



NEW YORK STATE SENATOR

Thomas F. O'Mara

Senator O'Mara's weekly column 'From the Capitol' -- for the week of March 31, 2025 -- 'Legislative leaders sticking to their story: What crime?'

THOMAS F. O'MARA March 31, 2025

| ISSUE: **BAIL LAW; CRIMINAL JUSTICE; DISCOVERY; LAW ENFORCEMENT; CRIME VICTIMS**



Senator O'Mara offers his weekly perspective on many of the key challenges and issues facing the Legislature.

The reality for the rest of us is that for the past six years, Albany majority policies have been pro-criminal and not pro-victim -- not by any stretch of the imagination.

Weekly Column from

NYS SENATOR TOM O'MARA

for the week of March 31, 2025

“Legislative leaders sticking to their story: What crime?”

Sometimes there's just no explaining Albany. That's really been true over the past six years of New York State government under one-party control.

It's been head scratching, to say the least. Infuriating might better describe the current state of affairs. And the current situation is *chaos*.

Take the latest on public safety which, since Governor Cuomo and the Albany **Democrats** taking majorities in both houses of the Legislature, has been driven into the open arms of criminals and other bad actors that the majority of New Yorkers feel have made their communities and streets and neighborhoods and parks and subways far less safe.

The Albany **Democrats** majorities just keep on sticking to their story: What crime? All this concern over crime and violence only exists in the minds of all those New Yorkers and all the police and corrections officers, district attorneys, and crime victims, who keep warning this state is less safe.

It's all just fear mongering, according to the Albany **Democrats** majorities.

At least Governor Hochul might be feeling the heat of public opinion. Despite continuing to toe the line about how safe things *really* are on New York City's subways and elsewhere around the state, the governor is seeking changes as part of the new state budget. While many of us believe her proposals don't go nearly far enough, she's at least willing to take a few important steps in the right direction of restoring New York's criminal justice system, strengthening public safety, pursuing justice for victims, and acting on the clear and convincing need for common sense.

First, the rising tide of homelessness and violent mental illness is a tragedy impacting many, if not most communities in one way or another. There are too many people on our streets not receiving proper treatment. They do great harm to themselves, and they commit crimes that, in the worst instances, result in vicious assaults and killings of innocent victims.

Governor Hochul is rightly recognizing the danger. She acknowledges the need to keep severely mentally ill patients in hospital care and has proposed to expand New York's involuntary commitment statute to ensure that more of our severely mentally ill will remain in hospital care. The governor's proposal would clarify the information considered in making these decisions to include whether the actions of a person with a mental illness would "result in serious harm." She also proposes allowing the decision-making process to include a person's capacity to understand their inability to provide for their essential needs like food, clothing, medical care, safety, or shelter.

In 2019, then-Governor Andrew Cuomo and an all-Democrat majority Legislature enacted far-reaching bail and discovery law reforms that have turned criminal justice on its head. It has been roundly criticized as a disaster. While the disastrous consequences of bail reform have been well documented, the Democrats majority discovery changes can't be overlooked. They've had an equally alarming impact on crime victims and public safety.

While I agree that changes for fairness to the accused were warranted, the 2019 discovery law changes went too far the other way, just as their no bail changes did, in this instance imposing far too tight a timeline on the state's district attorneys to provide discovery. Failure to meet that timeline results in dismissal of charges. This has proven to be unworkable.

As a result, thousands upon thousands of criminal cases have been dismissed in some prosecutors' offices because they simply don't have the staff or resources to exercise a proper process carefully and thoroughly in such a short time period. The impact on crime victims has been unimaginable. The consequences for overall public safety and security have been equally destructive.

One recent report noted that New York City's criminal courts have seen an almost unbelievable increase of 455 percent (an estimated 50,000 cases) in forced dismissals following the 2019 law. According to the state Office of Court Administration, criminal case dismissals in New York City skyrocketed from 42% before the reforms to 62% in 2023.

In Albany recently, appearing with our Senate Minority Conference to call for changes, Nassau County District Attorney Anne Donnelly said, "As a prosecutor with over 32 years of experience, and as the District Attorney of one of the largest counties in the state, I've witnessed firsthand how 'Cashless Bail' and 'Discovery Reform' laws have compromised public safety. Since the implementation of these laws, we've seen a revolving door of justice, where criminals walk free on technicalities while victims continue to suffer. These laws have made it harder for law enforcement and prosecutors to do their jobs, jeopardizing public safety and leaving our communities vulnerable. This is not a justice system that protects the people of New York."

Her assessment has been echoed by district attorneys across this state.

Governor Hochul knows it. She's proposed changes as part of this year's state budget. Her proposal would tighten the scope of evidence prosecutors are required to turn over to the defense. It would establish a more sensible timeline for defendants to challenge whether prosecutors are in full compliance. Judges would be allowed discretion to provide sanctions, such as limiting the use of certain evidence inadvertently not disclosed, short of the outright dismissal of cases, to address errors by prosecutors.

Again, the governor doesn't go nearly far enough, but her proposals are limited, reasonable, badly needed, and should be accepted. Yet the Legislature's majorities, in their recently enacted one-house budget resolutions, rejected the governor's discovery law changes. Whether to gain leverage in budget negotiations, or whether legislative Democrats simply prefer the status quo, remains to be seen.

"We're not pro-defendant. We're not pro-prosecutor." Assembly Speaker Carl Heastie

