

# New York state bail reform prompts backlash from Democrats and Republicans

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A new law eliminating cash bail in New York State has been met with significant backlash from both sides of the aisle in the state legislature, as well as the New York City mayor, the Governor and the New York City Police Department. Since the law came into effect on January 1, 2020, New York politicians have been vocal with calls for revision and even a total roll-back.

Democratic State Senate Leader Andrea Stewart-Cousins (D-Yonkers) said, “We don’t want to leave things in place that we know aren’t right and aren’t working,” while ‘progressive’ Democrat and New York City Mayor Bill de Blasio said, “[T]here is real agreement that the bail reform law needs to be amended.” Democratic State Governor Andrew Cuomo remarked, “Something is necessary,” and continued, “We are now looking at the effect of those changes and considering other changes.”

In order to justify this U-turn, politicians and law enforcement officers have cited what New York Police Commissioner Dermot Shea called “significant spikes in crimes” in the first three weeks of 2020. On February 7, Mayor de Blasio fell in line behind Shea, stating, “I think it’s pretty clear there’s only one new major piece in the equation.”

According to the NYPD, robberies are up 32.5 percent, car theft 61 percent and burglaries 18 percent from the same period in 2019. Shea directly blamed the cash bail reform for this increase, stating, “If you let out individuals that commit a lot of crime, that’s precision policing in reverse and we’re seeing the effects in a very quick time, and that is why we’re so concerned.”

Contrary to the claims of the NYPD, New York University’s Brennan Center for Justice states that, “there’s currently no evidence from which to conclude that the bail reforms will cause an increase in crime.”

Indeed, a recent study by MDRC’s Center for Criminal Justice Research found that since the passage of a similar set of bail reforms in New Jersey in 2017, there has been a significant reduction in crime rates, overall arrests and pre-trial detention.

The New York legislation has outlawed cash bail for misdemeanors and non-violent felonies. For all violent felonies, and certain non-violent felonies such as sex and courtroom offenses, judges may still impose cash bail at their discretion. There is still no limit to the bail amount that judges may set in these cases. The passage of the bill is an attempt by New York Democrats to appease popular outrage at the systematic targeting of poor and minority workers and youth for bail they cannot meet.

While the Democrats wasted no time jettisoning their facade of ‘progressive’ politics in the face of resistance from the NYPD and other law-and-order advocates, the Republicans have taken the opportunity to push their fascistic appeals. Nick Langworthy, the chairman of the New York Republican Party, said that the Democrats who passed the bill “have blood on their hands.”

Following the shooting of two police officers on February 8 and 9 one of the city’s police unions, the Sergeants’ Benevolent Association, tweeted, “Mayor DeBlasio, the members of the NYPD are declaring war on you!” The tweet added, “NYPD cops have been assassinated because of you.”

The reform does not release individuals convicted of crime, only those accused, i.e., anyone who is legally innocent until proven guilty at trial. The reform bill simply means that defendants in certain cases have the right to pre-trial freedom regardless of their financial means.

Crime is a social phenomenon with its current roots in the crisis of capitalism. However, Commissioner

Shea's words imply that poor people are intrinsically violent and need to be preemptively detained before it is even proven they have committed a crime. However, people with the means to meet bail, despite having the same legal status, are not considered a threat.

According to one source, on any day in the US, 400,000 factually innocent people sit in jail, many because they lack the financial means to post bail. Along with the litany of other attacks on the American working class, this practice has intensified over the last 50 years. The number of people incarcerated in the US has increased seven times since 1970, and 99 percent of this increase is accounted for by pre-trial detention. Imposing bail above and beyond the means of the defendant violates the Eighth Amendment to the Constitution.

Despite the presumption of innocence, if an individual is unable to meet bail they are detained until their trial is concluded, which can often take years. If they cannot post the money, these individuals are forced to rely on predatory bail-bondsmen, who extend loans to the accused so that they are able to post bail. These bonds usually have a return of 10 percent or higher for the bondsmen. Originating in San Francisco in the late 19th century, this predatory practice is only legal in two countries, the United States and the Philippines.

Over 50 percent of Americans cannot afford an unexpected \$500 bill. The nationwide median bail for felonies is \$10,000 and for misdemeanors in New York City is \$2,000. The imposition of excessive bail is not an effort to keep dangerous individuals out of communities but is part of a wider attack on the working class, essentially criminalizing poverty.

Under the previous bail system, tens of thousands were pushed to financial, mental and physical ruin—and in some cases death. One of the most tragic examples of this is the case of Bronx teenager Kalief Browder. Accused of stealing a backpack in 2010, Browder languished in jail on Rikers Island for three years, as his family could not raise \$3,000 in bail. Video emerged of Browder being beaten while handcuffed by prison guards. After his release, he also accused guards of starving him. In total, he spent two years in solitary confinement. After three years, the case was dropped for lack of evidence. Following his traumatic time in Rikers, Browder committed suicide in 2015.

There are questions surrounding the validity of the data underlying the hysterical claims of a rapid rise in crime following the passage of the bill. Three weeks is arguably too short a period to claim statistical significance, and is compared only year-on-year, rather than as an extended trend. This data is also the product of CompStat, which is controlled centrally by the NYPD, leaving open the possibility of data manipulation.

Among the main beneficiaries of bail bonds, in addition to the smaller lenders themselves, are the corporations utilizing slave-wage labor within prisons, as well as the insurance industry. According to a 2017 *Gothamist* report, inmates on Rikers Island are paid as little as \$0.16 an hour in a \$50-million-dollar production industry at the complex. A 2018 report from the American Civil Liberties Union on the \$2 billion bail bond industry exposed the role of nine insurance companies that, “underwrite most money-bail companies in the US.”

That a bill which partially ends a draconian practice detested by the majority of the population can become the subject of such political controversy exposes the role of all the capitalist politicians. The Republican efforts to whip up reactionary backwardness and the Democrats' preparations to abandon their promised reform show that both parties are responsible for the attacks on democratic rights.



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