

The Facts on Bail Reform and Crime in New York City



In January 2020, New York State implemented landmark [bail reforms](#), eliminating bail and pretrial detention in nearly all misdemeanor and nonviolent felony cases, while preserving bail for almost all violent felonies—including gun possession, shootings, sex crimes, and murder. In July, the state passed a [series of revisions](#), making more cases eligible again for bail and detention. The amendments reversed some of the steep reductions in the use of pretrial detention triggered by the initial reforms. By the end of 2020, some public officials were linking an alarming spike in violent crime to the state’s bail reforms, and New York City’s judges were setting bail [more often](#) than earlier in the year on cases where they still had discretion. What follows is a summary of publicly available data and research on bail reform and crime, prepared in response to questions from community members and elected officials.

CRIME TRENDS IN 2020

What is happening to crime in New York City? Crime declined modestly overall in 2020. Comparing summer 2020 to the same months in 2019, reported felony crimes declined 9% and misdemeanor crimes declined 18%. Arrests dropped by almost half, with violent felony arrests dropping 17%.

What about the most serious crimes like shootings and murders—weren’t they spiking in 2020? Yes. Shootings increased 260% and murders 60% from the summer months of 2019 to 2020. In October and November of 2020, the shooting spike continued, while murders returned to their 2019 level. Reported burglaries also increased in both the summer and fall of 2020. Reported rapes, felony assaults, robberies, and grand larcenies all modestly declined.

Is the rise in shootings and murders limited to New York? No. Across [28 cities](#), murders increased 42% in the summer and 34% in the fall. By late fall, more than a dozen major cities where there had been no changes to bail laws experienced [increases in murders](#) exceeding New York’s. Criminologists have yet to isolate the causes of this [historic surge](#) in gun violence, although it is believed to stem in large part from the severe socioeconomic dislocations generated by the COVID-19 pandemic.

THE EVIDENCE ON BAIL REFORM AND CRIME

Have people released before trial due to New York’s bail reforms driven the rise in shootings and murders? No. A *New York Post* [analysis of NYPD data](#) found that while there were 528 shootings through June 30, only one person released due to bail reform was charged with a shooting.

Have people claiming that bail reform is among the drivers of shootings made other arguments? Yes. [Some have implied](#) that bail reform sends a blanket message to people planning to commit violent crimes that they will not face “consequences.” In fact, bail and pretrial detention continue to be options for virtually all violent felonies and for people charged with *any* felony—violent or not—who are re-arrested for another felony. Albeit one study, a recent year-long Center for Court Innovation [investigation](#) into why some young New Yorkers carry guns documented a complex set of drivers, none related to calculations around consequences and deterrence.

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FACTORS DRIVING REFORM

- 1. Bail deepens racial disparities.** In 2019, Black defendants in New York City were 6% more likely to face bail compared to white defendants, and 7% less likely to be able to afford it at arraignment. These disparities persisted even when comparing individuals with similar criminal histories.
- 2. Bail is unaffordable for the vast majority of defendants.** In 2019, we found the city’s defendants were unable to post bail at arraignment 85% of the time, mirroring our [results](#) for 2018. The decision to set bail often serves as a de facto detention, contrary to the [legal purpose](#) of bail to facilitate release, while incentivizing a return to court.
- 3. Jail and pretrial detention drain resources.** As of 2019, the [cost of incarceration](#) in New York City jails was \$338,000 per person, per year. Such exorbitant expenditures make it more difficult to invest in community-based strategies to strengthen neighborhoods and prevent crime.

THE EVIDENCE ON BAIL REFORM AND CRIME (continued)

What happened in other places whose bail reforms have been rigorously studied? [New Jersey](#), [Chicago](#), and [Philadelphia](#) restricted the use of bail and pretrial detention. Studies found the reforms had no adverse effect on either recidivism or court attendance. There are no rigorous evaluations of bail reforms in any jurisdiction suggesting that they compromised public safety.

What would a trustworthy evaluation look like? Given the prior research cited in this brief, we anticipate New York's reforms will not jeopardize—and may well modestly increase—safety. But it is too early to reach any conclusion. A rigorous evaluation requires more time to track the effects of bail reform on public safety during and beyond the pretrial period. Any such study should include a comparison between similar people arraigned in court before and after the reforms were implemented. For instance, those who were detained in 2019 should be compared to similarly situated people whose release was legally required in 2020. An in-depth evaluation would also need to disentangle the independent effects of the COVID-19 pandemic on people's lives and, in turn, on crime.

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PRETRIAL RELEASE AND PUBLIC SAFETY

Could locking up fewer people awaiting trial make us safer? Yes. Comparing similar people released and detained before trial, studies in [New York City](#), [Miami](#), [Pittsburgh](#), [Philadelphia](#), and [Houston](#) consistently link detention with a modestly greater risk of re-offending once the pretrial period ends. Incarceration has well-known “[criminogenic effects](#)”: disrupting people's family and work lives (including their long-term earning potential) along with access to housing and any treatment they might be receiving, and exposing them to the dehumanizing and traumatizing effects of jail.

Does evidence support supervised release in lieu of bail when judges consider release without conditions to be unsuitable? Yes. Comparing similar defendants who did and did not participate in supervised release in New York City, a 2020 evaluation [found](#) the program reduced both bail and resulting pretrial detention, while having no effect on the rates of re-arrest or failure to appear in court. National research confirms that [pretrial supervision](#) is broadly effective in ensuring people return to court.

RIKERS ISLAND AND COVID-19

COVID-19 poses disproportionate health risks to people behind bars. As of January 22, 2021, there were 419 confirmed [COVID-19 infections](#) among New York City's jail population and 1,988 infections among corrections and health staff. Yet the pretrial jail population has been [climbing steadily](#) since April 2020. With people's health in the balance, unsupported claims that bail reform is fueling crime could redirect officials away from the urgency of releasing as many people as possible from the unsafe conditions on Rikers Island.

WHY DOES IT MATTER?

The uptick in murders and shootings is real. Most victims are Black and Brown New Yorkers, and incidents are most concentrated in already [under-resourced communities](#). Addressing this problem requires an honest evaluation of the facts and a comprehensive approach to public safety that accounts for both historic inequities and the crushing instability triggered for so many by the pandemic.