial detention much further, or eliminate it, we would have to successfully pursue strategies beyond what elected officials or most candidates have proposed.**

- Prosecutors, for example, could commit to never seek bail or remand (although judges could still remand people or set bail). ‘Progressive’ prosecutors could go further by declining to charge anyone with a detention-eligible offense.
- The Mayor and City Council could make further investments in service-based alternative-to-detention programs, like those that have helped to [reduce the number of women incarcerated pretrial](#), regardless of the charges they face.

- The Mayor and City Council could defund District Attorneys, so they cannot bring charges through the criminal legal system.
- State legislation would be required to restrict judges' ability to jail people pretrial, though some gains can be made by holding judges accountable to implementing new [State pretrial laws](#) (passed in 2019 and amended in 2020). Those laws require them to utilize the least restrictive means of ensuring return to court, and to consider ability to pay when setting bail.

People accused of a technical violation of parole. As of December 1, 2020, there were just under 200 people held in City jails because their parole officers accused them of violating a rule of parole, like missing an appointment or being late for curfew. This number decreased significantly in the spring of 2020 in response to Covid-19, but has begun to rise again.

- New York State should urgently pass the [Less is More NY Act](#) to overhaul parole supervision and further reduce the number of people who could be incarcerated for a technical violation of parole.
- We could achieve further decarceration than NYC has already committed to by eliminating all parole supervision.

People on parole who are also facing a new charge. As of December 1, 2020, there were 731 people in this situation. This may be the group of people who are most impacted by broken-windows policing, because any police contact can result in incarceration for them. People on parole may be jailed for low-level charges that are not generally detention-eligible under [State reforms](#) passed in 2019 (amended in 2020),⁸ only because they are on parole. In the most recent analysis, about half of these detainees were held for parole warrants issued in connection with new charges that they could otherwise not be detained for.⁹

- Less is More NY legislation, changes to pretrial policies and practice, and ending broken-windows policing would reduce the number of people facing incarceration in NYC for this reason.

People who are serving a City sentence. As of December 1, 2020, there were 120 people serving a sentence of a year or less in City jails. This number decreased significantly in spring 2020 in response to Covid-19, but has increased recently. New York City could better utilize the [6-A early release program](#),¹⁰ further invest in robust alternatives to incarceration, and urge judges to divert more people from short jail sentences to more effective alternatives. Alternative programs must be designed to address people's needs, not just provide an alternative sentence, and must consider how people can balance participation in these programs with other responsibilities.

People who are newly sentenced to State prison time, or considered "State Ready." This is generally a small number of people who have been sentenced to more than 1 year and are awaiting transfer to state prison.

We must do everything we know works to create safety outside of the carceral system, and we must acknowledge that if we are not able to end all incarceration immediately (or even, all jail incarceration in NYC), conditions of confinement will continue to matter.

1 Data from JailVizNYC
 2 Shackford, Scott. New York Is Having a Violent Summer But It's Not Because of Bail Reform. Reason.com. July 9, 2020.
 3 Details of the types of investments we will advocate for are included in the #buildCOMMUNITIES platform, jlusa.org/buildCOMMUNITIES
 4 JailVizNYC. Accessed November 9, 2020
 5 Santo, Alysia. Stung By Abuses at Rikers, New York City Acts on Bail Reform. The Marshall Project. July 8, 2015.
 6 As of September 30, 2020, data via NYC Department of Correction Inmate Lookup Service.
 7 ordered by a judge to be detained during the duration of an open court case
 8 Further details available in Bail Reform Revisited, Center for Court Innovation. May 2020.
 9 Compiled by the Center for Court Innovation in April 2020.
 10 Rikers 6-A Early Release Program: Results After One Month of Operation, Briefing Note April 30, 2020.