March 18, 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:

Court Watch NYC stands in opposition to any changes, rollbacks, or so-called “tweaks” to the bail statute through the budget or any other means. Bail reform, which has only been in effect for a few months, was enacted to bring some justice to a legal system that unjustly targets Black, brown, indigenous, immigrant/migrant, queer, and TGNC communities. The state must honor its commitment to public safety and public health by protecting bail reform, which is benefiting and protecting New Yorkers. Further, making any changes to the existing pretrial bail statute during a global pandemic will quite literally cost people their lives.

Court watchers—more than 1,000 ordinary New Yorkers—are the eyes and ears of accountability in New York City courtrooms. We collect real-time data of what is actually happening in courtrooms during arraignments and capture the narratives not reflected in official accounts. We report what we see, and hold prosecutors and judges accountable to ending the injustices in the criminal legal system.

Over a span of two years, before January 1 when bail reform went into effect, we witnessed prosecutors requesting bail in amounts that people could not afford for both felony and misdemeanor charges. We witnessed judges setting bail in amounts that guaranteed people from our communities would spend time incarcerated at Rikers or other city jails, all of which are commonly considered traumatic, dangerous places. We watched families and individuals
have their lives disrupted, damaged, and endangered by prosecutors’ recommendations and judicial decisions. Defense attorneys arguing for their clients to be released on their own recognizance made clear that incarceration—even for a short time—would mean lost housing, jeopardized employment, disruption to vital health care, and children separated from their caregivers. Those consequences harm individual lives, and also harm our communities. Those are the results of judicial discretion.

For decades, judges have had the option to release people instead of setting unaffordable bail on thousands of people. Yet, they knowingly and repeatedly chose to subject people to pretrial jailing, even after hearing from defense attorneys how incarceration would damage individuals and their communities. Much of the current crisis of mass incarceration is attributable to judicial discretion.

The current proposal to replace money bail with more “judicial discretion” and codified racial profiling through predictions of so-called “dangerousness” would result in mass pretrial detention and exacerbate racial disparities, subjecting more presumptively innocent people to unjust incarceration. New York State passed bail reform last year to address the oppressive impact of mass incarceration on Black and Latinx New Yorkers, the unnecessary and deeply unjust nature of the two-tiered money bail system, and the harmful—and deadly—reality of pretrial jailing. We cannot afford to have even one more Kalief Browder. Any changes to the bail statute will undo all of the progress we’ve made.

Because of bail reform, since January 1 we’ve seen many fewer people subjected to pretrial jailing and many more people released on their own recognizance. The relief of these individuals and their loved ones in the courtroom is unmistakable. Over the past few months, Court Watchers have witnessed a young woman return home to care for her elderly mother and young sister, a man who can keep working to support his two children, a person with substance use issues able to continue treatment, a young man continue a job training program, and a teenager who could keep going to school. Multiply these outcomes by the nearly 7,000 people statewide who have been positively impacted by bail reform and you’ll have a small snapshot of how bail reform allows ordinary New Yorkers to live their lives. In doing so, they are safer and so are all of our communities.

The two-tiered money bail system might have shrunk slightly with the reforms, but we continue to see prosecutors recommend unaffordable amounts when they are able to ask for bail and many judges are heeding those recommendations. Just last week a Manhattan judge set bail on an older man with stomach cancer. Unable to post cash bail of $3,000, he spent several days in jail before his next appearance where bail was continued and his next court date is a month away. How can that be considered anything other than a potential death sentence?
This harmful reality is only exacerbated given the growing COVID-19 pandemic. Infectious disease experts warn of the risks, calling detention centers “tinderboxes for infectious disease outbreaks,” due to overcrowding, severely limited medical care, unsanitary conditions, lack of access to hand washing, and where hand sanitizer is confiscated as contraband. People in jail have disproportionate rates of chronic illnesses that make them especially vulnerable to the coronavirus.

People should be at home with their families, not subjected to unsafe conditions in jail. As legislators and leaders you should be fighting on every front to ensure that every individual and family has as much stability as possible, and as much access to healthy living conditions as possible. From arrest to arraignment, individuals are in conditions that can only be described as dangerous: close contact with other people, restricted access to soap and hand sanitizer, inadequate health care. Even a “short stay” of 1-3 days in jail puts people in mortal danger while they are incarcerated and when they return to their community days later.

Court Watch NYC demands that our state leaders protect the current bail statute. Instead of rolling back reforms that work, we—your constituents—ask that you use the budget process to invest in communities that are in need of relief and support, especially during a time of great uncertainty and crisis. People need permanent housing, fair wages, affordable access to health care, and quality public education. That is how you ensure public safety and public health. To do anything else is irresponsible, immoral, and inhumane.

Sincerely,
Court Watch NYC