

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

-Alan V. Lowenstein, Institute Founder



TESTIMONY OF YANNICK WOOD  
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE  
IN OPPOSITION TO A5513  
NEW JERSEY ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE  
JUNE 5, 2023

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**do social justice.**

Thank you for the opportunity to present this testimony. The New Jersey Institute for Social Justice (the “Institute”) opposes A5513,<sup>1</sup> as this legislation disrupts the progress made with the bipartisan, successful and landmark legislation: the Criminal Justice Reform Act.

My name is Yannick Wood, Director of the Criminal Justice Reform Program at the Institute. The Institute’s advocacy empowers people of color by building reparative systems that create wealth, transform justice and harness democratic power – from the ground up – in New Jersey.

*Introduction*

The CJRA is a successful, landmark law. Since 2017, it has successfully eliminated a system where people were detained not based on risk but based on the amount of money they had. The CJRA has ensured defendants return to court at a rate as high as 97.1% in 2020.<sup>2</sup> Moreover, the vast majority of defendants that are released are not rearrested and only 1.2% of released defendants were rearrested for the most serious offenses (Graves or NERA offenses).<sup>3</sup> Furthermore, crime across New Jersey had been falling prior to the CJRA,<sup>4</sup> during the CJRA,<sup>5</sup> and after a momentary increase across the nation during COVID, it is once again decreasing.<sup>6</sup> Nevertheless, the CJRA is repeatedly set as a scapegoat for false narratives about crime. Even our Attorney General agrees: “Pick your favorite bogeyman” citing bail reform and other recent progressive developments, “[n]one of these issues have caused significant increases in crime here in New Jersey, yet they are frequently invoked by those peddling the ‘crime epidemic’ narrative – often creating a false choice between community-police trust on one hand and public safety on the other.”<sup>7</sup>

The Institute opposes A5513 for the following reasons: (1) The Supreme Court’s Criminal Justice Reform Act Committee will be releasing a report reviewing the CJRA and providing recommendations for improvements and the legislature should review the report before legislating; (2) A5513 effectively creates mandatory minimum jail sentences for certain individuals even if a judge believes there are less restrictive alternatives and even though the individual has not been convicted of the underlying allegations; and (3) A5513 is missing the legally required racial and ethnic impact assessment. Legislators should not rush legislation that directly affects pretrial detention with the potential to exacerbate racial disparities.

*(1) The Supreme Court’s Criminal Justice Reform Act Committee will be releasing a report reviewing the CJRA and providing recommendations for improvements and the legislature should review the report before legislating.*

New Jersey's Supreme Court formed a committee of stakeholders to review the CJRA. Law enforcement, legislators, prosecutors, attorneys and judges have been meeting over the last few months to review all aspects of the CJRA to create a comprehensive report. This report will propose numerous recommendations, which will inform any legislative effort to amend the CJRA. These recommendations will be the result of robust research and expertise. As such, we urge that this bill not move forward until all legislators are able to review this upcoming report.

(2) A5513 effectively creates mandatory minimum jail sentences for certain individuals even if a judge believes there are less restrictive alternatives and even though the individual has not been convicted of the underlying allegations.

The current law outlines a set of factors to be considered before revoking an individual's order of release. A court must first find that the individual violated a term of their release, must consider all relevant circumstances and find by clear and convincing evidence that no other condition besides detention exists to assure their appearance in court, the protection of the community and that they will not obstruct the process.<sup>8</sup> Only then could an order for release be revoked.<sup>9</sup> A5513 shifts this standard entirely, forcing the court to impose a minimum jail period for violations even if the presiding judge finds a less restrictive option available.<sup>10</sup> This may result in the needless detention of individuals pre-trial. Judges are in the best position to weigh all relevant circumstances to ensure which individuals should be detained pre-trial. Creating mandatory jail sentence schemes for individuals not convicted of the allegations they face, only removes the judiciary's ability to meaningfully evaluate each revocation motion on a case-by-case basis.

(3) *A5513 is missing the legally required racial and ethnic impact assessment.*

Bills impacting the criminal justice system must include a racial impact assessment.<sup>11</sup> Specifically, the Office of Legislative Services must "prepare a racial and ethnic community criminal justice and public safety impact statement for each proposed criminal justice bill, resolution or amendment that would affect pretrial detention, sentencing, probation or parole policies concerning adults and juveniles."<sup>12</sup> No racial impact assessment has been conducted for A5513 and this bill directly impacts pre-trial detention.

A5513 risks exacerbating New Jersey's nation-leading racial disparities. A Black adult in New Jersey is 12 times more likely to be incarcerated than a white adult.<sup>13</sup> And while New Jersey's overall population is 15% Black, the jail population as of October 2021 is 60% Black.<sup>14</sup> It is imperative for the legislature to consider the racial impact of these laws.

### *Conclusion*

Before making any changes, the Institute implores the legislature to review the Supreme Court Committee's report, review the data and speak with experts. Any legislation to amend the CJRA without this foundation may result in unnecessary detention. The Institute strongly urges this committee to vote against releasing this bill.

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<sup>1</sup> Asm. B. No. 3119, 220<sup>th</sup> Leg. (N.J. 2022), [https://pub.njleg.state.nj.us/Bills/2022/A3500/3119\\_I1.PDF](https://pub.njleg.state.nj.us/Bills/2022/A3500/3119_I1.PDF).

<sup>2</sup> Annual Report to the Governor and the Legislature (Nov. 2022) 15

<https://www.njcourts.gov/sites/default/files/courts/criminal/criminal-justice-reform/cjr2021.pdf>.

<sup>3</sup> *Id.* at 15 (Figure 4 and Figure 5).

<sup>4</sup> NJ.gov Crime Data, Official Site of the State of New Jersey, <https://www.nj.gov/nj/safety/features/crimedata.html>.

<sup>5</sup> *Id.*

<sup>6</sup> Michael Symons, *How Bad are Car Thefts in New Jersey? The Real Numbers for 2022*, NEW JERSEY 101.5 (Dec. 6, 2022), <https://nj1015.com/car-thefts-new-jersey-2022/>; Homicides and Shootings Decline in New Jersey's Capital City (Aug. 31, 2022), <https://www.trentonnj.org/CivicAlerts.aspx?AID=762>; Coming Off Two Record Years, Homicides and Shootings Decline in New Jersey's Capital City, MIDJERSEY.NEWS (Aug. 31, 2022), <https://midjersey.news/2022/08/31/coming-off-two-record-years-homicides-and-shootings-decline-in-new-jerseys-capital-city/>.

<sup>7</sup> 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>.

<sup>8</sup> N.J. Stat. Ann § 2A:162-24(a) (West, 2023).

<sup>9</sup> *Id.*

<sup>10</sup> N.J. Leg. *supra*, note 1.

<sup>11</sup> N.J. Stat. Ann. § 52:11-57.1 (West, 2018).

<sup>12</sup> *Id.*

<sup>13</sup> Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, 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>.

<sup>14</sup> *Id.* at 30.