



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

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CONTACT: pressoffice@cityhall.nyc.gov, (212) 788-2958

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

Mayor also calls for state law to add public safety risk consideration to bail and diversion decisions

Council Speaker Mark-Viverito, Manhattan DA Vance, elected officials join call for state law changes

NEW YORK—Mayor de Blasio today announced he is calling for two key changes to state law that would provide judges with more tools to ensure that dangerous defendants are not released to the street. The Mayor called for a change in state law to allow judges to consider public safety risk in determining an individual's bail amount. Currently, New York State is one of three states that does not allow judges to consider dangerousness when setting bail. The Mayor also called for public safety risk and flight risks to be considered when a judge determines whether an individual is eligible for a diversion program, neither of which is currently required for consideration.

"The death of Officer Randolph Holder was a clear and tragic signal that we must ensure dangerous individuals with long criminal histories do not walk our streets. Yet as the law stands, judges can only consider risk of flight when determining a bail amount. Our judges must be able to look at how dangerous someone is when they decide how much bail is set – and should look at these factors when they decide whether to divert someone away from jail. If someone poses a significant threat to our city's safety, they must be behind bars – and today's announcement is a strong step toward keeping our residents, and our hardworking officers, safe from harm," said **Mayor Bill de Blasio**.

"Judges have very complicated and complex jobs—and we need to ensure that they have everything they need to make smart and thoughtful decisions," said **City Council Speaker Melissa Mark-Viverito**. "We want to make our criminal justice system more fair, just and continues to keep people safe – and the City Council is working hard towards that goal. That is why this proposed legislation is common sense. It will help us keep people safe while also striking the important balances we're looking for. I am very confident that we can work with our colleagues in Albany to get this done and I am looking forward to getting to work."

"Most New Yorkers are surprised to learn that judges cannot consider dangerousness or risk of re-offense when setting bail for a defendant," said DA Vance. "For years, prosecutors and judges have advocated changing New York's bail statute to mirror nearly every other state. At a time when we are looking at ways to make reforms to our bail system, this is a reasonable change that balances public safety with fairness for defendants. I urge our lawmakers to take action on this much needed and important reform," said **Manhattan DA Cyrus R. Vance, Jr.**

"This administration has been very clear: dangerous people should be detained and people who do not pose a risk should be released," said **Elizabeth Glazer, Director of the Mayor's Office of Criminal Justice**. "Current state law leaves us vulnerable. We need to change the bail and diversion statutes to give judges the tools to evaluate public safety risk when deciding how and whether to set bail or place someone into diversion. Risk must be the factor that determines whether someone is detained or released."

Currently, judges can only consider risk of flight when setting bail. State law states that the court “must consider the kind and degree of control or restriction that is necessary to secure his court attendance when required.” The Mayor is calling for the addition of language to the statute requiring a judge to consider whether a defendant poses a danger to the community when deciding how much bail is set. This would allow judges to make more informed and accurate decisions about who should be detained and released, and allow judges to see results of validated risk-assessment tools that have been shown in other states to predict public safety risk accurately.

Tyrone Howard, the individual being held responsible for killing a New York City police officer, paid his bail, which was set at \$35,000. Howard had an extensive history of drug felonies and misdemeanors. The judge could have made a different bail decision if he were able to consider Howard’s extensive criminal history as an element of dangerousness. Criminal history is a major component of validated risk assessment tools that have been shown in other jurisdictions to accurately predict whether a defendant will re-offend if released.

The Mayor is also calling for the addition of dangerousness and risk of flight to the state judicial diversion statute. Current law does not require judges to consider either of these factors. Rather, current law that governs who is eligible for diversion requires the exclusion of certain defendants based on current charge and prior offenses and allows a judge to consider any relevant evidence—without requiring judges to consider dangerousness or risk of flight. The Mayor, Manhattan DA and Speaker are calling for a stronger law that requires judges to consider these two factors.

Today’s call for a change to state law builds upon New York City’s history of leading the nation in pre-trial justice reform. Earlier this month, the administration launched [The Bail Lab](#), an initiative that aims to solve the problems that plague the current money bail system in the near term, while the City works to change state law. The City is also working to avoid unnecessary detention on bail for low-risk people by expanding supervised release citywide, supporting Council Speaker Melissa Mark-Viverito’s creation of a citywide bail fund, and working with the Council to create eligibility criteria to ensure this valuable program is safely administered. And the de Blasio administration’s Justice Reboot initiative has made significant progress in cutting case delay and ensuring that felony cases move efficiently through the courts. The strategy announced today advances the administration’s work to ensure that all components of the City’s pre-trial system effectively protects public safety and increase fairness.

"I applaud the Mayor, City Council Speaker and Manhattan DA for calling on the Legislature to correct our state's bail statutes to allow judges to consider a defendant's risk to public safety when making a bail determination – something I have long been urging," said **Chief Judge Jonathan Lippman**. "This common sense safeguard is a critical part of a judge's bail decision in virtually every other state. Unfortunately it sometimes requires a tragedy such as the recent shooting of a police officer to focus attention on glaring deficiencies in the law. I am hopeful that we can now achieve this essential reform. "

"It simply makes no sense that public safety risk is not a consideration for judges in setting bail or diverting someone away from jail. This gap in our state law is at best a black eye on our criminal justice system and at worst a deadly risk for innocent New Yorkers," said **Brooklyn Borough President Eric A. Adams**. "We should be handcuffing dangerous criminals, not judges. I urge Governor Cuomo and the New York State Legislature to right this terrible wrong immediately."

"The current New York state bail guidelines are a quagmire that compromise the efficacy of our criminal justice system and public safety," said **Assembly Member Michael Simanowitz**. "This is not the first time that one of our city’s bravest became a victim as a result of our bail laws, but we can work to ensure it is the last. I introduced legislation in 2012 that would authorize detention when a defendant presents a clear danger to society – an amendment that is long overdue in this state. I commend the Mayor’s effort to draw attention to this important issue and hope that my colleagues in Albany will join us in this cause."

“I welcome any reforms to a justice system that would prevent violent, career criminals like Tyrone Howard from slipping through the cracks. Judges should have all of the tools available to ensure that people like Howard are not free to harm others,” said **City Council Minority Leader Steven Matteo**.

Council Member Rory Lancman, Chair of the Committee on Courts and Legal Services, said “Our bail system is dysfunctional and dangerous – dangerous to the public, who cannot be protected because New York law literally prohibits judges from considering a defendant’s danger to the community when determining bail; and dangerous to too many low-level, nonviolent defendants who get sent to Rikers at enormous taxpayer expense because they can’t pay \$500 or \$1,000 in bail. Mayor de Blasio’s support for allowing judges to remand potentially dangerous defendants to custody while they await trial is exactly the right decision, and builds on his previous commitment to expand supervised release programs for nonviolent defendants, the Council’s commitment to establish a bail fund for low-level, nonviolent offenders, and Chief Judge Lippman’s commitment to more closely scrutinize judicial bail decisions.”

“For the safety of our community it is imperative judges are able to consider the risk an individual poses to the public when determining their bail. We rely on judges to be the gate keepers of the criminal justice system; we expect them to keep those with violent tendencies off the street and devise appropriate punishment for less dangerous offenders. But when judges do not have the authority to consider public safety risk, this system breaks down. Especially in light of the tragic loss of Police Officer Holder, I urge my colleagues in Albany to take swift action on this matter and thank Mayor de Blasio and Speaker Mark-Viverito for their attention to such an important issue,” said **Council Member Vanessa Gibson, Chair of the Committee on Public Safety**.

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