

February 26, 2024

Dear Governor Hochul, Speaker Heastie, and Majority Leader Stewart-Cousins,

We, the undersigned organizations, write in opposition to the expansion of hate crime laws in the Executive Budget. We are eager to address the bias incidents and violence that our loved ones, families, and communities have faced, and we commend the effort to bring attention to these issues. However, for the reasons outlined below, we cannot endorse the proposal's sentencing enhancements for hate crimes.

The Executive budget expands the list of hate crime-eligible offenses, which would all trigger severe sentencing enhancements. Expanding the list of hate crime-eligible offenses will at best provide a false sense of comfort and, at worst, amount to a distraction from more meaningful action. Some of these newly punishable offenses would garner serious sentencing increases. For example, the proposal creates a new offense, "bias harassment," a class A misdemeanor, which typically receives a sentence between time served and a one-year maximum sentence. However, when classified as a hate crime, the offense triggers a maximum sentence of up to 7 years. The same outrageous sentencing increase would apply to class A misdemeanors of "jostling" – a crime of opportunity, not bias.

These severe punishments contradict the clear evidence that longer sentences do not actually deter crime. According to a meta-analysis of over 100 studies, incarceration does not deter people from reoffending and may slightly increase the rate of committing an offense in the future.¹ The National Institute of Justice, the scientific research arm of the Department of Justice, has found that "sending an individual convicted of a crime to prison isn't a very effective way to deter crime," and "increasing the severity of punishment does little to deter crime."² Sentencing enhancements also contradict the clear data that people are less likely to harm others as they age. The rate of involvement with most offenses peaks in a person's early twenties and then continues to steadily decline over time. To be sure, some members of our communities have been disappointed when prosecutors do not designate certain acts as hate crimes. But victims often seek this label to validate the unique harm they have experienced, not because they seek harsher criminal punishments.

Our communities are well-acquainted with the specific harm of bias motivated harassment and violence. Today, New York is experiencing increases in hate crimes across the board. 2022 had the highest rate of hate crimes against LGBTQ, Jewish, Muslim, and Black individuals in the past several years. The pandemic brought a startling increase in hate violence against Asian people.

Simply put, we cannot afford to invest in proposals that will not make us safer. Police, prisons, and jails have themselves been the source of much of the violence our communities have faced over the years. All of our communities have been affected by bias-motivated police killings and harassment, yet these same agencies are now being called upon to protect us through hate crime enforcement. Incarceration and policing have done too much damage to our communities for us to endorse this proposal.

Interventions to reduce harassment and violence should focus on the solutions that increase public safety over the long haul. For example, better school programs, employment opportunities, Medicaid expansion, access to mental health treatment, and affordable housing have also been associated with reductions in

¹ Damon M. Petrich et al., *Custodial Sanctions and Reoffending: A Meta-Analytic Review*, 50 *Crime & Justice* 1 (Sept. 2021), <https://perma.cc/4ATJ-KY7Y>.

² Nat'l Inst. of Justice, *Five Things about Deterrence*, 2 (May 2016), <https://perma.cc/2KJL-SAE8>.

crime and violence.³ These investments are also precisely what people who have been harmed need most following an incident.

Ultimately, crime control is not a solution to structural discrimination. Focusing only on individual punishment ignores the deeper rhetoric, norms, history, ideology, and structural issues that inform individual prejudice and bias. Measures like public education, conflict resolution programs, and other proactive efforts aimed at the root causes of hate crimes must be further explored to prevent prejudice and bias from occurring in the first place. Strategies focused on long-term impact, healing, and education more effectively address harmful, targeted acts of prejudice and hate to ensure they don't happen again in the future.

We urge you not to include hate crime expansion and sentencing enhancements in the state budget and pursue long-term solutions instead.

Adhikaar

Asian American Legal Defense and Education Fund

Blasian March

Brooklyn Defender Services

Center for Constitutional Rights

Chief Defenders Association of New York

Coalition for Asian American Children and Families

COLAGE

DRUM - Desis Rising Up & Moving

East Coast Asian American Student Union

Envision Freedom Fund

Families For Freedom

Freedom Agenda

GAPIMNY—Empowering Queer & Trans Asian Pacific Islanders

Immigrant Defense Project

Jews For Racial & Economic Justice (JFREJ)

LatinoJustice PRLDEF

Legal Defense Fund

³ See Thea Sebastian et al., Civil Rights Corps, *Getting Smart on Safety: Evidence on Non-Carceral Investments that Work to Prevent Violence & Harm*, https://civilrightscorps.org/wp-content/uploads/2023/05/Getting-Smart-On-Safety_03_17_23-1-2.pdf.

Make the Road New York

Mekong NYC

Mirror Memoirs

Neighborhood Defender Service of Harlem

New Hour

Queens Defenders

Sakhi for South Asian Women

Southeast Asian Defense Project

Stop AAPI Hate

The Legal Aid Society

Transgender Law Center

True Colors United

Womankind

Women & Justice Project

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