



# CHIEF DEFENDERS ASSOCIATION OF NEW YORK

**To:** New York State Senators and Assembly Members  
**From:** Chief Defenders Association of New York  
**Re:** Correcting the record on bail reform  
**Date:** March 3, 2020

The Chief Defenders Association of New York represents the directors of public defense offices throughout the state. We write out of concern that the public discourse over criminal justice reform has been compromised by false and highly sensationalized news accounts and social media commentary.

Opponents of the reformed bail statute – bail bond companies, law enforcement officials, and politicians – have manufactured a crime wave based on a handful of cases that have little or nothing to do with the new bail law

Tabloid news stories misstate the facts and the law. Nevertheless, editorial boards, opinion writers, and bloggers republish the misinformation, which is cited as the basis for repealing or radically rewriting the new law.

Bail reform is working as lawmakers intended. Thousands of individuals have been released pending adjudication of allegations – as the Constitution requires – without incident.

Attached to this memorandum you will find a corrective to the misinformation and propaganda about bail reform: “**The Daily Debunk**” – available online at [justicenotfear.org](http://justicenotfear.org), a web platform created by Color of Change, and Zealous, organizations advocating for criminal-justice reform.

We urge lawmakers to consult with the state’s public defense lawyers regarding the implementation of the reformed bail practices.

Public defenders are in courtrooms every day. And they live in the communities they serve; they have a vested interest in public safety.

*(Over)*

We offer for your consideration the following facts regarding bail practice under the new law:

- People released after arrest are showing up, as ordered, for court appearances.
- Judges are exercising broadened authority to address the concerns of the community and the needs of the accused by ordering conditions of release that require monitoring and supervision, and referral to mental health and addiction services in a therapeutic setting (not in jail).
- There has been a significant decrease in the numbers of people sitting in jail based upon unproven allegations.
- As a consequence, there are far fewer people in jeopardy of losing their jobs, public benefits, housing, and their children as a result of an unproved allegation.
- And there are fewer people who have been coerced into accepting a guilty plea in order to return to their families and jobs.
- Counties are no longer wasting taxpayer dollars to jail individuals at a cost of hundreds of dollars a day per person.

Lawmakers who cast their votes to reform the criminal justice system made the right call.

We urge you to stay the course: Reject calls to repeal or compromise your vote for fairness and justice.

# THE DAILY DEBUNK

**RAPID RESPONSE TO LIES, MISTRUTHS, &  
FEARMONGERING ABOUT NEW YORK'S NEW BAIL LAWS**

**JUSTICE  
~~NOT FEAR~~**

**READ THE DAILY DEBUNK AT: [JUSTICENOTFEAR.ORG](http://JUSTICENOTFEAR.ORG)**



# ROCKLAND COUNTY SHERIFF LOUIS FALCO

Seri bl me b il re orm or m rder o  
libr ry ec rity g rd

Fact Check: **LIES**

## THE DEBUNK

In the Journal News, Rockland County Sheriff Louis Falco, a strident opponent of bail reform, falsely attributed a man's release on attempted rape charges to the new reform laws. The man now stands accused in the murder of a security guard, Sandra Wilson, at Finklestein Memorial Library in Spring Valley, New York.

The man facing these allegations apparently has a history of mental health issues, having been hospitalized as recently as January for treatment. This information was confirmed by the hospital where he was receiving treatment in a letter to the Court sent January 17. The alleged attempted rape occurred in a hospital where he was receiving inpatient treatment in November of 2019. The new bail law allows judges to order hospital treatment when a person has



a mental illness. Pursuant to civil commitment proceedings, hospital officials are then able to keep someone in their care if they pose a danger to themselves or others.

Furthermore, the allegations contained in the article include several bail-eligible offenses. Attempted rape in the first degree is a violent felony, making it eligible for either cash bail or remand. The new bail law also specifically allows cash bail for the misdemeanor charges of forcible touching and sexual abuse.

It is simply inaccurate to state that bail reform was the reason for this person's release. He is currently remanded on murder charges.

**LOHUD ARTICLE:** [lohud.com/story/news/crime/2020/02/20/man-accused-kill-ing-security-officer-had-been-free-attempt-ed-rape/4818422002/](https://lohud.com/story/news/crime/2020/02/20/man-accused-kill-ing-security-officer-had-been-free-attempt-ed-rape/4818422002/)

# YATES COUNTY DA, TODD CASELLA

i trict ttorney bl me il e orm or  
m n overdo e de t

**Fact Check:** **FEARMONGERING**



## THE DEBUNK

A man accused of burglary died tragically from a suspected drug overdose while awaiting his day in court. Yates County DA Todd Cassella is exploiting his death to smear bail reform by suggesting, wrongly, that jail was the best place for someone struggling with substance use disorder.

Christopher Hearn was held on unaffordable bail from October 3, 2019 until he was released on December 23. He attended his court appearances until his death on February 13, 2020. Cassella described him as being “safe in jail,” and blamed his release for his death.

Jail is not a substitute for treatment for substance use disorder, and people are not protected from the dangers of drug use as a result of incarceration.

The purpose of bail reform has been to spare people the horrors of pre-trial incarceration and to expend fewer resources on warehousing people awaiting a trial date. Reallocating resources to substance use treatment programs and away from incarceration should be a feature of our justice system, and opponents are wrong to insist, against all evidence, that jail is a solution to the public health crisis of overdose.

## CONTEXT

While an estimated 25% of people incarcerated in the U.S. are addicted to opioids, not including other addictions, only 5% receive treatment<sup>1</sup>. The treatment varies widely; the Yates County Jail does not provide medication-assisted treatment, the gold-standard approach. Furthermore, people are often able to access narcotics in jail.

The truth is that the trauma of incarceration may exacerbate mental health issues that often lead many people to self-medicate, making substance abuse an ongoing threat upon their inevitable release from jail. The overdose rate for people in the first two weeks after leaving jail is between 30 and 120 times higher<sup>2</sup> than the general population.

People are often forced to withdraw involuntarily from lifesaving medications, including methadone, upon incarceration. Jails are notoriously slow at providing medical care to people experiencing life-threatening withdrawals. The presence of drugs in jails, coupled with the intense stress and misery of incarceration, also present a pathway to relapse or new addiction for those not previously experiencing substance use disorder.

People are not safe from overdose because they are incarcerated. The Bureau of Justice Statistics collects data on deaths in custody<sup>3</sup>. An estimated 16.7% of incarcerated people who died in 2016 were being held for a drug offense, similar to in 2015 (16.9%). From 2000 to 2016, the mortality rate from drug or alcohol intoxication more than doubled, from 6 to 15 deaths per 100,000 incarcerated people.

One single day of incarceration presents a huge risk—between 2000 and 2016, people who died from drug or alcohol intoxication served a median of just one day in jail prior to their death.

**THE CHRONICLE EXPRESS ARTICLE:** [chronicle-express.com/news/20200218/released-from-jail-accused-burglar-dies-of-drug-overdose](https://www.chronicle-express.com/news/20200218/released-from-jail-accused-burglar-dies-of-drug-overdose)

---

<sup>1,2</sup> [npr.org/sections/health-shots/2019/11/12/777586941/opioid-addiction-in-jails-an-anthropologists-perspective](https://www.npr.org/sections/health-shots/2019/11/12/777586941/opioid-addiction-in-jails-an-anthropologists-perspective)

---

<sup>3</sup> [bjs.gov/content/pub/pdf/mlj0016st.pdf](https://www.bjs.gov/content/pub/pdf/mlj0016st.pdf)

# TIMES UNION

---

Bail Reform Blamed for Teenagers' Release.

---

Fact Check: **MISLEADING**

---



## THE DEBUNK

The Albany Times Union published an article on a tragedy involving two teenage boys who pled guilty in the accidental shooting of a 3-year-old boy, who survived.

Both teenagers pled guilty to weapons possession charges and are awaiting sentencing. One now faces the possibility of 10.5 years in prison, while the other faces seven years. Both could be sentenced to five years of post-release supervision.

The two teenagers have been released pending sentencing. The Times Union falsely attributes the teens' pre-sentence freedom to bail reform. **The bail statute does not apply post-conviction. This incident is in no way connected to bail reform.**

The article says, "Both are free until their sentencings in the wake of the state's bail reform, which requires judges to consider the least restrictive non-monetary conditions for defendants at bail hearings." This is misleading. The two teenagers were both indicted on charges of attempted murder, which was and remains a bail- or remand-eligible offense, and cash bail was in fact set and paid in this case. The case is now in the post-conviction phase, and is no longer governed by pre-trial bail laws. The judge had discretion to remand them upon their guilty pleas.



## CONTEXT

The purpose of bail in New York has always been to ensure that a person returns to court using the least restrictive means necessary, both under the old bail laws and according to the U.S. Supreme Court. See, e.g., Stack v. Boyle, 342 U.S. 1, 4-5 (1951) (“Bail set at a figure higher than an amount reasonably calculated to [ensure a person’s return to court] is ‘excessive’ under the Eighth Amendment.”).

### TIMES UNION ARTICLE:

[timesunion.com/news/article/Two-Albany-teens-free-until-sentencing-in-15065652.php](https://timesunion.com/news/article/Two-Albany-teens-free-until-sentencing-in-15065652.php)

# NEW YORK POST

---

“Brooklyn judge uses forgotten state law to bypass bail reform.”

---

**Fact Check:** FALSE

---

## THE DEBUNK

The New York Post claimed falsely that a Brooklyn judge had to “use[] a forgotten state law to bypass bail reform.” The Post frames the story as yet another limitation and failure of the new bail reform law to protect “public safety.” The post claims that Judge John Hecht found a loophole for the state’s ... new bail reform law—and used it to send a serial burglar to jail.”

This so-called “loophole,” however, is actually no loophole at all. The law that the Judge cited is actually a key provision of the new bail reform law. Indeed, the new bail reform law increased judicial discretion to jail people released pre-trial in the extraordinarily unlikely event (2%)<sup>1</sup> that they are rearrested for a violent felony.



The provision of the law, New York Criminal Procedure Law § 530.60 is not a “forgotten state law.” Far from it, as stated in the practice commentary to the new bail reform law and quoted by Judge Hecht in his decision:

*“CPL § 530.60 remains largely intact, although the new bail law ‘provide[s] for a broader basis for revocation of a securing order’ in cases of re-arrest while at liberty.”*

In short, judges do not have to bypass bail reform. Bail reform specifically allows detention in the rare case of a new arrest that alleges a violent felony. This is because the legislature was extremely diligent in analyzing all the different situations that could occur and allowed for

---

<sup>1</sup> [nycja.org/assets/LikelihoodofFTAforRearrest09.pdf](https://nycja.org/assets/LikelihoodofFTAforRearrest09.pdf)

many of the ones that law enforcement wishes they could exploit to inspire fear and hate. This is another example of the N.Y. Post and law enforcement exaggerating and lying to make it seem as if the bail law was ill conceived and poorly thought out.

We call on the New York Post to retract the misleading story and report on the truth about bail reform.

## CONTEXT

The New York Post's "reporting" is just another example of tabloids rooting for the bail law to fail with a bullying "told-you-so" mentality instead of reporting based on truth or nuance. In this case, the truth was written in plain English in a judicial opinion, but they either willfully or negligently overlooked it.

### NEW YORK POST ARTICLE:

[nypost.com/2020/02/16/brooklyn-judge-uses-forgotten-state-law-to-bypass-bail-reform/](https://nypost.com/2020/02/16/brooklyn-judge-uses-forgotten-state-law-to-bypass-bail-reform/)

# NASSAU COUNTY LEGISLATURE

---

Nassau Legislators: “New York State’s controversial bail reform is putting public safety at risk”

---

**Fact Check:** **FEARMONGERING**

---

## THE DEBUNK

Nassau County’s Republican-led legislature held hearings on the new bail reform laws on February 13 and featured several speakers, who have already been exposed for lying and other misconduct to undermine pretrial justice reforms.

One of the speakers was Nassau Police Department Commissioner Patrick Ryder, who recently falsely linked<sup>1</sup> a man’s murder to criminal justice reform (see our previous debunk<sup>2</sup>). After Commissioner Ryder claimed without evidence that discovery reform was to blame for the tragic death of a state’s witness, he was later forced to admit there was no link. (Many reporters went a step further and inexplicably linked the tragedy to bail reform,



even though the people facing charges were in fact in jail at the time).

Commissioner Ryder had also failed to acknowledge that New York’s new discovery laws are similar to the laws in a majority of states<sup>3</sup> across the country and, like those laws, gives judges discretion to issue “protective orders” allowing witness information to be withheld in the very rare cases that it is needed. Moreover, publicly-available court records clearly showed that the witness’ identity remained under seal and was never provided the people facing charges.

Nevertheless, Ryder continues to spread

---

<sup>1</sup> [nytimes.com/2020/02/06/nyregion/ms-13-long-island.html](https://www.nytimes.com/2020/02/06/nyregion/ms-13-long-island.html)

<sup>2</sup> [justicenotfear.org/debunk/patrickryder](https://justicenotfear.org/debunk/patrickryder)

---

<sup>3</sup> [nytimes.com/2019/01/15/opinion/new-york-texas-criminal-justice.html](https://www.nytimes.com/2019/01/15/opinion/new-york-texas-criminal-justice.html)

misinformation regarding the new laws. At the hearing, he attempted to connect reform to a rise in crime, a point that has been thoroughly refuted by experts<sup>4</sup> and has been addressed in previous debunk posts.

Assistant DA Jed Painter also testified. In addition to being a vocal opponent of criminal justice reform, Painter has been conducting trainings<sup>5</sup> for police and prosecutors on circumventing the new statutes, discussed in the January 28 Debunk. At the February 13 hearing, Painter claimed witness protection requests between Jan. 1 and Feb. 12 were double the amount of requests that Nassau prosecutors received in all of 2019.

The hearing also featured the family of Jonathon Flores-Maldonado, a man who was tragically killed in a traffic accident on January 12. The other driver had a suspended license as a result of a drunk driving incident in 2017, and had been arrested twice prior to this accident for allegedly driving with a suspended license, a violation of his probation. The new law still allows for remand in cases where a person violates the terms of their prison or jail release with a new arrest, whether they are on parole or probation. Furthermore, the

second driving arrest would have provided grounds to set bail under the new statute, even without considering that it was a violation of probation. Mr. Flores-Maldonado's tragic death is being exploited by GOP officials to undermine bail reform as part of a continuing disinformation campaign.

#### LONG ISLAND PRESS ARTICLE:

[longislandpress.com/2020/02/13/nassau-holds-hearing-on-ny-bail-reform/](https://longislandpress.com/2020/02/13/nassau-holds-hearing-on-ny-bail-reform/)

---

<sup>4</sup> [vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf](https://vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf)

<sup>5</sup> [cityandstateny.com/articles/politics/new-york-state/das-trained-how-to-keep-people-in-jail-despite-new-bail-law.html](https://cityandstateny.com/articles/politics/new-york-state/das-trained-how-to-keep-people-in-jail-despite-new-bail-law.html)

# NY DAILY NEWS

---

Bail Reform blamed for petty re rre t

---

**Fact Check:** **FEARMONGERING**

---

## THE DEBUNK

The Daily News published a front page article about a man reportedly arrested multiple times for alleged petty offenses and released under the new bail laws. The outlet also says, “Career criminal can’t be derailed despite 138 busts. Freed after five new raps thanks to bail reform.”

Several parts of this article are factually inaccurate, but the biggest problem is the framing, which we explain below. First, the facts:

The article also raises other questions and presents apparent misinformation. First, In the article, Assistant Chief Gerald Dieckmann of the NYPD’s Transit Bureau says: “At least before, he’d be remanded and be behind bars for a couple of days. He wouldn’t be able to victimize people.” This is false and it is



troubling that a top law enforcement officer would misunderstand the law. Under the old bail laws, a judge could have set bail, but remand would not have been ordered for non-violent crimes of poverty either prior to reform or now. The fact that this person was reportedly arrested so many times under the old bail laws demonstrates that repeated periods of incarceration, whether for a night in a holding cell or a longer period on Rikers Island, did nothing to address the underlying issues.

Second, given the dragnet of policing against Black men, it is likely that many or even most of these “busts” were dismissed and sealed in court, in which case the Assistant Chief Dieckmann may have participated in the illegal dissemination of records that should have been destroyed under the law.

Third, the article uncritically cites allegations by police that bail reform is responsible for an alleged rise in crime, despite the paper's own Editorial Board debunking this fear-mongering<sup>1</sup>. (The Vera Institute of Justice also debunked<sup>2</sup> it.

Fourth, court records show four open cases, not five, as was reported. The article fails to note that if he were arrested and re-arrested on a felony charges, he would have become bail-eligible. No arrests involved any allegations of violence.

Now, the man is in supervised release and may be referred to programs and services that could help to change his life.

## EXPERT PERSPECTIVE

**One current and one former doctor on Rikers Island** addressed the framing of this article on twitter<sup>3</sup>.

As **Dr. Jonathan Giftos**, the former Clinical Director for Substance Use Treatment in NYC jails, writes, "We have to stop blam-

ing bail reform for failures of our social safety net and we must recognize the previous approach failed in much more traumatic ways."

**Dr. Ross MacDonald**, the Chief Medical Officer for healthcare services in City Jails, went further, noting that if 137 arrests would not deter this man, the 138th wouldn't, either. Each arrest costs thousands of dollars, likely costing the public a hefty fortune while doing nothing to address the probable root causes of such behavior: unstable housing, substance use disorders, mental illness, cognitive impairment, and/or trauma. "The money spent on 138 arrests could have paid for permanent supportive housing about 110 busts ago, but here the media advocates for a return to a policy that is literal insanity—expecting the 139th or 140th to be the one that fixes his problem."

Dr. MacDonald concludes: "If you think about it for just a moment, this headline proves that what we were doing before bail reform was ridiculous and ineffective. And yet it's presented as a common sense argument to return. A great case study in how America got to mass incarceration in the first place."

---

<sup>1</sup> [nydailynews.com/opinion/ny-edit-bail-reform-nypd-commissioner-dermot-shea-20200208-ue6xpgrdydhuxdaviq2sslueue-story.html](https://www.nydailynews.com/opinion/ny-edit-bail-reform-nypd-commissioner-dermot-shea-20200208-ue6xpgrdydhuxdaviq2sslueue-story.html)

<sup>2</sup> [vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf](https://vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf)

<sup>3</sup> [twitter.com/RossMacDonaldMD/status/1227932155193516035](https://twitter.com/RossMacDonaldMD/status/1227932155193516035)

**NY DAILY NEWS ARTICLE:** [nydailynews.com/new-york/nyc-crime/ny-ca-reer-transit-thief-nypd-no-bail-20200213-mbn4o42vebg3fjzqdex535mu7m-story.html](https://www.nydailynews.com/new-york/nyc-crime/ny-ca-reer-transit-thief-nypd-no-bail-20200213-mbn4o42vebg3fjzqdex535mu7m-story.html)

# SENATOR JIM TEDESCO

---

“Senator Tedesco Raises Bail Reform Concerns Over Alleged Repeat Offender.”

---

**Fact Check:** **FEARMONGERING**

---



## THE DEBUNK

WRGB-Albany spread misinformation and quotes Republican State Senator Jim Tedesco’s false and fearmongering claims about bail reform without correcting the record.

Although WRGB describes a woman who was arrested for two robberies, describing one as a “violent mugging,” the article states that she could be released under new bail reform laws. This is misleading. A robbery that results in any kind of physical injury can be charged as Robbery in the Second Degree, which is a Class C violent felony and bail-eligible offense. A judge would have full discretion regarding whether to set bail, just as prior to January 1, 2020. However, publicly available information indicates that the woman has been charged with a top count of Robbery in the Third Degree, which involves no injuries and is a non-violent offense. She also appears to

have been arrested for both cases simultaneously, meaning there is no nexus between bail and the alleged commission of either crime. If she were to be arrested on felony charges while released on an open matter, bail could be set.

Despite his position as a legislator who presumably read the law he goes on to smear, Senator Tedesco not only confirms this misinformation but goes on to blame bail reform for New York City crime stats, a position that has been debunked by experts<sup>1</sup>. He also states that criminal justice reform is to blame for this alleged crime, despite absolutely no evidence suggesting that this is true.

---

<sup>1</sup> [vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf](https://vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf)



**CBS 6 ALBANY ARTICLE:** [cbs6albany.com/  
news/local/tedisco-rais-es-bail-reform-  
concerns-over-alleged-re-peat-offender](https://www.cbs6albany.com/news/local/tedisco-rais-es-bail-reform-concerns-over-alleged-re-peat-offender)

# MAYOR BILL DE BLASIO

Mayor Wrongly Blames Crime on Bail Reform

**Fact Check:** MISLEADING



## THE DEBUNK

NYC Mayor Bill de Blasio has continued to misinform the public<sup>1</sup> by repeating Commissioner Shea and the NYPD's debunked talking points<sup>2</sup> attempting to connect criminal justice reform to a rise in certain crimes in New York City. During both an appearance on WNYC and in an address to lawmakers in Albany this week, Mayor de Blasio aligned himself<sup>3</sup> with pro-carceral police groups lobbying for reform rollbacks. These groups include the Sergeants Benevolent Association, the NYPD's second-largest union, which threatened Mayor de Blasio in a public declaration of war<sup>4</sup> on

the official SBA Twitter account just one day before his trip to Albany.

The brains behind the account, SBA President Ed Mullins, has previously let it all hang out on social media and in communications within the NYPD. In 2019, for example, Mullins shared a racist video<sup>5</sup> about the supposed perils of policing minority neighborhoods with thousands of NYPD sergeants, saying "Pay close attention to every word. You will hear what goes through the mind of real policemen every single day on the job. This is the best video I've ever seen telling the public the absolute truth." Among many racist and bigoted comments, the video referred to Black people

<sup>1</sup> [nypost.com/2020/02/07/de-blasio-admits-nyc-crime-jump-is-linked-to-bail-reform/](https://nypost.com/2020/02/07/de-blasio-admits-nyc-crime-jump-is-linked-to-bail-reform/)

<sup>2</sup> [vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf](https://vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf)

<sup>3</sup> [nypost.com/2020/02/10/de-blasio-doubles-down-on-calls-to-amend-new-bail-reform-law/](https://nypost.com/2020/02/10/de-blasio-doubles-down-on-calls-to-amend-new-bail-reform-law/)

<sup>4</sup> [thehill.com/homenews/state-watch/482258-sergeants-union-says-nypd-is-declaring-war-on-de-blasio](https://thehill.com/homenews/state-watch/482258-sergeants-union-says-nypd-is-declaring-war-on-de-blasio)

<sup>5</sup> [gothamist.com/news/nypd-police-union-boss-sorry-for-sharing-racist-video-i-have-black-friends](https://gothamist.com/news/nypd-police-union-boss-sorry-for-sharing-racist-video-i-have-black-friends)

as “monsters” and said of public housing projects, “Cops will continue to wade into that fray and Blacks will continue to attack and ambush us forever.” Despite his proclamation to heed every word, Mullins later claimed he had not actually listened to the video before sharing it, and defended himself in an interview by saying, “I have Black friends.” When Mullins is not lamenting bail reform or threatening the Mayor, @SBANYPD is a trove of pro-Trump and extreme rightwing posts.

The SBA’s opposition to reform is yet another data point illustrating the significant overlap<sup>6</sup> between the forces lobbying against the changes and far-right groups. Their interests are served by undermining bail reform, and Mayor de Blasio is caving to pressure from the right by taking a page out of their book.

Speaking to WNYC’s Brian Lehrer on February 7, Mayor de Blasio stated, “We had, for six years, steady decreases in crime across the board.” He goes on to describe crime as “soaring,” and suggests that only bail reform can account for this data, then reiterated these points to lawmakers in Albany.

Mayor de Blasio also said, “Either we forgot how to police New York City, or there’s a correlation [between rising crime and

reform].” He is, however, more than happy to credit the NYPD<sup>7</sup> with the decline in murder, rape and violent assault numbers. Blaming bail reform for rising numbers of other crimes is a conflicting explanation for crime stats from the same data set. Importantly, crime stats are reported by the NYPD itself, and should therefore be carefully scrutinized. The NYPD is solely responsible for enforcement and arrests, has previously manipulated arrest charge statistics<sup>8</sup>, and its members<sup>9</sup> and lobbying arms<sup>10</sup> are engaged in an open campaign against criminal justice reform.

## REAL DATA

The bipartisan Vera Institute of Justice released data analyzing<sup>11</sup> the timing of bail reform implementation and the City’s crime stats. For example, the crimes cited as rising—robberies, burglaries and car thefts—all increased for a period in the middle of 2019. Judges did not begin implementing the new bail law until November 2019. The data also reflects that fluctua-

---

<sup>7</sup> [twitter.com/NYCMayor/status/1224840008068145152?s=20](https://twitter.com/NYCMayor/status/1224840008068145152?s=20)

<sup>8</sup> [gothamist.com/news/report-nypd-has-systematically-undercounted-rapes-in-nyc-for-years](https://gothamist.com/news/report-nypd-has-systematically-undercounted-rapes-in-nyc-for-years)

<sup>9</sup> [gothamist.com/news/nypd-precinct-commander-tells-queens-residents-complain-about-bail-reform-their-elected-officials](https://gothamist.com/news/nypd-precinct-commander-tells-queens-residents-complain-about-bail-reform-their-elected-officials)

<sup>10</sup> [wrcr.com/2020/02/05/police-das-rally-in-albany-to-repeal-bail-reform-laws/](https://wrcr.com/2020/02/05/police-das-rally-in-albany-to-repeal-bail-reform-laws/)

<sup>11</sup> [vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf](https://vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf)

---

<sup>6</sup> [cityandstatenyc.com/articles/politics/news-politics/political-extremists-have-found-home-gop-backed-face-book-group.html](https://cityandstatenyc.com/articles/politics/news-politics/political-extremists-have-found-home-gop-backed-face-book-group.html)

tions in short-term statistics are normal. According to Vera, for example, “[During] the first three weeks at the beginning of January, there was a 43 percent increase in murders between 2018 and 2019—and the following year, the trend reversed. During the first three weeks of 2015, there were 819 felony assaults reported. The following year, that number jumped 25 percent—to 1,020. Grand larceny reports increased by 17 percent between the first three weeks of 2012 and the same period in 2013.”

Experts agree that there is simply not enough data to connect reform to any change in crime stats: “Looking at a crime snapshot when the law has only been in effect for three weeks does little, if anything, to show the impact bail reform will have on crime rates long-term.”

# NASSAU COUNTY POLICE COMMISSIONER PATRICK RYDER

---

“The Tragic death of Mr. Maldonado is, unequivocally, not the result of the new discovery laws.”

---

**Fact Check:** CORRECTED

---

## THE DEBUNK

The Nassau County Police Department attempted to falsely connect a man’s tragic death to criminal justice reform and was later forced to issue a correction acknowledging that no direct link existed. After initially blaming reform for this tragedy and calling for a rollback of the law, Nassau County Police Commissioner Patrick Ryder later admitted that there is “no direct link between the death of Wilmer Maldonado Rodriguez and criminal justice reform.” However, many media sources had already run with the anti-reform narrative—once again relying only on police sources in their reporting. Social media accounts for both the Nassau County Police and State GOP officials remain uncorrected regarding this case and posts promoting disinformation are still being shared. This is yet another clear illustration of the hazards of relying on police and other pro-carceral



groups for single-source reporting on criminal justice reform.

Wilmer Maldonado Rodriguez was reportedly found murdered near an abandoned home in Nassau County on February 2. According to police, Mr. Maldonado Rodriguez was a complaining witness in a 2018 case alleged to involve MS-13 members. All suspects in that matter are currently incarcerated. No arrests have been made and no suspects have been named in his death. However, Nassau County Police and anti-reform officials immediately attempted to tie this case to criminal justice reform, specifically discovery laws, in an effort to undermine the law and deflect blame for Mr. Maldonado Rodriguez’s death.

Despite apparent concerns for witness safety, he was not receiving any protection from police and was unhoused at the time of his murder. People without housing are victims of violent crime at a far higher rate than people with stable housing.

All judicial decisions regarding witness information in this case were rendered in 2019 –prior to discovery implementation. Furthermore, police falsely stated that discovery law requires the unsealing of witness information before a trial. Current law allows protective orders to shield witness identities when prosecutors indicate that safety concerns exist for those witnesses, specifically including in cases involving substantiated allegations of gang membership. In fact, changes to the discovery statute include more grounds for protective orders than previously existed. The discovery reforms implemented in 2020 simply brought New York into step with nationwide discovery practices, despite repeated attempts by pro-carceral groups to paint the reforms as radical. There is also no evidence tying Mr. Maldonado Rodriguez's death to any disclosure made to defense counsel or to the 2018 case at all, and attorneys adamantly deny sharing any information regarding Mr. Maldonado Rodriguez with their clients.

## UPDATE

After experts contacted Newsday and other reporters about the flagrant lies by the Nassau County Police Commissioner Patrick Ryder and District Attorney Madeline Singas, falsely linking a tragic death to discovery reform, the officials have retracted. "There was no direct correlation." [Link to updated story here.](#)

## STATEMENTS

**From the Legal Aid Society of Nassau County, the Legal Aid Society of New York, Brooklyn Defender Services, the Bronx Defenders, the New York State Association of Criminal Defense Lawyers, Innocence Project, & Citizen Action of New York:**

The tragic death of Mr. Maldonado is, unequivocally, not the result of the new discovery laws. It is extremely disturbing that law enforcement officials are exploiting this murder to try to discredit the discovery laws, which after decades of wrongful convictions have finally been amended to match those of the rest of the country. Under the pre-existing and current discovery laws, judges have a great deal of discretion and authority to order a variety of protective measures, including not disclosing witness information, not providing contact information for witnesses or any other remedy deemed appropriate. These statements by law enforcement are again another attempt to use lies and misrepresentations to create the illusion that the new

laws are a danger to public safety.

**Background:** All materials are subject to withholding by protective order if any factor outweighs the usefulness of the discovery. This is completely at the judge's discretion, and district attorneys can specifically request protective orders in cases involving gang violence. This approach has been used nationwide for decades. Nothing in the new discovery law required the judge to lift or change the protective order that had been in place in this case. The law only added more grounds for a protective order in CPL 245.70, effective 1/1/20.

New York's discovery laws are the same as laws around the country and contain a **multitude of protections** for victims and witnesses.

**From Nick Encalada-Malinowski, VOCAL-NY:**

On Tuesday evening Nassau County District Attorney Madeline Singas and Nassau County Police Commissioner Patrick Ryder attempted to intentionally link a horrific tragedy—the death of Wilmer Maldonado Rodriguez—to recently enacted criminal justice reform, only to retract this correlation after pressure given the egregious falsity of their claim.

Early coverage of the incident in both Newsday and the New York Times repeated false information from law enforcement con-

necting the death to reforms only to later update the stories after readers alerted them to the obvious untruths they were publishing.

Today we condemn law enforcement's intentional campaign of fear and misinformation as well as the activities of the New York State GOP which has sought every opportunity to exploit tragedy for their own political gain with a total disregard for the facts. This cynical approach has been effective because media outlets continue to simply report what law enforcement says without any scrutiny at all. This has led to a tremendous amount of disinformation being disseminated through the media targeting in particular, recently enacted criminal justice reforms.

**We are calling on every media outlet in New York State to immediately cease single-source reporting on any criminal justice issue when that source is law enforcement.** Law enforcement have shown over and over again that they will intentionally mislead the media and the public to serve their own political interests and power.

Despite the retractions from law enforcement officials, the social media accounts of the Nassau County Police Department and Senate Republicans continue to display statements about Rodriguez's death that they know are untrue.

This incident falls within an on-going pattern of deceit from law enforcement, which is grossly misleading the media, legislators and the public routinely in an effort to stoke fear around bail reform in hopes of parlaying that to political gains at the ballot box this fall.

NY Post coverage falsely blaming criminal justice reform for Tiffany Harris' release when she was committed in a hospital, Gerod Woodberry's release when he could have been held on bail under the new statute, and prosecutors being "unable to press charges" due to discovery obligations.

**NEWSDAY ARTICLE:** [ttps://www.nydaily.com/news/crime/long-island-crime-itne-murder-reform-ne-c-el](https://www.nydaily.com/news/crime/long-island-crime-itne-murder-reform-ne-c-el)



## NBC NEW YORK

---

“Bail Reform Law to Blame for Death of Man  
Set to Testify in MS-13 Case”

---

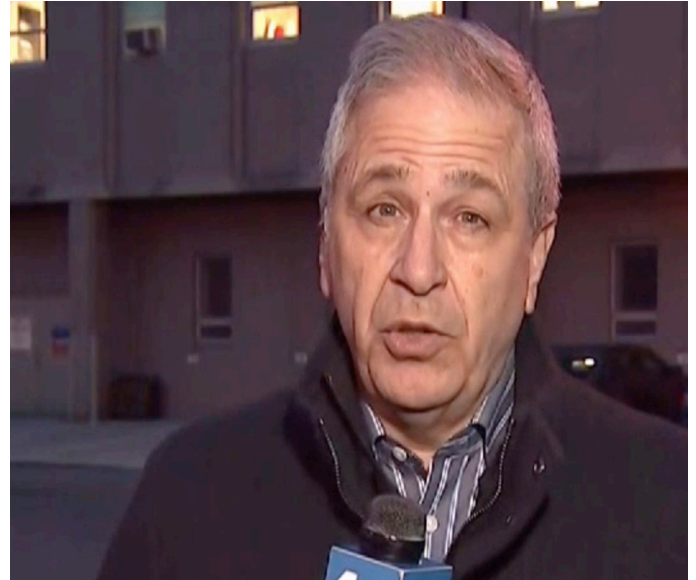
**Fact Check:** LIES

---

### THE DEBUNK

NBC New York is spreading lies and disinformation even beyond those which came from police and anti-reform officials in falsely blaming bail reform for the tragic death of a man in Nassau County. According to police, Wilmer Maldonado Rodriguez was a witness in a 2018 case involving members of MS-13. Every person accused of that prior alleged assault is currently incarcerated. No suspect or motive has been identified in his death. There is absolutely zero evidence or even allegation linking anyone’s release under bail reform to this tragedy.

Nassau County Police Commissioner Patrick Ryder did attempt to falsely connect Mr. Maldonado Rodriguez’s murder to criminal justice reform, specifically discovery laws, and later



had to issue a correction<sup>1</sup>. As discussed in the February 5, 2020 Debunk<sup>2</sup>, current law governing discovery allows protective orders to shield witness identities when prosecutors express safety concerns, and all judicial decisions regarding witness information in this case were rendered in 2019—prior to discovery law implementation. The NBC New York reporting, which cites Long Island officials, wades even deeper into demonstrable falsehoods by implicating bail reform.

Despite the correction by Commissioner Ryder acknowledging “no direct link” between criminal justice reform and this case, the

---

<sup>1</sup> [newsday.com/long-island/crime/witness-murder-reform-new-cassel-1.41460454](https://www.newsday.com/long-island/crime/witness-murder-reform-new-cassel-1.41460454)

<sup>2</sup> [justicenotfear.org/patrickryder](https://justicenotfear.org/patrickryder)

NBC New York story remains uncorrected at the time of this post, as do twitter posts from State GOP officials and Nassau County Police that continue to exploit Mr. Maldonado Rodriguez's murder to undermine reforms using disinformation.

**NBC NEW YORK ARTICLE:** [nbcnewyork.com/news/local/crime-and-courts/li-officials-bail-reform-law-to-blame-for-death-of-man-set-to-testify-in-ms-13-case/2280071/](https://www.nbcnewyork.com/news/local/crime-and-courts/li-officials-bail-reform-law-to-blame-for-death-of-man-set-to-testify-in-ms-13-case/2280071/)

# NYPD COMMISSIONER SHEA

“NYPD commissioner blames bail law for rise in crime”

Fact Check: **LIES**



## THE DEBUNK

Commissioner Dermot Shea held a press conference<sup>1</sup> yesterday in which he once again blamed a “crime spike” on bail reform without citing evidence for these claims. When multiple reporters requested data<sup>2</sup> on alleged re-offenders and proof of correlation, the Commissioner and the Mayor were unable to provide it. The Commissioner blames the bail law for a rise in certain crime, including robberies, in the first three weeks of 2020. However, the NYPD and the City are perfectly happy to give police credit<sup>3</sup> for the decline in murder, felony assault and rape cases during the same period.

<sup>1</sup> [nytimes.com/2020/02/04/nyregion/crime-stats-nyc-bail-reform.html](https://www.nytimes.com/2020/02/04/nyregion/crime-stats-nyc-bail-reform.html)

<sup>2</sup> [twitter.com/georgejoseph94/status/1224769878009286658?s=20](https://twitter.com/georgejoseph94/status/1224769878009286658?s=20)

<sup>3</sup> [twitter.com/NYCMayor/status/1224840008068145152?s=20](https://twitter.com/NYCMayor/status/1224840008068145152?s=20)

It is irresponsible, dishonest, and opportunistic to claim causation between bail reform and the fluctuation in certain crime stats. The Vera Institute of Justice released data analyzing<sup>4</sup> the timing of bail reform implementation and the City’s numbers. The crimes cited by Shea—robberies, burglaries and car thefts—all increased in the middle of 2019. Judges did not begin implementing the new bail law until November 2019.

The data also reflects that fluctuations in short-term statistics are normal. According to Vera, for example, “[During] the first three weeks at the beginning of January, there was a 43 percent increase in murders

<sup>4</sup> [vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf](https://vera.org/downloads/publications/dont-let-fear-mongering-drive-bail-policy.pdf)

between 2018 and 2019—and the following year, the trend reversed. During the first three weeks of 2015, there were 819 felony assaults reported. The following year, that number jumped 25 percent—to 1,020. Grand larceny reports increased by 17 percent between the first three weeks of 2012 and the same period in 2013.” Reporters look to members of the NYPD for information regarding crime and safety, but are being repeatedly misled as part of a concerted effort to undermine criminal justice reform—and the police have allies. Commissioner Shea’s comments coincided with a rally in Albany at which members of police forces called for the repeal of the bail law.

## ADDITIONAL CONTEXT

A recent exposé by City and State<sup>5</sup> revealed that a Facebook group called Repeal Bail Reform, backed by New York State GOP members and law enforcement, had become home to white nationalists. These groups include the Three Percenters, whose members were photographed flashing a “white power” symbol in Albany last year, provided security at the Charlottesville, VA “Unite the Right” rally at which a protester was murdered, and are planning their own rally against bail reform for March 2020 in Albany. The real problem for police and those far-right groups, whose interests are aligned in repealing bail reform, is that bail reform is working<sup>6</sup>.

---

<sup>5</sup> [cityandstateny.com/articles/politics/news-politics/political-extremists-have-found-home-gop-backed-facebook-group.html](http://cityandstateny.com/articles/politics/news-politics/political-extremists-have-found-home-gop-backed-facebook-group.html)

<sup>6</sup> [vera.org/downloads/publications/bail-reforms-impact-on-jail-incarceration.pdf](http://vera.org/downloads/publications/bail-reforms-impact-on-jail-incarceration.pdf)

# ELMIRA STAR GAZETTE

an cc ed o lting cop rele ed  
by dge pre tri l bec e o t e ne  
b il re orm l

**Fact Check:** LIES

## THE DEBUNK

The Star Gazette falsely blames bail reform for a man's release. According to the paper, police allege that a man punched and tried to choke a police officer during a traffic stop in Elmira, New York. Publicly available information indicates that he was charged with Assault in the Second Degree, which is a violent felony and is a bail-eligible charge. The allegations made in this article, sourced entirely from the police, could also constitute additional bail-eligible felonies for which this person was not charged. The facts of this particular case may come to light as it proceeds in court. People charged with assaulting police officers are often, in fact, victims of police brutality, as criminal charges are often used to cover up incidents of abuse.



**STAR GAZETTE ARTICLE:** [stargazette.com/story/news/public-safe-ty/2020/02/02/tioga-county-pa-man-ac-cused-punching-choking-police-offi-cers/4640848002/](https://stargazette.com/story/news/public-safe-ty/2020/02/02/tioga-county-pa-man-ac-cused-punching-choking-police-offi-cers/4640848002/)

# NASSAU POLICE COMMISSIONER PATRICK RYDER

Attempted to falsely connect a man's tragic death to criminal justice reform.

Fact Check: **LIES**

## THE DEBUNK

The Nassau County Police Department attempted to falsely connect a man's tragic death to criminal justice reform and was later forced to issue a correction<sup>1</sup> acknowledging that no direct link existed. After initially blaming reform for this tragedy and calling for a rollback of the law, Nassau County Police Commissioner Patrick Ryder later admitted that there is "no direct link between the death of Wilmer Maldonado Rodriguez and criminal justice reform." However, many media sources had already run with the anti-reform narrative—once again relying only on police sources in their reporting. Social media accounts for both the Nassau County Police and State GOP officials remain uncorrected regarding this case and posts promoting disinformation are still being shared. This is yet



another clear illustration of the hazards of relying on police and other pro-carceral groups for single-source reporting on criminal justice reform.

Wilmer Maldonado Rodriguez was reportedly found murdered near an abandoned home in Nassau County on February 2. According to police, Mr. Maldonado Rodriguez was a complaining witness in a 2018 case alleged to involve MS-13 members. All suspects in that matter are currently incarcerated. No arrests have been made and no suspects have been named in his death. However, Nassau County Police and anti-reform officials immediately attempted to tie this case to criminal justice reform, specifically discovery laws, in an effort to undermine the law and deflect blame for Mr. Maldonado Rodriguez's death. Despite apparent concerns

<sup>1</sup> [nytimes.com/2020/02/06/nyregion/ms-13-long-island.html](https://www.nytimes.com/2020/02/06/nyregion/ms-13-long-island.html)

for witness safety, he was not receiving any protection from police and was unhoused at the time of his murder. People without housing are victims of violent crime at a far higher rate<sup>2</sup> than people with stable housing.

All judicial decisions regarding witness information in this case were rendered in 2019—prior to discovery implementation. Furthermore, police falsely stated that discovery law requires the unsealing of witness information before a trial. Current law allows protective orders to shield witness identities when prosecutors indicate that safety concerns exist for those witnesses, specifically including in cases involving substantiated allegations of gang membership. In fact, changes to the discovery statute include more grounds for protective orders than previously existed. The discovery reforms implemented in 2020 simply brought New York into step with nationwide discovery practices, despite repeated attempts by pro-carceral groups to paint the reforms as radical. There is also no evidence tying Mr. Maldonado Rodriguez's death to any disclosure made to defense counsel or to the 2018 case at all, and attorneys<sup>3</sup> adamantly deny sharing any information regarding Mr. Maldonado Rodriguez with their clients.

However, sources including the New York Times, the New York Post, and Newsday all immediately published articles uncritically citing NCPD's disinformation. In response, statements from various organizations have been issued correcting this false and inflammatory coverage.

## LEGAL BACKGROUND

Under NY Discovery reforms, all materials are subject to withholding by protective order if any factor outweighs the usefulness of the discovery. This is completely at the judge's discretion, and district attorneys can specifically request protective orders in cases involving gang violence. This approach has been used nationwide for decades. Nothing in the new discovery law required the judge to lift or change the protective order that had been in place in this case. The law only added more grounds for a protective order in CPL 245.70, effective 1/1/20.

New York's discovery laws are the same as laws around the country and contain a multitude of protections<sup>4</sup> for victims and witnesses.

---

<sup>2</sup> [latimes.com/opinion/op-ed/la-oe-shortt-homeless-victims-20181015-story.html](https://www.latimes.com/opinion/op-ed/la-oe-shortt-homeless-victims-20181015-story.html)

<sup>3</sup> [newsday.com/long-island/crime/witness-murder-reform-new-cassel-1.41460454](https://www.newsday.com/long-island/crime/witness-murder-reform-new-cassel-1.41460454)

---

<sup>4</sup> [bds.org/wp-content/uploads/Memo-on-Discovery-Reform-Witness-Safety-October-2019.pdf](https://bds.org/wp-content/uploads/Memo-on-Discovery-Reform-Witness-Safety-October-2019.pdf)

## STATEMENTS

**From the Legal Aid Society of Nassau County, the Legal Aid Society of New York, Brooklyn Defender Services, the Bronx Defenders, the New York State Association of Criminal Defense Lawyers, Innocence Project, & Citizen Action of New York:**

The tragic death of Mr. Maldonado is, unequivocally, not the result of the new discovery laws. It is extremely disturbing that law enforcement officials are exploiting this murder to try to discredit the discovery laws, which after decades of wrongful convictions have finally been amended to match those of the rest of the country. Under the pre-existing and current discovery laws, judges have a great deal of discretion and authority to order a variety of protective measures, including not disclosing witness information, not providing contact information for witnesses or any other remedy deemed appropriate. These statements by law enforcement are again another attempt to use lies and misrepresentations to create the illusion that the new laws are a danger to public safety.

**From Nick Encalada-Malinowski, VOCAL-NY:**

On Tuesday evening Nassau County District Attorney Madeline Singas and Nassau County Police Commissioner Patrick Ryder attempted to intentionally link a horrific tragedy—the death of Wilmer Maldonado Rodriguez—to recently enacted criminal justice

reform, only to retract this correlation after pressure given the egregious falsity of their claim.

Early coverage of the incident in both Newsday and the New York Times repeated false information from law enforcement connecting the death to reforms only to later update the stories after readers alerted them to the obvious untruths they were publishing.

Today we condemn law enforcement's intentional campaign of fear and misinformation as well as the activities of the New York State GOP which has sought every opportunity to exploit tragedy for their own political gain with a total disregard for the facts. This cynical approach has been effective because media outlets continue to simply report what law enforcement says without any scrutiny at all. This has led to a tremendous amount of disinformation being disseminated through the media targeting in particular, recently enacted criminal justice reforms.

**We are calling on every media outlet in New York State to immediately cease single-source reporting on any criminal justice issue when that source is law enforcement.** Law enforcement have shown over and over again that they will intentionally mislead the media and the public to serve their own political interests and power.



Despite the retractions from law enforcement officials, the social media accounts of the Nassau County Police Department and Senate Republicans continue to display statements about Rodriguez's death that they know are untrue.

This incident falls within an on-going pattern of deceit from law enforcement, which is grossly misleading the media, legislators and the public routinely in an effort to stoke fear around bail reform in hopes of parlaying that to political gains at the ballot box this fall.

**NY TIMES ARTICLE:**

[nytimes.com/2020/02/06/nyregion/ms-13-long-island.html](https://www.nytimes.com/2020/02/06/nyregion/ms-13-long-island.html)

# NY DAILY NEWS

---

“Set free to rape: Suspect busted in train station sex assault was freed through state’s new bail reform laws”

---

**Fact Check:** FALSE

---

## THE DEBUNK

The NY Daily News misinforms in its coverage of the case of a 20-year-old Arjun Tyler, who is currently incarcerated on charges of stealing money from a laundromat and a retail store. Although coverage blames bail reform for his earlier release on separate matters, the Daily News has previously misattributed individuals’ release to bail reform. Worse, the article’s headline linked him and bail reform to an alleged attempted rape (which they call rape), yet he was never actually charged with this or any other sex offense. This is yet another example of this bad-faith attempt to undermine the new law. Mr. Tyler appears to have been arrested on a July 2018 charge for which he paid bail, and was rearrested in December 2018 on a felony charge. Under the new law, he could have had bail set based on the alleged commission of a felony while released on another matter even after January 1, 2020.



# DAILY NEWS

Mr. Tylor spent more than one year on Rikers Island on an open case, without any finding of guilt. If Mr. Tyler were wealthy, he would have been free to fight these charges after posting \$20,000 bail.

This article follows a familiar formula<sup>1</sup>. It misstates the law, adopts sensationalized and inaccurate or misleading information from pro-carceral groups, provides little if any context, and declines to mention that the people accused are presumed innocent or that they would have been released previously if they were wealthy. Bail has never been intended as a pronouncement of guilt or a predictor of future bad acts that any one individual may or may

---

<sup>1</sup> [theappeal.org/upstate-police-and-sheriff-departments-join-media-campaign-against-bail-reform-in-new-york-state/](https://theappeal.org/upstate-police-and-sheriff-departments-join-media-campaign-against-bail-reform-in-new-york-state/)

not commit. Assuming that any person who is accused of non-violent crimes will go on to commit attempted rape, and thus detaining them indefinitely, is not a workable, constitutional or moral solution. This is a cherry-picked story designed to smear bail reform.

## UPDATE

It is noteworthy that the Daily News and other media outlets repeatedly decline to apply the same calculus in specific cases depending on the identity of the accused person. On the same day as their coverage of this case, the New York Post covered the story<sup>2</sup> of NYPD Detective Joel Crooms, who was arrested and released on two separate felony matters alleging the abuse of his daughter. Det. Crooms was previously arrested for brandishing his service weapon during a fight while off-duty. Not once does that story implicate criminal justice reform for his release in multiple cases, use dehumanizing language to describe him, or express concern at his ability to remain at liberty.

**NY DAILY NEWS ARTICLE:** [nydailynews.com/new-york/nyc-crime/ny-sus-pect-busted-for-attempted-rape-released-by-bail-reform-20200202-3kx5z77ed5fkzh-q5lzu3ctwotq-story.html](https://www.nydailynews.com/new-york/nyc-crime/ny-sus-pect-busted-for-attempted-rape-released-by-bail-reform-20200202-3kx5z77ed5fkzh-q5lzu3ctwotq-story.html)

---

<sup>2</sup> [nypost.com/2020/02/02/nypd-cop-accused-of-beating-daughter-busted-again-for-violating-restraining-order/](https://nypost.com/2020/02/02/nypd-cop-accused-of-beating-daughter-busted-again-for-violating-restraining-order/)

# NEWSDAY

---

“Bail reform in spotlight in case of man indicted in Nassau burglaries”

---

**Fact Check:** CLARIFICATION NEEDED

---



## THE DEBUNK

A man has been held on unaffordable bail without a trial or finding of guilt for over a year in Nassau County, New York, and prosecutors are arguing that he should remain there despite changes to the bail statute.

Brayan Castano, an Army veteran, construction worker and lifelong resident of Queens, NY, has been incarcerated since his arrest in September 2018 with two other men on suspicion of his involvement as a getaway driver in residential burglaries in Nassau County. No one was home at the time these incidents are alleged to have occurred.

The current statute excludes a specific subsection of the Burglary in the Second Degree statute when no actual violence or even the threat of violence occurs. Thus, if the burglary had actually been completed, the top

charge against Mr. Castano would not have been a bail-eligible offense. However, Attempted Burglary in the Second Degree, a lesser offense, again, with no attempt to commit violence or even threaten violence, is not specifically excluded. This loophole is the basis for bail set in the amount of \$1 million cash, resulting in Mr. Castano's incarceration since his arrest. It is incongruous to interpret an attempted charge as a bail-eligible offense when the completed charge is not. Additionally, the statute requires that the court implement the “least restrictive means” to “reasonably assure” a person's return to court. Mr. Castano is clearly incarcerated against the legislative intent of the law.

# STATEMENTS

Arguments in this case were heard by a panel of judges in Brooklyn this week.

“Isn’t this exactly the situation that was being addressed by the legislature when they changed this . . . because there were people sitting in jail for years at a time without getting a trial?” **Justice Linda Christopher** asked from the bench during oral arguments.

**Justice Paul Wooten** emphasized this point, saying that “the spirit of the statute is designed so that people are not warehoused in jail pending a date for trial.” A decision on Mr. Castano’s pretrial incarceration status is expected in the coming days.

**NEWSDAY ARTICLE:** [newsday.com/long-island/crime/bail-reform-nassau-1.40967987](https://www.newsday.com/long-island/crime/bail-reform-nassau-1.40967987)

## NY POST

---

“Suspects accused of running \$7M fentanyl ring released without bail”

---

**Fact Check:** MISLEADING

---

## THE DEBUNK

Six people charged with drug felonies were released without bail after their arraignment in the Bronx. The substance recovered has yet to be identified by lab results. The men did not have criminal records, were accompanied by family members in court, and surrendered their passports. In at least one case, the judge ordered a person to supervised release.

The only purpose of bail in New York, even prior to January 1, has been to ensure that a person returns to court. With no history of failing to appear and community support present in the courtroom, it is possible that they would have been released prior to reform taking effect. The case was put off for a month, which suggests the judge did not have concerns that they would flee. Electronic monitoring would have been permitted under the law, but was not ordered. Furthermore, had



there been enough evidence to charge them as major traffickers who posed an intentional flight risk, as the article suggests, the case would have been bail-eligible under the current statute. It also remains true that anyone who could buy their freedom prior to January 1 would have been free to fight their charges under these same circumstances.

Regardless, the drug war has been a catastrophic failure and law enforcement have failed to stop or even meaningfully reduce the supply of drugs in our communities. The proven solution is an aggressive and targeted public health approach that focuses on saving lives, reducing harm, and improving community safety.

**NY POST ARTICLE:** [nypost.com/2020/01/29/suspects-accused-of-running-7m-fentanyl-ring-released-without-bail/](https://nypost.com/2020/01/29/suspects-accused-of-running-7m-fentanyl-ring-released-without-bail/)

# NY POST EDITORIAL BOARD

“The feds can’t save New York from the insane ‘no-bail’ law”

**Fact Check:** **FEARMONGERING**



## THE DEBUNK

This New York Post Editorial Board repeats the lies and misinformation that have been circulating regarding two recent cases: the case of Tiffany Harris, accused of two misdemeanors, one for slapping Orthodox Jewish women in an alleged anti-Semitic attack, and the case of Gerod Woodberry, accused of multiple non-violent bank robberies.

A judge mandated Tiffany Harris to hospital treatment, where she has been since January 1. The new bail law continues to allow courts to order hospital treatment when a person is mentally ill. Pursuant to civil commitment proceedings, hospital officials are then able to keep someone in their care if they pose a danger to themselves or others. Ms. Harris has been quietly receiving the help she needs since her commitment, but the Trump Administration is using this case to pay lip service

to ending anti-Semitism while it stokes bigoted sentiments to further its own far-right agenda. As discussed in the January 28, 2020 Debunk, the Attorney General is engaging in an opportunistic ploy and using federal funds to undermine the state’s bail reform laws, which have been in effect for just one month and did not prevent a judge from ordering Ms. Harris’ civil commitment. She may now be removed from treatment and subjected to the horrors of incarceration, which will only serve to worsen her psychological state and will not address the root causes of her actions. Politicians, prosecutors and police who disagree with bail reform are quick to use victims as political props, but only when it serves their narrative.

Coverage of the case<sup>1</sup> so far has heavily relied on the word of A.G. Barr, a mass-incarceration enthusiast, lifelong prosecutor and rightwing stalwart<sup>2</sup> now sword-and-shield for the Trump Administration<sup>3</sup>. By eliminating the voice of victims that did not fit the pro-carceral narrative and other community leaders, media outlets such as the Post are engaging in a pattern that has become all-too-familiar since the roll-out of bail reform: Adopt language from pro-carceral groups, provide little if any context, decline to mention that the people accused are presumed innocent or that they would have been released previously if they were wealthy, ignore the well-documented violence of jails and the impact on recidivism resulting from incarceration, and rely entirely on pro-carceral sources for information.

The case of Gerod Woodberry was also discussed by the New York Post in conjunction with Ms. Harris' case. Similarly, the feds stepped in to charge Mr. Woodberry with a federal crime and incarcerate him. However, in their haste to score political points, they failed to see that Mr. Woodberry was eligible to have bail set on his state

charges under the new statute, and was not actually released because of reform. This case was analyzed in the January 19, 2020 Debunk.

The Post article then falsely blames discovery reform for prosecutors being "unable to press charges." This is a lie fully sourced from police and prosecutors in an effort to fearmonger the public. The discovery reform that went into effect on January 1 creates requirements that previously did not exist for prosecutors; these requirements brought New York's discovery practice into step with states such as Texas and North Carolina. State prosecutors could previously withhold evidence until either the morning of trial or indefinitely if they secured a guilty plea. They are now required to turn over all evidence that is known to them. Some deadlines exist for the production of these materials, but the statute also provides a low bar to clear for the prosecutor to obtain an extension. While this is certainly more demanding than the previous policy that often required no effort to share evidence whatsoever, it in no way prevents prosecutors from charging people with crimes.

---

<sup>1</sup> [nytimes.com/2020/01/28/nyregion/bail-reform-william-barr-ny.html](https://www.nytimes.com/2020/01/28/nyregion/bail-reform-william-barr-ny.html)

<sup>2</sup> [vox.com/policy-and-politics/2019/1/15/18183573/william-barr-attorney-general-confirmation-vote-mass-incarceration](https://www.vox.com/policy-and-politics/2019/1/15/18183573/william-barr-attorney-general-confirmation-vote-mass-incarceration)

<sup>3</sup> [newyorker.com/magazine/2020/01/20/william-barr-trumps-sword-and-shield](https://www.newyorker.com/magazine/2020/01/20/william-barr-trumps-sword-and-shield)



## STATEMENTS

**Elyse Maister, an Orthodox Jewish woman who was a victim of the attack by Ms. Harris,** has spoken out against her incarceration<sup>4</sup>.

"I've been dismayed to watch politicians exploit what happened, to use it against bail reform. I want her to get treatment and not be subject to money bail," Elyse Maister told the Daily News. "How to make society safer in the long run is to actually address people's underlying mental health issues and needs. I think it's better for everyone if people who need help receive it." Ms. Maister also said, "I think the fear of the Orthodox community is very legitimate. You want to feel safe when walking the streets, but I feel like politicians are kind of exploiting these incidents to roll back bail reform."

**Other Jewish community members** have denied<sup>5</sup> any connection between hate crimes and bail reform and instead requested resources for their efforts to create safer communities through healthcare, education and housing. Jews for Economic and Racial Justice released a statement, saying, "We - and Jewish communities throughout the state - support bail reform. We are outraged by AG Barr and the Trump Administration's attempt

to use Jewish communities as political pawns. Tiffany Harris needs mental health support, not jail or money bail."

NY Post coverage falsely blaming criminal justice reform for Tiffany Harris' release when she was committed in a hospital, Gerod Woodberry's release when he could have been held on bail under the new statute, and prosecutors being "unable to press charges" due to discovery obligations.

**NY POST ARTICLE:** [nypost.](https://nypost.com/2020/01/28/the-feds-cant-save-new-york-from-the-insane-no-bail-law/)

[com/2020/01/28/the-feds-cant-save-new-york-from-the-insane-no-bail-law/](https://nypost.com/2020/01/28/the-feds-cant-save-new-york-from-the-insane-no-bail-law/)

---

<sup>4</sup> [nydailynews.com/new-york/nyc-crime/ny-bail-reform-assault-antisemitism-tiffany-harris-mental-health-20200129-ave5msd2rnaj5pwqmfe5mncfgm-story.html](https://nydailynews.com/new-york/nyc-crime/ny-bail-reform-assault-antisemitism-tiffany-harris-mental-health-20200129-ave5msd2rnaj5pwqmfe5mncfgm-story.html)

<sup>5</sup> [brooklyn.news12.com/story/41575389/elected-officials-rabbis-say-hate-crimes-against-jewish-community-bail-reform-not-related](https://brooklyn.news12.com/story/41575389/elected-officials-rabbis-say-hate-crimes-against-jewish-community-bail-reform-not-related)

## NEW YORK POST

---

“Tiffany Harris charged with federal hate crimes in anti-Semitic attacks”

---

**Fact Check:** MISLEADING

---

## THE DEBUNK

The New York Post misrepresents facts in this story regarding Tiffany Harris, who was arrested on two misdemeanor cases before ultimately being placed in a hospital to receive psychiatric care. The Post indicates that Ms. Harris was arrested on a third case, for “pinching a social worker,” which is untrue. The decision to issue and unseal the warrant for her arrest on federal charges is a publicity stunt by U.S. Attorney General William Barr and a misuse of federal funds to undermine New York’s bail law.

Not only does Attorney General Barr have a well-documented history of opposition to criminal justice reform, but he is a policy architect for mass incarceration initiatives<sup>1</sup>.

---

<sup>1</sup> [vox.com/policy-and-politics/2019/1/15/18183573/william-barr-attorney-general-confirmation-vote-mass-incarceration](https://www.vox.com/policy-and-politics/2019/1/15/18183573/william-barr-attorney-general-confirmation-vote-mass-incarceration)



Barr’s record provides ample evidence of his prejudice against those impacted by the criminal legal system, particularly Black and Latinx people. He served as Deputy General and Attorney General for George H.W. Bush and helped escalate the war on drugs. He employs tough-on-crime rhetoric to justify mass incarceration through language such as “more prisons or more crime<sup>2</sup>.” He signed off on a DOJ report titled The Case for More Incarceration. He denies the existence of systemic racism within the criminal legal system<sup>3</sup>. He is on record<sup>4</sup> stating that “people are treated equally in

---

<sup>2</sup> [salon.com/2015/06/04/birth\\_of\\_a\\_prison\\_state\\_the\\_bi-partisan\\_disaster\\_that\\_put\\_america\\_behind\\_bars\\_partner/](https://www.salon.com/2015/06/04/birth_of_a_prison_state_the_bi-partisan_disaster_that_put_america_behind_bars_partner/)

<sup>3</sup> [latimes.com/archives/la-xpm-1992-06-21-op-1236-story.html](https://www.latimes.com/archives/la-xpm-1992-06-21-op-1236-story.html)

<sup>4</sup> [latimes.com/archives/la-xpm-1992-06-21-op-1236-story.html](https://www.latimes.com/archives/la-xpm-1992-06-21-op-1236-story.html)

the system” and believes, against available evidence<sup>5</sup>, that “if a black and a white are charged with the same offense, generally they will get the same treatment in the system, and ultimately the same penalty.” He has insisted that it is “simply a myth” that prisons held “sympathetic people” and “hapless victims of the criminal justice system.” He has expanded the indefinite detention<sup>6</sup> of thousands of people seeking asylum in the United States. His positions on criminal justice are not backed by data, are draconian and punitive, and have no place in New York’s determination of appropriate practices regarding pretrial incarceration.

## STATEMENTS

**Lisa Schreibersdorf, Executive Director of Brooklyn Defender Services**, stated: "I am appalled that Tiffany Harris is being used as a scapegoat for the fear-mongering surrounding bail reform. Ms. Harris is quietly in the hospital getting the treatment she needs. She is not endangering anyone. Many members of the Jewish community have spoken out against the use of incarceration in her case, including one of the victims. I don't know how this can be seen as necessary or even humane."

New York Post coverage of the federal indictment of Tiffany Harris, who is currently receiving mental health treatment in a hospital following two misdemeanor arrests.

**NY POST ARTICLE:** [nypost.com/2020/01/28/tiffany-harris-charged-with-federal-hate-crimes-in-anti-semitic-attacks/](https://nypost.com/2020/01/28/tiffany-harris-charged-with-federal-hate-crimes-in-anti-semitic-attacks/)

5 [washingtonpost.com/news/opinions/wp/2018/09/18/theres-overwhelming-evidence-that-the-criminal-justice-system-is-racist-heres-the-proof/?noredirect=on](https://www.washingtonpost.com/news/opinions/wp/2018/09/18/theres-overwhelming-evidence-that-the-criminal-justice-system-is-racist-heres-the-proof/?noredirect=on)

6 [nytimes.com/2019/04/16/us/politics/barr-asylum-bail.html](https://www.nytimes.com/2019/04/16/us/politics/barr-asylum-bail.html)

# NEW YORK POST

---

“NYPD commissioner Dermot Shea blames bail reform for 2020 crime spike”

---

**Fact Check:** LIES

---

## THE DEBUNK

The NY Post published the unverified suspicions of Commissioner Dermot Shea, who cites no evidence to support his claim that reform is to blame for a non-existent crime spike in NYC just three weeks into the new bail law’s enactment. Commissioner Shea’s comments are contradicted by the NYPD’s own data. The NYPD’s CompStat numbers show murders are down 67%, rapes are down 12%, and shootings are down 20%, yet some property crimes are up. This is not a “crime spike”—or a justification for mass pre-trial jailing. The data is available here<sup>1</sup>.

Commissioner Shea’s opinion is also not backed by data on incarceration-to-crime statistics. Jail populations and violent crime rates have plummeted simultaneously in NYC



for decades. In NYC, jail rates have decreased by 74% over the last three decades, from 21,674 in 1991 to 5,674 as of Jan. 21, 2020. Major felony crimes have dropped by nearly 82% during the same period. Even if the data showed an uptick in certain crimes, some variation is normal. It would be wrong to draw any conclusions after such a short period of bail reform, especially because the NYPD, whose prejudices against criminal justice reform are amply on record, controls enforcement patterns and arrest charges.

NY Post’s coverage of NYPD Commissioner Dermot Shea’s attack on the new bail reform laws.

### NY POST ARTICLE:

[nypost.com/2020/01/24/nypd-commissioner-dermot-shea-blames-bail-reform-for-2020-crime-spike/](https://nypost.com/2020/01/24/nypd-commissioner-dermot-shea-blames-bail-reform-for-2020-crime-spike/)

---

<sup>1</sup> [compstat.nypdonline.org/2e5c3f4b-85c1-4635-83c6-22b27fe7c75c/view/89](https://compstat.nypdonline.org/2e5c3f4b-85c1-4635-83c6-22b27fe7c75c/view/89).

## ABC 7: NEW YORK

---

“Woman charged with murder previously released without bail according to the state’s new bail reform laws”

---

**Fact Check:** LIES

---



### THE DEBUNK

This is yet another tragedy being shamelessly exploited by opponents of bail reform. At first blush this story appears to write itself for them: a woman was released after stabbing a former partner in the Bronx only to be accused of later murdering her boyfriend in Brooklyn. But as with many stories used to galvanize the public against the reforms, the facts do not support their claim.

With regard to the earlier Bronx case on which Nicole Waiters was released, Ms. Waiters had a valid order of protection in her favor against her ex-boyfriend when he appeared at her Bronx apartment at 3:30AM. He had a documented history of domestic violence against Ms. Waiters when he entered her home in violation of this protective order in the middle of the night. He was charged with violating the order of protection, and she was

charged with assault for stabbing him with a knife from her kitchen, apparently in self-defense.

Under the current statute, Assault in the Second Degree, the charge upon which she was arraigned on the earlier case, is bail-eligible. The judge could have set bail and jailed Ms. Waiters according to the new bail laws, but decided to release her pending trial based on the facts of the case.

Her release, let alone any subsequent actions she is alleged to have taken, was in no way a result of the new statute. The judge in the Bronx simply exercised judicial discretion based on the available facts.

Coverage of this case, however, has ignored both law and fact by explicitly—and falsely—blaming bail reform for her release prior to the alleged murder in Brooklyn. Moreover, the facts reported in this case raise serious questions, as well. She is currently remanded.

Coverage of a Crown Heights woman accused of murder.

**ABC 7 NY ARTICLE:** [abc7ny.com/elderly-man-killed-inside-nyc-apartment-female-guest-in-custody/5875177/](https://abc7ny.com/elderly-man-killed-inside-nyc-apartment-female-guest-in-custody/5875177/)

# RICHARD DONOGHUE, UNITED STATES ATTORNEY

---

“No sound, rational and fair criminal justice system requires pretrial release of those who demonstrate such determination to continuously commit serious crimes.”

---

**Fact Check:** LIES

---



## THE DEBUNK

Gerod Woodberry was accused of stealing from several banks. The non-violent incidents involved no weapons or threats of violence but rather a note passed to a teller stating “this is a robbery.” He voluntarily surrendered himself to the NYPD.

A Trump-appointed U.S. Attorney took over the case and falsely suggested the new bail law required Mr. Woodberry’s release after multiple arrests. However, this was merely another example of an opportunistic and dishonest attack on bail reform, this time using federal resources to undermine laws passed by New York State. Under the current statute, Mr. Woodberry was eligible to have bail set when he charged with a felony, including a non-violent felony, while released on a pending felony case.

Mr. Woodberry’s lawyer, Samuel I. Jacobsen, responded to the U.S. Attorney’s baseless claims by saying, “The United States attorney has said that no sane or rational system would release Mr. Woodberry, but that’s not the question. The question is whether a sane or rational system locks people presumed innocent in cages simply because they are too poor to post bail.”

Similarly, NYS Senator Michael Gianaris of Queens said, “There is a tremendous amount of manipulation and demagoguery going on by those who don’t want to see the days of mass incarceration come to an end. There is at best a misunderstanding, and at worst an intentional misrepresentation, of what the new law requires.”



## STATEMENTS

### Assemblymember Michael Blake:

Under the new bail laws, which we drafted after years of deliberation and consultation with all stakeholders, including prosecutors and law enforcement, anyone re-arrested on a felony charge, like Mr. Woodberry, is eligible for bail. In this case, involvement by the U.S. Attorney is an opportunistic ploy from those who have a political agenda to undo our historic reforms, not a matter of policy. The alleged crimes here do not involve any acts of violence, or any weapons, or even any threat of violence. If the U.S. Attorney wants to involve himself in this matter, that is his prerogative, but the facts of these cases are what they are.

The recent implementation of historic bail reform laws in New York has reunited countless families across our state, allowing people to safely return to their homes, work, and school while they address the charges against them, which has always been the reality for people who can afford bail. This is the true and daily story of bail reform - one that has not gotten the attention it deserves.

U.S. Attorney Donoghue's comments suggesting that this improved fairness could 'dismantle' the criminal justice system exposes the old guard's appalling belief that justice means subjecting a person to the

extreme punishment of jail before a fair trial. We urge our colleagues in government to ignore Donoghue, a Trump appointee whose views run afoul New York's progressive ideals. He is, after all, parroting the views of his boss who has shown time and time again that the plight of poor Black and Brown people is not his burden to bear.

### Erin George, Civil Rights Campaign Director for Citizen Action of New York:

The U.S. Attorney's supposed role is to uphold justice, not perpetuate falsehoods in service of returning to a racist and broken bail system, as Donoghue does in his recent comments. New York is stronger when we invest in resources to support people—like housing and education—which actually address the root drivers of crime. We're at a pivotal moment in the fight for a more fair and just system, facing a coordinated fear and misinformation campaign by bail reform opponents that aims to rollback our state's progress. We will not go back.

Coverage of a man accused of several small-time bank robberies.

**NY TIMES ARTICLE:** [nytimes.](https://www.nytimes.com/2020/01/19/nyregion/bank-robber-bail-reform-nyc.html)

[com/2020/01/19/nyregion/bank-robber-bail-reform-nyc.html](https://www.nytimes.com/2020/01/19/nyregion/bank-robber-bail-reform-nyc.html)



## FOX NEWS 5: ORANGE COUNTY

---

“Violent assault in upstate NY brings new bail reform law into question”

---

**Fact Check:** **FEARMONGERING**

---



### THE DEBUNK

Jay Vasquez-Paulino was charged with misdemeanors after he was arrested for assaulting his girlfriend at their place of work. If she sustained serious injuries, he could have been charged with felony assault, and still eligible for bail and/or remand under the new bail law. Although the Orange County DA, Dave Hoovler stated that “significant bail would have been set” under the old bail law, this is far from a foregone conclusion. People charged with misdemeanor domestic violence have long been released pre-trial precisely because stakeholders tend to agree that jail does not address the underlying problems. Indeed, in Brooklyn, for years predating bail reform, the District Attorney’s office regularly consented to the release of people charged with misdemeanor domestic violence, and in cases where they did not, bail funds paid for their release. The result: Not may-

hem, or more crime, but instead, a 95% appearance rate and historically low rates of violent crime. The official purpose of bail in New York State has always been to ensure that someone returns to court. Bail has never been intended as a determination of guilt or as an indication of the seriousness of a crime. There are no facts here that indicate Mr. Vasquez-Paulino posed a risk of flight or that he has a history of failing to appear in court. Absent these circumstances, it is far more likely that he would have been released or had nominal bail set in a case involving non-serious injuries even prior to the enactment of bail reform.

Bail reform does not disregard safety concerns surrounding domestic violence. Along with the new statute, lawmakers created

an “extreme risk order of protection” law, which permits a prosecutor, police officer, family member or intimate partner to ask for an order requiring a person to immediately surrender any known or suspected weapons. A police officer may also search the person or their home to look for weapons. A judge can set bail or remand if the person violates an order of protection both on the underlying case, regardless of whether the case was originally bail-eligible, as well as on the new “contempt” case. A judge can consider whether the person has a history of violating orders of protection and whether an order of protection is still in effect, as well as whether the person has a history of possessing firearms when determining the type of “securing order” to mandate, i.e., release on recognizance, pre-trial services, electronic monitoring, bail or remand. The judge can also forbid the person from owning or purchasing a firearm as part of an order of protection. Some jurisdictions are developing pretrial conditions and programming specific to cases involving allegations of domestic violence.

Coverage of a misdemeanor assault in Orange County where a person was released.

**FOX 5 NY ARTICLE:** [fox5ny.com/news/violent-assault-in-upstate-ny-brings-new-bail-reform-law-into-question](https://www.fox5ny.com/news/violent-assault-in-upstate-ny-brings-new-bail-reform-law-into-question)

# MID-HUDSON NEWS: ULSTER

---

“Bail ‘reform’ laws lead to release of nine charged with serious crimes in Ulster County”

---

**Fact Check:** MISLEADING

---

## THE DEBUNK

Several of the cases highlighted for this article involve drug possession and only one case out of nine involves physical harm to a person, who overdosed after a drug sale. While it is unclear given lack of context whether it can be accurately stated that all of these individuals were released as a result of bail reform, it is clear that all of them would have been released prior to 2020 if they had the means to afford bail.

The headline of this article places “reform” in quotations and uncritically, without any apparent effort to fact check the party’s claims, essentially publishing a press release by the Ulster District Attorney’s Office as a news article. This article was not placed in the Opinions section. Articles should never be fully sourced from police, prosecutors, and bail bonds industry propo-



nents, whose lengthy records in opposition to criminal justice reform make their stances on these issues particularly deserving of scrutiny.

This article follows a familiar formula<sup>1</sup>. It adopts language from pro-carcer-al groups, provides little if any context, declines to mention that the people accused are presumed innocent or that they would have been released previously if they were wealthy, ignores the well-documented violence of jails and the impact on recidivism resulting from incarceration, and relies entirely on the DA’s Office for information.

---

<sup>1</sup> [theappeal.org/upstate-police-and-sheriff-departments-join-media-campaign-against-bail-reform-in-new-york-state/](https://theappeal.org/upstate-police-and-sheriff-departments-join-media-campaign-against-bail-reform-in-new-york-state/)

Coverage of a misdemeanor assault in Orange  
Coverage from Ulster County of the re-  
lease of nine people charged with “serious  
crimes.”

**MID HUDSON NEWS ARTICLE:**

[midhudsonnews.com/2020/01/12/bail-reform-  
laws-lead-to-release-of-nine-charged-with-  
serious-crimes-in-ulster-county/](https://midhudsonnews.com/2020/01/12/bail-reform-laws-lead-to-release-of-nine-charged-with-serious-crimes-in-ulster-county/)

# POST-STANDARD: SYRACUSE

---

“NY bail reform sets free Syracuse Navy vet accused of shooting, killing girlfriend.”

---

**Fact Check:** **FEARMONGERING**

---



## THE DEBUNK

Republican legislators held a press conference law enforcement and a family member of a woman who died when a gun accidentally went off<sup>1</sup> and a family member of a woman who died after being hit by a car<sup>2</sup>. In neither case is anyone suggesting that bail would have prevented these terrible tragedies. Rather, these legislators have suggested that bail should have been used as immediate punishment before a fair trial, which is wrong.

After his gun accidentally went off, Darien Shellman called 911 and waited for police to arrive. His girlfriend had been shot. He co-

---

<sup>1</sup> [syracuse.com/crime/2020/01/ny-bail-reform-sets-free-syracuse-navy-vet-accused-of-shooting-killing-girlfriend.html](https://syracuse.com/crime/2020/01/ny-bail-reform-sets-free-syracuse-navy-vet-accused-of-shooting-killing-girlfriend.html)

<sup>2</sup> [lohud.com/story/news/local/rockland/stony-point/2019/12/29/stony-point-mourns-loss-hit-and-run-victim-maria-rosie-osai/2769097001/](https://lohud.com/story/news/local/rockland/stony-point/2019/12/29/stony-point-mourns-loss-hit-and-run-victim-maria-rosie-osai/2769097001/)

operated, turned over his guns and his permits were revoked. Upon releasing Shellman, the judge noted that he was a Navy veteran with no prior criminal record who had been honorably discharged and did not raise any concerns. He had previously been in jail on unaffordable bail before the new laws took effect. As Syracuse.com reported, “Key here is that Shellman, 25, is not accused of intentionally shooting his girlfriend, Sarah Tombs, 22; nor is he accused of possessing an illegal gun. Either of those factors—considered violent—could have allowed a judge to keep him locked up until trial.” As reported in the Syracuse Post Standard, “The judge noted that Shellman had no prior criminal record and that he was honorably discharged from the military. He ruled it would not be unreasonable to order Shellman to pretrial release, which allows limited

supervision outside jail prior to trial.” This tragedy may be resolved with any jail or prison sentence.

The driver, Jorge Flores-Villalba, arrested for allegedly crashing into and killing a woman, was released without bail but ICE arrested him and he is now in immigration detention.

## STATEMENTS

**Peter Cook, MYS Council of Churches**, said:

“These are terrible tragedies that no family should ever have to experience. My thoughts and prayers are with them, and I call on our state to deliver them aid and support. We must remember that money bail cannot prevent tragic accidents – that has never been its purpose. It is my sincere belief that we can simultaneously succeed in addressing grief and trauma without perpetuating the injustice and violence of mass incarceration. The new bail law creates that opportunity. By ending pretrial injustice, investing in supportive services for survivors and addressing root causes of harm, we can build the safe, healthy and healed communities that all New Yorkers deserve.”

**David Condliffe, Executive Director of Center for Community Alternatives**, said:

“These were both terrible tragedies and there are no words for what these families are going through. The reality is bail

would not have prevented these accidents and subjecting other people’s loved ones to the devastation of jail before a fair trial is not the answer. Bail is not a substitute for a judge, jury or fair trial. In the case involving the loss of Ms. Tombs, her boyfriend Darien Shellman is a Navy veteran who was honorably discharged, had no prior record, called 911, remained at the scene until police arrived, turned over the legally permitted gun and cooperated fully with law enforcement. We can only imagine the double torment of having lost his girlfriend and facing criminal charges. Nothing about his life indicates that he will not return to court and, in fact, he may be acquitted if the incident is not found to have resulted from recklessness. In the case involving the loss of Ms. Osai, the driver is now in ICE custody and faces deportation. The new bail reform law will allow due process to proceed in each case, ending a system that restricts pretrial liberty to the wealthy.”

Syracuse.com article about an accidental shooting

### SYRACUSE.COM ARTICLE:

[syracuse.com/crime/2020/01/ny-bail-reform-sets-free-syracuse-navy-vet-accused-of-shooting-killing-girlfriend.html](https://www.syracuse.com/crime/2020/01/ny-bail-reform-sets-free-syracuse-navy-vet-accused-of-shooting-killing-girlfriend.html)