

New York State Criminal Justice Reform: Early Implementation Findings

John Jay Conference: “Bail Reform in New York: What have we learned? What’s next?”

May 13, 2022



CUNY INSTITUTE
FOR STATE & LOCAL
GOVERNANCE

ISLG's Study

- **Implementation evaluation goals and objectives**

- To explore ways in which NY counties and criminal legal system agencies adopted legislative requirements
- To document the successes achieved and the challenges faced
- To extract larger lessons learned (factors, circumstances, strategies) from NY's experience

- **Data**

- Multiple NY counties
- Interviews and focus groups with various agency actors and impacted individuals
- Document and data reviews

Key Findings:

Pretrial Services

Pretrial service resources and opportunities vary considerably across the state

- **Resources: A tale of two states**

- Unfunded mandate
- Counties outside NYC strapped for cash and often have more limited continuum of options
- NYC resource-rich with fuller continuum of services

Our funding has been getting slashed for years. We make it work with what we have.

It's not reasonable to assume smaller agencies have the staff to do this...the State says it has no money, but they mandate things and that puts the counties in a bad position.

Pretrial providers had uncertain expectations and limited guidance

- **Lack of guidance and unrealistic expectations from the state**
 - How do you assign levels of supervision?
 - What risk assessment should you use?
- **Provider uncertainty**
 - Would there be an influx or exodus of clients?
 - How would judges interpret the law?

Right now, we are in a state of flux ... The rules and regulations were supposed to come out [from the State] for the pretrial services programs to give us some guidance as to how we are going to make this work. We got nothing.

Pretrial providers had to adjust to working with a different clientele

- **An evolving target population**
 - Clients with more extensive criminal histories
 - Clients with greater needs (mental health, addiction)
 - Clients charged with violent offenses
- **New staffing structures and specialized qualifications**
- **Net-widening**

"...we are getting a lot more serious cases, with domestic violence... These are very serious cases. We are getting harder cases now. We are working out a lot of new procedures that is hard with a model based on social work principles."

Key Findings:

**Bail and Pretrial
Detention**

Participants largely subscribed to the spirit of the legislation, though felt the pendulum may have swung too far in limiting discretion

- **Leveling the Playing Field**

- Removing economic barriers to release
- Limiting collateral consequences
- Better case outcomes
- Reducing impact of racial and economic bias

“When we were not in (jail), there were better opportunity to prepare for the case. You can move, visit the library, seek better counsel, and have more liberty”

- **Perceived Negative Impact on Community Safety**

- Concerns around limiting judicial discretion; no consideration for prior criminal history or ‘dangerousness’ factors
- Recidivism; ‘revolving door’

Challenges securing buy-in for bail reforms across stakeholders

- **Buy-in from Law Enforcement and Prosecution**

- Ignoring victim's perspective
- NYC-centric
- No voice at the drafting table

- **Implementation Issues**

- Ambiguous statute language
- Charge eligibility issues
- Need for culture shift

"Aspects of what was passed are different for outside NYC. There are aspects of discovery and bail reform that deal with 24/7, 365-day court system...there are some (courts) in this county that only meet once a month."

Of particular note...

- **Eliminating Racial and Ethnic Disparities**
 - Recognize this as a goal of the legislation
 - No known impacts to date
 - Need for intentional focus
 - Some well-intentioned reforms may exacerbate disparities

- **COVID-19**
 - Compounded implementation challenges
 - Difficult to discern impacts
 - Difficult to untangle impact of bail reform on crime trends

Thank you!



CUNY INSTITUTE
FOR STATE & LOCAL
GOVERNANCE