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Getting to Half:

Report submitted to the Cortland County Legislature on strategies to cut the county's average daily jail population by half

Insha Rahman, Esq.

Director of Strategy & New Initiatives

Sandra van den Heuvel, LMSW

Program Associate

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Executive Summary

In 2018, Cortland County engaged the Vera Institute of Justice to study the question of the local jail. Our task was to identify strategies for safely reducing the jail population and to deliver recommendations on how the county should proceed. Should the county build a new jail entirely, refurbish the existing one, or do nothing? What investments should the county make in the county's criminal justice system, alternatives to incarceration, and the jail itself? What solutions would be the most effective, fiscally sound, and comport with public safety?

Over six months, Vera staff conducted dozens of interviews with local leaders and community members, attended county-wide meetings with the Justice League and the Legislature, and observed criminal justice proceedings in the courts. With the invaluable assistance of two private citizens, we analyzed years of jail data to assess the county's criminal justice trends.

We recognize the jail is not a new issue for Cortland County. For more than fifteen years, as the current jail operates over capacity and under less than ideal conditions, the county has been debating whether a new jail is simply an inevitability. Cortland is not alone among counties in New York State facing this challenge. Over ten counties across the state have built new jails in the past two decades, and several more are contemplating or actively doing so.

Yet the tide is turning on whether new jail construction is the inevitable and only solution to manage overcrowding.

Why? For one, there is growing recognition that the costs of jail construction are a serious financial burden on counties and that new jails do not always mean lower operating costs or more effective operations. In 2018, Sullivan County opened a 256-bed jail that cost \$75 million to build. Despite the new, modern facility, the county anticipates spending \$12.4 million to run the jail this year, up from \$12.1 million it spent the year before to operate the old one.

Second, to address overcrowding, some counties have invested first in alternatives to incarceration instead of a new jail. This year, Tompkins County will spend \$3 million on its Probation and Community Justice Department and almost \$412,000 on the OAR (Opportunities, Access, and Resources) Program, a county-wide alternative to incarceration program. As expensive as those investments are, they have contributed to Tompkins' low jail

incarceration rate, a manageable average daily jail population, and reasonable annual jail operating costs.

Third, new state laws on bail, discovery, and speedy trial—that will take effect on January 1, 2020—will result in fewer admissions to jail and to shorter lengths of stay across New York State, including in Cortland County. At least two other counties, Dutchess and Greene, have adjusted their proposed jail construction plans as a result. Originally slated to begin construction on a new jail with 569 beds, Dutchess County announced in May 2019 that they would pause on moving ahead and consider a facility that holds potentially half as many beds. This significant change came on the heels of a study by the Dutchess County Criminal Justice Council evaluating the impact of alternatives to incarceration and new state laws on the county's future jail population. Likewise, Greene County, similar in size to Cortland County, announced earlier this month that if they proceed with new jail construction they would reduce the number of beds from 80 to either 72 or 64 beds.

Topline recommendations

These are important and instructive lessons from around the state for Cortland as it makes a long-awaited decision about its jail. It is not an inevitability for Cortland County that a new jail should be built. If the county first invests in the recommendations in this report—that are significantly less expensive than new jail construction—the county will have an average daily jail population of approximately 50 people, all of whom can be safely and effectively managed in the current jail without boarding out or overcrowding.

The following recommendations are a high-level summary of our main findings, with more detail and specifics in the pages that follow.

Cortland County should maintain a jail to house approximately 45 individuals at a given time, with room to accommodate a 15% swing for peak periods.

We recommend that in the next two years, the county engage in sensible, practical efforts to reduce the average daily jail population from what it is now, at approximately 90-95 people in custody on a given day, to approximately half that number. As ambitious as it sounds, this is wholly within reach. The county is already on its way to investing in the types of programs and infrastructure that will yield this reduction.

Criminal justice reforms, set to be enacted in January 2020, will result in the mandatory release of 25-30 people out of the current average daily jail population. Further investments in programs and services should be made to bring the average daily jail population down more. Cortland operates or is developing several programs—the jail-based counseling services program, COTI Mobile Outreach Program, and the soon-to-be-launched “Angel” substance use program. The county should not stop there, but invest in additional arraignment-based services and alternatives to incarceration. These investments will further reduce the average daily jail population, even after accounting for reductions due to the new legislation, by an additional 25-30 people for an overall jail population of approximately 45 people in jail on a given day.

Cortland County should hire a countywide position for a criminal justice coordinator whose responsibility is the implementation of criminal justice reforms.

While Cortland County has many impressive initiatives and programs underway to make improvements in the criminal justice system, it will not maximize its potential unless it invests in a position or entity that is responsible for shepherding these reforms. The counties in New York that have seen the most success in safely reducing the number of people in jail and developing a more effective justice system have all invested in creating a centralized criminal justice infrastructure. That work may be led by one person, such as a criminal justice coordinator. In other, larger counties, there may be a criminal justice coordinating council or Alternatives to Incarceration committee dedicated to the task. In Cortland, the work of the Justice League is an excellent beginning but insufficient to manage this task, given that all members of the League participate in it in addition to their full-time obligations in local government departments, nonprofits, and services. A dedicated position, housed within the county executive office and reporting directly to the Legislature, whose sole task is to manage jail- and ATI-related efforts, is a crucial investment for the county to realize the recommendations in this report.

Cortland County should invest in a centralized arraignment part to streamline pretrial services and provide alternatives to incarceration at the time of arrest.

The county has invested in many good programs and services to improve its criminal justice system, but most of those resources are not available until a person has already been booked into the jail. For example, the ATI program under the Department of Probation only conducts interviews in the jail, not at the time of arraignment itself. The jail counseling program, an

effective means of connecting people with substance use disorders and other behavioral health challenges to treatment and services, is only available to people when they are incarcerated in the jail.

One of the challenges that currently exists in a county as large and spread out as Cortland is that providing services at arraignment would require setting up 15 separate programs—in the city court in Cortland and the 14 towns and villages in the county. This is logistically close to impossible and deeply inefficient. Instead, the county should invest in a centralized arraignment part, to be located in Cortland City Court, where all arraignments in the county can be heard. The centralized arraignment part would be staffed by a full-time judge, a representative from the District Attorney’s Office and the Public Defender, as well as a representative from pretrial services. Several counties across New York—Washington, Oneida, Onondaga, and Broome—have operated a centralized arraignment part for well over a year to good results. This investment in Cortland County will allow for judges, attorneys, and pretrial services programs to collaborate in a proactive way to provide services *before* people are booked into the jail.

Cortland County should create a countywide “hub” court for cases that are detained either pretrial or on a violation of probation or treatment court.

Admissions to the Cortland County Jail have stayed constant over time, yet the length of stay for people incarcerated there has increased significantly in recent years. This is one of the main drivers of the swelling jail population, as local courts in the towns and villages do not have daily calendars to quickly resolve detained cases and the city and county courts face congestion in managing their existing dockets.

The county should invest in opening one new courtroom in Cortland City or County Court for the entire county—a “hub” court—to streamline the processing of cases where the person is detained pretrial or held for a violation of probation or treatment. A judge, representative from the District Attorney’s, and the defense bar, should be assigned to address these cases efficiently with case conferencing and liaising with necessary parties, including the Department of Probation, ATI, and treatment court, when needed. As the individuals who appear in this court are all incarcerated pending the disposition of their case, adjournments should be no longer than two weeks at a time. Even a small decrease to the number of days a case is pending will have a significant impact in lowering Cortland’s average daily jail population.

Cortland County should collaborate with the local Division of Parole to address the increase in people being admitted to the jail solely on technical parole violations.

A significant and growing portion of the Cortland County average daily jail population are people who have not been charged with a new crime, but are detained solely on a technical parole violation. These individuals on parole are both increasingly being admitted to jail for a technical violation and are staying in jail longer over time. Even without statewide legislative reform, local counties can partner with the New York State Department of Corrections and Community Supervision's parole division to implement jurisdiction-specific programming to keep people on parole arrest- and violation-free.

One example of a successful local model is the Harlem Community Justice Center's Parole Reentry Court, where a local nonprofit organization—the Center for Court Innovation—partnered with the parole office in Harlem to supervise and provide services for participants on parole. These services included classes, substance use treatment, employment assistance, cognitive behavioral therapy, and family support. As a result of the program, revocations and technical parole violations decreased by one-half. In Cortland, an expansion of the effective jail-based counseling services program could serve this specific population, in partnership with the local parole office, to reduce the number of admissions to the jail for technical violations and, if a person on parole is violated, to work efficiently to resolve the violation.

Cortland County should invest in the refurbishment of the current jail to improve conditions and create more programming space.

It is not necessary for Cortland County to build a new, bigger jail, but renovations to the existing space are long overdue in the jail's almost thirty years of operation. The county has already invested \$1.7 million this year in much needed improvements to the jail's roof and other infrastructure, including electricity and common spaces. In addition to those updates, the county should hire specialists with expertise in design that promotes safety, rehabilitation, and maximizing space to provide guidance on the existing jail's refurbishment, especially to the residential and cell block areas. Organizations like MASS Design, based in Poughkeepsie, New York, have worked with jails and prisons across the country—such as in South Carolina—to refurbish existing spaces in line with principles of safety and rehabilitation. They are one of a growing field of architecture and design firms that are thinking creatively about jail and prison refurbishment and may be a source of inspiration.

We are not naïve or indifferent to the fact that it will take significant county resources and an investment in doing business differently to arrive at an average daily jail population close to half of the current one. Yet we believe this is entirely possible and will, in the long run, be a better financial and public safety decision for Cortland County than to build a new jail. In the pages that follow, we begin with a chart that documents the expected decline in the average daily jail population based on the recommendations and findings in our report. We then document our analyses and justify our conclusions.

Potential impact on Cortland's average daily jail population:

Baseline of 86-96 individuals currently in jail

Recommendation	Impact on current Cortland County Jail population	% of 2017 ADP	Projected reduction
1. Enforce 2020 legislative pretrial reform			
Mandatory release of eligible misdemeanors and non-violent felonies on their own recognizance or under supervision	People currently detained pretrial on misdemeanors and nonviolent felonies	44%	~27%
Assessment of financial circumstances and use of partially secured and unsecured bonds	People currently detained pretrial beyond one day at the Cortland County Jail on bail (not remanded)	43%	~3%
Pretrial court notification system	People who currently fail to appear in court	15%	~3%
Issue appearance tickets for some misdemeanors and E felonies	People currently held in jail awaiting arraignment on misdemeanors and non-violent felonies	N/A	N/A
Enforce speedy trial and discovery reform	People who are pretrial, both in and out of the jail	44%	~3%
<i>Total impact of enforcing 2020 legislative pretrial reform</i>	<i>People detained pretrial on non-violent misdemeanors and felonies who stay longer than one day and are not held in the jail on a warrant or treatment violation</i>	<i>44%</i>	<i>~36%</i>
<i>Jail ADP after 2020 pretrial reform</i>	56-62 people		
2. Invest in centralized arraignment part, pretrial services, alternatives to incarceration			
Conduct evidence-based pretrial assessments at arraignment	People who are currently assessed and accepted for pretrial release after admission to jail	~10%	3%
Divert people to necessary mental and behavioral health services at arraignment instead of jail	People who currently have substance use, mental health, or behavioral health needs while incarcerated	~85%	5%

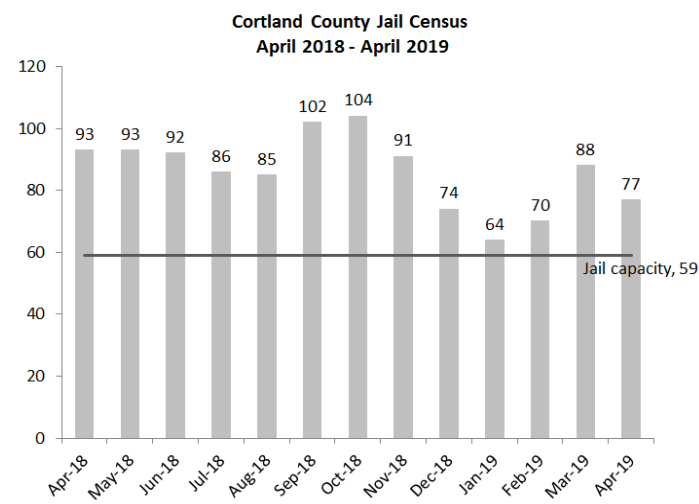
<i>Total impact of investing in centralization arraignment part, streamline pretrial release services, and providing alternatives to incarceration</i>	<i>People currently detained pretrial and people detained with mental or behavioral health needs</i>	~85%	8%
<i>Jail ADP after centralized arraignment part, pretrial services, and increased ATI options</i>	50-55 people		
3. Create hub court, address parole, and increase case conferencing and review			
Conduct regular case conferences during the pretrial period	People currently detained pretrial, especially those detained longer than 2 weeks	44%	3%
Create alternative, non-jail sanctions for violations of treatment and warrant related cases; conduct daily review of all violation related cases	People currently detained due to a warrant or a violation of treatment who stay a day or longer	20%	3%
Regularly review violation of probation cases	People currently detained due to a violation of probation conditions	7%	3%
Collaborate with the local Division of Parole to reduce admissions to jail for solely technical parole violations	People currently detained due to a technical parole violation and no other new arrest	7%	2%
<i>Total impact of creating hub court</i>	<i>People currently held pretrial, or held on probation violations, parole violations, on court mandated treatment violations, or on a warrant</i>	78%	11%
<i>Jail ADP after hub court, parole strategies, and increase in case conferencing and review</i>	41-45 people		
TOTAL ADP	~ 45 people		

Introduction

The Vera Institute of Justice was engaged by Cortland County to examine the issue of overcrowding in the local jail and identify opportunities for justice reform. Built in 1990 to hold a maximum capacity of 59 individuals at any given time, the Cortland County Jail now routinely holds upwards of 90 people on any given day. Variances by the State Commission of Correction have been issued to compensate for the overcrowded facility. Space originally designed for programming, such as the gymnasium, has been converted to dormitory space to accommodate additional beds. The county has for years “boarded out” individuals to neighboring jails, an inconvenient and costly solution. The existing space in the jail does not allow for adequate housing and programming to be offered, although the Sheriff’s Office does a remarkable job nevertheless of bringing social workers, case managers, and volunteers into the jail to lead supportive services. The structure of the jail is also in need of investment. In January 2019, a roof leak caused significant water damage to the jail and resulted in the evacuation of all individuals in custody to neighboring counties.

At the time of this report’s publication, in May 2019, the jail is still closed and under repair. The County Legislature has approved funds through the end of the year to continue boarding out individuals while the roof is fixed and structural improvements are made.

Figure 1. Recent average daily Cortland County Jail census



Overcrowding and the limitations of the jail itself—its structure and design—are long-standing challenges for the county. Fifteen years ago, the New York State Comptroller’s Office released a report about the costs of overcrowding at the Cortland County Jail. The Comptroller’s Office noted that, from 2002 to 2003, the cost of operating the jail increased from \$2.4 to \$2.7 million. That cost has doubled in recent years, even accounting for inflation. For the past three years, Cortland County has spent between \$5 and \$6 million annually on jail operations and maintenance. In 2004, the National Institute of Corrections studied Cortland County’s justice system and recommended that the county create a criminal justice collaborating council, invest in alternatives to incarceration, and engage in strategic planning for the county’s criminal justice system, not only the jail.

Many in Cortland County have expressed the view that the problem of overcrowding and the structural limitations of the jail can only be resolved by building a new facility. They point to the many years of debate on this issue to argue that a new jail is inevitable and that the county is wasting time by not moving swiftly on this decision.

Vera was engaged by the county to assist with the decision about building a new jail, refurbishing the existing one, or doing nothing. Staff from Vera conducted research and collected information about Cortland’s criminal justice system via interviews, community meetings, data analysis, review of previous reports, and analysis regarding upcoming legislative changes.

This report has four main sections:

- *Section 1—Statewide legislative reforms.* The report starts with an analysis of the impact of statewide pretrial legislative reforms on Cortland County’s justice system, specifically the average daily jail population. These are new laws that take effect in January 2020 that will significantly reduce the number of people in jail by 20-30 people on any given day even if no other action is taken by the county.
- *Section 2—Main drivers of jail in Cortland County.* The second section of the report outlines the four major drivers of jail admissions to the Cortland County Jail: people held pretrial, people facing violations of probation or treatment court, people held on technical parole violations, and people who are serving a local jail sentence.

- *Section 3—Specific groups that require individualized solutions.* Third, the report will identify three unique groups within the jail that require individualized solutions to reduce their involvement in the system: people with substance use and mental health disorders, women, and people who have multiple contacts with the criminal justice system. This section will recommend additional programs, services, and alternatives to incarceration that, if implemented, will result in a reduction of the average daily jail population by 25-30 individuals.
- *Section 4—System-wide investments for efficiency and efficacy.* The final section of the report includes system-wide recommendations that will increase the efficiency and efficacy of the Cortland County justice system.

The increase in the average daily population in the Cortland County Jail is *not* due to an increase in crime or jail admissions. Instead, the overcrowding relates directly to the longer lengths of stay for people held on all statuses in the jail. We organized our analysis and findings by two categories. The first is the intercepts in a criminal case—including arrest, arraignment, case processing, disposition, and probation/parole. The second is the specific jail subpopulations that are driving some of the overcrowding.

From the moment of contact with law enforcement at arrest, to sentencing and reentry into the community, in many cases a person’s contact with incarceration can be deterred, limited, and proactively prevented. Currently, Cortland’s jail serves too often as a waiting room for treatment beds for people with substance use disorders or mental health issues, or as a warehouse for the slow resolution of a case. Importantly, very few people are held in the jail on any given day facing felony-level charges involving assault, robbery, or other crimes that are especially concerning for public safety.

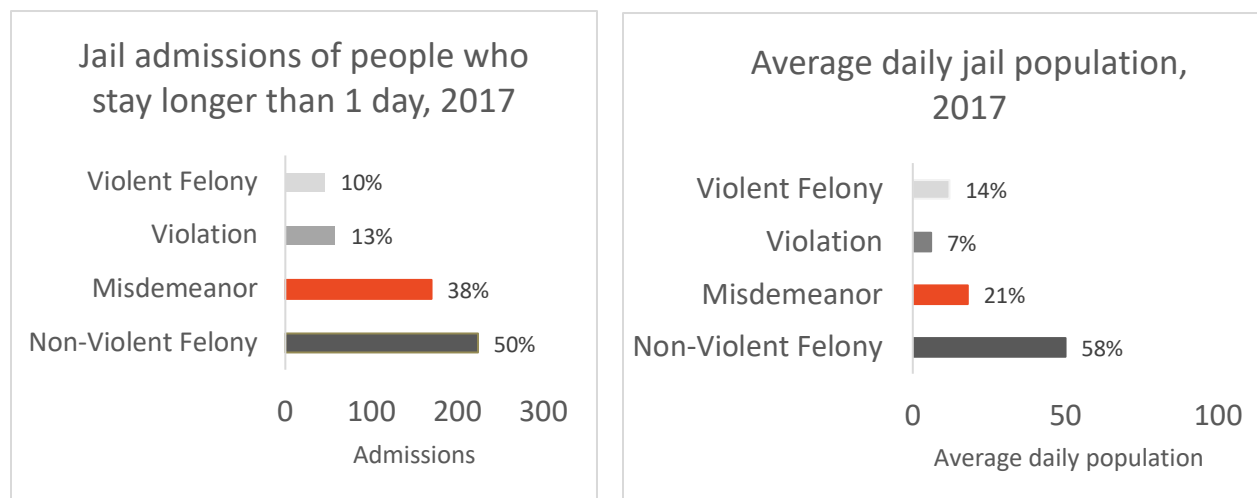
Investing in interventions at key intercepts that steer people—especially those with behavioral health disorders, women, and people with repeat and sustained contact with the justice system—away from the jail will uphold both long-term public safety and public health in Cortland County. Before the county invests in the construction of a new jail, it must invest in a new justice system.

A Note on Data, Methodology, and Overall Findings

The majority of the statistics and findings in this report come from an analysis of data graciously provided by the Cortland County Sheriff's Office from their jail case management system. On any given day, the baseline average daily jail population in Cortland County hovers between 86 and 96 people. The average daily jail population is comprised of two key factors—the number of admissions to jail, and the length of stay of those incarcerated. Even if admissions remain constant, as they have over time in Cortland County, fluctuations in lengths of stay have a dramatic impact on the average daily jail population.

At times, it is helpful to examine admissions data, while at other times it is more instructive to look at the average daily jail population. Admissions data, as defined in this report, captures everyone who was admitted to the jail and stayed longer than one day—i.e., those who made bail immediately. The reason we exclude admissions that remained in the jail for one day or less is that those individuals had no discernable impact whatsoever on the overall jail population. In contrast to admissions, the average daily jail population provides a snapshot of the average standing jail population on a given day. It is important to note the difference between admissions and the average daily jail population, as illustrated in the figures below.

Figure 2. Cortland County Jail admissions versus average daily jail population, 2017



Definitions

The following terms are used consistently throughout this report:

Bookings and admissions: In this report, bookings and admissions refer to people who were admitted and stayed longer than one day in the jail. Throughout the report, bookings and admissions figures do not include people who were re-booked due to a bench warrant or treatment violation. Those individuals are counted as part of the “violation” group.

Pretrial: Pretrial refers to a narrow category of people who were admitted to the jail in that status and remained in that status until their criminal case was resolved. Pretrial does not include anyone who was admitted to the jail pretrial but ultimately sentenced, anyone held on a parole or probation violation, awaiting state custody, or who is held on a bench warrant or violation of a court-mandated treatment agreement.

Sentenced: The sentenced population refers to people who received incarceratory sentences at any point during their time in the jail. For example, if someone was admitted to jail pretrial but in the course of their stay was convicted and received a jail sentence, they would be included in the sentenced group. Sentenced does not, however, include people who received “time served” after spending a period of time incarcerated pretrial at the jail. That group would be captured by the pretrial population.

Violation group: “Violation” as a status refers to people admitted to jail as a result of a bench warrant or a violation of a condition of court-mandated treatment. Unfortunately, the data does not distinguish between people in the violation group admitted as a result of a treatment violation versus a bench warrant.

Unsentenced: Unsentenced is a broad category of people who are not serving a sentence that includes: people detained pretrial, held on a parole or probation violation, or on a bench warrant or violation of a treatment agreement.

Length of Stay (LOS): Length of stay refers to the total amount of time a person spent in jail. For someone who is sentenced, their length of stay will reflect both their sentence and any amount of time they served pretrial prior to sentencing.

Bail: In this report, all bail statistics refer to people who were admitted into the jail with a set bail amount that stayed longer than one day. People booked into the jail who stayed one day or less are assumed to have immediately posted bail and are not included in the bail data in this report.

Miscellaneous

Any data related to findings about the jail were sourced from the Sheriff's Office. The majority of these analyses are based on data from 2017 and before. As the analyses from the jail dataset are all from that source, they are not cited to individually in this report. Where data was used from other sources, those are cited as such, using the most recent data available to us.

Section 1. Statewide Legislative Reforms

The impact of the new laws on Cortland County's jail population

In April 2019, New York State passed a budget that will have a significant impact on pretrial practices across the state. These reforms impact the primary intercepts of the pretrial justice system: at arrest, at arraignment, and during case processing. With the implementation of mandatory increased use of appearance tickets at arrest, the elimination of money bail for the majority of misdemeanors and nonviolent felonies, the creation of more robust pretrial services and court notification systems, expedited discovery laws, and new speedy trial laws, jails across New York State will see a significant reduction in their pretrial jail populations.

In Cortland County, on any given day, the impact of these reforms will result in 20-30 fewer people in jail. Where the jail census has averaged roughly 86 people between April 2018 and April 2019, this would suggest a new average census closer to 66 people, estimated conservatively. When taking into account procedural changes to discovery and speedy trial that will expedite the processing of pretrial justice, the likely impact is even greater.

What does the pretrial population in Cortland County look like?

In 2017, 52% of all jail bookings fell into the “pretrial booking” category, a group of people who are detained in the jail after being arrested but before the disposition of their case. In 2017, 64% of the pretrial population was held on a misdemeanor or violation-level charge. Many of these cases will no longer be eligible either for money bail or to be detained pretrial after January 2020.

Between 2011 and 2017, despite relatively constant admission rates, the pretrial population experienced an increase overall of eight days in length of stay, from 12 to 20 days on average. In 2018, with an average of 86 people in the jail at any given time and roughly 50% held pretrial, the additional 8 days in length of stay translated to an additional 130,583 days of detention throughout the year. Reforms to speedy trial and discovery practices will return the average length of stay closer to 12 days.

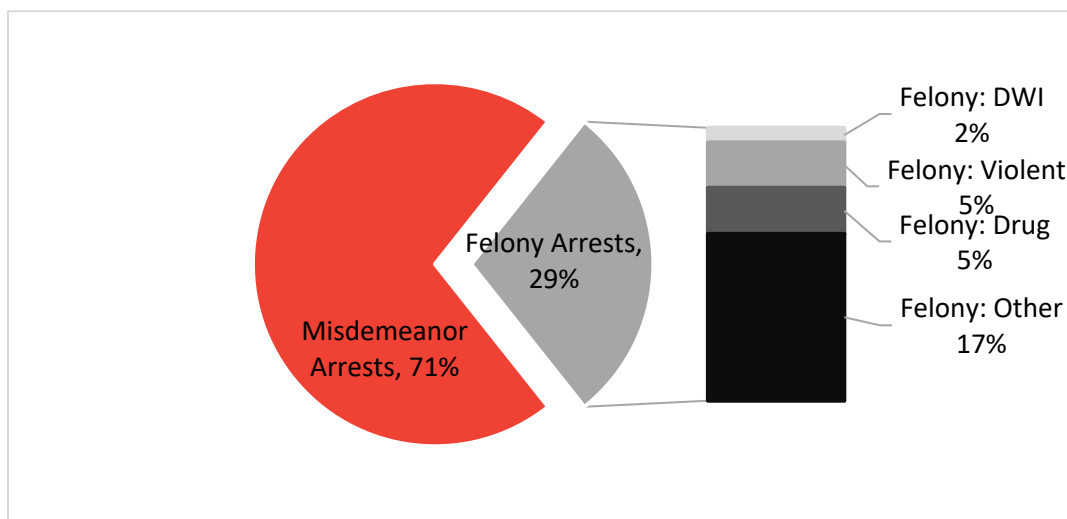
The new statewide legislation will impact pretrial admissions and length of stay through the mandatory use of appearance tickets, the elimination of money bail in most cases, increased use of pretrial release, and improvements to discovery and speedy trial.

Arrest and appearance ticket reform

Context: An appearance ticket is allowed by law under Article 150 in the Criminal Procedure Law. At the time of arrest, law enforcement may choose, on a misdemeanor or E felony offense, to issue an appearance ticket from the stationhouse or precinct instead of making a custodial arrest.

Data: Historically, in Cortland County there has been a 20% decrease in total arrests and 43% decrease in arrests for violent felony charges since 2011. In 2018, there were 1,239 arrests in Cortland County. Of those arrests, 95% were for misdemeanors and nonviolent felonies—71% misdemeanor-level charges, 24% nonviolent felony, and 5% violent felony.¹

Figure 3. Arrests in Cortland County, 2018



New legislation: Under the new law, arresting agencies are required to issue an appearance ticket for all misdemeanor and E felony arrests, with specific exceptions. Those exceptions include certain sex-related or criminal contempt charges; if the person has a prior failure to

¹ New York State Division of Criminal Justice Services, *Adult Arrests by County and Region*, 2019.

appear in court within the past two years; an open warrant at arrest; if the charges warrant some kind of judicial order, such as an order of protection or license suspension; or in the rare cases that the arresting officer believes the person is a risk to themselves or others. Beyond these exceptions, effectively, people charged at arrest for nearly all violations, misdemeanors, and E felonies will be released and required to appear in court within 20 days for arraignment.

Impact: Estimating conservatively, at least half of all arrests in Cortland will no longer be subject to custodial arraignment upon arrest. With an effective court notification system to remind people given appearance tickets to return to court within 20 days, the county will see increased efficiency and a reduction in the use of bail on misdemeanor and low-level offenses.

Arraignment and bail reform

Context: A person faces arraignment if they are arrested and a decision is made to move forward with prosecution of their case. Arraignment is the first court appearance after an arrest, where formal charges are filed and a decision about pretrial release or detention is made. At arraignment, judges decide whether to release someone on their own recognizance (ROR), release the person under supervision (RUS), set bail, or order pretrial detention without the option of bail on certain felony charges or warrant-related circumstances—known as remand. In some New York counties, the District Attorney’s Office reviews the arrest charges and files a criminal complaint at arraignment. In other counties, including Cortland, people are usually arraigned on the arrest charges filed by law enforcement and the District Attorney’s Office evaluates the case post-arraignment. When bail is set, a person’s release depends on their ability to afford the bail amount. In Cortland County, bail must be paid at the jail.

Data: In 2017, 220 people were admitted to jail pretrial on bail who stayed longer than one day—43% on misdemeanor charges, 38% on nonviolent felony charges, and 30% on violent felony charges. Of the 220, 53% were held on relatively low bail of \$2,000 or less. While some were able to make bail within a week, others remained detained throughout the length of their case.

New legislation: Under the new law, judges will be required to release the vast majority of people charged with misdemeanors, nonviolent felonies, and even a few select violent felony offenses.

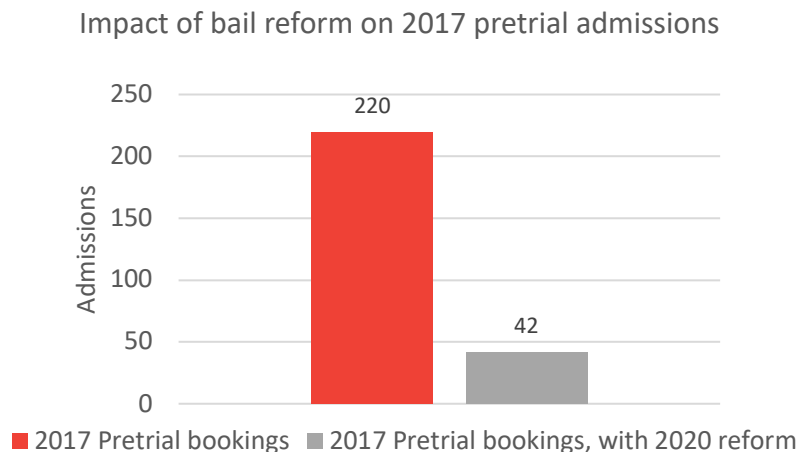
There are exceptions in which judges can still set bail, including misdemeanors involving a sex-related offense or charges of domestic violence-related criminal contempt by violating an order of protection. For nonviolent felonies, judges must release people unless the charges include witness intimidation or tampering, conspiracy to commit murder, felony criminal contempt charges related to domestic violence, specific offenses against children, sex offenses, and terrorism-related charges. This will result in the vast majority of nonviolent felony drug offenses—including drug possession and drug sale—being subject to mandatory release. Judges also must release people charged with the violent felony offenses of burglary and robbery in the second degree, so long as the allegations do not involve any actual physical violence or weapons. For all other violent felonies, judges may still set bail. Judges may still impose remand on A-level felony offenses except some drug-related charges.

If bail is set, the new legislation requires judges to consider the person’s financial resources, which can be reflected in the form and amount of bail that is set. Automatically, judges will be required to set at least three forms of bail, one of which must include either a partially secured or unsecured bond. A partially secured bond requires a deposit to the court of between 0% and 10% of the full bail amount, whereas an unsecured bond requires no upfront deposit of the bail amount. With each form, the person is liable to pay the full amount if they fail to appear in court; however, if they attend all court dates, their deposit is returned.

Impact: In 2017, 497 people were booked into the jail and stayed longer than one day.² Of those individuals, 44% (n=220) were admitted as pretrial. Had bail reform been implemented in 2017, 178 fewer people would have been booked into the jail based on the level of charges for which bail can no longer be set—most misdemeanors and nonviolent felonies. This is a reduction of 35% in the number of overall admissions to jail.

² This figure does not include people who were readmitted due to a violation of treatment or warrant. Including this group, the sum would be 622.

Figure 5. Projected impact on bail reform on admissions to jail, 2017



Pretrial services and court reminders

Context: Pretrial services, often designated as release under supervision (“RUS”), are programs that provide support and supervision to people released pretrial pending the disposition of their case. It is different from release on recognizance (“ROR”) in that a judge has ordered some level of supervision. Supervision can include weekly phone call check-ins, in-person appointments, monitoring employment or school attendance, the use of electronic monitoring, and more. Research has shown that basic court reminders—through phone calls, mail, or text—dramatically improve the likelihood of court appearance.³

The Cortland County Department of Probation currently operates a pretrial services program known as the Alternative to Incarceration (“ATI”) program. At arraignment, judges in Cortland City Court or in the town and village justice courts have the option to release people at arraignment and order them to report to the ATI program. Judges may also set bail and wait for people to be assessed for ATI eligibility while in the jail, which happens relatively often in Cortland County. This is a challenge as even a few days in jail can result in a person losing their job, housing, or interrupting medication and treatment. Avoiding jail entirely by providing a pretrial release option at arraignment would result in fewer of these destabilizing circumstances.

³ Cooke, B., Zahra Diop, B., Fishbane, A., Hayes, J., Ouss, A., Shah, A. Using Behavioral Science to Improve Criminal Justice Outcomes: Preventing Failures to Appear in Court. January 2018, Ideas42.

Data: In May 2019, Cortland County had 112 people released under the ATI program. The ATI program requires participants to attend appointments with the Department of Probation and, in some cases, supervises the use of electronic monitoring. Approximately 85% of people in the ATI program were released prior to being screened for ATI eligibility, meaning they were released at arraignment and ordered to report to the program. Roughly 15% had bail set and were sent to jail before being interviewed by the pretrial release service coordinator and accepted into the program.

New legislation: Beginning in January 2020, nearly all people facing misdemeanors and nonviolent felony charges will be released on their own recognizance (ROR) or released under supervision (RUS) at arraignment. When bail is not an option, judges will be required to set the least restrictive conditions to reasonably ensure a person's return to court.

Accordingly, the state has mandated adequate pretrial services in each county. Pretrial services can help to support a person's return to court by providing transportation, assessing needs for services, and providing regular case management to ensure legal, educational, or vocational obligations are met. The new legislation also mandates the implementation of a court date notification and reminder system and requires that law enforcement create and maintain that resource. Reminders of court dates must be sent to individuals after an arrest, unless their court date falls within seventy-two hours of the arrest.

Impact: The requirement and implementation of more robust pretrial services will change the use of the ATI program in Cortland County. For one, given the county's limited resources, the ATI program should be used primarily for people facing more serious charges who are being released, and not predominantly misdemeanor-level charges. Interviews for pretrial services will need to be conducted at arraignment—and not afterwards, as is currently the practice in Cortland County—so that the provision of these services is seamless and most effective.

Discovery and speedy trial reform

Context: Speedy trial and discovery impact case processing and, for people who are detained pretrial, the length of stay in jail. Discovery is the sharing of evidence that is within the purview of the District Attorney's Office. Speedy trial is the amount of time allowed under law for cases to pend before reaching either dismissal, trial, or disposition.

Data: Between 2011 and 2017, the average length of stay in jail for people held pretrial increased by eight days, from 12 days to 20 days. This average includes people who stayed in the jail for less than one day. Even still, this adds up to almost 5,000 additional days of pretrial detention when multiplied by the amount of pretrial people processed through the jail each year.

On average, people held in the jail pretrial with misdemeanor charges stay for 8 days, a number that has decreased over the past several years. However, the amount of time non-violent and violent felony related cases have spent in the jail have both increased. People held in the jail pretrial with a non-violent felony charge spend an average of 32 days in the jail, twice as much time as they had formerly spent in 2014. People held in the jail pretrial on violent felony charges have also seen their average length of stay increase up to 50 days. In 2014, people held pretrial with violent felony charges stayed on average 26 days.

New Legislation: The new legislation requires prosecutors to share evidence at the earliest stages of a case. When a person is facing felony charges, the District Attorney's Office must provide all evidence to the defense within 15 days of the indictment. Discovery must be provided when a plea deal is offered, at least three days before the deadline or expiration of the offer. The new law also closes loopholes in the speedy trial law, requiring cases to reach dismissal, trial or disposition more quickly.

Impact: While the impact of speedy trial and discovery reforms are harder to assess on case processing times, it is certain that it will have at least some impact on reducing the length of stay in jail and returning the average length of stay closer to 12 days, instead of the current measure of 20 days. This reduction in the length of stay has tremendous impact on the average daily jail population. Since 2011, admissions to the Cortland County Jail have remained constant at about 445 people each year. Presuming no changes in jail admissions, the pretrial population would comprise roughly 53 people. If, after January 2020 under the new laws, this group of 53 people were to be processed at the same average speed as they were in 2011, they would consume roughly 636 days of detention. Extending this stay just two more days alone increase the days of detention to 742.

Recommendations

Cortland County should fully implement these new pretrial reforms to ensure that the impact on the jail population is realized and that people who will be released—either under mandatory

release, under supervision, or on bail—will be successful and remain arrest-free in the community and return to court for scheduled court appearances. After the passage of historic new laws, all counties in New York State have a unique opportunity to invest in their justice systems. Cortland County should seize this momentum by:

Recommendation # 1: Invest in technology to improve court processes.

Technology that assists with court scheduling and notification and scheduling technology will help significantly with implementing and maximizing the new reforms. The county should purchase technology available to law enforcement, the courts, pretrial services, and probation that synchronizes between those agencies to manage court scheduling and notification. The new system can automatically calendar all arraignments, including appearance tickets within 20 days of arrest as mandated by the new law. The system can also provide court notification and reminders through text messages, phone calls, or an automatically-generated letter.

Recommendation # 2: Create a centralized arraignment part.

Invest in a centralized arraignment part in Cortland City Court where all custodial arrests—including in the towns and villages—are heard. Several counties across New York—Washington, Oneida, Onondaga, and Broome—have operated a centralized arraignment part for well over a year to good results. The impetus for creating these parts was the same as the circumstances facing Cortland—these counties needed a more efficient way to comply with the mandate to provide counsel at first appearance, manage limited resources, and more efficiently manage the arraignments that happened across the county. In Oneida County, for example, the centralized arraignment part operates in the jail itself every evening after 5pm until all arraignments are heard. In Onondaga, a larger county, the centralized arraignment part is held in the evening in the existing city court in Syracuse. In Broome County, the centralized arraignment part hears arraignments twice a day—at approximately 8am and 8pm—to manage all arraignments that come through the county. In each of those examples, smaller town and village courts no longer have to scramble to find judges or wait for counsel when an arrest occurs. Rather, the case can go to the centralized arraignment part for arraignment and then return to the local justice court for subsequent court appearances.

If Cortland County invests in a centralized arraignment part, it should be staffed by a full-time judge, a representative from the District Attorney's Office and the Public Defender, as well as a representative from pretrial services. This investment will allow for judges, attorneys, and

pretrial services to collaborate in a proactive way to provide services *before* people are booked into the jail.

Recommendation # 3: Develop more robust pretrial services capacity.

Under the new law, counties are required to create more robust pretrial services capacity to serve any case or individual that a judge deems appropriate for release under supervision. This will require Cortland County to invest in pretrial services that go well beyond the limited number of cases served by the Department of Probation's existing ATI program. The county can invest in this capacity by contracting with a nonprofit service provider, as Monroe County and all of the boroughs in New York City already do, to serve as a pretrial services entity. Cortland County has several excellent nonprofit organizations that would be well-suited to manage this role. As part of the centralized arraignment model, the pretrial services agency should be present at arraignment to assess a person's likelihood of return to court and recommend some level of supervision for those who need supports beyond a reminder of the next court date. To assess likelihood of return to court, pretrial services should use a validated tool specifically designed to measure pretrial court appearance, such as the new "risk of failure to appear" tool developed by the New York City Criminal Justice Agency.

The existing Department of Probation's ATI program should be reserved for those cases that require additional supervision or conditions that will not apply to the majority of people released. The pretrial services program should operate in arraignments to ensure the successful and most effective use of this resource.

Recommendation # 4: Provide tools to ensure consideration of "ability to pay."

For cases where bail is set, implement an assessment of ability to pay in order to ensure that judges have the information needed to set bail in an amount that does not cause "undue hardship," as required under the law. These "ability to pay" assessments are already in use in courts such as Dutchess County, the Bronx, and are being piloted in Erie County shortly.

Section 2. Main Drivers of Jail in Cortland County

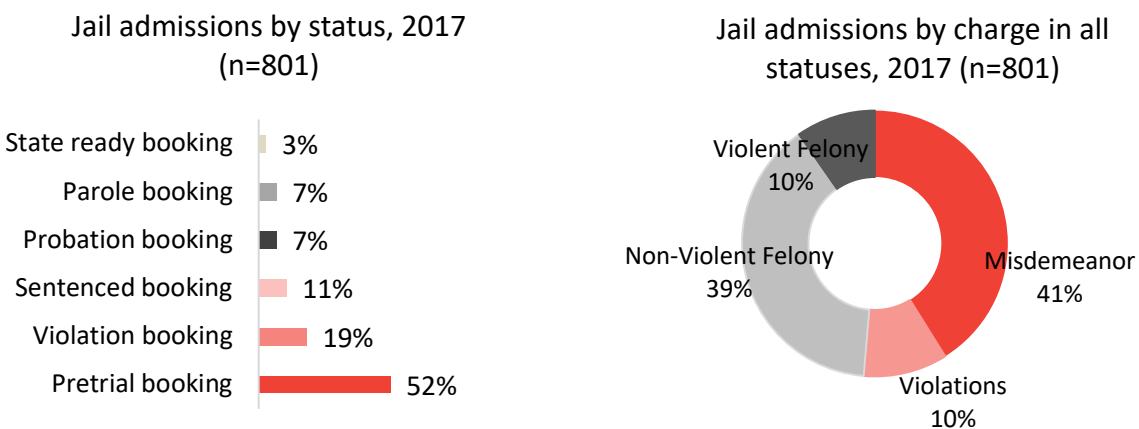
Pretrial, violation, parole and probation, and sentenced populations

Each person who is admitted into the jail enters with a specific admissions status: pretrial, violation, sentenced, parole, probation, and state ready. People admitted to the jail pretrial are defined as those who remain in jail longer than one day and are there to await the disposition of their case. People admitted on violations are defined as those who have failed to comply with conditions of drug-related treatment or to appear in court and have a warrant for their arrest. People admitted to jail as sentenced have been convicted of a crime and are serving a local jail sentence.

Of all admissions, roughly 90% were for people charged with misdemeanor or nonviolent felony offenses only. The most common admissions status is pretrial (52%), violation (19%), and sentenced (11%). In 2017, these combined statuses accounted for 82% of all admissions to the jail. Overall, the number of admissions to jail remained static between 2011 and 2017. However, in that same time period, people admitted to jail on violations of conditions, such as treatment court mandates or failing to appear in court, increased by 66%.

More so than any other factor, the most significant driver of jail growth in Cortland County is length of stay. Overall, people who entered the jail in 2017 stayed 8 days longer than people who entered the jail in 2011—an increase from 12 to 20 days.

Figure 6. Jail admissions, 2017



Pretrial admissions

Context: People admitted to the jail pretrial are those who stay longer than one day and are detained pending the outcome of their criminal case, not for a sentence or any type of violation. When someone is booked on pretrial status, at arraignments the judge set bail or imposed remand without the option of bail.

Data: In 2017, 52% of people admitted to jail were booked as pretrial. Of those individuals, 64% were charged with misdemeanor- or violation-level offenses.

Violation admissions

Context: People admitted to the jail under violation status are those who failed to meet a condition of treatment or failed to comply with a court mandate.

Data: Since 2011, admissions due to a violation of a treatment agreement or court mandate increased by 66%. As a result, in 2017, one in five people booked into the jail were admitted due to some kind of treatment or court violation. Judges and service providers in Cortland County described these type of jail admissions—typically short—as a “time out” for a relapse or a failure to comply with a court-ordered mandate.

Parole and probation admissions

Context: When a person is released into the community under supervision of the department of probation or parole, they are required to follow a set of rules to ensure compliance with release. If a person under supervision violates conditions of release or is arrested for another crime, they may be held in jail pending the resolution of their violation of probation or parole. For both people on parole and probation, the number of admissions to jail for violations increased significantly since 2011.

Data: In 2017, 14% of admissions to jail were people on probation or parole who were found to have violated a condition of release. People detained on parole and probation violations were held for an average of 61 days in 2017. The use of probation, in particular, is common in Cortland County compared to other parts of the state, especially relative to the use of a

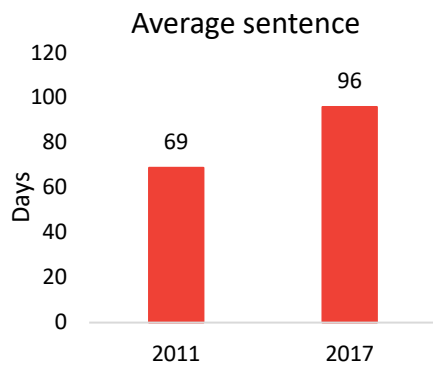
conditional discharge or other non-jail or non-prison sentence. In 2017, one in four felony cases and one in ten misdemeanor cases in Cortland County received a probation sentence.

Sentenced admissions

Context: In 2017, 11% of admissions were people serving a jail sentence at some point during their incarceration in the Cortland County Jail. If someone was admitted to jail pretrial but in the course of their stay was convicted and received a jail sentence, they were included in the sentenced group. However, people who received “time served” after spending a period of time incarcerated pretrial at the jail were not included in the sentenced group as they were released from jail upon sentencing.

Data: Of the 1,017 cases resolved in 2017 in Cortland County, 87% were misdemeanors, 7% were nonviolent felony offenses, and 7% were violent felonies.⁴ Of sentences on all felony-level cases, 20% received a sentence of jail, including a split sentence of jail and probation, a jail sentence only, or time served. Of misdemeanor cases, 14% received a jail sentence.⁵

Figure 7. Comparison of average length of sentence served



While the rate of jail sentences imposed over time remained relatively constant, between 2011 and 2017 the average length of time in custody for people serving a sentence in the Cortland County Jail increased from 69 days to 96 days.

⁴ NYS Division of Criminal Justice Services, Adult Arrests Disposed (2018).

⁵ *Id.*

This 27-day increase in the average length of stay is a result of longer sentences imposed. From 2011 to 2017, sentence lengths of 3-12 months rose sharply, and sentence lengths of 0-3 months declined significantly. In 2016, in particular, jail sentences increased significantly over prior years. In 2018, only 27 people who served a jail sentence remained in jail less than 30 days.

With little overall change in jail admissions or arrest rates, and an overall decrease in misdemeanor conviction rates, longer jail sentences are one of the primary drivers of the average daily jail population in the county.

Recommendations

For Cortland County to achieve reductions in the jail population beyond those that will automatically occur as a result of legislative reform, the county must make a commitment to recalibrate the use of incarceration and impose it more parsimoniously. At sentencing, incarceration is one of many options. Yet alternatives to incarceration—programs offered by community-based organizations such as Catholic Charities, or the renowned Opportunities, Access, and Resources (“OAR”) Program that partners with Tompkins-Cortland Community College—have been demonstrated to result in better outcomes than simply relying on jail or prison. Why? Because a community-based response to a crime allows for the underlying issues that led to arrest and conviction in the first place to be addressed with programming, counseling, and supports.

Recommendation # 1: Increase conditional discharges and alternatives to incarceration.

The rise of both sentences to jail over time and the lengths of those sentences are primary drivers of Cortland County’s growing jail population. Both of those factors can be addressed differently by the District Attorney’s Office and the courts. Especially on plea offers involving short jail sentences, such as those that are 45 days or less, the District Attorney’s Office can endorse a policy of first considering a conditional discharge or an alternative to incarceration. Especially on nonviolent felonies involving drug-related charges, an alternative to incarceration that addresses the underlying behavior that led to the arrest is a better investment in long-term public safety than the use of a short jail sentence.

And, when a jail sentence is imposed, the length should be seriously considered to be as short as possible. Research shows that longer sentences negatively impact family ties, result in the loss of housing and employment, and impede access to education and healthcare. After a certain point,

a sentence no longer serves as a deterrent from future crime and thus is an expensive and ineffective way of increasing public safety.⁶

Recommendation # 2: Create a centralized “hub” court to manage all detained cases.

The county should invest in opening one new courtroom in Cortland City or County Court for the entire county—a “hub” court—to streamline the processing of cases where the person is detained pretrial or held for a violation of probation or treatment. A judge, representative from the District Attorney’s, and the defense bar, should be assigned to address these cases efficiently with case conferencing and liaising with necessary parties, including the Department of Probation, ATI, and treatment court, when needed. As the individuals who appear in this court are all incarcerated pending the disposition of their case, adjournments should be no longer than two weeks at a time. Even a small decrease to the number of days a case is pending will have a significant impact in lowering Cortland’s average daily jail population.

Recommendation # 3: Partner with the Division of Parole to address technical violations.

Even without statewide legislative reform, local counties can partner with the New York State Department of Corrections and Community Supervision’s parole division to implement jurisdiction-specific programming to keep people on parole arrest- and violation-free. One example of a successful local model is the Harlem Community Justice Center’s Parole Reentry Court, where a local nonprofit organization—the Center for Court Innovation—partnered with the parole office in Harlem to supervise and provide services for participants on parole. These services included classes, substance use treatment, employment assistance, cognitive behavioral therapy, and family support. As a result of the program, revocations and technical parole violations decreased by one-half. In Cortland, an expansion of the effective jail-based counseling services program could serve this specific population, in partnership with the local parole office, to reduce the number of admissions to the jail for technical violations and, if a person on parole is violated, to work efficiently to resolve the violation.

Recommendation # 3: Increase use of early case conferencing and case resolution.

For all cases, but especially those where people are detained, judges should require early case conferencing to support a timely and efficient resolution to the case. The results of those case conferences—meetings between representatives of the District Attorney’s Office, the defense bar, and any necessary case managers or service providers—may happen outside of court

⁶ Rhodes, W. Gaes, G., Kling, R., Cutler, C. The Relationship between prison length of stay and recidivism. December 4, 2017.

appearances but should be documented and reported back to the court. This feedback loop ensures compliance and accountability.

Recommendation # 4: Create more graduated sanctions for violations of treatment.

To reduce the number of admissions to jail as a result of a violation of treatment or court mandate, the existing Cortland County drug court should consider creating a wider range of sanctions—including earlier case intervention when drug court participants appear to be relapsing or at risk of noncompliance—to avoid the necessity of using jail as a sanction. The existing court has excellent staff and deep connections to community-based services that address drug court participants' substance use and mental health needs. The legislature should invest in more resources for the court to expand those connections and strive, in all cases where possible, to respond to relapse with a treatment-based, not correctional, response.

Section 3. Unique Cohorts in the Cortland County Jail

Individualized solutions for specific groups and populations

Changes in three unique populations over time have driven a significant portion of Cortland County's jail population: people with substance use and mental health-related issues, people who repeatedly are admitted to jail, and women.

There are strategies and solutions that, if implemented effectively and with an investment in community-based services and supports, can significantly reduce the prevalence of these three populations in Cortland County's justice system. Yet Cortland County does not, relative to many other counties in New York, spend adequate funds to support alternatives to incarceration and community-based services. In 2018, for example, Cortland County appropriated \$125,000 to the Department of Probation's ATI program. This sum represents .1% of Cortland County's entire budget, compared to the 4.3% of funds spent on the jail.

Many excellent and promising community-based supports and alternatives to incarceration already exist in Cortland County. For example, law enforcement and other county service providers have the option of referring a person they encounter who is experiencing a drug- or mental health-related episode to the Emotionally Disturbed Person Response Team ("EDPRT"). Instead of an arrest, the person may instead receive treatment or an intervention from the Mobile Crisis Intervention Team ("MCIT") or the Wishing Wellness Center. The Center of Treatment Innovation ("COTI") operates both treatment programs as well as a crisis mobile unit in the county. And other service providers, such as Catholic Charities, BOCES, Family and Children's Counseling Center, Helio Health, and more all have existing networks and experience serving Cortland County and the community's specific needs.

While an investment in these types of services come at a cost, they contribute to a restructuring of the justice system that proactively creates healthier, stronger communities and prevents future contact with the jail.

Substance use and mental health

Context: In March 2018, the Cortland County Sheriff's Office released a report that found 84% of people in the jail identified as having a substance use, mental health, or co-occurring

disorder.⁷ Like the rest of New York State, the county has experienced a surge in drug use and overdoses as a result of opioids, fentanyl, and other drugs, but lacks the robust public health and treatment resources to adequately address the crisis. The Justice League, a county-wide working group that includes representatives from the Department of Health, Homeless Services, local hospitals, service providers, and many members of the judiciary and justice system, has taken important steps to “map” the key intercepts where treatment and interventions could be offered and, as a result, many critical new programs have either been launched or are in development. Yet the county lacks its own inpatient treatment center and does not offer Medication Assisted Treatment (“MAT”) in the community outside of Vivitrol and Suboxone. Methadone, a well-known and highly effective treatment modality for addiction to opiates, is not available in the county.

Data: Despite an overall decrease in arrests in the last decade, drug-related arrests—predominantly for misdemeanor-level offenses—have increased by 386% since 2008. Today, one in five arrests in Cortland County involves a drug charge. Arrests for misdemeanor property-related crime, including trespassing and petit theft, which are often driven by underlying substance use-related issues, have also increased. Likewise, the rise of drug-related offenses has impacted the jail population. In 2017, 167 people were admitted into the jail on drug-related charges who stayed for more than one day. They stayed, on average, for 78 days in the jail.

Repeat admissions to jail

Context: Recidivism, or repeat contacts with the criminal justice system, is a prevalent challenge for Cortland County, as it is for many communities statewide. In 2017, roughly one in four people had been incarcerated in the Cortlandt County Jail at least once before within the past year.

Data: 1,328 individual people were admitted to jail more than once between 2010 and 2017. Of all admissions to jail, people who were repeat admissions comprised 42% of the overall population during that time, an even more staggering number than the one in four who had

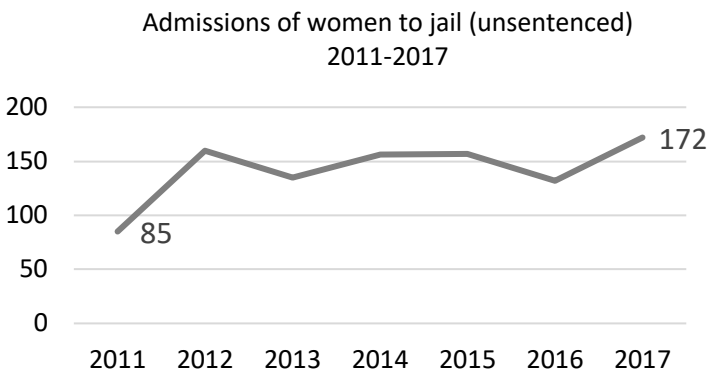
⁷ Cortland County Sherriff's Department, *Cortland County Correctional Facility Population Data on Substance Abuse and Mental Health 2015-2017* (2018)

been incarcerated more than once within the same year in 2017. Most of the repeat admissions to jail were for drug-related and low-level offenses.

Justice-involved women

Context: In Cortland, particularly with people who revolve through the jail, involvement with the criminal justice system often stems from substance use-related issues or trauma, particularly with women.⁸ Since 2010, jail admissions for women in Cortland County have increased by 207%. Most women are admitted on misdemeanor and low-level charges with a status of pretrial, parole, probation, or for a violation of a court order. Under the new bail reform legislation, virtually all women detained pretrial in 2017 would have been mandatorily released given the low-level charges they face.

Figure X. Increase in women admitted to jail



Data: Unlike the driver of the overall jail population, which is an increase in length of stay, the rise of women’s incarceration in Cortland County is driven by a dramatic increase in admissions. Women admitted to jail cycle in and out relatively quickly, and most are detained pretrial. The vast majority are detained on drug- and theft-related offenses. In 2017, only 20% of the overall numbers of women admitted to jail ultimately served a sentence. When they did serve a sentence, they had an average length of stay of 32 days.

⁸ Graziano, N. “Mental Health Rising Issue in Jails,” Cortland Standard, December 24, 2018
<http://cortlandstandard.net/2018/12/24/mental-health-rising-issue-in-jails/>

Recommendations

The Cortland County Jail too frequently serves as the response to crimes that are a result of behavioral health, trauma, and other underlying issues. Providing more resources in the community—services that aim to assist people with addressing their substance use and mental health disorders, or, especially in the case of justice-involved women, untreated trauma—will result in fewer admissions to jail. New York City launched the Justice-Involved Supportive Housing project several years ago, where the city identified people who most frequently touched the city’s hospitals, homeless shelters, and jails within recent years. Case managers were then sent to meet with those individuals and encourage them to voluntarily engage in services, including getting benefits turned on, engaging in treatment, finding stable housing, and more. These kinds of proactive measures are scalable, even in a place with fewer resources, like Cortland County, given that the size of the population that needs this kind of intensive intervention is much smaller and well-known to the service providers who have for years provided support to the county.

Recommendation # 1: Provide comprehensive medication assisted treatment (MAT) in jail.

Cortland County Jail is already providing excellent forensic mental health services on-site to address people’s underlying mental health needs. The provision of Medication Assisted Treatment (“MAT”), in addition to counseling, would be a tremendous improvement to the delivery of care in the jail. As a complement to counseling, MAT offers medication that can reduce craving and negate the effects of substances. Suboxone, Methadone, and Vivitrol are examples of medications used in MAT, in conjunction with psychoeducational groups and counseling. MAT has been demonstrated to increase the likelihood of people remaining stable and healthy once they leave the jail, especially if after-care services are provided in the community as part of the reentry transition.

Recommendation # 2: Expand options for community-based treatment and harm reduction.

In addition to providing more treatment in the jail, the county should further invest in Beacon Center and Syracuse Recovery Services (SRS) of Cortland to provide harm reduction services in the community, in addition to the excellent services they already provide. Harm reduction services ensure that, if a person is struggling with a substance use disorder, they have access to resources that minimize their risk of overdose and help to manage cravings. An investment in harm reduction helps people to manage their mental health and substance use disorders, thereby increasing their safety to themselves and others.

Recommendation # 3: Establish a pre-plea opioid court.

As Cortland County learned firsthand from Judge Craig Hannah, presiding judge of the nation's first pre-plea opioid court in Buffalo, New York, these courts can be lifesaving, especially in communities that are experiencing the harms of overdose and increased drug use. Pre-plea courts, as opposed to traditional drug courts that are available only after a plea is entered, allow for people to engage in treatment and services immediately at the time of arrest, not weeks or even months after when their case is resolved. This allows people to immediately attend to their health needs and treatment needs without having to engage in difficult and sometimes protracted process of case resolution, including often spending days or weeks in jail. In order to support a pre-plea opioid court in Cortland County, the Legislature must invest in more community-based MAT, mobile treatment options, and, if possible, an inpatient substance use treatment center so that people are not required to go to Syracuse or Binghamton to receive care.

Recommendation # 4: Target interventions to people repeatedly admitted to the jail.

Cortland County can identify people who have cycled in and out of the jail within the last five years, particularly those who have had multiple readmissions to jail. Some of the existing programs in operation, or soon to be launched, in Cortland County can help to stem the tide of repeat contact with the criminal justice system. For example, the county can increase funding and the scope of the COTI program, which offers mental health and substance use counseling through a mobile services program. While the COTI team is in the process of hiring a full-time clinician, additional staff can help expand COTI's capacity to act as an intervention to prevent people from being admitted to the jail. For people who are arrested, the "Angel" Program should be used as an intervention to connect people immediately to necessary services and treatment at the moment of arrest. Additionally, the EDPRT program can be expanded to address cases where violations of the law are driven by unmet behavioral health needs. EDPRT currently averages roughly 28 calls per month, with roughly one quarter requiring hospitalization. Many of these cases are currently connected to MCIT and the Wishing Wellness Center. EDPRT can be further developed as a law enforcement assisted diversion ("LEAD") program.

Evaluations of the LEAD program show a positive impact on people's engagement with services and reduced future contact with the criminal justice system. Compared to a control group, those who participated in LEAD were 60% less likely to be arrested during the six-month period after

entry into the program.⁹ They also had 58% lower odds of a new arrest over a five-year period.¹⁰ In Albany, which started a LEAD program in 2015, both crime rates and arrests have decreased. Other jurisdictions across New York State are creating LEAD programs now.

Recommendation # 5: Create a specific diversion program targeted towards women.

Most women admitted into the jail are detained for about two weeks and ultimately do not serve a sentence. The majority are there for drug- and theft-related offenses. Cortland County should create a specific diversion program for women, available at arraignments, to avoid their admission to jail entirely where possible. Specific services should include counseling for trauma, assistance with family court and other related legal issues. Programs that are targeted towards women are increasingly being offered in justice systems across the state. For example, the Women's Community Justice Association, based in New York City, runs an excellent diversion and alternative to incarceration program for women.

⁹ Susan E. Collins, Heather S. Lonczak & Seema L. Clifasefi, *Lead Program Evaluation: Recidivism Report*, University of Washington (Mar. 27, 2015).

¹⁰ *Id.*

Section 4. Investing in System-Wide Improvements

Streamlining the delivery of justice in Cortland County

Context: Like many rural counties across New York, the delivery of justice is dispersed between many courts and law enforcement agencies. In Cortland County, there are fourteen justice courts and one city court where arraignments take place. If the charges are misdemeanor-level or unindicted felonies, those cases remain in the justice courts. If a felony is indicted, the case is transferred to County Court in Cortland. It is not an overstatement to say that residents of Cortland County experience a very different justice system based on where they may be arrested. In Cortlandville, a busy town court, judges have a daily calendar and move quickly through cases. In some of the more rural parts of the county, the local town or village court might not meet more than once or twice a month. Those varying calendars results in a very uneven delivery of justice across the county.

Investing in centralized resources—a centralized arraignment part, a “hub” court for detained cases, one dedicated staff who will oversee justice implementation in the county, and more data collection—will help Cortland manage its limited and precious resources wisely.

Recommendation # 1. Develop a centralized arraignment part.

Developing a single, centralized court part that processes all arraignments across the county can help to ensure that judicial processing is equitable and consistent for everyone. One of the challenges that currently exists in a county as large and spread out as Cortland is that providing services at arraignment would require setting up 15 separate programs—in the city court in Cortland and the 14 towns and villages in the county. This is logistically close to impossible and deeply inefficient.

Instead, the county should invest in a centralized arraignment part, to be located in Cortland City Court, where all arraignments in the county can be heard. The centralized arraignment part would be staffed by a full-time judge, a representative from the District Attorney’s Office and the Public Defender, as well as a representative from pretrial services. Several counties across New York—Washington, Oneida, Onondaga, and Broome—have operated a centralized arraignment part for well over a year to good results. This investment in Cortland County will allow for judges, attorneys, and pretrial services programs to collaborate in a proactive way to provide services *before* people are booked into the jail.

While these laws do not go into effect until January of 2020, Cortland County can proactively implement these policy changes and services to immediately reduce the demand for bed space in the jail while improving the system of case processing.

Recommendation # 2. Collect and publish criminal justice data.

The availability of data increases awareness, engagement, and accountability. Data sharing from the courts, public defenders, prosecutors, law enforcement, the jail, and supporting agencies empowers justice system actors and the community to learn what resources are most effective. Changes in jail trends, public safety, and public health can be measured and accurately attributed to efforts to reform the system.

Currently, public data on the Cortland County justice system is limited to information about arrests and case dispositions offered by NYS Division of Criminal Justice Services (DCJS). These sources of data provide insight into arrest and sentencing trends over the past few years—but do not include data on gender, race, residence, court location, and specific charge information. Additionally, data published by DCJS often lags behind real-time data available in the county.

Recommendation # 3. Hire a criminal justice coordinator for the county.

The counties in New York that have seen the most success in safely reducing the number of people in jail and developing a more effective justice system have all invested in creating a centralized criminal justice infrastructure. That work may be led by one person, such as a criminal justice coordinator. In other, larger counties, there may be a criminal justice coordinating council or Alternatives to Incarceration committee dedicated to the task. In Cortland, the work of the Justice League is an excellent beginning but insufficient to manage this task, given that all members of the League participate in it in addition to their full-time obligations in local government departments, nonprofits, and services. A dedicated position, housed within the county executive office and reporting directly to the Legislature, whose sole task is to manage jail- and ATI-related efforts, is a crucial investment for the county to realize the recommendations in this report.

Conclusion

Cortland County has a unique opportunity to proactively reform its system in the wake of impending legislative reforms and in the midst of a long-term decision to address overcrowding in the jail. After extensive data analysis, it is clear that jail overcrowding is an outcome of inefficiencies within the justice system and not simply a problem of the jail itself. Given changes in statewide legislation alone, Cortland will witness a dramatic reduction in the number of people in the jail. Beyond this, Cortland's justice system can and should take on additional reforms that will make an even more significant impact—to cut the jail population by half.

Without a change in justice system policy, practice, and resources, the demand for more jail beds will continue to rise while community safety and health needs will go unmet. It is not an inevitability for Cortland County that a new jail should be built. If the county first invests in the recommendations in this report—that are significantly less expensive than new jail construction—the county will have an average daily jail population of approximately 50 people, all of whom can be safely and effectively managed in the current jail without boarding out or overcrowding. We hope that Cortland County embraces the findings and recommendations in this report and uses them to inform a long-awaited decision about its jail.