

“Social justice should be the underlying goal of all humanity.”

-Alan V. Lowenstein, Institute Founder



June 30, 2023

The Honorable Phil Murphy
Office of the Governor
P.O. Box 001
Trenton, NJ 08625

Dear Governor Murphy,

The New Jersey Institute for Social Justice and the other undersigned organizations write to express our concerns regarding A4930,¹ A4931,² A5034,³ and A5189.⁴ These regressive auto theft bills have passed out of the legislature and await your decision. While we understand that auto theft is a troubling personal violation, we respectfully urge you to veto these bills for the following reasons: 1) these bills are not necessary because auto theft has been declining and they are supported by false narratives of crime; 2) A5189 undermines the gains that New Jersey has made through the Criminal Justice Reform Act (CJRA); 3) these bills do not provide solutions to the root causes of criminal activity and 4) these bills will exacerbate the already stark racial disparities in New Jersey’s criminal justice system. We must learn from the mistakes of the “tough on crime” era, not repeat them.

1) These bills are not necessary because auto theft has been declining and the bills are rooted in false narratives of crime.

Law enforcement is already successfully addressing car thefts in New Jersey. According to the New Jersey State Police, the creation of a state task force working in conjunction with local police departments is reducing the amount of auto theft.⁵

¹ Asm. B. No. 4930, 220th Leg. (N.J. 2023), https://pub.njleg.state.nj.us/Bills/2022/A5000/4930_R2.PDF (a bill which expands penalties for unlawfully possessing or selling a master key fob).

² Asm. B. No. 4931, 220th Leg. (N.J. 2023), https://pub.njleg.state.nj.us/Bills/2022/A5000/4931_R1.PDF [hereinafter Asm. B. No. 4931] (a bill which increases penalties for repeated auto theft convictions).

³ Asm. B. No. 5034, 220th Leg. (N.J. 2023), https://pub.njleg.state.nj.us/Bills/2022/A5500/5034_R1.PDF (a bill which expands the definition of an auto theft trafficking network leader and creates a third-degree crime of being a participant in an auto theft trafficking network).

⁴ Asm. B. No. 5189, 220th Leg. (N.J. 2023), https://pub.njleg.state.nj.us/Bills/2022/A5500/5189_R1.PDF (a bill which will increase pre-trial detention for individuals with multiple auto theft cases).

⁵ *Senate Judiciary Monday, December 19, 2022-10:00 AM*, N.J. LEG (Dec. 19, 2022), <https://www.njleg.state.nj.us/archived-media/2022/SJU-meeting-list/media-player?committee=SJU&agendaDate=2022-12-19-10:00:00&agendaType=M&av=A>; *New Jersey Legislature, Assembly Law and Public Safety Monday, December 05, 2022-2:00 PM*, N.J. LEG (Dec. 5, 2022), <https://www.njleg.state.nj.us/archived-media/2022/ALP-meeting-list/media-player?committee=ALP&agendaDate=2022-12-05-14:00:00&agendaType=M&av=V>;

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do social justice.

As Attorney General Matthew Platkin noted, “over the past six months, auto thefts have been driven below their five-year average.”⁶ Your administration has played no small role in reversing these trends.⁷

Though auto theft has been decreasing, false narratives about continually increasing auto theft and false links to the CJRA have been abounding. Unfortunately, the Attorney General observed, “the public is being fed a steady diet of misinformation about the state of public safety here in New Jersey. Politicians all too often capitalize on tragic anecdotes to score political points.”⁸ False narratives about auto theft and political expediency are fueling fear, which is the driving force for these regressive bills. Fear should not be the basis for legislation that will negatively impact many lives.

2) *A5189, in particular, undermines the gains that New Jersey has made through the CJRA.*

Since 2017, the CJRA (often referred to as bail reform) has successfully eliminated a system where people were detained not based on risk but based on the amount of money they had. The CJRA ensured that defendants returned to court at a rate as high as 97.1% in 2020.⁹ Moreover, the vast majority of defendants that are released pretrial are not rearrested and only 1.2% of released defendants were rearrested for the most serious offenses (including Graves or No Early Release Act qualifying offenses).¹⁰ At its core, the CJRA establishes a presumption in favor of release with very limited exceptions.¹¹ By permitting legislation that alters this presumption we open the door to more exceptions eroding the purpose of the CJRA – increasing unnecessary pre-trial detention of individuals who are presumed innocent. A5189 sets the CJRA as the scapegoat for false narratives about crime setting New Jersey on a backwards track to increased overincarceration.

3) *These bills do not address the root causes of criminal activity.*

These bills will increase penalties for auto theft related offenses and in some cases, it will double the prison sentence an individual could serve.¹² Auto theft related offenses are largely crimes of opportunity and those accused and convicted of these crimes are largely people lacking opportunities. By simply looking to detain and incarcerate more people for longer periods, we are failing as a state to meaningfully evaluate why these crimes continue. Our state must instead increase sustained investment in community-based programs – including those for prevention and diversion programs that can target mental health and substance use disorders. By providing these opportunities we can address the root causes of crime and avoid a return to the failed 1990s model of over-incarceration which has been ineffective at preventing crime.

4) *These bills will exacerbate the already stark racial disparities in New Jersey’s criminal legal system.*

Mandating harsher penalties will undoubtedly result in increased incarceration. Unfortunately, New Jersey has the worst racial disparities in incarceration in the entire country. A Black adult is 12 times more likely

⁶ Matthew J. Platkin, *AG: Facts don’t lie. Crime is Down In New Jersey*, NJ.COM, (Mar. 12, 2023), <https://www.nj.com/opinion/2023/03/ag-facts-dont-lie-crime-is-down-in-new-jersey-opinion.html>.

⁷ *Id.*

⁸ *Id.*

⁹ N.J. Sup. Ct., Report of the Reconvened Joint Committee on Criminal Justice 15 (Jun. 8, 2023), <https://www.njcourts.gov/sites/default/files/courts/criminal/criminal-justice-reform/reconvenedcommreport.pdf>.

¹⁰ *Id.*

¹¹ N.J. Stat. Ann § 2A:162-19(b) (West, 2023).

¹² Asm. B. No. 4931 *supra* note 2.

to be incarcerated than a white adult.¹³ Black youth are 18 times more likely to be incarcerated than white youth¹⁴ – even though Black and white youth commit most offenses at similar rates.¹⁵ We should be focusing on addressing these stark racial disparities and working to shrink our prison populations, not considering laws that will lead to more individuals – more Black individuals – to be incarcerated.

Conclusion

We strongly urge you to veto A4930, A4931, A5034 and A5189 for the above-mentioned reasons. New Jersey does not need a continuation of knee-jerk “tough on crime” measures. Instead, we encourage your administration to continue its commitment to advance public safety through progressive criminal justice measures that empower communities without perpetuating racial disparities.

Respectfully,

ACLU-NJ
Equal Justice USA
Integrated Justice Alliance
Latino Action Network
Newark Communities for Accountable Policing
New Brunswick Area NAACP
New Jersey Institute for Social Justice
New Jersey Policy Perspective
Our Revolution New Jersey
Salvation and Social Justice

¹³ ASHLEY NELLIS, THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS, THE SENT’G PROJECT 10 (Oct. 13, 2021) <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

¹⁴ JOSHUA ROVNER, BLACK DISPARITIES IN YOUTH INCARCERATION, THE SENT’G PROJECT 1 (Jul. 15, 2021), <https://www.sentencingproject.org/publications/black-disparities-youth-incarceration/>.

¹⁵ JOSHUA ROVNER, THE SENT’G PROJECT, RACIAL DISPARITIES IN YOUTH COMMITMENTS AND ARRESTS 6 (2016), <https://www.sentencingproject.org/wp-content/uploads/2016/04/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>; see also Nat’l Juv. Just. Network, Implicit Bias: Why It Matters for Youth Justice 1 (2017), <https://www.njjn.org/uploads/digital-library/NJJN%20Implicit%20Bias%20Snapshot%202017.pdf?phpMyAdmin=14730ab3483c51c94ca868bccffa06ef> (“Even though white youth and youth of color engage in illegal behavior at similar rates, substantial over-representation of youth of color in the juvenile justice systems across our country and disparities in treatment remains a serious problem.”).