

AGNIFILO INTRATER

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SUPREME COURT
CRIMINAL TERM
NEW YORK COUNTY

August 25, 2025

The Honorable Gregory Carro
Supreme Court of the State of New York
100 Centre Street – Part 32
New York, NY 10013

Re: *People v. Luigi Mangione*, Ind. No. 75657/2024

Dear Judge Carro:

As the Court is aware, the defense has been directed to provide notice of the defense's intention of offering evidence pursuant to Criminal Procedure Law § 250.10 no later than August 25, 2025. We write to request additional time to determine whether we will be serving such notice for reasons that we would be willing to provide to the Court *ex parte*.

Because the People have yet to complete their full production of discovery and because no trial, or indeed even a pretrial hearing, has been scheduled, there is no prejudice to the People from the delay requested here. In addition, Mr. Mangione's Fifth Amendment rights to due process and against self-incrimination, his Sixth Amendment right to call witnesses in his defense, his Eighth Amendment rights against the arbitrary application of the death penalty, *see Chapman v. United States*, 500 U.S. 453 (1991), require that he not be compelled to provide information pursuant to CPL § 250.10 at this time, given the pending death-eligible indictment in the United States District Court for the Southern District of New York.

The law is clear that "the court must weigh the defendant's constitutional right to a defense against prejudice to the People from late notice." *People v. Sidbury*, 42 N.Y.3d 497, 508 (2024); *People v. Berk*, 88 N.Y.2d 257 (1996). Even in a typical case, where there is no separate federal death penalty case, a trial court's discretion concerning the timing of § 250.10 notice is constrained by a defendant's trial rights. *Sidbury*, 42 N.Y.3d at 508; *Berk*, 88 N.Y.2d at 266.

In contrast to the massive prejudice to the defendant that comes with compromising his constitutional rights in this case and the federal death penalty case, the prejudice to the People is non-existent. As we have previously stated, and we reiterate now, the defense will consent to any adjournment the People require to meet any § 250.10 evidence offered by the defendant. The Court of Appeals has observed that the governing principle of § 250.10 is "eliminating the element of surprise" to the prosecution. *Sidbury*, 42 N.Y.3d at 506; *People v. Almonor*, 93 N.Y.2d 571, 578 (1999). There will be no surprises here. The People can take whatever time they need.

The Honorable Gregory Carro
August 25, 2025

We recognize and appreciate that the Court has already granted the defense additional time to provide notice under § 250.10. However, we ask the Court to recognize the truly unprecedented situation facing Mr. Mangione and his counsel given the multiple prosecutions for the same offense, including one that involves the death sentence.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'KFR' with a stylized flourish at the end.

Karen Friedman Agnifilo
Marc Agnifilo
Jacob Kaplan

Counsel for Luigi Mangione