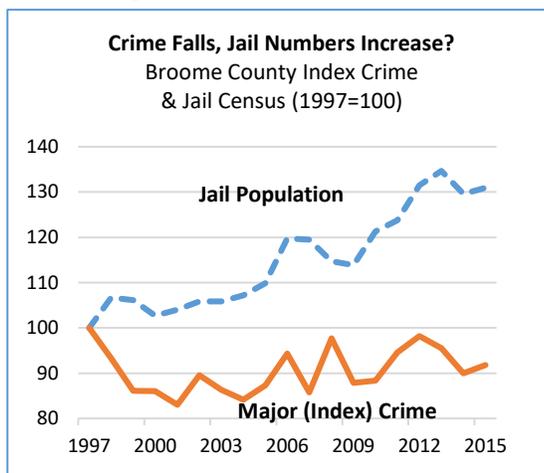




Documenting Injustice in Broome County: The need for an Investigation of the Abuses of Over-incarceration

Justice and Unity for the Southern Tier
Prepared by: William Martin and Andrew J. Pragacz
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Broome County has unwisely and persistently turned to mass incarceration to address pressing social problems, particularly poverty and substance use disorder (SUD). While index (serious) crime has been falling over the last thirty years,¹ the number of persons incarcerated in the County Jail have grown dramatically.



Very few of the persons held in the jail are the “drug kingpins” paraded for the media: over 70% of those held in the jail are unconvicted² and too poor to afford the excessively high bails³ imposed in county courts for relatively minor offenses.

The social and financial costs are significant. While funding for mental health and related social programs has been aggressively cut, funding for corrections has accelerated through a \$6 million, 50 bed expansion of the jail to the addition in just the last year of 13 new correctional officers. The personnel budget has increased by almost fifty percent in the last ten years.

Particularly distressing is how the county jail has become a depository for persons with disabilities, mental health problems and/or substance use disorders. The Public Defender and Public Prosecutor have publicly stated that over 80% of those incarcerated have substance use disorders. Jails and prisons are not therapeutic spaces; correctional officers are not trained, nor can be expected, to provide therapy.

These county policies and practices in the jail and beyond have resulted directly in arbitrary punishment, excessive abuse, medical malfeasance, and unnecessary deaths.

JUST requests that an independent commission of inquiry be appointed to investigate (1) conditions at the Broome County Jail and (2) a systematic review of the local front-end criminal justice process and practices (from arrest through conviction) in Broome County.

An investigation of the Broome County Jail is necessary to prevent needless death and abuse, fulfill state mandates, and prevent further lawsuits.

¹ See Appendix 1, “Broome County Jail Population and Crime”

² See Appendix 1. Broome County Sheriff Harder pointed to the high percent of people unconvicted as a reason for the high jail population. See “Vigil Brings Attention to Inmates Death in Broome County Jail,” <http://www.binghamtonhomepage.com/news/local-news/vigil-brings-attention-to-inmate-deaths-in-broome-county-jail/646378826>

³ Studies demonstrate the link between bail and poverty. See “Incarceration’s Front Door: The Misuse of Jails in America” by the Vera Institute of Justice, and “The Price of Freedom: Bail and Pre-Trial Detention of Low-Income Non-Felony Defendants in New York City” by Human Rights Watch. Also see: <http://www.pretrial.org/the-problem/>

Since 2011 there have been seven deaths in the jail: The very number of deaths is disturbing: this is far out of proportion to the jail's size.⁴ Moreover, these deaths were concealed by public officials, notably the Sheriff. It took a freedom of information law request to the state to retrieve this information regarding recent deaths:

FACILITY NAME	DECEASED NAME	DATE OF BIRTH	SEX	DATE OF DEATH	ETHNICITY	RACE	RECEIVED IN CORRECTIONAL SYSTEM
Broome County Jail	CARROLL, KEVIN ANDRE	12/25/1981	Male	09/30/2016	Not Hispanic	Black	12/17/2015
Broome County Jail	GUMMOE, KENNETH RICHARD	05/10/1987	Male	10/22/2016	Not Hispanic	White	10/21/2016
Broome County Jail	DENIS, VACHON	04/20/1948	Male	11/01/2015	Not Hispanic	White	4/15/2015
Broome County Jail	BARTON, SALLADIN PRINCE	07/11/1978	Male	01/14/2015	Not Hispanic	Black	
Broome County Jail	HASSINGER, DOUGLAS	01/10/1967	Male	09/21/2013	Not Hispanic	White	
Broome County Jail	MURRAY, JOHN	06/06/1969	Male	06/27/2013	Not Hispanic	Black	
Broome County Jail	RIOS, ALVIN	06/05/1971	Male	07/20/2011	Hispanic	Unknown	

Alvin Rios' uninvestigated death in 2011 led to a civil suit by his family—which the county and the private medical provider lost. A final report by the State Commission on Correction, heavily redacted, stated that Mr. Rios was left lying face down and shaking “in an emergent, life-threatening status without appropriate medical attention.” The NYS Commissioner of Correction, Dr. Phyllis Harrison-Ross, concluded the state report by directing that

“The Office of the Broome County Executive shall conduct an inquiry into the fitness of Correctional Medical Care, Inc. as a correctional medical care provider, specifically for its failure to implement its own intoxication and withdrawal policy and procedure, failure to implement the Comprehensive Opiate Withdrawal Scale, failure to make adequate records of withdrawal treatment, and failure to have a patient in opiate withdrawal evaluated by a physician.”

⁴ The national average for a facility Broome County's size (between 250-499 ADP) is approximately .25 deaths annually (“Mortality in Local Jails and State Prisons, 2000-2012-Statistical Tables.” Bureau of Justice Services). Between 2013 and 2016, the BC rate was 1.5 deaths annually, 6 times the national average for a facility of BC Jail's size. The BC Jail mortality rate of 300 per 100,000 jail incarcerated is over twice New York State and national averages. Furthermore, over 80% of jails nationally and 75% in New York State report no deaths within a given year (ibid). In all of New York State in 2013 there were 40 deaths (approximately half of which can be attributed to NYC). In Broome County there were 2, or 5% of the statewide jail deaths and 10% of those outside NYC.

No such investigation was conducted. The county attorney simply stated that “the performance of CMC staff during this review period has been nothing but professional, courteous and supportive. They have demonstrated and displayed great care, and continue to meet the needs of the individuals they service.”⁵ In 2014, CMC was given an award for excellence in the same legislative meeting as County Executive Preston’s State of the County Address in front of over 20 people protesting the BC jail’s expansion.

Salladin Barton’s death in January 2015 (a year and a half into his incarceration while awaiting trial) led to another lawsuit, alleging that he was repeatedly abused in the jail and left untreated for pneumonia. Kevin Carroll’s death a year later met a similar response. When asked if the jail planned to make any changes as the deaths mounted, Sheriff Harder stated “There’s no reason to.”⁶ In the wake of public protests following revelations that two more deaths had taken place, the Sheriff response remains that “We’re well-staffed with good medical people” and nothing needs to be done.⁷

While death is the most disturbing consequence of incarceration, medical and policy irregularities are systemic and persistent in the Broome County Jail.

Inadequate medical care as revealed in death cases is compounded by continuing reports from those incarcerated, formerly incarcerated, and their families. The range of concerns spreads from medical malfeasance to grave policy irregularities regarding required services to youth, comingling of youth and adults and women and men, and abuse by correctional staff. Among the charges needing investigation are these:

- denial of access to inhalers for persons with asthma,
- denial of prescribed heart medicine for persons with heart disease,
- denial of care for persons with traumatic brain injury and epilepsy,
- improper detox and inadequate medical attention for substance withdrawal,
- excessive use of solitary confinement, especially for juveniles,
- comingling of youth and adults,
- comingling of women and men,
- the construction of new showering and toilet facilities for women visible and overseen by male correctional officers, and
- regular and repeated beatings by specific correctional officers.

⁵ *Press & Sun-Bulletin*, September 12, 2014, “Broome jail inmate death leads to \$62K settlement,” <http://www.pressconnects.com/story/news/local/2014/09/12/broome-county-inmate-death-settlement/15509355/>

⁶ *Press & Sun-Bulletin*, October 26, 2016, “State: Broome inmate death likely a suicide,” <http://www.pressconnects.com/story/news/local/2016/10/26/broome-inmate-death-likely-suicide-state-commission/92790546/>. Sherriff Harder has reliably been resistant to any changes at the jail and an unreliable transmitter of knowledge about it. A 2008 report commissioned by Broome County remarked, by way of advocating a jail population reduction, that without changes in incarceration patterns ADP would jump to 700 (see Appendix 2). The Sheriff has disingenuously cited this number in calls for jail expansion.

⁷ WIVT, “Vigil brings attention to inmate deaths in Broome County Jail,” January 30, 2017, <http://www.binghamtonhomepage.com/news/local-news/vigil-brings-attention-to-inmate-deaths-in-broome-county-jail/646378826>

Thin annual inspection reports by the State Commission of Correction support claims made by incarcerated and formerly incarcerated persons. To cite only the July 2016 redacted report⁸ (as released only by a Freedom of Information Law request), these irregularities included:

- the repetitive unwillingness of the jail to document incidents and events in the jail,
- an inability to log, record, and provide adequate evidence for grievance complaints as well as provide written findings,
- the irregular, widespread, and unjustified use of solitary confinement,
- the denial of phone, commissary, and visitation without due process,
- the inadequate reporting on use of chemical agents on those incarcerated, and
- failure to assess and provide adequate educational needs for youth, particularly female youth.

A review of front-end criminal justice procedures in Broome County is necessary to reduce jail the jail population.

It is clear that successful criminal justice reform and reductions in the Broome County Jail population (the JUST Action plan forwards 50% as a reasonable, achievable goal) will require changes throughout the criminal justice system. The excessive number of people held unconvicted, coupled with the disproportionate number of people of color in the jail,⁹ point to serious problems within the criminal justice system from arrest through trial phases, and a lack of services outside the criminal justice system. Issues include:

- racial profiling by police and the targeting of black and low-income communities,
- excessive bail,
- lengthy trial delays and lack of a speedy trials,¹⁰
- unnecessary incarceration for low-level arrests,
- unwarranted administrative delays (such as pre-sentencing reports performed by probation),
- jail confinement as practice of a prosecutorial plea-bargaining tactic,
- the unnecessary incarceration of people detained for probation violations,
- the lack of diversion programs and a commitment to diversion,
- the lack of non-carceral services for those with substance use disorders,¹¹ and
- the penalization of poverty, from excessive bail to the lack of adequate legal representation from arraignment to trial and beyond.

Appendices:

1. Broome County Jail Populations and Crime
2. Excerpts from “Final Report: Study of the Broome County Sheriff’s Department”
3. Broome County Incarceration graphs, from the Vera Institute
4. 2016 Annual Report on the Broome County Jail from the NYS Commission of Correction

⁸ See Appendix 4.

⁹ See Figure 3 in Appendix 3, and Excerpt 3 in Appendix 2.

¹⁰ See “Squadron, Aubry Introduce Kalief’s Law to Fix ‘Speedy Trial’ Rules” in NYS

<https://www.nysenate.gov/newsroom/press-releases/daniel-l-squadron/squadron-aubry-introduce-kaliefs-law-fix-speedy-trial>

¹¹ *Press and Sun Bulletin*, February 23, 2017, “Survey finds barriers to opioid treatment in Broome,”

<http://www.pressconnects.com/story/news/local/2017/02/23/releasing-tonight-results-local-opioid-survey/98297466/>