

Joint Legislative Budget Hearing on Public Protection

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My name is Alana Sivin, 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.

To start, we thank Governor Hochul for her continued focus on New York's mental health system, specifically investments directed to community-based services like clubhouses and youth safe spaces, Intensive and Sustained Engagement Teams (INSET), and Safe Options Support (SOS). We are also heartened by the governor's small but important investments in services that support survivors of crime and community-based public safety programs.

But these investments are not enough. We recognize that many New Yorkers across the state do not feel safe in their communities, and the governor has a responsibility to address these concerns. Every New Yorker deserves to feel safe. However, in its efforts to accomplish that goal, the proposed budget prioritizes costly, ineffective punishment over proven solutions that increase actual safety.

We can do two things at once: we can address concerns about safety, and we can follow the evidence and invest in solutions that build real, long-term safety. We urge the governor to reconsider her investment allocations to focus more on what truly works to create safety.

New Yorkers want to live in a state that centers both safety *and* justice. That means investing in services that create safety, like community-based services and pretrial services. It does not mean weakening discovery laws or forcing more people into hospitals.

New Yorkers are tired of fearmongering. It has been ongoing for years, resulting in rollbacks to bail and other reforms, as well as the governor's record investments in law enforcement, and it has not done anything to make New Yorkers feel safer.¹ It only encourages more fearmongering, which leads to people feeling less safe. If prior rollbacks have not improved New Yorkers' perception of public safety, we cannot expect further changes to have an impact. It is time for real solutions.

Invest in Community-Based Solutions that Work to Make the Subways and Streets Safer

New Yorkers have become increasingly concerned with crimes committed by people experiencing serious mental illness, especially incidents in New York City's subway system. Recent high-profile

crimes and random acts of violence have shaken the city’s confidence in its transportation lifeline. Although subway crime is down, the rhetoric continues to outpace the data.²

New Yorkers want and deserve a safe and peaceful subway ride. But deploying more police and army officers is not the answer. Many of the challenges that drive instability on the subway—such as mental health, poverty, and housing insecurity—will not be effectively addressed through policing. Mental health and crime are complex issues that require many different solutions working together. Although community-based solutions do not carry the visibility of a wave of police officers on the subways, they address the root causes of mental health crises and crime. Their work prevents the headlines that make us feel unsafe.

The governor’s proposal to provide Safe Options Support (SOS) with \$2.8 million in additional funding for street medicine and psychiatry is a good start.³ By May 2024, just two years into the program, SOS teams completed 27,000 outreach encounters, connected 450 people with stable housing, and 300 people with emergency medical, psychiatric, or substance use disorder care.⁴ Each connection is an opportunity to prevent a future crisis and headline. Last year, the governor increased SOS’s funding by \$9 million; we urge the governor to increase SOS’s budget by an additional \$9 million once again, so that SOS can continue expanding these important services to new regions.

Governor Hochul should also support additional funding for overnight “end of the line” teams.⁵ These clinician-led teams are deployed at each train’s final stop, which presents a unique opportunity to conduct meaningful outreach and engagement. All final stops should have resources available to deploy these teams.

Similarly, the governor should support a significant increase in subway drop-in centers. These centers provide people with food, water, medical care, and a toilet, among other necessities. They also provide a natural setting for outreach workers to establish relationships and help people achieve lasting stability. Stability means supporting people when they need help, not arresting or hospitalizing them when it is too late.

Involuntary Commitment is Not a Mental Health Solution

Regrettably, in attempting to address the mental health crisis that rightfully concerns many New Yorkers, one of the budget’s headlines is involuntary commitment. This focus ties in with the governor’s effort to remove mental health crises from the eyes and minds of New Yorkers; to make New Yorkers *feel* safer rather than actually make them safer.

Forcing more people into our hospitals is the wrong solution. Although involuntary commitment may be necessary in rare circumstances, it often acts as only a short-term band-aid and leaves the impacted person further destabilized and mistrustful of institutions providing services.⁶ Expanding New York’s existing laws will not address the real problems that exist in our mental health system, like a shortage of hospital beds, lack of access to services, and underfunded services.⁷ Nor will more involuntary commitment deliver safety, especially if we cannot responsibly provide people with a continuum of care after we release them back to their communities.

In part because of the governor's commitments, New York has seen an increase in evidence- and community-based mental health services over the last two years. But to fix our mental health issues, we need to allocate more funding to reflect the success of in-demand, voluntary, community-based services. For example, we should invest meaningfully in:

- Assertive Community Treatment (ACT) and Forensic Assertive Community Treatment (FACT) teams, which facilitate community-based access to mental health professionals. The programs have reduced hospitalizations, decreased homelessness, and enabled people to remain safely in their communities and avoid incarceration.⁸ But waitlists are long.⁹ New Yorkers with mental health needs cannot afford to wait up to a year to access voluntary treatment, and less than half of children seeking mental health services receive them.¹⁰ We must increase our investments by at least \$9.1 million to meet demand for FACT teams and eliminate waitlists.
- INSET teams, which conduct peer outreach and engagement. While the governor has allocated \$2.8 million, the budget should allocate an additional \$4 million to fund an additional five INSET teams to deploy in regions that do not currently offer the service.
- Peer Bridger teams, which help people experiencing mental illness transition out of hospitals. These teams are critical for a successful, stabilizing continuum of care. The budget should increase funding by \$3 million to fund at least five additional teams across New York.

Support Justice by Supporting Discovery

We urge the governor to reconsider her stance on New York's discovery laws.¹¹ Since 2019, we have heard a constant drumbeat from New York City prosecutors about their inability to comply with the evidence-sharing laws. The governor and legislature have responded by loosening the laws and significantly increasing district attorneys' funding.¹² Yet, the beat goes on. We have seen time and time again how weak discovery laws result in wrongful convictions.¹³ Rather than revert to a system that undermines justice by limiting defendants' access to evidence and weakening the law's other protections, the governor should support Senate Bill 613 (Myrie) and Assembly Bill 825 (Lasher), which provides district attorneys with direct access to police evidence and is an actual solution to the problem raised by prosecutors.¹⁴

Invest in Pretrial Services for Community Safety and Stability

The governor should support legislation that improves the state's operation of pretrial services. Pretrial services are provided to people who courts release before trial (so long as they comply with court-ordered conditions). As a result, pretrial service providers occupy an important space in our criminal justice system that presents a unique opportunity to increase court attendance, reduce recidivism, and increase safety.

Each county has a designated pretrial services provider. In most counties outside New York City, probation has taken over this role. The law requires the Office of Court Administration (OCA) to certify each pretrial services agency, but OCA is not required to—and does not—verify

qualifications, issue guidance, conduct research, or otherwise assist providers. No agency has that responsibility.

Senate Bill 430 (Salazar) and Assembly Bill 3994 (Kelles) fill this operational gap by creating an Office of Pretrial Services within the Division of Criminal Justice Services.¹⁵ That office would be responsible for, among other things: 1) ensuring providers meet baseline qualifications, 2) establishing best practices to increase service quality and consistency across counties, 3) developing role-dependent training materials, and 4) establishing protocols that help providers to review and reconsider each participant's need for ongoing services.

New York needs well-run, consistent, supportive pretrial services. The need has grown significantly since 2019. In 2023, New York City courts released people to supervision at five times as many arraignments than in 2019 (25,280 in 2023 compared to 4,972 in 2019), and courts outside New York City released people to supervision twice as frequently as in 2019 (12,298 in 2023 compared to 6,113 in 2019).¹⁶ The need for increased funding to keep pace with increasing demand is surpassed only by the need for guidance and consistency in program operation.

Importantly, this legislation will not affect pretrial release decisions. It simply fills an operational gap and improves the quality and consistency of pretrial services across the state, which will reduce rearrests, improve court appearance, and increase public safety.

We Cannot Forget Robert Brooks

We are concerned that this year's State of the State and Executive Budget do not mention the murder of Robert Brooks and the tangible steps needed to prevent violence in New York's prisons.

The governor's address and budget offered two high visibility opportunities to acknowledge the murder of Robert Brooks at Marcy Correctional Facility and to demonstrate New York's commitment to ensuring that no one else suffers that same fate. The failure to mention Mr. Brooks undermines the governor's commendable response to his death. By immediately starting the termination process for the 14 officers responsible and implementing other corrective measures, the governor took decisive action.¹⁷ However, more work remains.

We need independent prison oversight that holds prison staff accountable. We also need to ensure that the Department of Corrections and Community Supervision (DOCCS) has authority to swiftly discipline or terminate officers when their conduct warrants it. These needs should not be controversial. To meet them, the governor should support Senator Salazar's package of bills titled "Prison Safety is Public Safety: Robert Brooks Transparency & Accountability."¹⁸ These three bills, combined with the governor's previous commitments, will set DOCCS on a path towards transparency, accountability, and increased safety for everyone who works or lives in New York's prisons.

Prioritize Safety, Wellness, and Justice for Correctional Officers and Incarcerated People

To improve our prisons and their conditions, we need to increase access to programming, prioritize and incentivize rehabilitation, improve safety and wellness, and prepare our incarcerated population for job readiness and success after prison.

We also need to question who is in our prisons, for how long, and whether our rehabilitative efforts make sense given the current prison population. The governor touched on this subject by proposing that DOCCS have discretion to institute new programming.¹⁹ That is a much needed first step, but the real problem is our merit time laws, as only about 28 percent of people in New York state prisons are eligible to earn credit for program participation.²⁰ The governor should support expanding eligibility for merit time credits to include everyone in prison.

This change to our merit time laws is well-supported by the legislature via the **Earned Time Act**. Most of the approximately 24,000 ineligible people are ineligible solely because they are serving time for a violent offense, a restriction that dates to the 1990s and the Pataki administration. Thirty years later, we know much more about the benefits of rehabilitative programming for all participants, regardless of their crime of conviction.²¹ By removing the merit time credit restrictions, we can provide incarcerated individuals with positive incentives, improve behavior to make prisons safer for incarcerated people and staff alike, safely reduce the prison population, and improve post-release outcomes, all of which work together to reduce recidivism and increase public safety.

Our legislature also strongly supports another rehabilitation focused change, the **Second Look Act**. Second Look laws allow judges to review individual cases after a person has served a significant amount of time to determine if that person has been rehabilitated such that their sentence should be reduced. This rewards rehabilitation and ensures that the state does not spend taxpayer money incarcerating people who are no longer a threat to public safety.²²

Both the Earned Time and Second Look Acts have the public's overwhelming support. Vera Action commissioned polling of 500 New Yorkers—representative of the state's geographies and demographics—regarding the concepts behind the Earned Time Act and Second Look Act.²³ The polling found that 74 percent of New Yorkers support the concept of Earned Time, including majority support across all age groups, gender and racial groups, and self-identified political categories. Similarly, 68 percent support Second Look, also including a majority across demographics. For the safety of all New Yorkers, the governor should support these bills.

Thank you for the opportunity to submit testimony in support of safety, accountability, and justice for New York. Please do not hesitate to contact me at asivin@vera.org if the Vera Institute of Justice may provide further support to you all.

¹ Peter Sterne, "A (Not So) Brief Guide To New York's Bail Reform Evolution," *City & State New York*, May 5, 2023, <https://www.cityandstateny.com/policy/2023/05/not-so-brief-guide-new-yorks-bail-reform-evolution/385379/>; Krystal Rodriguez, "Discovery Reform in New York: Major Legislative Provisions," Data Collaborative for Justice, May 2022, https://datacollaborativeforjustice.org/wp-content/uploads/2022/05/Discovery-Reform-in-New-York_Revised-2022_6.2_FINAL.pdf (describing discovery revisions through 2022).

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- ² Gersh Kuntzman, “Afraid of Crime in the Subway? It’s All in Your Head, NYPD Stats Say,” Streetsblog, January 6, 2025, <https://nyc.streetsblog.org/2025/01/06/afraid-of-crime-in-the-subway-its-all-in-your-head-nypd-stats-say>.
- ³ For more information about Safe Options Support, see Coordinated Behavioral Care, “Safe Options Support (SOS),” accessed February 9, 2025, <https://cbcare.org/innovative-programs/nyssos>.
- ⁴ BK Reader Staff, “Over 450 Formerly Homeless People Now Have Housing Due to State Program, Hochul Says,” *BK Reader*, May 25, 2024, <https://www.bkreader.com/policy-government/over-450-formerly-homeless-people-now-have-housing-due-to-state-program-hochul-says-8757002>.
- ⁵ New York City, *The Subway Safety Plan*, 2022, <https://www.nyc.gov/assets/home/downloads/pdf/press-releases/2022/the-subway-safety-plan.pdf>.
- ⁶ For example, see Nev Jones, Becky K Gius, and Morgan Shields, et al., “Investigating The Impact Of Involuntary Psychiatric Hospitalization On Youth And Young Adult Trust And Help-seeking In Pathways To Care,” *Social Psychiatry and Psychiatric Epidemiology* 56, no. 11 (2021), <https://doi.org/10.1007/s00127-021-02048-2>; Amy Corderoy, Steve Kisel, Tessa Zirnsak, and Christopher James Ryan, “The Benefits and Harms of Inpatient Involuntary Psychiatric Treatment: A Scoping Review,” *Psychiatry, Psychology and Law*, 1–48, <https://doi.org/10.1080/13218719.2024.2346734>; and Maia Szalavitz, “Why Forced Addiction Treatment Fails,” *New York Times*, April 30, 2022, <https://www.nytimes.com/2022/04/30/opinion/forced-addiction-treatment.html>.
- ⁷ According to the New York Comptroller, the state is unable to satisfy current need for hospital beds. See Thomas DiNapoli, *Mental Health: Inpatient Service Capacity* (Albany, NY: Office of the Comptroller, 2024), <https://www.osc.ny.gov/files/reports/pdf/mental-health-inpatient-service-capacity.pdf>.
- ⁸ New York State Office of Mental Health, “Assertive Community Treatment (ACT),” <https://omh.ny.gov/omhweb/act>; Gary R. Bond and Robert E. Drake, “The Critical Ingredients Of Assertive Community Treatment,” *World Psychiatry* 4, no. 14 (2015), 240-42, <https://pmc.ncbi.nlm.nih.gov/articles/PMC4471983>.
- ⁹ Maya Kaufman, “New Pilot Tackles City’s Long Waitlist For Mental Health Programs,” Politico, October 30, 2023, <https://www.politico.com/newsletters/weekly-new-york-health-care/2023/10/30/pilot-program-00124173>.
- ¹⁰ Ibid.; and Citizens’ Committee for Children of New York, “Voicing our Future: Surveying Youth on their Priorities for 2021 and Beyond,” 2021, <https://lookerstudio.google.com/reporting/a13f9c4f-3609-4075-9381-047a6dfb0254/page/HCRHC?s=lxGhynVc6ZE>.
- ¹¹ New York State Division of the Budget, “Part B: Streamline and Clarify Discovery Requirements” in *FY 2026 New York State Executive Budget, Public Protection and General Government Article VII Legislation, Memorandum in Support* (Albany, NY: Division of the Budget, 2025), 15-16, <https://www.budget.ny.gov/pubs/archive/fy26/ex/artvii/ppgg-memo.pdf>.
- ¹² New York State Senate, S8303-D, “Aid to Localities Budget,” 2023-2024 Session, <https://www.nysenate.gov/legislation/bills/2023/S8303/amendment/D>.
- ¹³ In Defense Of, “Justice is Blindfolded,” accessed February 12, 2025, <https://indefenseof.us/issues/blindfolded>.
- ¹⁴ New York State Senate Bill S613, “An act to amend the criminal procedure law, in relation to giving prosecutors’ offices access to law enforcement records for discovery purposes,” 2025-2026 Session, <https://www.nysenate.gov/legislation/bills/2025/S613>.
- ¹⁵ New York State Senate, S430, “An act to amend the criminal procedure law and the executive law, in relation to establishing an office of pretrial services,” 2025-2026 Session, <https://www.nysenate.gov/legislation/bills/2025/S430>; New York State Assembly, A3994, “An act to amend the criminal procedure law and the executive law, in relation to establishing an office of pretrial services,” 2025-2026 Session, <https://www.nysenate.gov/legislation/bills/2025/A3994>.
- ¹⁶ New York State Division of Criminal Justice Services (DCJS), *Supplemental Pretrial Release Summary Tables 2019-2023*, (Albany, NY: DCJS, 2024), 30-31, https://www.criminaljustice.ny.gov/crimnet/ojsa/pretrial-release/Supplemental_Pretrial_Release_Summary_Tables.pdf.
- ¹⁷ Governor Kathy Hochul, “Governor Hochul Visits Marcy Correctional Facility Demanding Answers Following Death of Robert Brooks and Announces Immediate Corrective Actions,” press release, December 30, 2024, <https://www.governor.ny.gov/news/governor-hochul-visits-marcy-correctional-facility-demanding-answers-following-death-robert>.
- ¹⁸ New York State Senate, S651, “An act to amend the correction law, in relation to correctional facility visits by the correctional association,” 2025-2026 Session, <https://www.nysenate.gov/legislation/bills/2025/S651>; New York State Senate, S1671, “An act to amend the correction law and the civil service law, in relation to discipline of certain persons for serious misconduct,” 2025-2026 Session, <https://www.nysenate.gov/legislation/bills/2025/S1671>;

New York State Senate, S1707, “Creates the office of the correctional ombudsperson,” 2025-2026 Session, <https://www.nysenate.gov/legislation/bills/2025/S1707>.

¹⁹ Division of the Budget, *Memorandum in Support*, 2025, “Part E: Reduce Reoffending Through Innovative Justice Initiatives,” 18, <https://www.budget.ny.gov/pubs/archive/fy26/ex/artvii/ppgg-memo.pdf>.

²⁰ Vera analyzed “Under Custody Profile” data published by DOCCS. See https://doccs.ny.gov/system/files/documents/2025/01/2025_01_01-uc-profile.pdf, 9.

²¹ John M. Nally, Susan Lockwood, Taiping Ho, and Katie Knutson, “The Post-Release Employment and Recidivism Among Different Types of Offenders with a Different Level of Education: A 5-Year Follow-Up Study in Indiana,” *Justice Policy Journal* 9, no. 1 (2012), 1–25, 20, https://www.cjci.org/media/import/documents/the_post-release.pdf.

²² DOCCS, *2018 Releases from Custody: Three Year Post-Release Follow-Up* (Albany: DOCCS, 2023), “Table 7.1, 2018 and 1985-2018 Releases: Returns by Age at Release,” 20, <https://doccs.ny.gov/system/files/documents/2023/01/final-2018-releases-three-year-post-release-follow-up.pdf>.

²³ Vera Institute of Justice, “New Polling Shows Strong Voter Support for Allowing Rehabilitated People to Safely Return Home,” (New York: Vera, 2024), https://vera-advocacy-and-partnerships.s3.amazonaws.com/Vera%20and%20EMC_Sentencing%20Reform%20Polling.pdf.