



Arnold Ventures

Trends in Crime and Justice:

**Reflections on the
New York City Story, 1980-2017**

Presentation by

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A shorter version of this lecture was delivered at New York Law School on March 8, 2019. The actual presentation will be available at the Arnold Ventures website.

Dear friends and colleagues:

I am indebted to Ross Sandler for the invitation to speak with you this morning. The CITYLAW breakfast series is one of the most important gathering places for discussion of the issues facing our City and I am honored to be today's speaker. This also provides me a chance to reconnect with folks I have worked with over many years – and to show my respect for Ross. We worked together in the Koch Administration, when he was Transportation Commissioner and I was Special Advisor to the Mayor. Ross is a stellar example of the fully committed public servant and legal scholar, devoted to making our City better and now, at New York Law School, preparing the next generation of legal professionals who will continue that tradition.

I was glad to receive Ross's invitation for a very specific reason: I have been working through some personal and professional reflections on the remarkable "New York City Story of Crime and Justice." I have devoted my career to working on, thinking about, researching, writing about, and generally trying to better understand how our society should best respond to the challenges of crime and the imperatives of justice. I feel so privileged that this journey has allowed me to look at these issues through the unique prism of New York City.

I say this not just because I am a New Yorker, but because of the outsized influence of New York on the national discussion. But what is the New York message for the country? And what have we learned from the rest of the country? In our boastful moments, we like to think that New York City is at the cutting edge of innovation, which is often true. Yet in our more somber moments, we recognize that we have not always lived up to the demands of a just society. So this morning I want to engage you in a retrospective assessment of our history over the past nearly four decades, celebrating the good news, and coming to grips with our shortcomings and putting the New York City Story in national context.

I bring to today's discussion a rare treasure-trove of data that describe the New York City Story. These data have been compiled over the past six years by my colleague and friend, Dr. Preeti Chauhan, and the staff of the Data Collaborative for Justice at John Jay College.¹ The Data Collaborative has published 12 reports that have brought clarity to recent debates in our City on topics such as summons reform, closing Rikers, reducing arrests for turnstile jumping, and most recently, addressing racial disparities in marijuana enforcement.² I acknowledge a special thanks to Prof. Chauhan and her colleagues, particularly Quinn Hood, for preparing these analyses, some of which are presented for the first time.

Here is the ground we are going to cover: We will first summarize the trends that led to the five "new realities" of crime and justice in New York City – low crime rates, low enforcement rates, low rates of incarceration and supervision, the consequences of drug enforcement and persistent racial disparities. I then offer my reflections on these realities: the good news, the shortcomings, the lessons learned, and the challenges ahead.³

¹This research center was formerly known as the Misdemeanor Justice Project. It has primarily been funded by Arnold Ventures, previously known as the Laura and John Arnold Foundation, where I serve as Executive Vice President of Criminal Justice. To access the reports of the Data Collaborative for Justice, visit: www.datacollaborativeforjustice.org.

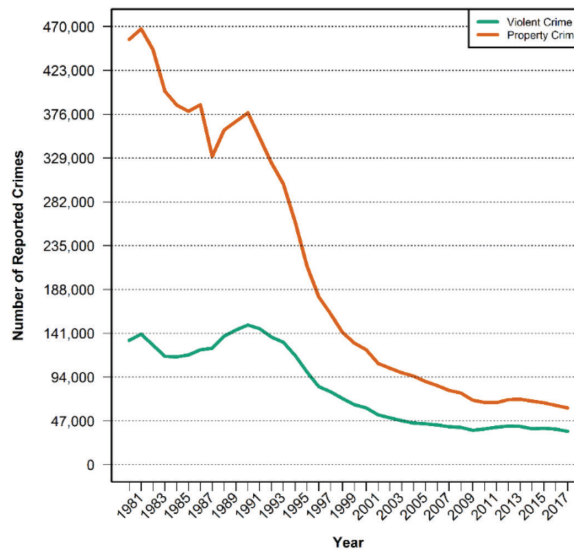
²We are also indebted to our government colleagues at the NYPD, DCJS, OCA and DOC who provided the data in these reports.

³Please note that the time frames for these analyses are not the same, depending on availability of data.

I. New York Reality Number One: > Low Crime Rates

The story of the historic crime decline in New York City is well-known to this audience. After a sharp increase in the late 1980s, the number of reported violent crimes peaked in the early 1990s and has declined sharply and steadily virtually every year since. Less well-known is the fact that the drop in violent crimes – although impressive – was not as sharp as the drop in reported property crimes.

FIGURE 1. Number of Reported Crimes in New York City, 1980-2017



Data Source: New York City Police Department (NYPD)

TABLE 1. Percent Increase to and Decrease from Peak Year of Reported Crimes⁴

VIOLENT CRIME	PROPERTY CRIME
1984-1990: +29.5%	
1990-2017: -76.1%	1981-2017: -87.0%

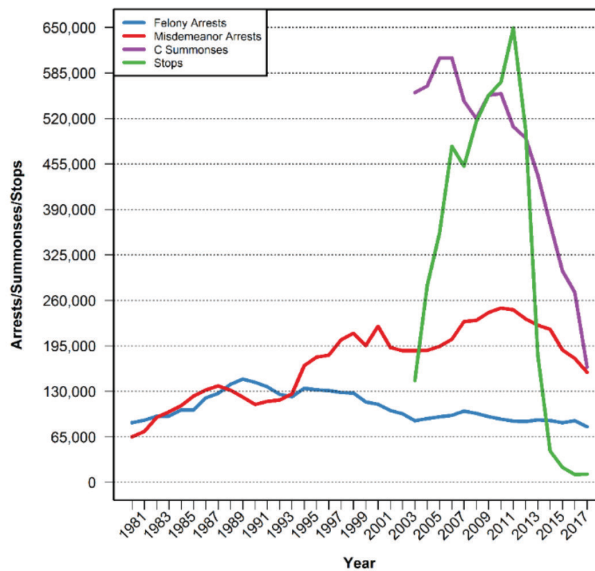
This is good news, without qualification. But I hasten to add that the story of the New York City crime decline is part of a larger national story. New York is not alone: crime rates have dropped across the country, notwithstanding recent upward trends in homicides in some cities. But it is also true that the crime decline in New York has been steeper, and the gains have been more enduring, than in most other cities. This morning I will set aside the debate over the reasons behind this decline, except to say that there is no single reason and scholars are still evaluating the contributions of multiple factors.

⁴In these tables, we report percentage increase to the peak and then decline from peak to most recent year.

II. New York Reality Number Two: > Low Enforcement Rates

The second piece of good news is that “enforcement rates” in New York City have also reached a new low. (By “enforcement rate” we include arrests, summonses, and pedestrian stops, also called stop, question and frisk.) But, as with crime rates, enforcement rates have also gone through a cycle of rapid increases, and rapid declines.

FIGURE 2. Enforcement Actions in New York City



Data Source: Division of Criminal Justice Services (DCJS), Office of Court Administration (OCA), and New York City Police Department (NYPD)

TABLE 2. Percent Increase to and Decrease from Peak Year for Enforcement Actions

FELONY ARRESTS	MISDEMEANOR ARRESTS	CRIMINAL SUMMONSES	PEDESTRIAN STOPS
1980-1989: +73.2 %	1980-2010: +283.3%	2003-2006: +8.4%	2003-2011: +346.1%
1989-2017: -46.2 %	2010-2017: -36.9 %	2006-2017: -72.7%	2011-2017: -98.2%

Let's start by tracking the rapid rise and fall of felony arrests. In this figure we see that felony arrests in New York City skyrocketed between 1980 and 1989, from about 85,000 to more than 140,000 over a nine-year period. Then they started to drop, pretty steadily, from that peak to about 80,000 in 2017, below their 1980 level.

Looking at misdemeanor arrests, we see totally different story. For a few years in the late 1980s, misdemeanor arrests and felony arrests both increased, but then in the early 1990's, something interesting happened. As felony arrests started their long decline, misdemeanor arrests continued to rise rapidly, peaking in 2010. Between 1980 and 2010, the number of misdemeanor arrests almost quadrupled, before falling by 37 percent by 2017. Notwithstanding this steep decline, and unlike the trend in felony arrests, the number of misdemeanor arrests in 2017 was still nearly two and half times the 1980 level.

Let's add other ingredients to the mix. The number of criminal summonses has also fallen dramatically, from a high of over 600,000 in 2006, to about 160,000 in 2017, a 73 percent drop.⁵ To add even more drama to the narrative, let's look at the stunning story of pedestrian stops, which rocketed from about 145,000 in 2003 (the first year with good data), to a high of nearly 650,000 in 2011, before dropping a staggering 98 percent to a mere 12,000 in 2017. To underscore the point, consider this: in 2011, the New York City Police Department carried out almost 1,780 pedestrian stops a day; by 2017, that had dropped to about 32 per day.

The bottom line of this analysis of enforcement trends is very striking. In 2017, compared to 2011, a few short years before, there were over one million fewer enforcement actions taken against New Yorkers by the New York City Police Department. That's about 3,000 fewer arrests, summonses or pedestrian stops a day. Most of that decline (about 60 percent) can be attributed to the drop in pedestrian stops, but the reductions in arrests and summonses are striking by themselves. Far fewer New Yorkers are being detained by the police, or subjected to the court process, sentencing, and warrants. In a moment I will ask you to reflect on these trends to see what lessons we have learned from this chapter in our history.

⁵ Good data on summonses were not available prior to 2003.

III. New York Reality Number Three: > Low Incarceration and Supervision Rates

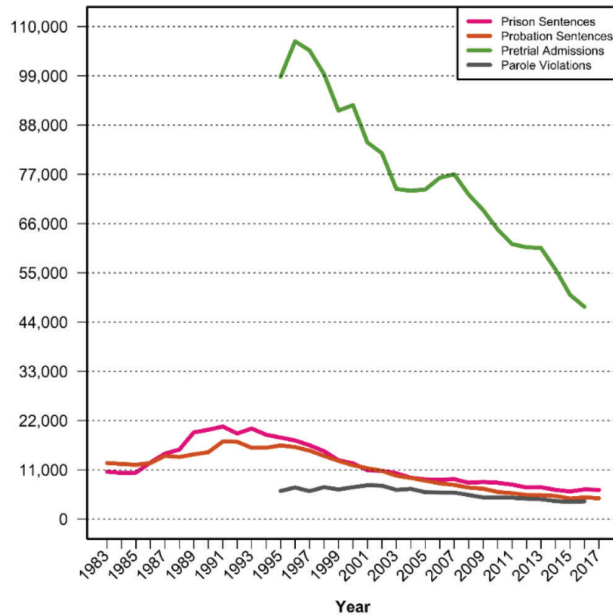
Not surprisingly, the dramatic decline in arrests has resulted in a corresponding drop in pretrial jail admissions, probation sentences, prison sentences and returns to custody on parole violations. In my view, the magnitude of these drops in the exercise of the sanctioning power of the State has not been given sufficient attention. Nor have we focused on the magnitude of the increases that brought our City's criminal justice system to a crisis point. This historical overview reminds us that our criminal justice agencies have been through a period of significant overload through the late 1980s and early 1990s. The era of high enforcement rates has operated like a tidal wave rippling through the rest of the system, with far-reaching consequences. Who could have anticipated this in the mid-1980s?

The data also reveal that the City's criminal justice agencies are now experiencing a sharp reduction in their workload. Stated differently, the reach of the criminal justice system into the lives of ordinary New Yorkers has been cut way back. Many people in this room are working hard to further reduce the footprint of the justice system in New York, whether through statutory reform now under consideration in Albany to reduce the levels of community supervision, or through the concerted efforts of the City and advocacy organizations to cut the pretrial population and close Rikers Island. If these efforts are successful, we will likely see more reductions in the future. But for now, let's look back in the hopes that a review of our history will help us think more critically about how these agencies should perform in the next chapter of the New York Story.

Let's look first at pretrial admissions to the City's jails. Many in this room – including me and Ross — remember the sense of crisis in the late 1980s. As the number of arrests climbed sharply, we were scrambling to find jail space, including trips to the Canadian border to check out prison beds and placing decommissioned barges on the East River as holding facilities. The data I present here tell the story beginning in 1995, at the peak of the pretrial detention levels. (The data available to us from DOC start in 1995.) Here we note a steep decline, from a peak of over 100,000 admissions in 1995, to half that in 2017.⁶ This trend tracks neatly with the decline in the level of arrests. Looking next at the number of defendants sentenced to probation, we again see a rapid rise, followed by a sharp decline. From 1985 to 1991 the number of defendants sentenced to probation increased by nearly 42 percent. This increase was followed by a dramatic 73 percent decline from 1991 to 2017.⁶

⁶ Probation and prison sentences are calculated as sentences from felony and fingerprintable misdemeanor arrests. These data do not include sentences to probation or prison via other enforcement actions or mechanisms.

FIGURE 3. Incarceration and Supervision in New York City



Data Source: Division of Criminal Justice Services (DCJS) and New York City Department of Correction (DOC)

TABLE 3. Percent Increase to and Decrease from Peak Year of Incarceration and Supervision

PRETRIAL ADMISSION	PROBATION SENTENCES	PRISON SENTENCES	PAROLE VIOLATIONS
1995-1996: +8.0%	1985-1991: +41.7%	1984-1991: +101.0%	1997-2001: +21.1%
1996-2016: -55.6%	1991-2017: -73.2%	1991-2017: -68.5%	2001-2016: -47.6 %

The rise and fall in felony arrests has also been reflected in admissions to state prison.⁷ Between 1984 and 1991, the number of New York City admissions to state prison nearly doubled, from approximately 10,000 to over 20,000. Think of this: in the space of seven years, the number of New Yorkers sent to state prison nearly doubled. Since then, we have witnessed a steady decline – in 2017, only 6,500 men and women from the City were sentenced to state prison. Let’s ponder the significance of this remarkable statement: we are now sending far fewer people to state prison than we did in 1983.

⁷We start in 1983 in order to allow time for those arrested in 1980-1982 to have their cases disposed.

Finally, we can look at trends in admissions to the Department of Correction for parole violations. We do not pay sufficient attention to this aspect of our criminal justice system. For good reasons, the current discussion of ways to close Rikers is focused squarely on this overlooked population. Approximately the same number of individuals are returned to custody for parole violations each year as are sentenced to probation in New York. But just as with every other aspect of our system of criminal sanctions, this has also undergone significant changes. From a high of nearly 7,500 individuals admitted to Department of Correction for violating the conditions of parole in 2001, that number has been cut nearly in half by 2016.

The net result of these trends is every bit as striking as the historic crime decline and the historic lows in enforcement activity. Far, far fewer New Yorkers are being admitted to pretrial custody in the Department of Correction, sentenced to serve time in the State's prisons, placed on probation and returned to jail for parole violations. These trends have real meaning for these agencies — their annual intake has reached low points not seen for decades — but the far more important impact is on the lives of New Yorkers. A very rough calculation makes the point. At the peak levels of pretrial admissions, prison admissions, probation sentences and parole revocations, approximately 180,000 New Yorkers were placed under those conditions of confinement or supervision. In 2016, when each of these trends had reached new lows, that number had dropped to about 80,000. Like the decline in crime, and the decline in enforcement actions, the decline in levels of incarceration and supervision can be understood as representing a significant change for the residents of our City. Far fewer people are subjected to the deprivation of their liberty and limitations on their freedom.

IV. New York Reality Number Four: > Drug Enforcement and its Consequences

As we look back, to the 1980s and 1990s, we are reminded that the City’s criminal justice system – and the people impacted by that system – has been through a period of unprecedented stress. To learn more about the drivers of this system stress, we need to take a closer look at the types of crimes for which people have been arrested. In doing so, another important New York story is revealed: much of the sharp rise in arrests — and therefore criminal justice processing — can be traced to New York City’s expansive use of enforcement strategies to respond to drug crimes. Remember that the mid-1980s was the time when crack cocaine burst on the scene in New York and other cities.⁸ The corollary truth is also clear: the steep decline must be seen as representing a radical departure from prior practice.

FIGURE 4. Felony Arrests by Charges in New York City, 1980-2017

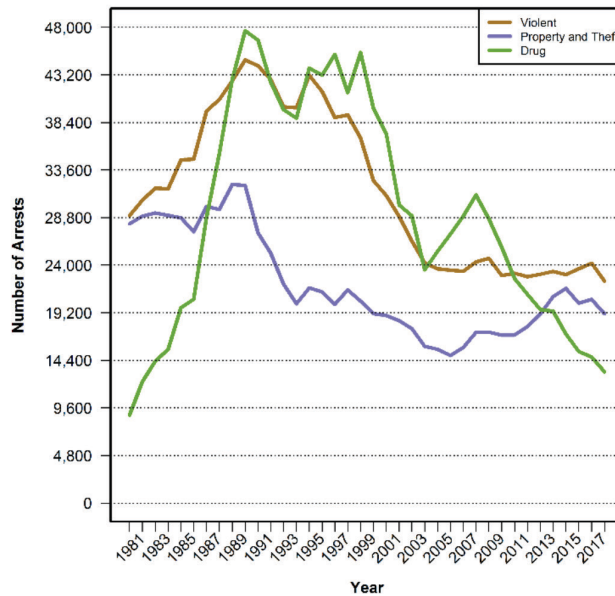


TABLE 4. Percent Increase to and Decrease from Peak Year for Felony Drug Arrests

FELONY DRUG ARRESTS

1980-1989: +436.9%

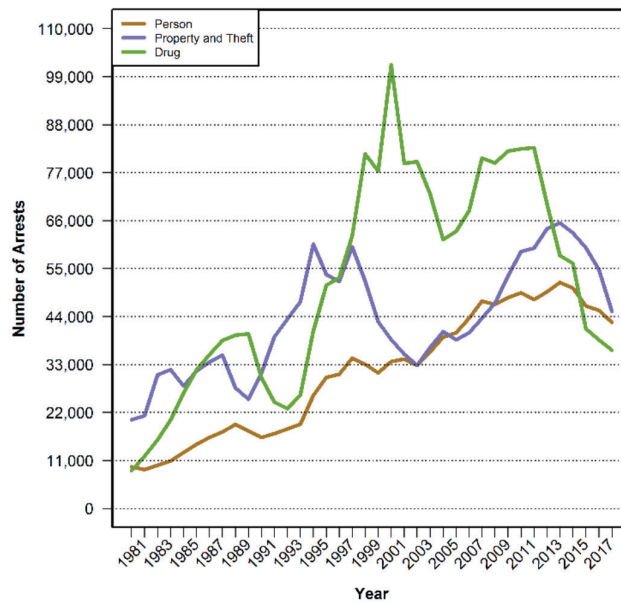
1989-2017: -72.3%

⁸In 1985, when I was Special Counsel to Police Commissioner Benjamin Ward, he returned from a trip to Los Angeles and told his senior team that the LAPD was wrestling with a new drug – they called it “ice” – and its disruptive effects on drug markets and the associated violence. Commissioner Ward, who then was presiding over a period of crime decline, said that when this drug hit New York City everything would change and crime rates would go up. He was right. The crack epidemic has been strongly associated with the sharp rise in violence in America’s cities from the mid-1980s to the early 1990s. See Blumstein, A. & Wallman, J. (Eds.). (2005). *The Crime Drop in America* (Cambridge Studies in Criminology). Cambridge: Cambridge University Press.

We start this line of analysis by first disaggregating the trends in felony arrests. In this figure, we see three separate trends, one for arrests for violent crimes, and a distinct trend for arrests for property and theft crimes. But I call your attention to a third trend that is rarely reported – the trend for arrests for drug felonies. From 1980 to 1989, as felony arrests increased by over 70 percent, arrests for drug felonies skyrocketed from about 9,000 to nearly 48,000, more than a five-fold increase. Quintupled in only nine years! Since then, the arrest rate for drug felonies has dropped steadily (with two short spikes in the mid-1990s and early 2000s). But look at the dramatic overall decline.

As with felony arrests for crimes of violence, which have remained relatively constant following a drop from 2003, and arrests for property crimes, which have increased slightly following a decline, arrests for drug-related felonies have plummeted from that high point of nearly 48,000 in 1989 to about 13,000 in 2017.

FIGURE 5. Misdemeanor Arrests by Charges in New York City, 1980-2017



Data Source: Data Source: Division of Criminal Justice Services (DCJS)

TABLE 5. Percent Increase to and Decrease from Peak Year for Misdemeanor Drug Arrests

MISDEMEANOR DRUG ARRESTS

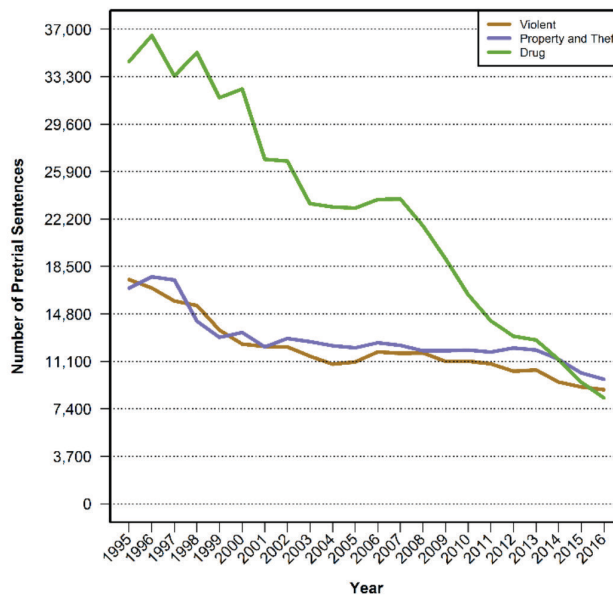
1980-2000: +1,071.2%

2000-2017: -64.3%

What about arrests for drug misdemeanors? Looking at these arrests, we see a similar trend. Since 1980 there has been a steady increase in misdemeanor arrests for crimes against the person and a roller-coaster rise, fall, rise, fall in misdemeanor arrests for property crimes. But arrests for drug misdemeanors follow a pattern similar to that seen for drug felonies: starting with a sharp rise – from about 8,500 in 1980 to nearly 100,000 in 2000, a more than ten-fold increase in two decades. Alongside the increase in pedestrian stops, this is one of the most dramatic changes seen over this period. Then, as seen elsewhere, we have witnessed a drop, followed by a short rise, and then a very steep decline. Overall, arrests for misdemeanor drug offenses dropped from 100,000 in 2000 to 36,000 in 2017, a striking 64 percent decline. As has been documented by the Data Collaborative for Justice,⁹ this downward trend in arrests for misdemeanor drug crimes, specifically marijuana offenses, has continued.

This part of the New York Story ends with a remarkable conclusion. In 2017, there were fewer misdemeanor arrests for drug crimes than for other misdemeanor categories. Equally striking: in the same year, there were fewer felony arrests for drug crimes than arrests for other felonies. In New York City, the War on Drugs has been a roller coaster ride characterized by dramatic rise and fall in the number of arrests for drug crimes. The question that hovers over this history is how we assess the costs and benefits of this expansive use of our arrest powers.

FIGURE 6. Pretrial Admissions by Charges in New York City, 1995-2016



Data Source: New York City Department of Correction (DOC)

TABLE 6. Percent Increase to and Decrease from Peak Year for Pretrial Drug Admissions

PRETRIAL DRUG ADMISSIONS

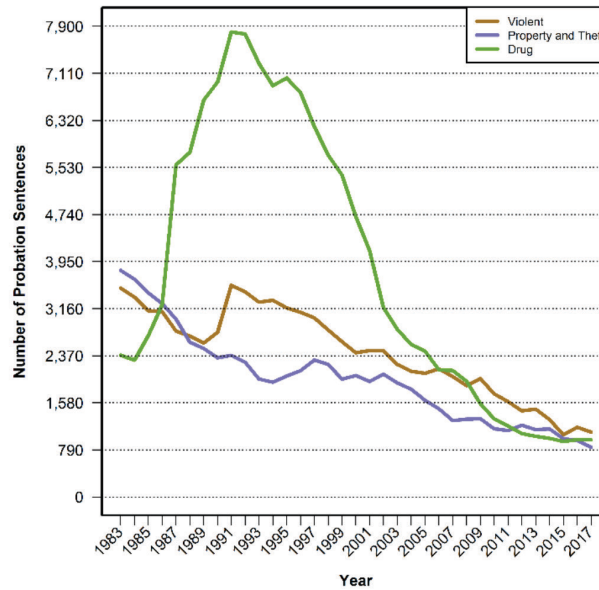
1995-1996: +5.9%

1996-2016: -77.4%

⁹Patten, M., Bond, E., Low-Weiner, C., Hood, Q., Lu, O., Tomascak, S., Agboh, D., & Chauhan, P. (2019). Trends in marijuana enforcement in New York State, 1990 to 2017. New York: New York: John Jay College of Criminal Justice, City University of New York.

One other finding of this analysis bears mentioning, in particular because the City is now assessing ways to further reduce the number of individuals held in pretrial custody in order to close Rikers. When we try to understand the drivers behind the drop in pretrial admissions in New York City, we rarely discuss this remarkable fact: Among all crime categories, the sharpest decline in pretrial admissions was for defendants charged with drug crimes (both felonies and misdemeanors). Over the two decades from 1996-2016, admissions for these crimes plummeted by 77 percent, while admissions of individuals charged with property and violent crimes declined modestly. This is natural, of course, because this sharp downward trend reflects the drop in arrests for those crimes.

FIGURE 7. Probation Sentences by Charges in New York City, 1983-2017



Data Source: Data Source: Division of Criminal Justice Services (DCJS)

TABLE 7. Percent Increase to and Decrease from Peak Year for Probation Sentences for Drug Charges

PROBATION DRUG SENTENCES

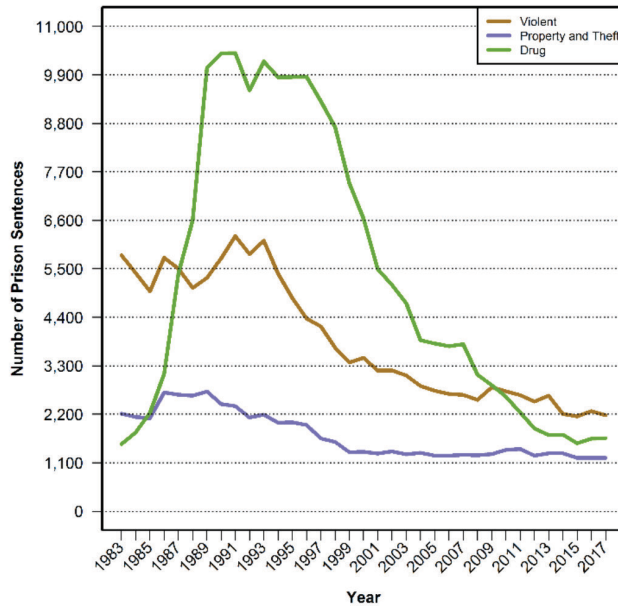
1984-1991: +240.2%

1991-2017: -87.7%

We would expect to see similar trends in our other categories of incarceration and supervision. From 1984 to 1991, the number of defendants sentenced to probation for drug offenses skyrocketed — from about 2,400 in 1984 to nearly 7,900 in 1991, more than a threefold increase in seven years. Yet, by 2017, individuals sentenced to probation for drug crimes had declined dramatically, dropping by 88 percent to a level below the 1984 rate. Put another way: in 1991,

about 7,900 New Yorkers were sentenced to probation for drug offenses; in 2017 it was approximately 1,000, at the same level as those sentenced for property crimes and crimes of violence. Most dramatic of all is the impact of drug enforcement on prison admissions. Between 1983 and 1991, admissions for drug offenses rose sharply, increasing almost sevenfold in the span of a decade. Yet by 2017, the number of people admitted for drug crimes dropped, to a level close to that seen in the early 1980s. Most striking is this fact: in the early 1990s, admissions to state prison of individuals convicted of drug offenses were double or triple the numbers of admissions for men and women convicted of property or violent crimes. By 2017, more people were admitted for violent crimes than drug crimes.

FIGURE 8. Prison Sentences by Charges in New York City, 1983-2017



Data Source: Data Source: Division of Criminal Justice Services (DCJS)

Table 8. Percent Increase to and Decrease from Peak Year for Prison Sentences for Drug Charges

PRISON DRUG SENTENCES

1983-1991: +583.9%

1991-2017: -84.1%

Looking at our history through the lens of drug enforcement helps us face the fact that much of the stress on the criminal justice system, and much of the impact of that system on New Yorkers and New York neighborhoods, can be attributed to our strategies for responding to the issues of drug use, drug markets, and drug-related crimes. Without the reality of the crack epidemic, and our response to it, our history would have been dramatically different.

V. New York Reality Number Five: > Persistent Racial Disparities

Before we shift gears to reflect on our City’s history, I would like to view these trends through the eyes of young men of color — African-American and Hispanic men between 18 and 24 years old. In terms of criminal justice policy and practice, this group of New Yorkers has a special claim on our thinking about the impact of the justice system. In the national reform discussion, we are witnessing a burst of attention to young adults, recognizing their unique developmental trajectories. We are also seeing attention paid to young men of color, recognizing that creating a healthy future for them is essential to our nation’s well-being.

We should not complete this overview without asking how they experienced this remarkable chapter of criminal justice policy in New York. Unfortunately, we do not have a citywide victimization survey, so we are not able to quantify the impact of the crime reduction on young men of color. But we can easily assert that the new level of safety in New York City has provided recent cohorts of young people with a much healthier environment in which to grow up.

FIGURE 9. Felony Arrest Rates for Young Men (18-24) by Race and Ethnicity in New York City, 1990-2017.

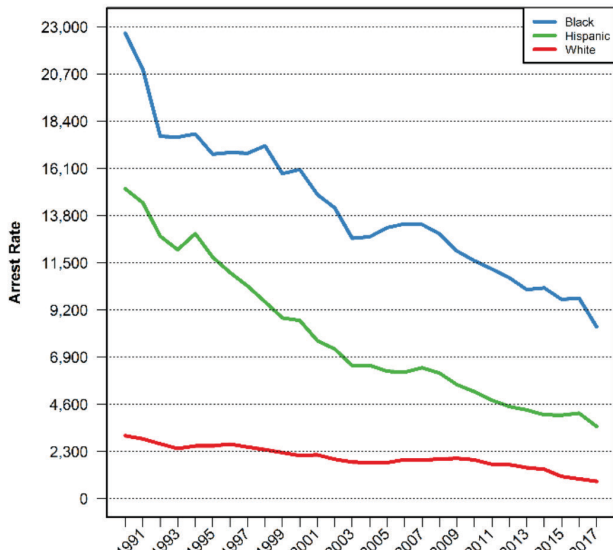


FIGURE 10. Misdemeanor Arrest Rates for Young Men (18-24) by Race and Ethnicity in New York City, 1990-2017.

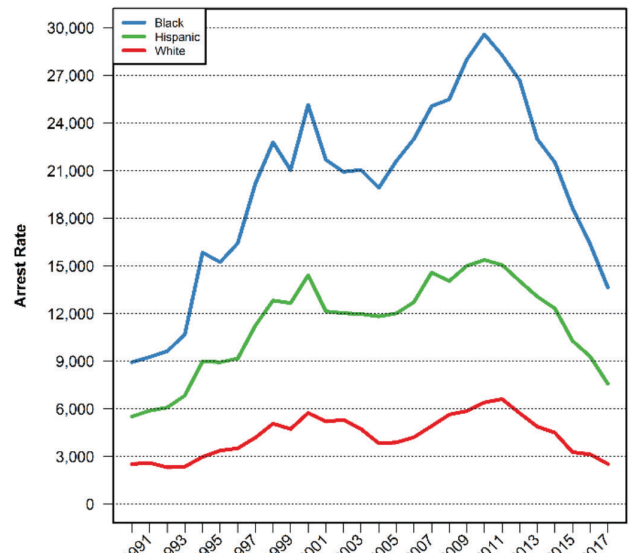


TABLE 9. Percent Decline in Arrest Rates for Young Men (18-24) in New York City from Peak Year by Race and Ethnicity

	FELONY ARRESTS	MISDEMEANOR ARRESTS
Black	1990-2017: -63.0%	2010-2017: -53.5%
Hispanic	1990-2017: -68.7%	2010-2017: -48.8%
White	1990-2017: -76.3%	2011-2017: -61.6%

TABLE 10. Black to White Racial Disparities in Arrest Rates in New York City

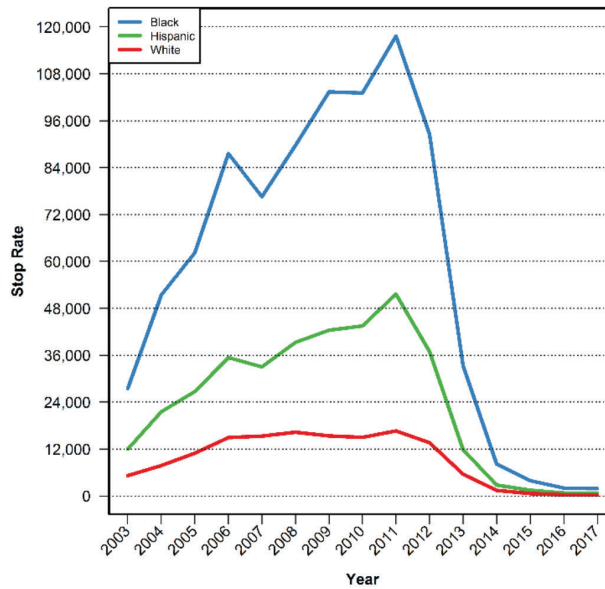
	FELONY ARRESTS	MISDEMEANOR ARRESTS
1990	7.4	3.6
2000	7.7	4.4
2010	6.1	4.6
2017	10.0	5.4

We do have data, however, that will allow us to examine the impact of the criminal justice system – from arrests to incarceration or probation — on these young men. The bottom line is that both the sharp increase, and the steep decline in criminal justice operations have been experienced more acutely by these New Yorkers. For them, the increases have been sharper, the drops have been steeper. As we ponder the meaning of these trends, I encourage you to keep them uppermost in our minds.¹⁰

Let’s look first at enforcement trends through their eyes. As this figure demonstrates, the rate of felony arrests for young Hispanic and African-American men have declined significantly (by 63 percent and 69 percent) but interestingly the decline felony arrest rates for young white men has been steeper (76 percent). Notwithstanding this overall downward trend, however, the racial disparities (comparing only the black/white ratio) have increased. Let’s look next at misdemeanor arrests. As we discussed earlier, the City witnessed a significant overall increase in misdemeanor arrests from 1980 to 2010, at which time they started to drop. For young African-American men, the increase in the rate of arrests for misdemeanors was very steep – about triple between 1990 and 2010 – and much steeper than for whites or Hispanics. But young African-American men have not seen the steepest decline; the decline for whites was more pronounced. To put this in perspective: between 1990 and 2010, the “probability” that a young Black man in New York City would be arrested for a misdemeanor more than tripled, then by 2017 had dropped by 54 percent. But for young white men, their rate of misdemeanor arrests dropped by 62 percent. We can also underscore this new reality by using the measure of racial disparities: the black/white ratio in misdemeanor arrests has increased from 3.6 to one, to 5.4 to one over the period covered by this report.

¹⁰ In this portion of our discussion we are using “rates” as the metric –e.g., arrests per 100,000 18-24 men within each race and ethnicity that live in New York City – which allows us to account for the changing demographic profile of the City as well as the population base. We will use analyses starting in 1990, which is the first year for good census data. Further, we do not include Asian American in these analyses because the number are very low.

FIGURE 11. Pedestrian Stop Rates for Young Men (18-24) by Race and Ethnicity in New York City, 2003-2017



Data Source: New York City Police Department (NYPD)

TABLE 11. Percent Decline in Pedestrian Stop Rates for Young Men (18-24) in New York City from Peak Year by Race and Ethnicity

STOPS	
Black	2011-2017: -98.4%
Hispanic	2011-2017: -98.6%
White	2011-2017: -99.0%

TABLE 12. Black to White Racial Disparities in Stop Rates in New York City

BLACK/WHITE RACIAL DISPARITIES IN STOPS	
2003	5.3
2010	6.9
2017	11.6

The most dramatic version of this story can be seen in the stop and frisk data. For young African-American men, the rate of police stops more than quadrupled in eight short years, from about 25,000 per 100,000 to nearly 120,000 per 100,000. Yes, you heard correctly. As a purely statistical matter, young African-American men experienced more than one stop per person per year. (Of course, some were stopped multiple times, some were never stopped.) Over the same period, the rate of police stops for young Hispanic young men quadrupled; for whites, the rate about tripled. Then the bottom fell out and the whole world changed for young adult men in New York City. For all groups, the drop in stop and frisk rates has been staggering — around 93 percent – and have now reached a point of convergence to levels in the range of 160 to 1,850 per 100,000

This is good news for young men. Not too long ago, for young men of color, the experience of being stopped was a commonplace occurrence. Today, that is no longer the case. But we should also ask whether in this domain we see another example persistent racial disparities. Unfortunately, over the years that the number of stops has plummeted, the black/white disparities have widened, indeed they have doubled. This phenomenon will require sustained attention in the years to come.

FIGURE 12. Pretrial Admission Rates for Young Men (18-24) by Race and Ethnicity in New York City, 1995-2016

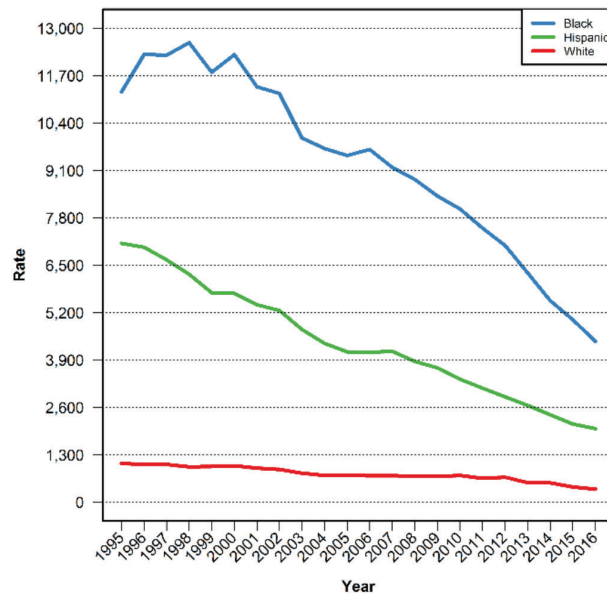
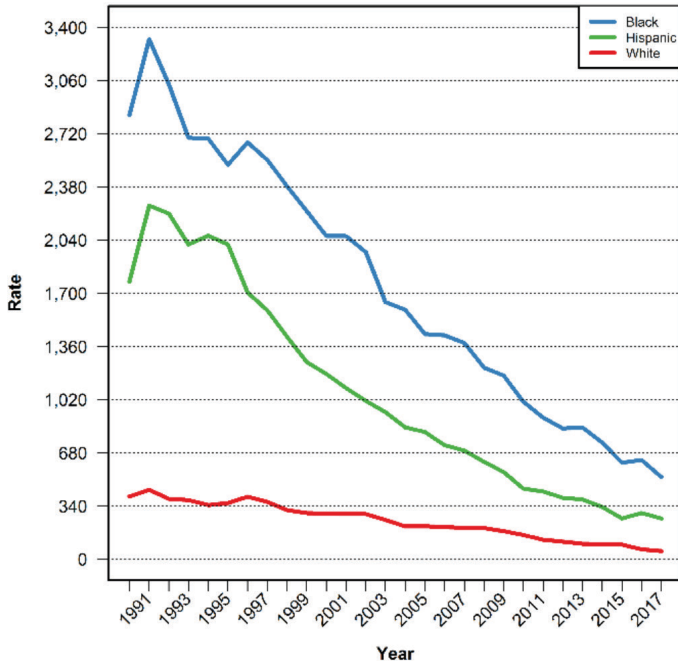
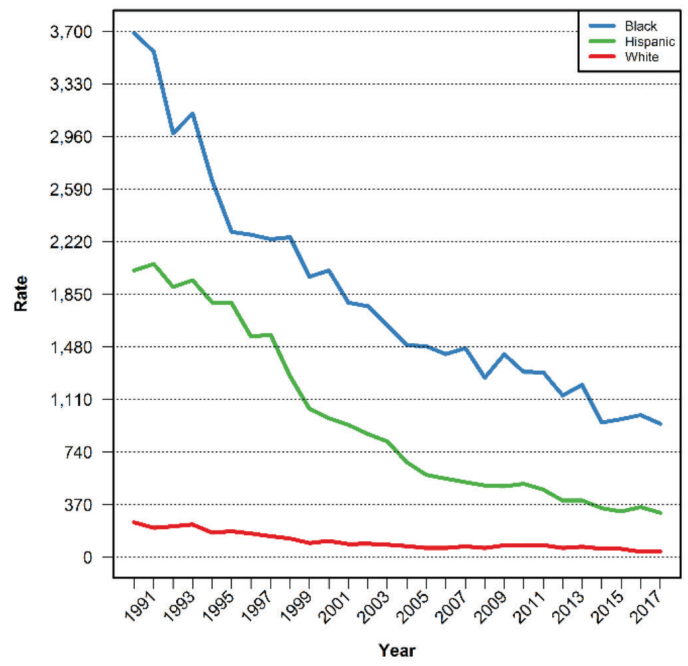


FIGURE 13. Probation Sentence Rates for Young Men (18-24) by Race and Ethnicity in New York City, 1990-2017



Data Source: Data Source: Division of Criminal Justice Services (DCJS)

FIGURE 14. Prison Sentence Rates for Young Men (18-24) by Race and Ethnicity in New York City, 1990-2017



Data Source: Data Source: Division of Criminal Justice Services (DCJS)

TABLE 13. Percent Decline in Incarceration and Supervision Rates for Young Men (18-24) in New York City from Peak Year by Race and Ethnicity

	PRETRIAL ADMISSIONS	PROBATION SENTENCES	PRISON SENTENCES
Black	1998-2016: -63.5%	1991-2017: -84.1%	1990-2017: -74.5%
Hispanic	1996-2016: -64.9%	1991-2017: -84.8%	1991-2017: -80.0%
White	1995-2016: -68.3%	1991-2017: -89.7%	1990-2017: -86.9%

TABLE 14. Black to White Racial Disparities in Incarceration and Supervision Rates in New York City

	PRETRIAL ADMISSIONS	PROBATION SENTENCES	PRISON SENTENCES
1990	-	7.1	15.1
1995	10.6	-	-
2000	12.3	7.1	18.0
2010	10.9	6.5	15.5
2017	12.3	10.1	25.4

Shifting gears, let's look at pretrial admissions, prison admissions and probation sentences for this population. Looking first at the decline in the rate of admissions to New York's jails for young men, it is interesting to note that the drop has been about the same for African-American, Hispanic and white men. But the racial disparities in admissions – although they have remained fairly constant – are very high, at a 12-to-one ratio. Similarly, the rates of probation sentences have also declined with little difference between the declines for white, African-American and Hispanic young men. The recent increase in racial disparities in probation sentences would benefit from closer examination, but the most striking finding is the high level of black/white disparities overall. Finally, the drop in rates of prison sentences for young Black men between 1990 and 2017 is stunning, from about 3,700 per 100,000 to slightly more than 900 per 100,000. Yet we also note that the declines for white and Hispanic young men were slightly steeper. And, before we celebrate the declines, we should be startled by the large racial disparities revealed in our analysis: in 2017, we see a black/white ratio of 25 to one in prison admissions, much higher than in previous years. It would seem that, the deeper we get into the system, the greater the racial disparities, and secondly, that for most parts of the justice system, the racial disparities increased over time.

We can look at these data with a sense that the City has made progress. Certainly it's true, as Preeti and I pointed out in an Op-Ed in the Daily News,¹¹ that the greatest beneficiaries of the reduced footprint of the justice system in New York City are young men of color.¹² But we should recognize that, notwithstanding this progress, racial disparities still remain, nearly all of which have widened over time. The reality of persistent – and widening – racial disparities in the enforcement of our criminal laws should compel us to find ways to reduce this gap. Isn't this the right time for a sustained and honest examination of these realities? Can we launch this discussion in ways that do not simply end up with the pointing of fingers? How can we subject the operations of the entire criminal justice system of New York City to an end-to-end analysis of racial disparities? How can we even arrive at a common definition of the term, "racial disparity"? This is important work.

¹¹ <https://www.nydailynews.com/opinion/needed-reprieve-young-n-y-men-article-1.2950769>

¹² In other domains, the levels of justice system intrusion in the lives of young people have shifted in more lenient directions. See also Chauhan, P., Tomascak, S., Hood, Q., Cuevas, C., Lu, O., & Bond, E. (2019). Tracking suspensions in New York City public schools, 2006-2017. New York: New York: John Jay College of Criminal Justice, City University of New York. Weissman, M., Ananthakrishnan V., and Schiraldi V. (2019). Moving Beyond Youth Prisons. Retrieved from Columbia University Justice Lab Website: https://justicelab.columbia.edu/sites/default/files/content/Moving%20Beyond%20Youth%20Prisons%20-%20C2H_O.pdf

VI. Reflections

How should we think about our City's history? I readily admit that I do not have a clear answer to that question, except to believe that we must face this history before we can move forward to build a response to crime that is more effective and based on trust, particularly between the system agencies and communities of color. Here are some initial thoughts, with an invitation to continue the discussion.

The New York Story we share this morning is mostly a good news story. Crime rates have dropped. Enforcement rates have dropped. So too have the limitations on individual liberty that come from holding someone on bail, imposing a sentence of probation, or sending a defendant to state prison. This in turn means that the harms associated with arrests, incarceration and supervision – on individuals, families and communities – have been averted. We should acknowledge and celebrate that our City has reduced the reach of the criminal justice system.

Hopefully, the fact that New York City is now the safest large city in America – and we have made progress in reducing the system's footprint – should provide us an opportunity to rethink our traditional response to crime and point the way for other cities. Clearly, our first obligation is to make sure that crime rates do not increase again, but so far the trends are encouraging. In terms of systems reforms, we have had some noteworthy successes, such as enactment of the Criminal Justice Reform Act, closure of several state prisons, reform of the Rockefeller Drug Law, and significant reductions in the Rikers population. We are about to launch an important state-wide debate about marijuana legalization.

But, going forward, let's think bigger. How do we cut back on the draconian sentences that have filled our prisons? How do we address issues of substance use, mental health, and intimate partner violence? How do we find better ways to respond to low level crimes? How do we better address the needs of crime victims? How do we promote alternative ways to resolve disputes, and adopt principles of restorative justice? What misconduct should be defined as criminal? How should we best respond to the legitimate concerns of the public when they call the police for help? It's exciting that so many of these issues are being tackled in New York City right now. Hopefully, the next forty years will be marked by a very different set of laws, policies and institutions.

Most fundamentally, however, I believe this review of our history requires us to acknowledge that our over-reliance on the criminal justice system has caused harm. For me, this discussion is the next frontier in the reform movement. It is tempting to simply celebrate our success and support new ideas. At a national level, the criminal justice reform discussion, in particular the Square One Project launched by Bruce Western and his colleagues at the Justice Lab at Columbia University, has embraced the phrase "punitive excess" to describe this reality.¹³

When we look back at the past half century, we can quantify the impact of this era: the rates of arrest, pretrial detention, incarceration and community supervision have increased multi-fold. We can quantify the ways that this unprecedented level of punishment has fallen more heavily on communities of color. We can count the taxpayer dollars that support a bloated criminal justice system and easily imagine a better way to spend that money. More important than the quantitative framing is a normative framing: this era of punitive excess has violated core principles that should guide the criminal justice policy in a healthy democracy. As the report of the National Research Council reminds us, in the operations of our criminal justice system we have lost sight of the values of proportionality, parsimony, human dignity and social and racial justice.¹⁴

¹³ The Square One Project is exploring this topic at the next Roundtable to be held in Oakland. See www.squareonejustice.org. See also National Research Council (2014), *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, Washington, D.C.: The National Academic Press. J.Travis, B. Western, and S. Redburn, Editors.

¹⁴ See National Research Council (2014), Chapter 12, *supra*.

When I look at the data on the New York Story, I see that, with the rest of the nation, we are also emerging from an era of punitive excess. On reflection, I ask myself whether we responded to the very real crisis of the crack epidemic too harshly. We ramped up our arrests, put lots of our fellow citizens in prison for very long sentences, scrambled to find enough jail space for a burgeoning population of pretrial detainees, caused untold heartache to the families of those we sent to jail and prison, and exacerbated the divisions of race and class in our City. These policies caused enormous strain on our justice agencies and put our police officers and the people they arrested at risk of physical injury. If we were to simply calculate the aggregate life-years of our fellow citizens who were sent to prison for drug offenses, and ask ourselves was it worth it, we would weep. Similarly, it is hard to look at the data on the rise in misdemeanor arrests, the wild roller coaster ride of the stop-and-frisk era, and the extensive use of criminal summonses for minor offenses, and not ask about the enduring damage caused by this overuse of the criminal law.

It is tempting to look back at this history and make a superficial link between the crime decline and these practices that we could call excessive and conclude that there was a causal link. Some will respond to this presentation and assert that we have low crime rates because we responded so aggressively. For me, that's too easy. That conclusion is not supported by the research; on the contrary, the scientific consensus is that the country has gone too far in the use of the criminal justice system to respond to crime with too little public safety benefit. But it's also impossible to look at this history and say exactly what we should have done differently. That's the honest conversation that I hope to prompt today.

But if you agree with my conclusion that we are emerging from an era of punitive excess and have done harm, then what's next? To begin with, I think we should forthrightly acknowledge that the burden of these policies has been disproportionately borne by young men of color – and their families and communities. We have undermined, not advanced, our goal of racial justice. This dimension of our history only reinforces the imperative of reducing these disparities in the future. More broadly, we have placed thousands of young men and women behind bars for long sentences with little discernable benefits and immeasurable costs. Because our sentences were so draconian, we have now created a system of geriatric prisons and a larger share of those we sent away will die in prison. We have forfeited a piece of our future and denied the larger society the benefits of their talents. And we have exacerbated the deep distrust between many communities, the police and, more broadly, the rule of law. We have a long ways to go to restore that trust, but it starts with a reckoning with this history of harm.

Yet an acknowledgement of past harm is only a beginning. We should also find ways to mitigate those harms. Again, I think we can learn from the national reform conversation. As the federal government implements the First Step Act and retroactively releases people sentenced under harsh punitive regimes, why can't we? As other jurisdictions seal or expunge old criminal records, or relieve people of burdensome financial obligations accumulated through excessive fees, why can't we? As states create "Second Look" provisions to reduce excessive sentences, adopt mechanisms for compassionate release, and take steps to alleviate the realities of geriatric prisons, why can't we? What other ideas should we bring to the table?

We have lots of work to do and a rare moment in history to do it. All that is lacking is imagination and political will. I hope that you will join in – and facilitate – this discussion about the next chapter of the New York Story. It is our story to write.