

**Joint Legislative Budget Hearing on Public Protection**

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My name is Jullian Harris-Calvin, and I am the director of the Vera Institute of Justice's Greater Justice New York program. Vera works to end mass incarceration, protect immigrants' rights, ensure dignity for people behind bars, and build safe, thriving communities. While my colleagues in Vera's Advancing Universal Representation initiative have already submitted testimony and requested time to speak regarding immigration legal services in New York, I am writing with respect to criminal legal system investments and legislation proposed in the governor's budget.

There is much to applaud in Governor Hochul's FY25 budget, including small, but important increases to last year's record funding for essential mental health and criminal legal services that support communities of New Yorkers most affected by our state's legacy of mass incarceration. We are also glad to see legislation to continue right-sizing New York's prison system by allowing for the prompt closure of up to five additional facilities this year, as well as her proposal to expand the number of judges in the courts.

However, despite these important proposals, we are concerned that this year's budget continues to prioritize punishment over evidence-based solutions that address root causes of crime. We are especially concerned about the governor's proposed punitive responses to retail crime, hate crimes, and drug offenses. Finally, to support safety and justice for all New Yorkers, we urge the governor and legislature to include pretrial services reforms in the budget, specifically by passing AB8242, which would establish an office of pretrial services within the Division of Criminal Justice Services.

**Funding should prioritize proven community-based solutions that prevent crime before it happens and stop cycles of crime instead of continuing to invest in failed tough-on-crime policies.**

Relying on jails and prisons to keep us safe is insufficient and ineffective. A landmark report on pretrial detention found that as little as one day in pretrial detention increases the likelihood of future arrest.<sup>1</sup> Another study found that prison may exacerbate the likelihood of recidivism.<sup>2</sup> Relying on parole or probation after conviction also fails to reduce crime.<sup>3</sup> The overly aggressive policing that fills our jails and prisons, meanwhile, undermines public confidence in law enforcement and worsens relationships between officers and the communities they serve.<sup>4</sup> It can also impact economic success, educational outcomes, and mental health.<sup>5</sup>

Community-based supportive services, on the other hand, help keep people safe and healthy more effectively than jail. Supportive housing can significantly reduce the likelihood of incarceration, at a fraction of the cost.<sup>6</sup> Mental health services and substance use treatment reduce incarceration and decrease crime rates.<sup>7</sup> Other effective strategies include access to education and jobs.<sup>8</sup>

Governor Hochul's FY25 budget includes approximately \$100 million in new funding specifically focused on preventing and responding to unlawful behavior. But the vast majority of this funding, \$79 million, would go to law enforcement entities, including:

- \$40.2 million to combat organized retail theft, divided between the New York State Police, district attorneys' offices, and local law enforcement;
- \$35.8 million for district attorneys and law enforcement entities to prevent and prosecute domestic violence; and
- \$3 million for more intensive supervision of New Yorkers on parole.

By contrast, the budget includes only \$21.7 million in new funding for targeted programs proven to break cycles of crime for those involved in the criminal legal system, including:

- \$2 million in additional funding for a transitional housing program at Edgecombe Residential Treatment Facility serving those leaving incarceration;
- \$1.1 million to expand college programs to all state correctional facilities and enhance existing programs to provide a wider variety of degree tracks and areas of concentration; and
- \$18.6 million to support individuals with mental illness involved in the criminal legal system.

These investments are laudable, but thoroughly insufficient. For example, access to stable housing improves public safety by substantially increasing a person's stability and reducing their likelihood of continued involvement in the criminal legal system.<sup>9</sup> However, the increase in funding for the Edgecombe transitional housing program falls far short of what is needed. The Edgecombe program has served just 215 people since its creation in mid-2022, far fewer than the 1,694 people directly released from prisons to New York City shelters in 2021.<sup>10</sup>

Similarly, the governor's proposed investment in supports for people with mental illness involved in the criminal legal system is outpaced by the need. Though an important investment, it is insufficient when tens of thousands of New Yorkers with mental illness are arrested every year and Rikers Island has become New York City's largest provider of mental health services at an annual cost of \$440,000 per person per year.<sup>11</sup> By contrast, placing someone in supportive housing costs approximately \$42,000 per year in New York City with a significantly better impact on public safety.<sup>12</sup>

Rather than continuing to overinvest in punitive approaches that fail to deliver safety, the governor should direct the proposed funding to evidence-based services that deliver the safety that New Yorkers deserve. The \$79 million that the governor included for law enforcement could instead be used to:

- more than triple funding for community-based alternatives to incarceration, such as mental illness programs, pretrial services, drug and alcohol programs, community service, among other programs;<sup>13</sup>
- nearly quintuple funding for pretrial services, which deliver safety by connecting people to services instead of detaining them pretrial;<sup>14</sup>
- fund operating costs for an additional 2,304 residential units for New Yorkers struggling with mental illness;<sup>15</sup>

- triple the number of “critical time intervention care coordination” teams that provide wraparound services for discharged hospital patients;<sup>16</sup>
- more than double funding for 988 to support people experiencing mental health crises;<sup>17</sup>
- create 98 additional youth Assertive Community Treatment (ACT) teams (more than quadrupling the existing 30 teams), which offer treatment, rehabilitation, and community integration services to support individuals diagnosed with serious mental illness;<sup>18</sup> or
- fund mental health clinics at an additional 3,160 public schools or 1,755 high-need schools.<sup>19</sup>

**Plans to address organized retail theft play into sensationalized claims of a retail crime epidemic, hurting New Yorkers in need without helping businesses thrive.**

New York, like many cities and states across the country, saw a spike in shoplifting after the onset of the pandemic.<sup>20</sup> The news media and social media have fueled anxiety about this increase. Fortunately, according to the New York City Police Department, these numbers are already on the decline.<sup>21</sup>

To break the cycle and deter theft, we need to address why people shoplift. Shoplifting is overwhelmingly a crime of desperation—often fueled by addiction, mental health crisis, and their consequences—committed by those with few resources to meet basic needs.<sup>22</sup> When people are arrested for crimes of desperation, research shows that connecting them to stable housing, employment, and other treatments and services can be effective interventions.<sup>23</sup> More arrests and jail time, on the other hand, have been shown to be criminogenic and lead to poorer outcomes.<sup>24</sup>

At times, the media has attributed much of the increase in shoplifting to organized groups stealing on a large scale for resale on the internet and elsewhere. Anxiety around this supposed phenomenon was fed in large part by a now-retracted report from the National Retail Federation (NRF) that made vastly inflated claims about the extent of organized retail crime based on incorrect data.<sup>25</sup> Yet, in spite of the report’s retraction and a lack of reliable data about the extent of organized theft, the governor’s budget includes a number of proposals to address organized retail crime, including \$40.2 million in new funding for police and district attorneys to prosecute organized retail theft, a new penalty for “fostering the sale of stolen goods,” and an increased penalty for assaulting a retail worker.<sup>26</sup>

By claiming that her proposals are focused on organized retail theft, the governor is implying that New Yorkers who will be targeted by enforcement efforts are large-scale, organized groups. Strategies of this kind, which claim to target large-scale, organized groups, are reminiscent of the War on Drugs and are not only ineffective, but often result primarily in more punishment of low-income people of color.<sup>27</sup> For example, laws imposing severe penalties for drug sale and distribution have often been sold as targeting high-level dealers. Yet, the evidence suggests that this has not been the result. Instead, two out of three state-level drug arrests and nearly half of federal convictions have been of low-level dealers and people possessing small quantities of drugs, a disproportionate number of whom are people of color.<sup>28</sup>

Proposals for expanded government interventions should be driven by an analysis of accurate data about when and why these crimes occur so we can effectively protect businesses without ineffective, reactive injustice. Rather than spending scarce capital and time increasing the number of struggling New Yorkers subject to the wide-reaching collateral consequences of prosecution and incarceration, we urge

the governor and the legislature to focus on expanding resources and supports for New Yorkers whose conduct arises out of basic material need and desperation.<sup>29</sup>

**Plans to address hate crimes rely on harsh, ineffective punishments instead of investing in true prevention.**

The governor has also proposed adding more than thirty new offenses to the list of crimes eligible to be prosecuted as hate crimes, including low-level offenses like making graffiti (New York Penal Law (PL) § 145.60) and “jostling” (PL § 165.25), as well as serious offenses such as aggravated murder (PL § 125.26) and gang assaults (PL § 120.06 and § 120.07). The proposal creates considerably longer sentences for offenses that already exist and often carry significant penalties without a new hate crime designation.

New York can effectively deter hate crimes without increasing incarceration by remedying harm when it occurs through restorative practices and supporting victims, as well as by focusing on preventing bigotry in the first place.<sup>30</sup> That means investing in education, cultural exchange, and community-building—not condemning people to increased prison time.

Allowing more crimes to be classified as a hate crime will not make New Yorkers safer. Research shows that people do not make decisions about whether to commit crime based on the harshness of the sentence they could face.<sup>31</sup> Indeed, after reviewing a large body of research on deterrence, the National Institute of Justice concluded that “increasing the severity of punishment does little to deter crime.”<sup>32</sup> If anything, these policies might make us less safe in the long run as research has shown that incarceration may increase the likelihood of recidivism.<sup>33</sup>

New Yorkers of all races, faiths, gender identities, and backgrounds should be able to walk down the street free of fear or intimidation. In recent years, anti-Asian violence spiked at the onset of the COVID-19 pandemic, and now anti-Semitism and Islamophobia are surging.<sup>34</sup> There is no doubt that these are critically important issues that must be addressed. But spending our limited resources on enhancing existing penalties based on new hate crime classifications will not protect New York’s diverse communities from hate speech and violence.

**Rescheduling drug offenses will also apply harsh, ineffective punishment without helping New Yorkers in need of treatment or stemming the flow of drugs into our communities.**

The threat of fentanyl and other deadly drugs to our communities is evident and urgent. To address this, Governor Hochul has proposed adding new substances to the state’s controlled substance schedules.

New York has long been a leader in evidence-based responses to drug use. Instead of returning to the failed punitive responses of the past, we urge the governor and the legislature to double-down on evidence-driven public health strategies, including greater access to naloxone to prevent overdose deaths, evidence-based treatment and recovery services, medications like methadone and buprenorphine to treat opioid use disorder, syringe services programs, overdose prevention programs, safe and supervised injection sites, education campaigns, and drug checking tools so that New Yorkers

are able to test the content of substances before consuming them. These are all strategies that have been proven to save lives, and they should be the focus of our efforts.<sup>35</sup>

Decades of aggressive responses to substance use have shown that punitive approaches do little to deter drug activity. The evidence demonstrates there is no relationship between imprisonment for drug crimes and three important indicators of drug activity: self-reported drug use, drug overdose deaths, and drug arrests.<sup>36</sup> One recent study even found that increased enforcement could result in an increase in the number of overdoses.<sup>37</sup> Studies have also found that incarceration is associated with increased risk for overdose death.<sup>38</sup>

As explained above regarding retail theft, increased penalties invariably harm users of drugs, and will mainly only lock up low-level dealers who will invariably be quickly replaced.<sup>39</sup> The addition of new substances to the schedule will expose more people to criminal penalties, and with little public health or public safety benefit. As a result, the proposal is likely to reverse the substantial progress New York has made in reducing the number of people incarcerated for drug crimes since the passage of drug law reform in 2009.<sup>40</sup>

Further criminalizing these substances will only push those who use drugs further into the shadows. This will increase the likelihood that they will use untested substances that will increase their risk of overdose.<sup>41</sup> It will also increase the fear of punishment that—despite New York’s “Good Samaritan” law—already discourages people from calling emergency services, thereby increasing the likelihood that overdoses will be fatal.<sup>42</sup>

**Savings from prison closures must be reinvested in the communities that have suffered from mass incarceration.**

In her budget proposal, Governor Hochul is seeking authorization to close five prisons. Since 2011, New York has eliminated more than 13,000 prison beds and closed 24 correctional facilities. While the number of people incarcerated in New York State Department of Corrections and Community Supervision (DOCCS) facilities has increased from its lowest point in 2021, there are still nearly 40,000 fewer people in these facilities than when the population peaked in 1999.<sup>43</sup> Vera supports the continued rightsizing of the DOCCS system to bring capacity closer in line with the current population.

However, the savings that result from the proposed closures must be reinvested in the communities that have most suffered from mass incarceration. It is especially important that we redirect those funds to proven solutions that have been shown (i) to prevent involvement in the criminal legal system and (ii) to break the cycle of involvement for those already in the system.

We also urge the governor and the legislature to ensure that decisions about which facilities to close be made with the goal of minimizing the negative impact on the ability of families to visit their incarcerated loved ones. Research shows that visits to prison have been associated with recidivism reductions of between 13 and 25 percent.<sup>44</sup> Another study found that people with no visitors were six times more likely to be reincarcerated than people with at least three visitors.<sup>45</sup> Other research has demonstrated that visitation can reduce incarcerated people’s symptoms of depression and decrease rule-breaking.<sup>46</sup>

Overall, contact with family while incarcerated has significant benefits for people in detention, their families, and safety both within carceral facilities and communities.<sup>47</sup>

Lastly, we urge the governor and the legislature to identify and invest in alternative employment opportunities for the affected communities. For decades, incarceration has effectively served as an employment program for many communities around the state. To minimize the short-term negative economic consequences of closures to both communities and employees, the state should provide incentives for new employers to step into affected localities, and provide career transition services to displaced employees.<sup>48</sup>

**Include and fund reforms to pretrial services in the budget.**

Lastly, this year's budget should include and fund reforms to New York's pretrial services system that (i) move pretrial services from probation departments to community-based organizations and (ii) establish a new office of pretrial services within the Division of Criminal Justice Services (DCJS), as proposed by A8242, sponsored by Assemblymember Anna Kelles.

New York's 2019 bail reform law required the NYS Office of Court Administration (OCA) to certify pretrial services agencies in every county. However, the legislation provided neither guidance for how these agencies should function nor new funding to support services, thereby preventing programs from reaching their full potential. Outside New York City, 48 counties selected their local probation agency as their pretrial services provider.<sup>49</sup>

Pretrial services refer to an array of services that are imposed by the court or made available voluntarily to people who have been charged with a crime but released ahead of their trial date. These programs can be incredibly effective at ensuring their clients return to court and avoid rearrest during the pretrial period.<sup>50</sup> They also help reduce jail populations by providing an alternative to pretrial incarceration.

Pretrial services support individuals who are legally innocent but have been accused of a crime. Probation, meanwhile, is part of a person's sentence following their conviction. Because probation is designed to punish and monitor people convicted of a crime, probation agencies are poorly suited to develop the trusting relationships needed to support New Yorkers awaiting trial. Community-based providers, on the other hand, occupy a nongovernmental role that allows for the development of a trusting relationship. That relationship allows the service providers to identify clients' often complex needs, fashion reliable services to meet those needs, and provide for long-term continuum of care regardless of the disposition of a person's case.

DCJS is the appropriate agency to house the new pretrial services office because it is already responsible for managing state funding for pretrial services programs. It also has decades of experience providing support and technical assistance to government agencies and community providers of criminal justice related services, including probation, alternatives-to-incarceration, reentry services, and violence interruption. However, to maximize the quality and effectiveness of New York's pretrial service system, the state needs an entity within DCJS whose entire mission is to focus on monitoring and supporting pretrial services. And the state needs to fund the expanded pretrial services by allocating at least \$72 million in this year's budget, a significantly larger investment than the generous but insufficient \$20 million the governor has allocated to pretrial services outside of New York City in her FY25 budget. The

additional funding can be diverted from a small percentage of the savings realized from prior prison closures and the ongoing savings that will be achieved by this year's planned closures.<sup>51</sup>

To achieve these goals, we urge the governor and the legislature to include and provide funding for A8242 in this year's budget.

**New Yorkers can have safety and justice.**

For decades, New Yorkers, like most Americans, have been told that they have only two choices: harsh punishments dangerous streets. Many elected officials have either accepted this dichotomy or believe that these are the only options that their constituents understand, and hence the only options that they can offer. However, we know there are community-based strategies that work to prevent crime, and polling by Vera Action, Vera's sister 501(c)(4) organization, has repeatedly found that voters understand the complexities of what creates true safety and prefer these evidence-based community solutions.<sup>52</sup>

Decades of evidence have shown that punishment does not make us safer; thriving communities do. This is why the safest communities are those with the most resources, not those with the most police and the highest levels of arrest and incarceration. The governor's executive budget again offers New Yorkers only one choice for safety, that of more punishment. But New York's experience over the twenty-five years prior to the pandemic, during which the state saw massive declines in both crime and incarceration, has proven that harsher penalties do not create safer communities. We therefore urge the legislature to reject the governor's proposals and instead focus our policies and resources on the community-based investments that have repeatedly been shown to keep New Yorkers safe.

Thank you for the opportunity to provide testimony. Please do not hesitate to contact me at [jharriscalvin@vera.org](mailto:jharriscalvin@vera.org) if the Vera Institute of Justice may provide further support to you all.

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<sup>1</sup> Core Correctional Solutions, *The Hidden Costs of Pretrial Detention Revisited* (Houston, TX: Arnold Ventures, 2022), 2, 4, <http://perma.cc/99VE-QLG8>.

<sup>2</sup> Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, "Imprisonment and Reoffending," *Crime and Justice* 38 (2009), 115-200, <https://www.journals.uchicago.edu/doi/10.1086/599202>.

<sup>3</sup> David J. Harding, Bruce Western, and Jasmin A. Sandelson, "From Supervision to Opportunity: Reimagining Probation and Parole," *The ANNALS of the American Academy of Political and Social Science* 701, no. 1 (2022), 8-25, <https://doi.org/10.1177/00027162221115486>.

<sup>4</sup> Jennifer Fratello, Andrés F. Rengifo, Jennifer Trone, *Coming of Age with Stop and Frisk: Experiences, Self-Perceptions, and Public Safety Implications* (New York: Vera Institute of Justice, 2013), 10, <https://www.vera.org/downloads/publications/stop-and-frisk-summary-report-v2.pdf>.

<sup>5</sup> Aaron Stagoff-Belfort, Daniel Bodah, and Daniela Gilbert, *The Social Costs of Policing* (New York: Vera Institute of Justice, 2022), 3-12, <https://www.vera.org/downloads/publications/the-social-costs-of-policing.pdf>.

<sup>6</sup> Corporation for Supportive Housing (CSH), *Advancing Supportive Housing Solutions to Reduce Homelessness for People Impacted by the Criminal Legal System* (New York: CSH, 2022), 1-3, <https://www.csh.org/wp-content/uploads/2022/02/Reduce-Homelessness-for-People-Impacted-by-the-Criminal-Legal-System.pdf>.

<sup>7</sup> For mental health care, see Elisa Jácome, *How Better Access to Mental Health Care Can Reduce Crime* (California: Stanford Institute for Economic Policy Research, 2021), <https://siepr.stanford.edu/publications/policy-brief/how-better-access-mental-health-care-can-reduce-crime>. For substance use care, see Hefei Wen, Jason M. Hockenberry and Janet R. Cummings, *The Effect of Substance Use*

*Disorder Treatment Use on Crime: Evidence from Public Insurance Expansions and Health Insurance Parity Mandates*, (Cambridge, MA: National Bureau of Economic Research, 2014), 27-28, [https://www.nber.org/system/files/working\\_papers/w20537/w20537.pdf](https://www.nber.org/system/files/working_papers/w20537/w20537.pdf).

<sup>8</sup> Center for Employment Opportunities, *Improving Long-Term Employment Outcomes: Promising Findings from New York State*, (New York: Center for Employment Opportunities, 2019), <https://ceoworks.org/assets/downloads/CEO-Improving-Long-Term-Employment-062922-2a.pdf>.

<sup>9</sup> Marta Nelson, Perry Deess, and Charlotte Allen, *The First Month Out: Post-Incarceration Experiences in New York City*, (New York: Vera Institute of Justice, 1999), 16, [https://www.vera.org/downloads/publications/first\\_month\\_out.pdf](https://www.vera.org/downloads/publications/first_month_out.pdf); and Kristy Holtfreter, Michael D. Reisig, and Merry Morash, "Poverty, State Capital, and Recidivism Among Women Offenders," *Criminology and Public Policy* Volume: 3 Issue: 2 (March 2004), 185-208, <https://doi.org/10.1111/j.1745-9133.2004.tb00035.x>

<sup>10</sup> Kathy Hochul, *Achieving the New York Dream: 2023 State of the State* (Albany, NY: New York State, 2024) 37-38, <https://www.governor.ny.gov/sites/default/files/2023-01/2023SOTSBook.pdf>; Coalition for the Homeless, *State of the Homeless 2023: Compounding Crises, Failed Responses* (New York: Coalition for the Homeless, 2023), 37 <https://www.coalitionforthehomeless.org/wp-content/uploads/2023/06/StateoftheHomeless2023.pdf>.

<sup>11</sup> Jan Ransom and Amy Julia Harris, "How Rikers Island Became New York's Largest Mental Institution," *New York Times*, December 29, 2023, <https://www.nytimes.com/2023/12/29/nyregion/nyc-rikers-homeless-mental-illness.html>.

<sup>12</sup> CSH, *Advancing Supportive Housing Solutions*, 2022, 23.

<sup>13</sup> The governor's FY24 budget includes \$31.4 million for alternatives-to-incarceration. See Kathy Hochul, *Fiscal Year 2024 New York State Executive Budget* (Albany, NY: New York State, 2024), 121, <https://www.budget.ny.gov/pubs/archive/fy24/ex/book/briefingbook.pdf>. For more information about alternatives to incarceration in New York, see Division of Criminal Justice Services, "Alternative to Incarceration (ATI) Programs," [https://www.criminaljustice.ny.gov/opca/ati\\_description.htm](https://www.criminaljustice.ny.gov/opca/ati_description.htm).

<sup>14</sup> The governor's FY24 budget includes \$20 million for pretrial services. See Hochul, *Fiscal Year 2024 New York State Executive Budget*, 2023, 14.

<sup>15</sup> In her 2023 State of the State, Governor Hochul announced \$120 million in operating costs for 3,500 residential units for New Yorkers struggling with mental illness. At an operating cost of \$34,285 per residential unit, \$79 million could fund operating costs for an additional 2,304 residential units. See Kathy Hochul, *Achieving the New York Dream: 2023 State of the State*, 2023, 65-66.

<sup>16</sup> In her 2023 State of the State, Governor Hochul proposed that \$28 million would triple the number of "critical time intervention care coordination teams who provide wraparound services for discharged patients." See Hochul, *Achieving the New York Dream: 2023 State of the State*, 2023, 61. \$79 million could almost triple—again—the presence of those coordination teams, helping even more New Yorkers benefit from supportive services upon hospital discharge.

<sup>17</sup> In FY 2024, the 988 suicide and crisis lifeline had a budget of \$60 million, which Governor Hochul has proposed increasing by only \$100,000 next fiscal year to offer maternal mental health training to service providers. See Hochul and Blake G. Washington, *Our New York, Our Future: FY2025 NYS Executive Budget* (Albany, NY: New York State, 2024) 104, <https://www.budget.ny.gov/pubs/archive/fy25/ex/book/briefingbook.pdf>. \$79 million could more than double funding for 988, enabling the service to reach more New Yorkers in crisis.

<sup>18</sup> The FY 2025 executive budget includes \$9.6 million to create 12 new youth Assertive Community Treatment (ACT) teams, or \$800,000 per team. See Hochul and Washington, *Our New York, Our Future*, 2024, 104. Based on that information, \$79 million could create 98 additional youth ACT teams, more than quadrupling the existing 30 teams.

<sup>19</sup> In November 2023, Governor Hochul announced a \$5.1 million investment in New York State Office of Mental Health-administered mental health clinics at 137 public schools across New York State at a per-clinic cost of \$25,000 per school or \$45,000 per high-need school. See Kathy Hochul, "Governor Hochul Announces \$5.1 Million to Establish School-Based Mental Health Clinics," press release, November 30, 2023, <https://www.governor.ny.gov/news/governor-hochul-announces-51-million-establish-school-based-mental->



[health-clinics](#). Based on those numbers, \$79 million could fund mental health clinics at an additional 3,040 public schools or 1,688 high-need schools.

<sup>20</sup> Ernesto Lopez, Robert Boxerman, and Kelsey Cundiff, *Shoplifting Trends: What You Need to Know* (Washington D.C.: Council on Criminal Justice, 2023), <https://counciloncj.org/shoplifting-trends-what-you-need-to-know/>.

<sup>21</sup> Office of the Mayor, “Transcript: Mayor Adams Announces Citywide Crime Statistics for 2023,” Jan. 3, 2024, <https://www.nyc.gov/office-of-the-mayor/news/003-24/transcript-mayor-adams-citywide-crime-statistics-2023>.

<sup>22</sup> Carlos Blanco, Jon Grant, Nancy M. Petry, et al., “Prevalence and Correlates of Shoplifting in the United States: Results From the National Epidemiologic Survey on Alcohol and Related Conditions,” *The American Journal of Psychiatry* 165, No. 7 (2008), 905–913, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4104590/>.

<sup>23</sup> George Shillcock, “Columbus Retail Theft Diversion Program Could Help Reduce Shoplifting, Not Charge Thieves,” WOSU 89.7 NPR News, July 6, 2023, <https://news.wosu.org/politics-government/2023-07-06/columbus-retail-theft-diversion-program-could-help-reduce-shoplifting-not-charge-thieves>; and Christina Griffith, “A New Way to Police Philly?” Philadelphia Citizen, May 30, 2023, <https://thephiladelphiacitizen.org/pad-program-new-way-to-police-philly>.

<sup>24</sup> Leon Digard and Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (New York: Vera Institute of Justice, 2019), <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>.

<sup>25</sup> Katherine Masters, “US Retail Lobbyists Retract Key Claim on ‘Organized’ Retail Crime,” Reuters, December 5, 2023, <https://www.reuters.com/business/retail-consumer/us-retail-lobbyists-retract-key-claim-organized-retail-crime-2023-12-06/>.

<sup>26</sup> For more on the lack of data behind the retail theft panic, see Abdallah Fayyad, “The shoplifting scare might not have been real — but its effects are,” Vox, January 7, 2024, <https://www.vox.com/politics/24025691/shoplifting-scare-criminal-justice-reform>.

<sup>27</sup> Gabrielle Fonrouge, “Retailers Are Shaping a Wave of Laws to Crack Down on Organized Theft—Here’s How They Do It,” CNBC, August 11, 2023, <https://www.cnbc.com/2023/08/11/organized-retail-crime-nine-states-pass-laws-to-crack-down-on-theft.html>.

<sup>28</sup> For state-level data, see Joseph Edward Kennedy, Isaac Unah, and Kasi Wahlers, “Sharks and Minnows in the War on Drugs: A Study of Quantity, Race and Drug Type in Drug Arrests,” *UC Davis Law Review* 53 (2018), 729-801, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3305732](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3305732). For federal data, see The Pew Charitable Trusts, *More Imprisonment Does Not Reduce State Drug Problems* (Philadelphia, PA: Pew, 2018), 2, [https://www.pewtrusts.org/-/media/assets/2018/03/pspp\\_more\\_imprisonment\\_does\\_not\\_reduce\\_state\\_drug\\_problems.pdf](https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf).

<sup>29</sup> Consequences of a criminal convictions can include current and future jobs, housing, access to benefits, immigration status, access to education, and student loans. See New York State Unified Court System, “Collateral Consequences,” accessed January 23, 2024, <https://www.nycourts.gov/courthelp/criminal/collateralConsequences.shtml>.

<sup>30</sup> Shirin Sinnar and Beth A. Colgan, “Revisiting Hate Crimes Enhancements in the Shadow of Mass Incarceration,” *New York University of Law Review Online* 95, no. 149 (2020), 149-170, <https://www.nyulawreview.org/online-features/revisiting-hate-crimes-in-the-shadow-of-mass-incarceration/>. See also Avlana Eisenberg, “A Trauma-Centered Approach to Addressing Hate Crimes,” *The Journal of Criminal Law and Criminology* 112, no. 4 (2022), 729-748, <https://www.jstor.org/stable/48722476>.

<sup>31</sup> Daniel Nagin, “Deterrence in the Twenty-First Century: A Review of the Evidence,” *Crime and Justice* 42 (2013), 199–263, <https://www.jstor.org/stable/10.1086/670398>.

<sup>32</sup> U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (NIJ), *Five Things About Deterrence* (Washington, DC: NIJ, 2016), 1-2, <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.

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