



Metropolitan Transportation Authority

State of New York

October 24, 2022

BY EMAIL

To: District Attorneys of All Counties in the State of New York Served by the MTA – Hon. Alvin Bragg (New York); Hon. Darcel Clark (Bronx); Hon. Anne Donnelly (Nassau); Hon. Eric Gonzalez (Kings); Hon. William Grady (Dutchess); Hon. David Hoovler (Orange); Hon. Melinda Katz (Queens); Hon. Michael McMahan (Richmond); Hon. Mimi Rocah (Westchester); Hon. Robert Tendy (Putnam); Hon. Raymond Tierney (Suffolk); and Hon. Tom Walsh (Rockland)

Re: MTA Transit Bans

Dear District Attorneys:

In 2020, the Metropolitan Transportation Authority successfully lobbied the New York State Legislature to give courts an important new power: the authority to ban certain criminals from the MTA system. *Yet as best we can tell, that power has gone completely unused.* I write to ask your help in changing that. Public safety demands no less.

The 2020 statute. Under the Penal Law amendment enacted in 2020, judges can ban criminals from any part of the MTA system for up to three years. Bans can be imposed on criminals convicted of sex offenses against any MTA customer, passenger or employee. Bans can also be imposed on criminals convicted of assaulting MTA employees. Courts can include a ban as part of a sentence of probation or conditional discharge. Exceptions may be crafted for trips of necessity, such as medical appointments. See Penal Law Section 65.10(2)(k-2).

The legislature made two common-sense judgments here: that safety in the transit system is a matter of pressing public concern, and that a limited loss of transit access is a fair post-conviction consequence for certain transit crimes.

What we ask today. The concerns that drove the adoption of the Penal Law amendment are only more urgent today, given the numerous high-profile crimes recently occurring in the MTA system. The MTA therefore is deeply concerned that the criminal justice system has not yet used the authority created in 2020. We respectfully ask that you help by taking two steps:

- We ask that you promote a policy to your ADAs of pursuing transit bans in appropriate cases, including via plea agreements.

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels

MTA Construction & Development
MTA Bus Company

- We ask that you designate a senior staff person to liaise with the MTA Legal Department. The MTA stands ready to assist, including by providing a list of any current cases in your county that we believe are potentially ban-eligible.

What we will ask going forward. The current statute is plainly too narrow. For example, there is no good reason why rider-on-worker assaults are ban-eligible while rider-on-rider assaults are not. (You have no doubt seen recent news coverage of serious rider-on-rider attacks in the subway system.) The MTA is developing a proposal to close this and other gaps in the statute. We will circulate proposed legislative language, which we hope you will consider supporting.

Thank you in advance for your help. We look forward to continuing to work together to protect the MTA's customers and workers.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "Janno Lieber". The signature is fluid and cursive, with the first name "Janno" being more prominent than the last name "Lieber".

Janno Lieber

cc: Paige Graves, Esq., MTA General Counsel