

# REBUILDING NEW YORK

THE 2021 AGENDA

THE FIGHT IS  
FAR FROM  
FINISHED.

NYCLU

WE'RE STILL  
FIGHTING FOR:

RACIAL JUSTICE  
REPRODUCTIVE FREEDOM  
VOTING RIGHTS  
IMMIGRANTS' RIGHTS  
LGBTQ RIGHTS  
CRIMINAL LEGAL REFORM

ACLU

VOTERS  
DECIDE  
THE  
WINNER

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# About the NYCLU

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The New York Civil Liberties Union (NYCLU) is one of the nation’s foremost defenders of civil liberties and civil rights.

Founded in 1951 as the New York affiliate of the American Civil Liberties Union, we are a not-for-profit, nonpartisan organization with eight chapters and regional offices, and more than 160,000 members across the state. Our mission is to defend and promote the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution, including freedom of speech and religion, and the right to privacy, equality and due process of law, with particular attention to the pervasive and persistent harms of racism.

The NYCLU works toward its mission by advocating for all New Yorkers to have equal access to opportunities and the equal ability to participate in government decisions that affect them. This includes planning and development decisions, which historically have excluded or intentionally discriminated against Black, Indigenous, and Latinx New Yorkers. The NYCLU is incorporated under the laws of the State of New York, with its principal place of business in New York, New York.

<b>Introduction:</b> Rebuilding and Reclaiming New York	6
<b>Strengthen Our Democracy</b>	9
Enact the Nation’s Most Comprehensive State Voting Rights Act	9
Restore Voting Rights for People on Parole	10
Modernize Voting	10
<b>End Mass Incarceration</b>	12
Legalize Cannabis	12
A New Start for Trafficking Survivors	13
<b><i>Reform New York's Parole System</i></b>	14
Parole for Older People	14
Fair and Timely Parole	15
Less is More	15
Stop Punishing Poverty (End Predatory Court Fees Act)	16
<b>Protect Human Rights in Jails and Prisons</b>	18
Halt Long-Term Solitary Confinement	18
End Exploitative Labor Practices in Our State Correctional System (Freedom from Forced Labor Act)	19
End Gender Identity-Based Mistreatment in the Correctional System	19
Protect the Reproductive Rights and Health of Pregnant Incarcerated People	20
<b>Stop Abusive Policing</b>	22
End No-Knock Raids	22
Restrict the Police Use of Tear Gas	23
Restrict Police Use of Drones	23
End Police Use of Acoustic Weapons	23
Ensure Independent Police Discipline	23
End Rogue DNA Databases	24



<b>Invest in Our Communities</b>	26
Protect Whistleblowers	26
Protect Gig Workers	27
Protect Farmworkers	27
<b><i>Fortify Civil Rights During the Pandemic</i></b>	28
Ensure Universal Child Care	28
Build Universal High-Speed Internet	29
<b>Respect Personal Autonomy</b>	31
Protect Family Rights in Child Protection Investigations	31
Advance the Health and Rights of Pregnant People	31
Allow Medical Aid in Dying	32
Expand Gender Markers	32
<b>Secure Justice for Students</b>	34
Provide Solutions Not Suspensions	34
Deliver Comprehensive Sex Ed	35
Protect Students' Health (SIGH Act)	35
<b>Protect Immigrant New Yorkers</b>	37
Create a New York for All	37
Guarantee Access to Representation	38
<b>Safeguard Our Digital Privacy</b>	40
Providing Privacy in a Pandemic	40
Protect Our Personal Information Online	41
Ban Biometric Surveillance	42
<b>Create a Path to Equity</b>	44
Pass an Equal Rights Amendment	44
Study the Impacts of Slavery	45
Notes	48

# INTRODUCTION: REBUILDING AND RECLAIMING NEW YORK

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In 2018, New Yorkers voted for change and new leadership in the state Senate after years of obstruction and stasis in Albany. Lawmakers responded with a wave of unprecedented action that ushered in victories for racial justice, immigrants' and workers' rights, reproductive health, voting access, privacy protections, and police accountability.

The backlash to these hard-fought wins was swift and unrelenting. Vociferous, reactionary forces insisted that legislators had gone too far and that voters would soon make them pay.

They were wrong.

Instead, New Yorkers re-elected lawmakers who supported these changes and voted in even more candidates who promised to keep the momentum going. Now Democrats enjoy a large majority in the Assembly and a super-majority in the Senate. They – along with Governor Andrew Cuomo – are firmly in control of what happens next.

This new class of lawmakers faces a set of immense challenges. Chief among them is the pandemic that continues to rage, with New Yorkers dying every day. Covid has revealed the failures and deep inequalities of our society – along gender, race, and economic lines.

In New York, as in the rest of the country, poor people of color have disproportionately felt the virus's impact. Some of them are trapped in prisons and jails where they cannot practice social distancing. Others are forced to work under dangerous conditions without adequate safety protections or access to child care. And still others are immigrants who avoid seeking help from the government because they fear it will lead to their families being torn apart.

Working class people of color across the state have suffered most from Covid, and they must be at the center of our recovery.

America's failure to effectively fight the pandemic is

directly tied to the incompetence of Donald Trump, who left office the same way he entered it – by inciting a mob of white supremacists. The storming of the Capitol by insurrectionists should leave no doubt that our democratic institutions, and our societal structures, must be strengthened.

With Trump finally out of office, we must rebuild from the wreckage better than we were before. But the fact that he was able to do as much damage as he did – even in a proudly progressive state like New York – should make us realize how weak and unprepared we were for his presidency.

For decades, New York had some of the most restrictive and anti-democratic voting laws in the country. We were hardly a testament to democracy that could stand in stark contrast to Trump’s authoritarian appeals. Our laws meant to protect reproductive freedom were outdated and flawed. Our criminal system ensnared far too many people. Immigrant New Yorkers were largely unprotected from Trump’s merciless deportation machine.

In the last two years, we’ve made tremendous progress on all of these fronts, but we are still vulnerable to another attack.

Lawmakers seeking to fortify our state should look to the calls of the Black Lives Matter marchers who took to the streets in the largest sustained protest movement in decades. The calls for transformative, bottom-up change are exactly what New York needs for our police forces, criminal system, and beyond.

Voters are counting on legislators to answer their

calls for bold, progressive changes. To prove they are up to the challenge, they must:

- **Strengthen our democracy** and make sure the principle of one person one vote is a reality.
- **Reduce the size and harm of our incarceration system** by ending mass incarceration in New York and protecting human rights in jails and prisons.
- **Demonstrate that Black lives matter** by divesting from police and stopping abusive policing.
- **Invest in our communities and respect personal autonomy** by supporting working people, children, families, and students.
- **Protect immigrant New Yorkers** by stopping the cruelties of federal immigration enforcement.
- **Safeguard our digital privacy** by protecting our personal information online and combatting mass surveillance.
- **Ensure equity for all New Yorkers** by repairing structural inequality.

More than ever, New Yorkers recognize how vital a responsive government is, and they want and deserve real solutions. We must rebuild by centering equity, and if we do it right, New York will be a beacon of liberty and a model for other states.



Elections  
Belongs to  
THE PEOPLE



PHOTO BY CALEB ADAMS



# STRENGTHEN OUR DEMOCRACY

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New York should make sure everyone's voice is heard.

Until recently, New York was home to some of the most restrictive voting laws in the nation. Over the last two years, lawmakers have made major strides toward fortifying our democracy, but much work remains. This year, we must redouble the work of ensuring that every New Yorker's voice can be heard, that every vote really does count, and that real accountability to voters is the standard in our state.

## **Enact the Nation's Most Comprehensive State Voting Rights Act**

New York has an extensive history of voting rights discrimination against racial, ethnic, and language minority groups. The result is a persistent gap between white and non-white New Yorkers in who votes and who gets elected.

Access to the vote has improved in recent years, but discriminatory practices like racial gerrymandering, at-large elections that dilute minority voting strength, inconvenient polling locations, language assistance failures, off-cycle elections that depress turnout rates, and even voter intimidation remain widespread in state and local elections.

Meaningful investigation and prosecution of these voting rights violations is a daunting task – they take place across New York's 3,400 jurisdictions that hold elections. For many New Yorkers, this all means the promise of real representation goes unfulfilled.

The John R. Lewis Voting Rights Act of New York will draw from the most effective federal civil rights law in U.S. history by establishing a preclearance program that puts the burden on officials to avoid discrimination rather than on voters to find and fight discrimination. It will also require expanded language assistance for voters with limited English proficiency, enact legal protections against voter

intimidation, deception, and obstruction, and create a central public repository for election and demographic data to promote transparency and evidence-based best practices for elections.

Since the federal Voting Rights Act was gutted, state officials have had to take voting rights into their own hands. It is time for New York to lead the way again. This legislation will create a toolbox to fight race-based voter suppression that is stronger and clearer than any federal or state law in America.

### **Restore Voting Rights for People on Parole**

People who are released from prison on parole have very few resources. They must reenter their communities and adjust to daily life, find work and housing, reestablish family and community relationships, and avoid re-incarceration.

Yet we have denied them the right to participate in the democratic process. This is both unfair and unwise, because when people on parole vote, everyone wins. Communities that have high incarceration rates suffer from lower overall turnout on average.<sup>1</sup> And community supervision officials report that increased civic engagement correlates with decreased recidivism, improved public safety, and much more positive outcomes for people on parole.<sup>2</sup>

At any given time, between 35,000 and 40,000 people are on parole in New York.<sup>3</sup> Nearly three-quarters are either Black or Latinx, and most have limited economic means.<sup>4</sup> Voting rights have been restored to most New York parolees by executive pardon since 2018 – but the process is not automatic and can be confusing. Too many New Yorkers on

parole are still unable to vote as a result.

This year, lawmakers must pass legislation to permanently and automatically restore the right of New York parolees to vote in all elections, and provide affirmative and accurate information about the right to vote.

## **MODERNIZE VOTING**

Two proposed voting amendments to our state constitution are close to moving across the finish line. The same-day voter registration amendment would allow any eligible voter to register and cast a ballot at the same time. This option is currently available to voters in 20 states and DC. The other proposed amendment would let New Yorkers request no-excuse absentee ballots. New York is one of a shrinking number of states that still require an excuse to vote by mail. Both of these proposed amendments passed the legislature over the last two years. In order for them to be added to the state Constitution, they must first pass again, and then voters must approve them at the ballot box. We urge lawmakers and voters to approve amendments that will permit same-day registration and no-excuse absentee voting in New York.





Justice  
4 ALL

# REDUCE THE SIZE AND HARM OF OUR INCARCERATION SYSTEM

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New York should end mass incarceration and overcriminalization in our state.

In the face of the pandemic, we must take decisive action to reduce New York’s incarceration rate and honor the basic human rights of New Yorkers who remain in state prisons and local jails – where the inability to social distance puts their lives in danger. Nearly 40,000 New Yorkers continue to languish in state prisons – and more than half are Black, in a state where Black people make up just 16 percent of the population.<sup>5</sup> It is past time to acknowledge that our criminal legal system targets Black and Brown people, incarcerates them at disproportionate rates, and treats them as less than human while they are behind bars. Simply shrinking our state’s incarceration footprint is not enough. Lawmakers must also protect the rights and dignity of those who are behind bars.

## **Legalize Cannabis**

Marijuana arrests have a devastating and disproportionate impact on communities of color. In New York, more than 80 percent of people arrested for marijuana possession are Black or Latinx.<sup>6</sup>

New York decriminalized possession of small amounts of marijuana in 1977, but it left in place loopholes that allowed for hundreds of thousands of arrests for smoking in public and public display of marijuana. Low-level possession has remained one of the most frequently charged crimes in New York, generating more than 800,000 arrests since 1996.<sup>7</sup>

Marijuana arrests have a disastrous impact on New Yorkers, especially in communities of color. Hundreds of thousands of people across the state have been funneled into the criminal legal system for behavior that most New Yorkers don’t even believe should be a crime.<sup>8</sup> This entanglement with the legal system can have far-reaching consequences: people can lose their jobs, housing,



and child custody. Lives can be upended and destroyed.

In 2019, New York took additional steps to undo some of the harms of criminalizing marijuana, including eliminating misdemeanors for smoking in public and public display of marijuana, lowering penalty amounts for low-level possession, and expunging records of convictions for low-level offenses. These steps are important, but they do not undo the devastating consequences wrought by decades of aggressively enforced prohibition.

It's time to end the criminalization of cannabis for good by passing the Marijuana Regulation & Taxation Act (MRTA) and making New York the 16th state to legalize and regulate cannabis.

#### **The MRTA:**

- Allows adults 21 and older to legally possess, purchase, and consume cannabis for personal recreational use.
- Removes cannabis and cannabis products from the state Controlled Substances Act and legalizes limited private cultivation.
- Builds on past reforms by eliminating most existing misdemeanors and felonies related to cannabis, and expands avenues for expungement and resentencing for prior convictions.
- Ensures a well-regulated, diverse, and inclusive legal cannabis industry going forward.

The fiscal benefits of legalizing cannabis are substantial – the MRTA would direct hundreds of

millions of dollars in annual state revenues from legal sales to good use. Half of the tax revenues would go to the Community Grants Reinvestment Fund for job training, after-school programs, and community-centered projects in low-income communities and areas hardest hit by the war on drugs. These are often the same communities that have experienced the highest rates of infection and death from Covid, so these community reinvestment provisions will also be essential to the state's recovery from the pandemic. Another 25 percent of the surplus revenue would fund drug treatment programs and public education campaigns. The remaining share would help fund public schools.

The MRTA is a long-overdue initiative to right a grave, decades-long injustice. It is time for New York officials to step up, stop the harm, and start repairing the damage from the failed war on drugs.

#### **A New Start for Trafficking Survivors**

In 2009, New York became the first state in the country to allow courts to clear convictions from a trafficking survivor's criminal record. But the law only allows survivors to clear prostitution-related offenses and does not address the myriad offenses that traffickers compel labor trafficking and sex trafficking survivors to commit.

A criminal record imposes life-long, detrimental effects, limiting access to employment and educational opportunities, financial resources, and housing. A criminal record can also result in severe immigration consequences, including the threat of deportation and the inability to adjust immigration status or become a citizen.



The START Act follows the progress in other states and fixes the current law's shortcomings by empowering courts to clear convictions for all offenses that were a result of being trafficked. It also protects survivors by ensuring that their information is kept confidential and offering critical relief to immigrant survivors.

It's past time to ensure that those who have been exploited by traffickers are able to clear their records.

## REFORM NEW YORK'S PAROLE SYSTEM

### Parole for Older People

Decades of draconian prison sentences during the so-called wars on drugs and crime have increased the number of elderly people in prison. Few are brought before the parole board to be considered for release, despite the fact that most won't reoffend.<sup>9</sup>

Instead, they remain behind bars, with limited access to health care while their health deteriorates. Research shows that prison actually speeds up a person's aging: A person in prison who is 55 years old has a health profile that is more like someone who is 65, or even older.<sup>10</sup>

Giving older people a chance to come home to their families after years in prison can give them more time to acclimate to society and be with the people they love. It will also help reduce the high cost to taxpayers of keeping older people in prison.<sup>11</sup>

The Elder Parole Bill will ensure that every person 55 and older who has served 15 consecutive years or more is considered for release by the parole board. It will also create a pathway to allow older people in prison an opportunity to demonstrate that they are ready to be released and back in their community.

## SENTENCING IN NEW YORK

It's not only New York's system of release to parole supervision that needs a revision toward fairness – New Yorkers are also poorly served by a convoluted, arbitrary and unreasonable sentencing scheme. In 2021, we will work with stakeholders, lawmakers, and advocates to develop a plan for reforming New York's sentencing laws to reflect what actually increases community stability and public safety in a rehabilitative system.

## Fair and Timely Parole

Our state’s prison population has decreased over the last decade, but the average minimum sentence has climbed to 10 years. A third of New York’s prison population could serve terms of at least 15 years, and 9,000 people currently face life in prison if they are not paroled.<sup>12</sup>

We must address mass incarceration at both the front end, before people are put in prison, and on the back end, after they have served a portion of their sentence and are eligible for parole. The New York Parole Board has the authority to release people before the end of their sentences if they demonstrate rehabilitation. But the number of people granted parole by the board has decreased in recent years.<sup>13</sup>

The Fair and Timely Parole bill would ensure that parole decisions are based on evidence that they have been rehabilitated and a person’s current risk to public safety. The bill could make up to 12,000 people eligible for consideration for release.

Our criminal system should not be centered on vengeance. Parole should be granted based on who a person is when they come before the parole board, not on the crimes they have committed.

## Less is More

Under New York law, people on parole can be sent to prison for technical violations like being out past curfew or missing an appointment with a parole officer. Nearly 40 percent of the people sent to state prison in New York in 2018 were incarcerated for technical parole violations,<sup>14</sup> not for committing

crimes. And they are automatically locked up, regardless of the alleged infraction.

There are roughly 35,000 people living under parole supervision in New York who are required to comply with certain rules after their release from prison.<sup>14</sup> They can be sent to jail or prison if a court finds that there is a better chance than not that a person violated their parole. Unsurprisingly, parole revocations are one of the major drivers of incarceration in county jails and prisons across the state.

People who are released from jail or prison have the opportunity to get back to their community and to their families. We should be doing everything we can to help them contribute to society, instead of finding ways to put them back behind bars for technical violations.

## Lawmakers should pass the Less is More Act, which would:

- Prevent most people accused of technical parole violations from being put behind bars.
- Allow people under community supervision to earn “good time credits” that will reduce the amount of time a person has to stay under supervision.
- Provide protections to ensure people are not incarcerated while their alleged parole violation is adjudicated.
- Require speedy hearings for any technical parole violation.

The Less is More Act simply recognizes that people on parole who have committed no new crimes should not be locked up.



## **Stop Punishing Poverty**

Many New Yorkers do not have the cash to pay a court fee or fine that can cost hundreds of dollars in one lump sum. For these New Yorkers, missing a court payment or supervised release fee typically leads to even more fines and fees they cannot pay, which can lead to steeper consequences.

Civil rights investigations have exposed how local governments raise their revenue off the backs of poor and over-criminalized residents through a myriad of fines and fees. Yet while many places across the country have moved to reduce or eliminate what are essentially taxes on poverty, cities and towns across New York continue to rely on these regressive fines and fees as a major source of funding, in some cases totaling more than 20

percent of their annual revenue.<sup>15</sup> These practices overwhelmingly target Black and Brown New Yorkers, exacerbate economic inequality, and keep people trapped in debt and in the criminal legal system.

Last session, the legislature acted to end driver's license suspensions for the failure to pay fines. Lawmakers must now pass the End Predatory Court Fees Act, which would eliminate a range of mandatory surcharges tied to criminal convictions and registries, mandate fair and reasonable payment schedules for fines, and vacate existing warrants and sentences of incarceration for the failure to pay fines or fees. The legislature must also act on separate legislation to eliminate mandatory surcharges attached to a person's probation or parole.





# PROTECT HUMAN RIGHTS IN JAILS AND PRISONS

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New York should make our corrections system more humane.

## **Halt Long-Term Solitary Confinement**

Prolonged solitary confinement can cause severe mental and physical trauma that can lead to irreparable harm. The United Nations considers solitary confinement for more than 15 consecutive days torture.<sup>16</sup> The effects can be deadly.

Yet thousands of people are subjected to prolonged solitary confinement in New York. State laws permit 23-hour confinement in jails and prisons, sometimes for minor misbehavior, for months or even years at a time. Corrections officers have broad discretion over who they subject to this form of confinement.

Assembly and Senate leadership struck an agreement with Governor Cuomo in the 2019 legislative session to reform solitary practices through regulatory changes. But these new state regulations have been delayed, and they fall well

short of what New York needs.

## **New York should pass the Humane Alternatives to Long-Term Solitary Confinement (HALT) Act, which would:**

- Limit confinement to no more than 15 consecutive days, or 20 days total in any 60-day period.
- Ban solitary confinement for people most vulnerable to the psychological and physical harms of isolation, including people 21 or younger, those 55 or older, people with physical, mental, or medical disabilities, and anyone pregnant or in the first eight weeks of post-partum recovery.
- Only allow solitary confinement for serious misconduct.
- Mandate rehabilitative programs.
- Require reporting who is put in solitary.

The HALT Act will help prevent some of the most harmful aspects of solitary confinement while putting strict limits on when it can be used. These reforms promote treatment and true rehabilitation of incarcerated people, rather than punishment and isolation.

### **End Exploitative Labor Practices in Our State Correctional System**

The 13th Amendment ended chattel slavery, but with an insidious exception that allows for “involuntary servitude ... as a punishment for a crime.” For 150 years, New York’s penal system has been so dependent on human exploitation that it is akin to modern-day slavery. Currently incarcerated people, disproportionately Black, Brown, and Indigenous, are forced to work for pennies an hour under threat of punishment like solitary confinement, delayed parole, or the revocation of family visits.

Incarcerated workers quite literally subsidize the cost of operating and maintaining prisons. Most New Yorkers who are in state correctional programs staff, clean, and maintain the operations of the same facilities that imprison them.

But the most flagrant use of prison labor is a multi-million-dollar state revenue source, now a permanent fixture of the state budget. Every year, Corcraft, a corporation run by the Department of Corrections and Community Supervision and staffed by incarcerated workers, earns over \$65 million for the state by producing items like furniture for New York’s public schools and universities, city garbage cans, eyeglasses worn by

New Yorkers receiving Medicaid, and license plates. In fact, during the current Covid crisis, the state has even called on incarcerated workers to support its pandemic response by bottling hand sanitizer and making personal protective equipment – often while cruelly denying these workers access to their own basic protective gear.

The Freedom from Forced Labor Act is simple and straightforward. It would amend the correction law to say that no incarcerated person be compelled to provide labor against their will by force or punishment.

The widespread and largely invisible use of prison labor sustains an immoral system founded on the denial of incarcerated New Yorkers’ basic humanity. Enacting the Freedom from Forced Labor Act will end this manifestation of modern-day slavery in New York for good.

### **End Gender Identity-Based Mistreatment in the Correctional System**

Transgender, gender nonconforming, non-binary, and intersex (TGNCNBI) New Yorkers disproportionately face food, shelter, and employment insecurity; race-based and gender-based discrimination; and immigration status issues. They are also notoriously over-policed and over-criminalized, and as a result, disproportionately likely to be incarcerated.<sup>17</sup>

Incarceration is dehumanizing for anyone, but TGNCNBI people, especially those who are Black, Indigenous, and other people of color, are particularly likely to experience harassment,





degradation, and violence.<sup>18</sup> During processing and while in custody, people whose gender expression does not conform to their sex assigned at birth are frequently misgendered and referred to in demeaning ways. Some TGNCNBI individuals are placed in facilities that do not match their gender identities or that otherwise put their safety at risk. Improper housing regularly leads to violence, and when TGNCNBI people are attacked, they are often put in solitary confinement for extended periods of time.

In 2021, New York must enact measures to help keep TGNCNBI people safe when they are incarcerated by requiring that prisons and jails house and treat people consistently with their gender identities and by putting limits on involuntary protective custody or solitary confinement.

### **Protect the Reproductive Rights and Health of Pregnant Incarcerated People**

Every pregnant individual – including those who are

incarcerated – has a right to be treated with dignity. They are also entitled to information and resources to make their own reproductive health decisions. But these fundamental rights are denied for far too many, especially for pregnant people in the criminal system.

The Department of Corrections and Community Supervision (DOCCS) prohibits outside support persons during labor and delivery, despite research that shows support people result in a safer and more positive birth experience. And incarcerated people often don't know what supports exist for their reproductive care and what their rights are, due to lack of transparency.

Legislators must pass legislation that provides incarcerated people with information about their right to obtain abortion care, their option to participate in pregnancy counseling, and about nursery programs that allow them to stay with their newborn after birth. Legislators must also support legislation that ensures pregnant people who are incarcerated can have a support person of their choice present during labor and delivery.





# STOP ABUSIVE POLICING

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New York should end no-knock raids, restrict police use of weapons of war, and ban rogue DNA databases.

The police killings of George Floyd, Breonna Taylor, Daniel Prude, and too many other Black and Brown people sparked protests throughout the country and across the state in 2020. This mass mobilization of New Yorkers demanding justice for Black lives propelled New York lawmakers to pass long-overdue police reform measures to increase transparency and accountability in last year's legislative session.

Important as these measures are, it is clear that reforms alone are not sufficient to address the structural and cultural problems inherent in law enforcement.

New York must fundamentally transform the role of policing in our state – and our budget. The legislature has an opportunity to meet this moment with a bold new vision for community safety that

starts with removing police as the default solution to address mental health needs, housing and food insecurity, and school safety and discipline. That vision must include moving beyond reforms that simply reinforce the role of police officers in the daily lives of Black and Brown communities and people experiencing poverty. And it must include significantly reducing the vast amounts of money spent on surveillance technologies and military equipment that treat entire populations with suspicion.

Police departments across the state have increasingly been using military grade armaments that are often acquired through state and federal grant programs. New York must end military programs and enact state laws to prevent abusive and invasive policing methods.

## **End No-Knock Raids**

No-knock and quick-knock warrants and raids have



severe and deadly consequences for communities targeted for aggressive over-policing. It's time for these raids to end. Lawmakers must pass legislation ending no-knock raids for drug and property offenses and demilitarizing warrant executions altogether. The legislature must also end the practice of police departments and municipal governments profiting from seizing people's property during these searches and arrests by putting a stop to civil asset forfeiture.

### **Restrict the Police Use of Tear Gas**

Americans have a First Amendment right to engage in peaceful mass protest. But this past year, police departments across New York – and across the country – preemptively sprayed and gassed nonviolent demonstrators marching for Black Lives and other movements, effectively targeting political activism and dispersing peaceful crowds. New York must prohibit police from using tear gas and other chemical irritants against crowds except as a last resort against imminent mass violence.

### **Restrict Police Use of Drones**

Drones, or unmanned aerial vehicles (UAVs), are small and quiet, can remain aloft for hours at time, and can be equipped with anything from long-range cameras to fake cell phone towers. U.S. Customs and Border Protection used Predator<sup>19</sup> drones – military hardware – to monitor Black Lives Matter demonstrations this past summer, and the NYPD routinely uses drones to quietly surveil everything

from social distancing to mass demonstrations. New York should not permit widespread drone surveillance of public events and activities protected by the First Amendment.

### **Legislators should pass legislation that ensures:**

- The use of a drone in a police investigation requires a warrant.
- Drones are not equipped with facial recognition software, weapons, or crowd control devices.
- Drone-collected data, drone-use policies, and drone operator training materials are available to the public.

### **End Police Use of Acoustic Weapons**

Acoustic weapons, also known as long-range Acoustic devices (LRADs) or sound cannons, are devices that deliver very loud sounds over long distances. Police sometimes use these devices to emit loud and painful sounds for crowd control – and this practice must stop.

Acoustic weapons were developed for use in war zones, and indiscriminately impact everyone in their general area – including police. While we know that acoustic devices cause pain and hearing damage, and may cause permanent hearing loss, there is little research on the permanent physical impacts of their use. These untested weapons of war have no place at protests in New York.



## **Ensure Independent Police Discipline**

For too long, police departments in New York have fought for the power to hide their misconduct, avoid accountability, and act with impunity. Some state laws give police leadership near total control over all discipline and misconduct proceedings, including Chapter 834 of the Laws of 1940, which prohibits local governments from appointing impartial judges to preside over police disciplinary cases.<sup>20</sup>

In places like New York City, independent judges preside over disciplinary trials for all public employees except for NYPD officers. When an NYPD officer is accused of misconduct, the NYPD controls the entire process. Police department employees act as judges, hearings take place in police headquarters, and police departments set their own rules. Because of Chapter 834, these proceedings cannot happen anywhere else.

We have seen repeatedly that police departments are incapable of policing themselves. Despite the obvious and widespread evidence of misconduct and violence against protesters following the killing of George Floyd, police leaders have repeatedly defended – and even praised – officers’ actions.

New York must empower localities to independently administer police disciplinary proceedings. While much more work will still be needed, repealing Chapter 834 is a critical and necessary step toward challenging police abuse.

## **End Rogue DNA Databases**

The government’s collection of DNA implicates New Yorkers’ ownership of private and sensitive information – our own genetic code. For good reason, New York law mandates a comprehensive – and exclusive – set of rules governing testing and data-banking of DNA samples. This existing law balances the rights of individuals and the interests of law enforcement and contains clear provisions designed to limit abuse of our genetic material.

Yet, New York City has developed a sprawling and unregulated DNA database that flouts the state law. There are no privacy protections for individuals whose genetic information is contained in the database, and the database exists without any independent oversight. Reports suggest that the NYPD’s methods of collecting samples for this database have been secretive, racially discriminatory, and have targeted children.<sup>21</sup> The City is now in unregulated possession of the genetic material of people who have never been convicted of, charged with, or even suspected of a crime. The legislature must act immediately to ban this rogue database, order its data destroyed, and make it clear that state law governs all genetic information held by the government.





# INVEST IN OUR COMMUNITIES

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New York should protect whistleblowers, gig workers, and farmworkers.

The Covid pandemic has laid bare deep systems of inequality. As New York begins to rebuild after the pandemic, we must eliminate policies designed to funnel Black and Brown New Yorkers into jails and prisons. And we must reinvest in our state's people, so that every New Yorker has a chance to flourish.

New York has a proud reputation as a strong labor state – but now more than ever, working New Yorkers are struggling. Lawmakers must ensure that workplaces are safe and that fundamental labor protections cover all employees, including gig workers who are not independent contractors and agricultural workers who are still excluded from standard overtime laws.

## **Protect Whistleblowers**

Covid has shined a light on the unsafe and exploitative workplace conditions workers have always endured to support themselves and their families. New Yorkers of color, women, and immigrants disproportionately shoulder the burden of this public health crisis. A year into the pandemic, there are still few enforceable occupational safety and health standards to adequately protect workers, their families, and their communities from infection.

Despite a strong executive response early in the pandemic, New York has failed to enact enforceable regulations that set standards protecting all workers from Covid and other airborne infectious diseases. To make matters worse, our current state whistleblower law leaves workers vulnerable to retaliation for raising health and safety concerns in their workplaces.



The NY Hero Act would require businesses to adopt enforceable health and safety standards to protect workers from the spread of airborne infectious disease. It would empower workers to raise complaints and report violations while prohibiting retaliation. And it would cover all workers, including independent contractors, domestic workers, home care and personal care workers, day laborers, farmworkers and other temporary and seasonal workers.

### **Protect Gig Workers**

Most workers in our economy are, and should be treated as, “employees” entitled to the protection of core labor standards. However, employers can abuse the independent contractor label to evade responsibility for their workforce.

When employees are misclassified as independent contractors, they are robbed of basic labor protections including workers’ compensation, unemployment insurance, wage and hour protections, workplace health and safety standards, and the right to collective bargaining. Recent studies suggest that as many as one in every 10 employees in New York is misclassified as an independent contractor.<sup>22</sup> Unfortunately, current legal tests for determining worker status are inconsistently applied – and this long-standing problem is exacerbated by the growth of app-based businesses.

The Fair Play in Employment Act would create a clear and predictable independent contractor test for businesses and workers. It uses an existing

model that has proven successful for addressing misclassification in the construction and commercial transportation industries. Workers who don’t meet the independent contractor test would be clearly defined as employees and afforded appropriate labor protections.

Employee misclassification hurts New Yorkers across many industries – from bike messengers and for-hire drivers to construction workers, tutors, nail salon workers, and hospitality workers. New York should preserve its place among the most progressive labor states and pass the Fair Play in Employment Act this year.

## **PROTECT FARMWORKERS**

In 2019 New York enacted the historic Farm Laborers Fair Labor Practices Act, which brought New York farmworkers under most standard labor protections. However, because a state wage board failed to act, farmworkers remain excluded from the right to overtime pay after forty hours of work, which virtually every other New York State employee enjoys. Justice delayed is justice denied. Lawmakers don’t have to wait for the wage board to reconvene in a year – they can act immediately to remove this vestige of the Jim Crow era.



## CIVIL RIGHTS DURING THE PANDEMIC

### New York should enact universal child care and provide universal high-speed internet

The Covid pandemic has revealed stark inequities that run on race, income, disability, and gender lines in nearly every aspect of New Yorkers' lives: access to health care, housing, education resources, employment, child care, and beyond. The pandemic has heightened the public's consciousness around issues of structural and systemic racism – and as we rebuild, we must rebuild with true equality at the core of our policies and institutions.

#### Universal Child Care

Child care is a necessary support in normal times. Without access to high-quality care, parents cannot work. For single parents and for women, who are often the primary caretakers of their families, the lack of accessible child care can have dire consequences for people's income, job retention, and educational outcomes for their children.

Yet, New York State ranks among the most expensive states for child care in the nation. The average cost of child care exceeds rent and college tuition, and even for those who can afford it, almost two-thirds of New Yorkers live in child care deserts where they are unable to find quality care in their neighborhoods. Moreover, for those who perform child care work – traditionally women of color – the work is so undervalued and underpaid that almost 60 percent of the families of people who care for young children participate in public income support programs.

The Covid crisis makes clear what working families with children have long known: trusted, accessible, quality child care is critical to public health and economic stability. Lack of child care is a gender, race, economic, and educational justice issue. If our state's economy is to truly recover from this pandemic, universal child care must be a cornerstone of that recovery.

An illustration of a diverse group of people wearing face masks, rendered in a stylized, flat-art style with a color palette of blues, oranges, and pinks. The figures are shown from the chest up, facing various directions, creating a sense of a community. A large blue rectangular box is overlaid on the center of the image, containing text.

## Universal High-Speed Internet

Due to Covid, New Yorkers have been living even more of our lives online. Many people rely on the internet to work, attend school, go to the doctor, seek entertainment, and visit with loved ones. Unfortunately, New Yorkers do not all have the high-speed internet that would allow us to participate in these necessary elements of our lives. This is a statewide problem; large swaths of rural New York lack the infrastructure to provide affordable broadband to residents; and in New York City, between 17 and 20 percent of New Yorkers lack internet access.

Predictably, the brunt of the digital divide falls on particular communities: people who disproportionately live at the intersection of poverty and structural racism. Forty-six percent of New York City households living below the poverty line do not have home internet access. About 30 percent of Latinx and Black New Yorkers lack broadband internet access, compared with 20 percent of white New Yorkers. This means that as more of our brick-and-mortar life shifts online, ensuring universal online access is a core racial justice issue. And as the pandemic has shifted much school instruction online, access to digital classrooms is essential to ensure New York students receive the education to which they are entitled. Right now, too many families lack adequate internet access or the devices they need to connect.

The Covid crisis sharply underscores the need for universal, reliable, affordable broadband internet. The legislature must work to ensure that New York households have equitable access to the resources we have now by mandating affordable access to this critical utility. And it must work to create pathways to expand our existing broadband infrastructure to reach every underserved community. Access to broadband internet in 2021 should be a universal right, not a privilege for the few.





**PRESCRIPTION  $R_x$**



# RESPECT PERSONAL AUTONOMY

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New York should keep the government out of people’s most personal decisions – including pregnancy, childbirth, gender identity, and medical care.

## **Protect Family Rights in Child Protection Investigations**

The past year has brought new and welcome scrutiny on the role of police, particularly in Black and Brown communities. Yet in many of those same communities, child protective services can have a similarly intrusive and harmful impact. Families of color are disproportionately reported, investigated, and brought to court over allegations of child neglect – often for dubious reasons more attributable to poverty than maltreatment.

A knock on the door from a child protective investigator can lead to a parent’s children being taken away for months, if not years, of supervision by local authorities. Many parents are

understandably confused about their rights in such situations and are coaxed into making statements or agreements against their own interest.

In 2020, lawmakers took an important first step towards reforming the child protective system by passing legislation in the state budget to mitigate the collateral consequences associated with child maltreatment reports and make it simpler for parents to clear their names. This session, the legislature must pass legislation requiring child protective workers to give parents notice of their rights when they initially investigate families, including the right not to make statements or sign releases and to consult with an attorney.

## **Advance the Health and Rights of Pregnant People**

More women in the United States die of causes related to pregnancy and childbirth than in any other developed nation, and New York ranks thirtieth in the nation based on maternal death

rates.<sup>23</sup> Maternal mortality is a public health crisis with stark racial disparities. Black women are nearly four times more likely than white women to die of causes related to pregnancy or childbirth.<sup>24</sup> New York must dismantle structural racism in our health care system, improve maternal and child health outcomes and better the lives of families and communities across the state.

New York must center birth justice and equity by ensuring that pregnant people have access to quality health care. Public health insurance must be extended to people for one year after pregnancy to ensure seamless access to care and improved health outcomes.

Policy makers must recognize the harm to families caused by discriminatory drug testing in health care settings, which can lead to family separation and poor health outcomes for both children and parents. New York must pass legislation to ensure all pregnant patients give written, informed consent before drug testing.

### **Allow Medical Aid in Dying**

The right to make decisions about one's own medical care is vital, particularly for those nearing the end of life. Patients diagnosed with terminal illness often endure extensive, sometimes painful treatment. When the limits of such treatment are reached, many wish to have control over when and how their death occurs. The New York State Constitution guarantees the right of every individual to make their own medical decisions, including whether to accept or refuse medical treatment, and the law must also recognize the right of terminally ill patients to end their lives on their own terms.

The Medical Aid in Dying Act would give terminally

ill people the legal right to make these critical decisions in consultation with qualified physicians. Patients could be prescribed medication for the purpose of ending their lives if they have been found by two physicians to be mentally competent, making a voluntary and informed request, and suffering from a terminal illness with less than six months to live. The legislation includes multiple layers of safeguards to ensure that the decision to accelerate death is not subject to coercion.

### **Expand Gender Markers**

To rent an apartment, access public benefits, open a bank account, enroll children in school, or drive a car, New Yorkers need identity documents. Transgender, gender nonconforming, and non-binary New Yorkers deserve identity documents that reflect who they are and enable full participation in society. Inaccurate identity documents can lead to harassment and abuse, particularly from police.

The process for changing names or gender markers on state identity documents is antiquated, cumbersome, and for many, shaming. State law currently requires applicants to publish their current names, previous or "dead" names, their addresses, their birth dates, and their places of birth in a designated newspaper.<sup>25</sup> This requirement violates privacy and dignity and can put people in danger of discrimination, ridicule, or violence. Making matters worse, the only gender markers available for some identity documents are "male" and "female," ignoring non-binary people entirely. The Gender Recognition Act would ensure that X gender markers are available on all New York identity documents, and create a privacy-protective, streamlined, and non-stigmatizing process for name and gender marker changes.





# SECURE JUSTICE FOR STUDENTS

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New York should divest from a punitive education system and invest in the health and wellbeing of all kids.

Our public education system rewards the privileged, while disregarding Black and Brown students and those with greater needs. But education is not a privilege, it is a right.

## **Solutions Not Suspensions**

New York must pass the Judge Judith S. Kaye Solutions Not Suspensions Act to support schools in creating positive, inclusive classrooms. In New York, students lose hundreds of thousands of days of learning each year because of suspensions, often for normal youthful behavior. Students suspended are disproportionately Black and Latinx and those with disabilities. Across New York State, Black children are two to five times more likely to be suspended than their white classmates. Students who are

suspended have higher likelihoods of involvement with the criminal legal system than their peers.

Suspensions limit academic achievement by using education as a reward for good behavior. Students in New York can be suspended for an entire school year, and they are not entitled to continue their regular lessons, homework, or courses during that time. New York is an outlier in allowing students to be removed from school for such long periods.

Instead of suspensions, schools should use positive discipline techniques like conflict resolution, restorative practices, and social-emotional skill building. **The Judge Judith S. Kaye Solutions Not Suspensions Act will:**

- Encourage the use of age-appropriate school discipline strategies.
- Eliminate out-of-school suspensions for minor infractions.

- Limit the use of suspensions for students in grades K-3.
- Cap long-term suspensions at 20 school days.
- Ensure students can continue to learn even if they are removed from school.

### **Deliver Comprehensive Sex Ed**

New York must require comprehensive sexual health education in all public schools. Currently, schools across New York provide a patchwork of sex ed lessons that can be medically inaccurate, incomplete, and biased. Some schools provide no sex ed at all. As a result, students never receive a single lesson on issues like consent, intimate partner violence, sexual and gender identity, or sexual health and pregnancy.

Without comprehensive sex ed, young people are at risk. Among New York high school students surveyed in 2017, half had engaged in sex but only 11 percent reported using a method to protect against pregnancy and infection.<sup>26</sup> About 10 percent of New York teenagers reported experiencing dating violence, and LGBTQ youth are more likely to experience mistreatment at school or feel unsafe there.<sup>27</sup> Comprehensive sexual health education is a proven tool for building a culture of inclusion and consent, and preventing sexual assault and violence.

More than 93 percent of U.S. parents place high importance on sex ed in middle and high school.<sup>28</sup> New York must require public schools to teach medically accurate, age-appropriate K-12 comprehensive sex education that reflects national standards and best practices.

### **Protect Students' Health**

For years, the Environmental Protection Agency has known that students who attend school within 500 feet of a major road, without mitigation strategies, are exposed to intense air pollution and suffer from more breathing-related medical issues like asthma.<sup>29</sup> Recent studies have examined the relationship between air pollution, breathing disorders, and school achievement. Not surprisingly, researchers found that improving the air quality in a classroom by installing a simple air filter resulted in higher test scores.<sup>30</sup> Yet New York is among the worst states in the country when it comes to allowing students to attend school in close proximity to a major road. While many states have outlawed the construction of schools near major roads and vice versa, New York has not.

During the Covid pandemic, schools are encouraged to open windows for increased ventilation. But for students who attend schools near major highways, this potentially life-saving tactic floods schools with air pollution from nearby traffic. Schools need infrastructure supports like air conditioners, window seals, and air filters to make sure the air kids breathe is as safe as possible, both from disease and contaminants.

The SIGH Act will empower New York to protect students from air pollution by limiting construction of schools and roads in close proximity to one another and requiring basic mitigation where these conditions already exist.





PHOTO BY DONNA ACETO

# PROTECT IMMIGRANT NEW YORKERS

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New York should shield immigrants from the draconian federal immigration system.

The past several years laid bare just how cruel and unjust our country's immigration system is – designed to separate families, detain people indefinitely for civil offenses, and tear communities apart through deportation. This dark period shows how vital it is that New York protect immigrant residents in every way that it can.

Lawmakers in Albany took important steps last session to improve access to driver's licenses and tuition assistance for all, regardless of one's immigration status, and to keep U.S. Immigration and Customs Enforcement (ICE) from interfering with our state court system. But New York must do more to protect immigrants' due process rights and avoid fueling the deportation machine.

## **Create a New York for All**

Immigration enforcement is the responsibility of the federal government, not state and local authorities. Yet in the past two decades, ICE has built its deportation infrastructure on the backs of local law enforcement, relying on police and sheriffs' departments to disclose information and unlawfully detain people for civil immigration offenses. This collusion between ICE and local government exacerbates the harms of over-policing, spreads fear and confusion within immigrant communities, and misuses local resources to enable ICE cruelty.

The New York for All Act would follow the lead of California, Washington State, and many cities and counties across the country by drawing a sensible line between state and local government and immigration authorities. The bill would prohibit the use of local resources for immigration enforcement, end agreements that make local officers deputies of ICE, and protect New Yorkers' personal information from improper disclosure.





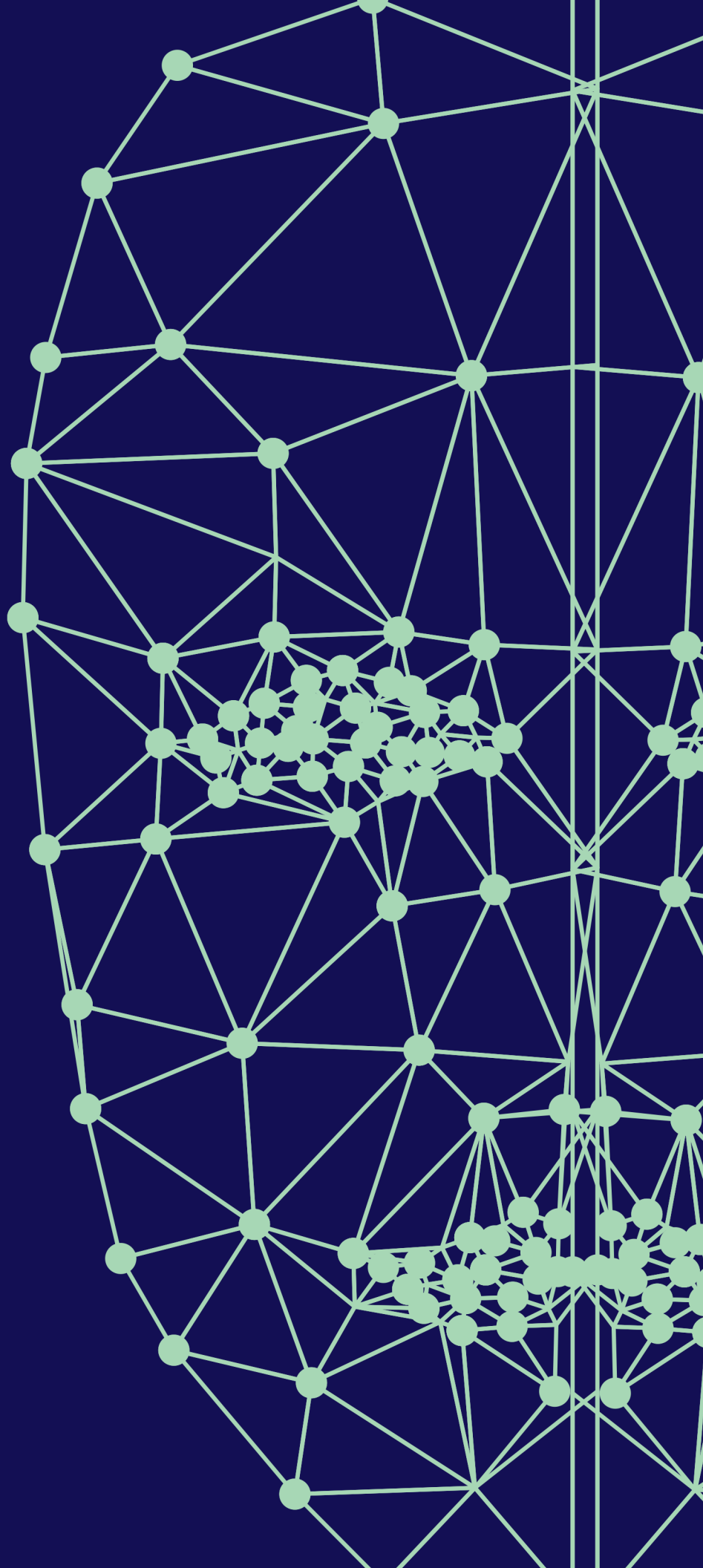
### **Guarantee Access to Representation**

For immigrants who have been placed in removal proceedings and are facing the prospect of deportation, losing their case before an immigration judge can mean being uprooted from family and community, or even being put in deadly harm. Unlike in criminal proceedings, a person's right to an attorney in immigration court is dependent on their ability to pay for one. This leaves many immigrants in the unfair and dangerous position of navigating an overwhelmingly complex and high-stakes legal process on their own. Though New York has provided funding for immigrant legal services

in past years, that funding is not guaranteed year to year, leaving critical access to representation subject to the whims of annual budget cycles.

The Access to Representation Act would create a right to government-funded counsel for immigrants in removal proceedings who are in or have a nexus to New York, making sure that no New Yorker faces the threat of deportation without meaningful representation. The bill would guarantee the assistance of counsel not only in removal proceedings, but also other proceedings critical to a person's deportation defense.





# SAFEGUARD OUR DIGITAL PRIVACY

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New York should protect our medical and personal information, ban biometric surveillance, and outlaw dragnet warrants.

New and invasive technology can pose a serious risk to our civil rights and civil liberties. Companies surreptitiously harvest our personal data for profit. Facial recognition and other biometric technologies collect physically identifiable information in secret. Algorithms used by government agencies foster discrimination while promising neutrality. And law enforcement can access our private digital communications without a judge's approval. On top of all this, the Covid pandemic has deepened many inequities and laid bare the grave impact of the digital divide.

New Yorkers' civil rights should extend fully to the digital world. This means ensuring algorithms don't undermine anti-discrimination laws; guaranteeing meaningful access to and control of our personal

data; banning biometric surveillance technologies; requiring tailored warrants to access our online communications and data; and providing equitable and safe technology access to those in most need.

## Privacy in a Pandemic

As New York has responded to Covid, too little attention has been paid to cultural competency and cultivating community trust. From the outset of the pandemic, the state has relied on police to enforce Covid-induced public health measures,<sup>31</sup> even though police officers are not public health experts. Black and Brown communities that have been hit hardest by Covid<sup>32</sup> are the very same communities that also bear the brunt of over-policing generally,<sup>33</sup> and law enforcement cannot serve as trusted or effective public health messengers.

New York must enact laws to ensure that all of us can safely participate in the pandemic response by guaranteeing that personal information shared to

receive a vaccine cannot be used to criminalize or deport anyone and by keeping law enforcement and immigration authorities out of the public health response.

New York must also ensure that vaccine distribution is equitable, reaches all of our communities where they live and regardless of whether they have identification documents, and prioritizes those with the most need, including health care workers; those working at and those living in congregate settings, including the elderly and the disabled, as well as those working at and those detained in prisons and jails; essential workers, including teachers and other school staff, grocery store and pharmacy workers, and bus drivers and subway conductors, among others; those with pre-existing medical conditions; and those whose racial, ethnic, and socioeconomic circumstances heighten their vulnerability.<sup>34</sup>

Finally, New York must acknowledge America's long history of medical experimentation and abuse of people of color and commit to cultural and linguistic competence in its Covid response.<sup>35</sup> Just as community members have been more effective at convincing their neighbors to wear masks and adhere to social distancing, community members and organizations are more likely than outsiders to know how to convince their neighbors to get tested, to identify their contacts, to quarantine when necessary, and to be vaccinated.<sup>36</sup>

## **Protect Our Personal Information Online**

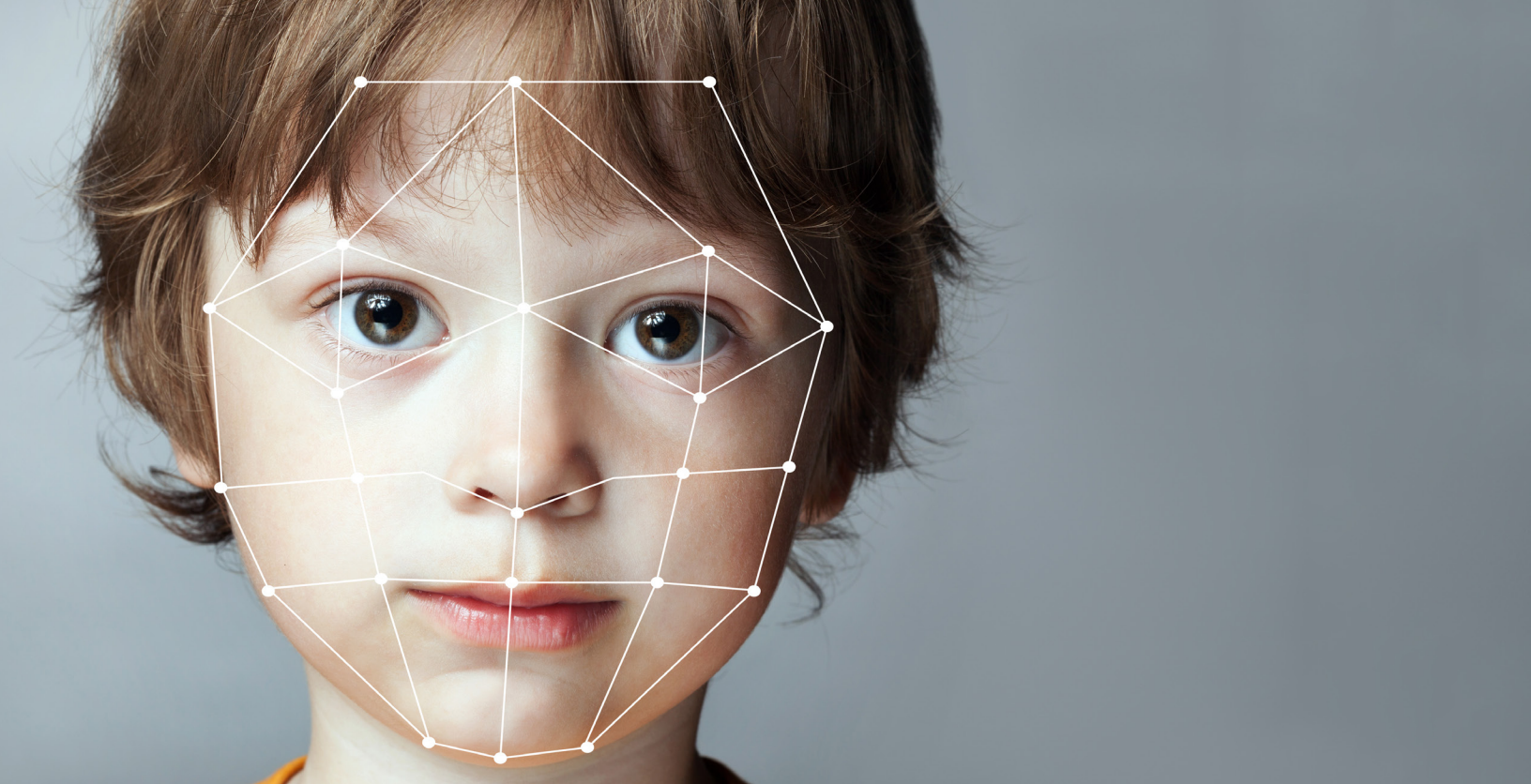
It is no longer possible to participate in society without providing personal information to private companies and other entities that can reveal the most intimate details of our lives. People often do not know or consent to the ways companies collect,

use, retain, share, and monetize our personal information. And, when we try to exert control, we wind up mired in the inscrutable fine print of Privacy Policies and User Agreements. The consequences of privacy abuses can be profound. Precisely-targeted pricing, advertising, and other automated decision tools are used to exclude people of color, women, and older individuals from housing, credit, and employment opportunities in ways that would be unthinkable in the offline world.<sup>37</sup> Government agencies increasingly turn to automated decision systems to determine everything from teacher evaluations and child custody to sentencing, probation, and parole – and more. Computer-generated decisions have the veneer of objectivity, but these systems are built on human inputs, and they produce biased results. These technologies all too often replicate and amplify harm towards people who already face bias and discrimination.

### **New York needs comprehensive privacy protections that:**

- Show us how our personal information is collected, used, and shared and let us control what is collected, how it is used, and where it goes.
- Require businesses to maintain our personal information securely and use it only as we intend.
- Respect First Amendment values like robust online speech, a free press, and open access to publicly available information.
- Ensure that anti-discrimination rules apply fully to the digital world.





## **Ban Biometric Surveillance**

In recent years, New York has seen a rise in the use of biometric recognition technologies – like face, voice, and gait recognition – by police, in housing, schools, mass transit, and on our roads and bridges. Last year, the legislature recognized the threat that biometric surveillance poses to our children, and rightly placed a moratorium on its use in New York schools. It is time to go further.

Biometric surveillance presents an unprecedented threat to our privacy and civil liberties, aiming to track who we are, where we go, and who we meet. Yet, despite its invasive nature, biometric technologies are notoriously inaccurate and racially biased. Numerous studies have shown that face surveillance technologies are particularly inaccurate for women and people of color. In addition, many biometric technologies rely on the remote monitoring and collection of your personal biological characteristics – without your consent or knowledge. Unlike a password or credit card number, this information cannot be changed if it is

compromised or stolen.

Lawmakers must pass a ban on biometric surveillance by government, in particular by law enforcement, and in other areas where our fundamental rights are at stake.

## **Ban Dragnet/Geofence Warrants**

Warrants are a central tool for law enforcement investigations, but they need to be narrowly targeted, specific, and based on probable cause. Dragnet warrants, which are often based on overly broad factors like search engine keywords or location, do not meet this baseline standard and harm the privacy and safety of countless people who happen to meet the stated criteria. Broad warrant requests could place hundreds or thousands of unsuspecting and innocent people in the crosshairs of law enforcement, potentially violating their Fourth Amendment rights. As technology providers and data brokers capture ever-more detailed data trails, dragnet warrants must be banned.



BLACK  
LIVES  
MATTER



# CREATE A PATH TO TRUE EQUITY FOR ALL NEW YORKERS

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New York should pass an equal rights amendment and study the impacts of slavery.

As civil rights are threatened at the federal level, New York must be a last line of defense. As the courts make it tougher to fight discrimination, our state must make plain that prejudice has no home in our state. To do this, we must confront our own history honestly and thoroughly – and create a path forward that makes sure our laws are never again wielded to benefit a select few. We must also make clear that religion cannot be used to justify discrimination in the provision of medical care, public accommodation, housing, or employment.

The legislature must act to ensure that inclusive, formal legal equality is part of our Constitution – and begin the necessary work of determining what reparations we owe Black New Yorkers for the

damage our entrenched systems of inequality have inflicted.

## **Pass an Equal Rights Amendment**

Our state constitution sets forth the fundamental rights that are protected against discrimination. But New York’s existing equal protection clause (Article 1, Section 11 of the New York Constitution) is more than 80 years old and only contains limited and symbolic protections. It needs an update to reflect today’s New York.

To achieve true and lasting equality, New York must amend the state Constitution to include a robust, comprehensive, and inclusive Equal Rights Amendment. Lawmakers should pass anti-discrimination language that includes protections based on a person’s race, sex, pregnancy and pregnancy outcomes, sexual orientation, national





PHOTO BY MOLLY KAPLAN FOR THE ACLU

origin, disability, and religion.

New York must increase the categories of people protected by the law and also expand New York’s constitutional protections to address the structural impacts of racism and bigotry, including by explicitly protecting affirmative action programs in the face of a hostile U.S. Supreme Court.

It’s time for New York’s Constitution to have an inclusive and updated Equal Rights Amendment to truly secure equal rights for all New Yorkers.

### Study the Impacts of Slavery

We will never achieve racial justice if we do not examine the impact of slavery and its legacy – and make strides toward achieving reparatory justice.

Structural racism and white supremacy are deeply embedded across laws and policies in New York. While the state is recognized as being the first in the nation to abolish slavery, its history of sustained systemic oppression for descendants of enslaved

Africans has left a legacy that continues today through the racial wealth gap, de facto segregation, disparities in health, mass criminalization and incarceration, education inequity, and environmental racism.

Reparations are not a symbolic act – they are a real and necessary demand for justice that can serve as a baseline for a more just and equal future. And true reparative justice will mean not only the consideration of payments to make up for past economic theft from Black communities, but also confronting and dismantling systems that enable racial discrimination to continue today.

No amount of material resources or monetary compensation can ever offer full restitution for the physical, economic, cultural, emotional, and spiritual damage inflicted on enslaved African Americans for the enrichment of the United States. But to begin to reckon with the impacts of slavery, lawmakers must pass a bill creating a commission to study the impact of slavery on the descendants of enslaved Africans and those from the diaspora, and provide remedies to past and ongoing harm.

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Legislators have the momentum to carry us out of the multiple crises we face. Time will tell if they have the will to seize this opportunity to build a **more equitable New York.**





THE FIGHT IS  
FAR FROM  
FINISHED.

NYCLU



# NOTES

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1. See, e.g., Kevin Morris, *Neighborhoods and Felony Disenfranchisement: The Case of New York City* (Urban Affairs Rev., May 20, 2020), <https://doi.org/10.1177/1078087420921522>; American Bar Fdn., *Major Empirical Research Effort Finds Incarceration Suppresses Overall Voter Turnout* (Feb. 2014), <http://www.americanbarfoundation.org/news/467>
2. See, e.g., American Probation and Parole Ass'n, Letter to Md. Sen. Conway in Support of S.B. 340, available at <https://www.brennan-center.org/sites/default/files/legislation/APPA%20letter%20Maryland%20SB%20340%20%282%29.pdf>
3. See, e.g., N.Y.S. Assembly Committee on Correction, 2019 Annual Report (Dec. 15, 2019), available at: <https://nyassembly.gov/annualreports/?sec=story&story=94293>; N.Y.S. Dep't of Corrections & Community Supervision, Under Custody Report: Profile of Under Custody Population As of January 1, 2018 (Oct. 2018), available at: <http://www.doccs.ny.gov/Research/Reports/2018/Under%20Custody%20Report%202018.pdf>; Office of Governor Andrew M. Cuomo, Governor Cuomo Signs Executive Order to Restore Voting Rights to New Yorkers on Parole (April 18, 2018), available at: <https://www.governor.ny.gov/news/governor-cuomo-signs-executive-order-restore-voting-rights-new-yorkers-parole>.
4. See note 3 above.
5. See, e.g., N.Y.S. Assembly Committee on Correction, 2019 Annual Report (Dec. 15, 2019), available at: <https://nyassembly.gov/annualreports/?sec=story&story=94293>; U.S. Census Bureau, New York: Race and Ethnicity, from 2019 American Community Survey 1-Year Estimates, <https://data.census.gov/cedsci/profile?g=0400000US36>.
6. The CDC's Advisory Committee on Immunization Practices has recommended that health care workers and adults living in long-term care facilities receive the first vaccines, although this recommendation is not binding on the states, and the initial batch of vaccines will be insufficient to fully vaccinate these two populations. See Jon Cohen, CDC advisory panel takes first shot at prioritizing who gets the first shots of COVID-19 vaccines, *Science*, Dec. 1, 2020, <https://www.sciencemag.org/news/2020/12/cdc-advisory-panel-takes-first-shot-prioritizing-who-gets-first-shots-covid-19-vaccines>.
7. E.g., Peter Jamison, *Anti-vaccination leaders fuel [B]lack mistrust of medical establishment as covid-19 kills people of color*, Wash. Po., July 17, 2020, [https://www.washingtonpost.com/dc-md-va/2020/07/17/black-anti-vaccine-coronavirus-tuskegee-syphilis/?hpid=hp\\_hp-banner-main\\_black-antivax-940am%3Ahomepage%2Fstory-ans](https://www.washingtonpost.com/dc-md-va/2020/07/17/black-anti-vaccine-coronavirus-tuskegee-syphilis/?hpid=hp_hp-banner-main_black-antivax-940am%3Ahomepage%2Fstory-ans)
8. Sienna College Research Institute, Voters on End of Session Agenda: 'Yes' on Marijuana. Available at: <https://scri.siena.edu/2019/06/10/voters-on-end-of-session-agenda-yes-on-marijuana-55-40/>

9. *Report of the New York State Bar Association Task Force on the Parole System*, New York Bar Association, November 2019, available at: <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=97413>.
10. *At America's Expense: The Mass Incarceration of the Elderly*, American Civil Liberties Union, June 2012, available at: [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf)
11. Maurice Chammah, "Do You Age Faster in Prison?" *The Marshall Project*, 24, Aug. 2015, available at: <https://www.themarshallproject.org/2015/08/24/do-you-age-faster-in-prison>
12. *Report of the New York State Bar Association Task Force on the Parole System*, New York Bar Association, November 2019, available at: <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=97413>
13. *Id.* (NYSBA report)
14. CUNY Inst. for State & Local Governance, Independent Commission on New York City Criminal Justice and Incarceration Reform, *Opportunities For Reforming Community Supervision In New York* (June 2019), available at: <https://www.morejustnyc.org/reports>.
15. Fees and Fines Justice Center, *New York's Ferguson Problem* (page 1), available at [https://noprisonjustice.org/wp-content/uploads/2020/09/New\\_York\\_Ferguson\\_Problem\\_NPJ\\_Report.pdf](https://noprisonjustice.org/wp-content/uploads/2020/09/New_York_Ferguson_Problem_NPJ_Report.pdf)
16. Juan Mendez, "Solitary Confinement Should be Banned in Most Cases UN Expert Says," *UN News*, 18, Oct. 2011, available at: <https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>.
17. See generally Sandy E. James et. al, *The Report of the 2015 U.S. Transgender Survey*, The National Center for Transgender Equality (December 2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.
18. See Sari L. Reisner et al., *Racial/Ethnic Disparities in History of Incarceration, Experiences of Victimization, and Associated Health Indicators Among Transgender Women in the U.S.*, WOMEN HEALTH 750 (2014).
19. Mark Chiusano, *Eye in the Sky*, *Newsday*, Sept. 30, 2020, available at <https://www.newsday.com/opinion/columnists/mark-chiusano/mark-chiusano-nassau-police-drones-long-island-protests-surveillance-1.49894779>.
20. *Lynch v. Giuliani*, 301 A.D.2d 351, 755 (holding that the NYPD Commissioner is prohibited from moving disciplinary trials to the Office of Administrative Trials and Hearings).
21. Jan Ransom and Ashley Southall, *N.Y.P.D. Detectives Gave a Boy, 12, a Soda. He Landed in a DNA Database. Aug. 15, 2019. Available at: https://www.nytimes.com/2019/08/15/nyregion/nypd-dna-database.html*
22. National Employment Law Center, *Independent Contractor Classification Imposes Huge Costs on Workers and Federal and State Treasuries* (Oct. 2020), available at <https://s27147.pcdn.co/wp-content/uploads/Independent-Contractor-Misclassification-Imposes-Huge-Costs-Workers-Federal-State-Treasuries-Update-October-2020.pdf>
23. *Health of Women and Children: Maternal Mortality in New York in 2018*, United Health Foundation, available at [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal\\_mortality/state/NY](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal_mortality/state/NY)
24. *Pregnancy Mortality Surveillance System*, Centers for Disease Control and Prevention, available at <https://www.cdc.gov/reproductive-health/maternalinfanthealth/pmss.html>.
25. See N.Y. Civ. Rights Law, Art. 6.
26. *New York State Youth Sexual Health Plan*, NYS Department of Health, 2018, available at: [https://www.health.ny.gov/community/youth/development/docs/nys\\_youth\\_sexual\\_health\\_plan.pdf](https://www.health.ny.gov/community/youth/development/docs/nys_youth_sexual_health_plan.pdf); *Sexual Risk Behaviors Can Lead to HIV, STDs, & Teen Pregnancy*, Centers for Disease Control and Prevention, available at: <https://www.cdc.gov/healthyyouth/sexualbehaviors/index.htm#1> (citing *Youth Risk Behavior Surveillance—United States*, Centers for Disease Control and Prevention, 2017, *MMWR Surveill Summ* 2018; 67(No. SS-8)).
27. Vagi, K. J., Olsen, E. O. M., Basile, K. C., & Vivolo-Kantor, A. M., *Teen dating violence (physical and sexual) among US high school stu-*

dents: findings from the 2013 National Youth Risk Behavior Survey, 2015, *JAMA Pediatrics*, 169 (5), 474-482; see also Teen Dating Violence, Centers for Disease Control and Prevention, Mar. 12, 2019, available at: <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/teen-datingviolence/fastfact.html>. See also Kosciw, J. G., et al., *The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*, 2018, New York: GLSEN, available at <https://www.glsen.org/sites/default/files/2019-10/GLSEN-2017-National-School-Climate-Survey-NSCS-Full-Report.pdf>.

28. Leslie Kantor and Nicole Levitz, *Parents' views on sex education in schools: How much do Democrats and Republicans agree?* *PLoS One*, 12(7) (2017), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5495344>.

29. Environmental Protection Agency, *Best Practices for Reducing Near-Road Pollution Exposure at Schools*, November 2015, page 2. Available at: [https://www.epa.gov/sites/production/files/2015-10/documents/ochp\\_2015\\_near\\_road\\_pollution\\_booklet\\_v16\\_508.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/ochp_2015_near_road_pollution_booklet_v16_508.pdf)

30. Koran, Mario *The Guardian*, *Can air purifiers improve students' academic performance?* January 2020. Available at: <https://www.theguardian.com/education/2020/jan/14/air-filters-test-scores-gas-leak-aliso-canyon>

31. Nathaniel Weixel, *Cuomo Says NYPD Needs to Enforce Social Distancing Rules*, *THE HILL*, Apr. 1, 2020, <https://thehill.com/homenews/state-watch/490623-cuomo-says-nypd-needs-to-enforce-social-distancing-rules>.

32. Fatalities, NYS DEP'T OF HEALTH, <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n> (last visited May 26, 2020); see also *The Color of Coronavirus: COVID-19 Deaths By Race And Ethnicity in the U.S.*, AMP RESEARCH LAB, May 20, 2020, <https://www.apmresearchlab.org/covid/deaths-by-race>; John Eligon, Audra D.S. Burch, Dionne Searcey, & Richard A. Oppel Jr., *Black Americans Face Alarming Rates of Coronavirus Infection in Some States*, *N.Y. TIMES*, Apr. 14, 2020, <https://www.nytimes.com/2020/04/07/us/coronavirus-race.html>.

33. E.g. *Stop-And-Frisk in the De Blasio Era* (2019), NYCLU, Mar. 14, 2019, <https://www.nyclu.org/en/publications/stop-and-frisk-de-blasio-era-2019>; *New York Should Legalize Marijuana the Right Way*, NYCLU, Apr. 25, 2019, [https://www.nyclu.org/sites/default/files/field\\_documents/20190425\\_marijuana\\_onepager\\_final.pdf](https://www.nyclu.org/sites/default/files/field_documents/20190425_marijuana_onepager_final.pdf).

34. The CDC's Advisory Committee on Immunization Practices has recommended that health care workers and adults living in long-term care facilities receive the first vaccines, although this recommendation is not binding on the states, and the initial batch of vaccines will be insufficient to fully vaccinate these two populations. See Jon Cohen, *CDC advisory panel takes first shot at prioritizing who gets the first shots of COVID-19 vaccines*, *SCIENCE*, Dec. 1, 2020, <https://www.sciencemag.org/news/2020/12/cdc-advisory-panel-takes-first-shot-prioritizing-who-gets-first-shots-covid-19-vaccines>.

35. E.g., Peter Jamison, *Anti-vaccination leaders fuel [B]lack mistrust of medical establishment as covid-19 kills people of color*, *WASH. PO.*, July 17, 2020, [https://www.washingtonpost.com/dc-md-va/2020/07/17/black-anti-vaccine-coronavirus-tuskegee-syphilis/?hpid=hp\\_hp-banner-main\\_black-antivax-940am%3Ahomepage%2Fstory-ans](https://www.washingtonpost.com/dc-md-va/2020/07/17/black-anti-vaccine-coronavirus-tuskegee-syphilis/?hpid=hp_hp-banner-main_black-antivax-940am%3Ahomepage%2Fstory-ans); *Sterilization of Latina Women*, *UNIV. OF PITTSBURGH*, Oct. 30, 2017, <https://www.panoramas.pitt.edu/health-and-society/dark-history-forced-sterilization-latina-women>; Caitlin Dickerson, Seth Freed Wessler, & Miriam Jordan, *Immigrants Say They Were Pressured Into Unneeded Surgeries*, *N.Y. TIMES*, Sept. 29, 2020, <https://www.nytimes.com/2020/09/29/us/ice-hysterectomies-surgeries-georgia.html>.

36. Ashley Southall, *Police Face Backlash Over Virus Rules. Enter 'Violence Interrupters.'*, *N.Y. TIMES*, May 22, 2020, <https://www.nytimes.com/2020/05/22/nyregion/Coronavirus-social-distancing-violence-interrupters.html>.

37. E.g. Galen Sherwin, *How Facebook is Giving Sex Discrimination in Employment Ads a New Life*, *ACLU SPEAK FREELY*, Sept. 18, 2018, available at: <https://www.aclu.org/blog/womens-rights/womens-rights-workplace/how-facebook-giving-sex-discrimination-employment-ads-new>.





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