

Open Letter to Governor Cuomo: Principles for Bail Overhaul in 2019

December, 2018

Dear Governor Cuomo,

We write today as a statewide community fighting on the front lines to end a bail system that fuels discrimination and mass incarceration across our state. We are directly impacted people, grassroots organizations, public defenders, civil rights and civil liberties groups, faith leaders and advocates who know that the time to overhaul New York's bail law is *now*. On any given day last year, over 16,000 New Yorkers sat in jail because they could not afford bail.¹ Current bail practices violate the most basic protections of our legal system, wreak havoc on the lives of impacted people, and coerce plea deals. As Governor, you have acknowledged the systemic injustices of New York's bail system. Yet, today, bail practices continue to fuel the state's mass incarceration crisis and drive racial and economic disparities.

In September, you [called for an end to cash bail](#). While we are encouraged by this commitment to action, we know that ending cash bail is not enough. We cannot abide legislation that maintains other for-profit influences or replaces money bail with mass community surveillance, racially-biased risk assessment instruments, or an expansion of "preventative" detention. Instead, any bail legislation must result in a vast decrease in the number of people incarcerated pretrial, an end to wealth and race-based jailing and true due process protections. **Decarceration must be a central priority of your bail reform efforts.**

To achieve these outcomes, we urge you to adhere to the following critical principles for bail reform in your FY 2020 Executive Budget Proposal:

- **Guarantee pretrial liberty for the greatest number of people.**
 - Expand the use of Desk Appearance tickets (DATs), which would prevent time spent in jail;
 - Mandate release without conditions for the vast majority of people, including, at a minimum, people accused of misdemeanors and nonviolent felony offenses; and
 - Ensure a universal presumption of release pretrial.
- **End wealth-based incarceration and eliminate all costs or financial obligations for release.**
 - Eliminate for-profit influences, including the use of commercial bail bonds;
 - Prohibit the use of for-profit pretrial agencies or services; and
 - Ensure that no one is required to pay for the conditions of their release.
- **Eliminate pretrial jailing for all but a narrow subset of cases and ensure robust due process protections.**
 - Prohibit pretrial incarceration for the vast majority of people;
 - Require an evidentiary hearing within 2 days of arraignment that includes a clear and convincing standard and full discovery turnover;

¹ Department of Criminal Justice Services (DCJS), "Jail Population Report," http://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf (2017).

- Ensure that judges always have discretion to release people, regardless of charge or motion by prosecution; and
- Set strict speedy trial requirements that mandate the release of any detained person if their trial does not begin within the allowable period.
- **Vastly limit the use of carceral technologies and ensure due process protections for anyone potentially subject to electronic monitoring, or any other conditions that restrict one’s liberty.**
 - Prohibit the use of electronic monitoring except for people otherwise subject to pretrial incarceration; and
 - Require due process protections for individuals potentially subject to restrictive conditions of release.
- **Reject calls for the addition of broad, generalized “dangerousness” considerations as well as related risk assessment instruments.**
 - Do not add consideration of a person’s future “dangerousness” or general risk of re-arrest to the bail statute, as this would perpetuate structural racism and invite judges to indulge implicit biases; and
 - Disallow the use of risk assessment instruments that claim to predict a person’s future “dangerousness” as these instruments codify and reinforce racial disparities.
- **Require court appearance alerts.**
 - Ensure court reminders in the forms of text messages, telephone calls, electronic mail, or first class mail in advance of scheduled court appearances.
- **Require robust data collection and sharing of all data points related to pretrial processes.**
 - Require the collection and reporting of data on the number of people released (including the conditions imposed), the number of individuals in custody prior to trial, the length of stay, and other related information, disaggregated by county, judge, the racial and ethnic background and gender of the accused, and the top charges.

The current political landscape, lessons learned from bail reform efforts across the country, and unprecedented grassroots momentum have created a unique and powerful opportunity for New York to lead in the movement to end mass pretrial jailing without replacing our current unjust system with racially-biased risk assessments or mass community surveillance.

We appreciate your attention to this crucial matter.

Signed,

[Listed alphabetically, 138 organizations as of December 5, 2018]

1. Action Together Rochester (Rochester, Monroe County)
2. The Ali Forney Center (New York City)
3. Alliance for Quality Education (Statewide)
4. Antioch Baptist Church - Bedford Hills (Westchester County)
5. Beacon Prison Action (Beacon, Dutchess County)
6. Bend the Arc Jewish Action New York (Statewide)

7. Black Lives Matter - Hudson Valley (Hudson Valley)
8. Black Love Resists in the Rust (Buffalo, Erie County)
9. BronxConnect (New York City)
10. Bronx Defenders (Bronx, New York City)
11. The Bronx Freedom Fund (Bronx, New York)
12. Brooklyn Defender Services (Brooklyn, New York City)
13. Brooklyn Movement Center (Brooklyn, New York City)
14. Brooklyn Community Bail Fund (Brooklyn, New York City)
15. The Brotherhood/Sister Sol (New York City)
16. Capital Area Against Mass Incarceration (CAAMI) (Albany)
17. Center for Community Alternatives (Statewide)
18. Center for Law and Justice (Albany)
19. Center for Media Justice (National)
20. Center for Safety & Change (Rockland County)
21. Chief Defenders Association of New York (Statewide)
22. The Children's Village (Statewide)
23. Citizen Action of NY (Statewide)
24. Civil Rights and Liberties Committee of the New York County Lawyer's Association (New York City)
25. Coalition for Educational Justice (Statewide)
26. College and Community Fellowship (New York City)
27. Color of Change (National)
28. The Correctional Association (Statewide)
29. Corrections Accountability Project (National)
30. Decarcerate Tompkins (Ithaca, Tompkins County)
31. Elias Foundation (Westchester County)
32. Enough is Enough (Rochester, Monroe County)
33. Faith in New York (New York City)
34. Federal Defenders of New York (Statewide)
35. First Presbyterian Church of Brooklyn (Brooklyn, New York City)
36. Getting Out & Staying Out (New York City)
37. Glory House International (Rochester, Monroe County)
38. Greater New York Labor-Religion Coalition (Statewide)
39. Harm Reduction Coalition (Statewide)
40. HousingPlus (New York City)
41. Immigrant Defense Project (New York City)
42. Incarcerated Nation (New York City)
43. Innocence Project (National)
44. Interfaith Impact of NYS (Statewide)
45. Interfaith Prison Partnership (Westchester County)
46. Irvington Activists (Irvington, Westchester County)
47. Jewish Voice for Peace-NYC (New York City)
48. John Brown Lives! (Westport, Essex County)
49. Judson Memorial Church (New York City)
50. Justice and Unity for the Southern Tier (Broome County)
51. The Justice Ministries Committee of the NYC Presbytery (New York City)

52. JustLeadershipUSA (Statewide & National)
53. The Katal Center for Health, Equity and Justice (National)
54. Labor-Religion Coalition of New York State (Statewide)
55. LatinoJustice PRLDEF (National)
56. Legal Aid Society (New York City)
57. Legal Aid Bureau of Buffalo, Inc. (Buffalo, Erie County)
58. Long Island Progressive Coalition (Long Island)
59. LPS/LIFE Progressive Services Group Inc. (Mount Vernon, Westchester County)
60. Madison County Bail Fund, Inc. (Madison County)
61. Metro Justice (Rochester, Monroe County)
62. Micah 6:8 Social Justice Advocacy of the Greater Allen AME Cathedral of NY (New York City)
63. Milk Not Jails (Statewide)
64. MomsRising (National)
65. NAACP New York State Conference of Branches (Statewide)
66. NAMI Huntington (Huntington, Suffolk County)
67. NAMI NYS Criminal Justice Committee (Statewide)
68. National Action Network (National)
69. Nassau County Jail Advocates (Nassau County)
70. The National Council for Incarcerated and Formerly Incarcerated Women and Girls (National)
71. Nazareth College Jail Project (Rochester, Monroe County)
72. Neighborhood Defender Services (New York City)
73. New Hour for Women and Children (Long Island)
74. New Beginnings Apostolic Faith Church (Rochester, Monroe County)
75. New York Communities for Change (Statewide)
76. New York County Defender Services (New York City)
77. New York Association of Psychiatric Rehabilitation Services (Statewide)
78. New York Civil Liberties Union (NYCLU) (Statewide)
79. New York Immigration Coalition (Statewide)
80. New York Lawyers for the Public Interest (Statewide)
81. New York State Council of Churches (Statewide)
82. New York State Prisoner Justice Network (Statewide)
83. NYCAIC #HALTsolitary Campaign (Statewide)
84. NYC Anti-Violence Project (New York City)
85. NYC Jericho Movement (New York City)
86. Parole Prep Project (New York State)
87. Partnership for the Public Good (Buffalo, Erie County)
88. Policing and Social Justice Project at Brooklyn College (Brooklyn, New York City)
89. Prison Abolitionists of Nassau Inciting Change (Nassau County)
90. Prison Families Anonymous, Inc. (Nassau County)
91. Prison Writes (New York City)
92. PUSH Buffalo: People United for Sustainable Housing (Buffalo, Erie County)
93. Race Unity Circle (Poughkeepsie, Dutchess County)
94. Release Aging People from Prison Campaign (RAPP) (Statewide)
95. Resurrection Healing and Deliverance Center (Rochester, Monroe County)

96. Rikers Debate Project (New York City)
97. Rise Up Kingston (Kingston, Ulster County)
98. Riverside Church (New York City)
99. Robert F. Kennedy Human Rights (National)
100. The Rochester Decarceration Research Initiative (Rochester, Monroe County)
101. Rockland Coalition to End the New Jim Crow (Rockland County)
102. Rockland County Pride Center (Nyack, Rockland County)
103. Rockland Immigration Coalition (Rockland County)
104. Roc/ACTS (Rochester, Monroe County)
105. ROCitizen (Rochester, Monroe County)
106. Second Chance Re-entry (Long Island)
107. Showing Up for Racial Justice (SURJ) - Buffalo (Erie County)
108. Showing Up for Racial Justice (SURJ) - NYC (New York City)
109. Showing Up for Racial Justice (SURJ) - Westchester (Westchester County)
110. Silent Cry, Inc. (New York City)
111. St. Ann's Corner for Harm Reduction (New York City)
112. STEPS to End Family Violence (New York City)
113. STRONG Youth, Inc. (Uniondale, Nassau County)
114. Students for Prison Education and Reform (Princeton, New Jersey)
115. Students for Sensible Drug Policy (National & Statewide)
116. SURJ ROC (Rochester, Monroe County)
117. Theatre of the Oppressed NYC (New York City)
118. Transforming Lives (Cold Spring, Putnam County)
119. Trinity Church Wall Street (New York City)
120. T'ruah: The Rabbinic Call for Human Rights (Statewide & National)
121. Unite Christian Leadership Ministry – Justice Taskforce (Monroe County)
122. United Voices of Cortland (Cortland County)
123. Urban League of Westchester County (Westchester County)
124. Village Zendo (New York City)
125. VOCAL-NY (Statewide)
126. Wayne Action for Racial Equality (Wayne County)
127. WESPAC Foundation (Westchester County)
128. Westchester Children's Association (Westchester County)
129. Westchester Coalition Against Islamophobia (Westchester County)
130. Westchester for Change (Westchester County)
131. The West Side Commons (New York City)
132. When People Work (Saratoga Springs, Saratoga County)
133. WNY Peace Center (Buffalo, Erie County)
134. Women's Community Justice Association (New York City)
135. Women's Decarceration Practicum at Cornell Law School (Ithaca, Tompkins County)
136. Women's Prison Association (Statewide)
137. Working Families Party (Statewide)
138. Youth Represent (New York City)

For more information, or to sign on, contact:

Katie Schaffer, JustLeadershipUSA

Katie@justleadershipusa.org • 347-454-2195