



NEW YORK STATE SENATOR

George M. Borrello

Senator Borrello Hosts Roundtable to Address Rise in Retail Crime

GEORGE M. BORRELLO March 17, 2022

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OLEAN – Sen. George Borrello met with Olean retailers and members of law enforcement Wednesday to address a rise in retail thefts since cash bail was eliminated for 90 percent of crimes.

Signed into law by former Gov. Andrew Cuomo, the 2020 changes were supported by Gov. Kathy Hochul and members of the Democrat majority leadership in the Assembly and Senate. In addition to largely eliminating bail, the changes removed a judge’s discretion to set bail for serial offenders and defendants they feel are a danger to the community or a flight risk. New York is the only state that does not allow judicial discretion in these cases.

“The bottom line is that career criminals, people who make their living by stealing from others, are unconcerned about getting caught because they know that they cannot be held accountable unless they steal a ridiculously high amount of property,” Sen. Borrello said. “Someone would have to steal more than \$1 million in property before a judge could set bail. That’s insane.”

Sen. Borrello organized the roundtable after he attended a Greater Olean Area Chamber of Commerce event in February and learned businesses were experiencing a dramatic rise in shoplifting by repeat offenders. People caught shoplifting cannot be held on bail under New York law, regardless of how many offenses they commit. They are issued an appearance ticket to appear in court.

“This isn’t just a public safety issue, it’s an economic issue,” Sen. Borrello said. “Small businesses are already struggling. Shoplifting adds to that stress. It also raises costs for consumers. However, the public does not know that judges cannot set bail for people who commit these crimes. Here’s what people do know – they know they don’t feel safe anymore and this is why. The number one concern in New York is crime.”

The roundtable included representatives from Walmart, Tops Markets, Ried’s Food Barn, Worth W. Smith Hardware and Allen’s Wine and Liquor. Representatives of law enforcement included Cattaraugus County Sheriff Timothy Whitcomb, Sheriff’s Office Chief of Detectives Jordan Haines, Olean Police Chief Ronald Richardson, and Olean Police Capt. Mike Marsfelder as well as Assemblyman Joseph Giglio and Olean Mayor William Aiello.

All the businesses said the inability to hold shoplifters accountable is damaging employee morale and making it hard to retain workers. Store clerks often find themselves facing the same shoplifter after they are caught.

“We’ve actually lost two associates because of this,” said Tops Manager Mark Inglese. “Our associates wonder why we can’t do anything about this.”

Nate Smith owns Worth W. Smith Hardware stores in Olean and Cuba, NY, and two stores in Pennsylvania. He said he and the clerks in his stores have been threatened by shoplifters they have caught. Accounts of threats made by shoplifters were echoed by several of the participants.

“Everyone who supports bail reform says these are non-violent crimes. That’s just not the case,” Sen. Borrello said.

Walmart loss-prevention specialist Jamel Burney said that he was threatened with a knife by shoplifters four times in the last year.

“Shoplifting in our New York stores is rampant. We catch people stealing in our stores and they laugh at us. The criminals know they are going to receive an appearance ticket,” Mr. Smith said. “In our New York stores, it’s like the wild west.”

Capt. Marsfelder said because judges can’t set bail, offenders are able to commit multiple crimes despite being arrested and charged. One defendant arrested by Olean Police was charged with four petit larcenies, a robbery and a burglary in December alone.

A judge was finally able to set bail after the man allegedly threatened someone with a knife.

The same defendant was also charged with grand larceny, six petit larcenies, criminal possession of stolen property, second-degree assault, criminal mischief, third-degree assault, second-degree harassment and endangering the welfare of a child in the last 12 months.

“By eliminating cash bail and judicial discretion the career criminals know that they can commit crimes on a daily basis and must be released,” Chief Richardson said. “It seems under the bail reform the victims are the ones that have no rights.”

Sen. Borrello said every community in the state is struggling with a rise in crime since the so-called criminal justice reforms took effect.

“Even in a small community like Olean, bail reform is wreaking havoc and destroying small businesses. The leadership in the Senate and Assembly deny that their policies had anything to do with the crime wave we’re suffering,” Sen. Borrello said. “I’m hoping that by shining a light on these issues, we can help the public connect the dots. If you feel less safe than you did before, this is why.”

Sheriff Whitcomb said local courts have also been impacted. Under the changes, judges cannot issue a bench warrant for a defendant charged with petit larceny until they have missed their third court appearance.

Sheriff Whitcomb said a local town justice told him that none of the 15 defendants set to appear in his court this month for petit larceny charges showed up for court. Under the 2020 changes, defendants charged with petit larceny can miss up to three court appearances before a judge can issue a bench warrant for their arrest, he said.

Sheriff Whitcomb said while no defendants appeared for court that day, the judge, assistant district attorney, public defender and court clerk, all supported by taxpayers, were there.

“The law is supposed to provide boundaries and parameters to ensure public safety,” Sheriff Whitcomb said. “Right now, many of those boundaries and parameters just aren’t there.”

Mayor Aiello said it’s frustrating because citizens don’t realize how the changes to the criminal justice system have tied the hands of law enforcement and the courts.

“Olean’s residents and business owners deserve to live in a safe community where laws and penalties are defined to discourage and prevent shoplifting,” Mayor Aiello said. “Businesses suffer as shoplifting hits their bottom lines. Employees can be forced into potentially dangerous situations.”

Sen. Borrello and Assemblyman Giglio are fighting to restore judicial discretion so judges can set bail for defendants they believe are a threat to public safety

“Creative criminals know how to manipulate the criminal justice system. Law enforcement officers and security personnel are suffering from a decline in morale and need the public’s support in their efforts to combat crime and keep us safe,” Assemblyman Giglio said. “The combination of these things wreak havoc on our businesses as they try to recover from the effects of the pandemic. We need to find an effective solution for the benefit of everyone.”

Sen. Borrello said while criminal justice reforms were needed to ensure no one is held on bail unjustly, the reforms passed into law went too far.

“The people behind these changes fundamentally believe that no one should be held in jail, ever,” Sen. Borrello said. “This legislation has made it more difficult for members of law enforcement to ensure public

order. It has emboldened criminals. It has created opportunities for criminals to re-victimize law-abiding citizens and it has made our streets less safe.”