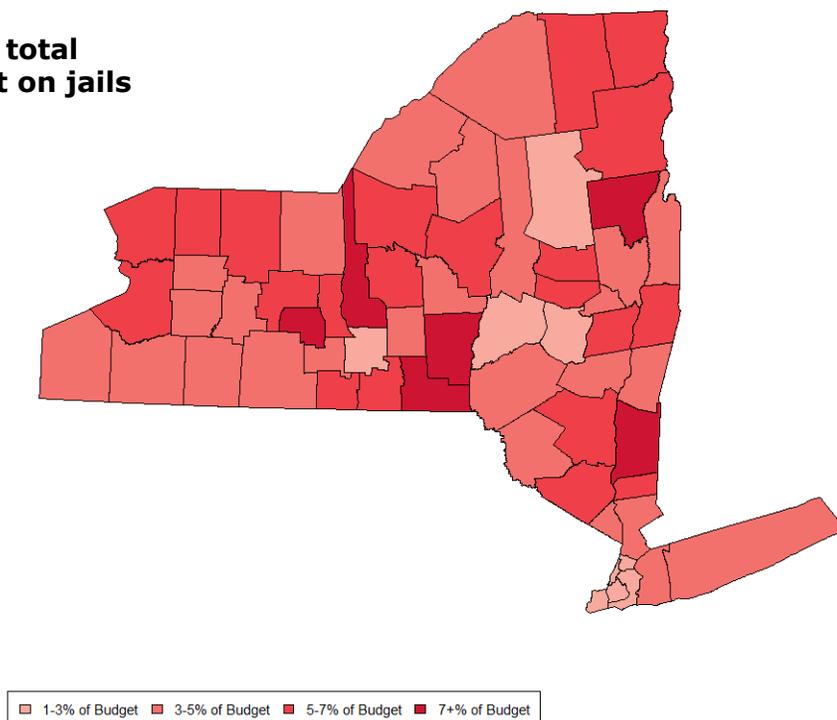


# Bail Reform is an Opportunity for Savings in New York

March 2020

Last year, counties spent more than \$2.5 billion to staff and operate the 72 active jails across New York State.<sup>1</sup> In 27 counties, more than 5 percent of the county's total budget was spent on funding the jail alone. And every county spent at least \$1 million, if not much more, on the local jail—except Hamilton County, which in 2019 spent \$421,241 to incarcerate an average of just two people on any given night.<sup>2</sup> New York City spent the most, at \$1.44 billion. Outside of New York City, Nassau County had the biggest budget at \$156.9 million.<sup>3</sup> Even counties that incarcerated fewer than 100 people on any given night spent several million—Cortland County, for example, spent \$3.3 million last year on jail operations.

**Figure 1: Percent of total county budget spent on jails in 2019**



Broken down, counties outside New York City spent an average of \$279 per person per night in jail. That translates to an average of \$101,930 to incarcerate one person for all of 2019. In contrast, New York spent an average of \$22,366 per child in public school in 2016.<sup>4</sup>

## **Bail reform is an opportunity to invest in building safer communities**

Bail reform, which went into effect on January 1, 2020, has already dropped average daily jail populations across the state by 30 percent.<sup>5</sup> From January 2019 to January 2020, the number of people in jail on any given night fell from 21,406 to 14,983.<sup>6</sup>

Over time, the reduction in jail populations can translate into cost savings for counties as they downsize their jail staff and operations. Take Erie County, for example, which has two correctional facilities—the Erie County Holding Center and the Erie County Correctional Facility—and an overall jail capacity of 1,522 beds.<sup>7</sup> In 2019, the county spent \$90,047,296 operating these two jails.<sup>8</sup> More than one-third of that expenditure was on salaries for corrections officers. There were 345 full-time deputy sheriff officers and 41 part-time officers assigned to the holding center, and 202 corrections officers that staffed the correctional facility.<sup>9</sup> The county spent more than \$32.3 million on their salaries.<sup>10</sup> From January 2019 to January 2020, as a result of bail reform, the number of people incarcerated in Erie County decreased from 875 to 659—a 25 percent drop.<sup>11</sup> Even if the county were to keep both jail facilities open, change nothing else about spending on jail operations, and just reduce the number of corrections officers so as to keep the same officer to incarcerated person ratio, the county could still save more than \$6.8 million annually.<sup>12</sup> Similar patterns hold true across the state.

Bail reform is a unique opportunity for local counties to take those savings and invest them in the services and supports that build safer communities.<sup>13</sup> But these savings at the county level will not be realized unless Governor Cuomo and the legislature adopt three key measures that allow counties to reduce jail costs.

- 1. Change the State Commission of Correction’s maximum facility capacity staffing requirement so that local counties can realize savings.** Jails in New York are required, as part of the State Commission of Correction’s jail standards, to maintain a staffing capacity that is based on the size and physical plant of the jail, the needed maximum prisoner capacity, the number of housing units, and the types of programs and services offered.<sup>14</sup> Tying staffing numbers to the jail’s maximum prisoner capacity, not to its current jail population, means that Erie County cannot downsize its corrections personnel despite having 216 fewer people incarcerated as a result of bail reform. A change in the Maximum Facility Capacity provision under Part 7040 of the New York Codes, Rules, and

Regulations will allow counties to adjust jail personnel and staffing according to their actual needs.

2. **Allocate \$75 million per year for the next two years to fund statewide pretrial services and centralized arraignment parts.** Investing in effective community-based pretrial services run by nonprofits and service providers is the single most impactful use of local cost savings that counties can embrace to deliver more public safety. Places like Tompkins County and New York City have already demonstrated this potential, having experienced both a drop in the jail population and a decrease in crime as they invested in more community-based services and supports instead of jail. County-specific centralized arraignment parts, which are designated courtrooms in either the local city court or jail for arraigning all arrests in the county, also streamline the pretrial process by avoiding off-hours arraignments in the more than 1,200 town and village courts across the state. To date, 16 counties have already established centralized arraignment parts and four others are in the process of launching them.<sup>15</sup> If the governor and legislature allocate \$75 million per year for the next two years to support counties outside New York City in developing and enhancing pretrial services and establishing centralized arraignment parts, local counties can take on those operating costs in three years once they have recouped savings from operating a smaller jail.
  
3. **Pass a data collection and reporting bill.** In addition to collecting real-time data about the number of arrests, releases, cases where bail is set, court appearance rates, and other criminal justice statistics, counties should collect and report out data on the costs of jail operation, the amount spent on pretrial services, and any savings realized as a result of bail reform. These criminal justice and budget metrics should be published monthly to assess the impact of bail reform.

## 2019 Jail Spending by County

| County      | 2019 Total County Budget | Spending on Jail | % of County Budget Spent on Jail | 2019 Average Daily Jail Census |
|-------------|--------------------------|------------------|----------------------------------|--------------------------------|
| Albany      | \$711,115,124.00         | \$44,210,572.00  | 6.2%                             | 416                            |
| Allegany    | \$123,457,286.00         | \$6,042,745.00   | 4.9%                             | 84                             |
| Broome      | \$385,835,458.00         | \$29,109,066.00  | 7.5%                             | 441                            |
| Cattaraugus | \$227,889,230.00         | \$8,003,688.00   | 3.5%                             | 135                            |
| Cayuga      | \$123,200,232.00         | \$18,205,578.00  | 14.8%                            | 145                            |
| Chautauqua  | \$285,451,054.00         | \$11,849,721.00  | 4.2%                             | 236                            |
| Chemung     | \$196,681,939.00         | \$8,943,438.00   | 4.5%                             | 132                            |
| Chenango    | \$93,042,838.29          | \$6,672,203.00   | 7.2%                             | 87                             |
| Clinton     | \$170,392,882.00         | \$10,452,631.00  | 6.1%                             | 176                            |
| Columbia    | \$156,565,528.00         | \$4,937,717.00   | 3.2%                             | 68                             |
| Cortland    | \$134,299,656.02         | \$5,862,316.00   | 4.4%                             | 76                             |

| <b>County</b> | <b>2019 Total County Budget</b> | <b>Spending on Jail</b> | <b>% of County Budget Spent on Jail</b> | <b>2019 Average Daily Jail Census</b> |
|---------------|---------------------------------|-------------------------|---|---------------------------------------|
| Delaware      | \$73,136,588                    | \$4,600,140             | 6.3%                                    | 58                                    |
| Dutchess      | \$503,181,329                   | \$39,397,592            | 7.8%                                    | 313                                   |
| Erie          | \$1,801,593,578                 | \$91,022,462            | 5.1%                                    | 852                                   |
| Essex         | \$117,059,626                   | \$5,948,458             | 5.1%                                    | 71                                    |
| Franklin      | \$105,711,362                   | \$6,819,334             | 6.5%                                    | 81                                    |
| Fulton        | \$96,581,330                    | \$6,156,185             | 6.4%                                    | 82                                    |
| Genesee       | \$141,723,403                   | \$4,799,327             | 3.4%                                    | 104                                   |
| Greene        | \$119,088,760                   | \$4,730,141             | 4.0%                                    | 35                                    |
| Hamilton      | \$20,641,891                    | \$680,007               | 3.3%                                    | 2                                     |
| Herkimer      | \$102,514,241                   | \$4,484,846             | 4.4%                                    | 52                                    |
| Jefferson     | \$201,769,066                   | \$9,205,085             | 4.6%                                    | 129                                   |
| Lewis         | \$47,645,641                    | \$2,246,195             | 4.7%                                    | 34                                    |
| Livingston    | \$159,374,035                   | \$7,031,109             | 4.4%                                    | 122                                   |
| Madison       | \$135,284,994                   | \$6,410,633             | 4.7%                                    | 90                                    |
| Monroe        | \$1,227,769,217                 | \$83,422,671            | 6.8%                                    | 966                                   |
| Montgomery    | \$116,627,276                   | \$4,413,793             | 3.8%                                    | 102                                   |
| Nassau        | \$3,515,086,821                 | \$156,873,582           | 4.5%                                    | 1025                                  |
| New York City | \$89,158,064,224                | \$1,379,150,339         | 1.5%                                    | 7234                                  |
| Niagara       | \$359,128,002                   | \$20,512,444            | 5.7%                                    | 346                                   |
| Oneida        | \$421,718,721                   | \$24,805,724            | 5.9%                                    | 346                                   |
| Onondaga      | \$1,326,216,538                 | \$72,850,831            | 5.5%                                    | 784                                   |
| Ontario       | \$231,372,983                   | \$13,376,517            | 5.8%                                    | 139                                   |
| Orange        | \$801,118,749                   | \$55,996,446            | 7.0%                                    | 618                                   |
| Orleans       | \$71,031,480                    | \$4,214,923             | 5.9%                                    | 58                                    |
| Oswego        | \$209,540,901                   | \$14,632,851            | 7.0%                                    | 138                                   |
| Otsego        | \$116,057,566                   | \$3,230,463             | 2.8%                                    | 54                                    |
| Putnam        | \$159,364,021                   | \$10,621,076            | 6.7%                                    | 62                                    |
| Rensselaer    | \$347,520,373                   | \$18,481,790            | 5.3%                                    | 303                                   |
| Rockland      | \$709,052,540                   | \$33,676,725            | 4.7%                                    | 134                                   |
| Saratoga      | \$317,070,291                   | \$10,846,764            | 3.4%                                    | 181                                   |
| Schenectady   | \$330,084,874                   | \$15,065,273            | 4.6%                                    | 228                                   |
| Schoharie     | \$90,727,762                    | \$2,151,937             | 2.4%                                    | 18                                    |
| Schuyler      | \$46,344,332                    | \$1,572,436             | 3.4%                                    | 15                                    |
| Seneca        | \$84,574,440                    | \$4,419,798             | 5.2%                                    | 60                                    |
| St. Lawrence  | \$236,927,372                   | \$11,247,230            | 4.7%                                    | 119                                   |
| Steuben       | \$190,847,579                   | \$9,095,601             | 4.8%                                    | 164                                   |
| Suffolk       | \$2,259,743,211                 | \$84,272,845            | 3.7%                                    | 1084                                  |
| Sullivan      | \$267,497,730                   | \$12,522,938            | 4.7%                                    | 150                                   |
| Tioga         | \$82,365,500                    | \$5,014,924             | 6.1%                                    | 156                                   |
| Tompkins      | \$187,071,131                   | \$5,572,716             | 3.0%                                    | 61                                    |
| Ulster        | \$329,256,289                   | \$22,215,692            | 6.7%                                    | 212                                   |
| Warren        | \$102,365,919                   | \$10,621,667            | 10.4%                                   | 105                                   |
| Washington    | \$116,242,134                   | \$5,111,700             | 4.4%                                    | 70                                    |
| Wayne         | \$185,075,717                   | \$8,456,021             | 4.6%                                    | 68                                    |
| Westchester   | \$1,944,329,945                 | \$76,840,364            | 4.0%                                    | 918                                   |
| Wyoming       | \$140,699,502                   | \$4,469,171             | 3.2%                                    | 42                                    |
| Yates         | \$17,165,292                    | \$3,253,856             | 19.0%                                   | 43                                    |

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<sup>1</sup> Data on county spending came from an analysis of each county's published 2019 budget. Data for Delaware and St. Lawrence Counties are from 2018 because the 2019 budgets were not available online.

<sup>2</sup> See 2019 Hamilton County Budget (adopted November 26, 2018), 42, <https://perma.cc/FNM5-VMDK>.

<sup>3</sup> Laura Curran, *2019 NIFA Approved Budget Supporting Schedules* (Garden City, NY: Nassau County Office of Management and Budget, 2019), 12, <https://perma.cc/DZ99-VRZZ>.

<sup>4</sup> "Education Spending Per Student by State," *Governing*, <https://www.governing.com/gov-data/education-data/state-education-spending-per-pupil-data.html>.

<sup>5</sup> New York State Division of Criminal Justice Services, *Jail Population in New York State Average Daily Jail Census by Month* (Albany, NY: NYS Division of Criminal Justice Services, March 1, 2020), <https://perma.cc/GUQ6-6YEU>.

<sup>6</sup> *Id.*

<sup>7</sup> Erie County Sheriff's Office, "Jail Management Division," <https://perma.cc/24GV-NRCX>.

<sup>8</sup> County of Erie, *Budget 2019* (Buffalo, New York: County of Erie, 2018), 244, <https://perma.cc/64UQ-5L9C>.

<sup>9</sup> *Ibid.*, 248.

<sup>10</sup> *Ibid.*, 247-248.

<sup>11</sup> New York State Division of Criminal Justice Services, *Jail Population in New York State Average Daily Jail Census by Month*, 2020.

<sup>12</sup> According to the New York Department of Labor the average starting salary for a corrections officer in New York State is \$48,900. See New York State Department of Labor, "Occupational Wages," database, last visited March 3, 2020, <https://labor.ny.gov/stats/lswage2.asp>. Assuming that pay rate, if Erie County were to decrease the number of corrections officers from 567 to 427, which would keep the same ratio of incarcerated people to corrections officers as the county had in 2019, the county would save \$6,846,000.

<sup>13</sup> In 2017, facing a serious problem of jail overcrowding, Tompkins County adopted a bail reform policy of presumptive release on most misdemeanors and nonviolent felonies. As a result, the average daily jail population in Tompkins County fell by approximately one-third—from a high of 92 people incarcerated on any given day in 2015 to 61 people incarcerated in 2019. As the jail population dropped, the number of crimes reported to police dropped significantly as well. From 2015 to 2018 (the last year for which there is publicly available crime data), the total number of index crimes in Tompkins County fell from 2,296 to 1,896—a 17 percent decrease.

<sup>14</sup> 9 NYCRR Part 7040.

<sup>15</sup> The counties that have operating centralized arraignment parts are Broome, Cayuga, Chautauqua, Genesee, Livingston, Oneida, Onondaga, Ontario, Orange, Otsego, Oswego, Seneca, Warren, Washington, Wayne, and Yates. The counties that are developing centralized arraignment parts are Cortland, Schuyler, Steuben, and Tioga.