

STOPPING PAROLE'S REVOLVING DOOR

**OPPORTUNITIES FOR REFORMING COMMUNITY
SUPERVISION IN NEW YORK**

June 2019

SUMMARY

Over the past few years, New York City has significantly lowered the number of people held in its jails. Recent legislative reforms to pretrial laws promise further reductions. But one population in City jails has resisted these trends and poses a major barrier to closing the jails on Rikers Island: people accused of violations of community supervision, commonly referred to as parole.

On any given day, 20 percent of the New York City jail population is made up of people accused of parole violations. 89 percent are people of color. Approximately 600 people are accused of non-criminal “technical” parole violations, such as being late for curfew, testing positive for drugs, or missing an appointment with a parole officer. Another 900 people are charged with new criminal offenses but are ineligible for bail or pretrial release, no matter how low-level the offense, because parole authorities have also issued a warrant.

Jailing so many people on parole warrants does little for public safety and is counterproductive to the success of people who are reentering society from prison. It is also incredibly expensive: applying figures from the New York City Comptroller, the City spends more than \$400 million per year to incarcerate people accused of parole violations.

These problems are not limited to Rikers. On any given day, more than 1,000 people are held in other jails across the state solely because they are accused of technical parole violations. And almost 40 percent of the people sent to state prison each year in New York are not incarcerated for new criminal convictions, but rather for these technical parole violations.

Last year, Governor Cuomo recognized the need for reform, stating that people on parole who are not a danger to our communities should not be incarcerated. Mayor de Blasio has also called for changes to the parole system as part of the City’s efforts to close the Rikers jails.

The following common-sense reforms would help people on parole succeed, allow parole officers to focus on people who have the greatest needs and who are most at risk, and save millions of taxpayer dollars that are currently spent on incarceration:

- Award merit time credits to incentivize compliance with parole conditions;
- End mandatory jailing when someone is accused of a parole violation and give people a bail-type hearing instead;
- Limit how long people can be imprisoned for violations so punishments match the violations;
- Speed up parole violation hearings so people do not spend weeks and months in jail before having an administrative law judge decide their case; and
- Use money saved from these reforms for housing, small business loans, employment and treatment to help people on parole succeed in the community.

While some of these reforms could be implemented via policy changes at the State Department of Corrections and Community Supervision, others require legislative action. Reform legislation like the *Less Is More Act*, S. 1343B/A. 5493A, would cement the key elements into law.

Parole reform would improve outcomes for people on parole and make strong fiscal sense, as the experience of states like Louisiana, South Carolina, and Missouri has shown. Reform is also crucial to New York City's effort to shut the Rikers jails forever. Now is the time for Albany to act.

INTRODUCTION

Nearly 20 percent of the people jailed in New York City on any given day—the majority of whom are held in the massive jail complex on Rikers Island—are incarcerated because of alleged parole violations. **This is the only group in City jails that has increased over the past several years, posing a major obstacle to the efforts to close the Rikers jails.**

Prison sentences in New York are usually followed by a period of community supervision, commonly referred to as parole.¹ People on parole are subject to numerous restrictions, or conditions, on their behavior. If parole authorities accuse someone of a non-criminal or “technical” violation of a condition of parole—such as being late for curfew, testing positive for alcohol or drugs, or missing appointments with a parole officer—they can send the person straight to a local jail. Bail or release on recognizance

is not an option. Instead, the person remains behind bars for up to 105 days until their case is heard by an administrative law judge who decides whether or not to send the person back to state prison.

On any given day, roughly 600 people are in jail on Rikers Island because they are accused of a technical parole violation.² 89 percent are people of color.³

In addition to people accused of technical parole violations, each day approximately 900 people are held in City jails who are charged with new criminal offenses but are ineligible for bail because they are also accused of parole violations.⁴ That population has increased ten percent in the past two and a half years.⁵ On an average day, more than 500 of these

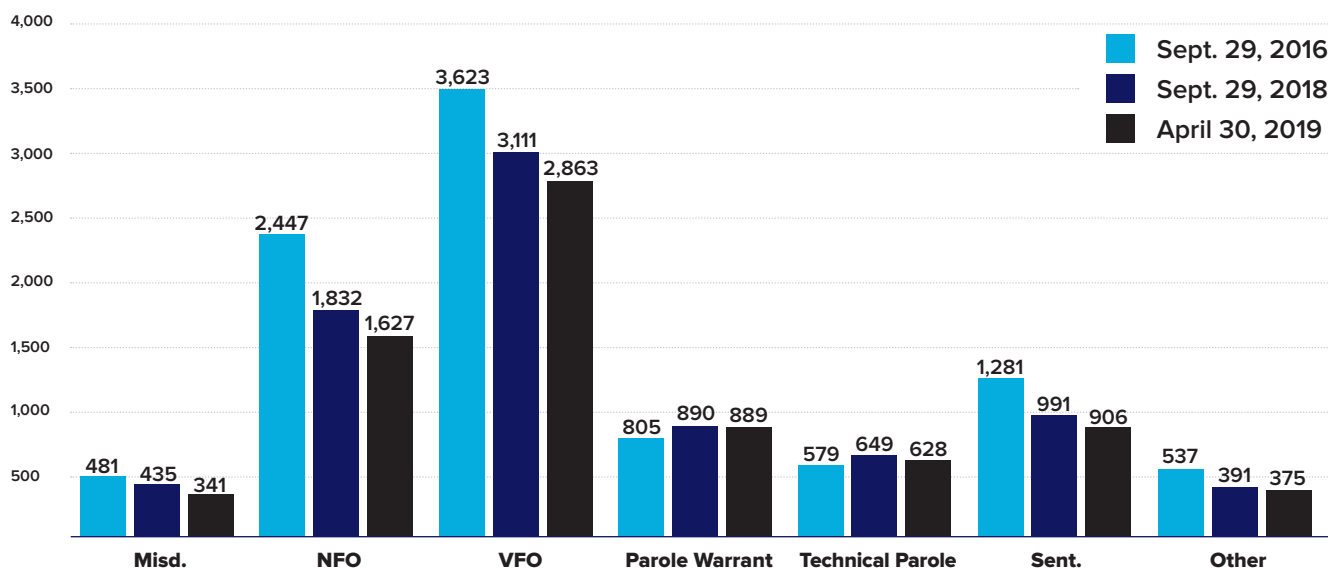
NYC JAIL SNAPSHOT

7,629

Total people

5,720 (75%)

Pretrial



people are incarcerated for a misdemeanor or nonviolent felony charge.⁶ Under New York State bail reform legislation that will take effect on January 1, 2020, most would be ineligible for pretrial detention at all based on the nature of the charged offense. However, because of the parole warrants, they will still be jailed without any option for release while they wait for the resolution of the allegations against them.

Parole revocations do not impact only New York City's jails. They are a major driver of incarceration in county jails across New York and in state prisons. In the first 10 months of 2018, 1,101 people on parole in New York State were returned to prison for a new criminal conviction.⁷ By contrast, in 2018, **New York State returned approximately six times as many people on parole to prison for non-criminal, technical parole violations:** 7,492 people, including 1,648 people on parole who were re-incarcerated to receive drug treatment.⁸ These people account for 39 percent of the total number of people sent to state prisons in 2018.⁹ **New York State re-imprisons more people for technical parole violations than any other state besides Illinois.**¹⁰

There is scant evidence that incarcerating people for technical parole violations increases public safety, but incarceration for technical parole violations can rupture the connections that are key to people's success. People on parole struggle disproportionately with serious physical and mental health problems, including chronic conditions and untreated addiction, and often have low levels of literacy.¹¹ In New York City, at any time, there are approximately 1,600 people on parole in homeless shelters, and the number of people sent straight from prison to homeless shelters doubled from 2014 to 2017.¹² To have a realistic chance at success in the community, people on parole need housing, income, and health care, but far too few are able to secure them.¹³ If people on parole are able to overcome

the many challenges they face, including employer and landlord biases against people with criminal records,¹⁴ and find a stable place to live, a job, and quality health care, re-incarceration for an alleged parole violation can cost them those necessary pillars of stability.¹⁵

Jailing people on parole warrants also has major financial costs for New York State and county governments. For the past decade, localities have borne the full cost of incarcerating people who are jailed on parole warrants issued by State parole authorities.¹⁶ For example, New York City Comptroller Scott Stringer has calculated the City spends \$302,000 per year to incarcerate a person in jail, suggesting the City spends more than \$400 million per year incarcerating people accused of parole violations.¹⁷ Similarly, the Vera Institute of Justice has calculated that the State spends \$69,000 per year to incarcerate someone in a state prison, suggesting that the State spends more than \$300 million each year incarcerating people for parole violations.¹⁸

The following common-sense reforms to the parole revocation process, a number of which have already been enacted with positive results in other states, would help address these problems:

1. Instituting merit time credits to incentivize good behavior on parole;
2. Ending mandatory detention on parole warrants and ensuring everyone accused of a crime gets a bail-type hearing at the outset of the case;
3. Limit the amount of time someone can be incarcerated for a parole violation so that any punishment is commensurate with the violation;
4. Speeding up parole violation adjudications so people no longer spend up to 105 days in jail before receiving a final revocation hearing; and

5. Using cost savings from parole reforms to provide support and opportunities for people re-entering society from prison.

These reforms would reward positive behavior by people on parole, significantly reduce the number of people under parole supervision and the number of people on parole who are incarcerated in jails and prisons across New York, reduce parole officers' caseloads, allow those parole officers to focus on people who most need assistance, spare people on parole unwarranted disruption to their lives, and ensure that people on parole receive due process before they are jailed for alleged parole violations.

If these reforms were implemented, we predict that almost 750 people on parole would avoid costly and unnecessary jail in New York City alone.¹⁹ Given the significant costs of incarcerating people in New York's jails and prisons, these reforms could also save state and county taxpayers tens, if not hundreds, of millions of dollars per year. While some of these reforms could be implemented administratively, state lawmakers can and should enshrine them into law with passage of legislation like the *Less Is More Act*, S. 1343B (Benjamin)/A. 5493A (Mosley).

COMMUNITY SUPERVISION IN NEW YORK

As of June 1, 2019, the New York State Department of Corrections and Community Supervision (DOCCS) supervised 35,986 people under various types of community supervision, compared to 46,694 people incarcerated in state prisons.²⁰ On average, people leaving prison are under supervision for two and a half years, though some are subject to supervision for decades or even their lifetime.²¹

PAROLE CONDITIONS AND VIOLATIONS

People on parole are required to check in periodically with a parole officer and abide by other restrictions, such as curfews, travel limitations, drug testing, and a prohibition against spending time with other people with criminal records. Certain restrictions, known as “general conditions,” are applicable to all people on parole. Other restrictions can be set by the parole board or by a person’s designated parole officer. Non-criminal behavior that contravenes a parole restriction is commonly referred to as a “technical” violation.

Engaging in new criminal activity is also considered a violation of parole conditions. If a

person on parole is arrested and charged with a new criminal offense, parole authorities can issue a parole warrant for the same alleged conduct. If they do, the person cannot be released from jail until the parole matter is resolved. Parole hearings use a different standard of proof than a criminal case. In parole proceedings, the parole prosecutor has to prove guilt by a preponderance of the evidence, i.e. that it is more likely than not that the person committed the violation. In contrast, in criminal court, the standard is guilt beyond a reasonable doubt. Thus, a person can be acquitted of a criminal charge, but found guilty of violating parole for the same alleged activity.

For both alleged technical violations and alleged new criminal activity, if a parole officer and a supervisor agree there is “reasonable cause” to believe that a person on parole has violated a parole condition “in an important respect,” DOCCS can issue a warrant for the person’s arrest and detention.²⁵ Under state law, the person is held in a local jail until the parole matter is resolved. County governments have been required to cover the costs of these jail stays since 2009.

PEOPLE UNDER COMMUNITY SUPERVISION IN NEW YORK STATE BY RACE, RATE PER 100,000²²



Within 15 days of the person's arrest based on a parole warrant, DOCCS must provide a preliminary hearing to determine whether there is probable cause, i.e. a reasonable basis, to believe the person violated parole. If the hearing officer finds probable cause to believe the person committed a parole violation, an administrative law judge (ALJ) employed by DOCCS will hold a final hearing within 90 days afterwards.²⁶

If the ALJ substantiates the parole violation at the final hearing, they can send the person on parole back to prison, require the person to attend a drug treatment program behind bars, or release the person back to the community, often with additional programming or treatment requirements.

Under current regulations, the range of available penalties for a parole violation depends primarily on the person's original conviction, rather than the nature of the violation.²⁷ In January 2019, DOCCS proposed new parole regulations tying penalties for parole violations to the nature of the violation itself, rather than the person on parole's original conviction, which would be a positive step.²⁸ At the same time, the proposed regulations would deny people credit for time served in jails pending adjudication of parole violation allegations, increase prison terms for some violations though reduce them for others, and make it more difficult for ALJs to restore someone to community supervision after sustaining a violation rather than return them to prison.²⁹ The proposed regulations do not alter the timing of revocation hearings.³⁰ It remains unclear whether or when those proposed regulations will take effect.

ABSCONDING

At the end of 2017, 3,203 people under parole supervision (6.2% of the total) were considered by DOCCS to have committed the technical violation of "absconding": they did not report to their parole officer as required, or changed jobs or residences without telling an officer.³¹ People who "abscond" often do not flee the area or leave the state. Rather, concerned they will be jailed for a technical violation, such as failing a drug test, or being late for curfew, they evade their parole officer. Limiting incarceration for technical violations likely would encourage people to remain in contact with their parole officers, who can then focus on ensuring people receive the support they need to succeed.

OUTCOMES OF PAROLE VIOLATION PROCEEDINGS

In New York City, 62 percent of people accused of technical violations and held in the Rikers jails are sent back to state prison.³² 38 percent are returned back to New York City communities after having spent an average of 57 days in jail.³³

Statewide, New York re-incarcerates far more people on parole for technical violations than for new criminal convictions. From October 2016 through September 2017, 11,347 people successfully completed parole in New York, while 9,250 were returned to prison, a failure rate of 45 percent.³⁴ Of this group, 1,347 people were returned to prison for committing a new crime, while 7,903 (almost six times as many) were returned to prison for committing a technical parole violation.³⁵

New York ranks second worst in the country in sending people on parole back to prison for technical violations, behind only Illinois.³⁶ Texas returns 80 percent fewer people to prison for technical violations, even though its parole population is 75 percent larger.³⁷

THE NEGATIVE CONSEQUENCES OF TECHNICAL VIOLATIONS

Barriers to Successful

Community Reintegration

People on parole face serious challenges to successful community reintegration. Many employers, landlords, schools, and training programs are unwilling to accept people with criminal records.³⁸ Homelessness is a growing problem for people on parole, with the number of people sent straight from prison to a New York City shelter nearly doubling from 2014 to 2017.³⁹ Lack of family support, low levels of literacy, dependency and mental health issues, physical and mental disabilities also pose barriers to securing the stable housing, income, and health care essential to success in the community.⁴⁰

New York's current parole revocation scheme can add yet another challenge. People incarcerated for technical parole violations can lose their jobs, their housing, and their place in school, training, or treatment programs.⁴¹ Families lose earners. Spouses and partners may be forced to stop working because the family can no longer afford childcare.

HOMELESSNESS

In 2017, more than 4,100 people were released from New York State prison directly to a homeless shelter in New York City, nearly twice as many as were paroled directly from prison to a shelter in 2014.⁴² At any one time, there are approximately 1,600 people on parole in New York City homeless shelters.⁴³ People on parole make up roughly 20 percent of all people entering New York City homeless shelters.⁴⁴ People in City shelters are frequently exposed to violence and drugs and suffer serious instability, making compliance with conditions of parole much more difficult.

Fiscal Impact

Based on average costs for incarceration in New York jails and prisons, we estimate that incarcerating people for technical violations costs New York taxpayers well over \$600 million annually.

Across the state in 2018, an average of 1,740 people were incarcerated in county jails each day because they were accused of technical parole violations, a five percent increase from 2017.⁴⁵ According to analyses by the New York State Association of Counties and the New York City Comptroller, localities spend almost \$300 million a year to incarcerate these people.⁴⁶ Almost 4,300 additional people are incarcerated in New York State prisons for technical parole violations.⁴⁷ Applying a 2017 analysis by the Vera Institute on prison costs in New York, we calculate the State spends almost \$300 million a year imprisoning people for technical violations.⁴⁸

PAROLE REINCARCERATION IN NEW YORK STATE, OCT. 2016–SEPT. 2017

11,347 People successfully completed parole

9,250 People returned to prison — a 45% failure rate

7,903 People returned to prison for a technical parole violation

1,347
People on parole
returned to prison for a
new criminal conviction

IMPACT ON NEW YORK CITY JAILS

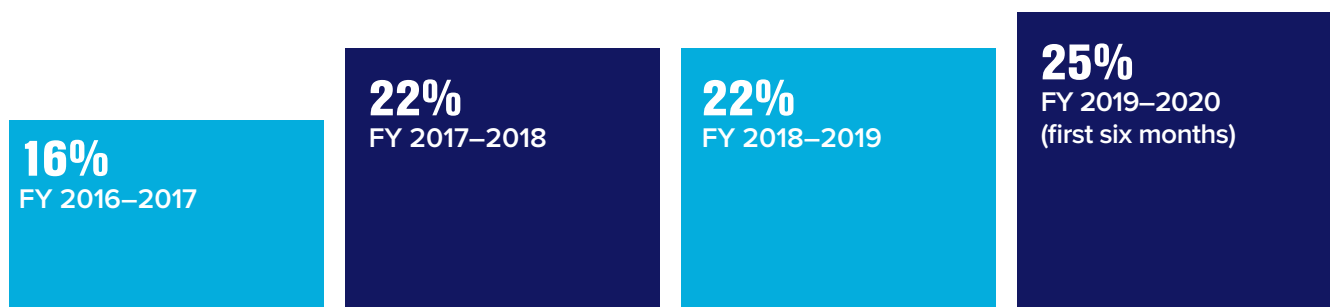
Combined, **20 percent of the people jailed in New York City are incarcerated because of alleged parole violations**, ineligible for release pending resolution of their cases. **This is the only population at Rikers that has grown since 2016.**

As of April 30, 2019, there were 628 people incarcerated on Rikers for alleged technical parole violations.⁴⁹ If current trends hold, approximately 3,725 people will be sent to Rikers for alleged technical parole violations in 2019, up 5 percent from 2018.⁵⁰ In addition, as of April 30, 2019, 889 people on parole were incarcerated in City jails for new criminal

charges and an accompanying parole warrant.⁵¹ Of those, approximately 500 were charged with lower-level offenses such as a violation, misdemeanor, or nonviolent felony.⁵²

Almost a quarter of all parole warrants in New York City are dismissed the first time a hearing officer examines them at a preliminary hearing, usually one to two weeks after the person has been incarcerated.⁵³ In that case, the person is released straight back to the community. This number has risen 77 percent in the past three years, suggesting an increasing number of people who should not have been jailed in the first place.

PERCENT WARRANTS DISMISSED AT PRELIMINARY HEARINGS⁵⁴



People are released after the warrant is dismissed, after spending up to two weeks in the Rikers jails. Even a short stay in jail can cause someone to lose their housing, employment, educational opportunities, or even custody of their children.

Because of the lack of pre-adjudication release and the length of time it takes to receive a final revocation hearing, the average person with a parole warrant stays in jail far longer than someone without a parole warrant, adding an additional significant barrier to the closure of Rikers.

Under the New York State bail reform law enacted in April 2019, people accused of most

misdemeanors and nonviolent felonies will not be subject to pre-trial detention, but rather will be released to the community under various conditions pending their trial. However, people on parole facing identical charges will still be incarcerated without any chance for release until the allegations are resolved, solely because of their parole status.

AVERAGE JAIL STAY⁵⁵

169 DAYS

People with new felony arrest and parole warrant

36 DAYS

People with new felony arrest and no parole warrant

100 DAYS

People with new misdemeanor arrest and parole warrant

12 DAYS

People with new misdemeanor arrest and no parole warrant

57 DAYS

People jailed on technical parole violations

32 DAYS

All people jailed pretrial

OPPORTUNITIES FOR REFORM

There is an increasing consensus that reducing the current scope of parole supervision would improve individual outcomes and public safety. In 2017, dozens of leading probation and parole officials and prosecutors from across the United States recommended reducing the number of people on parole and focusing supervision on those with the greatest need.⁵⁶ In 2018, New York Governor Andrew Cuomo raised his voice for reform, stating: “New York jails and prisons should not be filled with people who may have violated the conditions of their parole, but present no danger to our communities.”⁵⁷

Those exhortations are backed by studies that indicate that limiting technical parole revocations can improve public safety and reduce recidivism.⁵⁸ Furthermore, the experience of states that have taken steps to reform their parole systems suggest that reducing incarceration for technical violations can help focus resources and attention on the underlying issues that lead to violations, helping avoid them entirely.

PRINCIPLES FOR REFORM

There are a number of straightforward, common-sense principles for parole reform that would increase fairness, ensure due process, and reduce the number of people accused of parole violations held in City jails.

1. **Institute merit time credits to reward good behavior under supervision,** incentivizing positive reintegration into the community and saving resources by reducing the number of people on parole. Parole officers could then focus on the people who most need assistance.
2. **End mandatory detention for all parole warrants,** whether for a technical violation or a new criminal charge.

Instead, people accused of violating the terms of their supervision should receive an arraignment-like hearing before an independent judge to determine if they are likely to return for their parole hearing, just like people accused of probation violations.⁵⁹ If so, they should be released pending the hearing with the least restrictive conditions that would ensure their return to their revocation hearings.

While ending mandatory detention for parole warrants would require legislative change, an administrative reform that could be implemented immediately would be for parole officers to refrain from filing a parole warrant—and thereby trigger automatic detention—in many cases involving alleged misdemeanors or other charges that would be ineligible for detention under the recently passed bail reform law. Such abstention would be particularly appropriate when a judge requires the person on parole to participate in supervised release or other supportive services intended to increase the likelihood of the person appearing at hearings.

3. **Impose graduated, capped revocation sanctions commensurate with the seriousness of the violations.** It is counterproductive to jail people—particularly for months or years—because they committed a non-criminal, technical violation like being late for curfew, spending time with someone else with a criminal record, or missing an appointment with their parole officer. To the extent incarceration is appropriate at all, it should be strictly limited.

4. **Speed up parole violation adjudication hearings** so people no longer spend weeks or months in jail before their parole cases are adjudicated.
5. **Use savings to provide support and opportunities for people re-entering society from prison.** A significant portion of the considerable savings from reforming parole supervision should be dedicated to countering the housing instability, joblessness, inadequate education, mental and physical illness, and drug and alcohol dependency that disproportionately face people on parole.

For those people who are detained on parole warrants, the State should explore holding them in nearby State-run facilities, rather than on Rikers and in other local jails. This policy would not reduce incarceration overall, but could accelerate the closure of the Rikers jails and reduce the burden that parole detention places on counties across the state. In considering such a policy, however, the State should consider the challenges of ensuring that those who are detained have full access to counsel and visitation.

LESSONS FROM OTHER STATES AND NYC PROBATION REFORM

Similar reforms have proven successful in states throughout the country, resulting in fewer violations, fewer revocations, and no rise in recidivism.

In states like Arizona, Arkansas, Georgia, Idaho, Kansas, Kentucky, Louisiana, Mississippi, South Carolina, and Utah, people on parole can shorten their supervision periods by up to 30 days for 30 days of good behavior.⁶⁰ Sixteen states have put caps on how long individuals can be incarcerated for a technical violation of supervision conditions, and 22 states have instituted graduated sanctions for violations.⁶¹

These reforms have met with success. After South Carolina adopted graduated sanctions, technical revocations decreased 46 percent and recidivism rates for people under supervision dropped 33 percent.⁶² When Louisiana capped incarceration terms for first-time technical violations, incarceration terms fell by 281 days and 22 percent fewer people under community supervision were sent back to prison for new crimes.⁶³ And after Missouri adopted earned time credits, parole supervision terms decreased by 14 months, the supervised population fell 20 percent, average caseloads dropped 16 percent, and recidivism rates did not change.⁶⁴

New York City successfully implemented similar reforms for people on probation earlier this decade. People accused of probation violations are brought before a court which can put the person in jail, fix bail, or release the person on their own recognizance pending a hearing on the accusation.⁶⁵ Under the leadership of then-Commissioner Vincent Schiraldi, from 2010 to 2014 the New York City Department of Probation (DOP) significantly reduced the number of people jailed for probation violations and cut recidivism in the process. The DOP reduced the rate at which it filed violations against adult probation clients by 45 percent.⁶⁶ At the same time, the DOP quintupled the percent of people released early from probation and saw felony rearrest rates for this group decline.⁶⁷ Given resultant caseload reductions, the DOP was able to triple spending per individual person on probation, increase the number of contracts for community-based nonprofit services from two to 54, and reduce staffing by 19 percent.⁶⁸

THE LESS IS MORE ACT

The *Less Is More Act*, S. 1343B/A. 5493A, sponsored by Senator Brian Benjamin and Assemblyman Walter Mosley, builds on reform efforts from other states and exemplifies the

types of reforms New York needs. It would end mandatory detention on parole warrants, preclude incarceration for most technical violations, place caps on revocation sanctions, speed up revocation hearings, and allow people to earn time off their parole terms for good behavior. The bill has been endorsed by District Attorneys, Sheriffs, current and former police chiefs and officers, the New York State Association of Counties, and former probation and parole commissioners and officials.

SAVINGS AND REINVESTMENT

Parole reforms would not just increase public safety, but likely would save tens, if not hundreds, of millions of dollars per year in state and county budgets through lower parole caseloads and reduced incarceration, including the potential closure of portions of or entire state prisons and county jails. These savings should be reallocated to the people and communities most impacted by the criminal justice and parole systems in the form of economic and housing development, literacy, education, micro-loans, community-based programs for dependency and mental health treatment.⁶⁹

COLORADO REINVESTMENT INITIATIVES

In 2017, Colorado passed legislation capping the length of time people could be sent back to prison for technical parole violations.⁷⁰ The law is redirecting \$24 million to community-led, community-centric small business loans and a community-development grants program focused on two neighborhoods that have been impacted by the criminal justice system.⁷¹

CONCLUSION

The incarceration of approximately 1,500 people on parole in New York City jails every day for alleged technical parole violations or new offenses, even low-level offenses that normally would not result in incarceration, is poor public safety policy and unfair to people on parole. It also poses a significant barrier to the closure of Rikers Island.

Elsewhere around the State, over 1,000 more people are jailed each day for alleged technical parole violations, and over 4,000 more people are serving time in State prisons for technical parole violations.⁷² The hundreds of millions of dollars spent on this largely unnecessary and often counterproductive incarceration of people on parole would be better spent expanding housing, employment and treatment programs, and investing in impacted communities.

A smaller parole system that incarcerates many fewer people would permit parole authorities to concentrate their resources on the people who are most in need of their services and supervision. It would also move New York City a major step closer to shutting the jail complex on Rikers Island once and for all. We call on the State to adopt necessary reforms to the parole system as soon as possible.

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NOTES

1. For ease of use, we refer to all forms of community supervision as parole.
2. New York City Open Data, *Daily Inmates in Custody* (visited May 1, 2019), available at <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>.
3. *Id.*
4. *Id.*
5. Jonathan Lippman, et al., *A More Just New York City* (805 people incarcerated for new charges combined with a parole warrant as of Sep. 29, 2016); NYC Open Data, *Daily Inmates in Custody* (visited May 1, 2019; 889 people incarcerated for new charges combined with a parole warrant).
6. NYC Open Data, *Daily Inmates in Custody* (visited May 1, 2019).
7. NYS Assembly Committee on Corrections, *2018 Annual Report* (Dec. 2018) at 2, available at https://nyassembly.gov/write/upload/postings/2019/pdfs/20190319_0085751.pdf. In the first 10 months of 2017, the number was nearly identical: 1,106. NYS Assembly Committee on Corrections, *2017 Annual Report* (Dec. 2017) at 2, available at https://nyassembly.gov/write/upload/pdfs/20171215_79309.pdf.
8. NYS DOCCS, *Admissions and Releases Calendar Year 2018*, available at <http://www.doccs.ny.gov/Research/Reports/2019/Admission%20Releases%20Report%20Calendar%20Year%202018.pdf>. In 2017, New York State returned 7,789 people on parole to prison, including re-incarcerating 1,928 people on parole to receive drug treatment. *Id.*
9. NYS DOCCS, *Admissions and Releases Calendar Year 2018*. In 2017, people imprisoned for parole violations made up 37% of annual New York State prison admissions. *Id.*
10. United States Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States, 2016* (Apr. 2018), Appendix Table 7, available at <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.
11. See, e.g., Ashley Hackett, *A Harvard Sociologist Breaks Down the Moral Failures Plaguing the U.S. Prison System*, PACIFIC STANDARD (May 15, 2018), available at <https://psmag.com/social-justice/a-harvard-sociologist-breaks-down-the-moral-failures-plaguing-the-u-s-prison-system>; Cindy Hendricks, James E. Hendricks, Susie Kauffman, *Literacy, Criminal Activity, and Recidivism* (July 2016), available at <https://www.researchgate.net/publication/239864667>; Urban Institute, *Validation of the Employment Retention Inventory, An Assessment Tool of the National Institute of Corrections* (2016), available at https://www.urban.org/sites/default/files/publication/85331/validation-of-the-employment-retention-inventory_0.pdf; Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* (2013), available at <https://csgjusticecenter.org/wp-content/uploads/2013/03/Report-of-the-Reentr-Council.pdf>; New York State Bar Association, *Re-Entry and Reintegration: the Road to Public Safety, Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings* (2006), available at <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26857>; National Center for Education Statistics, *Literacy Behind Prison Walls* (October 1994), available at <https://nces.ed.gov/pubs94/94102.pdf>.
12. Courtney Gross, *The New York Prison-to-Shelter Pipeline*, NY1 (Feb. 27, 2018), available at <https://www.ny1.com/nyc/all-boroughs/politics/2018/02/27/ny1-investigation-more-inmates-released-upstate-prisons-going-into-nyc-shelter-system>.
13. For instance, a study in Boston found just over half of people on parole reported paid employment a year after release from prison, with lower rates for people with addiction and mental illness. See Harvard Kennedy School Rappaport Institute for Greater Boston, *The Boston Reentry Study: Finding Work After Prison* (June 2015), available at <https://scholar.harvard.edu/files/brucewestern/files/employmentvfinal.pdf>. The same study found over 40 percent of people on parole were living in marginal or temporary housing a year after release. See Harvard Kennedy School Rappaport Institute for Greater Boston, *The Boston Reentry Study: Housing Insecurity After Prison* (June 2015), available at <https://scholar.harvard.edu/files/brucewestern/files/housingvfinal.pdf>.
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16. New York State Association of Counties, Joint Legislative Budget Testimony at 17 (Feb. 11, 2019), available at https://www.nysenate.gov/sites/default/files/testimony_of_nys_association_of_counties.pdf.
17. New York City Comptroller, Press Release, *Comptroller Stringer: Despite a Decline in Incarceration, Correction Spending, Violence, and Use of Force Continued to Rise in FY 2018* (Jan. 22, 2019), available at <https://comptroller.nyc.gov/newsroom/comptroller-stringer-despite-a-decline-in-incarceration-correction-spending-violence-and-use-of-force-continued-to-rise-in-fy-2018/> (finding NYC DOC spends \$828 per incarcerated person per day); NYC Open Data, *Daily Inmates in Custody* (visited May 1, 2019). As described in note 69, however, the marginal savings from detaining fewer people in jail is lower than the average cost of incarceration.
18. Vera Institute of Justice, *The Price of Prisons: Examining State Spending Trends, 2010–2015* (May 2017), available at <https://www.justnet.org/pdf/The-Price-of-Prisons-Examining-State-Spending-Trends-2017.pdf>. As described in note 69, however, the marginal savings from detaining fewer people in jail is lower than the average cost of incarceration.

19. Our projections are as follows. **Technical Violations:** On any given day, approximately 600 people are held on Rikers for alleged technical violations. We should reduce this number: (1) by removing incarceration as a sanction for many technical violations; (2) for violations for which incarceration remains an available sanction, requiring a “recognizance hearing” in a local court—akin to an arraignment hearing—before someone can be jailed pending administrative hearings on the alleged violation; and (3) speeding up significantly those administrative hearings. We estimate that these reforms would reduce the number of people jailed for technical violations by two-thirds, for a projected reduction of 400 people. **New Criminal Offenses:** On any given day, approximately 900 people on Rikers face new criminal offenses but are not eligible for release on bail or on their own recognizance (ROR) because parole has issued a related warrant. We should make these people eligible for bail or ROR like other defendants who are not on parole, and empower criminal court judges to determine, at arraignment, whether to detain the person or not. While the new bail reform law that will take effect January 1, 2020 will no longer permit detention for people charged with most misdemeanors and nonviolent felonies, detention of people with parole warrants for the same crimes would still be allowed. To project the impact of our proposed reforms, we multiplied the number of people on parole jailed for new charges for misdemeanors, nonviolent felonies, and violent felonies by the rate at which people charged with those categories of offenses who were not on parole were released on recognizance in 2016 according to CJA data. We then built in a 25 percent “implementation discount” to account for the likelihood that courts may be less likely to release people on parole. Based on these assumptions, we project a reduction of 340 people.
20. NYS DOCCS, *DOCCS Fact Sheet* (June 1, 2019), available at <http://www.doccs.ny.gov/FactSheets/PDF/currentfactsheet.pdf>.
21. NYS DOCCS, *Community Supervision Staffing Legislative Report 2018* at 29, available at <http://www.doccs.ny.gov/Research/Reports/2018/Community-Supervision-Staffing-Report-2018.pdf>.
22. *Id.* at 17; US Census Bureau, *QuickFacts New York* (data as of July 1, 2018), available at <https://www.census.gov/quickfacts/fact/table/NY/RH125217#RH125217>.
23. NYS DOCCS, *Community Supervision Staffing Legislative Report 2018* at 17; US Census Bureau, *QuickFacts New York*.
24. NYS DOCCS, *Community Supervision Staffing Legislative Report 2018* at 17; US Census Bureau, *QuickFacts New York*; US Census Bureau, *QuickFacts New York City, New York* (data as of July 1, 2018), available at <https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork/PST120218>; US Census Bureau, *QuickFacts Nassau County, New York* (data as of July 1, 2018), available at <https://www.census.gov/quickfacts/nassaucountynewyork>; US Census Bureau, *QuickFacts Suffolk County, New York* (data as of July 1, 2018), available at <https://www.census.gov/quickfacts/suffolkcountynewyork>.
25. DOCCS defines “in an important respect” as “behavior that rises to a level of that could endanger the community or the parolee and makes the parolee unamenable to supervision.” DOCCS Directive 9050, *Community Supervision Revocation Process* at 5 (Aug. 6, 2018), available at <http://www.doccs.ny.gov/Directives/9050.pdf>.
26. If the person on parole waives their preliminary hearing, something that is often encouraged by parole officers, then a final revocation hearing must be held within 90 days of the date of the waiver. If a person on parole is arrested and convicted of a new misdemeanor or a felony for which the person receives a sentence of a year or less, there is no preliminary hearing and the case goes straight to a final hearing. If the person is convicted of a felony in New York State and sentenced to a year or more, then the person’s parole is automatically revoked.
27. NYS DOCCS, *Community Supervision Handbook* (July 2017) at 29–30, available at http://www.doccs.ny.gov/pdf/Community_Supervision_Handbook.pdf.
28. NYS DOCCS, *Proposed Board of Parole Regulations — Standard Conditions and Revocation Guidelines 9 NYCRR Sections 8002.6, 8003.2 and 8005.20* (Jan. 30, 2019), available at http://www.doccs.ny.gov/RulesRegs/20190130_CCS-05-19-00006.pdf.
29. *Id.*
30. *Id.*
31. NYS DOCCS, *Community Supervision Staffing Legislative Report 2018* at 16, available at <http://www.doccs.ny.gov/Research/Reports/2018/Community-Supervision-Staffing-Report-2018.pdf>.
32. NYC Mayor’s Office of Criminal Justice, *Justice Brief, Jail: State Parolees* (Feb. 2018), available at https://criminaljustice.cityofnewyork.us/wp-content/uploads/2018/04/Parole_Violators_Fact_sheet_2_18.pdf.
33. *Id.*
34. NYS DOCCS, *Community Supervision Staffing Legislative Report 2018* at 32, available at <http://www.doccs.ny.gov/Research/Reports/2018/Community-Supervision-Staffing-Report-2018.pdf>.
35. *Id.*
36. United States Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States, 2016* (Apr. 2018), Appendix Table 7, available at <https://www.bjs.gov/content/pub/pdf/ppus16.pdf#page=22>.
37. *Id.*
38. See, e.g., New York State Bar Association, *Re-Entry and Reintegration: the Road to Public Safety, Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings* (2006), available at <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26857>;
39. Courtney Gross, *The New York Prison-to-Shelter Pipeline*, NY1 (Feb. 27, 2018), available at <https://www.ny1.com/nyc/all-boroughs/politics/2018/02/27/ny1-investigation-more-inmates-released-upstate-prisons-going-into-nyc-shelter-system>.
40. See, e.g., Ashley Hackett, *A Harvard Sociologist Breaks Down the Moral Failures Plaguing the U.S. Prison System*, PACIFIC STANDARD (May 15, 2018), available at <https://psmag.com/social-justice/a-harvard-sociologist-breaks-down-the-moral-failures-plaguing-the-u-s-prison-system>; Cindy Hendricks, James E. Hendricks, Susie Kauffman, *Literacy, Criminal Activity, and Recidivism* (July 2016), available at <https://www.researchgate.net/publication/239864667>; Urban Institute, *Validation of the Employment Retention Inventory, An Assessment Tool of the National Institute of Corrections* (2016), available at https://www.urban.org/sites/default/files/publication/85331/validation-of-the-employment-retention-inventory_0.pdf; Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* (2013), available at <https://csgjusticecenter.org/wp-content/uploads/2013/03/Report-of-the-Reentry-Council.pdf>; New York State Bar Association, *Re-Entry and Reintegration: the Road to Public Safety, Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings* (2006), available at <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26857>; Literacy_Criminal_Activity_and_Recidivism National Center for Education Statistics, *Literacy Behind Prison Walls* (October 1994), available at <https://nces.ed.gov/pubs94/94102.pdf>.

41. See, e.g., Raven Rakia, *"I Had Nothing": How Parole Perpetuates a Cycle of Incarceration and Instability*, THE APPEAL (Apr. 5, 2019), available at <https://theappeal.org/how-parole-perpetuates-a-cycle-of-incarceration-and-instability/>; Josh Weber, Michael Umpierre, and Shay Bilchik, *Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes*, Georgetown University Center for Juvenile Justice Reform (2018); Shaila Dewan, *Probation May Sound Light, but Punishments Can Land Hard*, NEW YORK TIMES (Aug. 2, 2015), available at <https://www.nytimes.com/2015/08/03/us/probation-sounding-light-can-land-hard.html> New York State Bar Association, *Re-Entry and Reintegration: the Road to Public Safety, Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings*; R.P. Seiter, and A.D. West, *Supervision styles in probation and parole: an analysis of Activities*, JOURNAL OF OFFENDER REHABILITATION 38(2), 57–75 (2003); J. Travis and J. Petersilia, *Reentry Reconsidered: a new look at an old question*, Crime & Delinquency 47(3), 291–313 (2001); J. Petersilia and S. Turner, *Intensive Probation and Parole*, in M. Tonry (Ed.), CRIME AND JUSTICE: A REVIEW OF RESEARCH, vol. 17 (1993).
42. Courtney Gross, *The New York Prison-to-Shelter Pipeline*, NY1 (Feb. 27, 2018), available at <https://www.ny1.com/nyc/all-boroughs/politics/2018/02/27/ny1-investigation-more-inmates-released-upstate-prisons-going-into-nyc-shelter-system>.
43. *Id.*
44. Editorial Board, *Cold welcome home: The tough truth about parolees entering New York City's homeless shelters*, NEW YORK DAILY NEWS (Mar. 3, 2018), available at <https://www.nydailynews.com/opinion/cold-home-parolees-article-1.3851989>
45. New York State Division of Criminal Justice Services, *Jail Population in New York State* (Jan. 28, 2019), available at https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf. This includes an average of 718 people per day in New York City jails and 1,022 people in county jails in the rest of the state. *Id.* Every county in the state except Hamilton and Schoharie had alleged parole violators in its jails.
46. It costs an average of \$79,000 per year to jail someone outside New York City and \$302,000 per year to jail a person in New York City. NYS Association of Counties, *Cashless Bail and Other Criminal Justice Reform Proposals* (Feb. 2019) at 3, available at [http://www.nysac.org/files/NYSAC%20Cashless%20Bail%20Whitepaper%20Feb%2020%202019\(1\).pdf](http://www.nysac.org/files/NYSAC%20Cashless%20Bail%20Whitepaper%20Feb%2020%202019(1).pdf); New York City Comptroller, Press Release, *Comptroller Stringer: Despite a Decline in Incarceration, Correction Spending, Violence, and Use of Force Continued to Rise in FY 2018*.
47. NYS DOCCS Open Data, *Inmates Under Custody: Beginning 2008* (visited June 12, 2019), available at <https://data.ny.gov/Public-Safety/Inmates-Under-Custody-Beginning-2008/55zc-sp6m>. Data as of March 31, 2019.
48. It costs an average of \$69,000 per year to incarcerate a person in a New York State prison. Vera Institute of Justice, *The Price of Prisons: Examining State Spending Trends, 2010–2015* (May 2017), available at <https://www.justnet.org/pdf/The-Price-of-Prisons-Examining-State-Spending-Trends-2017.pdf>.
49. NYC Open Data, *Daily Inmates in Custody* (visited May 1, 2019).
50. NYC Open Data, *Inmate Admissions* (visited June 12, 2019), available at <https://data.cityofnewyork.us/Public-Safety/Inmate-Admissions/6teu-xtgp>.
51. NYC Open Data, *Daily Inmates in Custody* (visited May 1, 2019).
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58. See, e.g., Josh Weber, Michael Umpierre, and Shay Bilchik, *Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes*, Georgetown University Center for Juvenile Justice Reform (2018); R.P. Seiter, and A.D. West, *Supervision styles in probation and parole: an analysis of Activities*, JOURNAL OF OFFENDER REHABILITATION 38(2), 57–75 (2003); J. Travis and J. Petersilia, *Reentry Reconsidered: a new look at an old question*, Crime & Delinquency 47(3), 291–313 (2001); J. Petersilia and S. Turner, *Intensive Probation and Parole*, in M. Tonry (Ed.), CRIME AND JUSTICE: A REVIEW OF RESEARCH, vol. 17 (1993).
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61. *Id.*
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65. New York State Code of Criminal Procedure, Section 410.60 (2019). Effective January 1, 2020, the Court may also release a person accused of a probation violation under non-monetary conditions. *Id.*
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69. The actual savings would depend on the prison and jail capacity closed due to the reduced population, and any commensurate reduction in staff, the primary cost of corrections. We envision that, at minimum, housing areas, pods, or wings of prisons and jails could be closed. It is likely that entire state prisons and at least one New York

City jail could be closed. The savings would be less than the average cost of incarceration per person, as built into the average are relatively fixed costs like central executive and administrative expenses, heat, light and power, lease and rent costs etc. Closure of an entire facility would save a higher marginal amount per person incarcerated than closing wings of a facility, likely 50% more, since in addition to the line staff savings, there would be further facility-based administrative savings not realized from shutting down one housing area.

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