



**VIOLENT CRIME IN AMERICA: HOW THE PRO-CRIMINAL, ANTI-LAW
ENFORCEMENT POLICIES EMBRACED BY THE BIDEN-HARRIS
ADMINISTRATION ENDANGER ALL AMERICANS**

Interim Staff Report of the
Committee on the Judiciary
and the
Subcommittee on Crime and Federal Government Surveillance
U.S. House of Representatives

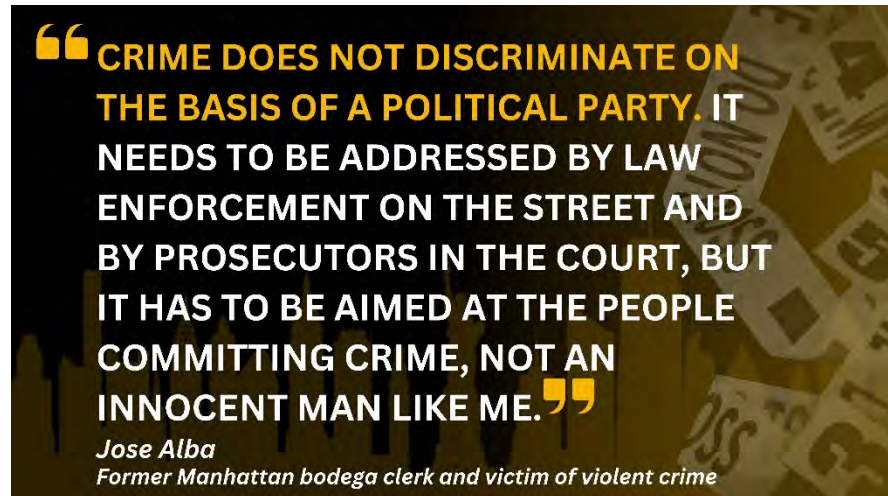


October 2, 2024

EXECUTIVE SUMMARY

The Committee on the Judiciary and its Subcommittee on Crime and Federal Government Surveillance have conducted extensive oversight to examine the surge in violent crime in major American cities over the last several years. As prominent Democrats—up to and including President Joe Biden and Vice President Kamala Harris—have embraced the misguided and dangerous “defund the police” movement, liberal special interests worked to elect far-left prosecutors in Democrat-run cities. These prosecutors and other local leaders acted to reduce and repurpose funding for police forces and to implement radical laws that keep criminals on the streets.¹ These pro-criminal and anti-law enforcement policies endanger all Americans and make American communities less safe.

During the 118th Congress, the Committee and Subcommittee have heard directly from crime victims, law enforcement officials, advocates, and residents of major cities about how the crime epidemic affects their neighborhoods. By convening hearings in Manhattan, Chicago, Philadelphia, and Washington, D.C., the Committee and Subcommittee gave Americans the opportunity to share their firsthand experiences with crime. Family members told heart-wrenching stories about losing their loved ones, only to see the murderers receive sweetheart



“CRIME DOES NOT DISCRIMINATE ON THE BASIS OF A POLITICAL PARTY. IT NEEDS TO BE ADDRESSED BY LAW ENFORCEMENT ON THE STREET AND BY PROSECUTORS IN THE COURT, BUT IT HAS TO BE AIMED AT THE PEOPLE COMMITTING CRIME, NOT AN INNOCENT MAN LIKE ME.”

Jose Alba
Former Manhattan bodega clerk and victim of violent crime

plea deals from far-left prosecutors. Victims and victim advocates talked about feeling powerless in the criminal justice system and feeling ignored by the district attorneys in positions of power. Law enforcement witnesses shared their frustrations about continually putting their lives on the line only to see the violent criminals they arrest set free.

In hearing after hearing, witnesses pointed to several factors underlying the crime epidemic. Each of these factors represents a shift toward pro-criminal policies and away from rule-based law and order. The “defund the police” movement led to sharp decreases in local spending on law enforcement agencies in major cities, including \$1 billion in New York City alone.² Rogue prosecutors in these jurisdictions simultaneously refused to prosecute entire categories of crime and forbid sentencing enhancements for prior convictions.³ Local officials

¹ Jarrett Stepman, *FBI Statistics Show a 30% Increase in Murder in 2020. More Evidence That Defunding Police Wasn't a Good Idea*, HERITAGE FOUNDATION (Sep. 30, 2021).

² Scottie Andrew and Kristina Sgueglia, *New York Police Department's budget has been slashed by \$1 billion*, CNN (Jul. 1, 2020).

³ Charles Stimson, Zach Smith, and Kevin Dayaratna, *The Blue City Murder Problem*, HERITAGE FOUNDATION (Nov. 4, 2022).

implemented policies to eliminate cash bail and force judges to release criminals back into the community.⁴

This interim report presents the information that the Committee and Subcommittee have gathered in these hearings. From the testimonies of these victims, police officers, local officials, and residents, it is apparent the crime epidemic is the result of policy choices by far-left Democrats to put criminals over communities. The testimony obtained by the Committee and Subcommittee shows the following:

- 1. Democrat-run cities defunded their police and experienced a subsequent increase in both violent and non-violent crime.** As prominent Democrats, including President Biden and Vice President Harris, embraced the “defund the police” movement, local jurisdictions took action. For example, Democrat-run New York City cut its police department budget by \$1 billion in 2020, and major crimes surged by 23 percent in 2022 when compared to 2021.⁵ Democrat-run Philadelphia cut its police department budget by \$33 million and saw an unprecedented number of homicides in 2022.⁶ Democrat-run Washington, D.C., slashed the Metropolitan Police Department (MPD) budget by roughly \$15 million in 2021.⁷ Although Democrats claim that violent crime is decreasing,⁸ crime rates are still far higher than pre-pandemic levels,⁹ and crime continues to wreak havoc on American communities.
- 2. Rogue prosecutors in Democrat-run jurisdictions downgrade serious crimes, refuse to prosecute the laws on the books, and put criminals ahead of communities.** Far-left district attorneys in Democrat-run jurisdictions seek to fundamentally change the criminal justice system to favor dangerous criminals, resulting in rising crime in their jurisdictions.¹⁰ These prosecutors refuse to prosecute entire categories of crime, systemically downgrade felonies to misdemeanors, and refuse to request bail for criminals. These pro-criminal policies are causing significant harm to the people the prosecutors swore to protect.
- 3. Democrat-run state legislatures, city councils, and rogue prosecutors implemented far-left bail reform laws and other policies that worsened rising levels of violent crime.** These laws and policies eliminated cash bail, restricted judges from imposing constraints on dangerous criminals, and even mandated the immediate release of criminals back into the community. From New York’s bail reform law to Illinois’s Safe-T Act, each jurisdiction took steps that made it harder for law enforcement to do their jobs.

⁴ *Id.*

⁵ Dean Balsamini, *NYC murders down but major crimes surge as 2022 draws to a close*, N.Y. POST (Dec. 31, 2022).

⁶ Press Release, City of Philadelphia, City Council Votes to Approve FY2021 Budget That Reduces Police Spending, Supports Police Reforms, Invests in Affordable Housing, Anti-Poverty Programs and Other Measures to Address Disparities in Philadelphia, (June 25, 2020); Ellie Rushing, *Philadelphia records 500th homicides in 2022*, THE INQUIRER (Dec. 20, 2022).

⁷ Eric Flack, *Verify: Did DC ‘Defund the Police?’*, WUSA9 (Apr. 20, 2021).

⁸ Jenny Gathright, *Homicides Are Falling In Other Major Cities. Why Are They So High In D.C.?*, DCIST (Dec. 29, 2023).

⁹ *Id.*

¹⁰ Zack Smith and Charles Stimson, *Meet Chesa Boudin, the Rogue Prosecutor Wreaking Havoc in San Francisco*, THE HERITAGE FOUNDATION (Aug. 11, 2021).

Judges in cities across the country can no longer set cash bail for most misdemeanors and many felonies and are instead compelled by statute to immediately release dangerous and potential violent individuals back into the community. These radical measures are now mainstream among Democrats—even Vice President Kamala Harris endorsed a controversial bail fund to spring criminals out of jail following riots in Minnesota in 2020.

4. **Although Democrats argue that more “gun control” will stop crime, local elected prosecutors are refusing to prosecute firearms laws already on the books.** At Committee hearings, Democrat Members blamed firearms for the violent crime surge, instead of blaming the criminals committing the crimes or the district attorneys charged with keeping their communities safe. While Democrats call for more gun control, far-left prosecutors often refuse to charge criminals with firearms crimes already on the books. For example, Matthew Graves, the United States Attorney for the District of Columbia—who is the Biden-Harris official charged with enforcing the law in Washington, D.C.—admitted that he refuses to prosecute illegal gun possession and illegal drug possession cases.¹¹ Similarly, in Philadelphia, the number of firearms cases that District Attorney Larry Krasner initiates but ultimately withdraws, dismisses, or discontinues is disproportionately higher than other Pennsylvania counties.¹²

Violent crime in the United States is an issue that affects every community. All Americans deserve to live and work in safe neighborhoods. Although the Biden-Harris Administration claims that crime is down, a reported 40 percent of Americans said in 2023 they are afraid to walk alone at night even within very close proximity of their home—the highest percentage in 30 years.¹³ In addition, according to one estimate, over 30 percent of police departments nationwide did not report their crime data to the FBI—one of the two main measurements of crime in the country.¹⁴ Citizens see, feel, and experience the continued rise in violent crime every day. Americans will not feel completely safe until local jurisdictions rethink their far-left, pro-criminal policies and stop prioritizing criminals over law-abiding citizens.

By downplaying surging crime and denying victims the justice they deserve, far-left prosecutors and local officials are failing their communities. Through the Committee’s and Subcommittees’ oversight, House Republicans will continue to examine the causes of violent crime in America to inform legislation to address the Biden-Harris crime epidemic.

¹¹ Keith Alexander, *D.C. U.S. Attorney Declined to Prosecute 67% of Those Arrested. Here’s Why*, WASH. POST (Mar. 29, 2023).

¹² *House Votes to Impeach Philadelphia DA Larry Krasner*, PENNSYLVANIA REPUBLICAN CAUCUS <https://www.pahousegop.com/phillycrime>.

¹³ Lydia Saad, *Personal Safety Fears at Three-Decade High in U.S.*, GALLUP (Nov. 16, 2023).

¹⁴ John R. Lott Jr., *The Media Say Crime Is Going Down. Don’t Believe It*, WALL ST. J. (Apr. 24, 2024).

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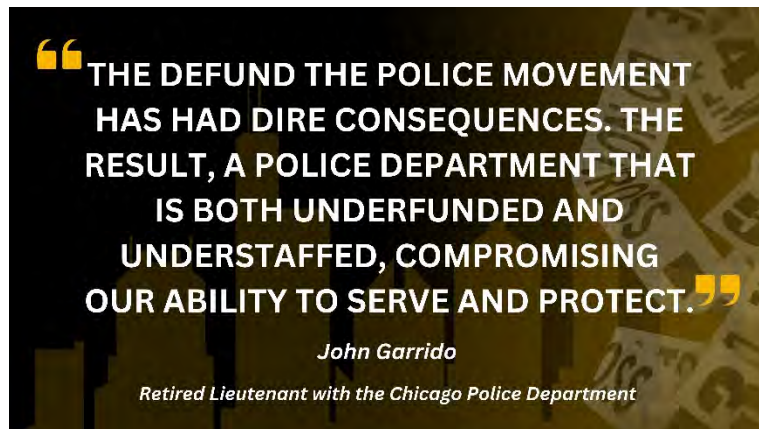
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I. THE LEFT’S “DEFUND THE POLICE” MOVEMENT HAS LED TO A RISE IN VIOLENT CRIME

Beginning in 2020, prominent Democrats embraced the “defund the police” movement, which sought to reduce funding for local police departments and to “reimagine” law enforcement with social workers and mental health counselor instead of police officers.¹⁵ President Biden expressed his support for “redirecting some of the [local police] funding” when he campaigned for office in 2020.¹⁶ Vice President Harris similarly supported “look[ing] at these [police] budgets and figur[ing] out whether it reflects the right priorities.”¹⁷ Vice President Harris specifically lauded Eric Garcetti, then-mayor of Los Angeles, for reducing the budget of the L.A. police department by \$150 million dollars.¹⁸

During the radical left’s “defund the police” movement, cities under Democrat leadership across the United States significantly reduced police department funding, hampering enforcement during an ensuing surge in violent crime.¹⁹ For instance, New York City cut \$1 billion from the New York Police Department (NYPD) budget,²⁰ and Chicago, under then-Mayor Lori Lightfoot, reduced the Chicago Police Department (CPD) budget by \$80 million.²¹ Washington, D.C. decreased the Metropolitan Police Department (MPD) budget by roughly \$15 million in 2021.²² In June 2020, the Philadelphia City Council approved a \$33.3 million reduction to the Philadelphia Police Department budget.²³

The left’s defund the police movement has had a real-world effect on public safety.



During a field hearing in Chicago, John Garrido, a retired Lieutenant with the Chicago Police Department, spoke about the effects of these budget cuts, explaining: “The Defund the Police movement has had dire consequences. The result, a police department that is both underfunded and understaffed, compromising our ability to serve

¹⁵ Sam Levin, *What does 'defund the police' mean? The rallying cry sweeping the US – explained*, THE GUARDIAN (Jun. 6, 2020).

¹⁶ NowThis Impact, *Joe Biden's Emotional Conversation with Activist Ady Barkan*, YOUTUBE (Jul. 8, 2020), <https://www.youtube.com/watch?v=V4CLoiA3vfQ>.

¹⁷ Andrew Kaczynski and Em Steck, *Kamala Harris praised 'defund the police' movement in June 2020 radio interview*, CNN (Jul. 26, 2024).

¹⁸ Ebony Bowden, *Sen. Kamala Harris applauds LA mayor's decision to slash police funding*, N.Y. POST (June 9, 2020).

¹⁹ Sam Levin, *These US cities defunded police: 'We're transferring money to the community'*, THE GUARDIAN (Mar. 11, 2021).

²⁰ Andrew and Sgueglia, *supra* note 2.

²¹ *After caving to the defund movement in 2020, Chicago Mayor Lightfoot proposes more police funding as crime continues to spiral*, THE NATIONAL POLICE SUPPORT FUND (Oct. 21, 2021).

²² Flack, *supra* note 7.

²³ Press Release, City of Philadelphia, *supra* note 6.

and protect.”²⁴ These decisions are directly correlated with a notable increase in violent crime in these cities.²⁵ Nationwide, homicides increased by over 30 percent and assaults by over 10 percent, with major urban areas such as New York, Chicago, Washington, D.C., and Philadelphia experiencing significant spikes in shootings and violent offenses.²⁶

A. New York, New York

The New York City Council cut the NYPD budget by \$1 billion in 2020.²⁷ In 2022, crime in New York City rose significantly when compared to the previous year. According to NYPD data, New York City saw a 23 percent surge in major crimes.²⁸ Further, according to reports, “[r]apes climbed 7% (1,591 from 1,481); felony assaults rose 13% (25,596 from 22,738), and robberies (17,138 from 13,592) spiked 26%.”²⁹ Burglaries in New York City went up 23 percent (15,481 from 12,568); grand larcenies were up 26 percent (50,698 from 40,166); and auto theft increased 32 percent (13,475 from 10,219).³⁰ Additionally, transit crimes surged nearly 30 percent (2,288 from 1,767).³¹ Although homicides and shooting incidents were slightly down between 2021 and 2022, they remain significantly elevated from levels four years ago.³² In New York City there were “438 homicides in 2022, up from 319 in 2019.”³³ According to NYPD data, violent crime in New York City decreased in both 2023 and the first six months of 2024 when compared to the same period in the previous year.³⁴ However, although violent crime numbers are down year over year, the numbers are still elevated from levels in 2019.³⁵ For example, according to the Council on Criminal Justice’s Mid-Year Crime Report released in July 2024, homicides in New York City remain 20 percent higher than 2019 levels.³⁶

Councilmember Robert Holden, a lifelong resident of New York City and a Democrat Member of the City Council, told the Committee that he has never seen crime as bad as it has been in recent years.³⁷ During a field hearing in New York City, Councilmember Holden testified, “I grew up in the 1980s and 1990s in New York, and I saw horrific crime numbers, but now it’s much, much worse because it’s all over. The lawlessness, mayhem is all over.”³⁸

²⁴ *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. 12 (Sep. 26, 2023).

²⁵ Stepman, *supra* note 1.

²⁶ Ames Grawert, *Myths and Realities: Understanding recent trends in violent crime*, BRENNAN CENTER (July 12, 2022).

²⁷ Andrew and Sgueglia, *supra* note 2.

²⁸ Balsamini, *supra* note 5.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Daniel De Vise, *Two million people fled America’s big cities from 2020 to 2022*, THE HILL (Apr. 12, 2023).

³⁴ Press Release, New York Police Department, NYPD Announces December 2023, End-of-Year Citywide Crime Statistics (Jan. 4, 2024).

³⁵ ERNEST LOPEZ AND BOBBY BOXERMAN, CRIME TRENDS IN U.S. CITIES: MID-YEAR 2024 UPDATE, COUNCIL ON CRIMINAL JUSTICE (Jul. 2024); Alex Oliveira, et al., *NYC homicide remains 20% above pre-pandemic levels — even as national average drops below*, N.Y. POST (Jul. 28, 2024).

³⁶ *Id.*

³⁷ *Victims of Violent Crime in Manhattan: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 107 (Apr. 17, 2023).

³⁸ *Id.*

“ I GREW UP IN THE 1980s AND 1990s IN NEW YORK, AND I SAW HORRIFIC CRIME NUMBERS, BUT NOW IT’S MUCH, MUCH WORSE BECAUSE IT’S ALL OVER. THE LAWLESSNESS, MAYHEM IS ALL OVER.”

Robert Holden
Democrat Member of the City Council

Councilmember Holden explained how crime on Manhattan streets affects the community and law enforcement:

[W]hile stats show that crime is still much higher than before the pandemic, they do not tell the entire story. Mentally ill homeless people verbally and

physically attack people randomly on the streets and in the subway. Pharmacies lock up their products. The police officers also feel pressured to undercharge perps they arrest. This is a daily reality in New York.³⁹

Paul DiGiamoco, the president of the New York Detectives Endowment Association, explained the consequences of New York’s “defund the police” actions on public safety.⁴⁰ He testified:

Now, my concern is the safety of my detectives and the people who we serve. It’s sad what’s going on in this city, because we have to start concentrating on the victims of crime and not the people that commit the crimes. It’s very sad when people are afraid to come out of their house at night in Upper Manhattan or Lower Manhattan.

When defunding the police was popular, the New York City Police Department had a Homeless Outreach Unit that was very effective. It took these homeless people off the street, got them food, shelter, got them the medication or the help that they needed. Because of the defunding of the police, that unit was disbanded. Now, when you walk through every neighborhood in Manhattan, there are homeless everywhere, because they tied the hands of the police.⁴¹

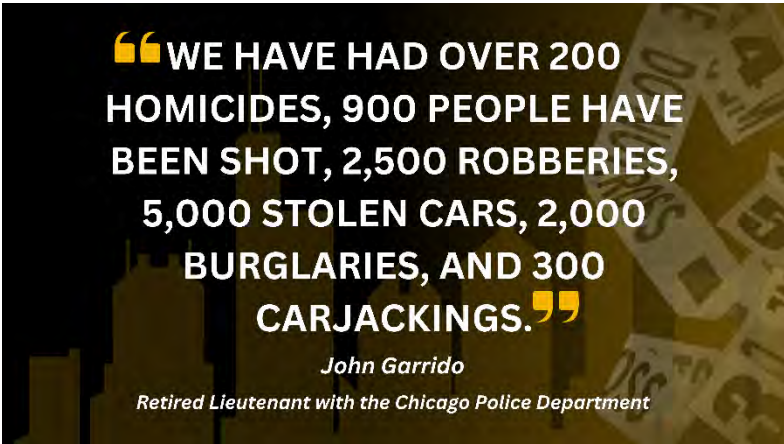
³⁹ *Id.* at 28-29.

⁴⁰ *Id.* at 40-41.

⁴¹ *Id.*

B. Chicago, Illinois

In 2020, then-Chicago Mayor Lori Lightfoot proposed an \$80 million budget cut for the Chicago Police Department.⁴² In 2021, the city cut 614 positions from the police department and cut its funding by 2.7 percent.⁴³ According to Chicago Police Department data, in 2021, incidents of criminal sexual assault increased approximately 16 percent, aggravated assaults rose 16 percent, and murders rose 4 percent when compared to the previous year.⁴⁴ In 2022, although murders decreased slightly, criminal sexual assault, robbery, burglary, theft, and motor vehicle theft increased.⁴⁵ In 2023, murders decreased slightly; however, robbery, aggravated assault, aggravated battery, theft, motor vehicle theft, and arson all increased.⁴⁶ Despite these slight year-over-year decreases in murders, Chicago has continued to lead the nation in criminal homicides for the past 12 years, signaling that violence in the city remains remarkably high, even in comparison to other major cities.⁴⁷ Although Brandon Johnson replaced Lori Lightfoot as mayor in September 2023, crime remains an issue in Chicago. During the Committee's field hearing in Chicago, former Chicago police officer John Garrido cited constant political interference as having "a detrimental impact" on public safety.⁴⁸ He added: "In just the first 100 days since Mayor Johnson was sworn into office on May 15, 2023, we have had over 200 homicides, 900 people have been shot, 2,500 robberies, 5,000 stolen cars, 2,000 burglaries, and 300 carjackings."⁴⁹ Lieutenant Garrido also addressed the effect of the defund the police movement on public safety in Chicago:



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CARJACKINGS.”**

John Garrido

Retired Lieutenant with the Chicago Police Department

Political agendas also heavily impact how resources are allocated in our department. The Defund the Police movement has had dire consequences. The result, a police department that is both

⁴² Carlos Ballesteros, *Chicago mayor proposed \$80M cut from police budget, but is that defunding the police?*, CITY BUREAU (Oct. 27, 2020).

⁴³ Shirleen Guerra, *Chicago Police near record \$2 billion in spending 3 years after defund effort*, JUST THE NEWS (Oct. 12, 2023).

⁴⁴ Chicago Police Department, 2021 Annual Report, available at <https://home.chicagopolice.org/wp-content/uploads/2021-Annual-Report.pdf>.

⁴⁵ Chicago Police Department, 2022 Annual Report, available at <https://home.chicagopolice.org/wp-content/uploads/2022-Annual-Report-FOR-PUBLICATION.pdf>.

⁴⁶ Chicago Police Department, 2023 Annual Report, available at <https://home.chicagopolice.org/wp-content/uploads/2023-Annual-Report.pdf>.

⁴⁷ Paul Vallas, *Chicago Violent Crime Up Again, As City Cuts Police Officers*, ILLINOIS POLICY (Jan. 8, 2024); Matt Rosenberg et al., *Chicago, New Orleans Were the Nation's Murder Capitals In 2022 – A Wirepoints Survey of America's 75 Largest Cities*, WIREPOINTS (Feb. 23, 2023).

⁴⁸ *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. 13 (Sep. 26, 2023).

⁴⁹ *Id.*

underfunded and understaffed, compromising our ability to serve and protect.⁵⁰

Over the past few years, crime in Chicago continues to be out of control. In 2021, 76 Chicago Police officers were shot or shot at in the line of duty, with one officer shot and killed, and in 2023, two officers were killed by gunfire.⁵¹ It is not just violent crime that is trending up. According to an official report by the Chicago Police Department, crime in Chicago overall increased during the past five years by nearly 20 percent.⁵² The year-over-year change in crime was even greater between 2021 and 2022, when overall crime in Chicago increased by 41 percent.⁵³ That trend continued as violent crime in 2023 was 11.5 percent higher than it was in 2022.⁵⁴ Although homicides are down nine percent in the first six months of 2024 when compared to 2023, violent crime remains elevated from pre-2020 levels.⁵⁵ Theft is a huge problem for the city, which saw a 114 percent increase in car thefts and a 32 percent increase in other thefts between 2018 and 2022.⁵⁶ As a result, according to a February 2023 poll, 63 percent of Chicagoans do not feel safe in the city.⁵⁷

C. Washington, D.C.

In 2021, Washington D.C. cut its police budget by approximately \$15 million.⁵⁸ In 2023, the District recorded 274 homicides, more than any other year since 1997.⁵⁹ In 2023, the District saw a 39 percent increase in violent crime and a 24 percent increase in property crime when compared to 2022.⁶⁰ Violent crime has increased dramatically from 2022 to 2023. For example:

- Cases of sexual assault rose by 111 percent;⁶¹
- Homicides increased by 38 percent;⁶²
- Motor vehicle thefts surged by 106 percent;⁶³
- Incidents of arson escalated by over 125 percent;⁶⁴ and

⁵⁰ *Id.* at 12.

⁵¹ *Mayor Lightfoot, Supt. Brown Again Complain About Violent Criminals on Electronic Monitoring, Say 200 More CPD Detectives Will Come On This Year*, CBS NEWS CHI. (Jan. 4, 2023); *Chicago Police Department, OFFICER DOWN MEM’L PAGE*, <https://www.odmp.org/agency/657-chicago-police-department-illinois> (last visited Jun. 28, 2023).

⁵² Hannah Max, *Chicago Crime Spikes in 2022, But First Drop in Murder Since Pandemic*, ILL. POL’Y INST. (Feb. 21, 2023).

⁵³ *Id.*

⁵⁴ Jeff Mordock, *22 shot, six dead in Chicago during first three days of DNC as Democrats brag crime is down*, WASH. TIMES (Aug. 22, 2024).

⁵⁵ *Id.*

⁵⁶ Max, *supra* note 52.

⁵⁷ *Id.*

⁵⁸ Flack, *supra* note 7.

⁵⁹ Emily Davies, et al., *2023 was District’s deadliest year in more than two decades*, WASH. POST (Jan. 1, 2024).

⁶⁰ Mimi Montgomery, *D.C. stores up security to fight widespread theft*, AXIOS (Feb. 15, 2024).

⁶¹ Delia Goncalves, *‘There are resources to Help’ Sex Abuse Crimes Spike in DC*, WUSA 9 NEWS (Mar. 21, 2023).

⁶² Press Release, Metropolitan Police Department, Washington, D.C., 2023 Year-to-Date Crime Comparison, (Oct. 3, 2023).

⁶³ *Id.*

⁶⁴ *Id.*

- Carjackings grew by over 55 percent.⁶⁵

Preliminary reports from MPD show violent crime has decreased 35 percent in the first six months of 2024 when compared to the same period in 2023.⁶⁶ However, violent crime increased by 39 percent from 2022 to 2023 and remains significantly elevated from pre-2020 levels.⁶⁷

Greg Pemberton, the chair of the D.C. Police Union and an MPD detective, explained the reality of the crime crisis in Washington, D.C. in testimony to the Subcommittee.⁶⁸ He testified that the “blatantly awful rhetoric” of the defund the police movement resulted in “a mass exodus of police officers from the department.”⁶⁹ He elaborated:

To put a finer point on this issue of attrition, when I took office as head of the police union in April 2020, our membership reports showed we had 3,626 members of the rank and file which is all officers, detectives, and sergeants. Our most recent membership report from October 5, 2023, states we are down to 3,021. This is a net loss of 605 union members.

Since the beginning of 2020, MPD has lost 1,329 officers, more than one third of the department. Five hundred and one of those separations, nearly 40 percent, were resignations, employees who just walked away from a career with the Metropolitan Police Department. These dangerously low police officer staffing levels take away valuable resources from our assignments, like detectives and investigative personnel, and impede the department’s ability to engage and speak with victims in a timely manner.⁷⁰

D. Philadelphia, Pennsylvania

In 2021, Philadelphia, Pennsylvania, cut its police budget by \$33 million.⁷¹ By the end of 2021, Philadelphia had—unsurprisingly—a higher rate of murders than 2020.⁷² By September 2021, homicides were up 18 percent from the same time the year before.⁷³ By November 2021, Philadelphia recorded 497 homicides, 13 percent higher than this time the year before.⁷⁴ The mayor at the time, Jim Kenney, said that he was “heartbroken and outraged that we’ve lost more

⁶⁵ Eden Villalovas, *Where DC Carjackings are Happening as Incidents Have Increased Five Years in a Row*, WASH. EXAMINER (Oct. 3, 2023).

⁶⁶ Metropolitan Police Department, *District Crime Data at a Glance, 2024 Year-to-Date Crime Comparison* (Aug. 28, 2024), available at <https://mpdc.dc.gov/page/district-crime-data-glance>.

⁶⁷ *Id.*

⁶⁸ *Victims of Violent Crime in the District of Columbia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 33 (Oct. 12, 2023).

⁶⁹ *Id.* at 32.

⁷⁰ *Id.* at 32-33.

⁷¹ Press Release, City of Philadelphia, *supra* note 6; Rushing, *supra* note 6.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*



than 400 Philadelphians to preventable violence this year.”⁷⁵ Mayor Kennedy failed to mention that the city had decreased its police budget, which would have enabled law enforcement to respond to emergency violent situations. In both 2021 and 2022, Philadelphia recorded over 500 homicides, a number the city had not seen since the

crack cocaine epidemic in the 1990s.⁷⁶ Although violent crime rates have generally decreased in both 2023 and the first six months of 2024, violent crime remains elevated from pre-2020 levels.⁷⁷ For example, according to the Philadelphia Police Department, there were 410 homicides in 2023 but 353 homicides in both 2018 and 2019.⁷⁸

During a field hearing in Philadelphia, Nick Gerace, a retired Philadelphia police officer, told the Committee about the effect of rising crime on Philadelphians. He explained:

The rise in violent crime has created a climate of fear and insecurity among Philadelphia residents. People are concerned about their safety and the safety of their loved ones, which can lead to a decrease in community trust and engagement. I encourage everybody up on the Committee board, walk around Philadelphia for yourself and talk to Philadelphians. Pick them by will and you will hear these sentiments by all of them. It doesn’t matter what race, creed, color, or background. You will hear these sentiments.⁷⁹

* * *

In hearing after hearing, the Committee and Subcommittee heard much of the same: the left’s dangerous and irresponsible defund the police movement—and associated anti-police rhetoric—have made cities less safe and put American citizens in harm’s way.

⁷⁵ Rudy Chinchilla, *Philadelphia Surpasses 400 Killings in 2021*, NBC PHILADELPHIA (Oct. 1, 2021).

⁷⁶ Rushing, *supra* note 6.

⁷⁷ Philadelphia Police Department, Crime Map and Stats, <https://www.phillypolice.com/crimestats/> (last visited Aug. 28, 2024).

⁷⁸ *Id.*

⁷⁹ *Victims of Violent Crime in Philadelphia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 63 (May 3, 2024).

II. ROGUE PROSECUTORS ARE PUSHING RADICAL LEFT-WING POLICIES THAT JEOPARDIZE PUBLIC SAFETY

The Committee and Subcommittee’s oversight has shown how rogue prosecutors in Democrat-run jurisdictions are advancing radical pro-criminal policies that harm public safety. From District Attorney Alvin Bragg in Manhattan to District Attorney Larry Krasner in Philadelphia, these activist prosecutors are prioritizing criminals over the communities they serve. Witnesses before the Committee and Subcommittee gave candid and emotional testimony about how the failures of these rogue prosecutors to enforce the law have affected their lives and their communities.

A. New York County District Attorney Alvin Bragg in Manhattan

Alvin Bragg became District Attorney for New York County in January 2022.⁸⁰ Almost immediately he adopted pro-criminal, soft-on-crime policies that made Manhattan residents and visitors unsafe. At the same time he let real criminals off the hook, Bragg succumbed to political pressure to use the vast authorities of his office to politically prosecute President Donald J. Trump on a novel theory of law previously rejected by federal prosecutors.

Alvin Bragg’s Pro-criminal, Soft-on-Crime “Day One” Memo

Immediately upon taking office in January 2022, Bragg issued a 10-page policy memorandum to the Manhattan District Attorney Office staff, which instituted many progressive soft-on-crime, anti-victim policies. This so-called “Day One” memo, dated January 5, 2022, directed his assistant district attorneys not to prosecute several crimes, including trespassing, resisting arrest, and engaging in prostitution.⁸¹ Furthermore, the memorandum stated that armed robberies should not be prosecuted as felonies.⁸² Instead, Bragg directed armed robberies to be considered as misdemeanor larceny unless someone was shot during the robbery.⁸³ Additionally, Bragg stated that his office would not seek prison sentences except for homicides and other particularly heinous crimes, such as domestic violence felonies, some sex crimes, and public corruption.⁸⁴ Bragg also directed his prosecutors to no longer request prison sentences in excess of 20 years, absent “exceptional circumstances.”⁸⁵ To underscore the emphasis against incarceration, Bragg directed that line prosecutors “shall not seek a sentence of life without parole.”⁸⁶

Bragg’s Day One memo received immediate pushback from New York’s law enforcement community. On January 7, 2022, New York City Police Commissioner Keechant

⁸⁰ Sonia Moghe, *Manhattan district attorney announces he won’t prosecute certain crimes*, CNN (Jan. 6, 2022).

⁸¹ *Id.*

⁸² Letter from Alvin L. Bragg, Manhattan District Attorney, to Manhattan District Attorney Staff, (Jan. 3, 2022), available at <https://www.manhattanda.org/wp-content/uploads/2022/01/Day-One-Letter-Policies-1.03.2022.pdf> [hereinafter “Day One Memo”].

⁸³ Nicole Gelinas, *Let’s Break Down Exactly What Manhattan DA Alvin Bragg’s Memo Says*, N.Y. POST (Jan. 11, 2022).

⁸⁴ Day One Memo at 5.

⁸⁵ *Id.*

⁸⁶ *Id.* at 6.

Sewell sent a message to all 36,000 members of the New York City Police Department (NYPD), writing that she had “studied these [Day One memo] policies and I am very concerned about the implications to your safety as police officers, the safety of the public and justice for the victims.”⁸⁷ Similarly, Patrick Lynch, President of the Police Benevolent Association, said that “police officers don’t want to be sent out to enforce laws that the district attorneys won’t prosecute.”⁸⁸ Lynch added that “there are already too many people who believe that they can commit crimes, resist arrest, interfere with police officers, and face zero consequences.”⁸⁹ Paul DiGiacomo, President of the NYPD Detectives’ Endowment Association (DEA), warned that “Bragg gives criminals the roadmap to freedom from prosecution and control of our streets.”⁹⁰ “In Bragg’s Manhattan,” DiGiacomo added, “you can resist arrest, deal drugs, obstruct arrests, and even carry a gun to get away with it.”⁹¹

After heavy public backlash, Bragg was forced to walk back some of the policies in his Day One memo. On February 4, 2022, Bragg sent another memo to his staff, explaining that said that robbing a store or other business with a firearm “will be charged as a felony, whether or not the gun is operable, loaded, or a realistic imitation” and that “the default in gun cases is a felony prosecution.”⁹² Despite this minor change, the overwhelming majority of pro-criminal policies in the Day One memo remain in effect.

In 2022, the year in which Bragg took office, the Manhattan District Attorney’s Office downgraded a significant number of felony cases to misdemeanors and failed to obtain convictions in the felony cases that the office actually brought. For example, according to data from the Bragg’s office, the office downgraded approximately 52 percent of felony charges to misdemeanor charges.⁹³ According to reports, between 2013 and 2020, under former District Attorney Cyrus Vance Jr., the “percentage of cases the office downgraded had never exceeded 40 percent.”⁹⁴ The District Attorney’s Office under Bragg’s leadership secured a conviction on felony charges in just 51 percent of cases, which was “down from 68 percent in 2019, the last year before the pandemic disrupted the court system.”⁹⁵ Similarly, the office’s misdemeanor conviction rate was 29 percent in 2022, down significantly from 68 percent in 2019.⁹⁶

Alvin Bragg’s Weaponization of His Office Against President Donald Trump

Rather than pursue commonsense policies to improve public safety in Manhattan, Bragg has abused his authority to pursue politically motivated charges against President Donald Trump. As Bragg systemically downgraded felony charges to misdemeanors in a majority of cases in

⁸⁷ Jonah E. Bromwich and William K. Rashbaum, *Conflict Quickly Emerges Between Top Prosecutor and Police Commissioner*, N.Y. TIMES (Jan. 10, 2022).

⁸⁸ Moghe, *supra* note 80.

⁸⁹ *Id.*

⁹⁰ Larry Celona, et al., *Manhattan DA to stop seeking prison sentences in slew of criminal cases*, N.Y. POST (Jan. 4, 2022).

⁹¹ *Id.*

⁹² *Id.*

⁹³ Melissa Klein, *NYC convictions plummet, downgraded charges surge under Manhattan DA Bragg*, N.Y. POST (Nov. 26, 2022).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

Manhattan, he used a novel and unprecedented legal theory to upgrade charges against President Trump. Legal experts have detailed the serious legal and constitutional deficiencies with Bragg’s politicized prosecution⁹⁷—a prosecution he promised to bring when he ran for office.⁹⁸ Former prosecutors in the District Attorney’s Office revealed how, although initially reluctant, Bragg succumbed to political pressure to charge President Trump.⁹⁹ He even hired an attorney who had once been the number three official at the Biden-Harris Justice Department to help lead the politicized prosecutor of President Trump.¹⁰⁰

Alvin Bragg’s Use of New York’s Bail “Reform” Law to Let Criminals Out of Jail

Bragg also elected to use his office to push New York’s far-left bail reform policies to make New York City even more dangerous. Bragg has utilized changes in the state’s bail laws to downgrade bail-eligible criminal offenses to “no-bail” offenses. For example, in May 2022 Anthony Ibanez was arrested and charged with robbery in the first degree with the use of a dangerous weapon, which is a bail eligible offense, but Bragg’s office downgraded the charges to petit larceny, which is ineligible for bail under New York’s bail reform laws.¹⁰¹ Ibanez was subsequently released but was arrested again the next month for stealing items from a 7-Eleven in Manhattan.¹⁰² He was issued a desk appearance ticket, but failed to show up to his court date, which resulted in an arrest warrant being issued on August 4, 2022.¹⁰³ Just weeks later, Ibanez was arrested on charges of attempted rape after he physically assaulted a 15-year-old girl.¹⁰⁴

Firsthand Witness Accounts of Crime in Manhattan

On April 17, 2023, the Committee held a hearing in New York, New York, titled “Victims of Violent Crime in Manhattan,” featuring testimony from New Yorkers affected by Bragg’s far-left policies. The witnesses at this hearing highlighted how radical policies by Bragg and far-left policies makers in New York have hurt law-abiding citizens and made Manhattan less safe.

Jose Alba, a 61-year-old former Manhattan bodega clerk, defended himself against a violent attacker during a convenience store altercation in 2021.¹⁰⁵ Although surveillance footage showed that Alba acted in self-defense, Bragg’s office charged him with second-degree

⁹⁷ Andrew C. McCarthy, *Bragg’s case against Trump is utterly incoherent*, N.Y. POST (Apr. 5, 2023).

⁹⁸ Kara Scannell, *New Manhattan DA Alvin Bragg pledges to focus on Trump investigations*, CNN (Dec. 20, 2021).

⁹⁹ STAFF OF THE H. JUDICIARY COMM., 118TH. CONG., AN ANATOMY OF A POLITICAL PROSECUTION: THE MANHATTAN DISTRICT ATTORNEY’S OFFICE’S VENDETTA AGAINST PRESIDENT DONALD J. TRUMP (Apr. 25, 2024).

¹⁰⁰ STAFF OF THE H. JUDICIARY COMM., 118TH. CONG., LAWFARE: HOW THE MANHATTAN DISTRICT ATTORNEY’S OFFICE AND A NEW YORK STATE JUDGE VIOLATED THE CONSTITUTIONAL AND LEGAL RIGHTS OF PRESIDENT DONALD J. TRUMP (Jul. 9, 2024).

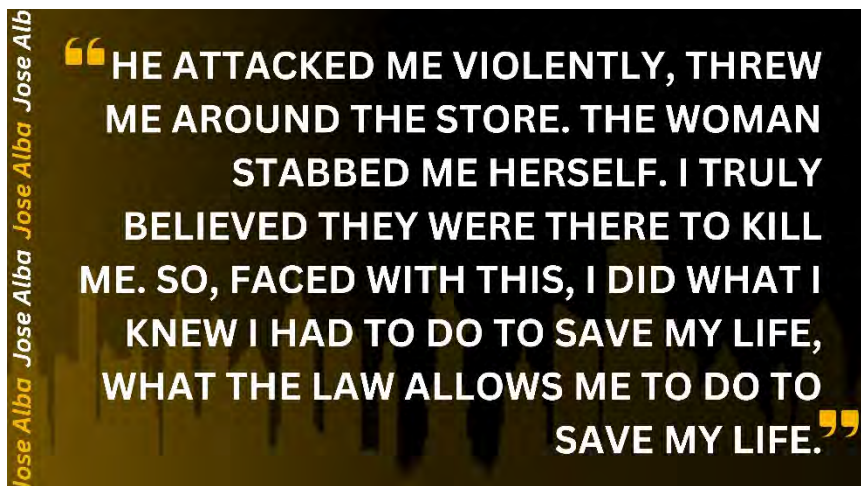
¹⁰¹ Jack Morphet, et al., *Freed creep Anthony Ibanez accused of attempting to rape NYC teen has larceny charges dropped*, N.Y. POST (Aug. 26, 2022).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Joe Marino, et al., *Suspected thief arrested for attempted rape of girl, 15, months after Bragg reduced charges*, N.Y. POST (Aug. 25, 2022).

¹⁰⁵ Sonia Moghe, *Judge dismisses murder charge against bodega clerk who claimed self-defense in fatal stabbing*, N.Y. POST (Jul. 19, 2022).



murder.¹⁰⁶ The charges were subsequently dropped after immense public outrage, including from former NYPB Commissioner Bill Bratton.¹⁰⁷

Alba testified to the Committee that “[c]rime does not discriminate on the basis of a political party. It needs to be addressed by law

enforcement on the street and by prosecutors in the court, but it has to be aimed at the people committing crime, not an innocent man like me.”¹⁰⁸ He told the Committee about the threat to his life, saying:

After I simply told a woman that she could not have potato chips because her payment was declined, I was face to face with her boyfriend, who seemed ready to kill me. He attacked me violently, threw me around the store. The woman stabbed me herself. I truly believed they were there to kill me. So, faced with this, I did what I knew I had to do to save my life, what the law allows me to do to save my life. I stabbed that man in self-defense. But, when the police came, even though I was injured myself, I was placed under arrest. I was taken to jail.¹⁰⁹

Alba described how after the violent altercation he could not afford bail—“even though so many people are being let go these days”—and was sent to Rikers Island for “almost a week before bail was lowered and I could be released.”¹¹⁰ He described his trauma:

I still don’t know why I was charged with murder. I believe that law enforcement and the DA’s office didn’t investigate the case fully. They rushed to judgment, and I suffered because of it. Even though the charges were ultimately dropped, they should not have been brought against me to begin with. I am now traumatized from the incident. I am not working because I am terrified for my life that someone in the gang will come after me for revenge. I was injured

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Victims of Violent Crime in Manhattan: Hearing Before the H. Comm. on Judiciary*, 118th Cong 8 (Apr. 17, 2023).

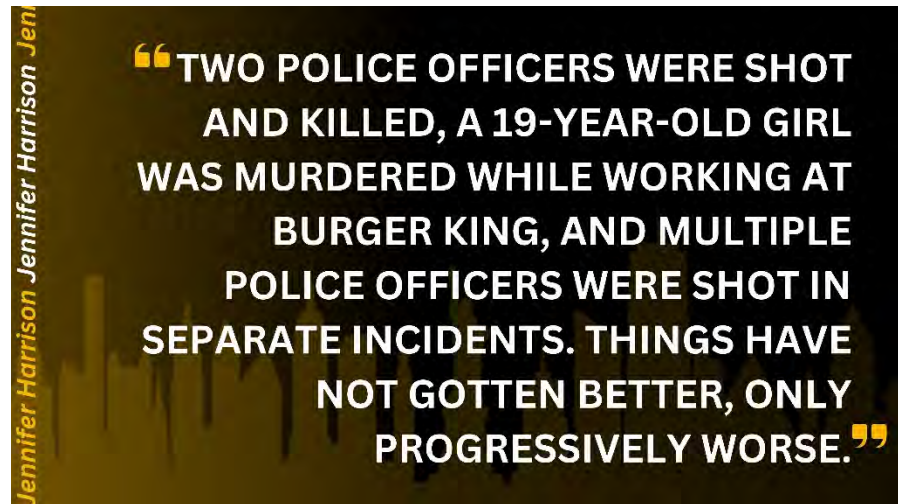
¹⁰⁹ *Id.* at 7.

¹¹⁰ *Id.*

physically and mentally because of the incident and my unlawful arrest and incarceration.¹¹¹

Jennifer Harrison, the founder of a group called Victims' Rights NY, spoke about the brutal murders of her boyfriend and his best friend by violent criminals in 2005. Shockingly, one murderer was released without charges, and the other received a mere 9.5-year sentence.¹¹²

Harrison testified to the Committee that “victims have no voice in politics or government,” and discussed how she became motivated to speak out once she learned of dangerous bail reform policies and other radical proposals.¹¹³ Harrison told Committee Members how Democrats in New York do not value human life and how she felt dejected by them,¹¹⁴ saying:



I'm beyond grateful for the opportunity to testify here on behalf of victims, because the Democrat Party, including Mr. Nadler and everybody here today, has ignored us in this city. We need Federal oversight. We need help. We're not getting any kind of help. . . .

There is a depraved indifference toward human life sweeping across our country, even among elected officials. Normally, the criminals exude this depravity, yet here we have the one that is supposed to prosecute them as the one showing it.¹¹⁵

Harrison also testified that New Yorkers saw the immediate result of Bragg's policy failures when his office decided to stop prosecuting entire categories of crimes.¹¹⁶ Harrison explained:

[I]f Alvin Bragg was doing his job, none of us would be here today to talk. We are not politicizing our issues or our loss. From day one, Manhattan District Attorney Alvin Bragg announced he would not prosecute even very violent crimes in his now infamous memo. We

¹¹¹ *Id.* at 8.

¹¹² *Id.* at 10.

¹¹³ *Id.*

¹¹⁴ *Id.* at 58-59.

¹¹⁵ *Id.* at 10.

¹¹⁶ *Id.*

saw an immediate result. Two police officers were shot and killed, a 19-year-old girl was murdered while working at Burger King, and multiple police officers were shot in separate incidents. Things have not gotten better, only progressively worse.¹¹⁷

Madeline Brame, the Chairwoman of the Victims Rights Reform Council, shared her horrendous experience with the criminal justice system after her son, Sergeant Hason Correa, was fatally stabbed in Harlem in 2018.¹¹⁸ Despite the strong case against the criminals, Brame witnessed a four-year wait for justice, only to see the District Attorney's Office give the suspects plea deals for lesser charges.¹¹⁹



Brame expressed her frustration and demanded accountability for the lack of prosecutions in her community, saying, "As far as the Manhattan District Attorney's Office, if [Alvin Bragg] is receiving one penny of Federal dollars, you need to pull that funding until he starts doing his damn job and prosecuting crime."¹²⁰ Additionally, Brame highlighted the broader impact of rising crime on her community, testifying:

I think that the average New Yorker doesn't care nothing about no statistics, OK, especially in the Black and Brown communities. We care about the mothers who have to visit the morgue to identify their dead child's body. We care about the mothers who have to lean into the coffin and watch them lower that top down on that child and they know they'll never see them again.¹²¹

Brame criticized the Democrats' politicized focus on President Donald Trump, saying "victims can care less about anyone's political ideology or party. Neither do criminals. They don't go up to a person and ask them if they're a Democrat or a Republican before they bust them in the head, OK, or push them in front of a train, before they stab them to death."¹²²

Robert Holden, a Democratic Member of the New York's City Council, addressed the Committee, criticizing the dangerous impact of Bragg's lenient policies on public safety.¹²³ Holden discussed the consequences of these policies, stating:

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 25-26.

¹¹⁹ *Id.*

¹²⁰ *Id.* at 25.

¹²¹ *Id.* at 70.

¹²² *Id.* at 80.

¹²³ *Id.* at 28-29.

Under [Alvin] Bragg, minor crimes, such as resisting arrest, trespassing, fare evasion, prostitution, are no longer prosecuted, which has led to a marked increase in criminal activity on the streets of Manhattan.

Serious offenses, such as knifepoint robbery, commercial and residential burglaries, weapons possession, and low-level drug dealing are being charged with lesser offenses or being plea bargained down, resulting in shorter sentences or no jail time at all.

Bragg's first year in office was marked by a dramatic shift in the way his office approached criminal prosecutions. We are feeling Bragg's soft-on-crime approach in the streets of New York.

We have repeat offenders receiving lenient sentences and committing multiple crimes shortly after being released. This is happening every day. From the day he took office, it seems Alvin Bragg's top priority was to keep criminals out of jail and free to roam the streets.

District Attorney Bragg would be better off as a defense attorney than a prosecutor. He downgraded over half the felony cases to misdemeanors and declined to prosecute 35 percent fewer felony cases compared to 2019.¹²⁴

Holden highlighted the fact that New York has strict laws it can enforce, specifically gun laws, but that prosecutors like Bragg are not prosecuting the crimes. Holden testified "we have some of the toughest gun laws in the Nation, but they don't enforce them. The courts are not enforcing them, the DAs are not enforcing them."¹²⁵ As a member of the Democrat party, Holden was critical of his party's radical stance on crime, saying:

I'm a critic of my party's stance on crime. Everything's gone up. All their policies have led to an increase in crime. I think we saw it come to a head with the war on police that started after George Floyd. It went national. So, you saw this kind of crime wave go throughout the entire country.¹²⁶

¹²⁴ *Id.* at 28.

¹²⁵ *Id.* at 33.

¹²⁶ *Id.* at 107.

B. State Attorney Kim Foxx in Cook County, Illinois

In 2016, Kim Foxx became the State’s Attorney for Cook County, Illinois, which includes the city of Chicago.¹²⁷ From the beginning of her term, Foxx has engaged in selective non-prosecution, giving criminals the benefit of the doubt, and blaming law enforcement instead of standing with them to improve the criminal justice system.¹²⁸ Foxx has called for a “holistic” approach to criminal justice, one that recognizes that crime is “not just an issue of good guys versus bad guys,” but often is a product of poverty,¹²⁹ and she ran on the platform of bringing “equity and fairness” to the system.¹³⁰

Foxx is perhaps best known for dismissing all the charges in the original 16-count indictment against television actor Jussie Smollett, just three weeks after the grand jury issued the indictment.¹³¹ Smollett was accused of staging a racist, homophobic attack against himself, and was later indicted by a special prosecutor and found guilty of crimes related to the incident.¹³² He was sentenced to 150 days in jail and two years of probation, but was released pending his appeal of the conviction.¹³³ Due to criticism of Foxx’s handling of the case, an Illinois court appointed former U.S. Attorney Dan Webb to investigate her office.¹³⁴ While Webb cleared Foxx and her office “of any criminal activity or claims that it responded to improper outside influence” when it dropped the charges, he found that “Chicago prosecutors abused their discretion and may have violated legal ethics by dropping [the] charges.”¹³⁵ Webb also found “substantial abuses of discretion and operational failures” in Foxx’s office, and said that county prosecutors, including Foxx, made false statements that may have violated state legal ethics rules.¹³⁶

Chicago’s Rising Crime is Unique Among Major Cities

While cities around the United States have seen a spike in killings over the last several years, Chicago is unique as the city’s increase in violence started in 2016, prior to the pandemic and the year Foxx was elected.¹³⁷ According to an analysis by the University of Chicago Crime Lab, Chicago’s homicide rate followed the same ebbs and flows as those of New York and Los Angeles for most of the 20th century.¹³⁸ However, by the mid-2010s, Chicago’s homicide rate

¹²⁷ Zack Smith and Charles Stimson, *Meet Kim Foxx, the Rogue Prosecutor Whose Policies are Wreaking Havoc in Chicago*, THE HERITAGE FOUND. (Nov. 3, 2020).

¹²⁸ *Id.*

¹²⁹ Steve Bogira, *The Hustle of Kim Foxx*, THE MARSHALL PROJECT (Oct. 29, 2018).

¹³⁰ *Priorities*, KIM FOXX COOK COUNTY’S STATE ATTORNEY, <https://www.kimfoxx.com/priorities> (last visited Jun. 28, 2023).

¹³¹ Isabel Vincent, *How George Soros Funded Progressive ‘Legal Arsonist’ Das Behind US Crime Surge*, N.Y. POST (Dec. 16, 2021).

¹³² Kathleen Foody, *Chicago-Area Prosecutor Kim Foxx Won’t Seek Third Term*, ASSOCIATED PRESS (Apr. 25, 2023); Marisa Dellatto, *Jussie Smollett Appeals Hate Crime Hoax Conviction*, FORBES (May 2, 2023).

¹³³ *Id.*

¹³⁴ Smith and Stimson, *supra* note 127.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Steve Hendershot, *All Big Cities Have a Violence Problem. Chicago’s Is Different*, CRAIN’S CHI. BUS. (Oct. 24, 2022).

¹³⁸ *Id.*

leveled off while the others continued to drop—and in 2016, violence in Chicago surged ahead, cementing a statistical break with other cities that did not see a significant surge in violent crime until 2020.¹³⁹

Although Foxx maintains there was a decline in violent crime during her first three years in office, statistics show this statement does not capture the entire picture.¹⁴⁰ For instance, in the six years prior to her taking office, Cook County reported 3,011 homicides, an average of 501 per year.¹⁴¹ In comparison, in Foxx’s first six years in the job, a total of 4,001 homicides were reported, an average of 666 per year.¹⁴² Put another way, during her tenure, an average of 165 more homicides have occurred per year.¹⁴³

Kim Foxx’s Failure to Prosecute Criminals

In her first three years in office, Foxx dismissed more than 25,000 felony cases—including cases for murder, sex crimes, and attacks on police officers.¹⁴⁴ This dismissal rate was 35 percent higher than her predecessor.¹⁴⁵ Foxx responded to critics of her high dismissal rate by arguing that she is more selective about prosecuting the “strongest, most winnable cases,” but her overall conviction rate was just 66 percent during her first three years in office while her predecessor’s conviction rate was 75 percent during the last three years of her tenure.¹⁴⁶

Like other rogue prosecutors, Foxx abuses prosecutorial discretion to advance her soft-on-crime agenda. Foxx has explained that rather than using resources to prosecute non-violent, low-level offenders, she has prioritized prosecuting violent crime, and has increased the number of people directed to diversion programs.¹⁴⁷ However, in many high-profile violent felony cases, her office declined to press charges.¹⁴⁸ For instance, in October 2021, following a shootout between rival gang members in the Chicago’s West Side, prosecutors initially declined to file charges, first claiming it was mutual combat, but later admitting the lack of charges was due to insufficient evidence.¹⁴⁹ Eventually, after facing pressure from the mayor and police, Foxx’s office eventually charged one individual with three counts of aggravated unlawful use of a weapon.¹⁵⁰

Foxx has also decided not to prosecute certain categories of crimes generally, prompting former Cook County Circuit Judge Nicholas Ford to “struggle to understand how they’re going

¹³⁹ *Id.*

¹⁴⁰ Charles Stimson and Zack Smith, *Good Riddance to Kim Foxx, Chicago’s Soros-Backed Rogue Prosecutor*, THE HERITAGE FOUND. (May 1, 2023).

¹⁴¹ Hendershot, *supra* note 137.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ Lucas Manfredi, *Cook County State’s Attorney Kim Foxx’s Office Has Dismissed More Than 25,000 Felony Cases: Report*, FOX NEWS (Aug. 10, 2020).

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ Priorities, *supra* note 130.

¹⁴⁸ *Cook County Prosecutors Have Declined Felony Charges in Schaumburg Stabbing, West Side Shootout, Initially Citing ‘Mutual Combat’ But Later Revising Reasoning*, CBS NEWS CHI. (Oct. 5, 2021),

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

to pick and choose which laws they'll enforce and which they won't."¹⁵¹ For example, early in her tenure as State's Attorney, Foxx announced that she would not be prosecuting individuals charged with driving with a suspended license if the person's license was suspended for financial reasons, such as failure to pay parking tickets or child support.¹⁵² Additionally, following protests over George Floyd's death in 2020, Foxx announced that despite the thousands of arrests that were made across Chicago for disorderly conduct, curfew violations, and other misdemeanors, she would not prosecute those cases or other "minor offenses" stemming from the unrest.¹⁵³ For more serious offenses related to the protests—including assault, resisting arrest, battery, mob action, and aggravated battery to a police officer—Foxx told her office that there should be a "presumption against proceeding" unless there was body or dash cam footage available, or if a police officer was the complainant.¹⁵⁴

Foxx was sharply criticized by then-Mayor Lori Lightfoot and Police Superintendent David Brown for her handling of those cases, as both felt that Foxx's failure to hold individuals accountable for the looting that occurred during the unrest led to continued looting throughout the summer.¹⁵⁵ Brown claimed that due to the lack of prosecution, "criminals took the streets with confidence that there would be no consequences for their actions."¹⁵⁶ Foxx denied that her lack of prosecution caused the increase in looting, commenting that her office was not "in the arresting business."¹⁵⁷

Foxx has also been especially soft on retail crime. In one of her first major policy changes as State's Attorney, Foxx raised the felony threshold for theft, telling prosecutors in her office that retail theft charges should remain misdemeanors unless the value of the stolen goods exceeds \$1,000 or the alleged shoplifter had 10 prior felony convictions.¹⁵⁸ This change stood in stark contrast to Illinois' theft statutes, which set the felony threshold at \$500 and allow for felony prosecution for theft less than \$300 after just one prior conviction.¹⁵⁹ Foxx later announced that her office would not pursue prosecution for any theft under her \$1,000 felony threshold.¹⁶⁰ Unsurprisingly, retail crime, especially organized retail crime, surged in Chicago, and in 2021, Foxx announced that she was reconsidering her non-prosecution policy in light of the surge.¹⁶¹ However, she ultimately decided to stand by her policy, arguing that it allows prosecutors to focus on violent crimes.¹⁶²

¹⁵¹ Bogira, *supra* note 129.

¹⁵² *Id.*

¹⁵³ Matt Masterson, *Kim Foxx Declining to Prosecute 'Minor Offenses' Stemming from Recent Protests*, WWTN (June 30, 2020).

¹⁵⁴ *Id.*

¹⁵⁵ *Kim Foxx, Chief Judge Push Back on Claims Lack of Consequences Fueled Looting*, NBC 5 CHI. (Aug. 11, 2020).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ Steve Schmadeke, *Foxx Raises Threshold for Felony Shoplifting: State's Attorney Seeks Less Jail for Nonviolent Suspects*, CHI. TRIBUNE (June 29, 2023).

¹⁵⁹ *Id.*

¹⁶⁰ Ben Bradley and Andrew Smith, *Task Force & Tech Tackle Rise in Retail Theft*, WGN 9 (Jun. 14, 2023).

¹⁶¹ Lisa Labruno, *Collaboration, Accountability Key to Stopping ORC*, RETAIL INDUS. LEADERS ASS'N (Dec. 13, 2021).

¹⁶² Bradley and Smith, *supra* note 160.

Foxx's Use of Bail "Reform" Policies to Let Criminals Go Free

Kim Foxx's dangerous bail reform policies also contributed to rising crime in Chicago. Foxx listed bail reform as one of her priorities and claimed that it would reduce overcrowding in jails by prioritizing the detainment of those individuals who pose a threat to the community.¹⁶³ Mayor Lightfoot noted that a total of 2,300 "violent, dangerous people" were let out on the streets on bond in 2021, including people charged with crimes such as attempted murder, kidnapping, carjacking, and sexual assault.¹⁶⁴ Mayor Lightfoot believed that Foxx's bail reform policy sent the message that criminals are free to commit violent crimes again and again.¹⁶⁵ In 2021, the Illinois State Legislature passed the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act, which eliminated cash bail and required a higher burden of proof to detain violent criminals until trial.¹⁶⁶ This law put even more violent criminals on the streets than were previously there because of Foxx's misguided policies.¹⁶⁷

Foxx also implemented a policy in which criminals would not be held pending trial but instead would be sent home on electronic monitoring with little supervision.¹⁶⁸ According to Mayor Lightfoot, Chicago police arrested 133 people in 2021 who had committed another violent crime while out on electronic monitoring without community supervision.¹⁶⁹ In June 2022, the Cook County Sheriff's Office reported that from the beginning of the year through June 1, its deputies conducted 69 electronic monitoring compliance checks and found contraband during 60 of those checks.¹⁷⁰ A total of 84 firearms were found at 39 residences, and of the 39 individuals who were re-arrested after weapons were found in their homes, 27 were originally awaiting trial for weapons-related charges.¹⁷¹ While commenting on the types of weapons recovered during the searches, Cook County Sheriff Tom Dart said, "If this type of display doesn't drive home to people that home monitoring is not the right type of confinement for certain types of people, I don't know what will."¹⁷² Sheriff Dart has long maintained that too many people are being released on electronic monitoring, and has said that he has "zero doubt that if we had double the amount of people on the street, that we'd be finding double the amount of guns I have no doubt. Zero doubt."¹⁷³

Firsthand Accounts of Crime in Chicago

On September 26, 2023, the Committee on the Judiciary convened a forum in Chicago, Illinois, titled "Victims of Violent Crime in Chicago," to hear directly from the victims, law enforcement officers, and others about crime in the city. During the hearing, many of the

¹⁶³ Priorities, *supra* note 130.

¹⁶⁴ Mayor Lightfoot, *supra* note 51.

¹⁶⁵ *Id.*

¹⁶⁶ Grace Kinnicutt, *What's in the SAFE-T Act? A Look at the 2021 Criminal Justice Reform and How It Has Evolved*, THE CAPITOL NEWS (May 18, 2022).

¹⁶⁷ *Id.*

¹⁶⁸ Mayor Lightfoot, *supra* note 51.

¹⁶⁹ *Id.*

¹⁷⁰ Phil Rogers, *More Than 80 Guns Found in Homes of Individuals on Electronic Monitoring This Year, Cook County Sheriff's Office Says*, NBC 5 CHI. (Jun. 13, 2022).

¹⁷¹ *Id.*

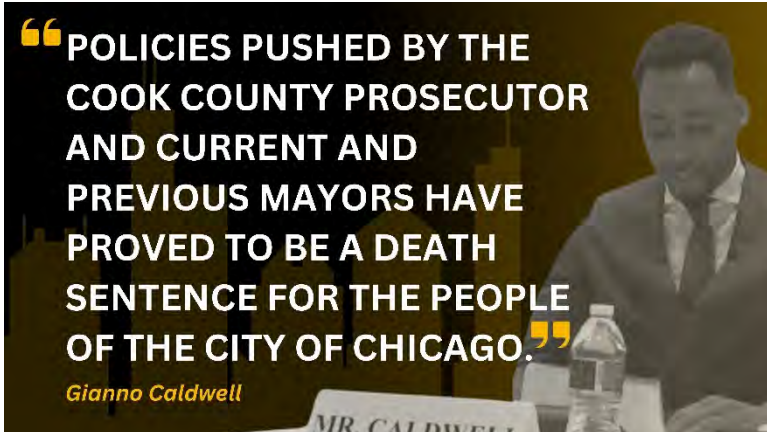
¹⁷² *Id.*

¹⁷³ *Id.*

witnesses touched on Kim Foxx’s radical, pro-criminal policies that the effect they have on public safety in Chicago.¹⁷⁴

Gianno Caldwell, whose brother was tragically murdered in Chicago in 2022, highlighted the devastating effects of soft-on-crime policies. Caldwell drew attention to the failures in the criminal justice system that have led to increased violence and insecurity among Chicagoans.¹⁷⁵ Caldwell emphasized the urgent need

for a change in approach to restore safety and justice to the community.¹⁷⁶ He expressed his frustration with Chicago’s pro-criminal policies, stating:



The soft-on-crime policies that many of you know about here are prosecutors like Kim Foxx who refuses to prosecute, decriminalization of offenses, laws like the SAFE-T Act, which ends cash bail and allow criminals back on the street to commit more crime, and the no-chase policy, which constrains the police from doing their jobs. Policies pushed by the Cook County prosecutor and current and previous mayors have proved to be a death sentence for the people of the City of Chicago.¹⁷⁷

Caldwell further emphasized the disproportionate impact that these policies have on marginalized communities, shedding light on the vulnerability of these populations.¹⁷⁸ Caldwell explained that “the elected officials here have systematically endangered the lives of all Chicagoans, but especially those of color, the marginalized who they claim to care about the most.”¹⁷⁹

Caldwell’s powerful testimony concluded with a call for stronger law enforcement and accountability, stressing the importance of restoring public trust and ensuring the safety of all residents.¹⁸⁰ He testified:

Law and order are the only way we are going to change the situation here in the city of Chicago. I am hopeful that this Committee hearing will lead to some more light on that. I am also disappointed that

¹⁷⁴ *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. (Sep. 26, 2023).

¹⁷⁵ *Id.* at 5-8.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at 6.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 35.

many of your colleagues on the Democrat side chose not to come here.¹⁸¹

Carlos Yanez, a medically retired Chicago Police Department officer, was severely

“COOK COUNTY HAS BECOME A REVOLVING DOOR. OFFICERS CONTINUE TO LOCK UP VIOLENT OFFENDERS, BUT THEN WE FIND THEM BACK ON THE STREETS COMMITTING EVEN MORE VIOLENT CRIMES, INCLUDING MURDER.”

Carlos Yanez
Retired Chicago Police Department officer

injured by gunshot wounds during a routine traffic stop in 2021.¹⁸²

Yanez shared with the Committee his horrific experience of being shot and the tragic loss of his partner, Ella French, in a city with strict gun laws.¹⁸³ Yanez discussed the dangers faced by law enforcement officers and the challenges they encounter due to the lenient policies that fail to hold repeat offenders accountable.¹⁸⁴

He stressed the revolving door

nature of the justice system and the impact it has on public safety.¹⁸⁵ Yanez pointed out the ineffectiveness of current policies, stating, “Cook County has become a revolving door. Officers continue to lock up violent offenders, but then we find them back on the streets committing even more violent crimes, including murder.”¹⁸⁶

Yanez also highlighted the inconsistencies in law enforcement across different Chicago jurisdictions, pointing out how criminals exploit these gaps to evade justice and continue their illegal activities.¹⁸⁷ He talked about how surrounding communities “have criminals fleeing suburban police departments and questioning if they are in Cook County because they know there will be less repercussions for their actions in Cook County versus surrounding counties.”¹⁸⁸

John Garrido, a retired Lieutenant from the Chicago Police Department, gave a harrowing account of a female police officer who almost lost her life at the hands of a violent criminal on drugs.¹⁸⁹ He described how law enforcement officer morale in Chicago is exceptionally low and that officers are second guessing themselves when having to make life-or-death decisions.¹⁹⁰ Garrido explained:

Officers are second-guessing themselves. With a job that requires you to make split-second decisions, second-guessing yourself can be a devastating mistake. One example was an officer who was

¹⁸¹ *Id.*

¹⁸² *Id.* at 8-9.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.* at 13.

¹⁹⁰ *Id.*

fighting with an offender on PCP. He was able to overcome her and repeatedly bang her head against the concrete while her partners and other officers tried to tame him and tried to subdue him. They subsequently got him in custody but not before she sustained massive head injuries and permanent brain damage. The one thing that she said afterward was she thought she was going to die, and she knew that she should shoot him, but she didn't do it. She chose not to because she didn't want her family and the department to go through the scrutiny that would be made public the next day on the news.¹⁹¹

C. U.S. Attorney Matthew Graves in Washington, D.C.

As the federal city and seat of the national government, Washington, D.C., does not have a locally appointed or elected prosecutor. Instead, for most crimes, the U.S. Attorney for the District of Columbia is responsible for the prosecution in District courts—in addition to duties as the chief federal prosecutor for the jurisdiction. President Joe Biden appointed Matthew Graves to be U.S. Attorney in November 2021.¹⁹² Graves was a contributor and advisor to the Biden-Harris campaign in 2020.¹⁹³

As U.S. Attorney, Graves also played a role in delaying, impeding, and obstructing the Justice Department's criminal investigation of Hunter Biden, President Biden's son. In November 2018 and February 2019, the IRS and FBI, respectively, opened investigations into Hunter Biden.¹⁹⁴ In the spring of 2023, two brave whistleblowers stepped forward to notify Congress of how the Biden-Harris Justice Department slow-walked overt investigative actions in the case.¹⁹⁵ Investigators recommended charging Hunter Biden with multiple tax crimes, including several felonies.¹⁹⁶ However, Graves declined to partner with the federal prosecutor working the case out of Delaware, eventually allowing the statute of limitations to lapse on the most serious crimes.¹⁹⁷

Since becoming D.C.'s top criminal prosecutor, Graves has historically declined roughly half of the cases brought to his office.¹⁹⁸ In 2021, Graves' office opted against prosecuting 67 percent of arrests presented in the D.C. Superior Court.¹⁹⁹ In comparison, in 2015, the U.S. Attorney's Office for the District of Columbia only declined to prosecute 35 percent of cases, which suggests that the office under Graves's leadership is failing to prosecute crimes and

¹⁹¹ *Id.*

¹⁹² Press Release, United States Attorney's Office District of Columbia, *Meet the U.S. Attorney* (Dec. 20, 2021), <https://www.justice.gov/usao-dc/meet-us-attorney>.

¹⁹³ James Lynch, *Prosecutor Who Allegedly Refused To Charge Hunter Biden To Testify Before Judiciary Committee Tuesday*, DAILY CALLER (Oct. 2, 2023).

¹⁹⁴ STAFF REPORT, H. COMM ON THE JUDICIARY, ET AL., THE JUSTICE DEPARTMENT'S DEVIATIONS FROM STANDARD PROCESSES IN ITS INVESTIGATION OF HUNTER BIDEN AT 5 (Dec. 2023).

¹⁹⁵ H. Comm. on Ways and Means, Transcribed Interview of Mr. Gary A. Shapley Jr. at 13 (May 26, 2023).

¹⁹⁶ *Id.* at 42.

¹⁹⁷ Staff Report, *supra* note 194.

¹⁹⁸ Spencer S. Hsu, et al., *Rise in charging rate not linked to D.C.'s drop in violent crime, Graves says*, WASH. POST (Mar. 15, 2024).

¹⁹⁹ Alexander, *supra* note 11.

protect the public.²⁰⁰ When asked about such low prosecution levels, Graves has repeatedly blamed the lack of criminal charges on problems that stem from other parts of the District's public safety and justice system.²⁰¹

Due to the unique position of D.C. as a federal district, Graves can carry out a pro-criminal agenda without any concern of being voted out of office by concerned residents or victims of crime. Graves' lack of prosecution helps explain why the average homicide suspect is arrested 11 times before killing someone.²⁰²

Firsthand Accounts of Crime in the District of Columbia

On October 12, 2023, the Subcommittee on Crime and Federal Government Surveillance held a hearing in Washington, D.C., titled "Victims of Violent Crime in the District of Columbia," to hear directly from victims of crime in Washington, D.C.²⁰³

Gregg Pemberton, a Metropolitan Police Department Detective and Chairman of the D.C. Police Union, began his testimony by highlighting the ongoing challenges faced by law enforcement in the district.²⁰⁴ He discussed the significant rise in crime rates and the detrimental effects of anti-police legislation on police morale and staffing.²⁰⁵ Pemberton exposed the severe impact of these policies, emphasizing how they have led to a mass exodus of officers and an alarming increase in violent crime.²⁰⁶ He stated:

Members of Congress are being assaulted and carjacked. Their Congressional staff members are being robbed and stabbed. Tourists and visitors, your constituents, are being targeted and attacked. Yet, the D.C. Council fails to admit that their policies have played a significant role in this outcome.²⁰⁷

Pemberton further detailed the consequences of these legislative changes, pointing out the resulting lawlessness and danger in the city.²⁰⁸ Pemberton stated:

Crime stats year to date in the district are absolutely staggering. Homicides have reached 218, a 38 percent increase. Carjackings have reached almost 800, or 110 percent increase. Robberies are up 70 percent. Violent crime overall is up 40 percent, and all crimes are up 28 percent. These statistics I have mentioned are city-wide. If one

²⁰⁰ *Id.*

²⁰¹ Hsu, et al., *supra* note 198.

²⁰² Quinn Owen and Beatrice Peterson, *As Congress debates D.C.'s new criminal code, activists urge everyone to get to work*, ABC NEWS (Mar. 6, 2023).

²⁰³ *Victims of Violent Crime in the District of Columbia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (Oct. 12, 2023).

²⁰⁴ *Id.* at 32-36.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.* at 33.

²⁰⁸ *Id.*

parses out the data to the neighborhood level, some of these communities have grown to look like war zones.²⁰⁹

Charles Stimson, a Senior Legal Fellow at the Heritage Foundation and former D.C. Assistant United States Attorney, provided an analysis of the policies and practices leading to an increase of violent crime in the District.²¹⁰ Stimson detailed the problematic policies of the D.C. City Council and the U.S. Attorney's Office, illustrating the consequences that these pro-criminal policy choices have on public safety.²¹¹ Stimson explained how the leniency towards gun crimes and the high declination rate of prosecutions have emboldened criminals and undermined law enforcement efforts.²¹² Stimson testified:

The D.C. City Council's laws and statements by members of that council have eroded accountability and contributed to the rise of crime across the city. The council has proven themselves incapable of creating a revised criminal code for the District. Their goal was to shrink the system, not hold criminals accountable.²¹³

Stimson further illustrated the far-reaching and dangerous consequences of policy choices on gun crime.²¹⁴ He explained how leniency on gun crimes has compromised public safety:

The use of guns by career felons is a huge problem in this city. Every single day, the MPD arrests felons in possession of firearms. Ask Greg Pemberton. Yet, instead of prosecuting those felons in Federal District Court under 18 U.S.C. 922(g) where they would receive a mandatory minimum sentence of at least five years, the Office instead takes those cases to D.C. Superior Court where they often get probation and hardly ever prison time. That is a policy choice.²¹⁵

Stimson emphasized the impact of these policy choice on the overall criminal justice system, stating:

The crime problem here [in Washington, D.C.] is a man-made problem. Criminal justice reform is not rocket science. The vast majority of victims of violent crime in our city are minorities. They deserve to live in peace. They deserve to sleep well at night and not worry about their kids getting shot.²¹⁶

²⁰⁹ *Id.*

²¹⁰ *Id.* at 26-30.

²¹¹ *Id.* at 10-11.

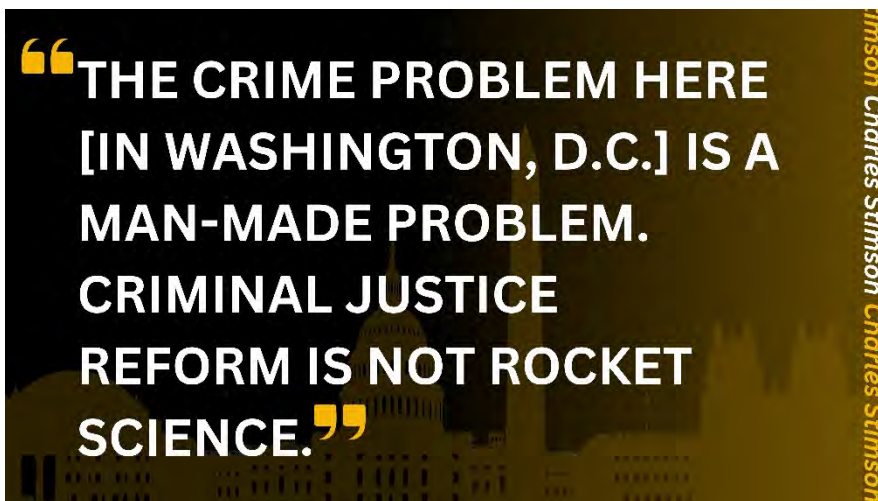
²¹² *Id.*

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.* at 10.

²¹⁶ *Id.* at 11.



Gaynor Jablonski, the owner of Valor Brewpub in Washington, D.C., testified about how a man entered his restaurant in June 2023 and pointed a firearm at his 4-year-old son.²¹⁷ Gaynor wrestled with the man to protect his child.²¹⁸ The man eventually fled from the scene and was later arrested.²¹⁹ He was originally charged with assault with a deadly weapon and possession of a firearm during a crime of violence;²²⁰ however, the prosecutors pleaded the case down to attempted assault and carrying a pistol without a license.²²¹ The criminal was released from custody until he was sentenced to 24 months imprisonment.²²²

During the Subcommittee's hearing, Gaynor expressed frustration when Graves's office reduced the charges and released the man until he was tried and sentenced to a two-year sentence.²²³ Gaynor testified: "We could have a thousand new laws. We could have a thousand new police officers. You could throw millions at this DA's office. If nobody is going to do their job and prosecute and hold people accountable, what is the point?"²²⁴

²¹⁷ Dave Urbanski, *Gunman Attacked Pub Owner in Front of His 4-Year-Old-Son, Allegedly says, 'Sit Down, White Boy, I'm Gonna End You' – and gets Plea Deal*, THE BLAZE (Jul. 13, 2023).

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ *Victims of Violent Crime in the District of Columbia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 56-57 (Oct. 12, 2023).

Myisha Richards, a firefighter and paramedic in Washington D.C., testified how she was assaulted and beaten in July 2020 by two people who called 911 for assistance.²²⁵ Richards testified that when she spoke to Graves's office, they told her that neither attacker would be

“THE NATION’S CAPITAL IS NO LONGER A PLACE WHERE FIREFIGHTERS AND EMS WORKERS CAN RENDER CARE TO THOSE IN NEED WITHOUT WORRYING OF BECOMING A PATIENT THEMSELVES.”

Myshia Richards
D.C. Firefighter and Paramedic

charged.²²⁶ Richards testified that she suffers from PTSD and anxiety and that firefighters and EMS workers in the District no longer feel safe.²²⁷ Richards stated, “I love this city, but we need to do better and our first responders need to feel safe. The nation’s capital is no longer a place where firefighters and EMS workers can render care to those in need without worrying of becoming a patient themselves.”²²⁸

Mitchell Sobolevsky told the Subcommittee about his brush with violent crime in the District.²²⁹ He described being held at gunpoint and robbed near the White House, and how the criminal told him “do what I say and you ain’t going to die tonight.”²³⁰ Sobolevsky complied and later called the police, who eventually arrested the suspect.²³¹ But Sobolevsky also described what occurred in the court system, testifying:

[A]fter the arrest and coordinated with the U.S. Attorney’s Office in D.C. my criminal went to trial. I gladly and passionately wrote an impact statement. I pleaded with the judge not to give a lenient sentence as this man would commit worse crimes than what he did to me. The judge proceeded to give my criminal 24 months and suspended a year of his sentence because the judge believed his judgment was still forming. This light sentence was given despite my criminal robbing six victims and two businesses. That is right. One year for multiple armed robberies. Within weeks of my criminal’s release, he would go on to rob two more people at gunpoint. I would only find this out because I was reading the D.C. weekly arrests. We will never be able to eradicate violent crime completely, but we can take action to ensure that it happens less frequently. . . . I implore the Subcommittee to understand that

²²⁵ *Id.* at 59-60.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.* at 52.

²³¹ *Id.*

policing, prosecuting, and most importantly, incarceration works. Violent crimes should not be dealt with lightly.²³²

D. District Attorney Larry Krasner in Philadelphia

Larry Krasner became District Attorney in Philadelphia, Pennsylvania, in January 2018. Prior to his term in office, Krasner was a civil rights attorney who sued the police seventy-five times.²³³ Under Krasner's tenure, Philadelphia has become one of the nation's major cities with rising violence and homicide rates since the COVID-19 pandemic.²³⁴

Prosecutor as a Social Justice Reformer

Preceded by two district attorneys who supported the death penalty,²³⁵ Krasner has refused to introduce capital punishment in a single case and has followed through on his campaign promise to “reduce over-prosecution by declining to take on ‘insignificant’ cases.”²³⁶ In carrying out this campaign promise, Krasner issued a memorandum reflecting his new policies as the Philadelphia district attorney.²³⁷ Effective within the first month he took office, the memorandum outlined a new policy in which Krasner's office would drop all charges and decline to pursue cases (1) for marijuana possession or buying; (2) for possession of the opioid Buprenorphine; and (3) against prostitution.²³⁸ In addition to these new policies, at the start of his term, Krasner fired 31 prosecutors in the District Attorney's office for their unwillingness to implement his changes and put 29 Philadelphia police officers on a “do-not-call list”—meaning they could not be considered credible witnesses at trials.²³⁹

Krasner also instructed his line prosecutors to avoid prosecutions and opt for utilizing the city's “diversion programs” to reduce the number of criminals incarcerated.²⁴⁰ While diversion programs claim to “move people away” from becoming involved in the criminal justice system,²⁴¹ it is dependent on prosecutors to use discretion on when it is best for a defendant to be sent to a diversion program or to be incarcerated. Diversion programs are more commonly used

²³² *Id.* at 53.

²³³ Alan Feur, *He Sued Police 75 Times. Democrats Want Him as Philadelphia's Top Prosecutor*, N.Y. TIMES (Jun. 17, 2017).

²³⁴ Cherri Gregg, *DA Krasner talks next steps following failed GOP impeachment effort*, WHYY (Feb. 13, 2023).

²³⁵ Daniel Craig, *Report highlights Lynne Abraham as one of America's deadliest prosecutors*, PHILLYVOICE (Jun. 30, 2016); Victor Fiorillo, *DA Seth Williams Sues Governor Tom Wolf Over Death Penalty Moratorium*, PHILLY MAGAZINE (Feb. 19, 2015).

²³⁶ Joshua Vaughn, *The Successes and Shortcomings of Larry Krasner's Trailblazing First Term*, THE APPEAL (Mar. 22, 2021).

²³⁷ Memorandum from Larry Krasner, Philadelphia District Attorney, to Philadelphia District Attorney Staff (Feb. 15, 2018), <https://phillyda.org/wp-content/uploads/2022/04/DAO-New-Policies-2.15.2018-UPDATED.pdf>.

²³⁸ *Id.*

²³⁹ Allan Smith, *Progressive Das are shaking up the criminal justice system. Pro-police groups aren't happy*, NBC NEWS (Aug. 19, 2019).

²⁴⁰ Wendy Davis, *Diversion sentencing may offer an alternative path to justice—but how fair is it?*, ABA JOURNAL (Jul. 2, 2019), <https://www.abajournal.com/web/article/examining-the-equity-of-diversion-sentencing>.

²⁴¹ *Diversion Programs Explained*, THE VERA INSTITUTE, <https://www.vera.org/diversion-programs-explained> (last visited Aug. 28, 2024).

with misdemeanor prosecutions.²⁴² Elected district attorneys such as Krasner are expanded the use of diversion programs beyond what they are intended for by offering them to dangerous criminals. In his first year as district attorney, Krasner diverted 78 firearms charges (six times more than the previous district attorney) into a diversion program that sends defendants into community service or treatment.²⁴³

Like many other rogue prosecutors, Krasner seized on the opportunity to weaponize bail reform. Immediately upon taking office, Krasner eliminated cash bail for more than two-dozen misdemeanors and felonies, including DUI, retail theft, and prostitution.²⁴⁴ When Krasner announced his new policy, he stated that “[r]emoving cash bail for certain offenses is just the first phase of a multi-phase criminal justice reform plan.”²⁴⁵ In the first few years under Krasner’s leadership, violent crime skyrocketed, with Philadelphia recording a record number of homicides in 2022.²⁴⁶

In November 2022, the Pennsylvania House of Representatives voted to impeach Krasner over the progressive policies he enacted amid the city’s rising crime rates and his failure to enforce the law as Philadelphia’s top prosecutor.²⁴⁷ One member of the Pennsylvania House called Krasner “derelict in his duty,” explaining that his decision not to prosecute crimes has “tipped the scales of justice in favor of criminals.”²⁴⁸ One impeachment article alleged that Krasner “repeatedly violated” Pennsylvania’s Crime Victims Act “by failing to timely contact victims, deliberately misleading victims and or disregarding victim input and treating victims with contempt and disrespect.”²⁴⁹ Another impeachment article alleged that Krasner’s charging policies on issues such as prostitution, theft, and drug-related offenses violate the legislature’s authority.²⁵⁰ Just days before the Philadelphia Supreme Court ruled that the House impeachment articles did not meet the constitutionally required standard, the state Senate voted to postpone indefinitely Krasner’s trial for removal.²⁵¹

Firsthand Accounts of Crime in Philadelphia

On May 3, 2024, the Committee held a hearing in Philadelphia, Pennsylvania, titled “Victims of Violent Crime Philadelphia,” to provide victims of crime in the city the opportunity to be heard.²⁵²

²⁴² Charles Stimson and Zach Smith, “*Progressive*” Prosecutors Sabotage the Rule of Law, Raise Crime Rates, and Ignore Victims THE HERITAGE FOUNDATION (Oct. 29, 2020).

²⁴³ *Id.*

²⁴⁴ Press Release, Philadelphia DAO Policy on Bail (Feb. 21, 2018); Alicia Victoria Lozano, *Philadelphia District Attorney Larry Krasner Ends Cash Bail for Low-Level Offenses*, NBC PHILADELPHIA (Feb. 21, 2018).

²⁴⁵ *Id.*

²⁴⁶ Ellie Rushing, *For the 2nd year in a row, Philadelphia records 500 homicides*, PHILADELPHIA INQUIRER (Dec. 21, 2022).

²⁴⁷ Mark Scoloro, *Pennsylvania House impeaches Philly Prosecutor over policies*, AP (Nov. 16, 2022).

²⁴⁸ Jordan Levy, *The Krasner impeachment process has officially begun*, BILLY PENN AT WHYY (Oct. 26, 2022).

²⁴⁹ H.R. Res 240, 2022 Gen. Assemb., Reg. Sess. (PA 2022).

²⁵⁰ *Id.*

²⁵¹ Brooke Schultz and Marc Levy, *Senate delays Philly DA’s impeachment trial amid court case*, AP (Jan. 11, 2023).

²⁵² *Victims of Violent Crime in Philadelphia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (May 3, 2024).

Terri O'Connor, the wife of slain Philadelphia Police Corporal James O'Connor, recounted the tragic circumstances surrounding her husband's death.²⁵³ She described the systemic issues within the Philadelphia criminal justice system that allow repeat offenders to remain on the streets even after numerous arrests.²⁵⁴ O'Connor criticized the leniency shown to repeat offenders by Krasner's office, specifically his failure to hold individuals accountable and keep criminals off the streets.²⁵⁵ She testified:

A month before Jim's murder, one of the males was arrested and let out twice for drug dealing; he had three open juvenile cases and one previous arrest as an adult. He was supposed to be on a GPS monitor, which he wasn't wearing either time. He could have been put in [jail], but instead, under Larry Krasner, he was released on his own recognizance, and no bail required.²⁵⁶

O'Conner emphasized the need for stricter enforcement and accountability, stressing how repeated failures allowed dangerous individuals to continue posing threats to the community.²⁵⁷ She had a direct message for Krasner:

Jim got up to go to work that night, and his job was to save and protect our city, and he was supposed to come home to me in the morning. If you did yours and kept criminals where they are supposed to be behind bars maybe Jim would still be here today.²⁵⁸

Dr. Joel Fitzgerald, Chief of Denver Regional Transportation Police and father of slain Temple University Police Sergeant Christopher Fitzgerald, shared the devastating effect that his son's murder had on his family and community.²⁵⁹ He discussed the broader implications of regressive district attorney policies, which he said prioritized ideological agenda over public safety.²⁶⁰ Dr. Fitzgerald criticized Krasner's policies for undermining justice and exacerbating violence in communities, testifying:

That is the power of some of the, as I call it, regressive district attorneys out there, who mask their dangerous personal agendas and destroy hundreds of families, and they say it's under the guise of creating fairness, equality, and being able to bridge the disparate impacts that it has on communities. What about the impacts that it has on those community members who are actually affected by violent crime.²⁶¹

²⁵³ *Id.* at 7-9.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.* at 15-17.

²⁶⁰ *Id.*

²⁶¹ *Id.* at 17.

Dr. Fitzgerald called for a reevaluation of these policies to protect vulnerable community members and ensure justice for victims of violent crime.²⁶² He testified:

We have rules for a reason, laws for a reason. And when our district attorney selectively, if not even prejudicially, determines what it is that he will and will not prosecute, criminals aren't dumb. They know that when they run in the stores in mass in downtown Philadelphia or anywhere in this country and they run out with hundreds or even thousands at times of dollars' worth of products, they will not be prosecuted.²⁶³

Nick Gerace, a retired Philadelphia police officer, provided a detailed account of the challenges faced by law enforcement in the city due to the district attorney's lenient approach.²⁶⁴ He testified that the failure to prosecute existing laws has led to increased crime and diminished public safety.²⁶⁵ Gerace stressed the importance of enforcing current laws to maintain order and protect citizens.²⁶⁶ He stated, "Police officers are afraid to do their jobs because Krasner is looking to hang every one of them."²⁶⁷

* * *

During the course of the Committee's and Subcommittee's hearings about violent crime in American cities, witnesses made largely the same point: that rising crime rates are a policy choice. As one witness explained, out-of-control crime in major urban areas is "man-made problem."²⁶⁸ The testimony obtained by the Committee and Subcommittee shows conclusively that the far-left policies and systemic refusal to prosecute crime by certain rogue prosecutors, such as Alvin Bragg in Manhattan or Larry Krasner in Philadelphia, has real-world and tragic consequences for the residents of those cities.

²⁶² *Id.*

²⁶³ *Id.* at 71.

²⁶⁴ *Id.* at 63-64.

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.* at 70.

²⁶⁸ *Victims of Violent Crime in the District of Columbia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (Oct. 12, 2023) (statement of Charles Stimson).

III. BAIL REFORM AND OTHER RADICAL CRIMINAL JUSTICE POLICIES REDUCE PUBLIC SAFETY AND HARM AMERICAN COMMUNITIES

The Committee and Subcommittee have received substantial information from witnesses about the dangerous consequences of bail reform and other far-left criminal justice policies. From bail “reform” to failing to prosecute entire categories of criminal conduct, policymakers and prosecutors are creating conditions that make their communities more vulnerable to crime. Communities in Democrat-run cities and states are struggling with the consequences of other far-left policies, including the lack of enforcement of firearms crimes, theft and organized retail crime, and juvenile crimes.

Bail reform crafted and passed by far-left policymakers serves as the most harmful and dangerous policy for American communities. Over the past several years, state legislatures have passed laws and rogue prosecutors have implemented policies that either eliminate cash bail altogether or significantly restrict the ability of state and local judges to impose constraints, such as supervised release. Many of these mandates require the immediate release of suspected criminals back into the community. In 2021, Illinois became the first state to eliminate the use of cash bail.²⁶⁹ Other states, such as California, Maryland, New Jersey, and New York, have modified their bail practices to significantly decrease the use of cash bail.²⁷⁰ These laws and policies ignore public safety interests and create a revolving door for criminals to reoffend.

Changes to bail policy has been a popular criminal justice reform among policymakers on the left. In 2020, as a United States Senator, Vice President Kamala Harris publicly supported an organization called the Minnesota Freedom Fund, which was raising funds to bail out the criminals arrested for rioting and destruction in Minnesota.²⁷¹ During the riots of 2020, then-Senator Harris distributed a link to her followers on social media urging them to “chip in now” to the bail fund.²⁷² One criminal assisted by the Fund later shot and killed a passenger on a St. Paul light rail platform in 2022.²⁷³

²⁶⁹ Kinnicutt, *supra* note 166.

²⁷⁰ Lisel Petis, *Navigating Bail Reform in America: A State-by-State Overview*, R STREET INSTITUTE (Feb. 2024),.

²⁷¹ Alec Schemmel, *Kamala Harris-backed bail fund helped incarcerated man, now charged with murder, go free*, ABC NEWS 4 (Aug. 30, 2022).

²⁷² Kamala Harris (@KamalaHarris), Twitter, Jun. 1, 2020, 4:34 PM), <https://x.com/KamalaHarris/status/1267555018128965643>.

²⁷³ Josh Christenson, *Kamala-Backed Bail Fund Puts Murderer on the Street*, FREE BEACON (Aug. 29, 2022).



A. New York, New York

Bail “Reform”

The New York state legislature passed bail “reform” legislation on April 1, 2019, which went into effect on January 1, 2020. The new changes prohibited judges from setting cash bail for most misdemeanors and nonviolent felonies and mandated the immediate release of individuals who committed these offenses back into the community.²⁷⁴ These offenses include “burglary, stalking, assault without serious injury, many drug offenses and some kinds of arson and robbery.”²⁷⁵ As a result, defendants accused of these crimes are released back into the community while they await trial. The new law also prevents judges from remanding defendants to pretrial detention based on the danger they pose, and judges can only consider risk of flight when deciding whether to use an ankle monitor during pretrial release.²⁷⁶ In cases where judges have the ability to set bail, judges are required to consider the defendant’s ability to pay and must

²⁷⁴ Taryn A. Merkl, *New York’s Latest Bail Law Changes Explained*, BRENNAN CENTER FOR JUSTICE (Apr. 16, 2020).

²⁷⁵ Chelsia Rose Marcius, et al., *New York’s Bail Laws Are Changing Again. Here’s How.*, N.Y. TIMES (Apr. 11, 2022).

²⁷⁶ William J. Bratton and Rafael A. Mangual, *‘Bail Reform’ Is Killing New Yorkers as Eric Adams Pushes for Change*, WALL ST. J. (Feb. 16, 2022).

also choose the least restrictive means necessary to ensure that defendants return for their court date.²⁷⁷

In April 2020, New York State amended its bail laws to allow judges to consider imposing cash bail for specific crimes, including “sex trafficking, grand larceny, second-degree burglary, vehicular assault and any crime that results in a death.”²⁷⁸ These new revisions also allowed judges to consider a defendant’s criminal history when setting an amount for bail.²⁷⁹ Additionally, judges could set cash bail for “persistent offenders,” even if the alleged offenses are nonviolent.²⁸⁰

In February 2022, New York City Mayor Eric Adams asked Governor Hochul to reconsider New York’s bail reform laws.²⁸¹ Two months later, Governor Hochul changed bail laws in the state budget to allow judges to set bail for repeat offenders and those accused of crimes involving firearms.²⁸² The 2022 revisions also allowed judges the ability to assess whether defendants were accused of causing “serious harm.”²⁸³ New Yorkers, according to polling, “overwhelmingly support[ed]” the measure.²⁸⁴

After New York’s bail “reform” law passed, recidivism rates increased for individuals who had previous violent felony offenses. A March 2023 study by researchers at John Jay College of Criminal Justice found that approximately 72 percent of violent felony offenders who were released without bail were re-arrested.²⁸⁵ Before the law was passed, the recidivism rate for previous violent felony offenders was 62 percent.²⁸⁶ The study also found that “mandatory release significantly increased re-arrest across multiple outcomes for people with a recent violent arrest and with a pending case at the time of the current arraignment.”²⁸⁷

Repeat offenders continue to plague New York City. On April 6, 2023, NYPD Commissioner Keechant Sewell said, “recidivism is the undertow pulling against everything we are doing to keep our city safe” and “it is counterproductive to public safety and, frankly, is a perpetual carousel of police resources.”²⁸⁸ As an example of how bad New York’s recidivism problem is, Sewell said that 327 individuals were arrested more than 6,000 times for retail

²⁷⁷ Marcius, et al., *supra* note 275.

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² Jimmy Vielkind, *New York Might Roll Back Big Progressive Measure: Bail Reform*, WALL ST. J. (Mar. 30, 2022).

²⁸³ *Id.*

²⁸⁴ Zach Williams, *Most New Yorkers back bail changes but don’t want Hochul as gov: poll*, N.Y. POST (Apr. 25, 2022).

²⁸⁵ John Binder, *Study: Over 72% of NYC Violent Crime Suspects Freed Without Bail Go On To Commit More Crimes*, BREITBART (Apr. 5, 2023); Rene Ropac and Michael Rempel, *Does New York’s Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in New York City*, JOHN JAY COLLEGE OF CRIMINAL JUSTICE 16 (Mar. 2023).

²⁸⁶ *Id.*

²⁸⁷ *Id.*

²⁸⁸ Craig McCarthy and Steve Janoski, *Shootings, homicides down, but not to pre-pandemic levels, NYPD says*, N.Y. POST (Apr. 6, 2023).

theft.²⁸⁹ Michael Lipetri, NYPD’s chief of crime control strategies, said that a man named Nathaniel Linden had recently been indicted for burglarizing six churches in November 2022, but was released right before his trial.²⁹⁰ Just nine hours after being released, Linden burglarized a dry cleaner business.²⁹¹ Linden was then released again, and allegedly burglarized several more churches.²⁹² Talking about Linden, Lipetri said, “That’s recidivism . . . That’s what the commissioner is talking about. This isn’t a person who had a bad day. This is a person who had a bad 40 years.”²⁹³

In testimony to the Committee, Paul DiGiacomo of the Detectives Endowment Association explained “[t]here is a direct correlation for when the bail reform laws were enacted to day one to the uptick in violent crimes across New York City.”²⁹⁴ Democratic New York City Councilmember Robert Holden similarly discussed the effect of liberal criminal justice policies.²⁹⁵ He explained that “failed progressive policies reversed 30 years of law and order delivered to the city by the hardworking men and women of the NYPD and professional prosecutors that put victims’ rights ahead of criminals.”²⁹⁶ Holden was clear about the remedy:

To address these challenges, we need our State legislators and district attorneys to prioritize public safety and work together to strengthen our criminal justice system rather than weaken it. The State legislature has failed us by passing laws that have weakened our criminal justice system and enabled criminals to evade justice.²⁹⁷

Failure to Prosecute Firearms Charges

New York City, like many Democrat-run cities, has enacted strict gun control laws but does virtually nothing to enforce them against offenders. In 2021, the NYPD Lieutenants Benevolent Association presented data to show that criminals arrested on gun charges were not being held accountable.²⁹⁸ When NYPD arrested 4,456 people on gun charges, prosecutors dismissed over 1,200 of these cases.²⁹⁹ Of the open cases, only about 700 resulted in criminal convictions.³⁰⁰ Only one of those convictions came from a trial.³⁰¹ New York City policymakers cannot claim they are serious about tackling violent crime while turning a blind eye to firearms convictions.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ *Victims of Violent Crime in Manhattan: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 40 (Apr. 17, 2023).

²⁹⁵ *Id.* at 28.

²⁹⁶ *Id.* at 29.

²⁹⁷ *Id.*

²⁹⁸ Kevin Williamson, *Why the real solution to gun crime is improving gun-related convictions*, N.Y. POST (Jun. 4, 2022).

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ *Id.*

During the Committee’s field hearing in Manhattan, Barry Borgen, whose son was the victim of a violent crime because of his Jewish faith, discussed Bragg’s failure to prosecute firearm charges. He testified:

I will tell you something else that bothers me. Everybody is here with gun control. . . . Here in New York, we can’t get guns. The criminals walk around shooting people, get guns nonstop. It’s just, it’s unbelievable. A gun charge comes to Mr. Bragg, misdemeanor, no problem, walk the streets. . . . Here in New York now, you come with a gun: OK, don’t do it again. We’ll see you again. It’s just disgusting, and it’s a hutzpah what goes on—it’s a Jewish word, hutzpah—what goes on in this district.³⁰²

Failure to Prosecute Retail Crime

After taking office, Bragg stated that no matter what the law said he was committed not to prosecuting shoplifting.³⁰³ New York City has seen a significant increase in retail theft.³⁰⁴ By 2022, shoplifting increased by over 68 percent compared to 2019.³⁰⁵ While shoplifting declined by just over 7 percent in 2023, it was still a staggering 56 percent higher than the number from 2019.³⁰⁶

Despite New York City’s surge in retail crime, Bragg shrugged off the issue by calling retail crime a “crime of poverty.”³⁰⁷ He told his staff that a person who “shoplifts and makes “a minimal threat” to a store employee while leaving . . . pose[s] no genuine risk.”³⁰⁸ These are the same “minimal threat” shoplifters who fatally stabbed a drugstore employee in 2023.³⁰⁹ In that case, the killer had over a dozen previous arrests for shoplifting.³¹⁰ If a store owner or employee attempts to defend their life during a shoplifting or retail crime encounter, they are the ones arrested and charged—as was the case with Jose Alba, who testified to the Committee about his experiences.³¹¹ He testified:

I still don’t know why I was charged with murder. I believe that law enforcement and the DA’s office didn’t investigate the case fully. They rushed to judgment, and I suffered because of it. Even though

³⁰² *Victims of Violent Crime in Manhattan: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 45 (Apr. 17, 2023).

³⁰³ Hannah Grossman, *Alvin Bragg promises not to prosecute theft to establish 'racial equity' balance: 'Crime of poverty'*, FOX NEWS (Apr. 20, 2023).

³⁰⁴ John Hall, *Deciphering Retail Theft Data Implications and Actions for Policymakers*, MANHATTAN INSTITUTE (Jul. 2, 2024).

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ Grossman, *supra* note 303.

³⁰⁸ *Id.*

³⁰⁹ Craig McCarthy, et al., *Serial shoplifter fatally stabbed by Midtown CVS employee during fight*, N.Y. POST (Jul. 6, 2023).

³¹⁰ *Id.*

³¹¹ Matthew Sedacca *NYC lawyers insist bodega clerk who fatally stabbed customer in self-defense went overboard* N.Y. POST (Mar. 30, 2024).

the charges were ultimately dropped, they should not have been brought against me to begin with. I am now traumatized from the incident. I am not working because I am terrified for my life that someone in the gang will come after me for revenge. I was injured physically and mentally because of the incident and my unlawful arrest and incarceration.³¹²

Holden, similarly, recalled his experiences with retail crime in New York. He told the Committee:

It's a real thing because I have businesses, and I have one individual who owns four gas stations in my district. He's from Southeast Asia. He's an immigrant. He is living the American Dream until recently, until 2019 is when the bail reform package went through the State. He says: "A good day for me in my four gas stations is when I'm not held up. We consider it a good day." He's losing 2,000 or 3,000 dollars a day in the four gas stations with petty theft and being held up.³¹³

Retail employees understand the grim realities of what happens when shoplifting and retail crime is tolerated not prosecuted by the city. One drug store security guard, who said he witnesses about ten thefts a day, stated, "There's a lot. They don't care if I'm here . . . they just come in and take stuff because they know we're not allowed to do nothing. . . . If they come and keep stealing and stealing the store is going to say it's too much and it's going to close down. . . ."³¹⁴

Not Prosecuting Juvenile Offenders with the "Raise the Age" Statute

New York State began enabling juvenile offenders to commit crimes and evade accountability with its "Raise the Age" statute. Signed into law in 2018, the statute raises the age of "criminal responsibility" from 16 years old to 18 years old.³¹⁵ Adolescents 17 and under accused of misdemeanors are adjudicated as juvenile delinquents.³¹⁶ If a juvenile under 17 is accused of a felony, the case is first heard in the "youth part" of the court system and usually transferred to family court shortly thereafter.³¹⁷ Unsurprisingly, the statute has led to a significant drop in overall arrests in dangerous crimes such as gun crimes,³¹⁸ as juvenile offenders are getting away with crimes with only a slap on the wrist.

³¹² *Victims of Violent Crime in Manhattan: Hearing Before the H. Comm. on Judiciary*, 118th Cong. 8 (Apr. 17, 2023).

³¹³ *Id.* at 84.

³¹⁴ McCarthy, et al., *supra* note 309.

³¹⁵ W. Dyer Halpern, *Reforming "Raise the Age"*, MANHATTAN INSTITUTE (Jan. 12, 2023).

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ Tina Moore, et al., *Number of underage murder suspects doubles as NYPD grapples with 'deficient' juvenile criminal justice system*, N.Y. POST (Jan. 25, 2023).

Before he left office in 2023, former NYPD Assistant Commissioner of the Youth Division Kevin O’Conner pointed out one of the issues with the “Raise the Age” statute is that juvenile reports “go nowhere” and therefore aid the city in keeping underage recidivism “under wraps.”³¹⁹ By 2021, over 12 percent of identified shooters New York City through the first nine months of the year were under 18, which is up from 9.2 percent in 2017.³²⁰ In an interview before departing the position, Assistant Commissioner O’Conner lamented this system hurts juvenile offenders rather than help them, stating: “We’re not even giving them a little timeout, so to speak. And that’s where Raise the Age is really failing our kids. The recidivism is skyrocketing.”³²¹ Another anonymous law enforcement source told the *New York Post*:

[W]hen a kid is arrested with a gun and gets out in time for dinner, it sends a message to all of his friends who might be on the margins That message says, ‘Pick up that gun. There are no consequences That way of thinking then spreads like an infection. And the problem of youth violence becomes exponentially greater The cruel irony is that the communities these politicians falsely purport to protect, are the communities cleaning the blood of children off of their streets.’³²²

B. Chicago, Illinois

The SAFE-T Act and Bail “Reform” in Illinois

The Illinois state legislature passed sweeping criminal justice reform legislation in January 2021 and implemented those changes on January 1, 2023. The Illinois Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act abolished cash bail and required a higher burden of proof to detain accused violent criminals until trial.³²³ The Act amended the Illinois Constitution and eroded the constitutional protections of the Illinois Victim Rights Act.³²⁴

The SAFE-T Act states that “defendants shall be presumed eligible for pretrial release unless prosecutors present clear and convincing evidence to deny the suspect pretrial release, such as proof that the suspect committed the crime and poses a threat to the physical safety of a specific, identifiable person.”³²⁵ Under the SAFE-T law, the judge does not have the option of setting bail as the defendant will presumptively be released pending trial. As a result, defendants are released back into the community while they await trial. Additionally, prosecutors are required to submit a request for detention within forty-eight hours if the offender committed a crime that poses a “significant threat to public safety.”³²⁶ James Glasgow, a Democrat prosecutor

³¹⁹ *Id.*

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

³²³ Kinnicutt, *supra* note 166.

³²⁴ Craig Wall, *Republican lawmakers seek to repeal criminal justice bill, claiming it makes ‘crime even worse’*, ABC 7 NEWS (Jan. 20, 2022).

³²⁵ *Id.*

³²⁶ Kinnicutt, *supra* note 166.

for the suburbs outside of Chicago, stated it was nearly impossible to provide the evidence needed within forty-eight hours “since it takes time to review body and surveillance cameras and crime labs take time to process evidence.”³²⁷ Glasgow further stated, “when it’s protecting the health, safety and welfare of the law-abiding citizens, we have to be able to do that.”³²⁸

Democrats tout the bail system as a failure, but the data shows release with no conditions, or abolishing cash bail, is significantly less effective than cash bail at achieving compliance.³²⁹ A 2023 study in California found that 70 percent of suspects released on zero-dollar bail were re-arrested.³³⁰ Additionally, when compared to those who paid bail, suspects released on zero-dollar bail were twice as likely to be re-arrested for new felonies, and three times more likely to be re-arrested for violent crimes.³³¹ Even former Chicago Mayor Lori Lightfoot realized eliminating bail was disastrous.³³² Mayor Lightfoot commented, “I know that there are people in my city that are wreaking havoc every day and need to be off the streets. The police department is spending all this time and resources to arrest, put a case on, and the judges and the prosecutors say, you know what? We’re going to let you out on electronic monitoring to wreak havoc again.”³³³

On December 29, 2022, an Illinois court found that the pretrial release portions of the SAFE-T Act violated the separation of powers clause of the Illinois Constitution.³³⁴ The court blocked the abolishment of cash bail in sixty-five counties across Illinois, but allowed the end of cash bail to go into effect in thirty-seven other counties.³³⁵ On July 18, 2023, the Illinois Supreme Court overturned the decision and ruled the SAFE-T Act provision ending cash bail was constitutional, which made Illinois the first state in the nation to eliminate cash bail.³³⁶ Following the decision, one Democrat state’s attorney in Illinois stated, “this ruling is disappointing and the Act terribly detrimental to public safety, we must abide by the decision and will continue to do our best to serve the people.”³³⁷

Within the first week of the provisions of the Safe-T Act being implemented, the consequences were felt immediately. During the Committee’s forum in Chicago on September 26, 2023, John Garrido, a retired Lieutenant with the Chicago Police Department, testified that several individuals committed violent crimes and were released almost immediately.³³⁸ He explained:

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ Sean Kennedy, *The Cost of Eliminating Cash Bail is Too High*, CHI. SUN TIMES (Mar. 12, 2023).

³³⁰ Julie Watts, *Updated \$0 Bail Study: Suspects Released on \$0 Bail Had Twice The Felony Rearrests, Three Times the Violent Crime Arrests*, CBS NEWS (Feb. 20, 2023).

³³¹ *Id.*

³³² Houston Keene, *Ousted Chicago Mayor Lori Lightfoot Urges Dems to ‘Speak the Truth’ on Violent Crime Amid Spike*, N.Y. POST (Apr. 22, 2023).

³³³ *Id.*

³³⁴ CBS Chicago Team, *Judge Rules Bail Reform, Pretrial Release Provisions Of SAFE-T Act Unconstitutional*, CBS NEWS CHI. (Dec. 29, 2022).

³³⁵ *Id.*

³³⁶ Michelle Gallardo, *SAFE-T Act Provision Ending Cash Bail Constitutional, Illinois Supreme Court Rules*, ABC NEWS (Jul. 18, 2023).

³³⁷ *Id.*

³³⁸ *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. 12 (Sep. 26, 2023).

On the first day of no cash bail last week, individuals charged with violent crimes were released without any restrictions. Two people were charged with robbery, and a guy was accused of punching a Chicago police officer in the face, and they went home without restrictions, and there was no request by the prosecutor for a detention hearing. Another offender was sent home without any restrictions after being accused of attacking four police officers and sending two to the hospital. Yet again, the prosecutor's office did not ask for any detention hearing.³³⁹

Failure to Prosecute Firearms Offenses

Chicago still struggles with rising levels of violent crime throughout the city, especially with crimes involving firearms. In May 2024, State's Attorney Foxx began exploring a new policy to direct prosecutors in Cook County to reject certain drug and firearms charges.³⁴⁰ Under this policy, if a firearm or drug discovery originated from a "minor traffic stop," it will not result in a charge.³⁴¹ Foxx claims these types of interactions with law enforcement rarely lead to arrests and are meant to combat the "disproportionate targeting" of minority communities.³⁴² This new policy comes from activist uproar over the killing of Dexter Reed who was shot by Chicago Police in March 2024.³⁴³ Dexter Reed was pulled over for supposedly not wearing a seatbelt, but immediately fired at officers once they approached his car.³⁴⁴ Officers returned fire and Reed was killed.³⁴⁵ Despite trying to kill the officers who pulled him over, community activists claimed the shooting was not justified.³⁴⁶

During the Committee's forum in Chicago, CPD Officer Carlos Yanez shared his experience with Chicago prosecutors refusing to enforce firearms laws. He testified:

As for making stricter gun laws, we, in Illinois, already have one of the strictest gun laws that only law-abiding citizens follow. The more laws you put into place is only going to up the price of firearms on the street that straw purchasers are selling. I say we enforce the laws that we have on individuals that are illegally in possession of a firearm and make it a minimum of three years in jail automatically.

Straw purchasers should be charged the same as offenders who pull the trigger. It is time to stop coddling criminals and holding them

³³⁹ *Id.*

³⁴⁰ Todd Feurer, *Kim Foxx may stop prosecuting drug and gun cases stemming from some traffic stops*, CBS NEWS (May 17, 2024).

³⁴¹ *Id.*

³⁴² Matthew Hendrickson, Tom Schuba and Andy Grimm, *Kim Foxx wouldn't prosecute gun cases tied to some minor traffic stops under new plan*, CHICAGO SUN TIMES (May 16, 2024).

³⁴³ Feurer, *supra* note 340.

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ *Id.*

accountable for their actions. Only then will they stop and think before they carjack, rob, shoot, or kill a law-abiding citizen.³⁴⁷

Raising the Felony Threshold for Shoplifting

Under Foxx, prosecuting a criminal for retail theft is near impossible in Cook County. In the state of Illinois, stealing items valued at \$500 or less is a misdemeanor.³⁴⁸ When she took office, Foxx unilaterally raised the threshold for a felony retail theft charge in Cook County to \$1,000.³⁴⁹ Foxx informed her staff if the theft does not raise to the level of \$1,000 or if the defendant does not have more than 10 prior felony convictions then prosecutors should charge the defendant with a misdemeanor.³⁵⁰ Retail groups were very quick to criticize the change. The Illinois Retail Merchant Association warned that “[i]ncreasing the threshold has a demonstrable impact in terms of encouraging additional theft Criminals are intelligent. They know exactly where that threshold is.”³⁵¹

During the Committee’s forum in Chicago, Rep. Cliff Bentz asked Lieutenant Garrido whether rogue prosecutors such as Foxx were taking political positions rather than taking action to “help more adequately control crime.”³⁵² Garrido responded:

Absolutely. Just like I said before about her changing the threshold for felony theft from \$500–\$1,000, she has a lot of leeway to decide what they are going to charge and what they are not going to charge.

When we present homicide cases or any case for felony approval, they put a lot of restrictions and just create these long list of things that we have to do to try to—hoops that we have to jump through, and they make it difficult.³⁵³

Lieutenant Garrido shared a letter from a former state prosecutor who left the office because, in this prosecutor’s words, Foxx “is more concerned with political narratives and agendas than with victims and prosecuting violent crimes.”³⁵⁴

Failure to Prosecute Juvenile Crime

During Foxx’s tenure, Chicago has struggled with an explosion of crime committed by youth offenders. In 2018, the *Chicago Sun Times* found that most juveniles charged with armed

³⁴⁷ *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. 9 (Sep. 26, 2023).

³⁴⁸ *New Legislation Makes Organized Retail Theft a Felony*, J. ALDRICH LAW, P.C. (last accessed Aug. 8, 2024).

³⁴⁹ *Id.*

³⁵⁰ Schmadeke, *supra* note 158.

³⁵¹ Paul Caine, *Retail Theft Costing Illinois Businesses Billions as Efforts to Steal Become More Organized*, WTTW NEWS (Aug. 21, 2023).

³⁵² *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. 22 (Sep. 26, 2023).

³⁵³ *Id.*

³⁵⁴ *Id.*

carjackings are released within 24 hours.³⁵⁵ Of the 49 juveniles charged with carjacking that year, 29 were released within 24 hours on electronic monitoring.³⁵⁶ Many of those juveniles went on to be rearrested for carjacking or other serious crimes.³⁵⁷ By 2022, Police Superintendent David Brown confirmed the grim reality that half of carjackings in Chicago were committed by juveniles.³⁵⁸ He pointed to the Cook County court system for being too lenient on juvenile offenders and allowing them to be released even with carjacking charges.³⁵⁹

During the Committee’s forum, Lieutenant Garrido discussed the problem of juvenile defendants. In response to a question from Rep. Laurel Lee about whether prosecutors should consider the “totality of the seriousness of a criminal’s behavior” in prosecution and sentencing decisions, he responded:

Absolutely. We have seen time and again the gang bangers are actually using—they have done it for years. They always use the younger kids. They would use them to do their burglaries. They use them to hold their weapons. They use them to hold their drugs because they know they are just going to get a slap on the wrist. So, that has always been the case.

Now it seems as though these young offenders are getting more dangerous, quite honestly. They are now shooting at people. They are now stealing cars and doing carjackings. Like I said, the other day the offenders were four of them, and they were ages 12–16 years old. So, we have got our juvenile criminal offenders, at least here in Chicago, are becoming more and more violent. So, absolutely that stuff should be considered.³⁶⁰

C. Washington, D.C.

Washington D.C.’s Elimination of Cash Bail

In 1992, the D.C. City Council was one of the first jurisdictions in the nation to pass legislation eliminating cash bail.³⁶¹ Since then, the City Council has continued to enact legislation that emboldens criminals and harms those who live, work, and visit the District. For example, in 2022, the City Council voted unanimously on a bill to overhaul the D.C. criminal code. This legislation reduced the maximum sentence for almost all violent crimes and

³⁵⁵ Frank Main, *Most juveniles charged with armed carjackings let go in 24 hours, records show*, CHICAGO SUN TIMES (Feb. 11, 2018).

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ Michelle Gallardo, *Chicago carjackings: At least 4 more juveniles arrested by region wide taskforce*, ABC NEWS 7 (Feb. 16, 2022).

³⁵⁹ *Id.*

³⁶⁰ *Victims of Violent Crime in Chicago: Forum of the H. Comm. on Judiciary*, 118th Cong. 23 (Sep. 26, 2023).

³⁶¹ Bail Reform Amendment Act of 1992, D.C. Law 9-125, D.C. City Council (1992).

eliminated mandatory minimums for all crimes except first-degree murder.³⁶² The legislation was so radical that in 2023, bipartisan majorities in both the House of Representatives and Senate exercised their authority to oversee the District, passing a resolution to prohibit the crime bill from being enacted.³⁶³

D.C.'s elimination of cash bail has resulted in approximately 94 percent of individuals with criminal charges not being detained before trial.³⁶⁴ The elimination of cash bail has led to a startling increase in both violent and property crime rates in recent years.³⁶⁵ In 2023, as D.C. experienced a 20-plus-year record-high homicide rate, Police Chief Robert Contee reported that the average homicide suspect was arrested 11 times before killing someone.³⁶⁶ Chief Contee also made it clear what was needed to lower the skyrocketing homicide rate, saying, "What we've got to do, if we really want to see homicides go down, is keep bad guys with guns in jail. When they're in jail, they can't be in communities shooting people."³⁶⁷ Shortly after the Chief's remarks in 2023, the City Council took its first steps to hold criminals accountable in more than three decades by making it easier for judges to detain suspects of violent crimes before trial.³⁶⁸

Failure to Prosecute Firearms Crimes

Under U.S. Attorney Graves, prosecutors in the District of Columbia have consistently declined to prosecute crimes, even as Graves has acknowledged that "the scariest crimes are going up."³⁶⁹ Graves has indicated that the type of cases he is refusing to prosecute are primarily illegal gun possession and illegal drug possession cases.³⁷⁰ After Graves took office in 2021, over 2,000 gun cases either were not prosecuted, dropped, or pled down in D.C. Superior Court.³⁷¹ Graves could easily opt to take these felon-in-possession cases to the U.S. District Court and charge them federally under 18 U.S.C. § 922(g), but he refuses to do so.³⁷²

The 2023 D.C. Sentencing Commission's Annual Report reflects that gun cases are not being prosecuted in the District.³⁷³ In fact, according to another analysis of D.C. crime data:

³⁶² Martin Austerhuhle, *D.C. City Council Approves Sweeping Overhaul of the Criminal Code, Though Changes Won't Take Effect Until 2025*, DCIST (Nov. 15, 2022).

³⁶³ Rose Herowitch, *Biden signs measure to repeal controversial D.C. crime bill*, NBC NEWS (Mar. 21, 2023).

³⁶⁴ *The End Money Bail Act*, The Justice Collaborative (N.D.P.), <https://www.filesforprogress.org/memos/money-bail-memo.pdf> (last visited Aug. 28, 2024).

³⁶⁵ *District Crime Data at a Glance*, Metropolitan Police Department, <https://mpdc.dc.gov/ko/page/district-crime-data-glance> (last visited Jul. 2, 2024).

³⁶⁶ Will Potter, *'Keep violent people in jail': Washington DC police chief says average homicide suspect has ELEVEN prior arrests before committing a murder - as crime rates surge*, DAILY MAIL (Mar. 8, 2023).

³⁶⁷ *Id.*

³⁶⁸ Matt Delaney, *D.C. judges get more leeway to hold violent suspects without bail in proposed anti-crime package*, WASH. TIMES (Jan. 17, 2024).

³⁶⁹ Ashraf Khalil, *Violent Crime is Rising in the Nation's Capital. DC Seeks Solutions as Congress Keeps Close Watch*, AP NEWS (Jul. 29, 2023).

³⁷⁰ Alexander, *supra* note 11.

³⁷¹ Cully Stimson and Zach Smith, *FOIA Questions for DC Prosecutor Matt Graves: Why Don't You Take Gun Crimes Seriously?*, DAILY SIGNAL (May 9, 2024).

³⁷² *Id.*

³⁷³ *Id.*

- 2,262 gun cases between 2021 and 2023 were not prosecuted or were dropped or pled down to lesser charges; and
- 79 percent of adults arrested with an illegally carrying a gun in D.C. get away without a felony conviction.³⁷⁴

Graves himself is directly responsible for the lack of prosecution of gun cases, as his office:

- Declined to prosecute 33 percent of arrests for felony gun possession;
- Eventually dropped 37 percent of initially charged cases without obtaining a conviction;
- Pled down 50 percent of convictions to misdemeanors instead of felonies; and
- Achieved felony convictions for only 21 percent of adults arrested for having a firearm illegally.³⁷⁵

While Graves has refused to enforce firearms laws, Washington D.C. recently surpassed 100 homicides for 2024.³⁷⁶

At the Subcommittee's hearing on crime in the District, witness Charles Stimson touched on how this policy decision affects public safety.³⁷⁷ He explained:

The use of guns by career felons is a huge problem in this city. Every single day, the MPD arrests felons in possession of firearms. Ask [fellow witness, Chair of the D.C. Police Union] Greg Pemberton. Yet, instead of prosecuting those felons in Federal District Court under 18 U.S.C. 922(g) where they would receive a mandatory minimum sentence of at least five years, the Office instead takes those cases to D.C. Superior Court where they often get probation and hardly ever prison time. That is a policy choice.³⁷⁸

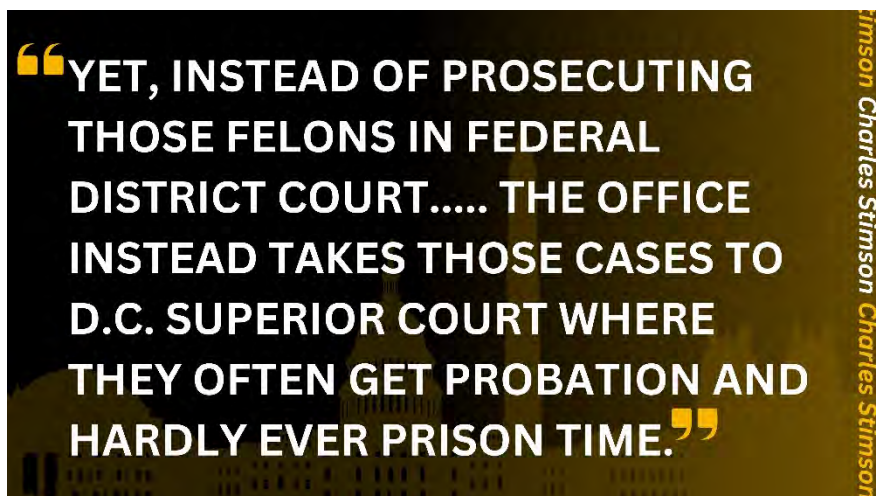
³⁷⁴ *Id.*

³⁷⁵ *Id.*

³⁷⁶ Jenny Gathright, at al., *Two killed, child injured in shooting that pushes D.C. past 100 homicides*, WASH. POST (Jul. 18, 2024).

³⁷⁷ *Victims of Violent Crime in the District of Columbia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (Oct. 12, 2023).

³⁷⁸ *Id.* at 10.



Pemberton similarly testified about the failure to prosecute entire categories of guns charges. He told the Subcommittee:

[S]ome of the rhetoric that we hear around crime in the District is that it comes from illegal guns and that we have to focus on illegal guns, and that if we find a way to get illegal guns out of the hands of criminals, crime will come down. That's not necessarily wrong. Our officers for our unit, I think last year we arrested about 3,100 people for possession of an illegal firearm.

The problem is that even when we're able to get those cases papered and prosecuted and then a conviction, the average sentence that judges are handing out right now for that penalty is six months supervised release, which is zero jail time. That is the going rate, is what we say, for people who are in possession of illegal guns.³⁷⁹

Pemberton concluded: "Just to make a finer point on this, it doesn't seem like the city takes those crimes as seriously as they suggest given the fact that the courts are not penalizing people who are found convicted of those crimes."³⁸⁰

High Threshold for Retail Crime

Up until this year, the threshold for charging someone with felony retail theft in Washington D.C. was \$1,000.³⁸¹ According to a survey taken in 2021, Washington D.C. was number two on a list of cities experiencing the most retail theft—with crime costing residents an average of \$336 per person.³⁸² This forced businesses in the District to implement unprecedented

³⁷⁹ *Id.* at 71.

³⁸⁰ *Id.*

³⁸¹ D.C. Code § 22-3212 (2018).

³⁸² Jackie Benson, *Retail theft cost DC residents \$336 per person in 2021: Survey*, NBC WASHINGTON (Nov. 14, 2023).

security measures. For example, a Safeway in Southwest D.C. required shoppers to scan their receipts in order to leave the store.³⁸³ The grocery store was also forced to lock up laundry detergent, toiletries, and other items to make it harder for theft to occur.³⁸⁴ A CVS in the Columbia Heights neighborhood finally closed its doors after years of criminals stripping its shelves clean.³⁸⁵ In October 2023, reporting revealed that “gangs of 45 children raid the CVS daily before school, after school, and later in the evening, taking anything they can grab off the shelves.”³⁸⁶ In response to this unprecedented rise in retail theft, on March 11, 2024, Mayor Bowser signed into law the Secure D.C. Omnibus Amendment Act of 2024, which among other things lowered the felony threshold for retail theft to \$500.³⁸⁷

Lack of Accountability for Juvenile Offenders

Crimes committed by juveniles in the District are on the rise.³⁸⁸ In 2023, MPD data showed that there were 959 reported carjackings, with the average age of the offender being 15 years old.³⁸⁹ Cases against juveniles are also frequently diverted or dropped, with statistics revealing that more than one-third of juvenile cases were dropped or diverted for arrests made between October 2022 and February 2023.³⁹⁰

While the U.S. Attorney’s Office is responsible for prosecuting the majority of felonies in Washington, D.C., the District’s Attorney General’s office, led by Attorney General Brian Schwalb, handles misdemeanor cases and the majority of juvenile offenses.³⁹¹ Schwalb believes rehabilitation and diversion of juveniles is the correct path forward in lieu of incarceration.³⁹² Further, his office does not believe juvenile criminals in the district are out of control—instead Schwalb in the past stated that, “[k]ids are kids and when you’re talking about teenagers in particular . . . they’re biologically prone to make mistakes.”³⁹³

Recently, with over 30 juvenile carjackings in 2024,³⁹⁴ Schwalb has started to change his tune on youth crime in the District. His office stated that 92 percent of juvenile offenders convicted of serious crimes are arrested again once released.³⁹⁵ Schwalb is now blaming the D.C.

³⁸³ Luke Lukert, *How some DC-area stores are combating a rise in mass theft*, WTOP NEWS (Oct. 30, 2023).

³⁸⁴ *Id.*

³⁸⁵ Luke Gentile, *DC CVS finally closes doors after constant pillaging from criminals*, WASH. EXAMINER (Jan. 24, 2024).

³⁸⁶ Luke Gentile, *DC CVS stays open despite constant pillaging*, WASH. EXAMINER (Oct. 5, 2023).

³⁸⁷ Bob Barnard, *Mayor Bowser signs Secure DC crime bill into law*, FOX 5 WASH. D.C. (Mar. 11, 2024).

³⁸⁸ Villalovas, *supra* note 65.

³⁸⁹ Gabe Cohen, *‘It’s definitely a crisis’: This is the reality for kids caught up in DC’s violent crime spike*, CNN (Feb. 19, 2024); Cuneyt Dill, *Carjackings in D.C. nearly doubled in 2023*, AXIOS (Jan. 4, 2024).

³⁹⁰ Sean Kennedy, *Prosecutorial Discretion Washington, D.C.’s Attorney General Puts Politics Before Public Safety*, CITY JOURNAL (Aug. 30, 2023).

³⁹¹ Office of the Attorney General for the District of Columbia, Juvenile Section, <https://oag.dc.gov/about-oag/our-structure-divisions/public-safety-division/juvenile-section> (last visited Aug. 11, 2024).

³⁹² *Id.*

³⁹³ Sierra Fox, *DC AG on prosecuting juveniles as adults: ‘Kids are kids’*, FOX 5 WASH. DC (Apr. 26, 2023).

³⁹⁴ Colbert King, *As youth crime persists, one question looms large*, WASH. POST (April 19, 2024).

³⁹⁵ Mark Segreaves, *DC attorney general proposes juvenile justice changes as he says 92% of convicted youth reoffend*, NBC WASHINGTON (May 21, 2024).

Department of Youth Rehabilitation Services (DYRS) for their improper handling of youth offenders after conviction.³⁹⁶

During the Subcommittee's hearing on D.C. crime, witness Charles Stimson discussed the problems with the lack of accountability for juvenile offenders.³⁹⁷ He explained:

D.C. Attorney General's Office, or OAG, handles juvenile crimes, [and] for decades has failed in its mission to hold violent criminals accountable including murderers and armed carjackers. Most youths, let me be clear, need to be and are handled in the juvenile justice system. We need a juvenile justice system in this country, but there are certain crimes like murder, armed robbery, armed carjacking, rape, child sexual abuse, and other heinous crimes that should be handled in the adult court. Congress should strip the OAG from prosecuting all crimes and give that to the D.C. U.S. Attorney's Office.³⁹⁸

D. Philadelphia, Pennsylvania

Failure to Enforce Firearms-Based Offenses

Data shows that by District Attorney Larry Krasner is failing to enforce firearm offenses in Philadelphia. According to the Pennsylvania Commission on Sentencing, the number of Violation of Uniform Firearms Act (VUFA) cases that are initiated by Krasner's office but are ultimately withdrawn, dismissed or nolle prossed (prosecution discontinued) is disproportionately high in comparison to other counties.³⁹⁹ Between 2015 and 2020, the number of VUFA cases within Philadelphia increased from 7 percent to 21 percent.⁴⁰⁰ During that same time, the Commonwealth's 66 other counties experienced an increase from 7 percent to 10 percent.⁴⁰¹ Additionally, individuals charged with a VUFA offense were charged with another VUFA offense within three years at a higher rate in Philadelphia (29.5 percent) when compared to the statewide average (20 percent).⁴⁰² By abandoning charges against VUFA offenders, Krasner's office has allowed more offenders who were recently arrested for possessing a firearm to return to the community without significant repercussions.

Philadelphia's illegal gun possession offenses have increased across the city. Between 2015 and 2020, VUFA arrests made by the Philadelphia police department increased by more

³⁹⁶ *Id.*

³⁹⁷ *Victims of Violent Crime in the District of Columbia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (Oct. 12, 2023).

³⁹⁸ *Id.* at 11.

³⁹⁹ *House Votes to Impeach Philadelphia DA Larry Krasner*, PENNSYLVANIA REPUBLICAN CAUCUS <https://www.pahousegop.com/phillycrime>.

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.*

⁴⁰² *Id.*

than 100 percent.⁴⁰³ Over this same period, conviction rates for VUFA cases prosecuted by Krasner's office declined significantly, from 65 percent in 2015 to 42 percent in 2020.⁴⁰⁴ While thousands of more people have been arrested in recent years for gun possession (from 1,300 in 2018 to nearly 2,400 in 2020), the chances of conviction of illegal possession of a firearm is continuously falling.⁴⁰⁵ This decline was driven primarily by an increase in dismissals and withdrawn cases, and the share of these dropped cases grew from 25 percent in 2015 to 49 percent in 2020.⁴⁰⁶

During the Committee's field hearing in Philadelphia, witness George Bochetto discussed the consequences of the far-left criminal justice policy decisions, including the failure to enforce firearm offenses in the city.⁴⁰⁷ He testified:

There are so many other cases that I can point to and give you examples of individuals who committed crimes, violent crimes, who are allowed to go free on bail, who were released on their own recognizance, who were violating the Uniform Firearms Act, and are back on the streets, committing murders in this city, committing carjackings, committed violent crimes, and this is all directly as a result of Mr. Krasner's policies. I would be happy, during the questioning period, to detail exactly how some of those came about.

Let me just also say this. It is not just that Mr. Krasner has taken on himself to be derelict in his responsibilities in violent crimes and murder cases. He also regards himself as a one-man legislature.⁴⁰⁸

Failure to Prosecute Retail Crime

Immediately upon taking office, Krasner implemented a policy that any retail theft under \$500 would not be treated as a misdemeanor, but as a summary offense—the least serious type of criminal offense in the city of Philadelphia.⁴⁰⁹ In other words, a theft charge (if a defendant was charged) became a slap on the wrist offense similar to a traffic ticket. Arrests for retail theft in 2016 totaled more than 2,000, but after Krasner took over, retail theft arrests dropped to just 282 in 2019.⁴¹⁰ Retail thefts rose more than 50 percent in 2022, with 14,255 incidents in 2022

⁴⁰³ Rebecca Rhynhart, *Data Release: Gun Violence Clearance Rates and Case Outcomes*, OFFICE OF THE CONTROLLER (Jan. 15, 2022).

⁴⁰⁴ *Id.*

⁴⁰⁵ Chris Palmer et al., *Philly gun arrests are on a record pace, but convictions drop under DA Krasner*, THE PHILADELPHIA INQUIRER (Mar. 30, 2021).

⁴⁰⁶ Rhynhart, *supra* note 403.

⁴⁰⁷ *Victims of Violent Crime in Philadelphia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (May 3, 2024).

⁴⁰⁸ *Id.* at 38-39.

⁴⁰⁹ Ellie Rushing, et al. *Retail theft arrests have nearly tripled this year as Philly police, DA Krasner overhaul approach to tackling crime*, PHILADELPHIA INQUIRER (Jul. 22, 2024).

⁴¹⁰ *Id.*

compared to 9,371 in 2021.⁴¹¹ In 2023, retail thefts were up approximately 29 percent compared to 2022.⁴¹²

After seeing the disastrous effects of Krasner's policies over the past five years, in 2024, Krasner and the Philadelphia Police Department changed its policies to prohibit retail theft offenders from being eligible for its diversion program.⁴¹³ According to data published by the Philadelphia District Attorney's Office, in the first six months of 2024, more people have been arrested and charged with retail theft in any year since 2017.⁴¹⁴

Bochetto described the problem of retail theft in Philadelphia in his testimony, telling the Committee:

Theft is also a crime in Pennsylvania, but in Philadelphia you can steal up to \$500 in a convenience store, a Wawa, or a department store and you will not be prosecuted. This is the one-man legislature of Larry Krasner, and it has led to a lawlessness, a street crime, and a level of disrespect that affects everybody's quality of life, and begs the criminals to become more emboldened and more dangerous on our streets.⁴¹⁵

In questioning by Rep. Kevin Kiley, Bochetto elaborated on the consequences of this policy choice. He explained:

Well, the consequences have been terrible. The memo that was circulated in the District Attorney's Office said that any retail theft not exceeding \$500 in value will not be prosecuted. The line DAs are to stand down and dismiss the charges. The consequence has been rising levels, frightening rising levels of retail theft, to the point where major and minor department stores, pharmacies, bodegas are all moving out of Philadelphia. Wawa moved several facilities out of Philadelphia. H&K moved out of Philadelphia. All these retailers that rely on some semblance of enforcement of antitheft laws are moving out. The ones that haven't moved out, they are hiring their own private police force. They are hiring their own security guards. Unfortunately, we had a situation not long ago in Philadelphia where a private security guard actually shot and killed a would-be thief.

Now, you don't want would-be thieves of minor amounts of money being shot to death, but that is what happens when the system won't act and the system won't operate, and people take matters into their own hands.⁴¹⁶

⁴¹¹ Isaac Avilucea, *Philadelphia dealing with retail rime during "high holdup" season*, AXIOS (Dec. 6, 2023).

⁴¹² *Id.*

⁴¹³ Rushing, *supra* note 409.

⁴¹⁴ *Id.*

⁴¹⁵ *Id.* at 39.

⁴¹⁶ *Id.* 88-89.

Failure to Prosecute Juvenile Offenders

During Krasner’s tenure as District Attorney, the number of juveniles convicted of crimes has decreased dramatically. Juvenile detention admissions in Philadelphia County have declined each year since 2017.⁴¹⁷ From 2021 to 2022, for example, Philadelphia County had a 5 percent increase in detention admissions.⁴¹⁸ Krasner claims that his office “is committed to avoiding the prosecution of anyone under 18 in the adult court system,”⁴¹⁹ so it is unsurprising that the number of children charged as adults in Philadelphia has been cut in half during his term of office.⁴²⁰ In the two years before Krasner took office, an average of 127 children were charged as adults. However, by 2018, Krasner’s first year in office, that number fell to less than 50.⁴²¹

During the Committee’s field hearing in Philadelphia, Nick Gerace, a retired Philadelphia police officer, discussed how the failure to prosecute crimes—including juvenile crimes—hurts the morale of law enforcement.⁴²² He explained:

[T]hese criminals, they know, they tell these cops to their face, “Uncle Larry [Krasner] is going to let me out in a couple of hours,” and that is exactly what happens. So, the numbers in these carjackings and shootings, one of the reasons why juveniles are being ushered in, they are being arrested, and they are out within five hours. We all know the juvenile gets in trouble for something, there are no consequences. They are going to keep going.⁴²³

When asked what can be done about this problem, Gerace was clear: “Prosecute the crime. . . . We don’t need new laws. We need the prosecutor to prosecute the laws that are on the books right now.”⁴²⁴

* * *

The Committee’s and Subcommittee’s oversight shows the dangers of bail reform and other radical criminal justice policies. As the Committee and Subcommittee heard in hearings around the country, these policies endanger communities, embolden criminals, and leave victims on the sideline.

⁴¹⁷ *2021 Juvenile Court Annual Report*, PENNSYLVANIA JUVENILE COURT JUDGES’ COMMISSION (May 2022).

⁴¹⁸ *2022 Juvenile Court Annual Report*, PENNSYLVANIA JUVENILE COURT JUDGES’ COMMISSION (June 2023).

⁴¹⁹ *Juveniles, Advancing both youth redemption and community safety*, PHILADELPHIA DISTRICT ATTORNEY’S OFFICE, <https://phillyda.org/juveniles/> (last visited Aug. 2024).

⁴²⁰ Joshua Vaughn, *Number of Young People Charged in Philadelphia’s Adult Court Drops Sharply*, THE APPEAL (Aug. 30, 2019).

⁴²¹ *Id.*

⁴²² *Victims of Violent Crime in Philadelphia: Hearing Before the H. Comm. on Judiciary*, 118th Cong. (May 3, 2024).

⁴²³ *Id.* at 91.

⁴²⁴ *Id.*

IV. CONCLUSION

Violent crime is out of control in major urban areas across the country. In these jurisdictions, rogue prosecutors are refusing to enforce the laws on the books, downgrading criminal charges and putting violent criminals back on the streets. Meanwhile, left-wing policymakers at the state and local level are passing radical pro-criminal policies that make it harder to put bad guys behind bars and out of American neighborhoods.

In the 118th Congress, the Committee on the Judiciary and the Subcommittee on Crime and Federal Government Surveillance has examined the rise in violent crime in American cities. We have received powerful testimony about the dangerous consequences of rogue prosecutors and far-left criminal justice policies. We have heard from victims of violent crime, law enforcement officials, and responsible policymakers about how these radical, pro-criminal policies hurt public safety.

The Committee's and Subcommittee's oversight, including firsthand accounts of the crime crisis in Manhattan, Chicago, Washington, and Philadelphia, informs legislation to address the rise in violent crime. Among other measures, the Committee has considered the following legislative reforms:

- To understand how state and local prosecutor decisions to release dangerous individuals pending trial are hurting the safety of their communities, the Committee passed H.R. 2833, the Pretrial Release Reporting Act, on June 27, 2024.⁴²⁵ This bill, sponsored by Rep. Scott Fitzgerald, requires the Bureau of Justice Statistics (BJS) to submit a report about individuals who are granted bail or pretrial release from state courts and are subsequently charged with certain violent felony offenses (e.g., murder, rape, kidnapping).⁴²⁶
- In response to the dangerous anti-police rhetoric and the “defund the police” movement, the Committee reported H.R. 3325, the Recruit and Retain Act, on May 1, 2024.⁴²⁷ This bill, sponsored by Rep. Wesley Hunt, allows Community Oriented Policing Services (COPS) grant funding to support recruitment efforts by law enforcement agencies.⁴²⁸
- The Committee reported H.R. 7581, the Improving Law Enforcement Officer Safety and Wellness Through Data Act, on April 16, 2024.⁴²⁹ This bill, sponsored by Rep. Dan Bishop, requires the Attorney General to issue a series of reports related to violent attacks on law enforcement officers, the efficacy of current data

⁴²⁵ Markup of Report Recommending that the House of Representatives Cite Mark Zwonitzer for Contempt of Congress, H.R. 2833, H.J.Res. 144, H.R. 115, and H.R. 358, HOUSE JUD. COMM, (June 27, 2024).

⁴²⁶ *Id.*

⁴²⁷ H.R. 3325, 118th Cong. (2023); Markup of H.R. 743, H.R. 354, H.R. 3325, and H.R. 8146, *Hearing Before the House Comm. on the Judiciary* (May 1, 2024).

⁴²⁸ *Id.*

⁴²⁹ H.R. 7581, 118th Cong. (2024); Markup of H.R. 1631, H.R. 7737, H.R. 3591, H.R. 3269, H.R. 7581, and H.R. 4951, *Hearing Before the House Comm. on the Judiciary* (Apr. 16, 2024).

collection related to violent attacks on law enforcement officers, and the efficacy of programs intended to provide protective equipment and wellness resources to law enforcement officers.⁴³⁰ The bill passed the House of Representatives on May 15, 2024.⁴³¹ While Republicans unanimously voted in favor of the bill, 55 Democrats opposed it.⁴³² It awaits consideration in the Senate.

It is clear that the root causes of the uptick in crime over the last several years are the pro-criminal policies implemented in major urban areas and the refusal of rogue prosecutors to enforce the laws on the books. The Committee and the Subcommittee will continue to conduct oversight of the rise in violent crime in the United States.

⁴³⁰ *Id.*

⁴³¹ 170 Cong. Rec. H3236 (May 15, 2024) (roll call no. 84 on passage, 356 yeas, 55 nays).

⁴³² *Id.*