
THE BROADWAY DEMOCRATS

◆ District Leaders: Curtis Arluck, Paula Diamond Román ◆ President: Luis Román ◆

Women in Politics: OBSTACLES AND INDUCEMENTS TO RUNNING

Thursday, November 12, 2015

Meeting starts at 8:00 PM

Bank Street College of Education

610 West 112th Street

(between Broadway and Riverside)

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President's Corner

Luis Román

The recent tragic death of NYPD officer Randolph Joseph sparked a controversy regarding the efforts of the New York judicial system to provide more opportunities for offenders to receive treatment for addiction issues instead of going to prison. The death of Officer Holder has inspired calls by many politicians, including Mayor DeBlasio, to change the diversion program and reform bail statutes to make it easier for judges to keep persons charged with violent crimes in jail, or deny them treatment. I have spent twenty-three years as a public defender with the Legal Aid Society, defending persons charged with crimes in the Bronx. I would like to inject some personal perspective into the debate.

As part of the reform of the draconian Rockefeller drug laws, New York state authorized a program designed to provide persons currently charged with offenses the opportunity to resolve their cases by completing drug rehabilitation programs, instead of being sentenced to state prison terms. The program is commonly referred to as judicial diversion or drug court. Briefly, a defendant, through his or her attorney, makes an application for treatment in a special court part, where a judge oversees all the individuals receiving treatment, with the assistance of trained court staff. In most cases, the prosecutor has no say as to whether a person receives treatment; that determination is made by the judge. However the prosecutor is allowed to have input, providing the court with facts which might assist the judge in his or her decision, just as the defendant's lawyer provides the judge with information about his or her client that explains why the defendant is a good candidate for treatment court.

Once accepted, the defendant pleads guilty and is assigned to a program that the court believes gives the individual the best chance to succeed. The Judge monitors the defendant's progress, having the defendant come to court regularly for updates. If the defendant violates rules of the program, fails a drug test or gets arrested on new charges, the court may impose sanctions, including delaying the defendant's progress in the program or, if necessary, jailing the defendant for a short period of time before returning him or her to the program. However, if a defendant is indicted for a new felony offense or accused of any crime involving violence, the defendant is terminated from treatment and sentenced to a term of incarceration in state prison.

The judicial diversion process is primarily meant for non-violent offenders. Persons charged with violent crimes, including those who have been convicted of violent crimes in the past, are presumed to be ineligible for judicial diversion, unless the prosecutor consents to allowing the defendant the opportunity. It is this area of the diversion law that inspired much of the controversy in the Tyrone Howard case. When he was admitted to a diversion program in Manhattan Supreme Court, the judge who approved his application was informed that Mr. Howard had previously been arrested in connection with a shooting that injured two bystanders. However, Mr. Howard was never charged in connection with that shooting, and he had no convictions for any violent felony offenses in his criminal history. Thus, he was presumed to be eligible for a diversion program, and the judge decided to give Mr. Howard that opportunity.

It would be a mistake to condemn the judicial diversion program, as many in the NYPD, some editorial writers and politicians have done in the wake of Officer Holder's death. The allegations against Mr. Howard, if proven true (and, at this point, they are still only accusations) are reprehensible, and his punishment should be swift and certain. The judicial diversion program on the whole, however, has been an overwhelming success, giving thousands of accused persons the opportunity to receive needed treatment for addiction, medical and mental health issues while avoiding long periods of incarceration. This process helps people avoid the stigma associated with incarceration, gives families the opportunity to stay together, and creates an environment for people to transition away from damaging behaviors, on to a path toward a more fulfilling life. Additionally, the success of judicial diversion programs is a boon to New York's budget as the expenses of incarceration have been reduced by diverting many people into treatment.

The diversion process was created to give judges more discretion in determining the proper outcome in criminal cases, and to provide individuals charged with crimes the opportunity to follow a different, more productive path. I have personally witnessed numerous success stories in the diversion process, and I know how important the work being done in the drug courts is. We all must take care to avoid rushing to judgment in the wake of tragic events, or we risk retarding the great progress that has been made in addressing issues of addiction in our community.



CLEAR YOUR SUMMONS WARRANT

*Manhattan DA Cyrus R. Vance Jr.,
the Office of Court Administration and the Legal Aid Society Present:*

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9:00 AM - 3:00 PM

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As you are aware, there are significant costs to publish the newsletter on paper and to put a stamp on it to send to your home. Electronic communication does not cost any money. That is why most organizations have eliminated mailings.

If we do not hear from you, unfortunately you will no longer receive the newsletter by mail from the Broadway Democrats. Please contact us to let us know that you are interested continuing to receive our information. I look forward to hearing from you.

Sincerely,

Richard A. Siegel
Vice President
Broadway Democrats

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FIRST
CLASS

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