

Research Brief

# Reform in the Media

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Analyzing How Local Media Covered New York's Criminal Legal Reform Narrative

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## **AUTHORS**

Kate Jassin

*CUNY Institute for State & Local Governance*

Aimee Ouellet

*CUNY Institute for State & Local Governance*

Bryn Herrschaft

*CUNY Institute for State & Local Governance*

Jennifer Ferone

*CUNY Institute for State & Local Governance*

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# Introduction

**The media plays an important role in educating the public and elected officials alike about the details and impact of public policy. But can the media itself be a part of that impact, influencing legislation in important policy contexts?**

After New York passed the nation’s most comprehensive pretrial reform legislation in 2019, the media’s coverage of crime and the impacts of criminal legal system reform went from part of the news cycle to being a topic of discussion itself. Supporters of the reforms have argued that news media coverage significantly influenced calls to amend the legislation three months after the law went into effect, as well the additional amendments passed in early 2022 and 2023.

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Recent national polls have shown that most Americans do support criminal legal reform in general,<sup>1,2,3</sup> and that interest in criminal justice is very high among the public. However, levels of knowledge around the criminal legal system tend to be low—most people have never had a personal experience with the system and will rely on trusted sources of information, namely the media, to understand how the system works and which issues are most pressing.<sup>4</sup> Generally, the amount of media coverage devoted to crime has little connection to actual crime rates; often, media sources devote disproportionate coverage to sensationalized stories of violence, despite the fact that violent crime accounts for a much smaller proportion of the actual crime rate than property crime<sup>5</sup>—in New York, for

example, violent crimes accounted for 20 percent of total index crimes from 2019 to 2022.

Consistent exposure to such imbalanced coverage tends to increase levels of stress, anxiety, and fear,<sup>7,8</sup> leading to public perceptions that violent crime is on the upswing, and that personal risk of victimization is high.<sup>9</sup> As a result, public pressure is then directed towards policymakers to implement tougher criminal legal policies in the name of safety, regardless of what is actually known about current crime trends and what policies are actually effective in reducing crime, a phenomenon known as penal populism.<sup>10,11,12</sup> For example, efforts led by reform-oriented prosecutors to implement policies or practices that limit the use of incarceration as the default response to criminal activity have garnered more critical attention recently as violent crime and homicide rates rose significantly across the country following the COVID-19 pandemic.<sup>13,14</sup> However, a large swath of research has found no relationship between crime and these types of practices. Indeed, one study found no links between crime, prosecutorial orientation, and the implementation of criminal legal system reform in 65 major cities.<sup>15</sup>

In New York, similar narratives have been observed—a significant amount of media coverage has been dedicated to the reforms’ alleged role in causing crime, but much of it is unsubstantiated and/or anecdotal. At the same time, the well-documented benefits of pretrial reform have not been given a similar platform, nor have the benefits of policies that move away from pretrial incarceration more generally. These includes avoiding the harms of pretrial incarceration and its disproportionate impacts on the economically disadvantaged and

Black, Indigenous, People of Color (BIPOC), who are more likely to be in jail due to an inability to post a cash bail amount.<sup>16</sup>

For years, New York has operated a two-tiered criminal legal system where two people accused of the same crime could have different outcomes solely based on their ability to pay their way to freedom through cash bail. Though the American criminal legal system is based on a presumption of innocence, failure to pay bail can keep a person behind bars for weeks or months before a final judgement is passed. For years, advocates in the state called for an end to the cash bail system, which they argued exacerbated the inherent inequities of the criminal legal system—especially for low-income and BIPOC communities—with little to no public safety benefit. The push for reform intensified after the death of Kalief Browder, who died by suicide after spending three years on New York City’s Riker’s Island because he was unable to pay bail for a charge that was eventually dropped.

In 2019, in an effort to create a fairer and more just system oriented toward reducing reliance on detention, the New York legislature passed one of the most ambitious reform packages in the country: the New York State Criminal Justice Reform Act. The legislation, which took effect the following January, shifted how the state’s 62 counties make pretrial decisions in several ways, including changes to appearance tickets, pretrial services, evidence-sharing, and most visibly, bail.

## The Study

To examine how criminal legal system agencies put these reforms into practice, the Institute for State & Local Governance at the City University of New York (CUNY ISLG), with support from Arnold Ventures, conducted a multi-year process evaluation of implementation efforts. Through interviews with criminal legal system actors across the state, CUNY ISLG has documented New York’s experience as the New York State government (NYS) seeks to address the harms of pretrial incarceration and “level the playing field” for individuals coming through the system. In addition to [a larger process evaluation](#), CUNY ISLG sought to document and analyze the content of local media coverage of the legislation to understand its potential impact on public perception of the reforms and how it may affect public and political pressure to amend the legislation.

This media analysis was designed to expand upon previous studies on the topic to provide a more in-depth, rigorous review of media coverage around the reforms in New York. To do this, researchers systematically coded and analyzed a sample of news articles produced by eight news outlets across NYS, the majority of which were local with one national outlet headquartered in New York City, from January 1, 2019 through June 30, 2022.<sup>a</sup> These publications were chosen to represent a range of political



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<sup>a</sup> While many Americans rely on social media or other alternatives over articles as sources of news, this review focused on online news articles for a couple of reasons. One is the methodological practicality—online newspapers present a much more straightforward and contained sampling frame from which to select content for review and analysis. A second and related reason is that news articles often provide the underlying or original content for other sources of information. Given the scope and resources available for this analysis, focusing it on online news articles struck the best balance of interests in terms of acknowledging the digital landscape as a prominent information source for the public (The Pew Research Center found that 86 percent of U.S. adults report that they get their news digitally) while considering the practical limitations of what was possible.



perspectives and closely align with some of the key counties represented in CUNY ISLG's process evaluation, with representation from both major metropolitan areas and smaller counties within the sample. The specific jurisdictions represented were Erie, Dutchess, Monroe, New York City, Onondaga, and Suffolk, with some additional statewide representation. The primary news outlet in each county was chosen, resulting in one publication per county – however, in New York City three were selected given their reach included multiple counties.

Each publication's online archives were searched for articles that mentioned bail reform using search terms such as "bail," "criminal justice," or "reform." CUNY ISLG staff reviewed each article to ensure that the reforms were mentioned in a meaningful way. Criteria were more inclusive than not, including articles that ranged from briefly describing the reforms in a single sentence to articles that substantively described the goals of the reforms, legislative changes, and/or their impact, which resulted in 1,662 articles in the full sample. Because of the labor-intensive process of reviewing and coding

article content, however, one-third (n=554) of the articles in the full sample were randomly selected for in-depth review. To account for shifts in the amount and relative proportion of coverage across publications, the sample was stratified to randomly select a proportionate number of articles from each publication in each quarter. News stories of all types were included (i.e., articles, commentaries, and editorials). *See Appendix A for more details about methodology.*

This research brief summarizes the results of CUNY ISLG's media analysis, with findings contextualized by a broader understanding of the legislation's provisions, how they were implemented, and initial results that researchers gained through the full set of process evaluation activities. Broadly, the analysis suggests that media coverage of the reforms lacked details about the legislation's purpose and specific changes to the pretrial process, disproportionately focused on perspectives that were critical of the legislation, and emphasized the perceived negative impacts to community safety. This played out in six key ways:

- 1. Not explaining how the reforms changed the criminal legal process and for what purpose,** often failing to provide details beyond attention-grabbing headlines about the reform's impacts;
- 2. Disproportionately covering perceived negative consequences of the reforms,** with little coverage of perceived benefits to people and communities;
- 3. Attributing rising crime to the reforms without providing evidence to support the claim,** with little to no attention to recent research that has shown no relationship between the two;<sup>17,18</sup>
- 4. Highlighting cases that were not actually impacted by the new bail eligibility requirements** as examples of the reform's problems, including a series of highly publicized incidents of hate violence;
- 5. Using stigmatizing language that suggested the guilt and inherent dangerousness** of individuals charged with a new offense while out on pretrial release; and
- 6. Increasing coverage of narratives critical of the legislation prior to elections or budget sessions,** widening the gap between positive and negative coverage even further during these particularly influential times.

# Finding 1: Coverage Often Lacked Details about What the Legislation Changed and Why

The analysis suggested that most media coverage did not discuss key details of the legislation, including the goals of the reforms or the specific changes to the criminal legal process. Almost one-quarter (24 percent) of all reviewed articles only mentioned the reforms in a sentence without providing any additional context (e.g., “What began here with the irredeemable Bail Reform Law has reached critical mass”). Additionally, 80 percent of reviewed articles did not mention that the legislation was developed to create a more equitable and transparent pretrial system than existed under the previous laws, and only half of the articles mentioned any of the specific legislative changes to bail, arrest, or discovery practices.

While coverage of the legislation ultimately did not provide much detail about the specific changes the reforms brought to the system, when articles did include a substantive discussion of the reforms,<sup>b</sup> the focus was almost exclusively on changes to bail eligibility. The bail provisions were mentioned in 61 percent of the articles that substantively discussed the reforms and 47 percent of all reviewed articles, which was far more frequent than mentions of discovery (12 percent) and appearance ticket provisions (3 percent). However, even when the bail provision of the legislation was mentioned, most articles did not provide full details and nuance about all aspects of the changes. For example, eliminating judges’ discretion to set bail for most

misdemeanors and non-violent felonies was mentioned in almost all of the articles that referred to the bail provision (98 percent). This is in contrast to the two other major changes to bail-setting practices—requiring judges to set the “least restrictive conditions” to ensure return to court, and, when setting bail, requiring judges to consider ability to pay and setting three forms of bail—which showed up in less than 10 percent of articles on this topic.

The media’s focus on changes to bail eligibility over other bail-specific changes stems in large part from their strong emphasis on public safety issues throughout much of the timeframe being studied. Indeed, many of the articles connected changes to bail eligibility to a potential increase in crime, and called to amend the legislation to add additional charges to the bail eligibility list and give judges the ability to consider the “dangerousness” of the person. Of course, a byproduct of focusing disproportionately on bail eligibility changes over the other changes is that it ignores other ways in which judges still had discretion. These include judges’ ability to determine the “least restrictive” release condition to ensure court appearance (e.g., release on recognizance [ROR], release under supervision [RUS], or electronic monitoring [EM]) as well as their ability to set bail amounts on bail eligible offenses. These components, which may have alleviated some concerns about public safety, were not highlighted to the same extent and presented an incomplete picture of judicial decision-making.<sup>c</sup>

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<sup>b</sup> In this study, an “article that substantively discussed the reforms” was an article that included a mention of one or more of the following: 1) goals of the legislation; 2) changes made to the various components (i.e., provisions); or 3) the impacts of the legislation. Seventy-six percent of reviewed articles substantively discussed the reforms according to this definition.

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<sup>c</sup> This review does not include media coverage following the passage of the latest round of amendments in 2023 which modified the “least restrictive option” language to “the kind of and degree of control or restriction necessary to reasonably assure” that an individual returns to court and as a result, this finding may have shifted slightly.

# Finding 2: Coverage Disproportionately Focused on Perceived Negative Consequences, With Little Coverage of Perceived Benefits

CUNY ISLG's process evaluation found widespread agreement among criminal legal system stakeholders that too many New Yorkers, particularly economically disadvantaged BIPOC, were exposed to the harms of pretrial incarceration and that the status quo was not working to provide a fair and equitable system to all New Yorkers. However, criminal legal system stakeholders (e.g., law enforcement, prosecutors, and defense attorneys) starkly disagreed on whether or not the new laws would effectively address these issues without sacrificing public safety. Law enforcement and prosecutors believed that the laws went too far, sacrificing victims' rights for the rights of those who had been charged, and would lead to a rise in crime. Defenders and reform advocates emphasized the benefits to individuals, and did not believe releasing more individuals at the pretrial stage would make communities less safe.

These opposing viewpoints were not equally represented in media coverage of the impacts of the reforms, however. In contrast, coverage centered much more on the negative consequences to public safety (either anticipated or experienced) than on how it would improve the system and/or better serve people. Indeed, media coverage disproportionately highlighted claims that eliminating bail for low-level offenses would remove the consequences for committing crimes and enable individuals to repeatedly reoffend, ultimately resulting in less safe communities.

Discussions of community safety are imperative to successful reform efforts: not only does this issue

need to be thoroughly considered and addressed, but it is critical to engage in a public dialogue about it. With that said, a focus on community safety in the media at the expense of other intended and/or anticipated benefits can present a skewed picture, especially if the discussion is not informed by robust information, data, or evidence. The media's portrayal of community safety issues is discussed in Finding #3 below. More relevant to this finding, in turn, is that relative to the number of articles that highlighted crime concerns stemming from the reform, significantly fewer articles included perspectives highlighting how the legislation was intended to address the significant problems that existed in the criminal legal system, including unnecessary incarceration and the devastating consequences it can have for individuals, and the alarming inequities in who experiences incarceration and other poor case outcomes. Beyond that, the large majority of articles failed to recognize a reduction in unnecessary incarceration as a strategy for reducing crime.<sup>19</sup>

*Relative to the number of articles that highlighted crime concerns stemming from the reform, significantly fewer articles included perspectives highlighting how the legislation was intended to address the significant problems that existed in the criminal legal system.*

In terms of concrete numbers, 75 percent of the articles reviewed mentioned at least one perceived negative consequence of the legislation (e.g., increased crime, threatened witness/victim safety, burden on law enforcement and prosecutors) while only 26 percent mentioned at least one potential benefit (e.g., reduced jail population, reduced racial and ethnic disparities, fewer wrongful convictions, fewer people losing employment or housing due to pretrial detention). Very few articles (less than 6 percent) discuss a potential reduction in racial and ethnic disparities as a result of the overall legislation or the bail provision specifically. Moreover, 80 percent of articles that discussed at least one perceived negative consequence failed to mention any benefits. When articles did mention both negative consequences and benefits, they typically were not balanced, often focusing on a greater number of negative consequences.

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Perhaps not surprisingly given Finding #1, articles discussing the changes to bail practices were the largest source of imbalance. When impacts of the bail provision were specifically mentioned, four times as many articles mentioned perceived negative consequences – most related to an increase in crime—and over 90 percent of the articles did not include any discussion of the benefits to individuals released pretrial or to community safety. Beyond that, media coverage was far more likely to include the perspectives of criminal legal system actors and advocates who claimed the reforms were overwhelmingly harmful, such as law enforcement and prosecutors, with little coverage of

perspectives of those who may refute the claims of negative consequences, or who would otherwise be inclined to discuss the benefits that motivated the passage of the reforms (e.g., public defenders or those directly impacted by the system). Law enforcement or prosecutors were quoted in 22 percent of the reviewed sample, while public defenders were quoted in only 4 percent of articles.

Beyond specific mentions of positive and negative consequences, the framing and tone of articles tended to be critical more often than supportive. Across articles that used descriptive terms (35 percent), critical terminology—words such as “disastrous,” “ill-conceived,” “insane,” and “misguided” – were a lot more common, with fewer uses of supportive terms such as “welcome” or “much-needed.” Figure 1 shows the most common adjectives and terms included in articles to describe New York’s pretrial reforms.

### **NEGATIVE TERMINOLOGY WAS FAR MORE PREVALENT IN NEWS ARTICLES**

Figure 1. Most Common Terminology Used to Reference Legislation





# Finding 3: Links Between Bail Reform and Rising Crime Dominated Media Coverage

As mentioned above, coupled with the lack of nuanced coverage of the reforms and the disproportionate coverage of the perceived negative consequences, media narratives suggested that the reforms were overwhelmingly harmful, with a particular emphasis on the perceived threats to community safety. Following the pandemic through 2022, crime rates—especially for homicides and violence—began to rise both in New York State<sup>20</sup> and in jurisdictions around the country. While these increases occurred in a wide range of cities and counties, including both those that were rolling out criminal legal reforms and those that were not,<sup>21</sup> media coverage typically linked rising crime to these types of policies, and the media outlets included in this review were no exception. Many of them connected rising violence to the changes to bail eligibility specifically, despite a lack of evidence demonstrating that people whose cases were now ineligible for bail under the new law accounted for recent violence. In fact, recent data shows that individuals released pretrial post-reforms were less likely to be rearrested for any offense when compared to a similar group of individuals released pre-reform in New York City.<sup>22</sup>

More than one-quarter of articles (27 percent) discussed a rise in crime rates, and most of these articles (71 percent) directly connected that increase in crime to New York’s pretrial reforms. These articles rarely used data to support their claims and they often did not cite any research or studies demonstrating correlations between crime and pretrial release either. In fact, 80 percent of articles mentioning a rise in crime did not provide any data to support the claim; when data was provided, it did not directly connect rising crime to individuals who were ineligible for bail under the new laws. Though crime was, in fact, increasing

during this time period, a recent analysis based on the most comprehensive data to date<sup>23</sup> refutes this connection, and suggests instead that these spikes are related to a variety of factors, including the social and financial impacts of COVID-19, not reform efforts. As mentioned previously, law enforcement and prosecutors were most critical of the reforms. Analyses showed almost half of the articles discussing rising crime rates included quotes from these groups, often without citing evidence to support their claims.<sup>d</sup>

Eye-catching, sensational headlines that may have not told the whole story were another way articles tied changes to bail eligibility with crime, creating more potential for influence. This approach, commonly referred to as “click bait,” is widely used in the media generally, and has certainly been on the rise as social media and other electronic mechanisms that provide people with access to extensive volumes of content at once have become more prominent sources of news and information.<sup>24</sup> Indeed, about 60 percent of Americans report only reading the headlines of news coverage in a given week.<sup>25</sup>

In CUNY ISLG’s scan of coverage of New York’s pretrial reforms, the headlines of articles related to perceived increases in crime as a result of the reforms, typically involved the use of fear-inducing, negative terms or phrases that were intended to generate negative opinions, independent of any additional context that might have been provided in the article (see Figure 2 for some examples).

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<sup>d</sup> This review only covered articles through mid-2022, before the most recent research was published, providing stronger evidence that crime did not increase as a result of bail reform. This may have changed the narrative of both articles and sources had this information been available earlier.

## HEADLINES OFTEN INCITED FEAR WITHOUT FACTS

Figure 2. Sample Headlines



## Finding 4: Media Coverage Highlighted Specific Violent Acts with No Clear Link to Reform

Often, when connecting the reforms to public safety concerns, articles relied on purely anecdotal evidence about a specific individual or criminal case to link increases in crime to the changes to bail eligibility, even if it was unclear the person had, in fact, been released because of the legislative changes. Three-quarters (75 percent) of the articles mentioning a specific case explicitly claimed that the individual had been released as a direct result of the reforms. In most cases, however, the articles did not provide enough information to determine whether the individual had been released due to new bail eligibility requirements, if the judge had used their discretion to release that person without bail, or if they were released after posting bail. Despite researchers' inability to fact check the claims, other studies suggest that news outlets in New York have consistently made false claims around individual cases' release status when judges had used their discretion, which in reality was a common practice both pre- and post-reform.<sup>26</sup>

Further, media coverage focused heavily on people rearrested after release for violent person-related

charges, creating a perception that individuals were being released and committing violent offenses at high rates. However, evidence suggests that rearrests during pretrial release for all charges—but especially violent charges—are rare.<sup>27</sup> The disproportionate coverage of violent incidents has the power to mislead readers about risks to public safety by overrepresenting vivid but rare cases where individuals are accused of violent charges while out on pretrial release. Such cases should, of course, be taken seriously, but equally critical to understanding the state of public safety is conveying the actual rate at which these incidents occur—and that there is no evidence linking reforms to a rise in violent crime.

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# Finding 5: Language Suggested the Guilt and Inherent Dangerousness of People Out on Pretrial Release

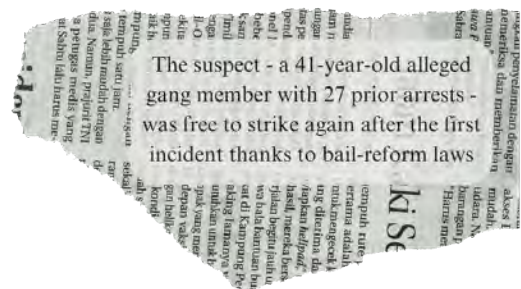
Recently, there has been a shift to people-first language in the criminal legal system, and a call for the media to drop harmful and stigmatizing labels (e.g., criminal, offender, inmate) from reporting to reduce bias and humanize individuals with legal system involvement.<sup>28,29</sup> Person-first language is focused on using terms that center an individual’s humanity first, rather than defining someone’s entire identity by something they have done—for example, rather than calling someone a “felon” or “convict,” person-first language suggests calling the individual a “person convicted of a felony.”<sup>30</sup> Nonetheless, media coverage commonly used more stigmatizing language to describe people likely to be released pretrial in general, as well as when citing specific cases of individuals who were rearrested while out on pretrial release. The most common terms used to describe people with criminal legal system contact and individuals involved in the specific cases referenced in this sample were: “repeat offenders,” “serial criminals,” “career criminals,” “dangerous criminals,” and “recidivists.”

Cases covered by the media were typically used as anecdotal examples for the failures of reform efforts and often did not use person-first language. Instead, these examples focused on the criminal history of the individual arrested and released. Stigmatizing language was used in more than 28 percent of the articles in the reviewed sample, either referring to people in the criminal legal system generally (17 percent of articles) or to specific individuals whose cases were discussed (11 percent of articles). More than half the articles (54 percent) that mentioned a criminal case also focused on the prior criminal

history of the accused individual involved in the case, possibly giving the impression that the individual was guilty of the present offense solely because they had been arrested and/or convicted at some point in their past (see Figure 4).

## STIGMATIZING LANGUAGE OVERLOOKED “INNOCENT UNTIL PROVEN GUILTY”

Figure 3. Examples Of Text From Articles Discussing Individuals And Cases



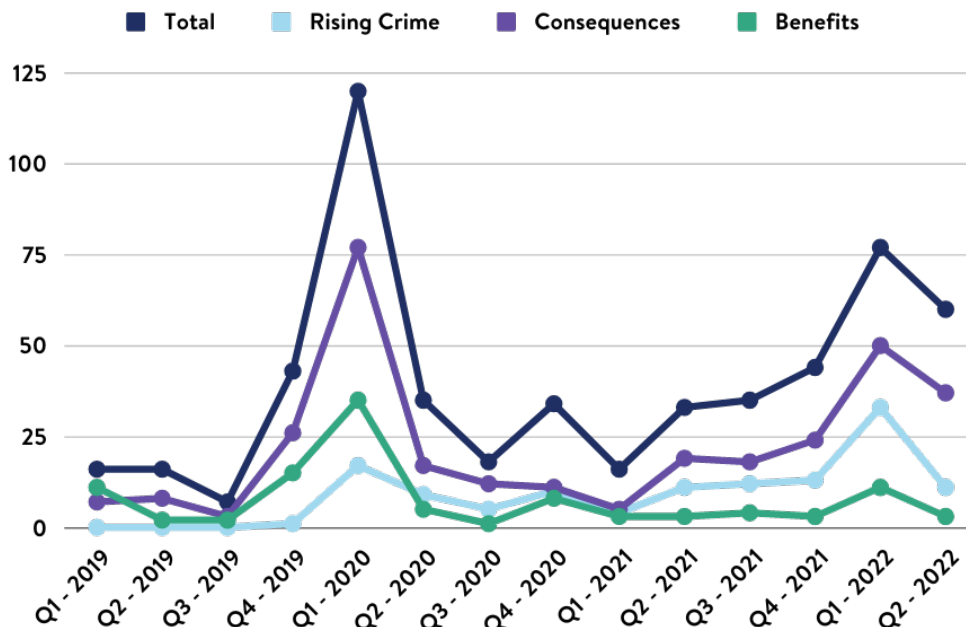
Additionally, when coverage uses stigmatizing language and focuses on an assumption of guilt of individuals involved in the system with past legal system involvement, it can lead readers to mistakenly assume that bail reform calls for the release of large numbers of individuals who pose a risk to public safety. However, evidence suggests that after reforms were enacted, the vast majority of individuals released pretrial were not rearrested while on pretrial release – in NYC, for example, 95 percent of individuals with a pending cases did not experience rearrest.<sup>31</sup>

## Finding 6: Coverage Critical of the Reforms Increased Before Elections & Budget Sessions

The 2019 criminal legal system reform package became a big topic of political discourse over the last several years. In fact, the reforms became a wedge issue in electoral campaigns, with many candidates calling for rollbacks to the most contentious provisions, most notably bail eligibility. Perhaps not surprisingly, this media analysis showed that overall coverage of the reforms increased during the times right before the election and budget sessions, and in particular in the time periods directly before the 2020 (Q1 2020) and 2022 (Q2 2022) budget sessions that culminated in the legislative amendments. Total coverage also increased slightly right before the state Senate elections in November 2020 (see Figure 4).

### COVERAGE SPIKED BEFORE KEY LEGISLATIVE DECISIONS

Figure 4. Overall Coverage by Topic, By Quarter





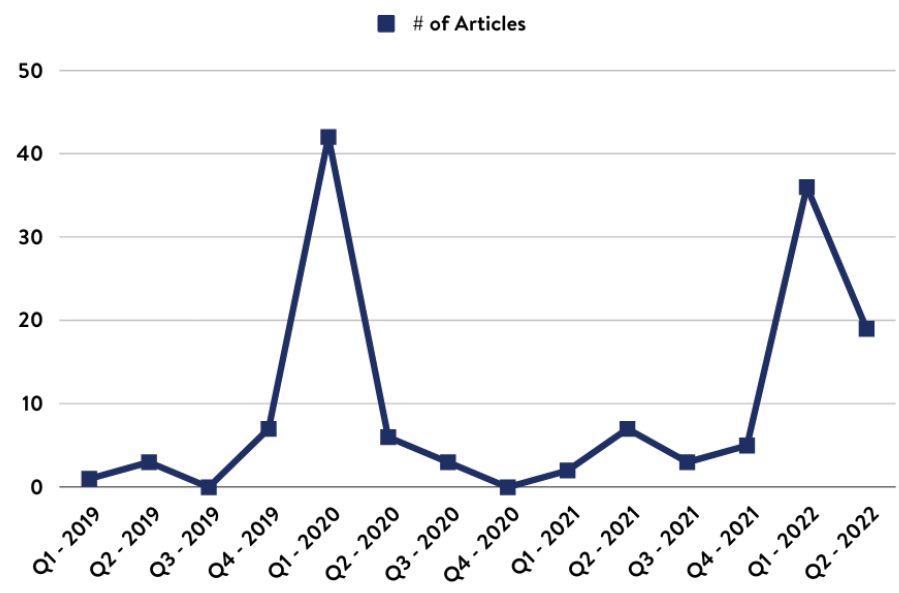
This study cannot make any causal claims about the role of media coverage in the passage of the amendments to the legislation in 2020 and 2022, but it is possible to demonstrate that the nature of the coverage did change in the months prior to both elections and legislative budget sessions. Specifically, there was an increase in coverage critical of the reforms, including linkages to rising crime and other perceived negative consequences of the legislation. Coverage of the perceived benefits also increased during these time periods, but this increase was relatively small compared to the increase in the coverage of negative consequences, and perceived benefits continued to receive little coverage. Articles linking individual cases to the negative consequences of the reforms, usually to changes in bail eligibility, also increased in the quarters prior to the passage of amendments, with over 40 percent of articles mentioning specific cases published in these two quarters. This is notable because vivid coverage of individual criminal incidents – especially those that are horrific in nature – has the potential to resonate with people more than aggregate data showing low rates of rearrest after release. In fact, Governor Hochul recently cited such media coverage of individual cases as motivation for

considering 2023 amendments to the bail provision, claiming that some “horrific cases” appearing on the front pages of newspapers “literally shocked the conscience.”

Recommendations to revise the legislation also increased prior to the two budget sessions (see Figure 5), including allowing judges to consider “dangerousness” in pretrial release decisions, adding a bail exception for “repeat offenders,” adding hate crimes to the list of crimes eligible for bail to be set, and generally granting judges more discretion when setting bail. About one-quarter (24 percent) of the articles in the sample mentioned a specific recommendation for how the legislation could be amended to mitigate the negative consequences, but increased to 35 percent in the first quarter of 2020 and 47 percent in the first quarter of 2022. Perhaps unsurprisingly, almost all of the amendment proposals considered by the legislature aimed to address the concerns voiced in media coverage; most notably, the proposal allowing judges to assess an individual’s “dangerousness” in pretrial release decisions, which had never been a consideration in New York, even before bail reform took effect.

## ARTICLES SUGGESTED REVISING LEGISLATION NEAR KEY LEGISLATIVE DATES

Figure 5. Mention of Recommendations for Revisions by Quarter



# Summary

Policymakers and the public rely on the media to provide balanced, fact-based explanations of policy. This analysis shows that in the case of New York's pretrial reform legislation, the media often presented an incomplete and, in some cases, inaccurate picture of the substance of the policy and how it was playing out on the ground. In addition to a general lack of nuance in how the reforms were described, there was a disproportionate focus on perceived negative consequences, often without data or evidence to support those claims, and limited discussion of the problems that the reforms were designed to address.

*There was a disproportionate focus on perceived negative consequences, often without data or evidence to support those claims, and limited discussion of the problems that the reforms were designed to address.*

A major recurring (yet unsupported) theme across articles reviewed was that the reforms caused increases in violent crime by letting too many dangerous people remain in the community while awaiting the outcome of their cases. Anecdotes correlating bail reform releases to an increase in gun-related crimes were common though gun charges remained bail eligible, meaning that judges always had the ability to set bail for these types of charges and were able to continue that practice after the legislation had passed. Further, the increase in violent crime in New York City in the earliest stages of the pandemic caused significant public fear, but rises in crime were explicitly linked to reforms without empirical evidence that individuals released pretrial on charges that were no longer bail eligible were causing these

increases.<sup>32</sup> These links were further strengthened through articles including examples of individuals accused of violent crimes alongside either unfounded or unverifiable claims that they were released because of reforms to bail eligibility, and either included stigmatizing language about individuals facing criminal charges or assumed their guilt by discussing their criminal history in the context of their current case. This imbalanced coverage increased significantly in the months leading up to the amendments that were passed in April of 2020 and 2022, suggesting media coverage likely contributed to mounting public pressure to revise the reforms in a way that allowed the option of incarceration for a wider range of people facing a case in the criminal legal system.

To understand the media coverage of the reforms beyond this timeframe, researchers conducted a brief scan of articles throughout the remainder of 2022 and early 2023. This analysis found that media coverage during this time frame mirrored coverage during the earlier years, with continued narratives around increases in crime and the perceived negative consequences of the reforms. Coverage of the reforms also increased significantly in the months leading up to the 2022 state elections, with a specific increase in coverage of State Assembly candidates messaging claims that the reforms led to a rise in crime. Notably, some of these candidates won seats previously held by Democrats who supported the reforms. This increase in coverage continued leading up to and during the 2023 legislative session, with critics still pushing for additional changes and advocates holding steadfast that they were unnecessary. Perhaps not surprisingly, state officials involved in the budget negotiations claimed the talks were dominated by discussion of the reforms, leaving some to feel as though a number of other goals unrelated to the criminal legal system were not given the proper attention. Ultimately, when the second set of amendments passed in 2022, they were described in the headlines as a “compromise,”

with reform critics continuing to say they did not go far enough, and specifically calling for the inclusion of dangerousness considerations in pretrial release decisions.

Further rollbacks were passed in the next budget session in 2023, one of which revolved around the “least restrictive option” language and the presumption of release unless an individual posed a risk of returning to court. The language was amended to “the kind of degree of control or restriction necessary” to reasonably assure that an individual returns to court, changing the presumption of release to apply only to cases not eligible for bail and, as some argued, gave judges greater discretion to ensure court appearance. For advocates, however, when media coverage did include their perspectives, it highlighted their expressed frustration with the changes, suggesting that they undermined the goals of the legislation without evidence that the original requirements made communities less safe.

## LIMITATIONS

Studies that document and analyze the content of media coverage of public policies can help us develop a rich understanding of the narratives being conveyed when informing the public about current policy discussions; they can also point to potential gaps in public understanding of policies and the underlying issues that are being addressed through legislation. However, what content analyses cannot do is provide causal evidence demonstrating that the narratives conveyed in media coverage influenced public perceptions, or that media coverage directly put pressure on lawmakers to amend legislation. This study does provide evidence that, to the extent that the news outlets included in the sample were a primary source of information about the reforms, they had the potential to mislead readers. Indeed, media coverage did not tell the full story of the legislation and its impacts to date. Instead, the general narrative conveyed by media coverage was that the legislation was overwhelmingly harmful,

particularly to public safety, and did not have support from key criminal legal system actors.

Additionally, the study represents a sample of newspaper publications across New York State selected to align with CUNY ISLG’s process evaluation rather than a random sampling of all newspapers across the state. This sampling strategy ensured a representative sample of articles across the eight publications included in the study, but the descriptive findings may change if other local publications that covered the reforms are included in the analysis. The study also did not include an analysis of other sources of information about the reforms, such as social media or cable news, and therefore do not provide a full picture of the narratives the public was exposed to during the time period included in the analysis.

## RECOMMENDATIONS

Due to the immense amount of media attention received by a reform effort as sweeping in scope and scale as the New York Criminal Justice Reform Act, public education and awareness campaigns are crucially important to educate the public and media, combat misinformation, and correct falsehoods. As the media generated a particular narrative around bail reform in New York prior to implementation, there was no centralized or coordinated effort by the state early on in the process to share information about the substance of the legislation and what it meant for individuals in the system and the community at large.

*Public education and awareness campaigns are crucially important to educate the public and media, combat misinformation, and correct falsehoods.*

Following implementation, there was also a missed opportunity to share positive stories about people impacted by the reforms and disseminate data that directly challenged some of the false narratives

around rising crime and individuals released due to bail reform.<sup>6</sup> As debate about additional changes to the legislation continued in the State legislature, Governor Hochul's administration did share some important data during a legislative hearing.<sup>33</sup> While it's impossible to know specifically whether or not an education campaign would have changed public opinion or media coverage in New York, there is no question that these types of efforts would change the information landscape available to inform both public and media perspectives and combat misinformation that tied the reforms to increases in crime that many large cities were also experiencing.

This study of New York illuminates the value of a coordinated public and media education and awareness campaign both prior to and following the implementation of a major criminal legal reform effort. A carefully crafted communications strategy and public education effort at the outset to inform constituents of what the reforms will mean day-to-day and their potential impacts can make a significant difference, not only in how the public understands these reforms but potentially how they feel about them as well. Based on this analysis, it is recommended that a campaign of this type touch on the follow critical elements of a reform:

- the intent and rationale, including success stories of similar reform efforts;
- the goals and objectives;
- the changes to existing policies and practices (in clear and accessible language); and
- the impact on public safety outcomes (both projected and actual).

<sup>6</sup> There were independent forums for this type of information in New York, including an event held by the Data Collaborative for Justice (DJC) and John Jay, data sharing webinars with state agencies including the New York Division of Criminal Justice Services (DCJS) and the Office of Court Administration (OCA), and public hearings related to different topic areas, but none of these initial efforts were coordinated statewide.



One of the reasons that a launch campaign is so critical in the criminal legal context is that much of the general population has not been exposed to this system, either personally or as a professional working in the field. Education around the intent and rationale for the reform effort is important to provide justification to the public about why reform efforts are necessary in the first place. For example, when considering reforms around the elimination and/or reduction in the use of financial conditions of release (such as bail), it is important for the public to understand how these conditions create unequal outcomes for those with similar charges solely based on wealth. Stories of the inequality in the system, like that of Kalief Browder, are essential in demonstrating to the public why the elimination and/or reduction in the use of financial conditions of release are essential to move towards a more fair and equitable system.<sup>34</sup>

It is also essential in a launch campaign to anticipate the types of narratives the might arise in the media in response to a reform effort. It is not uncommon to read about how criminal legal system reform efforts will somehow result in a mass release of “dangerous,” “violent” individuals from jail, compromising community safety, resulting in increased public fear of these types



of reforms. In addition to New York, which was covered extensively in this brief, New Jersey grappled with this during their bail reform rollout – specifically, with the bail bond industry, which capitalized on a lack of clear information about the changes being made to the system and spread misconceptions in the media that it would result in a mass release of individuals that should be in jail. In New Jersey’s case, a Joint Committee on Criminal Justice worked immediately on a public education campaign to fight those misconceptions.<sup>35</sup> Though New Jersey acted quickly, if the changes to existing policy and practice were made clear to the public from the outset, then the necessity for these later efforts would have been minimized.

Finally, using facts, data, and success stories would assist in rooting out the sources of misinformation in the media and give the public an alternate source of information as well. Also in New Jersey, the courts there have been releasing publicly available annual reports to the Governor and Legislature on the state of criminal justice reform since 2017, providing clear and factual information on public safety outcomes related to pretrial release including case disposition times, new criminal activity rates, and failure to appear rates. They also encouraged media coverage that was grounded in these reports, to provide an informed and data-driven picture of how the reforms were working.<sup>36,37</sup> More recent media coverage in New York has focused on providing data to root out misinformation, showing that individuals released due to the legislation were not being rearrested at higher rates<sup>38</sup> and highlighted the success story of how bail reform has positively impacted the economy in New York.<sup>39</sup>

# Appendix A: Methodology

## SAMPLE

There were 1,662 published newspaper articles collected discussing the bail reform legislation within the 2-and-a-half-year period. News stories of all types were included (i.e., articles, commentaries, and editorials) from newspapers with various audiences and reach. To ensure the analysis was feasible, a subset of 554 articles across the eight newspapers (33% of total articles) was created using a stratified sample by quarter to match the proportion of articles produced by each newspaper over the specified time period (see Table 1). This approach was taken because some publications made up a more significant proportion of the total universe of articles that mention the reforms, and the volume and type of media coverage changes across different time periods (e.g., rise in crime, elections). Thus, the approach ensures the subsample is representative of the universe of articles in the designated time frame, and therefore, can describe and draw conclusions about media coverage as a whole.

**TABLE 1. PUBLICATIONS IN THE SAMPLE**

Publication	City	County	Region	Percentage of Sample
Buffalo News (BN)	Buffalo	Erie	Western New York	8%
Democrat and Chronicle (DC)	Rochester	Monroe	Finger Lakes	4%
New York Daily News (NYDN)	New York City	New York	New York City	14%
New York Post (NYP)	New York City	New York	New York City	46%
New York Times (NYT)	New York City	New York	New York City	7%
Syracuse Post-Standard (SPS)	Syracuse	Onondaga	Central New York	3%
Poughkeepsie Journal (PJ)	Poughkeepsie	Dutchess	Hudson Valley	7%

## **CODING & ANALYSIS**

A coding schema was developed with variables framed by the study's research questions (see below) For a full list of codes, see Appendix B.

- Which components of the reforms received the most media coverage (i.e., goals, specific changes to laws, impacts)?
- Was media coverage of the perceived impacts of the reforms balanced, or were there some voices/perspectives represented more in media coverage?
- To what extent does media coverage link bail reform with rising crime, either through citation of crime data or specific criminal cases?
- How does the media portray individuals who have lived/experienced in the criminal legal system?
- To what extent has the media coverage of the reforms influenced public pressure to pass rollbacks to the reforms?

### **Content Focus**

To document and analyze on which components of the reforms the media focused, the research team coded for mention of legislative goals, legislative provisions (i.e., bail, discovery, Appearance Tickets), the legislative process (i.e., unfunded mandate, missing stakeholder voices), as well as other contexts in which the legislation is discussed (e.g., elections, closing Rikers, criminal case) and how the language used to describe the legislation. The analysis also includes a discussion of themes informed by the potential legislative impacts, with codes created to identify overall legislative impacts and impacts relative to the specific legislative provisions. Additional variables were created to code for crime rates, if crime rates were linked to bail or other predictors, and whether any evidence (anecdotal or data) was provided.

### **Individual Cases**

Documenting the coverage of individuals reported to be involved with the legal system is also important. Supporters of the legislation tend to reference the benefits of individual pretrial. At the same time, opponents focused more on the potential risk to public safety as more individuals would be released to await their case in the community. For this analysis, variables were created to code for whether a specific case was discussed, whether they were a defendant or victim, their characteristics, alleged charge (defendant only), defendant characteristics (i.e., race, mental health, homeless), whether cases were mentioned alongside claims they were released to bail reform, dehumanizing language about individual cases (e.g., repeat offenders, recidivists, career criminal), and assuming guilty or dangerousness of the accused (e.g., dangerous criminal, previous arrests, convictions).

### **Sources**

Additionally, the analysis set out to understand whose voices were most represented in the media when discussing the legislation. Specifically, the research team measured whether specific sources were mentioned by coding for source names and source types (e.g., prosecutors, law enforcement, defense, and community-based organizations). The codes mentioned above were coded for each source to understand their views of the reforms and whether media coverage relied more heavily on specific sources over others.

# Appendix B: Coding Scheme

## CONTENT FOCUS

### Article context

Election, criminal case, bail reform, other (entered as text)

### Language/Tone

Entered descriptive terms about bail reform contained in the article text (e.g., “failed bail reform”, “game-changing legislation”)

### Goals of the legislation

Reduce reliance on pretrial detention, improving fairness in case processing, improving equity/reducing racial/economic disparities

### Mention of specific provisions

Bail, discovery, appearance ticket

### Bail changes

Bail-setting practices (e.g., requiring 3 forms of bail, considering ability to pay), eliminating bail for almost all misdemeanors and non-violent felonies, least restrictive release conditions to assure court appearance, other (entered as text)

### Discovery changes

Expanding discoverable material, strict timelines to turn over discovery to defense, tying discovery to 3030 clock, requiring prosecutors to certify readiness, allowing defendants access to crime scene, making “open file discovery” automatic, requiring “reciprocal discovery” from defense to prosecution, plea offers (i.e., discovery must be shared at least 3 days in advance), other (entered as text)

### Appearance ticket changes

Require issuances for all misdemeanors and class e felonies, time to arraignment no later than 20 days from arrest, other (entered as text)

## LEGISLATIVE IMPACTS/LINK WITH CRIME

### Legislative impacts (not tied to specific provisions)

*Benefits:* Reduced pretrial detention rates, making communities safer, fewer individuals experiencing consequences of pretrial detention (e.g., housing, employment), better case outcomes, no impact on crime rates/recidivism, no impact to victim/witness safety, reduced racial/ethnic disparities

*Consequences:* making communities less safe, threatened witness/victim safety, other (entered as text)

### Bail impacts

*Benefits:* Limiting judicial discretion reduces unnecessary pretrial detention, reduce racial/economic disparities,



increase access to services/diversion programs, maintaining ties to community, decreased recidivism/crime  
*Consequences:* No impact on racial/economic disparities, judges no longer have enough discretion, judges using discretion to not set bail, greater obstacles to accessing treatment programs, inability to consider criminal record/prior arrests for non-bail eligible charges, increased recidivism/crime, inability to consider acts of violence without injury (e.g., hate crimes), removal of consequences for committing crime, threats to witness/victim safety, other (entered as text)

### **Discovery impacts**

*Benefits:* Earlier arrival of information, knowledge of strength of case, increased transparency, more informed decisions for clients, more weak cases getting dismissed, faster case resolution

*Consequences:* More case dismissals based on technicalities, threats to witness/victim safety, reduced witness cooperation, burden on prosecutors/law enforcement, other (entered as text)

### **Appearance ticket impacts**

*Benefits:* Increased access to diversion programs, taking away officer discretion, reduces racial/ethnic disparities, benefits individuals in contact with the criminal legal system, maintaining ties to community,

*Consequences:* Officers don't have enough discretion, issues contacting clients who are given appearance tickets, not enough time for pre-arraignment programming, removal of consequences of committing crime, reoffending shortly after release, other (entered as text)

### **Crime rates**

Increase in crime rates, decrease in crime rates, no mention of crime rate

### **Cause of change in rates of crime**

Bail reform, COVID-19, access to guns, police scrutiny, economic issues, mental illness, other criminal justice related policy (e.g., Raise the Age), need more data to determine, not due to bail reform/no evidence it is due to bail reform, other (entered as text)

### **Evidence of link with bail reform and crime**

Anecdotal, data, no evidence provided

## **INDIVIDUAL CASES**

### **Dehumanizing language**

Recidivists, career criminals, repeat offenders, other (entered as text)

### **Cases mentioned**

Name of individual, charge, race/ethnicity/, victim/defendant

### **Description of system impacted individual**

Mental health, housing status, dehumanizing language (e.g., recidivist, career criminal, repeat offender, other), released due to bail reform, judge could have set bail but did not, mentioned previous arrests/convictions

## **POLITICAL/LEGISLATIVE PROCESS**

### **Election mention**

Does the article mention an election (yes/no)

### **Legislative process**

Reforms were put into the budget rather than as part of the legislative process, there were no committee hearings to discuss the details of the legislation, stakeholders were left out of discussions of the legislation, reforms were written by public defenders/advocates, there was very little time from passing the reforms to implementation, there was no state funding tied to the new requirements (e.g., unfunded mandate), other (entered as text)

### **Amendments to the legislation (2020 & 2022)**

Overall legislation, bail provision, discovery provision, other (improvement, no change, worsening, neutral)

### **Recommended amendments**

Allow dangerousness to be considered when setting bail, add bail exception for repeat offenders, don't allow defendants access to crime scene, other (entered as text)

## **SOURCES**

### **Source information**

Name, organization, title

### **Source type**

Police department, sheriff's office/jail, DA's office, public defender, judge, court staff, probation, pretrial services, local government (elected), local government (unelected), state government (elected), state government (unelected), person involved with legal system, victim, victim family/friend, citizen, other (entered as text)

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