

Testimony of Brendan McGuire
Chief Counsel to the Mayor and City Hall
Before the New York City Council Committee on Criminal Justice
June 28, 2022

Good morning, Chair Rivera and members of the Committee. I am Brendan McGuire, Chief Counsel to the Mayor and City Hall. I also serve as Co-Chair, with Deputy Mayor Phil Banks, of the Rikers Island Interagency Task Force. It is in this capacity that I testify before you today.

On May 12, 2022, the Mayor issued Executive Order 16. Executive Order 16 created the Rikers Island Interagency Task Force, which formalized the whole-of-government approach this administration is applying to the *Nunez* litigation and the implementation of the action plan. This administration has been fully supportive of the Department of Correction and the Law Department since January and the establishment of the Task Force reinforces this commitment to identifying multi-agency solutions, surging resources where needed and minimizing bureaucratic delay.

This morning, I will describe the member agencies of the Task Force, the role that each plays, and how the Task Force operates.

Because the Task Force meets under the direction of the Law Department in connection with the ongoing *Nunez* litigation, its work is subject to the attorney-client privilege and attorney work product protection. As a result, I may be limited in my ability to discuss its work.

First, the membership of the Task Force. All of the parties to the *Nunez* litigation, including the plaintiffs, the Monitor, and the U.S. Attorney's Office, have for years called for full City Hall support to comply with the consent decree. Based on our review since we began in January, we concluded that that level of commitment had not been made in the past, and we recognized that we needed to establish a mechanism to ensure that every relevant agency treated Rikers Island as a top priority and to enable the Law Department and the Department of Correction to obtain prompt and thorough responses to Rikers litigation issues. We believe we have achieved that with the Task Force. The following agencies are currently members of the Task Force: the Department of Correction, the Law Department, the Mayor's Office of Criminal Justice, Correctional Health Services, the Office of Labor Relations, the Office of Management and Budget, the Mayor's Office of Contract Services, the Department of Citywide Administrative Services, and the Department of Design & Construction.

The Executive Order authorizes the Chairs of the Task Force to add additional agencies, as necessary, so this list may change if needed.

Each of these agencies plays an important role in supporting the Department's work at Rikers Island.

- First, the Law Department leads the City's efforts in this litigation. It sets the priorities for the Task Force, provides legal guidance to member agencies regarding the implementation of the action plan and directs the strategy of the *Nunez* litigation more generally.
- The Office of Management and Budget addresses budgetary issues impacting Rikers Island and assists in accelerating the delivery of City resources to areas of greatest need when appropriate.
- The Department of Citywide Administrative Services is critical to addressing personnel issues. For example, DCAS has been instrumental in assisting the Department in resolving some of its recruiting challenges.
- The Office of Labor Relations takes the lead with the unions who represent the men and women who work at Rikers and provides advice and guidance to the Law Department regarding policies that affect the unions.

- The Correctional Health Services team advises on relevant health care issues.
- The Department of Design & Construction has played, and continues to play a significant role in repairing the physical deficiencies at Rikers.
- The Mayor's Office of Criminal Justice supports the Task Force's efforts to reduce delays for Rikers-related cases, serving as our liaison with the District Attorney's Offices and the courts.
- Finally, the Mayor's Office of Contract Services is available to provide advice and guidance on relevant Rikers-related contracts.

The Task Force meets at least once a week as a whole, while smaller meetings among member agencies occur daily. As Co-Chairs of the Task Force, Deputy Mayor Banks and I regularly update the Mayor on its work. We all understand that time is of the essence, and with the Mayor's full support, we are fully committed to this mission. As Co-Chair of the Task Force, I take seriously my obligation to work with the Law Department and the Department of Correction to keep these agencies focused on our ultimate objective – the efficient and complete implementation of the action plan.

With the efforts of the Task Force, the Department of Correction, and other stakeholders, I am confident that we can achieve our goal of building a functional, safe, and humane jail system.

**Testimony before the
New York City Council
Committee on Criminal Justice
Chair Carlina Rivera
By
Louis A. Molina, Commissioner
NYC Department of Correction**

June 28, 2022

Good morning, Chair Rivera and members of the Committee on Criminal Justice. I am Louis Molina, Commissioner of the Department of Correction. Thank you for allowing me the opportunity to speak with you today about the steps that Mayor Adams and the Department are taking to improve the City's jails, and to share my thoughts on several pieces of legislation. As the Administration approaches the six-month mark, I would like to take this opportunity to reflect on where we are and what lies ahead.

Before I begin, I must acknowledge the recent losses that we have unfortunately experienced. Anibal Carrasquillo and Albert Drye passed away last week while in the Department's custodial care, and Antonio Bradley passed away after being compassionately released from the Department's custody. It is truly heartbreaking to open each hearing with these kinds of acknowledgements, and my deepest condolences go out to their families and loved ones. Since we last met, we have lost an active-duty member of service, Captain Tandra Bowser-Williams. Our thoughts are with her family and loved ones as well. Lastly, I, along with the entire Department of Correction family, extend my condolence to Captain Lisa Steele and her family on the terrible loss of her stepson Darius Lee. Darius passed away last week in Harlem, his birthplace, while home from college. He was a victim of gun violence, which has become all too prevalent in our city.

The Nunez Action Plan

Earlier this month, the Federal Monitor filed an updated Action Plan for the City and the Department to address the decades of mismanagement that have brought us here today. On June 14, 2022, the Court approved this plan and noted that it “represents a way to move forward with concrete measures now to address the ongoing crisis at Rikers Island.” I want to emphasize, as the Monitor did, that the conditions in the jails today are deep-seated and are not only the result of failures within the Department. The failure of our jails represents the failure of a whole system; accordingly, it will take a concerted effort to move us forward. As Chief Counsel McGuire has noted through his testimony, the Rikers Island Interagency Taskforce was created with this goal in mind. It is a city-wide initiative created with the full backing of Mayor Adams to support the Department of Correction as we address the long-standing issues that have plagued this agency for far too long. Likewise, City Council’s partnership will be critical to implementing this plan and other strategic initiatives as the Department continues to focus on reform.

As I stated in my testimony during the Department’s Fiscal Year 2023 Executive Budget, I am in agreement with the plan, as it supports my vision for the Department. I am focused on creating a culture of discipline, accountability and service to persons experiencing incarceration that will ultimately lead to safer and more humane jails. Ultimately, my vision is of a jail system that serves the public interest and has earned the public’s trust. I know that is no easy task, but I believe the work we have undertaken in just six months is proof of concept that will serve as a foundation for the many successes ahead of us.

RNDC Plan & Department-wide Violence Reduction

In my first six months as Commissioner, I have taken coordinated and effective steps to create the agency I envision. At the end of February, just two months into my tenure, I instituted a strategic violence reduction plan at the Robert N. Davoren Center (RNDC) to address the heightened levels of violence at that facility. This plan takes a holistic, multipronged approach to address the complex issues that have contributed to increased violence and disorder within the

facility. I knew that if we could get it right at RNDC, with arguably one of the most difficult populations to manage, then we could replicate success across the Department.

The Department has implemented changes to housing policies, improvements to staff supervision and accountability, and enhanced programming and services to provide critical opportunities for behavioral change and growth for young adults. We also ended the misguided practice of concentrating gang affiliations in housing areas at RNDC, which allowed people in custody to overpower our staff and led to an atmosphere of violence and fear. We also strategically increased facility searches and tactical search operations at RNDC and throughout our jail facilities, a practice that was largely abandoned during the pandemic. These searches have resulted in the recovery of over 700 contraband weapons from RNDC alone, and over 2,700 across all facilities. The number of slashings and stabbings at RNDC decreased by nearly 80 percent in May as compared to March of this year, when we instituted this strategic violence reduction plan, and decreased by 63 percent Department-wide when you compare our numbers in May to March of this year. As of June 23rd, there has only been one reported slashing/stabbing at RNDC. This is a remarkable achievement and I want to commend the uniform members of service and non-uniform staff who worked tirelessly to get us here. In his May 17th filing, the Federal Monitor noted the effectiveness of this plan at “reducing the level of fear among staff and people in custody.” Because of its success, we are beginning to implement a similar strategy at other facilities, including GRVC and AMKC, with the anticipation of similar results.

In just six months, these actions and others have resulted in a decrease in several major violence indicators in 2022: assaults on staff have decreased 31 percent, use of force has decreased by 26 percent; in May 2022 versus May 2021, slashings and stabbings Department-wide were down 44 percent; and as of yesterday month-to-date in June 2022 versus month-to-date in June 2021, we are currently experiencing a 21 percent decrease of slashing and stabbings Department-wide. I recognize the frequency of assaults, use of force incidents, and slashings and stabbings are still too high, but the trends are moving in a downward direction, which I am intensely focused on sustaining.

Staff Accountability

Of course, our facilities do not exist in a vacuum; they operate within the broader context and culture of the entire agency. Implementing best-practices and sustaining positive trends cannot occur without well-trained staff to perform their duties, along with a timely and meaningful discipline process for those who do not or cannot perform those duties. Since taking office, I have been laser focused on returning staff to the facilities and creating new leadership structures to support our workforce and address our deeply entrenched organizational health issues.

The number of unavailable staff continues to drop and has been reduced by nearly 40 percent since the beginning of the staffing crisis that began in the summer of 2021. To ensure our staff return to full duty fit and healthy, we are revamping our Health Management Division, which is responsible for overseeing and supporting uniform staff who are out sick. New leadership has already begun reviewing and revising critical leave policies that have allowed abuse to fester and led to the crisis that emerged over the course of the pandemic. I look forward to sharing updates on these efforts with the Council once they have been finalized in consultation with the Monitoring team.

In conjunction with efforts to engage staff who are out sick and support them in returning to duty, we have been taking a close look at those members who appear unable or unwilling to fulfill their obligation to this agency and this city. In order for the Department of Correction to succeed, it is imperative that expectations for staff conduct are clear and that the consequences for violations and failures to fulfill duty are swift. Per the Action Plan, we are employing creative recruitment strategies to ensure critical positions in our Trials Division are filled with qualified candidates. Filling these positions will enable the Department to sustain our current pace and continue to respond expediently to disciplinary matters in the future. Even with limited resources we currently have, we have taken meaningful steps to increase accountability. To date, I have closed out and administered final disciplinary dispositions in over 1,400 disciplinary cases, far outpacing my predecessors. Nearly 300 medical incompetence cases have been referred for discipline, which is almost twice the number of cases referred for discipline in the entirety of

2021. Over 150 members of service have been suspended this year for sick leave abuse, and some of those members have been referred to the Department of Investigation for further review. We intend to expedite the processing of more egregious cases to demonstrate unequivocally that these abuses will no longer be tolerated.

I believe these initial steps have put us on a path toward improved practices and greater accountability, and I look forward to updating the Council on our progress in the future.

Proposed Legislation

Now, I would like to take a moment to highlight a few of the legislative items on the agenda today. Intro. 284 would require the Department to maintain a ratio of one licensed social worker for every 10 people in custody. Fundamentally, I believe we all share the goal of providing high quality programs and services to people in custody, that support better responses to conflict when violent behavior emerges, promote skill building, and ultimately reduce recidivism. While licensed social workers serve an important function, they are not the only individuals qualified or best suited to work with our population. DOC currently employs or contracts with many passionate individuals who do not meet the definition of social worker, yet provide invaluable services to our population, such as our credible messengers. The skillsets that our various professionals have make them ideally suited for this work. These committed individuals come from diverse backgrounds, experiences, and training, which results in their work being particularly effective with the population in custody that they serve. As drafted, this legislation would make licensure for social work the singular, overriding factor when considering who is best equipped to work with the jail population, which limits our ability to hire a diverse workforce with relevant skills and lived experiences. Lastly, I'll note that the population in custody is subject to fluctuations, even day-to-day, that would make maintaining the required ratio nearly impossible.

In regard to Intro. 349, which would require dyslexia screening and treatment for individuals in custody, Mayor Adams has been clear about his desire to provide more support for individuals

with an identified learning disorder and funding was provided in the Fiscal Year 2023 budget for dyslexia screening. The Department has been exploring how to operationalize both screening and treatment for dyslexia individuals in custody and hopes to have updates in the coming months.

Intro. 356 would require the Department to establish a child visitor program and report on the status of the program annually. The Department has been intensely focused on this area over the years and has demonstrated initiative and improvement. Several contracts, grants, and internally driven initiatives aimed at supporting and improving the parent-child visit experience have been developed and implemented, even during the COVID-19 pandemic.

Intro. 357 would require the Department to track all cases of sexual abuse and harassment in an electronic case management system. We are currently in the process of procuring an electronic case management system that will track these cases.

Conclusion

In closing, I am confident that my vision for this agency is achievable. I knew full well the challenges that lay ahead when I accepted this position, and I have approached each new challenge with renewed commitment. The majority of uniform staff have stayed in this fight and came to work during the height of the pandemic to serve people in custody, and continue to do so today. In the past six months, several passionate and committed men and women have joined my leadership team in the fight to reform our jails, with more to follow. I believe in the work and I know that members of the Council do as well. I'm confident that our shared desire to reforming the Department will continue to move us in the right direction.

Thank you for the opportunity to speak today. My colleagues and I are available to answer any questions that you may have.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS TO THE NEW YORK CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE JUNE 28, 2022

Good morning,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I would like to thank Chair Rivera and the members of the Committee on Criminal Justice for holding this hearing today.

Each time a person is placed behind bars, a community's light is dimmed. Each time a person is placed behind bars, they are deprived of opportunities to pursue education, a career, friendships, family, and their dreams. Through the bills up for discussion today, this body and this city can make strides to ensure that our framework of incarceration is built around restoring dignity and opportunity for those individuals caught up in the system. These bills seek to remedy our collective failure to serve the people of New York, particularly our Black and Brown communities. At the same time, they invest in services of which communities of color have been deprived for generations, creating a pipeline from the streets to cells.

Trauma, not rehabilitation, is at the center of our carceral system today. A person in a New York City jail is 60 times more likely to sustain a traumatic brain injury than those in surrounding communities.¹ Imagine being exposed to violence, knowing that it will be covered up rather than addressed by the officials charged with ensuring your safety.² Imagine being in a community in which deaths are more frequent than the turn of the calendar page.³ Prisons are trauma centers. This trauma is so palpable, researchers have floated creating a new category of research for returning community members: Post-Incarceration Syndrome.⁴ We, the holders of power in this city, can and must address this trauma.

Intro 0284-2022 addresses this trauma. Intro 0284 would require the Department of Corrections to maintain at least one full-time social worker for every 10 incarcerated persons at each city correctional facility. This ratio reflects the heightened client care that is needed within the context of carceral institutions. It gives space for social workers within a single institution to coordinate their care plans, work with small groups of incarcerated persons, and create relationships with their clients that will lead to successful reintegration into the community.

Before people are placed behind bars, most have experienced trauma. 97 percent of the people within our prisons have had at least one adverse childhood experience (ACE)⁵. Nearly four in ten have

¹ Maya Miller, 'High Rates of Head Trauma in New York City Jails Raise Public Health, Recidivism Concerns,' Gotham Gazette (Jan. 03, 2018)

² Jan Ransom, William Rashbaum, 'How Brutal Beatings on Rikers Island Were Hidden From Public View,' The New York Times (Mar. 02, 2022). <https://www.nytimes.com/2022/03/02/nyregion/nyc-jail-beating-rikers.html>.

³ Jonah E. Bromwich, Jan Ransom, '3 N.Y.C. Detainees Die in Less Than a Week, Bringing Year's Total to 9,' The New York Times (Jun. 22, 2022). <https://www.nytimes.com/2022/06/22/nyregion/rikers-inmate-deaths.html>.

⁴ Katie Rose Quandt, Alexi Jones, 'Research Roundup: Incarceration can cause lasting damage to mental health,' Prison Policy Initiative (May 13, 2021).

⁵ Compassion Prison Project, 'How Common Are Adverse Childhood Experiences (ACEs)?', <https://compassionprisonproject.org/childhood-trauma-statistics/>.

four or more ACEs.⁶ A single ACE can lead to serious financial or job problems.⁷ Combined with disinvestment and over and abusive policing, we have carved out traumatized communities where contact with the criminal justice system is almost a promise. We must acknowledge this “legacy of victimization” that exists within our communities and feeds our jails and prisons.⁸ If we do so, we must then acknowledge the need for proactive and sustained social intervention. Social workers retain the tools and knowledge to work with clients on assessing, addressing, and living with their past trauma. Intro 284 sets off an opportunity to create a whole new New York. Social workers provide client-centered, affirming care. At the same time, they guide treatment to be sustainable when back in communities. Intro 284 injects dignity and public health within our carceral center.

The failure to adequately screen and respond to dyslexia within our schools has directly contributed to the school-to-prison pipeline. For communities of more color, these failures can manifest as a “triple burden,” facing a combination of discrimination based on race, dyslexia, and the stigmas of being labeled “at-risk.”⁹ With investments being made within our schools to address this crisis, we must simultaneously invest within our prison system.

Intro 0349-2022 does just that. The Department of Corrections would be required to screen all incarcerated persons without a high school diploma or GED for dyslexia within 72 hours of intake. Thereafter, the Departments of Education and Corrections would offer dyslexia treatment programs. Access to these screening and treatment programs will increase incarcerated persons’ capacity to engage fully with jail educational programs. The RAND Corporation found incarcerated individuals who participated in an educational program had a 43 percent lower likelihood of returning to prison.¹⁰ At the same time, these programs can only be impactful if they are accessible. Intro 0349 expands opportunities for incarcerated persons both inside and outside of our carceral institutions.

This bill also fills a data hole that frustrates our goals of successfully growing post-incarceration outcomes. We do not know how many individuals in our city’s jails have dyslexia. Estimates across the country hover around 50%.¹¹ Intro 0349 would require the Department of Correction to annually report the number of individuals screened for, identified with, and participating in programs for dyslexia. To build an effective criminal justice system, we must be a smart criminal justice system. Data is an essential key to assessing our programs and pathways to successful futures. Intro 0349 illuminates these pathways.

Prisons should not be a profiteering exercise. Intro 0456-2022 reflects this basic framework. This bill would cap transaction fees for transfers to inmate institutional accounts at no more than 1 percent of the deposit amount, and not to exceed \$5. Current state law caps deposit fees at \$5 per transaction.¹² This regulation applies only to “electronic kiosks,” ATMs, and “other similar devices.” Intro 0456 goes further: by capping transaction fees first at 1 percent, it prevents private transaction companies from extracting

⁶ Id.

⁷ Id.

⁸ Nancy Wolff, Jing Shi, Jane A. Siegel, ‘Patterns of Victimization Among Male and Female Inmates: Evidence of an Enduring Legacy’, *Violence Vict.*, 24(4) (2009), pp. 469-484.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3793850/>

⁹ Shawn A. Robinson, ‘Educating Black Males with Dyslexia,’ *Cardinal Stritch University, Interdisciplinary Journal of Teaching and Learning*, 3(3), (2013). <https://files.eric.ed.gov/fulltext/EJ1063059.pdf>

¹⁰ Lois M. Davis, Robert Bozick, et al., ‘Evaluating the Effectiveness of Correctional Education, RAND Corporation (2013). https://www.rand.org/pubs/research_reports/RR266.html.

¹¹ Sunday Morning, ‘Cracking the code of Dyslexia’, CBS News (Aug. 25, 2019).

<https://www.cbsnews.com/news/cracking-the-code-of-dyslexia/>; Samantha Michaels, ‘People in Prison Are Way More Likely to Have Dyslexia. The Justice System Sets Them Up to Fail,’ *Mother Jones* (Apr. 30, 2019).

¹² N.Y. Comp. Codes R. & Regs. tit. 9§7016.2

high fees from families. The bill would also apply to the broad array of deposit options, including wire transfers. Current regulations fail to reflect the realities of how incarcerated persons receive funds. It burdens families with either traversing to prisons or risking encounters with financial vultures. These accounts help provide incarcerated individuals with their basic needs and goods. NYU's Prison Education Program found that incarcerated people in New York needed on average \$175 per month to supplement their nutrition through commissary purchases and maintain basic needs.¹³ Intro 0456 works to secure these individuals' ability to sustain their wellbeing, without further disadvantageous families and caregivers whose lives have been fractured due to incarceration.

In 2015, I was proud as a councilmember to co-sponsor the creation of the Inmate Bill of Rights. I urge this City Council to pass these bills to ensure that dignity is again the primary consideration for persons within prisons. Each bill before you today addresses a current gap in the care and wellbeing of these persons. They work together to build a system of incarceration that looks prospectively, that heals families and individuals in a holistic manner, and which remedy failures that exacerbate community ostracization, isolation, and the deprivation of dignity. These bills work towards curbing a crisis. I urge their passage. Thank you.

¹³ Tommaso Bardelli, Zach Gillespie and Thuy Linh Tu, 'Blood from a stone: How New York prisons force people to pay for their own incarceration', Prison Policy Institute (Oct. 27, 2021). https://www.prisonpolicy.org/blog/2021/10/27/ny_costs/

**The Bronx
Defenders**

**Redefining
public
defense**

**New York City Council
Committee on Criminal Justice**

Re: Oversight- Rikers Island Interagency Taskforce

Int(s). 0284, 0349, 0356, 0357, 0385, 0456

June 28th, 2022

Written Testimony of The Bronx Defenders

By Julia Solomons, Tahanee Dunn, Daiana Griffith, Zakya Warkeno and Tadd Vassel

I. Introduction

Chair Rivera and Committee Members, my name is Julia Solomons and I am a Senior Policy Social Worker at The Bronx Defenders. I thank this committee for its ongoing commitment to addressing the crisis on Rikers Island that has already claimed nine lives since the beginning of this year.

Since taking office, Mayor Adams has assured New Yorkers that his administration will, and already has, made strides to address the multitude of issues plaguing Rikers Island and the city jails. Unfortunately, from the perspective of those incarcerated on Rikers, their family members, community members, and advocates, this is far from the truth. His executive order creating the Rikers Island Interagency Task Force is simply a stall tactic and mechanism for further delay to urgently needed action to protect those currently incarcerated and to release as many people as possible. A taskforce run by the law department and without any input from impacted people or advocates is not the solution to the crisis that has been ongoing for years now.

While we support some aspects of the proposed bills and resolution addressed in this hearing, we need more immediate and effective action to prevent more lives from being lost:

- The City must do everything possible to divert New Yorkers from incarceration, starting with passing Res. 156 in support of the Treatment Not Jail Act.
- Additional diagnostic screenings are insufficient to address gaps in care, and the City should instead prioritize the creation of additional PACE units to improve mental healthcare
- Meaningfully addressing public safety in the jails must include the creation and implementation of more programming and educational opportunities, and those programs must be run by outside agencies.

The time has passed for deliberation and delay tactics, and the City cannot continue to neglect the over 5,000 people in its custody.

II. The City must do everything possible to divert New Yorkers from incarceration, starting with passing Res. 156 in support of the Treatment Not Jail Act

We cannot stress enough that the most urgent and immediate solution to the crisis on Rikers Island is decarceration. While there are measures that can be taken to mitigate some of the harm occurring in the jails, the first priority should always be to keep as many people in their communities as possible. The Treatment Not Jail Act is a decarceratory tool that not only reduces the jail population but also grants people access to critical substance use and mental health treatment that they will never be able to access in DOC custody. It is an investment in the well-being not only of individuals but entire communities, and a critical shift away from punishment and towards rehabilitation. The City should do everything in its power to urge the state to pass the Treatment Not Jail act, beginning with the passage of Res. 156.

III. Additional diagnostic screenings are insufficient to address gaps in care, and the City should instead prioritize the creation of additional PACE units to improve mental healthcare

When speaking publicly about addressing the crisis on Rikers Island, Mayor Adams has touted his commitment to implementing dyslexia screening and treatment in the jails through Int. 349. Literacy challenges are a significant issue for our clients in custody, and screening for learning disabilities could be impactful, but a dyslexia screening will not actually be possible without access to education or, most critically, access to the school psychologist in order to be assessed. Those youth housed at RNDC are the only ones with any hope of accessing education in the jails, and it is only accessible in a few of the designated program houses. Bronx Defenders' clients report begging for access to these program houses and being denied. The vast majority of our clients are not enrolled in school and the small fraction who are are not being produced to the school floor. Access to education must be the first priority, and once achieved, a dyslexia screening process can be implemented.

Additionally, when resources are as limited as they are in the jail facilities, there are more urgent gaps in care that must be prioritized. Adequate mental healthcare is a need expressed by our clients every day, and the availability of such healthcare on Rikers Island is limited at best. A complaint we hear all too often is when a client is flagged for suicidal ideation and requires a wellness check on their unit by Correction Health (CHS) staff, the interaction consists of the CHS staff asking the client if they are going to hurt themselves, and if the answer is no, that concludes the wellness check. While we can only speculate as to why this is the level of support our clients are receiving, we know that our clients on specialized mental health units, specifically Program to Accelerate Clinical Effectiveness (PACE) units, receive much more support from CHS staff. The clinical staff are located on the unit, and are able to not only be more available but also to build relationships with those incarcerated on their unit.

The care our clients receive on PACE units is vastly better than that of those housed in general population (GP), not only in terms of access to care but also quality. Unfortunately, the space on

those units only houses a small fraction of those struggling with mental health needs on Rikers Island. There are only roughly 450 specialized mental health beds total, which includes PACE units and the Mental Observation units, for nearly 3,000 people who are incarcerated with “symptoms of mental illness”¹. The insufficient number of beds also means that people are forced out of these units and back to general population frequently, often simply due to reaching a brief period of stability, only to decompensate once back in GP. In the fall of 2019, the City committed to doubling the number of PACE units by the end of 2020, laid out in the Points of Agreement² issued in October of 2019. That promise was not fulfilled by the DeBlasio administration, and the Adams administration has not indicated any plans to meet this need, despite the ongoing conversation about how to address public safety with regard to those struggling with unmet mental health needs. The creation of more PACE units is one small, yet concrete and impactful step towards providing adequate care for those struggling with mental health needs in the city jails. We urge the City to prioritize allocation of resources accordingly.

IV. Meaningfully addressing public safety in the jails must include implementation of more programming and educational opportunities, and those programs must be run by outside agencies

DOC, as the agency holding people in their secure custody, cannot also be responsible for providing support and enriching the lives of those they incarcerate. As such, legislation like Int. 284 which requires that DOC maintain a specific ratio of staff social workers to incarcerated people, is not effective. Social workers employed by DOC will not be able to provide meaningful care or support for those on their caseload because the very agency that employs them inflicts so much of the harm that social work support would be seeking to address. Any additional support services, including social work, should be provided by outside agencies that are not affiliated with DOC.

This idea also applies to programming in the jails. Currently, almost no programming is available to those in custody. The only meaningful programming is at RNDC, and is geared towards young people. This lack of programming, and the subsequent excess of idle time and sense of stagnation, is a threat to public safety in the jails. In the past, people in custody were able to obtain valuable vocational training and certificates such as their food handlers’ license, and this not only served as a productive way to spend their time while incarcerated but gave them hope for new possibilities upon release. Without these things, violence is much more likely to occur. People are hopeless, restless, and struggle to see a future for themselves outside of the cage they are locked in.

Additionally, our clients report that access to education programming at RNDC is filtered through the Deputy Warden. It is limited to those handpicked and deemed deserving, and thus is extremely subjective and inequitable. Any time that DOC is involved in electing program participants or administering programming themselves, there will always be bias involved. Things like security classification will impact who is chosen and how they are engaged. These practices do not serve people in custody and should be replaced with programming administered by outside agencies. It

¹ <https://greaterjusticeny.vera.org/nycjail/>

² http://council.nyc.gov/data/wp-content/uploads/sites/73/2019/10/BBJ_Points_of_Agreement_Rikers.pdf

should be made available to anyone who is interested in participating, of all security statuses and in any housing area.

V. Conclusion

The crisis on Rikers island is overwhelming, and for years now, city officials have been asking advocates and those most impacted what can be done. While there is no perfect solution short of releasing everyone, there are concrete, tangible steps that can be taken right now to mitigate the unspeakable harms occurring every day. We urge the Council to Pass Resolution 156 in support of Treatment Not Jail, create more PACE units as promised by the previous administration, and ensure access to education and meaningful programming for everyone in custody.



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June 28, 2022

via Email: NYC Council Criminal Justice Committee:

To: Councilmember Carlina Rivera, Committee Chair

cc: Council Committee Members; NYC Council staff

Ref 6/28/22 NYC Criminal Justice Committee Hearing on: [T2022-1688](#) Oversight of Rikers Island Interagency Task Force; [Int 0284-2022](#) Social workers in city correctional facilities; [Int 0349-2022](#) Dyslexia screening and treatment in city jails; [Int 0356-2022](#) Establishing a program for child visitors of department of correction facilities; [Int 0357-2022](#) Requiring the department of correction to use an electronic case management system to track investigations of sexual abuse; [Int 0385-2022](#) Requiring the department of correction to report programming and fiscal information; [Int 0456-2022](#) Maximum fee allowed when transferring money to a person in the custody of the department of correction and; [Res 0156-2022](#) Treatment Not Jail Act (S2881/A6603)

Dear Chair Rivera and members of the Committee:

Councilmember Rivera I will begin my written testimony repeating what I have always said about you: it is always an honor to speak before you. You listen with great care and go out of your way to be encouraging, to recognize unique and individual thinking, and to extend help. I appreciate you at the helm of the new of this committee and have great hope as a fourth generation Manhattanite: descendent from a man who came here on a ship from

Barranquilla, Columbia in 1898. When I see you stewarding this oversight body committee of the DOC (which is also now led by Commissioner Molina, another Latinx person) I am encouraged that after years of inaction we may be able to finally make progress towards meaningful Rikers reform. I don't think in the history of NYC Corrections have we had such a pairing of Latinx leadership.

This testimony will discuss:

[T2022-1688 Oversight of Rikers Island Interagency Task Force](#)

[Int 0284-2022 Social workers in city correctional facilities;](#)

[Int 0349-2022 Dyslexia screening and treatment in city jails;](#)

[Int 0356-2022 Establishing a program for child visitors of department of correction facilities;](#)

[Int 0357-2022 Requiring the department of correction to use an electronic case management system to track investigations of sexual abuse;](#)

[Int 0385-2022 Requiring the department of correction to report programming and fiscal information;](#)

[Int 0456-2022 Maximum fee allowed when transferring money to a person in the custody of the department of correction and;](#)

[Res 0156-2022 Treatment Not Jail Act \(S2881/A6603\) and;](#)

WHAT THE FATE OF THOSE CURRENTLY CAGED ON ROSIE'S SHOULD ENTAIL

[T2022-1688 Oversight of Rikers Island Interagency Task Force:](#) Close Rosies welcomes the chance to offer written testimony about all the legislation noticed for the hearing as well as to offer written testimony ref the fate of people caged at Rosie's. The

latter topic is one I have written to you about dozens of times, Councilmember Rivera, and I have submitted dozens of written testimonials on the topic to the City Council, MOCJ, former Borough President Gale Brewer, the NYC Board of Correction and the Downstate Coalition for Crime Victims. It was quite shocking to realize, mid-hearing, that the hearing was not about the business noticed to the public but rather to the fate of women, girls, and gender expansive people caged on Rosie's as nary anyone had noticed the topic and nary anyone from your office CM Rivera reached out to us at Close Rosies.

The shift in the narrative of the hearing allowed the lack of candor and transparency promised by Commissioner Molina previously regarding the new Interagency Rikers Task Force to go literally un-noticed. Further, co-chair of the new task force said for the first time that the work of the task force would be privileged because the City Law department was participating and not one Council member pushed back or even balked at this statement.

We cannot allow this new Star Chamber Committee to act in the dark behind the scenes without nary an inkling of what is going on until November when they are due back in Federal Court in front of Hon Judge Swain. Certainly the committee was never touted to Hon Judge Swain as one that would act shrouded in client/privilege secrecy. The Council, along with Legal Aide should be rushing to the Federal CourtHouse to challenge this new posture. Instead, the committee rushed through questions to Commissioner Molina and committee Chair Mc Guire and began a sham hearing on the fate of people at Rosie's that had not been noticed. This political maneuvering literally allowed the DOC and NYC Mayor's maneuvering to go completely unchallenged and also fed reporters another narrative to write about. In fact, if you compare the news stories published the following day about the surprise pop-up City Council hearing run instead about Rosie's fate the exact same language was used in all four stories published. This indicates press releases had been written ahead of time about the sham hearing! Further, I have emails from other advocates asserting they knew ahead of time about the Pop-up City Council hearing on Rosie's. Additionally, I have spoken with City Council staffers who confirmed they knew about the change in topic of the hearing from the publicly-noticed content but they only told certain organizations this would be the case. This is in violation of the NY Public

Meetings Law and may in fact constitute criminal fraud and conspiracy. Whatever reason may have been for the change in hearing topic, it was a dangerous move: people are dying on Rikers and we need the whole of the community to be working together to ensure oversight and transparency steward in the best plan to end the killing fields on Rikers and in our City jails.

Int 0284-2022 Social workers in city correctional facilities;

I like this legislation very much but would add that the reporting caveat is too vague. Please provide the DOC with templates of how you would like your reporting back from them otherwise you will get verbal soup. As written the bill doesn't outlay a specific temporality for having social workers in facilities it merely states:

“No later than January 31, 2023, and quarterly thereafter, the commissioner of correction shall submit to the mayor and the speaker of the council and shall post conspicuously on the department of correction’s website a quarterly report regarding the number of full-time social workers and the number of incarcerated persons at each city correctional facility.”

This could be interpreted to mean that you only want a snapshot of the last day of the quarter’s data. It would be helpful to provide a template so as to avoid misinterpretation such as:

	<u>RND</u>	<u>RMS</u>	<u>EMT</u>	<u>AM</u>	<u>OBCC</u>	<u>etc</u>						
	<u>C</u>	<u>C</u>	<u>C</u>	<u>KC</u>								
<u>Jan 2023</u> <u>ADP</u>												
<u>Jan 2023</u> <u>Total</u>												

<u>Hours</u>												
<u>Social</u>												
<u>Worker</u>												
<u>available</u>												
<u>on site in</u>												
<u>facility</u>												
<u>Feb ADP</u>												
<u>Feb 2023</u>												
<u>Total</u>												
<u>Hours</u>												
<u>Social</u>												
<u>Worker</u>												
<u>available</u>												
<u>etc</u>												

Int 0349-2022 Dyslexia screening and treatment in city jails; *I have to say I'm surprised nary any of the Mayor's dyslexia advocates showed up to champion this legislation which is the Mayor's brainchild. They have popped up at other Criminal Justice hearings, like the March budget hearing, not even topically about legislation. Where were they today? It makes me very suspicious that out of all the different kinds of legislation noticed to be heard today that the only advocates who showed up were advocates speaking about Rosies, myself and the usual public defenders. Where was treatment not jails? Where was Tiffany Caban*

and Keith Powers who had legislation noticed to be heard today. Did everyone know except for CLOSE ROSIE's that "CLOSING ROSIE'S" was the topic of the hearing????

Int 0356-2022 Establishing a program for child visitors of department of correction facilities; We've passed visiting bill reporting for the DOC through the city council in the past and the results were abysmal. Please refer.

Int 0357-2022 Requiring the department of correction to use an electronic case management system to track investigations of sexual abuse;

This legislation is one that Helen Rosenthal introduced last session as you know: perhaps what you don't know is that the current PREA law required DOC to create an electronic case management system by 2018. The department has been in violation of this for years and never received even a slap on the wrist. Please require that all electronic ERP, CRM and/or case management systems and tools that the DOC develops allow easy access for the BOC. We need to build into our systems oversight. As it is the BOC is not receiving even basic information from the DOC. Please, I'm begging you to add a clause to this bill that requires this electronic case management system to give administrative access to BOC "Super-Users" or Administrators or similar language. Maybe a larger piece of stand-alone legislation could be introduced to blanketed all DOC electronic systems with the same requirement?

Int 0385-2022 Requiring the department of correction to report programming and fiscal information;

Please try to include reporting templates in this legislation as exemplified above for the DOC.

Int 0456-2022Maximum fee allowed when transferring money to a person in the custody of the department of correction and;

I like this legislation but it is too vague. Is the \$5.00 cap per transaction or up to a certain amount transferred or daily or weekly, monthly or annually?

“§ 9-163 Institutional fund accounts. The department of correction shall ensure that members of the public depositing funds into institutional fund accounts established pursuant to subdivision 7 of section 500-c of the correction law are not charged a service fee that is more than \$5. This fee cap applies to all devices or systems capable of allowing members of the public to deposit funds into an institutional fund account, including wire and online transfers.”

Res 0156-2022Treatment Not Jail Act (S2881/A6603) and;

Thank you CM Rivera for this Resolution.

WHAT THE FATE OF THOSE CURRENTLY CAGED ON ROSIE'S SHOULD ENTAIL

Since MOCJ and former Mayor de Blasio rolled out the first incarnation of the Borough Based Jail Plan I have been deeply against plopping a single womens' facility in Queens while men have facilities built in all four boroughs save Staten Island. I have repeatedly submitted testimony to the council on July 23, 2019, September 4, 2019, September 18, 2019, September 23, 2019, The NYC Manhattan Borough President Gale Brewer, to MOCJ to the Board of Correction and to the Downstate Coalition for Crime Victims let by AG James et al on about the behemoth Title IX violation that this scheme happens to also be.¹ I've appended to this testimony the entirety of our September 5, 2019 testimony on the matter.

¹ NYC Council Joint Committee Meetings [Subcommittee on Landmarks, Public Siting and Maritime Uses: https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4068827&GUID=6B5E1643-E443-4F52-B21E-9BE76C0EB25C](https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4068827&GUID=6B5E1643-E443-4F52-B21E-9BE76C0EB25C)

TITLE IX and our Jails: Title IX is a federal civil rights law that was passed as part of the [Education Amendments of 1972](#).² Title IX applies to institutions that receive federal financial assistance from USED, including state and local educational agencies such as the NYCDOC and virtually every other metropolitan jail system that runs vocational rehabilitation and educational programs which are funded in whole or in part by the USED and run by the local municipal departments of education. ***Educational programs and activities that receive ED funds must operate in a nondiscriminatory manner:*** "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..." In NYC the current plan³ to build borough jails for men and to put women/girls in one facility either in Queens or Manhattan flies in the face of federal Title IX standards and the Fourteenth Amendment's Equal Protection Clause. For instance: Of the top 25 zip codes that feed Rosie's population not one of them is from the neighborhoods surrounding the proposed Queens jail site for women.

It will be more difficult for families, friends and loved ones to visit women and girls in Queens than to visit men who are in their own boroughs. This enables people to be isolated and vulnerable and more likely to be targets of sexual assault while they are detained than men...Currently the rate of sexual assault reported on Rosie's is already higher than in the other facilities on Rikers that house men. Recently the NYCDOC release a report detailing that RMSC was responsible for 19.61% of all sexual assault, abuse and harassment complaints filed in the first half of 2019 even though Rosie's comprises less than 6% of the ADP of Rikers.⁴

² Public Law No. 92-318, 86 Stat. 235 (June 23, 1972), codified at 20 U.S.C. §§ 1681-1688. [20 U.S.C. § 1681\(a\)](#)

³ [New York City Borough-Based Jail System CEQR Documents, including the Final Scope of Work and the Final Environmental Impact Statement](#)

⁴ [New York City Department of Correction Semi-Annual Sexual Abuse & Harassment Report January 1st, 2019 - June 30th, 2019](#): pp. 10.

If we truly can't have four jails built for women Manhattan or Brooklyn is the better site than Queens and Lincoln is already zoned for carceral use. We have been saying this when other advocates were screaming that Queens was the only solution for women. Those same voices have now changed their tune and are singing our song. I would kindly request the Council to make sure to include Close Rosies in these conversations going forward.

Thank you for taking the time to read my testimony and to consider my input.

Yours,

Kelly Grace Price

Ft. George Manhattan



**TESTIMONY OF
THE FORTUNE SOCIETY**

**THE COMMITTEE ON CRIMINAL JUSTICE
NEW YORK CITY COUNCIL**

City Hall,
New York, NY

Tuesday, June 28, 2022

SUBJECT: Oversight Hearing on Rikers Island Interagency Taskforce and Introduction of Bills
and Resolution

PURPOSE: To discuss the ongoing crisis at Rikers Island and the need for prompt action.

Presented by

Andre Ward

Associate Vice President,
David Rothenberg Center for Public Policy

The Fortune Society
29-76 Northern Blvd.

LIC, NY 11101

212-691-7554

<http://www.fortunesociety.com>

Good afternoon, Council Committee Chair Rivera and Members of the Committee:

My name is Andre Ward. I am the Associate Vice President of The David Rothenberg Center for Public Policy at the Fortune Society. The Fortune Society is a 55-year-old organization that supports successful reentry from incarceration and promotes alternatives to incarceration, thus strengthening the fabric of our communities. We do this by believing in the power of people to change; building lives through service programs shaped by the experiences of our participants; and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative justice system.

Any consideration of the new taskforce and bills pertaining to the Department of Correction must be considered from this perspective: there is an ongoing and desperate humanitarian crisis at Rikers Island that has been decades in the making and is only getting worse. Over 30 years ago, I spent three and a half years on Rikers Island as a teenager and young adult. I witnessed constant neglect of peoples' medical and mental health needs, as well as general abuse, disorder, and chaos. Those dangerous and deadly conditions are even worse today, due to the continuing crisis caused by posts remaining unstaffed by uniformed officers.¹ Seven people have died on Rikers Island so far this year, including Emmanuel Sullivan who was only 20 years old. Three men died within one week. Albert Drye died in DOC custody at Bellevue Hospital. Antonio Bradley, who was detained at Rikers, died just days after hanging himself in a courthouse holding cell. On Rikers, Anibal Carrasquillo was reportedly discovered in an unresponsive state, apparently due to a fatal overdose, during lock-in at 1:00 am. That is reportedly three hours later than people are supposed to be locked into their cells for the night, the delay caused by lack of staff at their assigned posts.² Rikers Island is a danger to everyone who is held there in custody, and those who report to work there. For people detained and incarcerated, time spent on Rikers now amounts to a potential death sentence and a certainty of experiencing trauma and exposure to violence.

In light of the ongoing humanitarian crisis in our city jails, we need immediate action. We have concerns about whether the recently established Rikers Island Interagency Taskforce will quickly effect the necessary change with the required urgency to prevent additional deaths, based on the composition of its membership under Executive Order 16³ and complete lack of mandated transparency. First, NYC Health and Hospitals/Correctional Health Services (CHS) should be included in this Taskforce to participate in urgent, necessary conversations about how unstaffed

¹ Fonrouge, G., (2022, June 21) "NYC reveals eighth DOC custody death so far this year – the second in two days," *The New York Post*. Retrieved June 23, 2022 from <https://nypost.com/2022/06/21/nyc-reveals-eighth-doc-custody-death-so-far-this-year/>

² Fonrouge, G., (2022, June 21) "Seventh Rikers Island fatality of the year most likely a drug overdose," *The New York Post*. Retrieved June 22, 2022 from <https://nypost.com/2022/06/21/new-details-emerge-in-seventh-rikers-island-fatality/> (also noting that Mr. Carrasquillo had recently been transferred out of OBCC, which was shut down to relieve understaffing at another facility).

³ Office of the Mayor, (2022, May 12) "Executive Order 16." Retrieved June 22, 2022 from <https://www1.nyc.gov/office-of-the-mayor/news/016-002/executive-order-16>.

posts, mismanagement, and physical plant issues prevent people in custody from having timely access to medical care and mental health services. Just last month, the Department of Correction was held in contempt over its failure to ensure that people in custody have timely access to medical care.⁴ Furthermore, nearly half of the people held on Rikers Island have mental health issues requiring treatment.⁵ Another entity that should be included on the Taskforce is the Board of Correction, which has the responsibility of crafting and monitoring compliance with minimum standards for conditions of confinement, including with respect to health and mental health treatment.

Second, Executive Order 16 does not include any provisions requiring the Taskforce to report out or share its plans with any entity. At a bare minimum, the Taskforce should be required to report on a regular basis to the Board of Correction, which is charged with overseeing DOC; the Nunez monitoring team, which is charged with overseeing compliance with federal court orders; and this very Committee on Criminal Justice. Ideally, the Taskforce should also be required to regularly report publicly on plans and steps taken towards compliance with the Nunez consent decree. Without such transparency, there can be no trust that the decades of mismanagement and dysfunction that have brought us to the present deadly crisis can possibly be undone via existing structures.

Despite these omissions from Executive Order 16, we hope that bringing diverse city agencies together can quickly break down some barriers to much needed change; but again, without transparency, we can only hope. For example, we hope that the inclusion of the Office of Labor Relations and the Law Department will allow for the Taskforce to address the much-documented issue of unstaffed posts, including the well-documented abuse of sick leave as well as pervasive mismanagement of staff.⁶ It is clear that we need to look outside of DOC for candidates with the requisite leadership skills to effectively manage staff and revamp outdated systems. We also hope that the Mayor's Office of Contract Services and the Office of Management and Budget will bring their expertise and authority to bear on opening the gates to more service providers, particularly entities whose staff are relatable to people in custody because of their own

⁴Ransom, Jan (2022, May 18) "Judge Faults Medical Care for Detainees in Latest Sign of Rikers Crisis." *The New York Times*. Retrieved June 23, 2022 from <https://www.nytimes.com/2022/05/17/nyregion/nyc-correction-department-rikers.html>.

⁵New York City Comptroller's Office (2021, December 6). *NYC Department of Correction FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, and Overtime*. Retrieved March 25, 2022, from https://comptroller.nyc.gov/wp-content/uploads/documents/DOC_Presentation_FY_2021.pdf. See also House Committee on Oversight and Reform (8 April 2022), <https://oversight.house.gov/news/press-releases/oversight-committee-urges-nyc-mayor-to-address-mental-health-crisis-at-rikers>,

⁶ See, e.g., the Nunez Monitoring team (2022, March 16). *Special Report of the Nunez Independent Monitor*. Retrieved March 22, 2022, from <https://legalaidnyc.org/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>.

lived experience, and who can forge connections with people upon their release to continue offering supports and services.

With respect to the other matters before this Committee today:

We strongly support the passage of Resolution 156, urging passage of the Treatment not Jails Act, to provide more vulnerable people with access to life-changing and life-saving treatment, instead of forcing them to languish, sometimes for years, in dangerous and counter-productive pre-trial detention and likely eventual incarceration. This Act would expand eligibility criteria for judicial diversion programs to include people with mental health diagnoses and people with intellectual and physical disabilities. Doing so would not only be the humane and right thing to do, it could further safely reduce the population at Rikers, a goal we should all bear in mind as we continue to plan for its long overdue closure.

Several of these bills before the Committee today are steps in the right direction towards ensuring people who are incarcerated have access to important services and supports, including their families: requiring social workers with low caseloads in DOC facilities; seeking to create a less stressful environment for children visiting loved ones who are incarcerated; screening for and treating people with dyslexia; and capping fees for placing money on people's accounts. But as with all things related to what the DOC is required to do for the people in its custody, the true test will be in whether any of these bills, if enacted, will be successfully implemented. We know this Committee will be vigilant about demanding and analyzing any required reporting pertaining to these matters. DOC is utterly failing to comply with minimum standards around health and safety, and cannot guarantee that people in custody even survive the time spent in custody. So we thank you, Chair Rivera, and this Committee for calling this hearing, and for your continued vigilant oversight of the operation of our city jails, because lives depend on it.



IMMIGRANT DEFENSE PROJECT

**New York City Council – Committee on Criminal Justice
Oversight Hearing on Rikers Island Interagency Task Force
Resolution in Support of Treatment Not Jail Act (Res 0156-2022)
Testimony of Yasmine Farhang, Immigrant Defense Project
June 28, 2022**

Thank you to the Council and to Criminal Justice Committee Chair Rivera for the opportunity to submit testimony in support of Resolution 0156-22 which calls on the New York State Legislature to pass, and the Governor to sign, the Treatment Not Jail Act (S2881 / A6603).

The Immigrant Defense Project (IDP) was founded over twenty years ago to combat the ongoing crisis of immigrants being targeted for mass deportation and to fight for fairness and justice for immigrants caught at the intersection of the racially biased U.S. criminal and immigration systems. IDP is a proud member of the Treatment Not Jail coalition and supports the Treatment Not Jail Act, which would expand eligibility for treatment for court-involved community members and shift the presumption from incarceration to community support.

In 2009, as part of the Rockefeller Drug Law Reforms, New York State passed the Judicial Diversion Program legislation, thereby creating a pathway for a small number of people with substance abuse challenges to avoid prison and instead engage in treatment that would result in reduction or dismissal of charges. This treatment option has been successful for thousands of people – both in avoiding criminalization and in ensuring access to potentially lifesaving treatment. Unfortunately, this diversion option is limited only to people charged with a short list of offenses related directly to substance abuse and leave behind many people who face challenges related to mental health, development disabilities and other functional impairments that precipitate their contact with the criminal legal system. While some localities have support programs for people facing these challenges, the courts vary widely across the state in providing any meaningful options. As a result, so many New Yorkers who would benefit from treatment are left behind and instead become intertwined in a criminal legal system that is near impossible to untangle from. For immigrant New Yorkers, entry into the criminal legal system



IMMIGRANT DEFENSE PROJECT

carries the double punishment of possible immigration detention, deportation, and permanent separation from their families and communities.

For these reasons, New Yorkers simply cannot wait any longer for our state to address the root causes of criminal legal system involvement for so many people in need of accessible treatment. The Treatment Not Jail Act would make meaningful change by creating equitable access to judicial diversion, allow access to treatment regardless of where one lives, provide due process protections, end automatic exclusions based on the Penal Law section one is charged with, and altogether increase chances of success by embracing an approach that seeks to treat, not punish. For immigrant New Yorkers, this Act further plays the critical role of protecting communities from the police-to-deportation pipeline. Currently, for immigrants who enter pleas as part of negotiations that include treatment, immigration law penalizes them even if they successfully complete their court-ordered treatment. Pre-plea treatment programs can greatly benefit immigrants who want to access treatment without assuming the threat of detention and deportation. Ultimately, this bill would reduce the number of people who end up in deportation proceedings due to mental health challenges and reduce the number of immigrant New Yorkers who end up in ICE detention, where further medical neglect and abuse are well-documented.¹

As the pandemic continues, it is unsurprising that the number of New Yorkers who struggle with mental health challenges is at an all-time high. There is widespread consensus that rather than treating jails and prisons as de facto mental health facilities, we must invest in community-based treatment options. Treatment Not Jail currently has thirty-six Assembly co-sponsors and sixteen in the Senate, with momentum quickly building. The Council now has a critical opportunity to let our lawmakers in Albany know that New York City stands for treatment, not more incarceration. IDP is grateful to Council Member Rivera for introducing Resolution 0156 and we urge the Council to swiftly pass it.

For any questions, contact Yasmine Farhang at yasmine@immdefense.org.

¹ <https://www.immigrantdefenseproject.org/wp-content/uploads/Cruel-By-Design-IDP-CCR-Feb-2022.pdf>

New York City Council
Committee on Criminal Justice
Tuesday, June 28th, 2022

Testimony submitted on behalf of:

Jennifer Jones Austin, Chief Executive Officer, Federation of Protestant Welfare Agencies; Former Chair, New York City Board of Correction.

Gladys Carrión, Esq., Senior Fellow, Columbia University Justice Lab; Former Commissioner, New York City Administration for Children's Services; Former Commissioner, New York State Office of Children's and Family Services.

Zachary Carter Chair, Board of Directors, The Legal Aid Society of New York; Former New York City Corporation Counsel; Former United States Attorney for the Eastern District of New York.

Elizabeth Glazer, Founder, Vital City; Former Director, New York City Mayor's Office of Criminal Justice; Former New York State Deputy Secretary for Public Safety.

Michael Jacobson, Director, CUNY Institute for State and Local Governance; Professor of Sociology, CUNY Graduate Center; Former Commissioner, New York City Departments of Correction and Probation.

Julio Medina, Chief Executive Officer, Exodus Transitional Community; Interim Chair, New York City Board of Correction.

Stanley Richards, Deputy Chief Executive Officer, The Fortune Society; Former First Deputy Commissioner, New York City Department of Correction; Former Vice Chair, New York City Board of Correction.

Vincent Schiraldi, Senior Fellow, Columbia Justice Lab; Senior Research Scientist, Columbia School of Social Work; Former Commissioner, New York City Departments of Correction and Probation.

Cyrus R. Vance, Jr., Partner, Baker McKenzie; Former Manhattan District Attorney

Overview

The recent death of 31-year-old Mary Yehudah on May 18th, 2022, at the Rose M. Singer Center (Rosie's) on Rikers Island underscores the humanitarian crisis at Rikers, and the need for New York City to take a different approach to women in custody.

There are approximately 300 women and transgender, gender non-conforming, non-binary, and/or intersex people (TGNCNBI) people at the Rose M. Singer Center. This population is uniquely vulnerable to sexual abuse and retraumatization in jail, has distinct needs, and is less prone to violence and recidivism than men.ⁱ However, the jail system in New York City is largely designed for men and falls short of meeting the needs of women and TGNCBI people.ⁱⁱ

Under the borough-based jail plan (BBJP), New York City is required to replace Rikers Island with four jails in Brooklyn, the Bronx, Manhattan, and Queens. All women and TGNCNBI people will be relocated from Rosie's

to the new Kew Gardens, Queens jail. For men, BBJP represents a landmark improvement by replacing the dangerous and dilapidated jails on Rikers Island with modern facilities located closer to the courts and public transit within local communities. For women, BBJP is in part a setback.

While Rosie's is a standalone site, the new Kew Gardens, Queens facility has common spaces with men.ⁱⁱⁱ The physical design changes to jail facilities have not been accompanied by gender-responsive operational plans tailored to serving women and TGNCNBI people.^{iv} In addition, Rosie's is scheduled to be among the last buildings on Rikers Island to close in 2027.

New York City can more effectively serve women and TGNCNBI people and enhance public safety by:

1. Closing Rosie's before the 2027 BBJP timeline.
2. Reducing the population of women and TGNCNBI people in custody to under 100.
3. Securing the closed Lincoln Correctional Facility in Harlem for the remaining population to be operated largely by non-profits as a gender-responsive, trauma-informed and therapeutic site.

These goals are attainable. The Lippman Commission recently released a report "*The Path to Under 100*" that outlines strategies for shrinking the number of women and TGNCNBI people in NYC jails to fewer than 100. In May, the Women's Community Justice Association, Columbia University Justice Lab, Columbia University Center for Justice, and Prison and Jail Innovation Lab at the University of Texas, Austin released "*The Women's Center for Justice A Nation-Leading Approach on Women & TGNCNBI People in Custody*" that describes best practices for a different operational model of a secured site focused on holistic care and reentry.

Distinct Characteristics and Needs of Women and TGNCNBI People at Rosie's

- *Mental health treatment is significantly higher for women than men in New York City jails.* Of women jailed on April 1, 2022, more than four out of five (82%) were receiving treatment for mental illness, compared to 49% of men.^v For women jailed over a year waiting for trial, that number rises to 96%.^{vi} In addition to high levels of mental health needs, women in custody also experience high levels of physical health needs, including chronic disorders associated with poor nutrition and poverty, such as asthma, obesity, diabetes, hypertension, anemia, seizures, and ulcers.^{vii}
- *Elevated risk of sexual abuse and re-traumatization.*^{viii} Sexual assault and abuse has been a consistent concern at the Rose. M. Singer jail on Rikers Island.^{ix} Women detained in New York City's jails are more likely to report physical and sexual abuse in their lifetime than men and are more likely to experience abuse consistently throughout their lives.^x
- *Many are victims of domestic violence.* Alternative to incarceration programs working with women and TGNCNBI people diverted from Rikers reported to us that between 36% and 97% of their participants had experienced physical, sexual, and/or emotional violence.^{xi} National studies have found this violence can play a significant role in the criminal allegations people face, and that women's justice involvement is more likely than men's to flow from their relationships with family or intimate partners.^{xii}
- *Most are mothers and caregivers.* The majority of women detained in New York City's jails are primary caregivers and are more likely than men in custody to have primary child-rearing responsibilities.^{xiii} Among more than forty women facing criminal legal charges in New York City in July 2019 and January 2020

interviewed by the Columbia Justice Lab, 70% were caregivers. Among men interviewed as part of the same study, only 54% were caregivers.^{xiv} Of the women who report having children, 87% report having at least one child under 18 years old, compared to 73% of men. For children separated from their parents, there is a heightened risk of traumatic stress, emotional distress, poor school performance, and problems relating to others and to society, manifested in rule-breaking, law-breaking, and risky health behaviors.^{xv} Parental detention is particularly stressful and harmful for children, and distinct from other forms of separation from parents. Parental detention that has varying and uncertain duration, can exacerbate stress and trauma, and can carry stigma for children.^{xvi}

- *High levels of unemployment and housing insecurity.*^{xvii} Recent interviews of women and TGNCNBI people involved in New York City’s criminal legal system, conducted by researchers from Columbia University, found that 60% of those interviewed were unemployed before their arrest.^{xviii} In 2022, at jail intake, 25% of women and TGNCNBI people reported they were homeless before being jailed or had nowhere to go upon release.^{xix} Unemployment and unstable housing, and associated economic instability, are proven drivers of criminal justice involvement. And conversely, a criminal record makes it more difficult to find housing and employment.^{xx}
- *Women are quickly released back to their communities.* Women discharged in 2020 spent a median of 13 days at Rosie’s.^{xxi} These disruptive, short stays temporarily fail to address the underlying causes that led them to Rosie’s, and likely exacerbate any underlying mental illness, drug addiction, or housing instability people face.
- *Women have especially low recidivism rates.* National research has long indicated that re-arrest rates – especially for violence – are significantly lower for women than men.^{xxii} In New York City, women arrested in 2019 were 49% less likely than men to be re-arrested for a violent felony within 1 year (2.7% vs. 5.3%) and 40% less likely to be arrested for any reason within 1 year (16% vs. 26%).^{xxiii}
- *Within facilities, women and TGNCNBI people have much lower rates of institutional violence and escape risk, as compared to men.*^{xxiv}

BBJP Falls Short for Women & TGNCBI People

The BBJP would close Rikers Island and replace it with four modern jail facilities in Manhattan, Brooklyn, Queens, and the Bronx. The purpose is to locate those in custody closer to their communities to decrease isolation, improve services and build connections to attorneys, families, and visitors. That will be the case for men, who will be located at facilities in the borough in which they are charged, but not for women and TGNCNBI people who will be relocated to a new Kew Gardens, Queens jail, scheduled to open in 2027, that shares spaces and staff with men.

For men, the borough-based jail plan is a historic improvement from the dangerous and outdated Rikers Island jails. However, for women and TGNCNBI people who are currently at a standalone building at the Rose M. Singer Center, it would be in part, an unsafe setback.

- *Failing to fully prevent women and TGNCNBI people from being exposed to men – and possibly to their abusers.* In the Kew Gardens facility, men, women, and TGNCNBI people will share several spaces – the entrance hall, some medical spaces, and some programming spaces – as well as share correctional staff.^{xxv} For women and TGNCNBI people in custody, many of whom have been abused or assaulted, any exposure to men or to catcalling inside a jail can be retraumatizing. Additionally, women who are in custody at the same time as their abusers may encounter them at the facility. National and international standards dictate that there should be completely separate facilities for men and women in custody. For example, the UN

Standard Minimum Rules for the Treatment of Prisoners states that “men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.”^{xxvi}

- *Isolating women and TGNCNBI people from their families and communities.* Harlem, the Bronx, and East New York/Brownsville make up the top eight zip codes for Rosie’s admissions over the past five years.^{xxvii} Families visiting from these neighborhoods will face long commutes on public transportation to visit their loved ones.
- *Lack of gender-responsive strategies that address the underlying needs driving women and TGNCNBI people into the system.* The City has not announced plans to operate Kew Gardens in a gender-responsive, trauma-informed way that reduces harm rather than exacerbating it.^{xxviii} By replicating operations at Rosie’s, women and TGNCNBI people will continue to be traumatized and at risk.

Most Women Can Be More Effectively Served by Community-Based Alternatives

According to the forthcoming “*Path to Under 100*” report, at the beginning of the pandemic, the women’s population at Rosie’s was reduced from 300 to 149.^{xxix} However, since then the women’s population at Rikers has returned to 300 people.

Gender-responsive investments in community resources will help to prevent systems involvement. That includes mental health treatment, affordable and supportive housing for mothers and their children, and assistance for domestic and sexual violence survivors.

New York City has several diversion programs tailored to the needs of women and TGNCNBI people with excellent track records of successfully minimizing recidivism. The Women’s Project at Wildcat provides women and TGNCNBI people who would otherwise be at Rikers with wellness plans and connections to housing, social services, food, job training, employment, healthcare, and more. In 2021, 60 percent of participants in The Women’s Project faced violent felony charges. Over 95 percent of the participants completed the program, and 94 percent were not re-arrested.^{xxx}

SHERO (formerly called the Women’s Community Justice Project) has provided housing with wraparound services to more than 300 women and TGNCNBI people diverted from Rikers, including some facing violent felony charges.^{xxxi} Since 2017, only 2 people have been re-arrested while in SHERO, and not a single person was rearrested in Fiscal Year 2021.^{xxxii}

An alternative-to-incarceration placement costs between \$60,000 and \$70,000 per person compared to the cost of over \$550,000 to detain a person at Rikers Island.^{xxxiii}

Lincoln Can be Transformed into a Different Model for Women & TGNCNBI People

The small number of women and TGNCNBI people who are unable to be served by alternatives should be in a secure facility that is more centrally located and readily available than Kew Gardens, and separate from men

In the 2019 Borough-Based Jails Plan Points of Agreement reached between the Office of the Mayor and the New York City Council, the city agreed to explore the feasibility of a more centrally located, standalone center.^{xxxiv} The closed Lincoln Correctional Facility in Harlem, which operated as a state prison until 2019, meets the requirements set forth in the BBJP Points of Agreement.

The zip codes with the highest number of admissions to Rosie's are in Harlem, the Bronx, and East New York/Brownsville.^{xxxv} Families visiting from these neighborhoods would have a shorter commute to Lincoln than to Kew Gardens. Lincoln is located near several subway and bus lines. In addition, Harlem is home to many community-based service providers and faith-based organizations that specifically serve justice-involved women and families including Exodus Transitional Community, Greenhope Services for Women and Osborne Association. These groups can provide assistance and support starting when women and TGNCNBI people are at Lincoln and continuing after their release to facilitate successful reentry.

More than simply providing a site that is separate from men, Lincoln should operate differently than Rosie's. Lincoln should be transformed into a Women's Center for Justice that is operated by nonprofits using a model that puts women and TGNCNBI people on paths to healthy, safe and stable lives. According to the recent report "*The Women's Center for Justice A Nation-Leading Approach on Women & TGNCNBI People in Custody*" key elements should include.

- *Gender-responsive design, operations, and programming.* A gender-responsive approach acknowledges the unique paths that lead women into the criminal legal system, experiences during incarceration and needs that are distinct from men.^{xxxvi} Research has shown that gender-responsive services in detention facilities are more effective at reducing recidivism than services that do not incorporate gender-responsive practices.^{xxxvii}
- *Quality mental and physical health care.* In addition to acute mental health concerns, women in custody experience high levels of physical health needs.^{xxxviii} There should be continuous screenings for mental and physical health conditions, preventative care, and coordination with community-based providers to ensure a continuum of care after release.
- *Individualized care plans and support.* Resources and support should be individualized to each person and use intersectional and culturally sensitive approaches.
- *Strengthening family connections support.* Family-friendly visitation with flexible hours, child-friendly spaces, and onsite parenting and caregiver support programs to strengthen family connections and minimize harm and disruption of incarceration.
- *Building community partnerships.* The site should focus on community connections and serving residents inside and outside of the facility. There should be spaces for civic groups, social service providers, and arts groups and others to facilitate community engagement and build relationships that will be critical for successful reentry.
- *Privacy, autonomy, and normalcy.* Given that women present lower security risks than men in custody, the site should operate as the least restrictive environments possible.^{xxxix} There should be an emphasis on privacy and preparation for life after release.
- *Different staffing approach.* The site's programming should be operated primarily by nonprofits and staff should adopt a social work mindset, encouraging support services, solving problems, and providing coaching and mentorship to support effective rehabilitation.^{xl} Clinicians, peer specialists and community providers should act as support teams.

New York City has succeeded with other innovative models of custody, such as the Close to Home initiative. The Close to Home Act passed the New York State legislature in 2012 following crisis in the city and state youth correctional systems. It removed all of New York City's youth from state prisons and placed them in small residential programs run by nonprofits that are in or near the five boroughs. Under Close to Home, young people receive therapeutic services at small group homes. The program originally started with 300 contracted beds, and today the facilities house under 100 youth due to the success of the alternatives to incarceration and the reduction in youth crime.^{xli}

In the four years following Close to Home’s passage, the city had a 68% decline in placing youth in Close to Home facilities, with most youth going home with wraparound services. This did not jeopardize public safety as the city experienced a 53% decline in youth arrests over that same period, compared to a 24% decline in youth arrests in the four years preceding the law’s enactment.^{xlii}

The small facilities run by non-profits had remarkable educational and treatment outcomes as well. Ninety-one percent of youth passed their classes in Close to Home facility schools (which were run by the city’s Department of Education) in the 2016/2017 school year; 82% of youth transitioned home to a parent, family member, or guardian; and 91% of youth were enrolled in community-based programs upon discharge.^{xliii}

There are differences between the Close to Home initiative and what is being proposed for those at the Rose M. Singer Center; it deals with juvenile justice rather than criminal law, post-sentence, and smaller, scatter-site facilities. Still, Close to Home demonstrates that committed leaders can partner with community groups to close the Rose M. Singer Center and enact analogous reforms to the treatment of women in the city’s legal system as their counterparts once did with a larger population of youth confined in similarly shocking conditions.

ⁱ A More Justice NYC. *Path to 100*. Forthcoming.

ⁱⁱ Women’s Center for Justice: A Nation-Leading Approach to Women & Gender Expansive People in Jail. May 17, 2022. Retrieved from https://assets.nationbuilder.com/wcja/pages/83/attachments/original/1652964904/Womens_Center_for_Justice_Report_5.18.2022.pdf?1652964904

ⁱⁱⁱ Ibid.

^{iv} Ibid.

^v NYC Department of Corrections, Custody Snapshot, April 19, 2022; Urban Justice Center, “Brad H. Discharge Planning Services,” Mental Health Project, 2021, Retrieved from <https://mhp.urbanjustice.org/wp-content/uploads/sites/10/2021/08/Discharge-Planning-Handout-2021.pdf>.

^{vi} Ibid.

^{vii} B.V. Smith, N. Simonian, & J. Yarussi, “The health concerns of incarcerated women—Part 1: Profiles, chronic diseases, and conditions,” *Women, Girls & Criminal Justice*, 7, 2006a: 33-34, 39-45.

^{viii} Sexual assault and abuse have long been major concerns at Rikers. See, e.g., Singer, S. (May 12, 2020). “The Women’s Jail at Rikers Island Is Named for My Grandmother. She Would Not Be Proud.” *New York Times*. Available at: <https://www.nytimes.com/2020/05/12/opinion/womens-jail-rikers-island-covid.html>; Weiser, B. (May 9, 2017). “\$1.2 Million City Settlement with Rikers Inmates Who Accused Guard of Rape.” *New York Times*. Available at: <https://www.nytimes.com/2017/05/09/nyregion/rikers-inmates-who-accused-guard-of-rape-settle-suit-for-1-2-million.html>.

^{ix} A U.S. Department of Justice report found that Rikers was one of the 12 worst jails in the country with respect to staff sexual misconduct. Rosie’s had the nation’s highest rate of staff sexual coercion of incarcerated people, with 5.9% of those held reporting sexual abuse by staff. United States of America. See Beck, A. J., Berzofsky, P. H., Caspar, R. & Krebs, C. (2013). *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12: National Inmate Survey, 2011-12*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Available at: <https://www.ojp.gov/ncj/210311>.

TGNBI people are often particularly at risk. TGNBI individuals are ten times more likely than others to be sexually assaulted while in prison, and some studies indicate that as many as half of all transgender incarcerated persons have been sexually assaulted. Two out of three Black and Latina trans women report having been sexually assaulted while incarcerated, and even more (70%) have experienced physical assault. Pitts, D. *Advancing Transgender Justice*. New York, NY: Vera Institute of Justice. Available at: <https://www.vera.org/projects/advancing-transgender-justice/learn-more>.

In January 2021, a transgender woman sued after being sexually assaulted three separate times over a six-month period while being held with men, despite her requests to be moved to Rosie’s. Goldberg, Noah. (February 8, 2022). “Transgender Woman Held at Rikers Island Sexually Assaulted in Men’s Jail Three Times: Suit.” *Daily News*. Available at: <https://www.nydailynews.com/new-york/ny-transgender-rikers-island-inmate-sexually-assaulted-three-times-mens-jail-20220207-de36tmakqv5xofp2vtv3ugbe-story.html>.

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- ^x D. James and L. Glaze, “Special Report: Mental Health Problems of Prison and Jail Inmates,” U.S. Department of Justice, Bureau of Justice Statistics, 2006.
- ^{xi} A More Justice NYC. *Path to 100*. Forthcoming.
- ^{xii} Covington, S. S. (2008). “The Relational Theory of Women’s Psychological Development: Implications for the Criminal Justice System.” In *Female Offenders: Critical Perspectives and Effective Interventions*, ed. by Ruth T. Zaplin, 2nd ed. Sudbury, MA: Jones and Bartlett.
- ^{xiii} National Resource Center on Justice Involved Women, April 2012.
- ^{xiv} Bruce Western, [Unpublished data], “Rikers Island Longitudinal Study,” Columbia University Justice Lab.
- ^{xv} Nneka Jones Tapia, “Harm Reduction at the Center of Incarceration,” Executive Session on the Future of Justice Policy, The Square One Project, April 2021.
- ^{xvi} Ibid.
- ^{xvii} Prisoner Reentry Institute, “Women In Justice: Gender and the Pathway to Jail in New York City,” John Jay College of Criminal Justice, 2017.
- ^{xviii} See Rikers Island Longitudinal Study, Op Cit. Note that, technically, these results are half composed of people held at Rikers and half composed of people with newly arraigned criminal cases but not incarcerated.
- ^{xix} Women’s Community Justice Association, 2021.
- ^{xx} Ibid.
- ^{xxi} A More Justice NYC. *Path to 100*. Forthcoming.
- ^{xxii} See, e.g., Alper, M., Durose, M. R., & Markman, J. (2018). *Update on Prisoner Recidivism: A 9-Year Follow-Up Period (2005-2014)*. Washington, D.C.: Bureau of Justice Statistics. Available at: <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>.
- ^{xxiii} City of New York. Data Analytic Recidivism Tool (DART). Available at: <http://recidivism.cityofnewyork.us/index.php?m=index>.
- ^{xxiv} Advisory Committee to the Travis County (TX) Sheriff’s Office, “Designing and Planning a New Women’s Jail Facility for Travis County: A Roadmap for Reform,” December 2018, page 18.
- ^{xxv} Women’s Center for Justice: A Nation-Leading Approach to Women & Gender Expansive People in Jail. May 17, 2022. Retrieved from https://assets.nationbuilder.com/wcja/pages/83/attachments/original/1652964904/Womens_Center_for_Justice_Report_5.18.2022.pdf?1652964904
- ^{xxvi} Available [here](#).
- ^{xxvii} Mayor’s Office of Criminal Justice. Provided May 2022
- ^{xxviii} Women’s Center for Justice: A Nation-Leading Approach to Women & Gender Expansive People in Jail. May 17, 2022. Retrieved from https://assets.nationbuilder.com/wcja/pages/83/attachments/original/1652964904/Womens_Center_for_Justice_Report_5.18.2022.pdf?1652964904
- ^{xxix} A More Justice NYC Forthcoming Report *Path to 100*.
- ^{xxx} Data provided to authors by The Women’s Project.
- ^{xxxi} A More Justice NYC. *Path to 100*. Forthcoming.
- ^{xxxii} Ibid.
- ^{xxxiii} Ibid.
- ^{xxxiv} Fuleihan, D. (October 18, 2019). *Borough-Based Jail Plan Points of Agreement*. New York, NY: Office of the Mayor, The City of New York. Available at: http://council.nyc.gov/data/wp-content/uploads/sites/73/2019/10/BBJ_Points_of_Agreement_Rikers.pdf.
- ^{xxxv} Women’s Center for Justice: A Nation-Leading Approach to Women & Gender Expansive People in Jail. May 17, 2022. Retrieved from https://assets.nationbuilder.com/wcja/pages/83/attachments/original/1652964904/Womens_Center_for_Justice_Report_5.18.2022.pdf?1652964904
- ^{xxxvi} Ibid.
- ^{xxxvii} Ibid.
- ^{xxxviii} Smith, B.V., Simonian, N. & Yarussi, J. (2006a). The health concerns of incarcerated women—Part 1: Profiles, chronic diseases, and conditions. *Women, Girls & Criminal Justice*, 7, 33-34, 39-45.
- ^{xxxix} Advisory Committee to the Travis County (TX) Sheriff’s Office, December 2018.
- ^{xl} Ibid.
- ^{xli} Task Force on Transforming Juvenile Justice. 2009. *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*. Vera Institute of Justice. Retrieved March 5, 2020 (www.vera.org/downloads/Publications/chartinganew-course-a-blueprint-fortransforming-juvenile-justice-innew-york-state/legacy_downloads/Charting-a-new-course-Ablueprintfor-transforming-juvenile-justice-inNew-York-State.pdf).

^{xlii} Weissman, Marsha, Vidhya Ananthakrishnan, and Vincent Schiraldi. 2019. *Moving Beyond Youth Prisons: Lessons from New York City's Implementation of Close to Home*. Columbia University Justice Lab. New York, NY: Columbia University. Retrieved March 5, 2020 (https://justicelab.columbia.edu/sites/default/files/content/Moving%20Beyond%20Youth%20Prisons%20-%20C2H_0.pdf).

^{xliii} Ibid.



Testimony of

Sergio De La Pava

Legal Director

New York County Defender Services

Before the

New York City Council

Committee on Criminal Justice

Oversight Hearing on Rikers Island Interagency Taskforce

June 28, 2022

My name is Sergio De La Pava and I am the Legal Director at New York County Defender Services (NYCDS). We are a public defense office that represents New Yorkers in thousands of cases in Manhattan’s Criminal Court and Supreme Court every year. Since 1997 we have represented more than 300,000 clients in their criminal cases and developed decades of expertise on the workings of the criminal legal system. We currently represent 259 people incarcerated in DOC jails across the city.

I want to thank the Committee and Chair Rivera for holding this hearing today and giving us an opportunity to comment on the bills on today’s agenda and the worsening situation on Rikers Island. We believe that the Interagency Rikers Task Force is fundamentally flawed because it does not involve the key stakeholders involved in sending people into DOC’s custody: prosecutors, judges and the defense bar.¹ If court stakeholders were involved in the Task Force, it could begin

¹ The Task force will involve representatives from the Mayor’s Office, “NYC Department of Correction (DOC), the Mayor’s Office of Criminal Justice, the New York City Law Department, the New York City Office of Labor Relations, the New York City Office of Management and Budget, the Mayor’s Office of Contract Services, the New York City Department of Citywide Administrative Services, and the New York City Department of Design and Construction.” Press Release: Mayor Adams Announces Interagency Task Force to Bring Full Resources and Expertise of City Government to Remedy Rikers Island Crisis, May 12, 2022, available at

to take concrete steps to decarcerate Rikers, which is the only immediate solution to ending the violence there. Nor are community representatives a part of the conversation; directly impacted people, including current and formerly incarcerated people and their family members, along with legal reform advocates, are critical voices to the conversation about how best to solve the crisis on Rikers. Without community input and buy-in to any plan, it is likely to fail. We fear that once again, a task force meant to show New Yorkers that their government is hard at work finding solutions to tough problems will serve as a cover for the perpetuation of the status quo. Given the current situation on Rikers, that is unacceptable.

I. The Situation on Rikers Island

Our clients are suffering the horrors and indignities of Rikers Island and other DOC facilities every day. This month so far, we have averaged 259 clients incarcerated on Rikers on any given day. This is well above the average 117 clients we had incarcerated in Feb 2020, prior to the pandemic and after bail reform went into effect.

Our clients report persistent horrific conditions across all facilities. They face violence from gangs and guards alike. They have limited, if any, access to rec time or programming. They are frequently in lockdown for days at a time. Guards are commonly absent from the floors, leaving incarcerated people to fend for themselves. People report difficulties accessing commissary, law library, and other resources. And people are regularly denied access to crucial medications and medical visits because of persistent staffing issues. DOC's own data shows that the agency failed to facilitate 39,728 medical appointments for incarcerated New Yorkers from Jan. 1 to April 30, 2022, with 11,789 missed appointments in April alone.

The situation on Rikers is deadly. Just last week three people died in DOC custody: on Rikers Island, in the hospital and in a courthouse holding cell. Our city jails have killed 9 people this year and 25 people since 2021. Tragically, federal Judge Laura T. Swain refrained from stripping control of Rikers Island from local officials, instead ordering the city to revise its plan for addressing violence and disorder. Since the judge's decision earlier this month, three people have died.

We also have deep concerns about the department's ability to facilitate timely disciplinary hearings that are set to go into effect on July 1 pursuant to new solitary confinement rules in the city jails known as the Risk Management Accountability System (RMAS). To this date, we have received little information about how RMAS will take place, and the little we have received indicates a lack of preparedness. We have been told that DOC estimates that thousands of RMAS disciplinary hearings will take place at city jails every year, but defenders remain in the dark about critical details about how we will provide the legal counsel mandated by law to people accused of Grade I or Grade II disciplinary infractions while incarcerated. We will continue to update the Council once the RMAS hearings begin and we know more and we urge this committee to consider a hearing on this issue in the fall.

<https://www1.nyc.gov/office-of-the-mayor/news/296-22/mayor-adams-interagency-task-force-bring-full-resources-expertise-city>.

II. Rikers Island Interagency Taskforce

As noted in the introduction, we have deep concerns about the ability of the Interagency Task Force to improve conditions on Rikers. Critically, many constituencies are absent from this conversation about solutions, including court stakeholders like judges, prosecutors and the defense bar, and the broader community. Without buy-in from the public or the courts, the status quo is likely to continue.

NYCDS strongly believes that the city has shown again and again that they are incapable of keeping people incarcerated city jails safe. The most recent three deaths are the perfect example of this. Despite repeated reports from DOC Commissioner Molina that he has things under in control, it is clear that he does not. It is time for the federal government to step in and take control of our jails.

III. Proposed Legislation

a. Reso No. 156 – In Support of the Treatment Not Jail Act, S.2881 / A.6603

NYCDS strongly supports the Treatment Not Jail Act, a state bill that would expand diversion opportunities for those charged with crimes who have mental health and cognitive challenges, and thus create a structured off-ramp from incarceration and criminalization for these individuals.

NYCDS has been a proud member of the TNJ coalition since its inception and we believe firmly that the only way that New York City can meet its goal of closing Rikers Island in 2027 is by dramatically reducing its reliance on pre-trial incarceration. As prosecutors and judges seem unwilling to take actions to dramatically reduce the Rikers population on their own, we must create other off-ramps to incarceration. The TNJ Act provides exactly that. By ensuring that people who are awaiting resolution of their cases pre-trial can receive mental health and substance use disorder treatment in community-based settings, we not only reduce the number of people incarcerated pre-trial, but we also lower costs, halt the revolving door of recidivism, and make our communities safer. TNJ is a win-win for people concerned about the human rights of people suffering from mental health challenges as well as for people concerned about improving public safety and keeping down costs.

Right now, our system is broken. Jails and prisons have become the de facto residential treatment centers for tens of thousands of people living with mental illness. Thirty years ago, state mental hospitals across the country institutionalized more than half a million people every year. That number dropped to fewer than 35,000 people by 2014.² There is widespread consensus that closing abusive and dangerous facilities was long overdue, but we didn't invest in community-based treatment to replace that failed system. Instead, jails and prisons stepped into their place. New York State incarcerates more people with serious mental illnesses in its jails and prisons

² Don Daniels & David Ritter, "How health care policy and laws have impacted mental health delivery," *Southwestern Law Journal*, p. 242 (April 2021), available at <https://www.researchgate.net/publication/350889986>.

than it treats in its hospitals.³ There are more people with serious mental illness living in Rikers Island than in *any* psychiatric hospital in the United States.⁴

And the mental health crisis is worsening because of the pandemic. Fifty two percent of the people in NYC Department of Corrections custody received mental health services, an increase from 44% in 2016. In 2020, an average of 17% were diagnosed with a “serious mental illness,” up from 10% four years earlier.⁵

Additionally, our jails remain at an extraordinary level of chaos and disorder. The situation at Rikers Island has been aptly described as a humanitarian crisis. In addition to the high rates of force and violence, the level of staff absenteeism has caused dangerous disruptions to the basic services to people in custody from the moment they arrive at a reception facility.⁶ Indeed, thousands of individuals detained at Rikers are routinely denied requested medical care, including mental health services.⁷

As public defenders, we have witnessed the deep, irreversible harm caused to indigent clients and their families when our system has failed them. Far too many human beings in dire need of treatment have not been afforded access to anything but incarceratory dispositions, resulting in further damage to their mental health, interruption of their social connections and any community-based treatment they may have been receiving. Frequently, they emerge from their imprisonment worse off than when they entered it, leading to re-arrest for more serious charges.

The reality is that a prevailing and growing body of research analyzing the impact of incarceration proves that imprisoning people makes them more likely to reoffend, due to the horrendously traumatizing and terribly destabilizing effects of incarceration.⁸ Incarcerated people are left to

³ Treatment Advocacy Center, “New York,” available at <https://www.treatmentadvocacycenter.org/browse-by-state/new-york>

⁴ *Id.*

⁵ New York City Comptroller. (March 2021). FY 2022 Agency Watch List: Department of Correction. Available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Watch_List_DOC_FY2022.pdf

⁶ To be clear, this is not an issue of head count or inadequate budget. There are more than enough staff on payroll to safely and competently run our jails. Indeed, New York City’s jail system is by far the most expensive in the country. *See*, NYC Comptroller, NYC Department of Correction FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, And Overtime (December 2021) (reporting that NYC spends \$556,539 per year or \$1,525 per day to incarcerate one individual); Vera Institute, A Look Inside the New York City Correction Budget (May 2021) (“No other local jail system costs as much as New York City’s ... Every other jail system invests less than \$500 million in its jails—a fraction of New York City’s \$2,276,133,447”). Rather, the staff absenteeism is a direct result of well-documented corruption and gross mismanagement. Eleventh Report of the Nunez Independent Monitor (May 11, 2021), available at https://www1.nyc.gov/assets/doc/downloads/pdf/11th_Monitor_Report.pdf.

⁷ Jonah E. Bromwich, The New York Times, *Medical Care at Rikers Is Delayed for Thousands, Records Show*, Feb. 1, 2022, available at <https://www.nytimes.com/2022/02/01/nyregion/rikers-island-medical-care.html>.

⁸ Cullen, F. T., Jonson, C. L., & Nagin, D. S. (2011). Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science. *The Prison Journal*, 91(3_suppl), 48S-65S. <https://doi.org/10.1177/0032885511415224>; Stemon, D. (2017, July). “The Prison Paradox: More Incarceration Will Not Make Us Safer.” Vera Institute. Retrieved January 2022, from https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf; Emily Leslie & Nolan Pope, The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments 60 J. OF L. AND ECON. 3, 529-557 (2017), www.econweb.umd.edu/~pope/pretrial_paper.pdf;

languish and psychiatrically decompensate. They are cut off from their families and communities, left without sufficient mental health treatment, and exposed every day to sometimes random and vicious violence and rampant drug use. When they do emerge from incarceration, most often without stable housing or mental health services in place, they are then asked to procure housing, employment, insurance, and benefits, all while burdened by the stigma and collateral consequences of their criminal conviction. This creates a perfect storm for increased substance use, untreated mental health conditions, and recidivism. This tragic revolving door is a failure of our society, harming these individuals, and ultimately, jeopardizing public safety.

Given all of these facts in favor of treating sick people in their communities, rather than in jail or prison, it is no surprise that we have seen widespread support for the legislation. The bill currently has 16 senators co-sponsoring the bill and 36 co-sponsors in the Assembly.

We are deeply grateful to Chair Rivera for introducing this resolution and hope that the Council will pass it expeditiously.

b. Int. 284 - Require social workers in correctional facilities

NYCDS supports increased numbers of social workers with access to people incarcerated in city jails, but this legislation is short on details that are critical to ensuring its success. While the bill just does not feel feasible right now, it could be passed with an implementation date of 2027, in conjunction with the closure of Rikers Island. As we create new systems and programming for smaller numbers of incarcerated people who will certainly be people with more significant needs, social workers can play an important role in mitigating some of the harm of incarceration and connecting people with services to ensure a successful re-entry.

We have many questions about how such a bill would be implemented. For example, where will we find these social workers who are willing to work in detention facilities? Will they be provided sufficient pay to warrant the harsh working conditions there? Would these MSW or LCSWs be DOC employees? Health and Hospitals employees? Contractors from non-profit providers who already provide programming in the jails? How many hours will jail social workers have to spend working with incarcerated people? What kinds of services or support would they provide?

In the short term, if the city wants to increase the number of social workers who serve incarcerated people, you could increase funding for social workers at public defender offices. For example, we currently have one full-time re-entry social worker who supports our clients returning from Rikers Island back to their communities. But he cannot support all of our clients in city custody. If we had three full-time social workers, we would be much better equipped to support all of our currently incarcerated 259 clients. If MOCJ increased funding for defenders for social workers serving incarcerated people, we could be up and running before the end of the calendar year. Providing that money to DOC feels like a more cumbersome and less effective

Will Dobbie et al., The Effects of Pre-Trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges (Nat'l. Bureau of Econ. Research, Working Paper No. N22511, 2018), www.nber.org/papers/w22511.pdf.

way of achieving the goal of connecting incarcerated people with services in their communities and facilitating a successful re-entry.

c. Int. 349 - Dyslexia screening/treatment in city jails

While NYCDS supports the sentiment of this bill, we do not think it is realistic given the current humanitarian crisis. In a perfect world we would of course like to see our clients assessed and connected with services for a wide range of health concerns. Yet right now, our intake facilities are in such crisis that DOC cannot provide people with working toilets or safe food options.⁹

Instead, we would propose that any dyslexia screening happen once people are connected with educational services in city jails, as they would when engaging with school on the outside.

d. Int. 356 - Establishing a program for child visitors of department of correction facilities

NYCDS strongly supports this legislation but recommends additional amendments.

First, visiting Hours should be offered during evening and/or weekend visiting hours so that children do not need to miss school to visit.

Contact should be permitted between children and their parents in the specially designated visiting area for child visitors throughout the duration of the visit and not be confined to the beginning or end of the visit.

All new or substantially remodeled city jails should provide children's books and toys in waiting areas.

We also recommend making the visitor processing child-sensitive, and that the department track and report on wait times so that visitors arrive at their visiting room within one hour from being processed in Central Visits.

Finally, the Council should consider reaching out to the Osborne Association as they are experts on best practices for family visitation.

e. Int. 357 - Require DOC to use an electronic case management system to track investigations of sexual abuse

NYCDS strongly supports this legislation. However, we would urge the Council not to stop here. All of DOC records should be electronic. Including logbooks, attendance records, visiting records – everything. No more fax machines should be necessary. DOC needs to come into the

⁹ See, e.g., Gabrielle Fonrouge, “Squalid, crowded conditions return to Rikers Island intake center,” *NY Post*, June 14, 2022, available at <https://nypost.com/2022/06/14/squalid-crowded-conditions-return-to-rikers-island-intake-center/>.

21st century and update everything. By the time Rikers Island closes in 2027, the city should ensure that all recordkeeping is virtual to ensure enhanced transparency and disclosure.

f. Int. 385 - Requiring DOC to report programming and fiscal information

NYCDS supports this legislation. At a minimum, DOC should be required to report, on an annual basis, information pertaining to discharge planning efforts, post-release job placements, the mental health needs and services of incarcerated individuals, programming for incarcerated individuals, and budget and spending. The City Council and its residents must have a better sense of how DOC is supporting people in terms of programming and discharge planning.

However, we believe strongly that the Council must do more to ensure that there exists a robust social service support network outside of our city jails to allow people to be successful as they attempt to recover from the horrors of incarceration on Rikers Island. Our city jails are deeply unsafe places that are not at all conducive to effective discharge planning, mental health treatment, or even well-intentioned programming. We need more of these options fully funded in the community.

g. Int. 456 - Capping maximum fee allowed when transferring money to a person in DOC custody to no more than \$5

While NYCDS sees this bill as an improvement over the status quo, we strongly urge the Council to consider removing all fees for money transfers. These fees place an enormous burden on families supporting incarcerated loved ones, the majority of whom come from the poorest communities in our city. NYCDS is a proud member of the Fines and Fees Justice Coalition and we urge to eliminate these fees altogether.

If you have any questions about my testimony, please contact me at sdelapava@nycds.org.



June 28th, 2022

To Whom it May Concern–

My name is Rabbi Margo Hughes-Robinson, I am the New York organizer at T'ruah:the Rabbinic Call for Human Rights, which organizes Jewish clergy to act on the Jewish imperative to respect and protect the human rights of all people. I organize over 500 rabbis and cantors all over the city– as well as over 2300 Jewish clergy nationwide– and our most urgent priorities include the moral crisis that is Rikers Island, and the use of solitary confinement as torture.

I am sure that you are mourning–as we are mourning– the recent deaths of Mary Yehudah, Anibal Carrasquillo, Albert Drye, and Antonio Bradely in the NYC jail system over the past few weeks, and more than twenty lives lost in just the past 18 months. The conditions of the physical plant at Rikers, the systemic management issues that I'm aware that this administration by no means created–*but did inherit*, and the pandemic have created an extremely dangerous and often lethal situation for all of the New Yorkers who are both incarcerated and who are working on the island, and we have joined with hundreds of leaders from many faiths to call for its closing.

T'ruah was part of the eight year fight to pass the HALT solitary act, ending long-term solitary confinement across the state, and we continue to work with our HALT coalition partners in this work.

Almost half (49%) of those on Rikers have a serious mental health concern, we are deeply concerned about the use of incarceration as a substitute for mental health care. Additionally, 77% of women on Rikers have previously experienced sexual assault or trauma prior to their arrival on the island. Not one time this year did the DOC suicide task force actually meet. T'ruah community partners who visited Rikers last month shared with me that the out of cell time and reduction of solitary mandated by the HALT Act has not been implemented. Your assistance in implementing the oversight mechanisms and legislation that New York has already agreed to is so, so vital at this moment.

95% of all people who are incarcerated come home– these issues reverberate in their families, faith communities, and neighborhoods, and the entire city. We are so grateful to be in conversation with you about the ways we can seek justice in this city, and move towards a place of decarceration that supports the safety, dignity and wellbeing of every New Yorker.

Rabbi Margo Hughes-Robinson

NY Rabbinic Organizer, T'ruah: the Rabbinic Call for Human Rights

Mhughesrobinson@truah.org

**Written Testimony for the NYC City Council
Committee on Criminal Justice**

Hearing

June 28, 2022

Tanya Krupat, Vice President of Policy & Advocacy
Osborne Center for Justice Across Generations
Osborne Association
www.osborneny.org

Testimony to the City Council Committee on Criminal Justice
June 28, 2022

*Int 356 - By Council Members Rivera, Louis, Hanif, Joseph, Narcisse, Avilés, Williams, Cabán, Ung, Ossé, Ayala, De La Rosa, Restler, Richardson Jordan, Riley, Gutiérrez, Abreu, Won, Barron, Schulman and Fariás - **A Local Law** to amend the administrative code of the city of New York, in relation to establishing a program for child visitors of department of correction facilities.*

Thank you for the opportunity to address you and thank you for Intro. 356, which acknowledges and attends to the needs of children who visit or would like to visit their parents or loved ones incarcerated in the custody of the NYC Department of Correction (DOC). My name is Tanya Krupat, Vice President of Policy and Advocacy for the Osborne Center for Justice Across Generations. Each year, Osborne provides services to more than 10,000 individuals involved with the criminal legal system, including people on Rikers, and to their children and families. Osborne has long worked to improve visiting at Rikers and we are members of the DOC Visiting Workgroup. We currently partner with DOC and fellow provider, Hour Children, to provide visiting and other supportive services at Rose M. Singer Center, funded by former First Lady Chirlane McCray’s initiative via MOCJ. DOC recently received two federal grants to improve the visiting experiences of children. We are included as a subcontractor on one of those grants and we will be providing technical assistance to DOC once our subcontract is executed.

Intro. 356 is very important. Visiting is often overlooked as a critical aspect of correctional operations and a violence prevention and reduction strategy. Following the complete, unprecedented closure of all in-person visits due to Covid-19 for close to 18 months, and the current life-threatening state of Rikers—harmful to those in custody and to all who work there—it is critical to fully bring back and improve visiting. Currently, visiting is not fully restored to its pre-Covid schedule and there are still NO weekend visiting days, making it hard to impossible for school-age children and working families to visit at all. **Weekend in-person visits should be restored immediately and Int. 356 should add a minimum requirement that weekend and afterschool/evening visiting hours be made available.**

We thank the bill sponsors for this bill and for the language in it. Particularly, the use of the term “visits/visiting” and not “visitation,” a term used by systems that separate

families, which is not child or visitor-friendly; and “child visitor,” not “juvenile visitor.” While this bill addresses in-person visits, I would like to point out that “televisiting” has become an important supplement to in-person visits on Rikers. Televisits **should be expanded** to include all weekdays, as they are currently only offered on weekends. Additionally, DOC cannot use the placement of televisiting equipment inside visiting rooms as a reason not to return to weekend in-person and expand televisiting. This is a logistical issue the Department must find a solution to and should have considered when they placed the televisiting booths inside the visiting rooms which was problematic from the start.

We were happy to see many aspects of Intro 356, including attention to the needs of children to play and interact with their parents. Youth tell us that being able to touch and interact with an incarcerated parent supports their well-being:

“When my mom was transferred to prison, I got to sit on my mom’s lap and touch her and that is when I believe the healing process began,” and “my interaction with my father in the visit space was always so restrictive and cold. If there were a designated space for children to visit and a person who was committed to ensuring our visits were engaging and warm, I’m certain it would have positively contributed to my father’s rehabilitation and my emotional wellbeing.”

While the existing minimum standard allows for children up to age 14 to sit on their parents’ laps, the bolted down, long visiting tables that exist in most facility visiting rooms prevent this from being a reality for all but the smallest children who we have been told can be passed over the 6 inch plexiglass barrier. We have advocated that the **bolted down tables be removed** and smaller tables for individual visiting groups be restored, a recommendation supported by many Visiting Room Officers who say the bolted tables are problematic from a security standpoint. Even in a Covid world, children should minimally be allowed to hug, kiss and hold hands with their parents or loved ones during a visit (masks and hand sanitizer should be readily available).

Youth who have visited parents on Rikers convey that the experience is stressful:

“The long waits and procedures are traumatizing for me. I’d like for correction officers to use child-friendly screening practices and for Rikers to reduce the amount of time that children have to wait so we don’t have to bear that trauma as we grow up” and, “for me, the screening process was extremely daunting. Having

a space that is much more child-friendly would have lessened the load of having a parent in prison.”

Attached to my testimony is our suggested amendments of Intro 356. We welcome the opportunity to discuss our recommendations and ask that you make the recommended changes, including the following:

- We recommend **raising the age in the definition of “child visitor” to include 16 and 17 year old children**. All visitors under age 18 should be considered children for the purposes of maximizing interaction with their parent or caregiver through visiting in child-friendly designated spaces and being afforded games that foster interaction and conversation, even those 16 and 17 years olds who are permitted to visit on their own. Raising the age in the definition should not change DOC’s current policy of allowing those 16 and older to visit unaccompanied. We also advocate that the training this bill would require include a segment on interacting with unaccompanied emerging adult visitors (those between 16 and 24 years old).
- The bill does not address processing of child visitors which **should be child-friendly** and consider how scary the visiting process—including routine canine searches—can be from a child’s eye view. Many children witnessed their parents arrest and associate police with their parent’s removal; many children view Corrections Officers (COs) as police. An awareness of this association and efforts to reassure and welcome children should be part of visiting training for all COs and DOC staff who interact with visitors.
- **The lengthy time before and after visits should be shortened**. The time from Central Visit House (CVH) to the start of the actual visit should be no more than one hour. We believe the Department can track wait times with the “time stamp” in Visitor Express and should report quarterly on the average, shortest, and longest amount of time it takes to go from the CVH to the facility being visited. This can be included in the report outlined in Intro 356, but should also be submitted more frequently as part of the Mayor’s Management Report and to the Council.

Further amendments are attached.

Thank you again for your attention to improving the visiting experiences of children.

Contact:

Tanya Krupat

Vice President of Policy and Advocacy

Osborne Center for Justice Across Generations

tkrupat@osborneny.org

Note: suggested additions and edits are highlighted below.

Int. No. 356

By Council Members Rivera, Louis, Hanif, Joseph, Narcisse, Avilés, Williams, Cabán, Ung, Ossé, Ayala, De La Rosa, Restler, Richardson Jordan, Riley, Gutiérrez, Abreu, Won, Barron, Schulman and Farías

A Local Law to amend the administrative code of the city of New York, in relation to establishing a program for child visitors of department of correction facilities

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-156 to read as follows:

§ 9-156 Child visitor program. a. Definitions. For purposes of this section, the following terms have the following meanings:

Borough jail facility. The term “borough jail facility” means any department facility that is located outside Rikers Island and in which people held in department custody are housed.

Child visitor. The term “child visitor” means a visitor under 16 years of age.

City jail. The term “city jail” means any department facility in which people held in department custody are housed.

Department. The term “department” means the department of correction.

Visiting area. The term “visiting area” means any space within any city jail designated for the purpose of visits.

Visitor. The term “visitor” means any person who enters a city jail for the purpose of visiting a person housed in any city jail, or any person who is screened by the department for visiting purposes, and includes the term “child visitor.”

- b. The department, in consultation with not-for-profit organizations with expertise in issues affecting child visitors, shall develop a program *(and policies)*.

procedures and training to improve the visiting experience for child visitors and all other participants of visits involving children. Such program shall have the following features:

1. In all visiting areas where child visitors will be visiting, the department shall provide toys, games, books and arts-and-crafts for interaction between visit participants of all ages;

2. Contact throughout the duration of the visit will be permitted between children and their parents/caregiver in the specially designated visiting area for child visitors. (Note: Contact is already permitted in the minimum standards for child visitors in the general visiting room up to age 14.)

3. The department shall require all department staff who interact with child visitors to receive training designed to minimize stress for child visitors; and

4. All new or substantially remodeled city jails shall have a specially designed visiting waiting area and specially designed visiting area that includes children's books and toys for child visitors and those who accompany them.

5. Visiting hours will include weekend options for visiting so that children do not need to miss school to visit.

c. No later than 90 days after January 1, 2023, and annually thereafter, the department shall submit to the board of correction and the speaker of the council, and post on the department's website, a report regarding its efforts to improve the visiting experience for child visitors pursuant to the requirements set forth in subdivision b of this section. Such report shall include, but need not be limited to, the following information:

1. The number of visitors *(Needs clarification. Is this adult and child visitors combined?)* to city jails, disaggregated by borough jail facilities and city jails on Rikers Island, and disaggregated further by facility;

2. The number of visits by child visitors, disaggregated by borough jail facilities and city jails on Rikers Island, and disaggregated further by facility;

3. The number of visits by child visitors that occurred in visiting areas specially designed for child visitors pursuant to subparagraph 3 of subdivision b of this section, disaggregated by facility;

4. The number of department staff that interact with child visitors *[Note: this would need to be more specific: the number of steady visit officers? and the number of steady visit captains? Define steady as assigned to the post for at least 6 months?];*

5. The number of department staff that *interact with child visitors [Note: suggest removing “interact with child visitors,” with staff rotating posts, it is more important to know how many staff have received the visiting training]* who have received visiting training required by subparagraph 2 of subdivision b of this section;

6. The inventory of toys, games, books and arts-and-crafts required by subparagraph 1 of subdivision b of this section, disaggregated by borough jail facilities and city jails on Rikers Island, and disaggregated further by facility; *[Note: this annual update should include who oversees the children’s area in each jail and how toys are cleaned/ sanitized and replenished ;*

7. A description of the department’s efforts to collaborate or consult with experts from relevant nonprofit organizations;

8. A list of borough jail facilities and city jails on Rikers Island, if any, that do not have visiting areas specially designed for child visitors; and

9. A description of additional improvements made or initiatives taken by the department to improve the child **visiting** experience.

d. The information required by subdivision c of this section shall be compared to the previous four reporting periods whenever possible, stored permanently and made accessible on the department's website.

§ 2. This local law takes effect 120 days after it becomes law, except that the department of correction shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Session 12
RCC
LS#8662
4/22/22

Session 11
NC
LS #7658 and 8543
12/17/18

June 28th, 2022

New York City Council Hearing on Criminal Justice

Good morning. My name is Eileen Maher. I am a Social Worker, a Civil Rights Union Leader with Vocal-New York and a member of the Justice for Women Task Force and Freedom Agenda. I am a woman who was formerly incarcerated and a survivor of Rikers Island as well as the New York State Department of Correction. I spent over 420 days at Rosies. Thank you for allowing me the opportunity to testify before you.

The DOCS and COBA sponsored chaos must come to an end.

Over the past year approximately 25 people, detainees—have died while in New York DOC custody. None convicted of a crime and certainly the Death Penalty was not ordered—but it is in fact what occurred. These Human Beings unnecessarily lost their lives and did so as a direct result of an ingrained culture of violence, abuse and neglect—not at the hands of their fellow detainees but at the hands of those sworn to protect them—and—for those who perished as a result of medical neglect—at the hands of those who swore an oath To Do No Harm.

NYC, COBA and the Department of Correction have the blood of each of these individuals on their hands.

This decades, really a century-long plague of violence, abuse and neglect—perpetuated by those in charge has only gotten worse over the past two and a half years—when the pandemic initially began. We have watched—as thousands of CO's participate in a mass, COBA organized 'sickout'—where day after day, month after month and now—year after year—countless numbers of CO's call out sick or even do the 'no call no show' trick. As a result—dorms and especially cell blocks have gone unmanned for two, sometimes three shifts in a row.

Detainees go for what can be days—not only without food or showers—but without medicines for chronic illnesses such as diabetes, mental illnesses as well as medically assisted substance treatment. Doctor and mental health appointments are abandoned almost entirely and there has been a total absence of basic human needs such as toilet paper and menstrual products for the women. Toilets and sinks have become clogged and inoperable—forcing Human Beings to have to go to the bathroom into a plastic bag.

And all we hear from the City and DOCS—with each passing death—that it is not their fault, it has nothing to do with the blatant neglect of duties by officers and staff and everything to do with a perceived notion that the detainee is at fault—an utter disregard for humanity and morality by the City and DOCS. This attitude is deplorable and inhumane.

Please stop insulting our intelligence.

Clearly DOCS and the City have lost control over their own system.

These are actual human lives that are being lost. What if the next Person to perish—at the hands of DOCS was your mother, or brother or child?

Then will you listen?

Something has got to give! This is not going to be remedied by creating superfluous task forces and hiring more officers. If you can't control the officers you have now—what makes you think you can control additional CO's?

Hold the officers purposely violating the Taylor Laws with these choreographed sick outs accountable. That would be a start.

Advocate for Alternatives to Incarceration and community services. Stop criminalizing those fighting back against their abusers and attackers.

Encourage and implement supportive housing, affordable housing and medically assisted substance abuse treatment. We need violence interrupters and non punitive intervention when 911 is notified of someone having a mental health 'breakdown'.

Then implement a Corrections Officer Staff who have been properly vetted, psychiatrically evaluated and trained. You do not have that now.

What you have now are not officers—they are a gang—A gang who instigate violence, traffic in narcotics and weapons, and behave in a dangerous and sexually predatorial manner when they bother to show up for work. You created a so called task force that as their first order of business murdered three detainees.

The City Council voted to close Rikers. Act on that, with special and immediate attention paid to moving the women out of Rosies and off Rikers into their own free standing facility in Manhattan. Continue to close this cancer of an island and expedite the land transfers of the buildings already closed and unused land from DOCS to the City.

INTERVENE. Do something. For a century DOCS has proven time and time again that they are not up to the task. It is over, Before any more lives are lost. This is unacceptable—all of this. It all has to change. If not, more blood will be on your hands. When will enough be enough?

Thank you,

Eileen M. Maher

Saint John's Place

Brooklyn, New York 11233

New York City Council Criminal Justice Committee Hearing
Basimata Simmons Testimony
June 28, 2022

My name is Basimata Simmons and my daughter Mia is at Rosie's right now. She has been there for over 3 years and she doesn't belong there.

Mia never got in trouble in her life. She dedicated her life to helping others.

In 2019, she was 20 years old when our lives changed. She was sent to Rosie's for defending herself when she was attacked.

At the time Mia was working with disabled children and had just passed the firefighter exam. Her whole life was ahead of her. But instead of moving forward she is stuck at Rosie's, and I worry about her safety and health every single day. Everyone has razors there now. Mia is dehumanized just by taking a shower and having guards stare at her.

Conditions at Rosie's are deplorable. Mia's gotten jumped there. In the winter there was no heat. She has gotten covid three times. The guards are disrespectful. I wouldn't even treat my dog the way women are treated there.

I've watched the light in Mia disappear. Mia used to be a happy, creative person who was just starting her adult life. Now she is scared and depressed. Mia is my only child, we used to do everything together.

She shouldn't be there. A judge had promised to get her into a community program, but nothing has happened. Rosie's is horrible and I wouldn't wish it on anyone.

It is a terrible idea to move women from Rosie's to Kew Gardens where they would be with men. More women like Mia can be decarcerated and served in the community. For those who need a higher level of security, creating a Women's Center for Justice at Lincoln would be a good solution. This should be a place that is different than Rosie's, where women can get support and care. I would be able to visit Mia, she would be able to get therapy to get through this. People can be rehabilitated, and they can change with guidance and support.

New York City Council Criminal Justice Committee Hearing
June 28th 10 a.m.
Theresa Ortiz Testimony

My name is Theresa Ortiz and I was at Rosie's in September 2021. I was serving a four month city sentence for selling drugs to an undercover cop. It was my first time, and right before I went in, I lost my brother. This was a really hard time for my family, and me being at Rosie's caused them even more pain.

When I arrived at Rosie's it was shocking. I wondered if I would make it out. Everyone was on their own, and the officers weren't protecting anyone. They treated us like animals on the street. The officers didn't bring women outside or to medical. The food was cold and expired, and sometimes people didn't eat, and the officers did nothing. We had to call 311 to get to get basic things.

I'm quiet and I wasn't there to fight, but I kept getting bullied. Everyday my life was at risk and people threatened me. A lot of the women were losing their minds.

I raised my sister's kids and me being at Rosie's was hard on them too. I didn't want them to visit and go through the search. They made me strip down in front of cameras before I could have a visitor, and I did not want to do that.

My friend is still at Rosie's and I talk to her every day. Things are getting worse. There are fewer officers, women still have COVID inside. She told me about Mary Yehudah, the woman who recently passed. Mary needed help and didn't get it.

Anywhere would be better than Rosie's. These women need help, not jail. You're sitting there all day waiting for your case. I kept requesting to talk to the social worker and couldn't get her. No one got therapy or mental health support.

I think the city's plan to move women from Rosie's to Kew Gardens with men is a bad idea. I feel really uncomfortable with men, and I know it would retraumatize women. It's setting up a bad situation.

Many women can be released back to the community, they just need support. For those that need a higher level of security, there should be a place that provides therapy and care. I support what Women's Community Justice Association is advocating for—a Women's Center for Justice in Harlem that would help women inside of harming them, and connect them with services.



PROTECTING KIDS. PROVIDING HOPE.

Testimony before the New York City Council Committee on Criminal Justice Rikers Island Interagency Taskforce, June 28, 2022

My name is Daniele Gerard and I am a senior staff attorney at Children's Rights – a national advocate for youth in state systems. We are a member of the New York City Jails Action Coalition and the Rikers Young Adult Task Force. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us in contact with young adult and youth corrections policy, as our clients are disproportionately represented in young adult and juvenile correction facilities. We advocate for young adults incarcerated on Rikers Island.

Decarceration is the answer. The Rikers Island Interagency Task Force was appointed in May 2022 following the 11th report of the *Nunez* monitor. But the 12th report showed no improvement. So where are we now? We understand that much work is involved in eradicating the miserable conditions on Rikers, but there is no time to waste while work is underway and planning proceeds.

Decarceration is the answer. Incarcerated persons continue to die on Rikers, officers are still not showing up for work, and people have been going without showers or food and are left in their cells for hours on end. The Rikers Interagency Task Force should keep in mind that yesterday's data alone show that 85% of incarcerated persons on Rikers are there pre-trial, 52% have mental health conditions, and over 93% are people of color. The December 2021 12th *Nunez* report notes that the Department employs approximately 8,500 active uniformed staff and 1,700 civilian employees, and that there are approximately 5,500 incarcerated individuals. It defies math and logic that not all staff posts are filled, and that there aren't enough officers to enable the provision of programming, education, and mental health and medical services to young adults and others on the Island, in the requisite sufficiency, quantity, and duration.

In the face of these statistics and little reduction in the horrors of what amounts to a positively Dickensian mental health and penal system, the humane, moral, and ethical path forward is to decarcerate now. The half a million dollars it costs to incarcerate someone for a year on Rikers can and must be used instead to pay for affordable and supportive housing, treatment, and to hire social workers and other mental health professionals. Children's Rights supports [Res. 156](#) in support of the Treatment Not Jail Act and [Int. 284](#) requiring social workers in correctional facilities.

Surely, both incarcerated persons and New York City taxpayers deserve better, and better for their money. Surely our elected officials can see their way clear to reducing the cruelty that defines our criminal legal system. That means decarcerate now.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 6/28/2022

(PLEASE PRINT)

Name: Deanna Logan

Address: 1 Centre Street

I represent: MOCJ

Address: 1 Centre St.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 6/28/2022

(PLEASE PRINT)

Name: AMERICA CANAS

Address: 1 CENTRE ST, 10TH FL, NY, NY 10007

I represent: MOCJ

Address: 1 CENTRE ST, 10TH FL, NY, NY 10007

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Brendan McGuire, Chief Counsel to Mayor

Address: City Hall

I represent: Rikers Island Inaugury Task Force

Address: City Hall

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 6/28/22

(PLEASE PRINT)

Name: Melissa Guillaume

Address: _____

I represent: DOC

Address: 4920 Astoria Blvd

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 6/28/22

(PLEASE PRINT)

Name: Chelsea Chard

Address: _____

I represent: DOC

Address: 4920 Astoria Blvd

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 0128/02

(PLEASE PRINT)

Name: Kat Thomson

Address: _____

I represent: DOC

Address: 7520 Astoria Blvd

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 0128/02

(PLEASE PRINT)

Name: Louis Molina

Address: _____

I represent: DOC

Address: 4000 Astoria Blvd

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