



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, NY 10007

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**CONTACT:** [pressoffice@cityhall.nyc.gov](mailto:pressoffice@cityhall.nyc.gov), (212) 788-2958

**RUSH TRANSCRIPT: MAYOR DE BLASIO CALLS FOR CHANGE IN STATE LAW TO BETTER  
ENSURE DANGEROUS DEFENDANTS ARE DETAINED**

**Mayor Bill de Blasio:** Good morning, everyone.

We're here to discuss some crucial matters related to the death of Officer Randolph Holder and the safety of all New Yorkers. The death of Officer Holder has thrown into clear perspective the need for substantial reforms in the criminal justice system. We are united today, all of us standing together, calling for common sense reforms to the bail and diversion systems, and we share these concerns with major judicial leaders and prosecutorial leaders who believe, like we do, that something is fundamentally broken, both in terms of the way we treat hardened criminals and the way we treat low-level, first-time offenders.

Two people who share this deep concern with us are Chief Judge of New York State Jonathan Lippman, who couldn't be with us today but has spoken extensively about the need for reform at both ends of the spectrum, and Manhattan District Attorney Cy Vance, who as well has talked about the need for both types of reforms.

And this is obviously a matter of urgency, and we need Albany to act as quickly as possible on these matters.

Let me thank everyone who is gathered here, some of whom you'll hear speak in a moment, but I also want to acknowledge and thank Roy Richter, the president of the Captain's Endowment Association we have worked with closely on a number of policy matters and has been, obviously, a strong voice for the men and women of the NYPD. I want to thank State Assembly Member Luis Sepulveda, who I've worked very closely with on criminal justice matters. And I want to thank the chair of the City Council Courts and Legal Services Committee, who has been a key partner on issues related to bail reform, Rory Lancman.

Let's start with this tragedy that has focused all of our attention – and let's say at the outset it shouldn't take a tragedy to focus our attention and make reform, but sometimes in human history we know these tragedies cause action when nothing else does – and that's not a happy statement, but it's a blunt truth. And I'm a believer that when someone gave his life for us, as Officer Holder did, they cannot have died in vain, and some greater change, some greater good has to come out of it, and this is an example of something that must change.

Tyrone Howard simply should not have been on the streets. Based on his criminal history, based on his history of recidivism, based on his constant violations of parole and probation, he just should not have been on the streets. And let's be clear – and it's a very sad, sad story – he was either in jail or prison or he was committing crimes. That is his life history. And someone like that should not have been in our communities endangering members of the community and members of the NYPD alike. He was a hardened, violent criminal – it's quite clear from the facts.

He was on the street. That, unfortunately, also is a fact. And the question is, why? And we know there were two crucial opportunities that could've changed the situation fundamentally, but didn't in large measure because our state laws are not properly structured.

In October 2014, Howard was arrested and charged with felony drug sales. The judge in that case, like all New York State judges, could only set his bail based on the risk of flight. The judge was not able to consider the danger that Mr. Howard would be to public safety. It was literally by law not something that could be taken into consideration. So the criminal was able to post bail and again walk the streets.

The second opportunity – in January 2015, a judge weighed Howard’s eligibility for diversion into a drug treatment program instead of doing jail time. And because the judge was not required to consider the danger he posed, again, a decision was made that had very costly consequences, and Howard was sent to treatment. He didn’t show up for treatment – another part of this puzzle, when someone doesn’t follow through on the mandates given them. And Howard had consistently not followed through in terms of parole and probation previously, so it’s not a shock that he didn’t show up for treatment, continued to walk the streets.

And the bottom line here is when the risk to the public cannot be legally considered in the bail process, when it’s not required to be considered in the diversion process, something is fundamentally wrong, and it inhibits judges from using their best judgment and doing their jobs to the fullest.

Let’s be clear, we think our judges need these tools to be able to do their jobs best, and they happen to have the tools. Tyrone Howard would’ve gone to jail. He would not have continued to poison the community around him by selling drugs. He wouldn’t have been roaming East Harlem on Tuesday, and one of NYPD’s good, decent, hardworking cops would still be alive today. So today, we renew our call for repair of these life-threatening cracks in the criminal justice system.

We believe it’s absolutely necessary to amend the state bail, and diversion statutes, and add the concept of public safety risk to the statutes, requiring judges to consider whether the defendant poses a danger to the community when deciding whether and how much bail to set. And that, by the way – and this is a shocking statistic – that is already the law in 47 states in this country. It is the law in the District of Columbia. It is the law governing our federal courts. Only New York State, Missouri, and Mississippi stand apart in not including this information and requiring its consideration. And the same requirement that the issue of public safety and the danger of the individual has to be considered by a judge in decisions related to the choice between treatment and jail.

Now look, there is a balance that has to be struck. And a lot of us up here have talked for the last year or two about the need to address the other side of the equation, which is crucially urgent as well. Too many people have gone to jail or gone to prison who did not belong there. We’re talking about low-level offenders, first-time offenders, folks who never did anything violent, folks for whom treatment and other options was a better alternative and as we know, has worked in many cases.

So, we’ve got to have the maturity to look at both sides of the equation. We don’t want people in jail or prison that shouldn’t be there. We don’t want to give up on redeeming people who can be redeemed. We want to recognize that it’s in the public’s interest to get low-level offenders to the right kind of treatment. But we also have to recognize that some people are just hardened criminals. Look at Howard’s history – same crimes over, and over, and over again – the same consistent pattern of violating all orders that were provided by courts, the same willingness to poison the community by selling drugs. And obviously, we know acts of violence mixed in. It’s not a mystery that sadly, this individual had already set his life’s course and it was a dangerous course. We’ve got to be able to look at that and say there are people like – and we know that unfortunately, there are too many of them who need to be in an institutional setting, whether it’s a jail, a prison, a mental health institution. They should not be on our streets. And there’s also a lot of people who were sent to jail and sent to prison, who should never have been, who never rose to any level like that. And we’ve got to fix both sides of the equation.

There are huge human consequences when we get either side of the equation wrong. We believe, fundamentally, that no one should end up in jail who is a low-level offender. And the only reason why they are in jail is because they could not afford a modest bail. So, we’ve got to be able to have a serious conversation in this city, in this state, about rebalancing the entire equation. But the bottom line is both pieces have to be treated. And when it comes to the higher end of the scale, where real serious criminals reside and get away with

– somehow – get away with the revolving door reality and end up on the streets time and time again. We have to create an environment where those criminals are properly handled and are taken out of our society, and our surrounding communities are safe and our police officers are safe.

This week, we learned the true cost of the problems that exist in our bail and diversions systems. And we realized what it means when our judges don't have the ability to weigh the danger that the defendant poses to our society. No more New Yorkers should have to pay the price for the errors in our laws. Our laws need to be fixed and they need to be fixed soon.

A few words in Spanish –

[Mayor de Blasio speaks in Spanish]

With that, I want to call forward the speaker of the City Council. She and the Council have pushed for this balance in so many ways. And I think it's very important to note this history. They have been leading voices for reforming what I call the low-end of the equation – for trying to make sure that people don't end up in prison or jail who don't belong there, that people are not forced into jail simply because they can't pay a modest bail – for looking at the right kind of diversion process. But at the same time, this City Council and this speaker have fought strenuously to add 1,300 police to our streets, to give our police the most modern bulletproof vests, to balance the equation in favor of the safety of community and police alike. And I want to commend her for that leadership and bring forward the speaker of the City Council, Melissa Mark-Viverito.

[...]

**Mayor:** Thank you very much.

Just one point to amplify what the Borough President is saying – Commissioner Bratton, Chief O'Neill, they'll tell you that it's a few thousand violent criminals who are causing a huge percentage of the violent crime in New York City. That's really striking to recognize. Almost eight-and-a-half million people in this city – a few thousand are causing a huge percentage of the violence. And again, I think the Borough President is exactly right, we have a pretty clear pattern on who these people are, and NYPD works every day to get them off the streets. We need state laws that'll help us to do it, but there's many, many more New Yorkers who are law-abiding, obviously – the vast majority, law-abiding – and there's some who have had lesser offenses, small offenses who can be redeemed, and there's ways to do it, but look how out of balance we are. We are – I think Eric said it perfectly – too punitive to folks that can be turned around, and somehow, some of the most hardened criminals never actually are caught in the net. Only these changes to state law will allow us to do that.

We're going to take questions on this topic specifically.

Andrew.

**Question:** Mayor, you've made the case that low-risk offenders should be able to wait for their trial date at home, and high-risk offenders shouldn't be out at all. But wouldn't there be a huge number of cases that are essentially medium-risk where the judge has to make the call? The judge in this case, the Tyrone Howard case, said he didn't have a crystal ball. He felt that his judgment, given the facts, that he was a candidate for diversion. How would that change in countless other examples where you have someone in the middle?

**Mayor:** I'm going to start from a non-lawyer, common-sense perspective – from my point of view. I'm going to welcome Zach and Liz to fill the blank here. What we know in this case – and we've seen the transcript, it's publicly available – is that this judge certainly knew that there were – there was a pattern of criminal offenses. There's just nothing mysterious about this. So I said Mr. Howard was either in jail or prison, or he was committing crimes – it's pretty consistent over a long period of time. And it was clear that there had been parole and probation violations, which also speaks intensely in this point. When we talk about low-level folks on the other side of the spectrum, we're talking about people who respond to the directions of a court – if they're

supposed to wear a bracelet, if they're supposed to appear at certain points or go to parole – go to probation, I should say – whatever it may be – do community service, do treatment – they're responding to those instructions, and that's part of what validates that they are worthy of that type of approach. Here's someone who never responded to the instructions, who violated orders of courts consistently while continuing criminal activity. And we know that the 2009 shooting was visible on the transcript. Even though in that instance the prosecutors could not put together a sufficient case, it was still clear that that information was available to the judge. So I would argue in this case there was ample evidence to go a different path, but the bigger point here is that because the question of danger – dangerousness to the community – is not an applicable measure in the bail decisions and is not required to be considered in the diversion situations, it does handcuff judges. It doesn't allow them to consider the things they should consider. And it underemphasizes a thing that the vast majority of us would say would be the very first question we want to ask – is this person a dangerous threat to the rest of us? So I think it's common sense.

Zach, Liz you want to add?

**Zachary Carter, Corporation Counsel:** I have been a criminal court judge, and I've made countless decisions about pre-trial release. I have never met a colleague who wants to release someone knowing that they might be a danger to the community. But they find themselves in a situation where they feel constrained from detaining persons who may well be dangerous because there's nothing in their rap sheet that signals that they will not return to court, which is right now the only legal consideration that can be taken into account, except in a very narrow range of cases. So we – what we need by this legislation that's being proposed is to add truth into the bail process so that judges can openly consider what their gut instincts always tell them they want to consider – and that's dangerousness. Right now, judges would like to consider it. In some cases, there are other indications that sometimes mimic dangerousness that permit a judge to articulate a reason to detain someone in terms of risk of flight. But then there are going to be those situations where there are strong indications of dangerousness, but a defendant has no warrant history, a defendant has always faithfully returned to court. Dangerousness has to be something that a judge can consider separately, and openly, and honestly.

**Mayor:** Liz Glazer.

**Elizabeth Glazer, Director, Mayor's Office for Criminal Justice:** So just quickly, because it's a great question – it's not just is somebody released with nothing or is somebody held in, but we need a range of things in between. That's part of what bail can do, like the Speaker's bail fund. That's part of what supervised release does. And so the real issue here is let's craft the solution to either letting somebody out or keeping them in that will ensure that keeps us all safe.

**Mayor:** Chair Lancman.

**Council Member Rory Lancman, Chair, Courts and Legal Services Committee:** Well, it's important to remember that there were two judicial decisions in this case, which were important – the diversion, the decision to divert him to a drug treatment program, but also the decision to grant him bail. What happens is judges will frequently, if they sense that a defendant is dangerous to the community but they are constrained to limit their decision based on the defendant's potential flight risk, is set bail at a very, very high amount, or at least an amount that they think the defendant cannot make in the hopes that it will achieve the same end – keep the guy in jail until his trial date. In this case, the bail was set at \$35,000, which is not an insignificant bail number. So I suspect – I suspect that the judge who handled this arraignment, she looked at this defendant, she sensed dangerousness. Had she had an opportunity to make an open determination, she might've articulated that, but in the absence of that, she set what she thought was probably a high enough bail to keep him in jail. Now, somehow he came up with the money to make that bail – probably with the proceeds of his criminal activity, because he had nothing else financially going on with his life. And, you know, what the mayor is trying to do here and what we're trying to do is bring this conversation of dangerousness out into the open so that judges can use their judgment and we can all see why it is that people are being released or not being released.

**Mayor:** And just one other point on that – the – had the law been changed – if it were the law we’re talking about, that same judge that Rory was referring to could’ve also chosen not to offer bail. That would’ve been an option if dangerousness could’ve been fully considered. So a lot of things could’ve been very different in this case.

Dave.

**Question:** Mayor, on Wednesday when this all came out, though, I mean, we talked with a spokesperson for the judge and for the Manhattan Criminal Court system, and he said this is the perfect kind of candidate who should be considered for drug – let me finish – and I asked him – I said, well, what about his violent past? He said – the judge – it’s due process to look and see what are the criminal convictions. There were none on violence. So how can you say this is due process if you’re just going to like –

**Mayor:** Look – I’m going to start – I believe firmly on this one – and again I’ll welcome Zach and Liz to fill in blanks here – they’re much more learned on this than I – but the common sense here rules the day. First of all, this is not about this individual judge. I don’t know this judge. I have no reason to believe this is anything but a devoted public servant. I think he made the wrong decision. And by the way, the best validation, in my view, is that a highly-respected district attorney, Cy Vance, indicated to the judge through his folks that they wanted a six-year sentence for this individual, that that’s what they were going for based on a tremendously clear pattern of criminal activity that did endanger other folks, Dave. Let’s be clear – drug dealing endangers people’s lives. Let’s – let’s not suggest that the only way to endanger someone’s life is by holding a weapon in your hand. Drug dealing endangers the lives of people, particularly our youth. And if that were the only question – if you had someone who had sold drugs once – but no, he had sold drugs repeatedly. He was associated with gangs that were known to be violent – the shooting in 2009 was clear to the judge; on top of that, a history of violating parole and probation orders. I don’t know how anyone could see anything but a clear pattern of criminal activity, and one that clearly put people’s lives in danger. So to me, it’s quite straightforward, but don’t believe me – believe the DA who asked for six years.

Zach, Liz, anything to add? No? Yes? Okay.

Go ahead.

**Question:** I want to [inaudible] on the other side of the spectrum, the people that end up on Rikers not being able to make bail, and I think of Kalief Browder. What would you say to the judge in that case? And NY1 has reported that that judge was actually Darcel Clark – she saw him six times. What would you say to her?

**Mayor:** I’m going to keep it broad – and, you know, Zach and Liz, again, who are much more expert, might want to add – but my broad point – I don’t want to talk about that case, because I don’t know all the details of that case. I want to talk about the broad reality that we know, for a fact, that there are low-level offenders – first-time offenders, absolutely non-violent offenders, folks who can and will follow through on commitments and directives from the court, folks who can be redeemed – we know a lot of those folks have ended up in jail or prison and it’s destroyed their lives and their families’ lives needlessly. We know that people have ended up in Rikers simply because they couldn’t afford a low-level bail – \$250 dollars – and if you got \$250 dollars bail, it means the entire criminal justice system has decided you’re not a threat. Why should anyone like that end up in Rikers, which is only going to make their situation worse, or, in fact, raise the chance of them becoming a hardened criminal in the process cost the taxpayers, cause additional strains on our criminal justice system? So we’re out of balance on both ends. I believe this fundamentally. And I think improving the reforms at the low end is necessary, but I think empowering the judges at the high end to consider dangerousness is equally necessary. We’ve got to get both pieces in balance here.

**Zachary Carter:** In response to the prior question, at the end of the day, a judge’s decision with respect to both bail and ultimate disposition of case and sentencing are going to be subjective. They’re going to be based on subjective factors. And what is being proposed today is that there’s legislation that helps guide that discretion. It doesn’t take it away, because there are always going to be tough cases, there are always going to be cases that

are in that grey area, but right now we have a court system that has been guided by a, you know, century-old statute that commands judges to practically ignore dangerousness. And all we are talking about is legislation that restores balance so that we create a culture in which judges take into consideration both risk of flight and dangerousness. And in this case, without second-guessing the judge, there was a combination. There was an indication of both dangerousness – and maybe that was not as hard as it is and well-documented as it has in some cases – but there was certainly evidence of risk of flight. And when you take those things into – in combination, which this court was not entitled to do, that might've suggested a different outcome with respect to whether or not he was an appropriate candidate for diversion.

**Mayor:** We're going to have the – hold on, one second – Speaker – you're good – the Speaker –

**City Council Speaker Melissa Mark-Viverito:** I mean, I just want to, you know, affirm – and the mayor just made the case, you know, what we've been talking about for the past year with regards to the issue of a citywide bail fund to really try to prevent exactly that from happening, where the mayor and I could both be charged for the same low-level, non-violent offense, and both be given \$250 dollars bail, but he has the resources to pay it, he can go and wait outside until his day in court, and I have to sit in Rikers for two weeks, and potentially lose my job, lose custody of my children, lose my housing – all the implications that comes with that. That's where the – you know, the lack of balance is very clear. So yes, on the repeat offenders and those that are a risk to our communities, definitely we need to give the judges the ability to fully exercise their full discretion. On the lower scale, there are too many – and our borough president alluded to that as well – that are sitting in jail, and there are societal consequences to that. They can become the hardened criminals. They can lose their job. They can lose custody of their children. And then there's a cost, obviously, attached to that for the family and for the city. So there's a lot to discuss here. These are very complicated issues. And at times, there is an attempt to overly generalize them and try to oversimplify them – and you can't. It's an injustice to try to simplify these conversations, and we're being extremely deliberative and thoughtful, because the balance is needed and justice is needed for all involved, and that's the things that we're weighing.

**Mayor:** Jillian.

**Question:** Mayor, your administration has talked a lot about money bail and how it's a problem. This is sort of a two-part question. One – I mean, let's say these changes were made and the judge is able to consider dangerousness, what do you think the judge should then be doing in a situation like this one? Should there have been a high-cash bail? Should there have been some other kind of monitoring or remand? And then as the second part, you know, as we've been talking about whether or not a judge should've known that this person would be dangerous or not, the judge has said no violent convictions – you've referenced this 2009 shooting, but he was never convicted of that. I mean, should people be put in jail or in prison based on things that they haven't been convicted of doing?

**Mayor:** Again, I think the most powerful part of the evidence is a consistent pattern of criminal activity – no one's debating that. When I say this individual was either in jail or prison or committing crimes, that is a factual statement over many, many years. I don't think it's academic. I don't think it's grey. It's quite clear. Second – that he had repeatedly violated court orders in terms of parole and probation, also clear. So that's enough right there to suggest that – and I'm saying this as a layman – I'm not a lawyer – I haven't walked a mile in the judge's shoes – but I think common sense would dictate, if you had the ability that the new law would give, you would either not offer bail, because of the consistency of this individual's activities and the fact that drug dealing, again, does lead to horrible negative consequences for those taking the drugs – it's not a victimless situation. And you would conclude either no bail or a very high bail, so that, ironically, he couldn't pay the bail with his drug proceeds. So that would be my common sense solution that this would've all been taken into account. Now, again, the transcript did make clear that there was an arrest and an allegation of involvement in a shooting. I think it was quite clear that in those situations sometimes it's hard to get people to testify against the shooter, because there are either other people involved or, for what reasons that I think are very unfortunate, people don't want to share what they know with the police – and that's something we have to work to resolve in terms of building a deeper connection between police and community and getting more and more people to come forward. But the fact was, it was an important indicator of something being wrong. And finally – and I

think this is the part that has to be amplified in this discussion – if the district attorney is asking for six years, I think that was a very strong indication to the judge that the district attorney looked at that whole body of evidence and saw something there. I think that should've been weighed, from my point of view, more strongly. Marcia?

**Question:** [Inaudible]

**Mayor:** Yes, I think the fact is – again, we believe in the discretion of our judges and we respect their judgement – that's the role they play. But I think it simply says you have the right – you have the option to set a higher bail or determine no bail because you can look at all the factors. It defies common sense that a judge is not allowed to consider the dangerousness of the individual. That is a fundamental flaw in our law. And again, don't believe me. Believe the other 47 states, the District of Columbia, and the federal government – all of which give judges the right to look at dangerousness in the equation. I'm not sure I agree with you on the previous assumption because had this law been in effect, again, I think that judge might have been in the position to set either a bail or that could not have been reached economically or to say that it was not appropriate to have bail. So I don't think we can know that because this law wasn't there for that judge to work with.

**Question:** [Inaudible]

**Mayor:** Correct.

**Question:** [Inaudible]

**Mayor:** I don't think pressure is the right word, and I'm going to again – let me – I'm going to use my common sense terminology, and Zack and Liz can fill in the blank to give more refined legal terminologies here. What we're saying is – I think Zach said it perfectly. Imagine you're a judge and you're not allowed to consider the dangerousness of the person before you. That makes no sense. And this is something we've spoken about before. This is something that came up back at the end of last year – a case where an individual is making threats against the police and the judge was not allowed to consider those threats in the bail determination because there was no risk of flight evident. That makes no sense. So, it's not about pressuring judges. It's about empowering them and giving them tools and the right to look at the dangerousness of the individual and factor that into bail determinations and requiring that to be considered in terms of a diversion option. And I think what will happen is – I think this is the nature of the many, many good judges that we have. They look at a situation and they say, "This is borderline. I'm not sure I can be comfortable that this individual won't do an act of violence and won't keep committing crimes, and I'm worried this individual will not follow through on the orders. That's when you set a higher bail or obviously, particularly in cases of violence, you have the option of no bail. Do you want to add? Clarify? My layman's terms worked in that case? I was in the ballpark? Matt, yes?"

**Question:** [Inaudible]

**Mayor:** Of course.

**Question:** [Inaudible]

**Mayor:** I think the fact is that district attorneys provide – and I'm going to start again – non-lawyer – let the legal experts come in – district attorneys provide the judges with their guidance and their understanding based on a wealth of information. It is not any one thing. So, don't warp the situation here, respectfully. The pattern of criminal activity, the pattern of violating parole and probation – this is such a clear pattern. And again, if the reason this individual was not prosecuted for a gun violation is because the other people involved would not testify against him, it doesn't make it any less true that he had a gun and was using a gun. And that information was visible to the judge. So, I absolutely believe in fundamental constitutional rights but I also believe in common sense. And I think there was enough evidence there and I think the judge was getting a clear enough signal from the DA to handle this differently.

**Question:** [Inaudible]

**Mayor:** Let me offer –

**Question:** – rehab people –

**Mayor:** Let me offer a broad point and then again, I very much want Zach and Liz to come in and fill in the blanks here. We are – all of us united. And we're united with Judge Lippman. We are united with DA Vance in calling for a fundamental change. The broad strokes here have been talked about for quite a while. The head of our state judicial system has called for these kind of reforms. The – literally the number one person in our state judiciary has been calling for both types of reforms on the low end and the high end. It's time for action. We are not state legislators. It's up to the state legislature – we have a member here – Assembly Member Sepúlveda – to craft the legislation. And we'll certainly do all we can to support that process. I think what we're saying is, there are a lot of us who are asking Albany to act because it will change the reality on the ground. It will improve the work of our judges. It will improve the work of our prosecutors. It will improve the work of our police. We don't have – we're not putting before you final language. That has to be worked out with all of the stake holders, obviously particularly the Assembly and the Senate. But we're saying there's a broad consensus here and we're representing a lot of the different parts of the equation. And obviously, DA Vance and Judge Lippman are crucial pieces of the equation. We all agree that something needs to happen on both sides of the equation. We agree on the broad strokes of what it should be. As to what might be the examples of people who might qualify for diversion – who wants to jump in?

**Zachary Carter:** Again, that's going to be a subjective determination based on a judge's assessment of whether or not a particular candidate, based on their criminal history and whatever probation authorities – who have conducted a probation investigation of an offender – have present to the court whether or not this was a person who is likely to succeed in whatever program they are being diverted to and whether or not they will continue to live up to the terms of whatever the diversion program are. And there are a lot of factors that are going to be taken into account. You know, has this person – what is the quality of their criminal record? Has it been violent? Has it been nonviolent? The point of the proposed – the outlines of the legislation being proposed today is that courts are not currently, particularly with respect to bail, permitted to take dangerousness into consideration. In evaluating the risk of release, the only thing a judge is legally entitled to take into account is whether or not that defendant is going to return to court. And that program creates a certain culture and programs a certain reflex that says, well in the absence of an indication that this person is not going to appear, then I have no choice but to release him. And it carries over to the diversion context because there's no restriction in law in sentencing that doesn't permit judges to take dangerousness into consideration. But there's nothing that encourages them to do it either. And so, this is about, to some extent, changing culture and rebalancing the system so that when judges are making a judgment about whether or not someone is a likely candidate for a diversion program, they are allowed to and encouraged to take into consideration whether or not the risk of harm to the public outweigh the benefits of the diversion program.

**Roy Richter, President, Captains Endowment Association:** I just wanted to – Councilman Lancman brought up a good point. There's about two things, about bail and about the diversion program. A train wreck is not appropriate for diversion, and it's to the extent that this legislation provides some type of an element of common sense to a judge to make a decision especially when they have a submission from a district attorney that recommends a substantial penalty, that's a positive thing. It gets to be borderline insulting when you come after a tragedy, and the murder of a police officer, where we talk about legislation to make things better, but if things can move in a right direction, it's something that need to happen. The – you know, when you talked about, the person was convicted, not convicted – you know, who's appropriate for a diversion? There's a lot of city resources that get devoted to a person that's going to be in a diversion program. Are you going to give those resources to somebody that's arrested for buying, selling drugs, violent acts over a dozen times, or are you going to the kid that was locked up once or twice for possession? I think common sense would hold that you give it to the kid that was arrested once or twice, and you don't give it to a person, a murderer, who is looking to manipulate the system for a get-out-jail-free-card.



**Mayor:** Chair Lancman wanted to add something.

**Council Member Lancman:** Sure. Very quickly. The statute that's on the books that allows these drug court cases, that allows the diversions, is very, very narrow. It prohibits participants who have been convicted of a violent felony, I think, within the last ten years – people who are charged with currently a violent felony – but it needs to be made broader. It needs to be made clear that there are other public safety considerations that should be considered in terms of who is going to be diverted. It's not the case that drug courts are admitting people in diversion programs willy-nilly. I think less than half of the defendants who are recommended for screening for a drug diversion program were actually accepted. But right now, the limitations, the prohibitions, are just too narrow and they need to be made broader so that the kind of common sense considerations that the mayor was talking about, that Roy is talking about, can also be factored.

**Mayor:** Thank you. Let me just let Assembly Member Sepulveda speak to this, and then we'll take a few more.

**Assembly Member Luis Sepulveda:** First of all, I want to congratulate the mayor, the speaker, and everyone here for their efforts to reform the bail system now. As a member of the legislature, I represent one of districts that has a high level of crime, and if any district and the individuals that are impacted greatly, on the both ends, on the low end and the high end, it's the community that I represent. I am also a member of the Black, Hispanic, and Asian Caucus, and we've been talking about criminal justice reform for some time now, working with the mayor's office, the speaker, to reform the bail system and other systems in this state. Now, let me tell you, I've spoken with individuals in my district who are impacted on both ends of the spectrum. People who have family members that have been in prison for far too long for low level offenses, young men and women who think the scarlet letter make it hard for them to succeed in life in the future. But I can tell you, that in my discussion in the last couple of days with constituents of my district, there wasn't a single person, not a single person, who doesn't agree with the concept that we should take the potential for violence, the potential for danger of a person who is before the criminal justice system, and that a judge should take that into effect. Now look, judges are given the assignment to run our criminal justice system in the courts, and they will make mistakes. But I believe this piece of legislation will make a great difference. I believe the members of the Black, Puerto Rican, Hispanic and Asian Caucus will favor this legislation. I've spoken with some of my colleagues, who think this is a great idea and it's an idea that will impact our communities who were victimized by these individuals who are arrested time and again, and go back into the community, and commit more crimes, and victimize the community. So, thank you very much for your efforts.

**Mayor:** Thank you, thank you. Azi?

**Question:** Two questions – have you spoken with governor Cuomo and the Assembly Leader Heastie about these changes? And secondly, given how Albany sometimes doesn't act as quickly as the city wants, is there anything that new York City Police officers or city government can while these state laws are currently in place that as [inaudible] said, has put new New Yorkers [inaudible]?

**Mayor:** On the first question, we've just begun reaching out to the stakeholders in Albany. We'll certainly talk to all the key players in Albany. And I think, as you heard from the Assembly Member – I think a lot of them already believe that these changes are needed. And I think we'll find a lot of voices from the city. But again, the voice that we should be paying attention to first is the chief judge of the state who has already called for these things, and I think there's a figure held in tremendous regard all over the state. So we're looking forward to those discussions and figuring out how we can all work together to make these changes. On the second question – look, we need the law change, again, Zach and Liz can add anything here. We need the law change for judges to have the discretion in the case of bail and to ensure that dangerousness is considered in the case of diversion. We can't do that without a law change. We'll continue the work on the other side of the equation, because I've said very clearly we have a national problem and a history of mass incarceration that included many, many people who should never have been in jail or prison, and certainly should not have been as long as they were in many cases, and we are doing some things here in this city to fundamentally change that reality – we'll continue to do that. But on the high end of the scale, where the hardened, violent, consistent criminals reside, this a

conversation we've been having for a long time with our weekly meetings I have with Commissioner Bratton and his leadership team. The frustration that they have that they see these hardened criminals who somehow manage to evade the justice system consistently. Liz Glazer has been leading our effort to work with judges, to work with DAs to tighten up in every way possible. But one of the big sticking points is that this law doesn't allow the judges the proper discretion. So, we can't get where we need to go without the law changed.

Final question. Yeah.

**Question:** Mr. Howard, even if he hadn't been sent to the drug diversion program, would've – there was a plea deal for him to go to jail for two years. And then he would've been out again, but – theoretically – but you're suggesting that he is a hardened, violent, irredeemable criminal. How does this in any change or address the fact that you're saying he's not a person who should live in society?

**Mayor:** I'm not sure I follow your question. This is a clear pattern of criminal activity and a clear pattern of violating the parole and probation orders, and, in fact, had the law been changed, I think the outcomes could've been very different. And I think the fact that the DA was asking for six years, again, is a crucial part of this equation. If you're saying, well, there's a violent criminal and at some point they finish their prison term and they're still a danger to us, that is a real problem in our society, but the bottom line here is if this had – if this law had been changed, if all along the way, criminals like Mr. Howard were addressed differently, I think you would've seen escalating penalties. And, again, I'm speaking as a layman – Zach and Liz can come in and clarify. But I think what you see here – and I wish I could say this was the only case I've seen this in, but I spend a lot of time going over such cases with Commissioner Bratton and Chief O'Neill and Deputy Commissioner Dermot Shea for operations – there is a pattern of these kind of cases where more and more criminal activity does not lead to more and more consequences, and that's where I think the system's fundamentally broken. Someone who committed this many crimes in this clear a pattern should've been subject to higher and higher consequences each time. It was inconceivable to me that someone like this should've been on the street. Some people are irredeemable. I'm a progressive person, I'm a humanitarian, but I can also tell you some people are irredeemable, and unless they are treated very, very differently, they pose a danger to our society and we have to look that in the face.

Do you want to add? Liz? Zach?

Okay. With that, thank you, everyone.

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