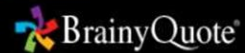




**Justice cannot be for one side
alone, but must be for both.**

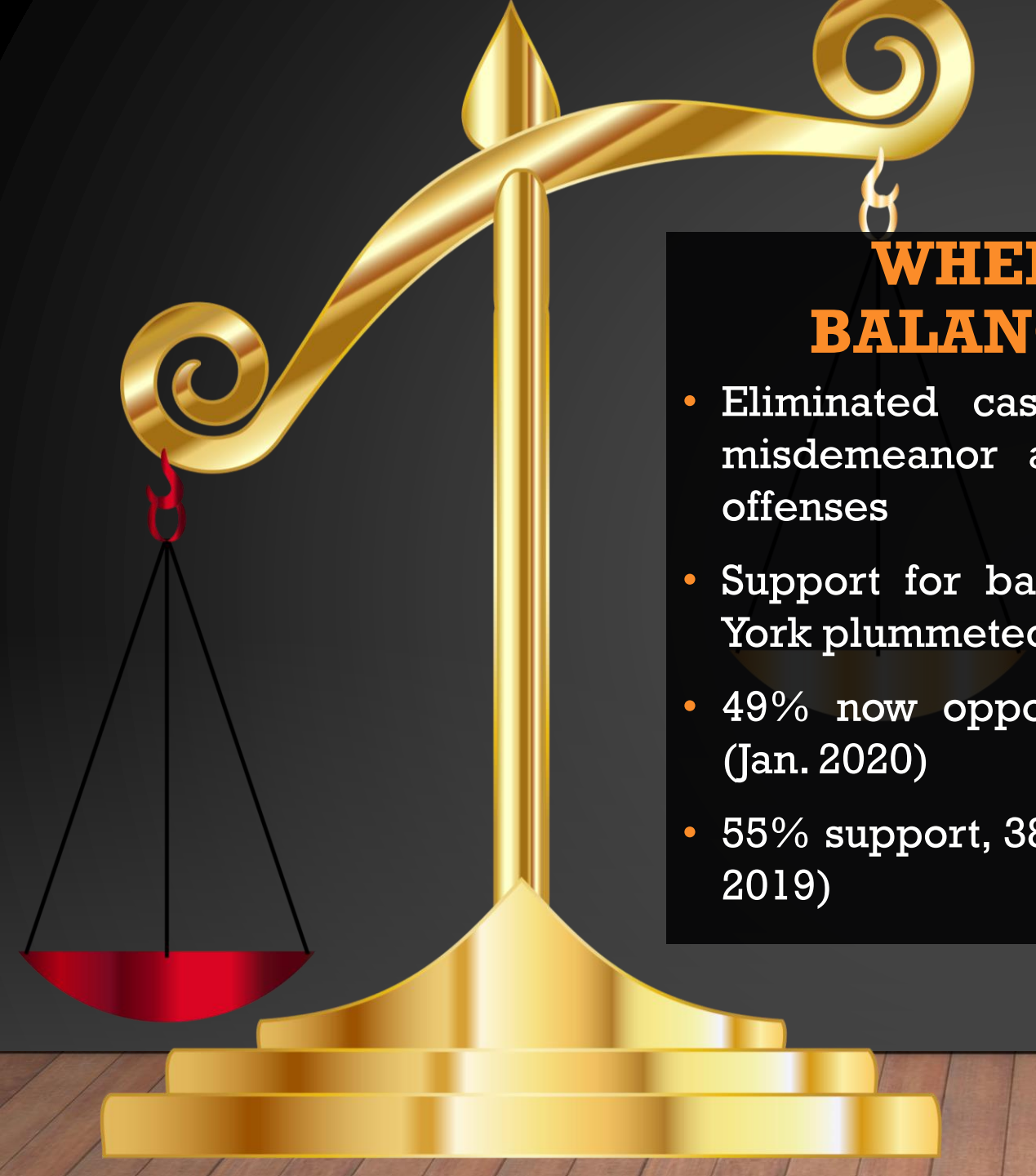
Eleanor Roosevelt



**Marc Schifalacqua &
Elizabeth Anderlik
City of Henderson**

BALANCE

- **Defendant's Rights and Victim Rights**
- **Public Safety and Presumptions**
- **Problem somewhat straightforward**
 - Some minimal risk defendants on victimless cases are being held because they cannot post modest bail...
 - Other defendants, who pose a significant risk, are being quickly released on bail without conditions, creating public safety issues and posing serious risks to the witnesses in the case...



METRO

New York voters have turned against bail reform, new poll says

By Carl Campanile

January 21, 2020 | 5:41am

WHEN THE BALANCE TIPS

- Eliminated cash bail for most misdemeanor and some felony offenses
- Support for bail reform in New York plummeted
- 49% now oppose, 38% support (Jan. 2020)
- 55% support, 38% opposed (Apr. 2019)



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MORE ON: **BAIL**

Support for bail reform nosedives in New York, new poll shows

New Yorkers have turned against bail reform.

Support for the new law eliminating cash bail for most misdemeanor and some “non-violent” felony crimes has plummeted, and now 49 percent of New York State voters say the new policy is “bad” for New York compared to 37 percent who say it’s

WHEN THE BALANCE TIPS

With bail eliminated for most misdemeanors and nonviolent felonies, an estimated 90 percent of new defendants each year in New York would remain free as their cases move through the courts.

The mayor has said that he broadly supports most of the changes, but he believes that judges should be given some discretion in deciding when to keep criminal defendants in jail.

“Even the best pieces of legislation sometimes have unintended consequences that need to be assessed and acted on,” Mr. de Blasio said earlier this week. If judges were given some leeway in a limited number of cases, the mayor said it “could protect the community against violence, and that’s got to be the first consideration.”

--NEW YORK TIMES, FEBRUARY 16, 2020

WHEN THE BALANCE TIPS

- 2nd degree Burglary of a residence
- 2nd degree Burglary as a Hate Crime
- 3rd degree Burglary of a commercial building
- 3rd degree Burglary as a Hate Crime
- 2nd degree Robbery aided by another person
- 2nd degree Robbery as a Hate Crime
- 3rd degree Robbery
- •Stalking (multiple counts)
- •Stalking as a Hate Crime (multiple counts)
- 2nd degree Manslaughter
- Coercion (multiple counts)
- Coercion as a Hate Crime (multiple counts)
- Bribery (multiple counts)
- Perjury (multiple counts)
- Bail jumping (multiple counts)
- -CBS Local News, New York, Dec. 31, 2019
“Manslaughter, Arson, Hate Crimes — See All The Crimes Suspects In New York Now Get Released For Under Bail Reform”

NEVADA CONSTITUTION

- **Sec. 8A. Rights of victims of crime.**
- 1. Each person who is the victim of a crime is entitled to the following rights:
- (a) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process.
- (b) To be reasonably protected from the defendant and persons acting on behalf of the defendant.
- **(c) To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant...**
- (h) To be reasonably heard, upon request, at any public proceeding, including any delinquency proceeding, in any court involving release or sentencing, and at any parole proceeding.

CLOSE TO HOME

- October 31, 2019, both myself and another prosecutor went to lunch after court
- Followed into the restaurant by a witness on a case - unhappy with outcome
- Spoke of violence and guns throughout the day
- Became increasingly agitated and threatened us
- Arrested for Assault and Intimidating Public Officer
- Made bail quickly – never appeared before a judge before being released
- NO CONDITIONS OF RELEASE
- The system and the statutes do not comply with Marsy's law currently

LONG TERM SOLUTIONS

- New Jersey success
- Centralized court and law enforcement system
- Amended their Constitution to allow pretrial detention (before that, their Constitution read like Nevada's Constitution regarding the right to bail)
- All parties worked together
- Substantial funding and investment in pretrial services
- 3-year process before implementing

SHORT-TERM POSITIVE SOLUTIONS FOR THIS COMMITTEE

- Quicker bail determinations that are individualized in nature
 - Pre-trial risk assessment tool
- Don't ignore the defendant's background or facts of the case
- There is no such thing as a "low-level" victim-based crime
 - Stalking, TPO/EPO violation, Harassment, BDV, Battery, Assault, Petit Larceny
- Do not allow bail to be applied for 24 hours on victim cases, especially crimes of violence
- Create an easy mechanism for a victim or prosecutor to request protection for the victim, conditions of release prior to a custody decision
- Don't take away a judge's discretion on any victim-based crime, otherwise there will be a chilling effect to reporting crime