



March 7, 2024

The Honorable Mike Johnson
Speaker of the House
H-232, The Capitol
Washington, DC 20515

The Honorable Hakeem Jeffries
House Minority Leader
2433 Rayburn House Office Building
Washington, DC 20515

The Honorable Chuck Schumer
Senate Majority Leader
S-230, The Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Senate Minority Leader
317 Russell Senate Office Building
Washington, DC 20510

Dear Speaker Johnson, Minority Leader Jeffries, Majority Leader Schumer, and Minority Leader McConnell:

On behalf of The Leadership Conference on Civil and Human Rights—a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the civil and human rights of all persons in the United States—and the nine undersigned organizations, we write to express our opposition to H.R. 895/S.140, the Combating Organized Retail Crime Act of 2023 (CORCA). This bill relies on old, outdated data and, as a result, reacts to fear over facts to promote failed punitive policies that would further criminalize poverty and potentially cause disproportionate harm on Black and Brown communities. We urge you to reject this bill and any other legislation that seeks to address what amount to perceptions and narratives of increased crime that research suggests are ineffective and counterproductive and that the facts do not warrant. Punitive measures for a problem for which there are real solutions, from greater investment by retail outlets in staffing to additional prevention programming, is counter-productive and harmful. We ask that you consider investing in non-carceral, community-led programs with the resources and systems that can remedy the root causes of public safety concerns while allowing all communities to thrive.¹

In the past few years, retail groups and others have sounded an alarm about a supposed “epidemic” of organized retail crime, stoking fears in the media and calling for increased punitive measures to address

¹ **The Leadership Conference on Civil and Human Rights will score any floor vote on CORCA in its Voting Record for the 118th Congress.** See also Civil Rights Organizations Express Concerns Regarding Police Week Bills. *The Leadership Conference*. May 15, 2023. <https://civilrights.org/resource/civil-rights-organizations-express-concerns-regarding-police-week-bills/>.

this so-called crisis.² Yet, in reality, there is no such epidemic of organized retail theft.³ Rather, the very premise of CORCA and its supposed necessity rest on old, outdated data and overblown fears—spread by irresponsible media—about purported increases in organized retail crime instead of actual facts. The National Retail Federation claimed that nearly half of the industry’s \$94.5 billion in missing merchandise in 2021 was due to organized theft, but was forced to retract that claim when the data showed that it was in fact closer to five percent.⁴ Research shows that shoplifting decreased in many major American cities from 2019 to 2023, which is particularly salient given that CORCA’s legislative findings rely on 2019 data.⁵ Some retail leaders even acknowledge their fears were overblown, with one executive saying that “maybe we cried too much last year” about theft.⁶

CORCA responds to these exaggerated concerns through several provisions that significantly increase the federal law enforcement response to retail theft. Its most troubling provision relates to changes regarding the value of goods. Currently, criminal charges for violating 18 USC § 2314 (transportation of stolen goods) or § 2315 (sale or receipt of stolen goods) require goods valued at over \$5000 or more. CORCA changes this threshold by allowing prosecutors to utilize an aggregate total value of \$5000 or more over a 12-month period. This change is troubling not just because CORCA overall rests on a false premise of increased retail theft, but also because provisions like these will likely increase the criminalization of poverty.

Criminalizing minor theft only exacerbates the economic insecurity often at root such as access to employment and housing. Those living in poverty without access to adequate programs or services that would help them to afford basic needs could easily surpass this new threshold during the course of one year. Because of structural bias in barriers to employment and opportunity, poverty in many cases correlates with race,⁷ with Black and Brown Americans disproportionately represented in poverty measures.⁸ Thus, legislation like CORCA that criminalizes poverty and sweeps more low-level crime into

² Lopez, German. “Is Shoplifting Really Surging?” *New York Times*. Nov. 29, 2023.

<https://civilrights.org/resource/civil-rights-organizations-express-concerns-regarding-police-week-bills/>.

<https://www.nytimes.com/2023/11/29/briefing/shoplifting-data.html>.

³ See, e.g., Sebastian, Thea, and Love, Hannah. “Retail theft in US cities: Separating fact from fiction.” *The Brookings Institution*. March 6, 2024. <https://www.brookings.edu/articles/retail-theft-in-us-cities-separating-fact-from-fiction/>; Fayyad, Abdallah. “The shoplifting scare might not have been real — but its effects are.” *Vox*. Jan. 7, 2024. <https://www.vox.com/politics/24025691/shoplifting-scare-criminal-justice-reform>; Bennett, Laura, et al. “Retail theft: what to know and where to go for more.” *Center for Just Journalism*. Jan. 2023.

<https://justjournalism.org/page/retail-theft>.

⁴ Medina, Eduardo. “Retail Group Retracts Startling Claim About ‘Organized’ Shoplifting.” *New York Times*. Dec. 8, 2023. <https://www.nytimes.com/2023/12/08/business/organized-shoplifting-retail-crime-theft-retraction.html>.

⁵ Lopez, Ernesto, et al. “Shoplifting Trends: What You Need to Know.” *Council on Criminal Justice*. Nov. 2023. <https://counciloncj.org/shoplifting-trends-what-you-need-to-know/>.

⁶ Holpuch, Amanda. “Walgreens Executive Says Shoplifting Threat Was Overstated.” *New York Times*. Jan. 6, 2023. <https://www.nytimes.com/2023/01/06/business/walgreens-shoplifting.html>.

⁷ “Poverty in the United States: 2022.” *United States Census Bureau*. Sept. 12, 2023.

<https://www.census.gov/library/publications/2023/demo/p60-280.html>.

⁸ “How the Census Bureau Measures Poverty.” *United States Census Bureau*. Jun 15, 2023.

<https://www.census.gov/topics/income-poverty/poverty/guidance/poverty-measures.html>.



the federal system would disparately criminalize and destabilize communities of color. Federal efforts should instead be aimed at alleviating poverty by increasing access to services that produce economic security while leaving the law enforcement response to local authorities.

The data are clear: longer sentences and harsher penalties do not prevent crime.⁹ Incarceration has no effect on whether an individual will reoffend and, in fact, may increase the likelihood of another offense.¹⁰ And yet, for far too long, the federal government has relied on criminalization, incarceration, and policing to create public safety in communities, continuing harmful and ineffective strategies that have led to the shameful mass incarceration of Black and Brown people and perpetuate a history of structural racism and anti-Blackness in this country.¹¹ This approach has failed the nation. Instead of relying on tired “tough-on crime” policies like CORCA, which have not proven to increase safety, Congress should endeavor to build safety by investing in the actual communities suffering from violence, implementing proven crime prevention strategies, and investing in the resources and systems that make all communities thrive. True safety comes from equitable access to quality education, health care, affordable housing, and economic opportunities.

We urge you to oppose CORCA and its false and misleading premise of increased retail theft and instead work to address the root causes of economic instability in vulnerable, underserved communities. If you have any questions, please feel free to contact Chloé White, senior policy counsel, justice, at The Leadership Conference, at white@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
American Civil Liberties Union
Lawyers’ Committee for Civil Rights Under Law
NAACP
NAACP Legal Defense and Educational Fund, Inc. (LDF)
National Action Network

⁹ See, e.g., Brooke-Eisen, Lauren, et al. “What Caused the Crime Decline?” *Brennan Center for Justice*. 2015. Pg. 79. <https://www.brennancenter.org/our-work/research-reports/what-caused-crime-decline> (“This report demonstrates that when other variables are controlled for, increasing incarceration had a minimal effect on reducing property crime in the 1990s and no effect on violent crime. In the 2000s, increased incarceration had no effect on violent crime and accounted for less than one-hundredth of the decade’s property crime drop”).

¹⁰ Petrich, Damon M., et al. “Custodial Sanctions and Reoffending: A Meta-Analytic Review.” *Crime and Justice: A Review of Research*. Vol 50. Sept. 22, 2021. <https://www.journals.uchicago.edu/doi/abs/10.1086/715100?journalCode=cj>.

¹¹ See Sawyer, Wendy, and Wagner, Peter. “Mass Incarceration: The Whole Pie 2023.” *Prison Policy Initiative*. March 14, 2023. <https://www.prisonpolicy.org/reports/pie2023.html>; “Race and ethnicity.” *Prison Policy Initiative*. https://www.prisonpolicy.org/research/race_and_ethnicity/#:~:text=Percent%20of%20people%20in%20prison,who%20are%20Black%3A%2048%25%20%2B (noting that while Black people make up only 13 percent of the population of the United States, they comprise 40 percent of people in jails and prisons, and 48 percent of people serving life, life without parole, or “virtual life” sentences).

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National Coalition on Black Civic Participation
National Council of Negro Women
National Urban League
Southern Poverty Law Center Action Fund

CC: President Joseph R. Biden, Jr.
Vice-President Kamala Harris
Neera Tanden, Director, Domestic Policy Council
Stephen Benjamin, Senior Advisor to the President