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Testimony by:

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Good afternoon. My name is Kevin Stadelmaier. I'm the Chief Attorney of the Criminal Defense Unit for the Legal Aid Bureau of Buffalo. I'm also a Board member and Chairperson of the Legislative and Lobbying Committee of the New York State Association of Criminal Defense Lawyers. I'm further speaking for the Chief Defenders Association of New York and their President David Schopp, who is also the CEO of the Legal Aid Bureau of Buffalo.

As an initial matter, bail reform has been a godsend for thousands of low level non-violent offenders in the State of New York. Our clients are no longer losing their jobs, their housing, their cars, their children while they languish in pretrial custody. It's an economic and social win across the board.

However, there has been a robust disinformation campaign on the new reform led primarily by Senate and Assembly Republicans. The reasons for that aren't all that complex and have very little if anything to do with protecting public safety. I'll get to them in a bit.

But, let me first address some of the disinformation points that we have been hearing in the media and in this room.

First, you're hearing that we're allowing dangerous criminals out on the streets and that crime is rampant throughout NYS as a result.

What's the truth? We just don't know. No amount of statistical analysis is going to show whether crime is actually increasing or decreasing across NYS since January 1st as compared with the prior year. The law has only been in effect for 37 days.

The New York State Department of Criminal Justice Services, the foremost authority on crime stats in NYS doesn't have verified statistics from 2019 yet, let alone January of 2020. As such, all evidence of rampant crime is anecdotal at best and grossly exaggerated at worst.

And, in all honesty, very little of the previous bail law was about keeping dangerous people in custody anyway. Any offender of means, ANY OFFENDER who could pay the bail, was allowed their release. If they could pay the bail set, they could get out, regardless of the offense. Weapons offenders, sex offenders, robbers, burglars, DWI manslaughter offender, all of them, if they could pay the bond, they could be released.

So we see that this is far less about dangerousness as it is about criminalizing impoverished and minority populations and the new law restricting the criminal justice system's ability to do so.

And, in terms of whether it was expected that the new law would cause any increase in the crime rate, let's look to the law enforcement experts in our own backyard and to Erie County District Attorney John Flynn.

DA Flynn as early as March of 2019 stopped asking for cash bail on violations, misdemeanors and non-violent felonies. He clearly felt that there was no increased risk to public safety or for return to court rates. He knew that the positives of a progressive position on bail far outweighed the negatives. If we're not going to listen to the top law enforcement official in Erie County, then who should we listen to?

Now, let's get to the core of what the new law is designed to do. Since its inception, the purpose of bail, as stated in the previous statute as well as the reformed version, was to secure a person's appearance in court. That is the stated purpose of bail. Period.

However, the pre January 1st law was regularly, systematically and purposefully hijacked and used for far more nefarious purposes:

To maintain control over minority and poor populations.

To coerce guilty pleas from clients desperate not be held in jail pre-trial; AND

To enrich an antiquated, predatory and abusive bail bonds industry

We changed the law to deal with these abuses. These were the negative effects of the previous system that have been largely rectified by the new reforms.

And on the issue of returning to court, I do have some statistics...the Legal Aid Bureau of Buffalo has more than 60% of criminal cases heard in Buffalo City Court.

For the whole of 2019, bench warrants were issued on 4.5% of our criminal appearances. In January of 2019, that number was 4.6%.

According to the Republican disinformation campaign, this new reform should have resulted in a tremendous jump in this number. We should have seen skyrocketing bench warrant numbers even as early as one-month in.

Instead, for the first 36 days of 2020, we have seen a bench warrant percentage of 4.1%. Thus the rate of people coming to court has actually increased, not decreased. Yet another positive for this new reform.

And if you like that statistic, you'll like this one too, 229. That's the decrease in the number of inmates held in Erie County Jails between August 1st and January 31st...a percentage decrease of 26%.

That's 229 people who aren't losing their jobs, the housing or children

Who aren't costing hundreds of dollars a day to be held in county facilities

Who aren't being forced to take damaging plea deals to get back to their families

Who didn't have waste precious and limited resources to pay a bondsman to be released

229 people. 26% less people held. Those are compelling statistics.

But for Republicans here are the statistics that really matter.

33 and 10. That's the number of seats they need to flip to win the NYS Assembly and Senate, respectively. That, and not public safety, is what is driving their disinformation campaign.

There's a great movie called "The American President" written by Aaron Sorkin. In that movie, President Andrew Shepherd, played by Michael Douglas, in the closing speech says this of his Republican opponent in an election year....

"he's about two things and two things only...making you afraid of it and telling you who's to blame for it...and that ladies and gentlemen is how you win elections."

And that's what this is all about.

Fearmongering politicians and law enforcement, citing 5 or 6 sensationalized stories out of literally thousands of cases are trying to make the case that we should be afraid of poor people and minorities charged with overwhelmingly low level non-violent offenses as well as a fictionalized escalating crime rate without statistically significant support.

They are blaming Senate and Assembly Democrats for being progressive enough and brave enough to finally address inequities and abuses in the old system.

They are actively campaigning on this issue and this issue alone. Senate Minority Leader Flannigan said as much recently. He said, and I quote " this is the #1 issue and it isn't even close..."

Why? Because it's the one where they can generate the most fear. Period. They figure making you afraid of poor people and minorities and using progressive bail reform as a lever will be enough to swing the vote.

Please don't buy it.

In closing with the new reforms, the playing field is leveled.

No longer will our clients lose their jobs, their housing, their children, all because they don't have the means to bribe the system to be released. No longer will the courts and prosecutors be able to leverage further pre-trial incarceration in an effort to extract quick dispositions.

No longer will we be wasting millions of taxpayer dollars on incarcerating low level offenders where there is no earthly reason for them to be incarcerated.

This law is a huge positive for the State of New York. Socially, economically, and equitably. And no amount of Monday Morning Quarterbacking by fear mongering law enforcement and Republican Assemblypersons and Senators will change that fact.

We cannot and should not go back.

Thank you

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