

February 11, 2020

Hon. Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Hon. Andrea Stewart-Cousins
Democratic Leader, New York State Senate
188 State Street LOB - Room 907
Albany, NY 12247

Hon. Carl Heastie
Speaker, New York State Assembly
New York State Capitol Room 349
Albany, NY 12247

Dear Governor Cuomo, State Senate Majority Leader Stewart-Cousins, and Assembly Speaker Heastie:

The undersigned groups stand united in resolute opposition to any changes to the pre-trial bail statute, particularly any amendments that would allow judges to preemptively detain people based on predictions of so-called “dangerousness.” By definition, such a system, which has been continuously and rightfully rejected in New York State since the 1970s, would ensure that innocent people are locked up in jail pre-trial and would exacerbate racial disparities in local jails. We cannot tolerate that.

No one—not even a judge—has the ability to predict the future. Judges are human beings, subject to the same individual and unconscious biases as anyone else. It is impossible to know anyone’s potential for committing a crime in the future, and any attempt to do so, especially while utilizing charged words like “dangerous,” is especially troubling since this country’s understanding of criminality has been infused with racism since the time of slavery. Adding “dangerousness” to the bail law would codify racial profiling into pre-trial detention decisions. It is an invitation for bias. Allowing a judge to lock someone away based on speculation and guesswork, under the guise of “discretion,” will not make anyone safer. It will, however, stifle real bail reform by exacerbating racial disparities in the justice system and increasing pre-trial detention across the state.

So-called Risk Assessment Instruments (RAIs) are not the solution; they are part of the problem. RAIs do not assess “risk”, but rather profile a person based on the actions of others with similar characteristics. The algorithms used in RAIs are based on data drawn from historically racist policing and prosecution practices, including, for example, from the era of Stop and Frisk in New York City and the War on Drugs, as well as housing and other data that are deeply influenced by poverty and other factors. Detaining someone based on an algorithm that spits out a score of supposed future “risk” will only reinforce and cement the racism that New York’s new pre-trial reforms are designed to combat.

So-called “dangerousness” assessments and predictive algorithms have never been proven to achieve public safety. There is no evidence that risk assessments accurately predict future likelihood to commit a crime. Moreover, there are many subjective elements built into these supposed objective tools. What is considered “high risk” is actually a subjective decision by a policymaker of whatever likelihood of risk they see is unacceptable. In many of these assessments, a very small risk of offending, as low as 5 or 6%, is considered “high risk”. In essence, these tools are used to legitimize jailing people who have not had a trial and have not been convicted of a crime. They actually remove accountability from the judge because they appear to be unbiased and allow the judge to jail Black and Brown people without having to feel that they are being biased.

People of color would overwhelmingly bear the brunt of this misguided approach. According to a 2016 study, Black people were twice as likely as white people to be misclassified as “high risk.” White people, meanwhile, were misclassified as low risk 63.2 percent more often than Black people. A similar 2019 study from MIT concluded that pre-trial risk assessments “do not guarantee or even increase the likelihood of better pre-trial outcomes” and thus will “simply shift or obscure problems with current pre-trial practices.” Risk assessments work to solidify, not reduce, existing racial disparities. And governments are finding that these so-called “predictive” crime tools are little more than digital snake oil--they simply recycle past policing practices and are ineffective at keeping our communities safe.

January 1, 2020 marked a historic day in New York State. After years of thoughtful debate and deliberation that included impacted people, faith leaders, public defenders and other experts, lawmakers and law enforcement, New York State finally enacted pre-trial reforms to help eliminate race- and wealth-based detention and move to a fairer and more just system. The impact is significant: tens of thousands of New Yorkers will no longer sit in jail for weeks, months or even years because they can’t afford to buy their freedom. People are able to keep their jobs, take care of their families and face their charges while pursuing their lives rather than having everything pulled out from under them. During this time, they have a chance to obtain assistance for medical, addiction, mental health and other issues, all of which give them far better odds for a positive outcome on their case and in their lives.

Even before the new laws took effect, we saw shamelessly misleading fear-mongering by law enforcement designed to pressure you to roll back these life-giving laws and return us to the laws that enabled mass pre-trial jailing. The baseless fears they spread and on which they capitalize are rooted in racism and dehumanization of people in poverty. Recent calls to provide judges with “discretion” to incarcerate the very people who are now spared this brutal punishment unless they are convicted under the new law are nothing more than an attempt to reverse declines in county jail populations and to fill jails with Black and Latinx people and people in poverty. Any attempt to appease these calls would be a clear capitulation to cynical and baseless attacks – and ultimately to the rhetoric of white supremacy, from which the messaging about “dangerousness” comes.

The State’s new pre-trial reforms are a vital step forward towards a more just and fair New York. Lawmakers should do everything in their power to keep us on that path. We urge you to

stand by the laws you and your conference members worked so hard to pass. We know that it takes courage to stand up to the bullying and lies being generated by opponents of reform. We know that their message is powerful and difficult to counter, because it feeds into the general atmosphere of fear fomented by District Attorneys and law enforcement clinging desperately to their fleeting power to uphold mass incarceration. We know that these messages of fear can sometimes consume the public. However, we also know that bail reform is right. And, as Rosa Parks said: “You must never be fearful about what you are doing when it is right.”

Sincerely,

A Little Piece of Light	Statewide
A.A. Castro C.L.A.N. PLLC	Statewide
Action Together Rochester	Rochester, NY
ALAA (UAW Local 2325)	Statewide
Albany Social Justice Center	Albany, NY
Allegany County Public Defender	Rural Western New York
Amawalk Religious Society of Friends	Yorktown, NY
American Friends Service Committee	NYC
Amnesty International Brooklyn Local Group 27	Brooklyn, NY
Amnesty International USA	National/International
Anti Torture Initiative INC	New York (NY)
AntiRacist Alliance	NYC
Barriers Know More Poverty Prevention Foundation	Rochester International
Beacon Prison Action	Hudson Valley
	National (we have NY chapters on Long Island and in the Bronx)
Bend the Arc: Jewish Action	Black Lives Matter Of Greater New York
Black Lives Matter Of Greater New York	NEW YORK
Brooklyn Community Bail Fund	Brooklyn
Brooklyn Community Foundation	Brooklyn
Brooklyn Defender Services	NYC
Brooklyn Movement Center	Brooklyn
Brooklyn NAACP	Capitol Region
Brust-Maldonado Recovery Services	Buffalo NY
Buffalo Anti Racism Coalition	NY statewide
Campaign for New York Health	DC
Campaign for Youth Justice	

Campaign to End the New Jim Crow	New York State (NYS)
Capital Area Against Mass Incarceration	Albany, NY
Center For Community Alternatives	Statewide
Center for Law and Justice	Albany
Chemung County Public Advocate's Office	Elmira
Chicago Community Bond Fund	Illinois
Chief Defenders Association of New York	Statewide
Children's Rights	NYC
Citizen Action of NY	Statewide
Citizen Action of NY - Capital District Chapter	Albany
Civil Rights Corps	Washington, DC
Close Rosie's	NYC
Coalition for Economic Justice	Buffalo
College and Community Fellowship	National and NYS, NYC
Color Of Change	National
Community Service Society	NYC
Congregation Beth Elohim Dismantling Racism Team	Brooklyn, NY
Cooperation Buffalo	Buffalo
Correctional Association of New York	New York City
D.U.E.C.E.S. Inc.	New York City
David Fletcher	Mt Vernon
Deirdra Jeneva Brown, 18B attorney	Dutchess County
Dignity & Power Now	Los Angeles, CA
Drug Policy Alliance	National
DTruth Unlimited	South Ozone Park. NY
Embrace RECOVERY and Re-Habilitation Services Inc.	Rochester, NY
Empire State Indivisible	NYC
End New Jim Crow Action Network (ENJAN)	Hudson Valley
Enough is Enough	Rochester
Episcopal Peace Fellowship - Western New York	Buffalo, NY
Exodus Transitional Community	NYC
Experiencing God Ministries	Brooklyn, NY
Families For Sensible Drug Policy	Global
Fedcap Inc.	New York

First Presbyterian Church of Brooklyn	Brooklyn NY
First Unitarian Church of Rochester	Rochester
First Universalist Church	Rochester
Friends of Island Academy	New York City
FWD.us	National
Galinsky Coaching	Manhattan
Genesee County Public Defender	Batavia, New York
GMHC (Gay Men's Health Crisis)	NYC
Greater New York Labor Religion Coalition	NYC
Greenburger Center for Social and Criminal Justice	New York City
Harm Reduction Coalition	statewide
Housing Works	NYC
Immigrant Defense Project	NYC
Incarcerated Nation Network INC	New York
Indivisible Nation BK	Brooklyn
Innocence Project	National
Interfaith Impact of NYS	Statewide
Inwood Indivisible	NYC
It Could Happen To You	Rochester
Ithaca Prisoner Justice Network	Ithaca, Tompkins County
Jim Owles Liberal Democratic Club	New York City
Justice and Unity for the Southern Tier	Broome County
Justice for Families	National
JustLeadership USA	National
Katal Center for Health, Equity, and Justice	NYC, Capitol Region
Labor-Religion Coalition of NYS	Statewide
Legal Action Center	New York City
Legal Aid Bureau of Buffalo	Buffalo
The Legal Aid Society of New York	New York City
Long island progressive coalition	Long island
LPS/LIFE Progressive Services Group Inc	NY - New York
Make the Road New York	New York City, Westchester, Long Island
Massachusetts Avenue Project Inc.	Buffalo
Media Mobilizing Project	Philadelphia, Pennsylvania

MomsRising	National
Monroe County Public Defender's Office	Rochester
Morningside Heights Resistance	New York City
NAMI	Huntington
National Lawyers Guild, Mass Incarceration Committee	New York City
Neighbors Against White Supremacy (NAWS) Central Queens	Queens, New York City
New Hour for Women & Children —LI	Long Island
New York Campaign for Alternatives to Isolated Confinement	NYC
New York Civil Liberties Union	Statewide
New York Communities for Change	New York City, Long Island
New York County Defender Services	New York City
New York Immigration Coalition	statewide
New York State Association of Criminal Defense Lawyers	Statewide
New York State Council of Churches	Statewide
New York State Defenders Association	Statewide
New York State NAACP	Statewide
New York State Poor People's Campaign	Statewide
New York Working Families Party	Statewide
North Bronx Racial Justice	Bronx
Northeast Save The Kids	Buffalo NY
New York City Jericho Movement	New York City
NYC Metro Raging Grannies	New York City
Oneida County Public Defender, Criminal Division	Oneida County
Open Buffalo	Buffalo
Osborne Association	NYC, Newburgh, Buffalo
Park Avenue Christian Church	New York City
Partnership for the Public Good	Buffalo
Philadelphia Bail Fund	Philadelphia
Police Accountability Board Alliance	Rochester NY
Presbytery of New York City	New York City
Pretrial Justice Institute	National
Prison Action Network	Capital District
Prison Families Anonymous	Long Island, New York
Prison Policy Initiative	national

PRISON WRITES	Statewide
Prisoner Reentry Institute at John Jay College	New York City
Prisoners Are People Too, Inc.	Buffalo, New York
PS125 PTA	New York City
Public Justice Center	Maryland
Pursuit of Dreams INC	White Plains NY
PUSH Buffalo	Buffalo, New York
Race Unity Circle	Poughkeepsie, NY
Racial Literacy Groups	New York City
Real Justice PAC	National
Release Aging People in Prison Campaign	statewide
Rikers Debate Project	National
Rise Up Kingston	Hudson Valley
Robert F. Kennedy Human Rights	New York, National
RocACTS	Rochester
Rochester Alliance of Communities Transforming Society, Inc. (ROCACTS)	Rochester, NY
Rochester Decarceration Research Initiative	Rochester
ROCitizen	Rochester
Rockland Immigration Coalition	Rockland County
Rockland United	Rockland County
S.T.R.O.N.G. Youth, Inc.	Long Island
SBK Social Justice Center Inc	Hudson Valley
Schoon Law Firm	Texas
Second Chance Reentry	Nassau County
Showing Up for Racial Justice (SURJ) NYC	New York City
Silent Cry, Inc	New York
Social Justice Action, Oratory of St. Boniface	Brooklyn
Social Workers Against Solitary Confinement	NY
SparkAction	National (Brooklyn-based)
St. John's-Grace Episcopal Church	Buffalo, NY
SURJ ROC (Showing Up for Racial Justice)	Rochester NY
T'ruah: The Rabbinic Call for Human Rights	National, based in NYC
The #HALTsolitary Campaign	Statewide

The Bronx Defenders	Bronx
The Bronx Freedom Fund	NYC (Bronx, Queens)
The Brotherhood/Sister Sol	New York City
The Chief Defenders Association of New York	Statewide
	Rochester, Buffalo, Syracuse
The P.A.S.S. The Positive Aggression Support System	New York City
The Village Zendo	Buffalo, NY
The WASH Project	Brooklyn
Trellis	Binghamton, NY
Truth Pharm	Rochester, NY
TURNING POINTS RESOURCE CENTER	Cortland
United Voices of Cortland	New York City
Uptown Progressive Action	Bronx
VIP Community Services	Statewide
VOCAL-NY	Westchester County
WESPAC Foundation, Inc.	Westchester County
Westchester for Change	Buffalo
Western New York Peace Center, Prisoners' Rights Task Force	Brooklyn, NY
WHARR, Women's Health and Reproductive Rights	New York City
Witness to Mass Incarceration	Buffalo
WNY Campaign for Alternatives to Isolated Confinement/HALT Solitary Campaign	Buffalo
WNY Peace Center	New York City
Women & Justice Project	New York City
Women's Community Justice Association	New York City
Women's Prison Association	National
Worth Rises	Los Angeles
Youth Justice Coalition	Statewide
YVote/Next Gen Politics	