

**Mayor's Office of Criminal Justice
Testimony to the New York City Council
Committee on Criminal Justice
Oversight Hearing
"Alternatives to Detention and Incarceration in New York City"
Thursday, November 30, 2023**

Good morning, Chair Rivera and the members of the Committee on Criminal Justice. My name is Nora Daniel, and I am the Chief of Staff at the Mayor's Office of Criminal Justice (MOCJ). With me today are Jordan Montoya, Executive Director of Pretrial Services at MOCJ, Angel Arias, Community Outreach Manager at MOCJ, and Zachary Honoroff, Deputy Director of Research Innovations at MOCJ. Thank you for the opportunity to testify about alternatives to detention and incarceration.

MOCJ advises the mayor on criminal justice and public safety policies. MOCJ partners with not-for-profits, law enforcement agencies, district attorneys, and advocates to address underlying systemic issues that impact New York City's safety. MOCJ collaborates with our partners to offer good government solutions to pressing public safety challenges. MOCJ's initiatives include diversion programs, reentry services, supervised release, transitional housing core initiatives that operate in the public safety continuum to mitigate crime, help the most vulnerable New Yorkers thrive, and build stronger, healthier communities.

Alternatives to detention ("ATD") and incarceration ("ATI") are crucial parts of Mayor Adams' commitment to the public safety continuum. They provide critical investments that offer people impacted by the criminal justice system, the courts and system actors with alternatives to carceral settings.

Diversion programs allow individuals arrested for certain crimes the opportunity to participate in programs that address underlying behavioral concerns to prevent future criminal justice involvement, allowing individuals to reintegrate into community without incarceration. These programs are a vital aspect of the criminal justice landscape.

Similarly, supervised release is a court-mandated release program that offers judges an alternative to pretrial detention and provides off-ramps to voluntary services and referrals to participants who exhibit needs. Having supervised roughly 22,000 cases in FY 23, the program is a key tool in the court's toolbox. Supervised release is available on all criminal cases citywide and implemented through our provider partners NYC Criminal Justice Agency in Queens, Center for Alternative Sentencing and Employment Services (CASES) in Manhattan, Center for Justice Innovation in Staten Island and Brooklyn, and The Fortune Society in the Bronx. These partners, through their trained teams of social workers, peer specialists, and clinical staff supervise individuals in community.

Our partners offer a wide range of services and programs to participants which include intimate partner violence programs, youth specific tracks, cognitive behavioral and other forms of therapy, mental healthcare, substance use harm reduction tools, employment, housing, and benefit assistance. For other or more acute needs that cannot be addressed by providers in house, providers

offer warm hand-offs to both out and in-patient programs. In FY24, MOCJ along with our supervised release partners are launching an intensive case management (ICM) pilot to pair those in SRP with higher needs and persistent touches with criminal justice system with a team of highly experienced and trained staff who can provide more direct and frequent care to this population.

ATIs are typically services mandated by a judge for individuals to complete an assigned program. Participants may enroll in ATI services prior to their case disposition. MOCJ partners with fourteen (14) providers to facilitate twenty-four (24) programs which include a broad array of services for those mandated to the programs. These programs provide comprehensive support to participants, including assistance with education, job readiness, internships, community service, mental health services, access to public health services, substance use treatment, recovery, and a range of other rehabilitation programs. For example, Nathaniel ACT in Brooklyn and Manhattan offers mental health treatment, job training, and housing assistance programs for people over 18 suffering with serious mental illness. In the Bronx, El Rio does individual and group counseling, anger management workshops, and peer support groups for people dealing with substance abuse. Over the last three fiscal years, 97% of those who completed their ATI program have not been rearrested for a violent felony and 92% have not been reincarcerated at all. In FY23, ATI programs served more than 8,000 New Yorkers.

As of October 2023, MOCJ began implementation of the Jail Population Review Program, mandated by Local Law 75 of 2023. This initiative is designed to safely decrease the number of individuals awaiting trial in custody. The focus is on mitigating systemic inefficiencies that contribute to unnecessary delays in case resolution and linking individuals with appropriate community support and supervision.

Through this undertaking, the Center for Justice Innovation's (CJI) screens cases at various stages in the legal process to identify potential individuals who, based on review, are good candidates for release to an ATI or diversion program. Since its commencement in October, CJI has reviewed the cases of individuals in jail for a seven-day period averaging approximately 50 cases per week. While still in its early stages, the initiative has already referred numerous cases to the district attorney's office in Manhattan and to defense attorneys to address various issues. This initiative represents a crucial step forward in our commitment to fostering justice and creating pathways for rehabilitation within our communities.

Our administration is committed to actively identifying roadblocks in the criminal justice system, while investing in the most vulnerable people impacted by the criminal justice system by providing appropriate and safe alternatives to carceral settings. Thank you for the opportunity to share some information about MOCJ's work. We're happy to answer any questions you may have at this time.

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Testimony Before the New York City Council Committee on Criminal Justice

“Oversight – Alternatives to Detention and Incarceration in New York City”

Thank you to Chairperson Rivera for the opportunity to submit this testimony providing the Manhattan District Attorney’s Office’s input on the issue of the alternatives to detention and incarceration in New York City. Our Office is grateful that the Council is focused on this issue that directly affects our practice and our ability to deliver our twin goals of public safety and justice to New Yorkers every day.

The Value in Alternatives to Detention and Incarceration

Programs providing alternatives to incarceration and detention have become essential components of the criminal justice system today. This is due in large part to the fact that these programs not only provide a fair and proportional way to resolve a criminal case, they also make us safer. Our office recognizes the ample research and statistical analysis that has demonstrated that incarceration can lead to increased levels of recidivism, which has been well established nationally¹ and particularly with recent data from New York City.² By contrast, when applied appropriately, the programs providing alternatives to detention and incarceration have proven to drive down recidivism and therefore make our communities safer.³ It is worth noting that they are also far more cost-effective than incarceration.⁴

The criminogenic effects of incarceration are particularly problematic for those diagnosed with serious mental illnesses. That portion of our jail population rose over the past three years from just

¹ See, e.g., Paul Heaton, Sandra G. Mayson, and Megan Stevenson, The Downstream Consequences of Misdemeanor Pretrial Detention, 69 Stan. L. Rev. 711 (2017), available at: https://digitalcommons.law.uga.edu/fac_artchop/1148; Christopher T. Lowenkamp et al., The Hidden Costs of Pretrial Detention, 2013, available at http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf

² See Mike Rempel and Rene Ropac, Does New York’s Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in New York City, Data Collaborative for Justice, 2023, available at: [Does New York’s Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in New York City - Data Collaborative for Justice](https://www.datacollaborativeforjustice.org/does-new-yorks-bail-reform-law-impact-recidivism-a-quasi-experimental-test-in-new-york-city)

³ E.g., Rempel et al., NIJ’s Multisite Evaluation of Prosecutor-Led Diversion Programs, Center for Court Innovation, 2018, available at <https://www.innovatingjustice.org/publications/multisite-evaluation-prosecutor-led-diversion-programs>

⁴ See, e.g., Id.; New York City Comptroller, NYC Department of Correction FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, and Overtime, 2021, available at <https://comptroller.nyc.gov/reports/nyc-department-of-correction/>

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under 700 individuals to 1,200 individuals by May 2023—approximately one-in-five people detained at Rikers has serious mental health illness, while half had some form of mental health need⁵ It is not only our moral imperative to provide off-ramps for detention for these individuals, it also helps keep us safer by addressing their issues in an appropriate environment.

Historically, prosecutors have had a binary choice between prison and unmonitored placement in the community, but there are more options for prosecutors through programs providing alternatives to incarceration and detention. District Attorney Bragg’s dedication to justice and public safety is reflected in the Office’s use of these programs.

Problem Solving Courts in Manhattan

Alternatives to incarceration have flourished in New York County’s unique array of problem-solving courts. Historically, New York County has had many of the common types of problem-solving courts that are present in many jurisdictions throughout New York State, including our Mental Health Court, Judicial Diversion Court for drug and drug-related cases, and Veterans court. These courts continue to provide excellent services to defendants in Manhattan every day.

However, our Office found significant gaps in opportunities for alternatives to incarceration for those that did not fit neatly into one of these specialized courts, but for whom an alternative to incarceration program was in the interest of justice and public safety. To ameliorate this critical gap in services, in 2018 DANY created a “Felony ATI” problem-solving court which since opening has taken 764 pleas and served 641 people.

DANY has nearly solely funded this Felony ATI court exclusively through the Criminal Justice investment Initiative (CJII) fund established by DANY in 2015, made up of asset forfeiture funds seized from large banks. Since 2018, approximately \$6.1 million in CJII funds have been invested to pilot and implement the felony ATI problem solving court and to accommodate the increase in referrals. Each year, DANY contributes approximately \$2.1 million to operate the Felony ATI court.

Manhattan is also unique in providing a “mental health track” in our Judicial Diversion Court for drug and drug-related offenses. Unlike our other problem-solving courts, the Judicial Diversion court is mandated by state statute and funded by the state. In that respect, it operates like other Judicial Diversion courts across the state. However, our Office noticed that a large number of

⁵ Preliminary Mayor’s Management Report, 2023:

<https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2023/doc.pdf>

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individuals in this court have co-occurring mental health issues, and the staff trained to address drug issues were not always adequately trained or prepared to support those presenting serious mental health issues. Therefore, DANY funded the creation of a “mental health track” in the Judicial Diversion court to provide these individuals with specialized treatment appropriate to their needs. These are individuals who would otherwise not be accepted into Judicial Diversion. This was funded entirely by our asset forfeiture funds through CJII, and our Office has spent \$2.3 million on this “track” since 2018. At its current scale, DANY contributes approximate \$630,000 annually to operate this track.

Issues With Scale and Funding

Since taking office, District Attorney Bragg has more than doubled annual referrals to problem-solving courts. This has brought greater justice and safety to Manhattan, but has also strained existing resources. At present, individuals awaiting assessment for placement into our alternative to incarceration programs on Rikers Island can wait up to two months for their assessment. Those who are not incarcerated wait even longer. This poses a genuine public safety issue, as those with untreated behavioral health issues are more likely to recidivate the longer they wait for treatment. As our referrals grow, our system must grow concurrently to handle this increased volume.

Furthermore, DANY cannot continue to fund the programs we have funded to date. In total, since 2018, approximately \$8.4 million of CJII funds have been invested to pilot and implement felony problem-solving courts and to accommodate the increase in referrals. Each year, DANY alone fills a funding gap in the problem-solving courts by contributing approximately \$2.75 million to these courts. The CJII fund, established in 2015, will be completely exhausted in the near future. Without funding from another entity, the Felony ATI court and the mental health track in the Judicial Diversion court will no longer operate, and public safety will suffer. Not only do problem solving courts provide services and opportunities for housing, but these specialized courts help reduce the number of people housed at Rikers. The consequences of losing any funding to problem-solving court service providers or funding for problem solving courts themselves are dire given the conditions on Rikers Island.

Conclusion

Thank you for focusing on an issue that has increasingly become an integral part of our criminal justice system, and indispensable in our efforts to achieve justice and public safety. Though pretrial detention and carceral sentences are necessary for many violent offenders, it is not a long-term solution for all criminal conduct. If alternatives to incarceration and detention are not sustained, much less expanded, Rikers Island will continue to be a place that overwhelmingly detains the

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unhoused and mentally ill, which increases the likelihood that those individuals will continue to engage in criminal behavior upon reentry. We trust that the Council and the Administration will endeavor to address these issues which have significant impacts on public safety and fairness in our practice every day.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE
NOVEMBER 30, 2023**

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.

We have less than four years to close the jail on Rikers Island, as is legally required, to be replaced by four borough-based jails, which will be able to hold a maximum of 3,300 people. This means that the population at Rikers must be 3,300 or fewer—however, we are not on track to meet this goal, and Mayor Adams has expressed ambivalence about whether Rikers can or should close. In fact, the jail population is rising alongside the increasing number of people being detained pending trial.¹ This is obviously problematic for the city’s endeavor to reach the decreased population needed to close Rikers Island—which I will again reiterate is required by law.

An “alternative to incarceration” (ATI) is any court-mandated requirement or punishment other than time in prison or jail. ATIs can include common practices such as diversion programs, community supervision (such as probation), home confinement, electronic monitoring, fines and restitution, and community service—or they can be more tailored to a person’s specific needs. ATIs have been shown to reduce recidivism, improve public safety, and minimize costs. They also strengthen families and communities by preventing the reverberating collective trauma that often results from a person’s incarceration.

The vast majority of people housed in Rikers Island are being detained pending trial or the conclusion of their cases. Instead of incarceration, many of these people need support and services, such as mental health treatment, cash and housing assistance, or job support. Many ATI programs provide these vital services. The Mayor’s Office of Criminal Justice currently funds 24 ATI programs run by 14 non-profit organizations.² These contracted organizations provide a range of services, including case management, therapy, substance use treatment, restorative justice programming, conflict resolution, job training and internships, violence intervention, educational support, harm reduction, and anger management.

With half the population at Rikers Island having a mental health diagnosis, the need for mental health services for people who come into contact with the criminal legal system is great. New

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<https://comptroller.nyc.gov/reports/the-state-of-new-york-city-jails/#:~:text=Persons%20in%20Custody.the%20jail%20population%20was%205%2C708>.

² <https://criminaljustice.cityofnewyork.us/programs/alternatives-to-incarceration/>

York City offers an alternative adjudication process for some people with mental illness: mental health courts, which connect people to community-based care and support instead of carceral punishment. It is a life-changing process—for those who can get in. In Fiscal Year 2022, Brooklyn’s mental health court handled about 250 cases, 75 in Manhattan, and less than 50 in Queens and Staten Island.³ Unfortunately, lack of resources—both in court and in the community—limit the use of mental health courts in our city. We must prioritize funding for programs like these, or we will continue to warehouse people who need treatment, not jail, and we will continue to see people incarcerated on Rikers die by suicide—people like Erick Tavira, who last year was denied admission into mental health court and then died by suicide while incarcerated.

I worry that the recent budget cuts, as well as those we will likely face in the near future, will further limit our ability to offer ATI programs, as well as other needed services, to people in the criminal legal system. We have already lost \$17 million in programming for those on Rikers Island, making it more urgent than ever to divert people from incarceration. We know that incarceration results in trauma, not only for those in jail but for their loved ones on the outside, as well as exacerbation of existing mental and physical health issues and diminished job, housing, and educational prospects. We also know that ATIs decrease recidivism and increase public safety. ATI programs allow people to remain in their communities and be parents, siblings, friends, caregivers, colleagues, and neighbors, with the resources and support they need to do so.

Thank you.



Testimony of

Brad Sage, Esq.
Diversion Specialist
New York County Defender Services

Before the
New York City Council
Committee on Criminal Justice
Oversight Hearing on Alternatives to Detention and Incarceration

November 30, 2023

My name is Brad Sage. I have been a public defender for 29 years, working in New York City's Criminal and Supreme Courts. I currently serve as the Diversion Specialist at New York County Defender Services ("NYCDS"), a public defense office that represents New Yorkers in thousands of cases in Manhattan's Criminal Court, Supreme Court and Family Court every year. Thank you, Chair Rivera and this Committee, for holding this oversight hearing on the alternative to incarceration ("ATI") programs in our criminal legal system.

At any given time, NYCDS represents hundreds of clients undergoing alternative to incarceration programming in Manhattan's Criminal and Supreme Courts. After having practiced criminal law in Manhattan for 29 years, I was recently asked by my office to pilot this new position. My caseload is composed almost entirely of clients who have taken a plea and are now mandated by their plea agreements to complete ATI programming. In this specialized role, I am in the diversion and alternative to incarceration parts nearly every day. My job is to advocate for my clients' acceptance into these too-few, highly-coveted spots in an ATI program, and then support those who are accepted so they successfully complete their mandates. Unfortunately, as I will explain in this testimony, due to underfunding and restrictive policies, our ATI system suffers from a number of logistically convoluted inefficiencies and unnecessary procedural hurdles. Thus, much of my job is to resolve these administrative snags and ensure fair process, so that my clients can focus on the emotionally intensive demands of these programs and re-emerge from them healthier, more stable, and ultimately, less likely to reoffend.

I submit this testimony to urge the Council to take measures - through funding and legislative means - to expand and streamline these programs to help more deserving individuals get access to the important treatment and services they need.

I. Background

New York's criminal legal system represents a tenuous, patchwork system of diversion programs. Only one, narrowly circumscribed pathway to diversion - judicial drug diversion - is formally codified in statute¹ and, thus, reliably staffed and funded by the state. Those who suffer from non-drug-related underlying needs, or who otherwise fail to meet the overly-restrictive statutory eligibility criteria, must navigate NYC's increasingly piecemeal landscape of ATI programs in order to avoid a sentence of incarceration and receive treatment responsive to their individual needs.

Many of these programs were developed on an *ad hoc* basis, the result of an all-hands-on-deck collaboration among court stakeholders to address the urgent needs of specific populations who are entrenched in our criminal legal system. On one hand, the scrappy, makeshift nature of these programs, which require the ongoing cooperation of prosecutors, defense attorneys, judges, and service providers, is a testament to the devotion of these stakeholders. Despite their institutional differences, these players work together on an ongoing basis to address the obvious, undeniable failure of our currently codified, carceral system to make our communities safer or healthier. On the other hand, the provisional nature of this patchwork system represents the failure of our elected leaders to recognize the widespread, urgent need for a fully resourced system of diversion. With this testimony, we implore the Council to prioritize constituting a modern, uniformly accessible and fully-funded system of alternatives to incarceration for New Yorkers who are driven into the legal system due to untreated root causes and unmet needs.

II. Increased Funding for Manhattan Misdemeanor Mental Health Court

We strongly support an across-the-board increase in funding to all of the ATI programs operating in NYC's court system, but we specifically want to draw the Council's attention to the urgent need for funding in the Manhattan Misdemeanor Mental Health Court.

The Misdemeanor Mental Health Court launched in March of 2022 to address the undeniable prevalence of individuals charged with low-level offenses who suffer from underlying mental health issues or co-occurring disorders. Under our codified system, these individuals have no legal mechanism to resolve their cases through treatment or services.

¹ Criminal Procedure Law Article 216.

Facing this glaring failure of our legal framework, in early 2022, the court system, the defense bar, DA Bragg's office, and the Center for Justice Innovation convened to create the Misdemeanor Mental Health Court located at Midtown Community Court.

In the year and a half since its inauguration, the court has served dozens of our organizations' clients and hundreds of defendants from across the county. By all accounts, the program is an outstanding success, far outperforming other diversion programs of its kind.

The court adopts a number of novel features that distinguish it from traditional ATI programs, and, we believe, contribute to its success. Notably, the court imposes no up-front plea requirements on participants, a departure from the common practice in ATI programming, where the person is required at the outset, prior to receiving any services, to plead guilty to the top count. Operating from a pre-plea model means that individuals who are interested in seeking treatment for their mental health issues are welcomed into the program and offered support with no strings attached. This simple practice has contributed to a profound paradigm shift in the culture of this court part. Accepting individuals without a plea, and meeting them "where they are" has earned the trust of our clients, many of whom are justifiably leery of the court system, and in some cases, are entering treatment for the first time.

Relatedly, the Manhattan Misdemeanor Mental Health Court offers an incredibly quick and streamlined admissions process. While applicants to other ATI programs are forced to undergo intensive, incredibly cumbersome admissions processes, which often take many months or even longer, most of the participants in this program are offered the opportunity to participate at their criminal court arraignment, and their intake is scheduled for the next Friday. Unlike other diversion programs, the Misdemeanor Mental Health Court wastes no time requiring the applicant to undergo "proffer sessions" with prosecutors, or gather and present "evidence" of their underlying condition (i.e. medical records, proof of prior hospitalizations, or psychosocial evaluations). Rather, the Misdemeanor Mental Health Court offers applicants a diagnostic screening at their intake, so that skilled clinicians can assess the person and make a determination about their diagnoses and needs on the spot. This spares all stakeholders and the client months of delay and needless bureaucratic work in procuring records and paperwork, and allows the person to enter into needed treatment immediately.

We ask the Council to consider expanding funding for this Court part so that the program can hire more caseworkers, accept more participants, and offer intake appointments more frequently than once a week.

III. Specific Funding that Would Improve and Streamline Logistical Impediments

In addition to providing general funding to our city's diversion programming, and the Manhattan Misdemeanor Mental Health Court specifically, we also urge the Council to fund the following positions. These three specific funding streams will streamline logistical hurdles, significantly enrich the experience of treatment programming, and ultimately improve participants' prospects for success.

As it currently stands, individuals who are accepted into various diversion programs face myriad practical challenges entering and remaining in treatment, especially those who are detained at Rikers Island. Due to the delicate logistical house of cards that stands between incarceration and release into a clinically appropriate program, conditions must align perfectly, with almost no margin for error, for an individual to be able to begin treatment within days or weeks of their acceptance. First, an appropriate program must have capacity for an additional participant; if the person is unhoused, a place to live must also be secured; DOC must produce the individual to court on their anticipated date of release; an escort must be available to safely accompany the individual to the program; and, finally, DOC must actually release the individual on that date. The viability of each of these logistical pieces is fleeting: an escort available today may not be available tomorrow, just as a bed reserved for one individual today will necessarily have to be relinquished if it is not claimed tomorrow. If any one of these logistical steps is delayed, the entire house of cards falls. That individual will not be released on the date planned. Nor will they be released the next day, or the next. Instead, they will be waiting for yet a new date when all of these fragile pieces of the puzzle might fall into perfect alignment.

Designated funding for each role described below would help shore up this logistical house of cards, resulting in a swifter and smoother transition from Rikers Island to ATI programming for participating individuals, and a system that comes that much closer to attaining the shared goals underlying the movement for alternatives to incarceration.

A. Housing navigators

A safe and stable place to live is crucial for an individual's success in ATI programming. Housing insecurity thwarts psychiatric stability and is strongly correlated with criminal legal system involvement. Understandably, then, confirmed placement in a safe residential setting is an absolute requirement before a court will release an individual to begin ATI programming. Funding for specific housing specialists or housing navigators assigned to work explicitly with clients pursuing ATIs would go a long way toward tackling this crucial logistical hurdle.

Because of the complexity of our city's housing system, securing a safe and stable place to live creates a potential logistical roadblock that can delay a person's release for months, even when

all other pieces of the puzzle have fallen into place. The process of applying for existing housing options is difficult and time consuming and requires extensive expertise in city, state and federal housing laws. Some organizations, like the Fortune Society and Housing Works in New York City, already employ experienced housing specialists whose sole role is to help clients in their programs apply for and enter permanent housing situations.² But these specialists are few and far between. Experts estimated this summer that there are more than 15,000 empty supportive housing beds in New York.³ Given the complexities of the current application systems, these beds cannot be filled without people whose job it is to connect people who qualify for the beds with service providers with the contracts to provide them.

No longer should an individual accepted into ATI remain waiting on Rikers Island for months, relying on sheer luck to land them in the residential setting needed to secure their release. A designated housing navigator with the expertise to tackle this inordinately complex area of our city's landscape would help ensure that.

B. Escorts

Even once a program placement and bed are secured, and an individual is brought to court for release to said program, courts will not release that individual unless a suitable escort is present in the courtroom to accompany them to the program. We have seen too many clients return to Rikers on the bus at the end of a long day, after eagerly awaiting that very date for their release to a program, all because there was no escort. Not only is this a heartbreaking disappointment for the individual, it is an entirely avoidable and needless roadblock. This results in people remaining longer in Rikers Island at a time when DOC is operating at an all time high level of dysfunction and stakeholders are all strategizing for ways to significantly reduce the population at Rikers Island.

Right now, many ATI providers are significantly limited with their ability to secure escorts for this role. As the NYCDS Diversion Specialist, I now receive a seemingly constant influx of emails from CJI and MDC and other ATI parts notifying me that an individual is set to be released but there is no escort available. The onus is then placed on my office to provide an escort for that client, or else forgo that day's opportunity for release and delay that person's path to a program for weeks or even months.

² For an example of the job description for the housing specialist role as it exists at the Fortune Society, see <https://www.indeed.com/q-Fortune-Society-Housing-Specialist-jobs.html?vjk=d6aeb46f13ffd5b4>. The position summary describes: "This individual will be responsible for conducting initial housing screening for new residents entering the Fortune Academy; develop relationships with housing providers; complete housing vouchers including Section 8, NNYIII, and CityFeps; facilitate housing workshop and financial management groups and carrying a manageable caseload for participants who are part of the housing program."

³ Chris Sommerfeldt, "Beds for 15,000 people sit empty in NYC's public, supportive housing systems amid migrant crisis: data," The Daily News (June 19, 2023), available at <https://www.nydailynews.com/2023/06/19/beds-for-15000-people-sit-empty-in-nycs-public-supportive-housing-syst-ems-amid-migrant-crisis-data/>.

Such a result is untenable, so when we receive those emails, our office does everything in its power to try to find someone from our office - a lawyer, a paralegal, a social worker - who is available and able to act as an escort. However, this is not, and cannot, be the permanent solution. Besides the fact that our office simply does not have the capacity to provide an escort everytime one is needed, when we do step into this role, we are putting ourselves on course for a potential conflict of interest. Part of the responsibility of an escort is to report back to the court if, for example, the person absconds en route to the program. If we, that individual's defense team, are the ones acting as escort, that means that we might be asked to break attorney-client confidentiality and compromise the client's constitutional right to a zealous defense by reporting the client's deviation from a court mandate.

Funding for independent escorts is direly needed to ensure that individuals' release to a program is not delayed, while not compromising the sacrosanct relationship of confidentiality and trust between attorney and client.

C. Peer advocates

“Peers” are licensed professionals - certified either through OASAS or OMH - who have lived experience with and in recovery from mental health and substance use issues. They are trained to assist other, similarly-situated individuals navigate their own recovery. Emerging research demonstrates that peers play an incredibly important role in long-term recovery for individuals with underlying substance use and mental health issues.⁴

Many ATI treatment providers in NYC have already begun to integrate the employment of peers in their work. For example, CASES recently supported the launch of the NYC Justice Peer Initiative, an organization that works to cultivate a peer workforce with specific expertise in navigating the criminal justice system. According to the Justice Peer Initiative's Founding CEO, Helen “Skip” Skipper,

“Justice Peers can be inserted at every stage of involvement in the criminal legal system and are people who use their professional training and lived experience to support others facing similar challenges and to infuse recovery and wellness. We lead by example,

⁴ Substance Abuse and Mental Health Services Administration (SAMHSA). (2017). *Value of Peers, 2017*. https://www.samhsa.gov/sites/default/files/programs_campaigns/brss_tacs/value-of-peers-2017.pdf (citing studies finding decreased psychotic symptoms, substance use and depression; reduced hospital admission rates and longer community tenure; increased self-esteem and confidence; and increased sense that treatment is responsive and inclusive of needs).

instilling hope and determination to promote connection and achieve transformation at the individual, social, and structural level.”⁵

In our experience, when peers are involved in the diversion process, their presence is enriching and invaluable. They are able to support our clients in ways that no one else could. They encourage and inspire participants, and serve as an approachable sounding-board for individuals who are struggling.

Not only do peers have a profoundly positive impact on the recovery of current participants of ATI programming, the creation of more peer advocates in the court system also opens a viable professional pathway to former participants after their graduation. Opportunities for employment are crucial to achieving the goals of successful reentry outcomes and public safety. Hiring people who have successfully completed alternative to incarceration programs to be peer advocates is a way to both honor their success and recognize the skills and experience gained through their participation in ATI. Such opportunities also ensure that successful graduation from ATI is just the beginning of a positive and productive trajectory in people's lives. The creation of a peer advocate role that draws on the experience of past ATI participants will benefit both the current participants who will gain from the knowledge and support of their peers, as well as the advocates themselves, who will gain meaningful employment that imbues them with a sense of satisfaction and pride at giving back to their community and helping others.

Thus, we hope the Council will consider specific funding lines to enable ATI providers to hire more peers to enrich the experience of participants and offer them a far better chance at success.

D. Target community-based treatment funding for services that serve people living with dual diagnoses of both mental health concerns and substance use disorder.

People who suffer from dual diagnoses, such as a mental health disorder and a substance use disorder, or a mental health disorder and a developmental disability, often struggle because there are so few providers across the state willing to take on patients with dual diagnoses. Harbor House in the Bronx⁶ is just one of very few. Given the frequency with which mental health disorders, substance use disorders, and/or developmental disabilities coexist, this dearth of options creates severe limitations and restrictions on who has access to ATI programming. Those who are left out are those who could perhaps benefit from it the most.

The simple solution to this is to focus efforts on increasing the number of providers who are willing and able to work with patients with dual diagnoses. The City should earmark and allocate

⁵ CASES. “Big News!: CASES & the Justice Peer Initiative Win the Recovery Innovation Challenge” Sept. 30, 2022.

<https://www.cases.org/2022/09/30/big-news-cases-the-justice-peer-initiative-win-the-recovery-innovation-challenge/>

⁶ <https://www.arguscommunity.org/cherry-services/harbor-house-i-intensive-residential-program/>.

funding for dual diagnosis mental health services to encourage providers to serve more of these patients.

IV. **Legislative Reforms:**

A. DOC Holds.

Of all of the fragile logistics in the house of cards described above, the final one is perhaps the most important, yet most easily overlooked: DOC must actually release the individual from their custody on the court date scheduled for the individual's release to a program. Unfortunately, this does not always happen, leaving all parties, most of all the person eagerly anticipating their release, with disappointment. Once again, that person will be sent back from court on a bus to Rikers, to wait yet again for all of the logistics for their ATI placement to align.

Why does this happen? Before releasing a person from its custody, DOC will run a check for any "holds." Holds could be caused by a bench warrant from New York City, a bench warrant from an outside jurisdiction, an NYPD I-Card, or an unarraigned Desk Appearance Ticket ("DAT"), among other causes. Sometimes, the holds that show up in DOC's system are "stale," meaning they are no longer active or accurate, yet they remain in the system. Whatever the source of the hold and whatever its status, any such hold will result in DOC stating that they cannot release that person, even if the judge in the courtroom is ordering it.

When such a hold exists, all of the combined efforts of the individual participant, the defense team, the court, and the ATI program staff to secure that individual's release and placement into a program is rendered futile. Navigating a solution to this problem becomes a sisyphian task. The experience of one of our current clients provides a useful illustration:

Our client is in custody on a currently pending felony in Manhattan. All parties - the defense, the prosecutor, and the court - have agreed that programming is the appropriate resolution for this case. An appropriate program was identified. A bed for our client was available. The court wanted electronic monitoring to be in place before releasing the individual to the program, and the Sheriff's office can do that as long as stable residence in the program is confirmed. The catch: there is a "hold" on this client for an unarraigned DAT for a B misdemeanor in Kings County. This simple hold, which should be easily resolved, has created an insurmountable roadblock.

The court will not release the client until electronic monitoring is in place. The sheriff's office won't move forward with electronic monitoring until the hold is lifted and DOC would actually release the individual. Yet the NYPD, the entity needed to execute the warrant for the unarraigned DAT, won't act on it until the individual is released by DOC.

This client is stuck in an endless loop, based only on a simple B misdemeanor DAT that would be easily resolved if only it were brought before the court from which it originated. He remains in Rikers Island despite the decision by all parties that he should be engaging in programming as an alternative to incarceration. In the meantime, this client has gone through the cycle of being on the waitlist for a bed at the designated program, to having a bed available, to being returned to the waitlist yet again, no less than three times. He is currently still waiting in this holding pattern, where he will remain until this simple DOC hold is resolved.

We raise this example, and this issue with DOC holds more generally, because it is an ongoing logistical hurdle that impedes ATI programming again and again, and yet the only real solution appears to be guidance from the legislature. DOC maintains that when such holds exist, they are required by law to retain custody of that individual. Therefore, the most prudent solution would be to clarify precisely what the law requires from DOC in such situations.

City Council could issue such guidance through legislation. Today we would like to lay the foundation for such legislation by orienting the Council to this issue, with the hope that you will work with us here at NYCDS in the coming year to craft and pass legislation to address it.

B. The Treatment Not Jail Act (S.1976B-Ramos / A.1263B-Forrest)

While increased funding will substantially streamline access to and improve the quality of existing ATI programs, true reform is only possible by legislating a uniform, modern, evidence-backed, treatment court system across New York State. The Treatment Not Jail Act, which this Council endorsed last spring in passing [Resolution 156-2022](#), achieves this goal by expanding and modernizing the existing statute - CPL Article 216 - that created drug diversion courts. TNJ amends the statute to allow these courts to accept people with mental health concerns and lifts other barriers that currently restrict access to these programs. TNJ also creates more fair and efficient processes and grounds the model in evidence-based practices. If accompanied by appropriate funding, including the specific needs we have identified in this testimony, this legislation promises to divert thousands of New Yorkers from our jails and prisons into the community-based treatment and services they need. This legislation is crucial to the city's plan to close Rikers Island and sustainably downsize our local jail population. We are grateful for the Council's support for this legislation, and urge this body to continue calling for the state funding and badly-needed, system-wide legislative reforms that the Treatment Not Jail Act will bring.

V. Conclusion

We are grateful to the Council for spotlighting the incredible success of many Alternative to Incarceration Programs, and the life-changing opportunities they have offered to our clients and individuals throughout this city. Moreover, we are grateful for this opportunity to share our perspective on how these programs may be improved with the Council's support. Through specific funding increases and legislative changes, these ATI programs stand poised to off-ramp thousands more New Yorkers from the insidious cycle of incarceration and help them find the services and stability they need to be successful members of their communities.

**The Bronx
Defenders**

**Redefining
public
defense**

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

**RE: Oversight: Alternatives to Detention and Incarceration in New York City
November 30, 2023
Written Testimony of The Bronx Defenders
By Avery McNeil, Esq, Supervising Attorney, Alternatives to Incarceration Project**

My name is Avery McNeil and I am the Supervising Attorney of the Alternatives to Incarceration Project at The Bronx Defenders. The Bronx Defenders (“BxD”) has provided innovative, holistic, and client-centered criminal defense, family defense, immigration representation, civil legal services, social work support, and other advocacy to indigent people in the Bronx for more than 25 years. Our staff of over 400 represents nearly 20,000 people every year and reaches thousands more through community outreach. The primary goal of our model is to address the underlying issues that drive people into the various legal systems and to mitigate the devastating impact of that involvement, such as loss of liberty, deportation, eviction, the loss of employment and public benefits, or family separation and dissolution. Our team-based structure is designed to provide people seamless access to multiple advocates and services to meet their legal and related needs.

Thank you to the committee for this opportunity to discuss the alternatives to detention and diversion options available to our clients when they are arrested, and to make recommendations for crucial reforms. As the Alternatives to Incarceration Supervisor, I consult with attorneys and social workers on how to negotiate for program and other diversion pleas in lieu of jail and prison offers. I also represent clients charged with serious violent felonies including firearm possession, robbery and attempted murder. What we see in the Bronx is a lack of housing options, program options that do not create diversion opportunities for clients who fall outside of narrow eligibility requirements, and an unwillingness to consider treatment without a guilty plea (what we refer to as pre-plea diversion).

I. Success in Diversion Can Include Clients with Serious Charges and with Significant Records

The Bronx District Attorney's Office and the Court have been willing to work with clients facing a wide range of charges beyond those typically seen in drug and mental health treatment court. Instead of being reserved for drug sales or other more minor felonies, we are seeing diversion for clients charged with gun possession, with attempted murder, with arson and other serious violent felonies. We're also seeing openness to working with clients with serious criminal histories and clients on the sex offender registry. In the Bronx, when these clients are given the opportunity to engage in diversion, they are succeeding in programming and successfully graduating.

For example, the Bronx has rolled out two division programs for firearm possession cases since 2019. The programs are year-long, intensive anti-violence programs that allow clients to remain out of prison, to continue to work, attend school, care for children, and attend programming. At the end of the year, the violent felony that they plead guilty to at the beginning of programming is vacated from their record and they are left with a misdemeanor conviction. These two programs have been an incredible success and provided opportunities for many of our clients to remain in their community and out of prison. However, only a small fraction of clients who could benefit from such programs are offered an opportunity to participate, as detailed further below.

Additionally, we are seeing how offering treatment to older clients with more significant criminal contacts in their past can be life-changing. Often, the clients who are most ready for treatment are the people excluded from diversion due to their age and previous convictions. These diversion pleas are sometimes a person's first chance to address their substance use, mental health issues, or histories of trauma. Offering a treatment program or diversion opportunity gives these clients the resources and tools needed to effectively address the underlying reasons that led them into the criminal legal system to begin with—unresolved trauma, financial desperation, unimaginable hardship, etc.—and equip them with the skills and services that they were never previously offered to insure that they do not end up ensnared in the system again. This openness by the Bronx D.A. and the Court to look beyond charges and RAP sheets and see people in need of a chance at treatment has been incredible for our clients. We hope that these successes mean that they will consider more clients for diversion going forward. Alternatives to incarceration work—for serious charges and for those with prior convictions—and the alternative is devastating.

II. Incarceration is Devastating

The devastating effects of incarceration are well documented. Incarceration leaves long term emotional and economic scars not only on our clients, but on their children, families, and communities. Incarceration is also a response to violence that breeds more violence—isolating individuals from their families and support networks, exposing them to violence and trauma in prison, and branding them with convictions that will make it impossible for them to find work and meet their economic needs once they are released. Diversion programs that respond to violence in a restorative way, allowing people to avoid prison and stay in their communities are desperately needed.

III. Diversion Eligibility Must Be Expanded to Include More People

Despite the successes we are seeing in the Bronx, there are still huge barriers to accessing diversion. All too often we are seeing clients' opportunities for treatment and diversion limited by eligibility requirements.

Age cut-offs are one such limitation. For example, neither gun diversion program allows participants over the age of 30 years old. This means that for a client who had never been arrested before and is stopped with a gun at age 35 – someone with no record, working, in school, with a family – that person is suddenly without a diversion option and is facing upstate prison time. Even if the gun was never fired and no one was hurt. Even if the gun never left that client's pocket or bag. Simply because of that client's age, they are ineligible for diversion and for the ability to "earn" a misdemeanor through engagement in programming. Instead, they are facing the real possibility of upstate prison time and a violent felony conviction such that when they are released they will have tremendous difficulty finding employment. This outcome is dictated entirely by their age and regardless of mitigating circumstances.

Another destructive limitation is the requirement that to access treatment or other diversion opportunities, clients must plead guilty. A client charged with a felony is usually required to plead guilty to a felony, often a violent felony. This upfront plea can have devastating enmeshed consequences. Clients who are residents in public housing can lose their homes and applicants can be denied. Supportive housing residents – those who already qualify for specialized housing based on their treatment needs – can also face eviction for felony pleas. Security guards or other state licensed employees can be suspended or fired from work.

Most devastating is the effect of this plea structure on non-citizen clients. In immigration court, the upfront plea to a felony—even if it is ultimately vacated and dismissed upon successful completion of the program—can be the basis for deportation. Because of this, non-citizen clients are often not able to participate in diversion. In 2017, we lost a client to an overdose at Rikers Island.¹ He was being offered drug treatment diversion but for immigration reasons could not take the plea he would have had to take to be released to treatment. Instead, he died in custody because the rigidity of these pleas does not account for the immigration consequences and he did not want to be deported back to a country he did not know, where he knew no one, away from his parents, his partner, his children. Non-citizens like him are placed in an impossible position, forced to choose between treatment and deportation—often to countries where they have no one and are fearful for their lives. Allowing for treatment engagement pre-plea so that someone can "earn" the housing or immigration safe outcome must be made available to allow more people access to necessary treatment and diversion opportunities.

¹ Anisha Gupta, [How Rikers Island and the failing justice system killed this public defender's young, opioid-addicted client](#), NY Daily News, Oct 21, 2017.

Guilty pleas do not need to be a precursor to treatment. Having the threat of jail and prison hanging over someone's head is not necessary to get them to meaningfully engage in treatment. Other programs like the Bronx Overdose Avoidance and Recovery (OAR) Court have allowed for pre-plea engagement in services and were successful. We have also had clients whose "jail alternative" if they did not successfully complete programming was probation or time served. Those clients were still motivated to engage in and complete treatment. Pre-plea options would allow more access to treatment for a greater number of people including residents of public and supportive housing, state licensed workers, and non-citizens.

Resource limitations for the current program providers is another barrier for our clients to be able to access diversion. Even for clients who are being offered drug or mental health treatment, there are huge delays in screening because of resources and staffing issues. Delays in screening leads to people spending additional months in jail—people who are ultimately found eligible for treatment. Then once those clients are found eligible for treatment, residential drug treatment programs, especially those for people with serious mental illness, can have weeks long waitlists. Similarly, we find that there are waitlists for quality outpatient services. A commitment to diversion requires a commitment to funding and staffing the programs that provide necessary treatment.

Lastly, many of our clients do not fall into the traditional ATI model which is focused on mental health and drug treatment. Those clients' lives could be transformed by other innovative ATIs that focus on vocational, educational, or trauma-based services.

The web of program eligibility requirements and DA "standard offers" that require upfront pleas create huge gaps that leave us with very few options for certain clients, even those very mitigating circumstances.

IV. Success in Diversion Starts with Access to Housing

No one can show up for and engage in programming without their basic needs for food, clothes and shelter being met. No one can keep a schedule and stay on top of a medication regiment without a stable place to stay. During the pandemic, we saw for the first time the incredible power of ready access to stable, secure housing for our clients coming out of jail through the Mayor's Office of Criminal Justice hotel program. The MOCJ hotel program provided free housing for those coming out of city jails in several former hotels around the city.

For the first time we were able to tell a judge exactly where a person being released from custody would be staying, to set up programming near their housing, to make sure that they would have immediate access to their medications. The hotels provided concrete resources like meals and transportation. Clients were connected with on-sight case management to address both their immediate needs and work with them towards building a long-term housing plan. These hotel

rooms provided safety and independence with individualized support. They were life-changing for our clients.

Budget cuts post-pandemic have eliminated this option for our clients coming out of jails and prison. Instead, they are faced with the overcrowded city shelter system which does not give judges the same sense of security that someone is being released to a place where their needs will be met. Additionally, for our clients who qualified originally and are living in these MOCJ hotels, they are being told that this resource could close at any time, leaving them anxious and vulnerable. Reliable, safe, stable housing is the first and most important step in a successful treatment plea.

Right now, we have clients in jail who would not be in jail if they had housing available—clients in jail who we screened for treatment and are approved for treatment, but who are sitting on Rikers because they have nowhere to live. The need for housing is urgent and necessary for successful diversion. We need transitional housing where there’s a real path to permanent housing. We need permanent supportive housing and long-term permanent housing. Making sure that people have safe, secure housing options with services available is the key to successful diversion and treatment access.

V. Conclusion

Diversion must not be limited to a “deserving few.” People who commit crimes are people, even if that crime is classified as “violent”. Sons, daughters, parents, co-workers. And after the prison sentences they are currently receiving, they become neighbors. We should not be caging them, but putting the supports in place that will make sure that they won’t end up back in the criminal legal system. The way to do that is through funding thoughtful, restorative diversion programs.

We are asking for:

- Increased funding for diversion programs
- Person focused programming with broader eligibility requirements
- Pre-plea diversion offers
- Secure housing with access to onsite case management

We haven’t been able to incarcerate our way out of violent crime. Incarceration is not the solution to the public health crisis of mental health and substance use. It’s high time we rethink our response as a community and funnel money away from jails and prisons, towards restorative treatment-based responses.



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BROOKLYN DEFENDER SERVICES

Presented before

New York City Council

Committee on Criminal Justice

Oversight Hearing on Alternatives to Detention and Incarceration in NYC

November 30, 2023

My name is Jackie Gosdigian, and I am a Supervising Policy Counsel at Brooklyn Defender Services. Brooklyn Defender Services (BDS) is a public defense office, representing approximately 22,000 people each year who are accused of a crime, facing the removal of their children, or facing deportation. We thank the Committee on Criminal Justice and Chair Rivera for the opportunity to address the Council about alternatives to incarceration (ATI) and alternatives to detention (ATD).

For over 25 years, BDS has worked in and out of court to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. Our staff of specialized attorneys, social workers, investigators, paralegals and administrative staff are experts in their fields. BDS is fortunate to have the support of the City Council to supplement the services we provide as a public defender office in Brooklyn. Through specialized units of the office, we provide extensive wrap-around services that meet the needs of people with legal system involvement, including civil legal advocacy, assistance with educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

BDS commends the Council for taking the time to discuss and prioritize ATIs and ATDs which not only make New York safer than incarceration but are critically important to supporting the people we serve, their families, and our communities.

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Historically, New York has unilaterally and systemically relied on incarceration to combat crime. In 1973, New York passed the “Rockefeller Drug Laws.” These unprecedentedly harsh laws relentlessly funnel Black, brown, and poor New Yorkers into cages. Politicians in the ‘80s and ‘90s notably championed so-called “tough on crime” and “law and order” policies that touted extreme policing and lengthy prison sentences. Mass media fueled this narrative, instilling a fear of Black, brown, and poor people, labeling them violent criminals. After passage of the federal 1994 crime bill, New York received more than \$50 million for jail and prison construction from the federal government. This legislation expanded in 1998, resulting in longer sentences, increased mandatory minimums, increased life sentences without the possibility of parole, and other heightened carceral penalties.

Today, New York State has over 30,000 people languishing in state prisons.¹ 75% are Black or brown. New York’s commitment to mass incarceration helps fuel America’s shameful standing as the largest cager of human life in the world, with more than two million people detained in prisons, jails, and immigrant detention facilities throughout the country.² Mass incarceration does not make our communities safer. In fact, years of research have shown that crime rates, public safety, and community health are more likely to be *negatively* affected by incarceration than they are to be improved.³

People who are jailed have much higher rates of social, economic, and poor health outcomes than the general public. These problems should not—and *cannot*—be addressed through incarceration in prisons or jails. The safest communities are the communities with the most resources. Investing in prisons and jails is a failed policy that has not created safety, but rather further degraded under-resourced communities. When people who are accused or convicted of a crime are incarcerated, they are removed from their community, family, job, school, and other critical support systems. ATD and ATI programs help people address the issues that led to their involvement with the criminal legal system, while also allowing them to remain in the community, build critical skills, access medical care, mental health treatment, and substance use treatment, and pursue job training and opportunity. Instead of isolation and incarceration—which comprises a person’s physical safety and emotional health, weakens relationship, and diminishes

¹ Prison Policy Initiative New York Profile. Available online at: <https://www.prisonpolicy.org/profiles/NY.html>

² <https://www.communitiesnotcagesny.org/timeline>

³ Vera Institute of Justice, Reducing Jail and PRison Population. Available online at: <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/reducing-jail-and-prison-population>

economic prospects⁴, ATIs and ATDs can help people meet their professional, educational, and health goals, which may help mediate future interactions with the police.⁵

BDS is fortunate to have strong relationships with several ATD and ATI programs that provide many of the people we serve with holistic services. However, to truly realize the promise of ATIs and ATDs, more investment is required. For these programs to be as impactful as possible, free programming must be available before individuals even come into contact with the criminal legal system. Programming accepted as a part of a plea deal as an alternative to incarceration must be available without cost. Programming must set individuals up to succeed, understanding that for those who would benefit the most from programming, progress not perfection should be the goal. Finally, programming must be available not just for low-level offenses, but also for violent felonies and gun-related offenses if we are truly committed to making our communities safer.

Further, the Council must commit to supporting legislation that works in tandem with ATIs and ATDs. The Council should back legislation that ends mandatory minimums, which diminish judicial discretion and operate as statutory barriers for those who need programming. The Council should support the Youth Justice and Opportunities Act which would expand opportunities for programs and other alternatives to incarceration for young New Yorkers to help them get the resources they need to succeed while avoiding a criminal record. Finally, the state legislature should pass Treatment Not Jails which would amend Criminal Procedure Law Article 216 of the judicial diversion law expands eligibility for treatment for court-involved individuals and shifts the presumption from incarceration to community support. We thank the council for the support it has already shown for the Treatment Not Jails Act.

Make Programming Available Before Criminal Contact

Many of the people we serve come in contact with the criminal legal system due to underlying issues including housing instability, substance use disorders, mental health crises, and poverty. Programming and resources that help alleviate these conditions are inherently alternatives to incarceration, as they prevent at-risk individuals from coming into contact with the system in the first place. The city should redirect funding that goes toward prosecuting and incarcerating New Yorkers and instead fund services and programming that can serve our communities, providing

⁴ Meredith Booker, The wealth of incarcerated versus non-incarcerated men over a lifetime, visualized, April 2016. Available online at: <https://www.prisonpolicy.org/blog/2016/04/26/wealth/>

⁵ATI and reentry programs help the City and State correctional systems save more than \$100 million every year. The two-year recidivism rate of graduates from ATI/Reentry Coalition programs is less than 20%, far lower than the 42% recidivism rate of those released from incarceration. <https://www.lac.org/news/the-ati-reentry-coalition-calls-for-increased-funds-to-support-life-changing-programs-for-the-thousands-of-people-across-nyc-involved-in-the-cj-system>

people with resources that are desperately needed to keep people housed, healthy, and out of the criminal legal system.

Many people we serve are only able to gain access to community-based programs after their contact with the criminal legal system. The people we serve are often desperate to take advantage of any resources that we can connect them with, such as social welfare benefits, supportive housing, substance use and mental health treatment, and resume building and job training. Being able to do so before participation is mandated is paramount to building a safer New York. It should not take being charged with a crime to get people connected to resources that they are eager to make the most of and desperately need.

Invest in Individually Tailored and Evidence-Based Programs

More than 70 percent of people in U.S. jails and prisons have at least one diagnosed mental illness or substance use disorder or both, and up to a third of incarcerated people have a serious mental illness. In our city jails, at least 50 percent of people in custody have a diagnosed mental illness and over 19 percent have a serious mental illness.⁶ And, nearly 60 percent of people in jail in New York State have a substance use disorder.⁷ People living with mental illness or substance use disorders are much better served through programming than incarceration. Just this week, members of the State Inter-Agency Task Force on Overdose Prevention called for an expansion of diversion programs for those arrested with substance use disorders.⁸ However, it is imperative that these programs recognize progress is not always linear and look at the reasons why participants may falter as they try to work through these challenges. Program participants are more likely to succeed if the response to making a mistake is not always the threat of incarceration. Instead, counselors can suggest a higher level of care or a different approach to services. Examples of this can be medicated assisted treatment for those living with substance use disorders; or obtaining a vocational certificate or a GED to expand employment options for those struggling to keep a job.

It is critical that programs understand that the people who will benefit most from their services are also often people who struggle to perfectly conform to rigorous requirements. For instance,

⁶ New York City Comptroller, DASHBOARD UPDATE: NYC Comptroller Releases New Monthly Data on Department of Correction Operations, (January 19, 2023), Available at <https://comptroller.nyc.gov/newsroom/dashboard-update-nyc-comptroller-releases-new-monthly-data-on-department-of-correction-operations-5/>

⁷ Lauren Jones, Sandra van den Heuvel, and Amanda Lawson, The Cost of INcarceration in New York State: How Counties Outside New York City Can Reduce Jail Spending and Invest in Communities, January 2021. Available online at: <https://www.vera.org/downloads/publications/the-cost-of-incarceration-in-new-york-state.pdf>

⁸ Joshua Solomon, Improvements to diversion programs needed after bail changes, November 2023. Available online at: <https://www.timesunion.com/state/article/improvements-diversion-programs-needed-officials-18505063.php>

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programming offered as alternatives to incarceration for people living with substance use disorders often require clients to test negative for all substances or they fail out of the program. Even for those most motivated to fight their addiction and become sober, addiction is an ongoing battle where the expectation of immediate perfection sets them up for failure. While some people are able to complete these programs with flying colors and reap all the benefits, others who are in the throes of addiction often “fail” the rigorous requirements of the programming and are left without the support or resources they need. Instead, they end up facing jail and prison time for failure to complete.

The same goes for the people we represent who are seeking ATIs for mental health treatment. Many of the people we represent have compounding factors of homelessness and severe mental health diagnoses. This makes it hard for them to have perfect attendance and flawless communication with program staff. It is critical that programs that purport to help people address their mental health understand the limitations that these diagnoses present to accessing care, and work with individuals to help them succeed rather than failing them for an inability to meet arbitrary requirements.

Create More ATIs and ATDs for Youth and People Charged with Violent Felonies

The benefits of ATIs and ATDs are not limited to people charged with non-violent offenses. In fact, this Council has previously recognized the importance of community-based responses and crisis management as crucial components of violence prevention. Unfortunately, options for ATIs or ATDs for our clients charged with violent felonies or alleged gun possession, there is a dearth of programming available.

Traditionally there have only been two available alternatives to incarceration programs for young people charged with gun possession: Youth and Congregations in Partnership (YCP) and Project Redirect. Both are run by the Brooklyn DA’s office, require the consent of the DA for admission, and are only available for young people. There is no clear criteria used to determine eligibility for these programs and the process for acceptance is unilateral and highly secretive. If a young person is fortunate enough to be found eligible and is successful, these programs usually allow for young people to have their cases dismissed and sealed upon completion. However, if they are unsuccessful, they generally face prison time and a permanent felony record. Very recently, Fortune Society, which runs a highly successful ATI program, has been authorized by the Brooklyn DA’s office as an ATI for gun possession cases, but only in extremely limited circumstances.

Of the two DA run programs in Brooklyn, YCP is the preferable option for the people we represent because it is more specifically tailored to meet the needs of the participant, focusing on school attendance or finding work. However, in our experience, adolescents who are alleged to

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be “associated” with a gang are never offered this program, and instead are pushed to Project Redirect.

Project Redirect is a deeply problematic and secretive program that is extremely difficult, if not impossible, to complete. Much of what we know about it is reported by those we represent who have participated. As defense attorneys, we are generally prohibited from accompanying our clients in discussions about the program with prosecutors, with the occasional exception of a preliminary briefing. The program lasts between eighteen months and two years and requires participants to abide by a deeply regimented schedule of school, work, and meetings with the DA’s office, with deviations for tasks like purchasing milk for the family at a local bodega permitted only with prior approval, often via text messaging. They cannot have contact with others identified as fellow gang members, which may include family and any or all local community members. They are not permitted to use any social media, which is the way many communicate with friends and family, both locally and abroad. Participants are required to debrief, or provide information about their friends and community members. They must wear ankle monitors and their every movement is tracked by GPS. They receive home visits from District Attorney Investigators and must make regular visits to the DA’s office. Altogether, they are forced to walk around with giant targets on their backs, both as “snitches” to the community and as gang members to the local police officers. This dynamic makes them isolated and vulnerable to violence. Rather than addressing the social marginalization that pushes people into gang membership and possibly problematic behavior, it aggravates internal conflicts within communities. In our experience, very few of the youth we represent are able to complete this program, which results in a mandatory minimum sentence in upstate prisons.

We call on the City Council to meaningfully invest in alternatives to incarceration and detention for individuals charged with violent felony offenses. Programming that clients can access to get resources they need to help break the cycle of violence and programs whose requirements set clients up to succeed rather than fail and then face lengthy prison sentences. For example, Esperanza, an organization offering services and ATI programming designed specifically for youth, just recently lost its funding.

In order to meaningfully address violence, the city must continue to invest in evidence-based programming and expand programming to include people of all ages. But, these alternatives will not be successful without buy-in from district attorneys, because, as discussed below, harsh mandatory minimum sentences make non-jail options useless without DA consent.

Urge the State to End Mandatory Minimums

Even with available alternatives to incarceration, judges across the City and the State of New York are bound by mandatory sentencing guidelines set forth in the Penal Code. We must end mandatory minimum sentencing and we ask the council to support and pass a resolution urging the enactment of the End Mandatory Minimums Act (S. 6471 Myrie/A.2036A Meeks) In addition

to mandatory incarceration, having a criminal record has lifelong insurmountable consequences for a person. Mass incarceration does not deliver justice, safety, or healing. It tears at the fabric of families and communities who lose loved ones, breadwinners, and caretakers to New York State prisons.

Lengthy mandatory minimums strip judges of their discretion when determining sentencing and serve as prosecutorial leverage in coercing plea deals. Two-strike laws further lengthen the sentence of an individual with a prior conviction, and three-strike laws condemn people to life in prison. The Eliminate Mandatory Minimums Act legislation would eliminate mandatory minimum sentences, allowing judges to consider the individual factors and mitigating circumstances in a case. In doing so, this legislation will finally undo the harm of the Rockefeller Drug Law era and provide for alternatives to incarceration that will address the root causes of criminal system involvement, breaking the cycle of arrest and incarceration.

Urge the State to Pass the Youth Justice and Opportunities Act

Young people in the communities we serve are particularly vulnerable to police interaction, especially when they are still continuing to grow and mature into their mid twenties and grappling with peer pressure and decision-making skills. Nationally and in New York, young people aged 18 to 25 make up only 10% of the population, but over 20% of all arrests. Nearly three quarters of those arrests in New York are of youth of color. A recent Sentencing Project report found that across the country, Black youth are five times more likely to be incarcerated than their white peers.⁹ Because this disproportionality is so stark among emerging adults, reforms focused on this group are especially urgent. We ask the council to support and pass a resolution urging the enactment of the Youth Justice and Opportunities Act (YJ&O) (Myrie S3426/O'Donnell A4238). The Youth Justice & Opportunities Act would expand opportunities for programs and other alternatives to incarceration and immediate record sealing for young people up to age 25. By passing YJ&O, New York has the chance to lead the nation by protecting the futures of young people up to age 25, enhancing community well-being, and providing emerging adults the opportunity to move forward in their lives without the barrier of a criminal conviction. The Act would also reduce State and local spending on youth incarceration—money that should be invested in communities to alleviate poverty and homelessness, ensure quality education, and fund other needed resources. In turn, this bill would help stabilize communities, promote community health, and increase public safety for all.

⁹Joshua Rovner, Racial Disparities in Youth Incarceration Persist, February 2021. Available online at: <https://www.sentencingproject.org/fact-sheet/racial-disparities-in-youth-incarceration-persist/>

Brooklyn ^(BDS) Defenders

Urge the State to Pass Treatment Not Jails

Mass incarceration is fueled by New York's failure to provide adequate services to address mental health and substance use needs. New York's current treatment court model has many restrictions on who is able to participate in a diversion program, based on their charges, diagnoses, or personal history. The Treatment Not Jail Act (TNJ) (A. 1263 Forrest/S. 1976 Ramos) will substantially expand access to judicial diversion and create tangible steps toward ending the criminalization of mental health and cognitive impairments in New York. TNJ will create parity in the court system for vulnerable populations who need support and opportunity, and promote public safety by opening avenues of appropriate, individualized treatment where currently the default is incarceration.

TNJ will promote collaboration between participants and treatment providers, offering participants the best chance of achieving their treatment goals. The number of people living with or having experienced mental health issues is at an all-time high, and jails and prisons have become the de facto mental health facilities across New York State. Treatment Not Jail seeks to put an end to this untenable condition and to redirect people out of jails and the criminal legal system and into evidence-based treatment programs that can offer the medical care and support they need. We thank the Council for passing Reso 156-2022 in support of TNJ. We ask the Council to continue to work with your colleagues in Albany to ensure this critical legislation is passed into law.

Conclusion

It is clear, based upon decades of research, that a pro-incarceration model is not only unsuccessful in preventing violence, it destroys communities by causing irreparable harm to families and future generations. As an alternative, BDS welcomes the opportunity to work with the city to create opportunities for people who have been arrested to participate in programming. We thank the Committee on Criminal Justice for continuing to recognize the importance of alternatives to incarceration and detention. We urge the city to go further. To commit to funding free programs that set our clients up for success. To commit to expanding the availability of ATIs and ATDs for individuals charged with violent felonies or gun offenses. To vocally support ending mandatory minimums and passing The Youth Justice and Opportunities Act and Treatment not Jails. These three pieces of legislation would help stabilize communities, promote public health, and increase safety for all. Lastly, while post-arrest programs can be a successful method to provide services for our community members, we ask the Council to continue to address the problems in our communities that create the risk of criminal legal system involvement in the first place, such as lack of stable housing, access to gainful employment and access to substance use and mental health care.

We thank you for the opportunity to submit testimony on this critically important topic. If you have any questions, please feel free to contact me at jgosdigian@bds.org.



New York City Council Committee on Criminal Justice
Oversight - Alternatives to Detention and Incarceration in New York City

Good morning, Chair Rivera and members of the Committee on Criminal Justice. I'm Megan Kirk, Team Leader for Nathaniel Assertive Community Treatment (NACT) at CASES.

CASES is a nationally recognized leader in the development of innovative programs to address the intersection of unmet mental health needs and criminal legal system involvement. We served over 9,000 New Yorkers last year, of whom nearly 90% identified as Black and/or Latino, consistent with disparities in policing and sentencing. Our programs prevent the harm and trauma of incarceration through pretrial services and alternatives to incarceration (ATI); support achievement of education, employment, health and housing goals; promote mental wellbeing through a range of clinical and case management programs; and improve public safety through community-based solutions.

We specialize in serving people with serious mental illness and involvement in the criminal legal system. We know that when people receive the care and support they need, they will live healthy lives in their community, participating as parents, employees, friends and leaders. All too often, however, the City fails these individuals, leaving them to cycle between jails, emergency departments and the streets. Our programs work, but funding from the City is often insufficient to meet the needs of our communities. We cannot provide services without funding.

Successful ATI for People with Serious Mental Illness: Nathaniel ACT

Alternatives to incarceration (ATIs) are a proven solution, with extensive evidence showing that robust, community-based programs improve both public safety and public health. CASES started Nathaniel ACT (NACT) in 2003. NACT combines a traditional mental health service, the Assertive Community Treatment team, with significant criminal legal system supports and court coordination. NACT serves people facing felony charges and at least one year of incarceration. This approach has impressive results, with data showing the following outcomes for our clients:

- among people who entered the program on a violent felony charge (57%), there were no new violent felony convictions in the two years after they completed the program's mandated services
- 94% of all participants had no new felony conviction of any kind in the two years after they completed the program
- 70% decrease in homelessness from program intake to program exit
- 50% decrease in psychiatric hospitalization from program intake to program exit
- 100% increase in education activity
- 225% increase in employment

Our program model is funded by both the City and the State, with City funds playing an absolutely essential role in our success. From the State, we receive Medicaid and net deficit funding for the ACT services. It is only with funding from the Mayor's Office of Criminal Justice and the Council's ATI Initiative that we are able to fund the specialized criminal legal system services. This includes funding for

- two Intake Clinicians who work directly with the Courts to identify eligible clients and engage with them as early as possible in ATI and mental health court parts
- two Criminal Justice Specialists who engage with public defenders, judges, district attorneys and other system stakeholders once clients are enrolled in the program to support fulfillment of Court requirements and to engage Court stakeholders in understanding and supporting clients' recovery journeys
- peer specialists, housing specialists and substance use specialists who provide the wraparound services that help our clients succeed in the community

NACT works because we use an individualized approach to identify and meet people's needs in creative ways, knowing that no two clients need the exact same care. Two recent client stories show how this works in practice:

Donald

Donald was admitted to Nathaniel ACT after charges for attempted arson and criminal mischief. He had served in the Marines for four years and received an honorable discharge, but later became depressed and started using various substances to cope. Donald became homeless and developed paranoia. While incarcerated as he awaited trial, Donald's mental health continued to deteriorate – he experienced auditory hallucinations, reclusive behavior, and catatonia that required a lengthy hospitalization to restore him to competence. Over this period Donald also became estranged from his family. We helped Donald get identification, connected him with Veterans Services, and supported him to develop healthy coping skills to address his low moods and to avoid substance use. Donald successfully completed his court case, leading the arson charge to be dismissed, and is planning to re-enroll in college to get a science degree.

Deshaun

Deshaun is a 35-year-old Black man with a college education living with schizophrenia and co-occurring substance use disorder. Deshaun has a long history of psychiatric hospitalizations, has attempted suicide multiple times, and experiences auditory hallucinations and psychosis. He was facing assault charges when he was connected to Nathaniel ACT. Deshaun's mental health had worsened while he was on Rikers, where he was found unfit to proceed and transferred to a State psychiatric hospital to be restored to competency. Initially, Deshaun was hesitant to engage in our services. The only goal he identified was wanting to stay out of trouble, and he would often tell staff members that they had the wrong person when they approached him. Over time, however, we were able to connect with Deshaun. We found medications that work, and helped him secure benefits and entitlements. Deshaun now regularly plays guitar and basketball, and has secured paid employment. Deshaun had very strained family relationships when he entered Nathaniel ACT, but returned to live with his family, who now trust him to babysit and to take care of aging family members. Deshaun successfully completed his court mandates, leading to the dismissal of his felony charges, and enrolled in a month-long job training program.

These individual stories show the power of a wraparound approach. Incarceration worsens the mental health of our clients. Rikers Island is traumatizing for all who are held there. People with serious mental illness lack access to care including medication, making it challenging or impossible to maintain their mental health. Incarcerated individuals are also cut off from the community, impeding their ability to maintain and rebuild family ties and to gain employment and housing. The evidence from NACT shows that these individuals can be served in the community safely and successfully. We should expand NACT and programs like it to reduce the population of people with serious mental illness held in city jails.

Cancellation of IMPACT Contract

As incarceration is rising in NYC, the City must maintain funding for alternatives. In 2022, CASES was awarded an RFP for the IMPACT program. IMPACT was to provide an alternative to placement program for young people in Family Court and the youth court parts in Criminal Supreme Court. Unfortunately, we received notice at the end of September that the contract for IMPACT would be terminated within days in early October, before the Department of Probation ever allowed the CASES program team to start work on this contract. There is now no alternative program for these young people, many of whom will end up held in youth detention facilities that are becoming increasingly and dangerously overcrowded.

IMPACT would have provided a critical service to young people and their families. The program's services were to include home-based family therapy, credible messenger mentorship, and help for young people to reach their educational, employment and pro-social goals. As issued in the RFP, the contract was intended to start on January 1, 2023. CASES hired staff and conducted outreach to community organizations, public defenders, district attorney's offices and judges to provide information about the IMPACT program and our intake process. We have been prepared to launch this program for several months; however, DOP refused to provide their sign-off to let the services start or to communicate what else was needed to get the program off the ground. Throughout these nine months during which the IMPACT team was in place but DOP was not allowing services to begin, referrals of young people from Family Court stakeholders were continuously made to the IMPACT team. In May, DOP did briefly grant permission to start the IMPACT program, and we conducted an intake. However, before we were able to enroll this participant, DOP informed us that we needed to stop all work on this program, and that we would not be able to start the program until a program manager at DOP was hired. This was in July of 2023, seven months after we were prepared to start the program.

Despite repeated outreach to DOP after this, we were never allowed to start the program. On Monday, September 25th, we received notice that the contract was terminated with an effective date of October 9th.

As noted above, there is no equivalent alternative to placement (ATP) program for court-involved teens – although DOP and ACS both operate other ATPs, these serve young people with different needs and lack the citywide scale of IMPACT. This program would have served 175 young people across the five boroughs. These young people are now, highly likely to end up in juvenile detention facilities. Had IMPACT been allowed to operate, these young people would have the access they deserve to a robust program combining therapeutic and mentoring support for them and their families. Instead, they will be forced out of their community into a less supportive and more expensive setting that is likely to contribute to recidivism. In the weeks

since the program was terminated, we have continued to receive requests from community partners including City agency staff to send their clients to the IMPACT program, highlighting that urgent and recognized need for this type of service remains.

Providing Young People with Tools for Success: ROAR

The CASES ROAR (Reframing Opportunity, Alternatives and Resilience) program is an ATI serving youth and young adults ages 16-27. ROAR features a multidisciplinary team approach that offers comprehensive support for each young person, including a youth development coach, an employment specialist, a therapist and a court advocate. Each participant has an individual ROAR Success Plan, guided by our comprehensive assessment and including goals identified by the young person and their family. After completion of their court mandate, voluntary services can last for up to 15 months.

As the below ROAR weekly schedule shows, participants have access to a wide range of services, offered in-person in the Bronx, Brooklyn and Manhattan.

Monday	Tuesday	Wednesday	Thursday	Friday
<ul style="list-style-type: none"> • HSE classes • Tutoring • Weekend check-in • CBI/Wellness Group • Individual coaching sessions 	<ul style="list-style-type: none"> • HSE classes • JAG • Tutoring • Community project club • CBI/Wellness Group • Youth Council • Job coaching club • Individual coaching sessions • Orientation group 	<ul style="list-style-type: none"> • HSE classes • Tutoring • Community project club • Healthy Relationships Group • Arts programming • Workout Wednesday • Individual coaching sessions 	<ul style="list-style-type: none"> • HSE classes • JAG • Tutoring • Community project club • CBI/Wellness Group • Community Board • Job coaching club • Individual coaching sessions • Orientation group 	<ul style="list-style-type: none"> • Computer lab • Volunteering • Outings • Movie night • Job coaching club • Individual coaching sessions

We have 140 clients currently enrolled in ROAR and are on track to exceed the number of enrollments for the fiscal year required in our MOCJ contract. About 80% of youth successfully complete the program, showing the willingness of young people to change their lives when they are provided with the opportunity to do so. This program is funded by the Mayor’s Office of Criminal Justice, with annual funding of \$3,381,835.

ATI for People Living with Mental Illness: Nathaniel Community Success

People with mental illness represent far too many of the individuals in the City’s jail system, with 55% of those on Rikers experiencing at least one symptom of mental illness. Our Nathaniel Community Success (NCS) program is designed to provide these individuals with the services they need to be in the community. The program provides tailored, therapeutic case management services to clients and connection to CASES’ menu of wraparound behavioral health, employment, education, and support services. It serves people with mental illness, including serious mental illness, and co-occurring substance use disorder, who are facing charges in Brooklyn or Manhattan.

The NCS team is made up of case coordinators with expertise in disciplines including mental health, substance use, homelessness, and family. These team, including Peer Specialists with lived experience of the criminal legal system and recovery from behavioral health conditions, works together in a structured and therapeutic manner to provide a range of trauma-informed and culturally competent intensive clinical case

management services. NCS's team-based approach ensures each individual receives the tailored, holistic support they need. Mandate length depends on charge type and is set by the court: typically, misdemeanor mandates are 6 months or less, and felony mandates are 6 months or more. At the end of supervision, voluntary post-mandate services in NCS can last up to 9 months; individuals are also connected to other services, both at CASES and externally, that they can remain engaged in without a time limit, including treatment at CASES mental health clinic, with locations in Central Harlem and the South Bronx. We currently have 125 clients in NCS. Half of these clients are homeless or have unstable housing, showing the importance of our wraparound approach to meet the range of needs that our clients have. This program is funded by the Mayor's Office of Criminal Justice, with annual funding of \$2,853,596.



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Courtney Bryan, Executive Director

**Center for Justice Innovation
New York City Council
Committee on Criminal Justice
November 30, 2023**

Good morning, Chair Rivera and esteemed members of the Criminal Justice Committee. Since its inception, the Center for Justice Innovation (the Center) has supported the vision embraced by the Council of a fair, effective, and humane justice system by building public safety through sustainable community-driven solutions. Our work is guided by the following principles:

- *Advancing Equity*
- *Putting People First*
- *Prioritizing Community-Based Solutions*
- *Promoting Accountability*
- *Modeling Innovation*

The costs of incarceration continue to drain the city of its resources, while struggling with the challenges posed to public safety in, and out, of our city jails. **The full annual cost per person of incarceration has nearly quadrupled from 2011 to 2021, coming in at \$556,539 per year per person held in jail.**¹

Through rigorous research and an array of evidence-based programmatic offerings, the Center collaborates with system actors and communities to advance public safety and produce sustainable, measurable change while protecting the city from the increasing costs of incarceration. The Center utilizes multiple approaches across its network of problem-solving courts, Community Justice Centers, and centralized court initiatives to increase public safety while cutting costs. Most notably, the Center provides courts and communities with alternatives to incarceration (ATIs) across every borough of the City, and in criminal and supreme courts.

¹“Comptroller Stringer: Cost of Incarceration per Person in New York City Skyrockets to All-Time High.” *Comptroller.Nyc.Gov*, 6 Dec. 2021, comptroller.nyc.gov/newsroom/comptroller-stringer-cost-of-incarceration-per-person-in-new-york-city-skyrockets-to-all-time-high-2/

ATIs are diversion programs mandated by judges that provide participants with supportive services in their communities instead of a jail or prison sentence. In addition to ATIs, the Center also provides pre-arraignment diversion programs, such as Project RESET and Bronx HOPE, as well as pretrial alternatives to detention through the Supervised Release program. All of these programs across the Center’s diverse portfolio have proven to increase public safety while saving the city millions of dollars each year.

In the past fiscal year, the Center has served almost 17,000 people through our ATIs, pre-arraignment diversion programs, and Supervised Release program.² Today, I will be detailing a selection of these programs; who they serve, how they work, and the results we have seen.

1. Alternatives to Incarceration

Each year, thousands of people with substance use disorders, serious mental illness, and other treatable issues cycle through our city’s jails. According to recent data, over 1,200 people in New York City jails have a serious mental illness, up 45% since the start of 2022. Often, these folks are returning to their communities destabilized, leading to more harm and ultimately, re-incarceration.³ With the goal of breaking that cycle, ATIs link participants with mental health and substance use treatment, vocational and educational supports, individual and group counseling tailored to participants’ needs, as well as supervision and regular reporting to the court. ATI programs therefore reduce the court’s reliance on incarceration, lower the jail population, and allow people to remain in their communities while receiving the tools they need to avoid further justice involvement.

ATIs work to set defendants up for success upon completion. Through significant staff training and quality assurance measures, we ensure our programs consistently adhere to evidence-based practices. As a result, our programs are successful in reducing re-offending and re-incarceration. In addition, our programs offer longer term services to participants on a voluntary basis following completion of their court-mandated program.

Utilizing these evidence-based practices means shrinking some of the well-documented high costs associated with incarceration and detention. Ultimately, we can also reduce the potential harms of confinement, such as losing housing, critical benefits, or employment, protective factors that can be hard to regain once lost.

² Center for Justice Innovation. (2023). Justice Center Application database. [Data file].

³ *A Safer, More Effective Option Than Rikers*, A More Just NYC: Independent Commission on NYC Criminal Justice and Incarceration Reform, Oct. 2023, <https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/6530056e07c0614a1a3d6655/1697645934489/1500+Secure+Treatment+Beds+to+Help+Close+Rikers+White+Paper.pdf>.

Our breadth of data-driven alternatives are evidence that it is possible to achieve lofty goals, such as closing Rikers Island, without compromising public safety. As Governor Hochul’s most recent crime report shows, significant progress has been made in decreasing crime in and around New York City.⁴ These programs have the capacity to make real, tangible advances in our efforts to improve public safety, ensure justice and accountability, and strengthen communities in the long run. The Center executes these effective programs across several distinct program sites and models.

a. Problem-Solving Courts

The Center’s earliest models of justice reform came in the form of problem-solving courts, including launching the Midtown Community Court (MCC) in 1993. Responding to MCC’s success, the Center subsequently developed New York City’s first drug court, the Brooklyn Treatment Court; New York’s first mental health court, the Brooklyn Mental Health Court; and the state’s first domestic violence court, the Brooklyn Felony Domestic Violence Court. Problem-solving justice goes beyond processing cases to resolve the issues that bring people to court. Problem-solving courts such as the Center’s community, treatment, and mental health courts offer a collaborative framework in addressing the underlying conditions that impact criminal activity and forge new approaches to difficult cases where social, human, and legal problems intersect. Over the past 30 years, we have seen that these successes can be scaled to central courts.

Brooklyn Mental Health Court

Launched in 2002, Brooklyn Mental Health Court (BMHC), based within Brooklyn Supreme Court, works to craft effective responses to crime committed by those suffering from severe mental illness, including those facing felony charges. In addressing both program participant treatment needs and community public safety concerns, the court links defendants with serious and persistent mental illness, who would ordinarily be jail- or prison-bound, to long-term community-based treatment as an alternative to incarceration. Cases are referred by judges, defense attorneys, and the Kings County District Attorney’s office.

The participants in our mental health courts often face numerous challenges, so being able to administer critical treatment services while preserving stability in participants’ community is of vital importance. To date, approximately 1,300 participants have received treatment, satisfied program requirements, and graduated, all outside of the carceral setting. Active participants boast a 73 percent compliance rate while in Brooklyn Mental Health Court. These participants see a 46 percent reduction in the likelihood of a rearrest and a 29 percent

⁴ “Governor Hochul Details the First Comprehensive Overview of Crime Trends Across New York State for 2023.” *NY.Gov*, Governor Kathy Hochul, 9 Nov. 2023, www.governor.ny.gov/news/governor-hochul-details-first-comprehensive-overview-crime-trends-across-new-york-state-2023

reduction in the likelihood of a re-conviction versus a comparison group.⁵ This data shows that these programs are not just effective at administering treatment but also at improving public safety, features traditional incarceration often lacks. As evidenced by the reduction in re-arrests and convictions, these programs function in a way that is true to their name, working to solve the problems that result in justice system involvement to benefit individuals and communities for years to come while saving the city from increased incarceration costs.

Misdemeanor Mental Health Courts

In partnership with the New York State Unified Court System, the Center launched Misdemeanor Mental Health Courts in Brooklyn and Manhattan in 2022. The court helps people with mental health issues and co-occurring disorders to engage meaningfully in social services and reduce their involvement in the justice system. Our clients living with serious mental illness often face myriad and intersectional challenges. Following the model of Brooklyn Mental Health Court, the court works with participants to craft individualized responses that address both treatment needs of the client and public safety concerns of the community. Participants are connected with ongoing mental health and substance use services, benefits, and housing support. The court also helps clients build their relationships with family, friends, and community organizations, relationships that help clients avoid further justice system involvement. The Center has served over 280 individuals in programming through the Misdemeanor Mental Health Courts since their inception, with many clients electing to continue with voluntary services after they complete their mandate due to the effectiveness of services provided.⁶

Manhattan Felony Alternative to Incarceration Court

Launched in 2019, the Manhattan Felony Alternative to Incarceration Court—an initiative of New York County Supreme Court—expands on the principles and successes of specialized drug and mental health courts to create alternatives to incarceration for all types of felony cases, including violent offenses. The court is among the first all-purpose felony alternative courts in the country. The Center’s Manhattan Justice Opportunities (MJO), discussed in more detail below, partners with the Felony Alternative to Incarceration Court to realize its vision of reducing the harms caused by incarceration and supporting people to address the issues that often underlie their contact with the justice system.

MJO staff conduct independent assessments of the court’s prospective participants and develop individualized plans for services to address not just their mental health and substance use issues, but also their educational, housing, and employment needs. These are important

⁵Rossmann, S.B., J. Buck Willison, K. Mallik Kane, K. Kim, S. Debus-Sherrill & P.M. Downey (2012, July). Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn, New York. New York, NY: Urban Institute. <https://www.urban.org/sites/default/files/publication/25576/412603-Criminal-Justice-Interventions-for-Offenders-With-Mental-Illness-Evaluation-of-Mental-Health-Courts-in-Bronx-and-Brooklyn-New-York.PDF>

⁶ Center for Justice Innovation. (2023). Justice Center Application database. [Data file].

determinants of a participant's ability to live successfully and safely in community. However, these services are often unavailable to people in the carceral setting. Once participants formally enter the court, MJO social workers connect them to an extensive network of service providers across New York City. MJO provides ongoing case management until participants complete their mandate.

In 2022, participants were mandated to an average of 15 months with the program, and 48 participants completed their mandate. When our participants graduate, they are graduating with the support of a vast web of resources that continue to buoy them in a way incarceration does not, contributing to their ability to live safely and productively in their communities.

Brooklyn Young Adult Initiative

The Brooklyn Young Adult Court (also known as the Brooklyn Young Adult Initiative) sits within Brooklyn Criminal Court and operates as a partnership between the Kings County District Attorney's (KCDA) Office, the NYS Unified Court System, and the Center for Justice Innovation's Brooklyn Justice Initiatives. Prior to the 2020 pandemic, the court took nearly all misdemeanor cases in Brooklyn for 16- to 24-year-olds whose cases were not disposed of at arraignment. While currently paused until staffing shortages are resolved, the part demonstrated hopeful successes. The KCDA worked closely with the Center to develop the Young Adult Initiative, which includes dedicated staffing (i.e., judge, prosecutors, defense attorneys, resource coordinator, and clinical staff), case conferencing, referrals to on-site and community-based clinical programming, and court-based compliance reporting.

The Young Adult Initiative produced long-term benefits to public safety. Participants received fewer criminal convictions on misdemeanor charges than the matched comparison group, and were less likely to receive jail sentences than the comparison group (2% v. 13%). Within the Brooklyn Young Adult Initiative sample, program completers had a relatively lower incidence of re-arrest when compared to the small group of non-completers (44% v. 70% at one-year post arraignment).⁷ 95 percent of Young Adult Initiative participants attended and completed the sessions required to satisfy their court mandate.⁸ For a population so vulnerable to the direct and collateral harms that incarceration entails, this data shows that there are effective alternatives to responding to crime besides putting our young adults behind bars.

For young adults especially, incarceration can have long-term negative effects on their ability to contribute positively to their communities. Housing, employment, higher education, and availability of benefits, are protective factors that lower the risk of criminal activity. An evaluation conducted by the Center shows that participants truly value the opportunity they receive and are actively engaged in the programming. Additionally, the high program compliance

⁷ Ibid.

⁸Dalve, K. & T. Pooler (2019, September). The Brooklyn Young Adult Initiative: Perceptions and Impacts of a New Approach to Young Adult Justice. New York, NY: Center for Justice Innovation.
<https://www.innovatingjustice.org/publications/BYA-perceptions-and-impact-report>

rate suggests the Young Adult Initiative participants are completing their mandate without being “set up to fail,” a critique often applied to other alternative sentencing and diversion programs marred by arduous fulfillment requirements.

b. Community Courts

A community court is a type of problem-solving court that focuses on a specific geographic community. Sometimes called a Community Justice Center (CJC), this model can include a multi-jurisdictional courtroom. Working in collaboration with residents and other stakeholders, community courts seek to reduce systemic harms and improve public safety and well-being by providing services and opportunities to justice-involved individuals and the community at large.

The Center’s community courts and Community Justice Centers handle thousands of cases per year, offering services and community-based alternatives to jail and fines. Staffed by teams of social workers, case managers, resource coordinators, peer navigators, and more, the Center’s community courts and Justice Centers provide meaningful early diversion, pretrial supervised release, and pre-plea or post-disposition sentencing options. An arrest can be a window of opportunity to change the direction of an individual’s life and avoid unnecessary incarceration. Programming at the Justice Centers has varied over the years, depending on community need, priorities, funding, and other factors. Core services have included counseling, case management, housing assistance, Peacemaking (community-based conflict mediation), victim services, GED classes, youth development programs, and more. A client who is arrested and in crisis can meet with an on-site clinician, receive an assessment, and be offered needed services and reassurance, all within hours of arrest. Moreover, the clinician can recommend appropriate next steps to the court, enabling the court to craft individualized responses that prioritize services and support rather than jail and fines.

Red Hook Community Justice Center

The Red Hook Community Justice Center (“Justice Center”), one of the Center’s longest-standing projects, demonstrates the impact of the community justice model. Founded in 2000 as the nation’s first multi-jurisdictional community court, the Justice Center takes a holistic, problem-solving approach to working with the community. A single judge hears cases from these neighborhoods that ordinarily would go to three different courts: civil, family, and criminal. Whenever possible, cases are resolved through a restorative, problem-solving approach that seeks to repair harm and address the underlying issues that bring individuals into the justice system. The Justice Center also serves as a hub for an array of innovative onsite programs that strengthen the community and address emerging needs. These programs are available to litigants—as a means of resolving their cases and breaking the cycle of justice-system involvement—and to the community at large.

An independent evaluation conducted by the National Center for State Courts highlighted the success of Red Hook’s approach, proving that it is indeed possible to reduce the use of incarceration while making our communities safer—and while improving public trust in justice. The study compared outcomes for Red Hook defendants to defendants with comparable charges who went through the downtown courthouse. It found that the Justice Center reduced the use of jail by 35 percent as compared to the downtown court. It also found that the Justice Center had reduced recidivism for adult defendants by 10 percent and for juveniles by 20 percent. Further analysis indicated that these differences were sustained well beyond the primary two-year follow-up period.⁹

These outcomes also reflected a notable cost savings associated with the Justice Center: **When the other costs and benefits are factored into the calculation, the net benefit for the Justice Center was more than \$6.8 million, with savings exceeding the total costs associated with operating the Justice Center by a factor of nearly 2 to 1.**¹⁰ The Center also generates cost savings as it relates to further victimization and reoffending. Defendants whose cases were handled in Red Hook demonstrated significantly lower recidivism for both property and violent offenses than their counterparts, whose cases were handled in the centralized Brooklyn criminal court. Estimates of the costs avoided related to victimization resulting from reoffending indicate that when victimization costs for property and violent offenses are combined, 3,210 offenders processed in the RHCJC will generate \$15,266,760 in avoided victimization costs relative to a similar number of offenders processed at the downtown court.¹¹ As the data continues to show, the Center’s programs are not just effective at stabilizing clients in the community, they also save vital city resources.

c. Centralized Court Initiatives

As the community justice movement has grown, we have seen the widespread application of such principles, brought to scale, through ATIs in central courts. While centralized court programs share a number of commonalities in principles and practice with court parts in Community Justice Centers and community courts, they remain distinct in a few notable ways. First, these programs are integrated into traditional courtrooms and spaces. They serve the entire centralized courthouse, seeing a wide range of participants referred from any number of courtrooms, judges, prosecutors, or defense attorneys throughout the building. Community courts, in contrast, work on a much smaller scale, focusing on a more discrete set of cases or

⁹ Lee, C.G., F. Cheesman, D. Rottman, R. Swaner, S. Lambson, M. Rempel & R. Curtis (2012, November). *A Comprehensive Evaluation of the Red Hook Community Justice Center*. Williamsburg VA: National Center for State Courts.

<https://www.innovatingjustice.org/publications/community-court-grows-brooklyn-comprehensive-evaluation-red-hook-community-justice>

¹⁰ Ibid.

¹¹ Ibid.

participants from an identified geographic community. In addition, community courts depend upon the collaboration of a small but dedicated team of stakeholders who interact with one another on a regular basis and work toward a common set of goals. Similarly, these centralized programs differ from other problem-solving courts in that the problem-solving court parts typically include a designated judge, prosecutor(s), and defense attorney(s) who work in a self-contained courtroom with a shared set of practices, values and principles that foster collaboration and problem-solving in that court.

In these centralized court programs, court stakeholders work in collaboration with a community-based organization, such as the Center for Justice Innovation, which is contracted to conduct assessments to help determine participant needs, connect them with services, and monitor and report compliance to the court. Bronx Community Solutions, Brooklyn Justice Initiatives, and Manhattan Justice Opportunities provide three notable examples of that model within New York City. These programs operate out of centralized courthouses but share a number of features with community courts. For example, they take a problem-solving approach and provide a range of interventions such as early diversion, alternatives to detention, or alternatives-to-incarceration.

Much like a community court model, these centralized court programs are staffed by onsite teams of social workers, case managers, and other trained staff who offer assessments, service delivery, and referrals. These services might include mental health and substance use treatment, job training, social services, community services, and restorative justice options. In the examples cited above, the programs have been provided with space in offices or converted courtrooms, to have presence and easy access to participants and courtrooms. Clients can meet with the program staff often before they leave the courtroom, and walk to the office where they will receive their services as well as information and referrals on opportunities in their community.

Bronx Community Solutions

Bronx Community Solutions is a team of social service providers, compliance monitors, community service supervisors, restorative justice facilitators, and others who seek to improve the quality of justice in the Bronx. Located in the centralized criminal courthouse on 161st Street, Bronx Community Solutions offers judges and attorneys meaningful alternatives to bail, fines, jail sentences, and court appearances.

Based on a Center-conducted evaluation (publication forthcoming), one year out, 94 percent of Bronx Community Solutions participants had not been re-arrested on a new violent felony offense (and 99 percent had not been convicted of one). This suggests that this alternative sentencing program can offer sentences that avoid the documented harms of jail, without an increased risk to public safety. This analysis also shows that the goal to reduce reliance on

short-term jail sentences was largely successful. Less than one percent of Bronx Community Solutions study participants received jail sentences, while a comparison group was sentenced to jail in approximately 16 percent of cases. This is an important step forward, as the literature shows even short-term carceral sanctions can have negative consequences on employment, benefits, housing, and relationships, and can have long-lasting negative impacts on both mental and physical health.

Manhattan Justice Opportunities

Manhattan Justice Opportunities (MJO) provides community-based diversion and sentencing options to reduce the use of incarceration and criminal convictions for people charged with both low-level offenses and felonies. Social workers and case managers strive to make each case an opportunity to positively alter the direction of a person's life, connecting participants with social services to address the underlying issues that often fuel involvement with the justice system.

MJOs work spans both Criminal and Supreme Courts in Manhattan. In criminal court, they function much like Bronx Community Solutions, accepting referrals on lower-level cases from court parts and judges throughout the criminal courthouse. In Supreme Court, MJO partners with the Manhattan Felony Alternative-to-Incarceration Court described in the Problem-Solving Court section above. During one study period (publication forthcoming), participants who successfully completed the program would have collectively served a total between 58 and 258 years of detention. This would present an immense cost for the city to bear, anywhere between \$32 million and upwards of \$143 million.¹² ATIs are not nearly as expensive, and keep clients in their community while they receive critical services.

Brooklyn Justice Initiatives

Brooklyn Justice Initiatives (BJI) started in 2013 as a small pilot seeking to build on the success of the Red Hook Community Justice Center. Today it has over 109 staff members at the main courthouse in downtown Brooklyn at 120 Schermerhorn as well as other community offices, working to change the landscape of Brooklyn Criminal and Supreme Court. Brooklyn Justice Initiatives offers a wide range of alternatives-to-incarceration for misdemeanor and felony cases, as well as pre-arraignment diversion programming and supervised release.

Brooklyn Justice Initiatives provides ATI for individuals arraigned on misdemeanor or felony offenses. BJI staff help determine appropriate programming based on individuals' unique needs and circumstances, including on-site social service groups, community service, individual counseling, and connections to outside providers. The goal is to connect individuals to services that help them avoid future contact with the justice system, reduce the use of unnecessary

¹² "Comptroller Stringer: Cost of Incarceration per Person in New York City Skyrockets to All-Time High." *Comptroller.Nyc.Gov*, 6 Dec. 2021, comptroller.nyc.gov/newsroom/comptroller-stringer-cost-of-incarceration-per-person-in-new-york-city-skyrockets-to-all-time-high-2/

incarceration, and promote swift case resolutions. When the ATI program started in 2013, it served young adults, ages 16 to 24, charged with misdemeanor offenses. Since then, it has expanded to serve participants of all ages, on both misdemeanor and felony charges, reaching more than 2,000 participants a year.

2. Pre-Arrest Diversion

In recent years, a critical and growing part of the Center's work has been an effort to develop proportionate responses that shrink the footprint of the justice system and minimize its harms. This has led to the launch of several early diversion programs which seek to provide offramps to individuals even further upstream than traditional system responses have allowed for. Two such examples are below.

Bronx HOPE

Bronx Heroin Overdose Prevention and Education (HOPE), an initiative of Bronx Community Solutions, addresses substance use issues with a harm reduction model at the precinct level. By giving clients the option of accessing community services instead of appearing in court, Bronx HOPE gives Bronx residents the opportunity for rehabilitation and connection to community rather than jail or options that don't address the underlying issues.

The process begins when an individual is issued a Desk Appearance Ticket from the New York Police Department. The NYPD will forward this ticket to the Bronx District Attorney's Office, which will review the individual for eligibility. Individuals who receive a ticket for drug possession will have the option to participate in the HOPE program. If an individual is eligible, they will be met at the precinct after their arrest by a peer mentor, who explains the program, provides a Naloxone kit and overdose prevention education; and connects the individual to Bronx HOPE case managers. If an individual chooses to participate, they must meet with a Bronx HOPE case manager within seven days of their arrest. Case managers then conduct an assessment and work with the individual to develop an individualized plan of care; help identify services that address an individual's needs; and provide support in the completion of services.

Bronx HOPE demonstrates that eligible cases are more likely to engage in programming with peer presence at the precinct. In 2022, Bronx HOPE had a contact rate of 84 percent for dispatched cases. Of those cases that were dispatched, 81 percent completed their services, thereby preventing the need for those participants to appear in court and face criminal charges.

Project Reset

Much like Bronx HOPE, Project Reset offers participants the option to avoid court and a criminal record by completing community-based programming. The Center operates Project Reset for adults ages 18 and older in all five boroughs with support from the Mayor's Office of Criminal Justice, New York City Council, District Attorneys' offices, and the New York City Police Department. Police alert individuals arrested for low-level offenses that they may be

eligible for Project Reset. Prosecutors then review each case. Those with eligible charges are offered the opportunity to engage in programming rather than going to court. Individuals may consult with a defense attorney at any time.

Participants complete an intake interview with program staff and engage in two-to-four hours of programming. Participants who successfully complete this intervention never set foot in a courtroom and don't get a criminal record. Instead, the local district attorney's office declines to prosecute their case and the arrest record is sealed. Project Reset programming varies by borough and the participant's age. Participants are offered interventions such as group workshops, restorative justice circles, arts programming, or individual counseling sessions. Through these interventions, participants gain a better understanding of the criminal justice system, personal accountability, and knowledge of the resources available to them in the community. All participants are offered voluntary referrals to social services, such as counseling, job training, or substance use treatment.

Since 2015, Project Reset has helped more than 6,000 participants avoid court and the consequences of a criminal record. As of 2022, the program has a 95 percent attendance rate of those scheduled.¹³ An evaluation of 16- and 17-year-old Project Reset participants in Manhattan found they were significantly less likely than defendants in a comparison group to be convicted of a new crime within one year.¹⁴ It also documented improved case processing times and case outcomes, as well as positive perceptions of the program. More than 95 percent of participants said they had made the right decision by entering the program and that they would recommend Project Reset to someone in a similar situation.

3. Alternatives to Detention

After an effective pilot program showed that releasing more people from pre-trial detention does not compromise public safety,¹⁵ the Center now runs Supervised Release, an Alternative to Detention (ATD), in Brooklyn and Staten Island, playing an instrumental role in the success of the program. The supervised release model employs social workers and case managers who check in regularly with supervised release participants to not only help plan for upcoming court dates and address needs and barriers to court attendance, but also to connect them to community-based resources and services that can provide lasting support beyond the duration of a court case.

¹³Center for Justice Innovation. (2023). Justice Center Application and Reset referral database. [Data file].

¹⁴Cadoff, B. & K. Dalve (2019, January). *Project Reset: An Evaluation of a Pre-Arrest Diversion Program in New York City*. New York, NY: Center for Justice Innovation.

<https://www.innovatingjustice.org/publications/projectreset-evaluation>

¹⁵Hahn, J. (2016, February). *An Experiment in Bail Reform: Examining the Impact of the Brooklyn Supervised Release Program*. New York, NY: Center for Justice Innovation.

<https://www.innovatingjustice.org/publications/experiment-bail-reform-examining-impact-brooklyn-supervised-release-program>

An independent evaluation found that Supervised Release is as effective as cash bail at preventing failure to appear in court without recourse to the documented harms of incarceration.¹⁶ In 2020, a citywide measure showed that since 2016, 87 percent of participants never missed a single court date while enrolled in Supervised Release. Court attendance remains high following major bail reforms in January 2020 which made all cases eligible for the program, with approximately 90 percent of scheduled court dates attended.¹⁷

The data shows that Supervised Release is a trusted pretrial option and bail alternative for the courts. In FY23, Brooklyn Justice Initiatives worked with nearly 6,700 unique individuals, and Staten Island Justice Center more than 1,400, to provide them with supervision and resources in order to ensure their return to court and help them address any other needs.¹⁸

Conclusion

The Center stands ready to partner with the Council to implement data-driven solutions and meaningful responses to reduce recidivism and incarceration, without decreasing public safety. As evidenced by the data described throughout this testimony, programs that serve as alternatives to incarceration and detention offer these kinds of solutions. These programs safely provide communities with more options to address crimes that do occur, producing better, more sustainable results for the individual, the courts, and the community at large by treating the causes of justice system involvement, all while reducing costs associated with increased incarceration. We thank the Council for its continued partnership and are available to answer any questions you may have.

¹⁶ Bloom, H., C. Redcross & M. Skemer (2020, September). *Pursuing Pretrial Justice Through an Alternative to Bail: Findings from an Evaluation of New York City's Supervised Release Program*. New York, NY: MDRC. <https://www.mdrc.org/work/publications/pursuing-pretrial-justice-through-alternative-bail>

¹⁷Center for Justice Innovation, New York City Criminal Justice Agency & CASES. (2021, October). *Supervised Release: A Proven Alternative to Bail*. New York, NY. <https://www.innovatingjustice.org/publications/supervised-release-five-years-later>

¹⁸ Center for Justice Innovation. (2023). Justice Center Application and Reset referral database. [Data file].



Testimony for the Committee on Criminal Justice in Support of Alternatives to Incarceration

November 30, 2023

My name is Lauren Velez and I am the Associate Director for NY on CSH's Metro Team. CSH is a national non-profit that supports the development, implementation, and continuous quality improvement of supportive housing as a long-term solution to homelessness in communities across the country. For over 30 years, we have seen how Supportive Housing changes and saves lives through pairing affordable, safe housing with individualized services. Supportive Housing makes it possible for the most vulnerable community members to live with dignity, increase autonomy and access critical supports and resource connections to begin healing from the trauma of experiencing homelessness and find stability and community.

Supportive housing has proven to be an effective intervention for people coming out of jail and prison- it offers them an opportunity to transition back into communities in a safe space, with wrap around supports and access to community resources that can help them stabilize. Ten years ago, NYC participated in the FUSE project, which targeted people with histories of homelessness and incarceration, and offered them quick access to supportive housing. You can access the [FUSE 10-Year Look Back Study](#), which details the successes of the program, but one outcome with highlighting is that over 60% of participants that received supportive housing had no further jail stays.

We know that access to housing and services increases stability and access to support and decreases the likelihood that someone will return to jail or prison. We also know that a major challenge for people who are eligible for specialty courts, such as Mental Health court end up languishing on Rikers because they do not have access to suitable housing. CSH is currently working with various city entities on increasing access to OMH licensed housing units so that people can be directly referred into these homes and have the opportunity to participate in these dockets. We've gotten support from several DA offices, sitting Judges, CASES, CJI, and other key stakeholders. With the implementation of Population Review Teams, there is now a real opportunity for us to explore this as well as several other alternatives to incarceration by better understanding who is coming through out criminal legal systems, what barriers they are facing that may be contributing to the offenses they've committed, and how we can reduce the population on Rikers, and stay on course to close the facility by 2027. In addition to reducing the population on the island, investing in alternatives to incarceration increases the likelihood that participants in these dockets will gain access to the care, supports and resources they need to achieve and maintain stability and avoid further engagement with law enforcement and judicial/carceral systems- at a fraction of the cost of keeping them in jail and prison. Given the current budget crisis and looming cuts, we understand that the city must be judicious with spending. By supporting high impact programs and providers at reasonable rates, we can yield better outcomes at a lower cost- which might ultimately be what strengthens our city's public safety. We urge the committee to robustly support investments in alternatives to incarceration. Thank you for your time.



Testimony

Oversight – Alternatives to Detention and Incarceration in New
York City

Yonah Zeitz, Director of Advocacy
yonah@katalcenter.org

for

Committee on Criminal Justice

Thursday, November 30, 2023 -- 10:00 AM
New York, NY

Thank you Chair Carlina Rivera for holding this hearing and inviting our testimony. My name is Yonah Zeitz, I'm the director of advocacy at the Katal Center for Equity, Health, and Justice. We're based in Brooklyn, and our members come from across the city and state. Our members include people who have been incarcerated in city jails and state prisons, family members of currently and formerly incarcerated people, and more. Many of our members know from personal experience exactly how horrific Rikers really is.

New Yorkers – including our members at Katal -- are deeply concerned about the ongoing crisis on Rikers Island. The conditions at New York City's massive jail complex are horrific and life-threatening for human beings – the people incarcerated and those who work there.ⁱ Violence is rampant.ⁱⁱ Racism and other types of bias are deeply entrenched.ⁱⁱⁱ And though Black and Latinx people constitute about half of the city's population, they represent almost 90 percent of jail admissions.^{iv}

Most people on Rikers Island haven't been convicted: They're being held in jail *pretrial* while considered innocent because, unlike those who have money, they can't afford bail.^v *This is wrong.*

Rikers has become the city's largest mental health facility. More than 50 percent of people incarcerated there have been diagnosed with a mental health condition, yet they have little or no access to meaningful care while they are locked up.^{vi}

Under Mayor Eric Adams, conditions at Rikers have gotten worse. Violence at Rikers is out of control. At least 28 people have died in the city jail system since Adams became mayor in 2022.^{vii} But the actual number of deaths is unknown, because under this administration, the Department of Correction (DOC) has become less transparent and at one point even declared that they would stop reporting deaths to the public.^{viii}

Under Mayor Adams, the crises and scandals within the Department of Correction have also gotten worse. DOC is plagued by dysfunction, exacerbating harms to people in its jails. This has only gotten worse under Mayor Adams. Now the DOC is attempting to hide its extraordinary dysfunction by refusing to release information to the public.^{ix} In response to this disaster, the federal monitor, appointed by the federal courts in 2015, has sounded the alarm about "imminent risk of harm" for everyone at Rikers – the people incarcerated and those who work there.^x

Under Mayor Adams, the city is no longer on track to shut Rikers down. In 2017, under pressure by community groups and advocates who organized for many years, Bill de Blasio, then mayor, announced that New York City would close Rikers. In 2019, the city council passed a package of related bills to shutter the jail complex by 2027.^{xi}

Today, the 2019 closure plan is effectively dead. Mayor Adams has simply ignored the legal and process benchmarks of the 2019 plan. Or worse, the mayor has worked to undermine core tenets of the 2019 plan, particularly with regard to reducing the jail population.

As you know, the 2019 plan requires the population to be brought down to less than 4,000. This is entirely feasible: for more than two decades, the population at Rikers was generally, on a downward trend along with crime rates in our city—we showed that, reducing incarceration and reducing crime went hand in hand. But since his first day in office, Mayor Adams has worked to reverse that trend. There were about 5,000 people in city jails when Adams became mayor. Today, there are about 6,000 people in city jails.^{xii} And the mayor and his team aren't done. Last December, DOC Commissioner Louis Molina told this very committee that they are planning for the city's jail population to go up to 7000.^{xiii} That means jailing nearly 1,000 more people – *pretrial*.

Meanwhile, Adams has cut budgets for essential services across the city and at Rikers, including vital alternatives to incarceration and reentry programming, while maintaining billions in funding for police and jails.^{xiv}

In June, the eleven organizations in the vital ATI/Reentry coalition sent a letter to the mayor and this city council outlining the urgency of the situation: the constellation of ATI programs in our city, which have proven to make our communities safer while reducing jail populations, have faced devastating budget cuts. These cuts are contributing to the increase in the jail population, which, in turn, means that the goal of closing Rikers is moving further away from our grasp. The ATI/Reentry Coalition highlighted that while they are facing budget cuts, even the existing mechanism to reduce the jail population—the 6-A Early Release program, which *right now* could divert approximately 450 people from city jails into ATI programs -- is instead lying dormant and unused by this mayor. Meanwhile, news broke last week that the DOC Commissioner and members of his team just returned from a taxpayer-funded trip to London and Paris. The trip cost our city \$40,000. According to the NY Daily News, no report has been publicly released to let us know what, exactly, the commissioner and his team learned on this extravagant trip.^{xv} But we know that the commissioner and his team got to visit Big Ben in London.

Speaking of extravagant costs, in fiscal year 2023, the DOC budget cost city taxpayers \$1.36 billion; the cost of incarceration at Rikers was \$556,539 a person per year, which is *\$1,525 a day*.^{xvi} The forecast reported for the DOC budget in fiscal year 2024 is nearly \$1.2 billion.^{xvii} Why are libraries and educational programs and

other essential services being cut when we know ATI's work, ATI's are cheaper, and diversion options are available *right now* to reduce the jail population.

The urgent need for immediate action to reduce the jail population is clear.

For years, the federal monitor has filed reports documenting the outrageous levels of violence and dysfunction at Rikers.^{xviii} Under Mayor Eric Adams, the levels of violence and dysfunction at Rikers are so egregious that in April 2023, federal prosecutors from the Southern District of New York wrote, "Incarcerated people and corrections staff continue to face an imminent risk of harm on a daily basis."^{xix}

People impacted by Rikers, community organizations such as Katal, and advocates have worked to shut down Rikers and hold Adams accountable while demanding action by the city, state, and federal government to save lives. After years of foot-dragging by the courts, in August 2023, federal Judge Laura T. Swain finally opened the door for the appointment of a federal receiver, acknowledging that "people incarcerated at Rikers are at a grave risk of immediate harm" and that "the current state of affairs is tragic and unacceptable."^{xx}

While calls for a federal receiver have circulated for some time, substantial, widespread support for a federal receiver has grown dramatically since 2022 when community groups began demanding actions by the federal court. Today, more than 50 community, advocacy, and faith-based organizations have joined the call for a federal receiver to take over at Rikers. In June, Katal and other community groups worked with Public Advocate Jumaane Williams to introduce city council Resolution 669, which calls for federal receivership.^{xxi} Today, nearly 20 council member have co-sponsored the resolution. Earlier this month, the Legal Aid Society and the U.S Attorney for the SDNY filed motions in federal court formally calling for the appointment of an independent federal receiver.

To be clear, Rikers must be shut down. And this Council must aggressively advance and support every possible initiative to expand ATIs in our city.

But as we have seen, this mayor is a roadblock to closing Rikers. His actions show he does not support ATI programming. And under this mayor, the conditions at Riker have become so severe that a growing chorus of community and political leaders – including former correctional officials – are calling for the federal courts to take a drastic step and appoint an independent receiver to take over at Rikers.

While the council continues its work on fighting for ATI's, we urge this committee to take immediate action to relieve suffering at Rikers by passing Resolution 669. Until

Rikers is shut down, there must be immediate action to improve conditions and save lives, and the DOC is both unwilling and incapable of achieving that task.

ⁱ Erica Bryant. “[It’s] a Torture Chamber: Stories from Rikers Island.” Vera Institute of Justice. February 2022. vera.org/its-a-torture-chamber.

ⁱⁱ Jonah E. Bromwich and Jan Ransom. “Rikers Still ‘Unstable and Unsafe’ Under New Jails Chief, Watchdog Says.” *The New York Times*. March 16, 2022. nytimes.com/2022/03/16/nyregion/rikers-jail-violence-report.html.

ⁱⁱⁱ Black and Latino people are far more likely to be incarcerated at Rikers than white people facing similar charges. Young, LGBTQI, and gender nonconforming people face higher rates of violence. Concerns about young people and about transgender, gender nonconforming, nonbinary, and intersex (TGNCNBI) people on Rikers Island and in other jails and prisons have long warranted attention. To read more about issues for young people in the city’s jails, see “Case: Nunez and United States v. City of New York.” *Nunez and United States v. City of New York* 1:11-Cv-05845 (S.D.N.Y.), Civil Rights Litigation Clearinghouse, July 10, 2023. clearinghouse.net/case/12072. To read more about issues for TGNCNBI people in the city’s jails, see New York City Board of Correction. “Task Force on Issues Faced by TGNCNBI People in Custody.” Updated 2023. www1.nyc.gov/site/boc/jail-regulations/task-force-on-issues-faced-by-tgncbi.page

^{iv} United States Census Bureau. “Quick Facts: New York City, New York.” July 1, 2021.

census.gov/quickfacts/newyorkcitynewyork; Bruce Western, Jaclyn Davis, Flavien Ganter, and Natalie Smith. “The Cumulative Risk of Jail Incarceration.” *PNAS* 118, No. 16. (2021). pnas.org/doi/10.1073/pnas.2023429118; Reuven Blau. “Racial Gap in City Jails Has Only Gotten Worse, John Jay Study Finds.” *The City*. March 2, 2023. <https://www.thecity.nyc/2023/3/2/23621862/racial-gap-nyc-jails-got-worse>

^v Michael Rempel. *Decarceration in the Bail Reform Era: New York City's Changing Jail Population Since 2019*. Data Collaborative for Justice at John Jay College. December 2022. 2. https://datacollaborativeforjustice.org/wp-content/uploads/2022/12/Decarceration_Reform_Era_NYC7.pdf

^{vi} Jan Ransom and Jonah E. Bromwich. “‘I Just Want to Be Normal’: A Mentally Ill Man’s Death at Rikers.” *The New York Times*. September 27, 2021. nytimes.com/2021/09/27/nyregion/rikers-island-esias-johnson.html, citing Anthony Shorris and Mindy Tarlow. *Preliminary Mayor’s Management Report*, February 2016. 62. https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2016/2016_pmmr.pdf

^{vii} Jan Ransom and Jonah E. Bromwich. “Tracking the Deaths in New York City’s Jail System.” *The New York Times*. February 4, 2023. www.nytimes.com/article/rikers-deaths-jail.html

^{viii} Reuven Blau. “City Jails No Longer Announcing Deaths Behind Bars, Angering Watchdogs.” *The City*. May 31, 2023. <https://www.thecity.nyc/2023/5/31/23744666/correction-jails-not-announcing-deaths-rikers>

^{ix} Hurubie Meko. “N.Y.C. Jails Chief Is Hiding Dysfunction at Rikers, Federal Monitor Says.” *The New York Times*. June 8, 2023. <https://www.nytimes.com/2023/06/08/nyregion/rikers-island-jail-report.html>; Matt Katz. “Judge Will Consider Federal Takeover of NYC Jails, Including Rikers, This Summer.” *Gothamist*. June 13, 2023.

<https://gothamist.com/news/judge-will-consider-federal-takeover-of-nyc-jails-including-rikers-this-summer>

^x Meko, “N.Y.C. Jails Chief”; Reuven Blau. “Secrecy on Severe Jail Injuries Spurs Rikers Monitor to Sound Alarm.” *The City*. May 29, 2023. <https://www.thecity.nyc/2023/5/29/23741411/rikers-jail-injuries-secrecy-corrections-monitor>;

Matt Katz, “Rikers Detainees at ‘Imminent Risk’ of Harm; Federal Monitor Alleges Five New ‘Disturbing’ Incidents.” *Gothamist*. May 30, 2023. <https://gothamist.com/news/rikers-detainees-at-imminent-risk-of-harm-federal-monitor-alleges-five-new-disturbing-incidents>

^{xi} Matthew Haag. “N.Y.C. Votes to Close Rikers. Now Comes the Hard Part.” *The New York Times*. October 17, 2019. nytimes.com/2019/10/17/nyregion/rikers-island-closing-vote.html

^{xii} For the 2023 data, see Vera Institute for Justice. “JailVizNYC.” November 28, 2023. <https://greaterjusticenyc.vera.org/nycjail>.

^{xiii} Courtney Gross. “Rikers closure plan not on track, commissioner says”. Spectrum News 1. 2023. Retrieved from <https://ny1.com/nyc/all-boroughs/news/2022/12/14/rikers-closure-plan-not-on-track--commissioner-says>

^{xiv} Dana Rubinstein and Emma G. Fitzsimmons. “Libraries Spared but Rikers Suffers in \$107 Billion N.Y.C. Budget Deal.” *The New York Times*. June 29, 2023. <https://www.nytimes.com/2023/06/29/nyregion/new-york-mayor-city-council-budget-deal.html>; Michael Gartland. “NYC Council Approves Mayor Adams’ New Budget, but 12 Lawmakers Dissent.” *New York Daily News*. June 30, 2023. <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-city-council-approves-adams-new-budget-20230630-labuyztiarhvdw7uggerzgysi-story.html>; Katie Honan. “Council Agrees to \$107 Billion Budget Handshake Just Before Deadline.” *The City*. June 29, 2023. <https://www.thecity.nyc/2023/6/29/23778920/city-council-budget-107-billion>; Vera Institute of Justice. *A Look Inside the Fiscal Year 2024 New York City Department of Correction Budget*. March 2023. <https://www.vera.org/downloads/publications/A-Look-Inside-the-Fiscal-Year-2024-New-York-City-Department-of-Correction-Budget.pdf>

^{xv} Graham Rayman. “Amid NYC budget cuts, Correction Commissioner Louis Molina’s trip to London and Paris with 7 aides cost taxpayers \$40K”. NY Daily News. 2023. Retrieved: <https://www.nydailynews.com/2023/11/28/amid-nyc-budget-cuts-correction-commissioner-louis-molinas-trip-to-london-and-paris-with-7-aides-cost-taxpayers-40k/>

^{xvi} New York City Comptroller. “Comptroller Stringer: Cost of Incarceration per Person in New York City Skyrockets to All-Time High.” December 6, 2021. comptroller.nyc.gov/newsroom/comptroller-stringer-cost-of-incarceration-per-person-in-new-york-city-skyrockets-to-all-time-high-2

^{xvii} New York City Mayor’s Office of Management and Budget. “Expense Budget: Agency Budget Forecast” for the Department of Correction. Updated June 2023. <https://www.nyc.gov/site/omb/publications/agency-budgets-projections.page?projection=072>

^{xviii} For links to the reports, see Tillid. “What Is the Nunez Monitorship?” <https://tillidgroup.com/projects/nunez-monitorship>

^{xix} Steve J. Martin, Kelly Dedel, Anna E. Friedberg, Dennis O. Gonzalez, Patrick Hurley, Alycia M. Karlovich, Emmitt Sparkman, and Christina Bucci Vanderveer. *Status Report on DOC’s Action Plan by the Nunez Independent Monitor*. April 24, 2023. 27. <https://tillidgroup.com/wp-content/uploads/2023/04/2023-04-24-Status-Report-of-Action-Plan.pdf>

^{xx} Reuven Blau. “Judge Says ‘Transformative Change’ Needed, Laying Groundwork for a Possible Rikers Takeover”. *The City*. August 10, 2023. <https://www.thecity.nyc/2023/8/10/23827946/rikers-takeover-judge-receiver>

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Tracking Support for an Independent Federal Receiver at Rikers

List compiled by the Katal Center for Equity, Health, and Justice

For years, community groups, advocates, and service providers have worked to reduce the city's jail populations and shut down Rikers. That work continues. Now, as the crisis in city jails worsens and the death toll rises, calls are growing for the federal courts to order an independent receiver to take control of Rikers.

As the Brennan Center for Justice has described:

“When a local or state government proves unable or unwilling to improve a distressed public institution that has long defied federal law, a federal court can take the troubled entity out of the government's hands and appoint a ‘receiver’ – a nonpartisan expert – to assume direct control, with an eye towards reform.”

A federal receiver is not a panacea but could improve conditions for people incarcerated and employed there until Rikers is shut down once and for all.

The following list includes current and former government and corrections officials and community and advocacy groups who publicly support a federal receiver taking over at Rikers. *This list of stakeholders does not represent a coalition.* But it does reflect a growing consensus across the political spectrum that federal intervention at Rikers is needed to save lives and improve conditions for the people who are detained there or work there.

Officials and Groups in Support of Appointing an Independent Federal Receiver to Take Over at Rikers

Updated November 29, 2023, 2:00p.m. ET.

*This list **does not** reflect any endorsement of or participation in any particular coalition or campaign. Unless otherwise noted, all names and groups are listed alphabetically.*

Federal Prosecutors

- Damian Williams, U.S. Attorney for the Southern District of New York¹

New York City Officials

- New York City Comptroller Brad Lander²
- New York City Public Advocate Jumaane D. Williams³

New York City Council Members

An asterisk signifies that the council member has cosponsored Resolution 669, which calls for a federal receiver of New York City jails.

- Alexa Avilés, District 38*
- Charles Barron, District 42*
- Erik Bottcher, District 3*
- Tiffany Cabán, District 22*
- Carmen De La Rosa, District 10*
- Amanda Farías, District 18*
- Jennifer Gutiérrez, District 34*
- Shahana K. Hanif, District 39*
- Crystal Hudson, District 35*
- Rita C. Joseph, District 40*
- Shekar Krishnan, District 25*
- Mercedes Narcisse, District 46*
- Sandy Nurse, District 37*
- Chi Ossé, District 36*
- Majority Leader Keith Powers, District 4*
- Lincoln Restler, District 33⁴
- Kristin Richardson Jordan, District 9*
- Pierina Ana Sanchez, District 14⁵
- Nantasha Williams, District 27*
- Julie Won, District 26*

New York State Legislators and Former Legislators

- Senator Jabari Brisport, District 25⁶
- Senator Cordell Cleare, District 30⁷
- Senator Kristen Gonzalez, District 59⁸
- Senator Peter Harckham, District 40⁹
- Senator Brad Hoylman-Sigal, District 47¹⁰
- Senator Robert Jackson, District 31¹¹
- Senator Liz Krueger, District 28¹²
- Senator Shelley Mayer, District 37¹³
- Senator Jessica Ramos, District 13¹⁴
- Senator Gustavo Rivera, District 33¹⁵
- Senator Julia Salazar, District 57¹⁶
- Senator José Serrano, District 29¹⁷
- Senator Toby Ann Stavisky, District 11¹⁸
- Assemblymember Robert Carroll, District 44¹⁹
- Assemblymember Taylor Darling, District 18²⁰
- Assemblymember Harvey Epstein, District 74²¹
- Assemblymember Emily Gallagher, District 50²²

- Assemblymember Jessica González-Rojas, District 34²³
- Assemblymember Kimberly Jean-Pierre, District 11²⁴
- Assemblymember Dana Levenberg, District 95²⁵
- Assemblymember Zohran Mamdani, District 36²⁶
- Assemblymember Marcela Mitaynes, District 51²⁷
- Assemblymember Linda Rosenthal, District 67²⁸
- Assemblymember Amanda Septimo, District 84²⁹
- Assemblymember Tony Simone, District 75³⁰
- Assemblymember Phara Souffrant Forrest, District 57³¹
- Former New York State Senator Alessandra Biaggi, District 34³²

Former Public Safety & Correctional Officials

- Zachary Carter, former corporation counsel at the New York City Law Department and former U.S. attorney for the Eastern District of New York³³
- Elizabeth Glazer, former director of the Mayor’s Office of Criminal Justice under Mayor Bill de Blasio, former deputy secretary for public safety under Governor Andrew Cuomo, and founder of Vital City³⁴
- Michael Jacobson, former commissioner of the Department of Correction under Mayor Rudy Giuliani; currently the executive director of the CUNY Institute for State & Local Governance³⁵
- Vincent Schiraldi, former commissioner of the Department of Correction under Mayor de Blasio and former commissioner of Probation under Mayor Mike Bloomberg; currently the secretary of juvenile services in Maryland³⁶
- Sarena Townsend, former deputy commissioner of the Intelligence, Investigation & Trials Division at the New York City Department of Correction under Mayor Bill de Blasio³⁷

Editorial Pages & Journals

- *New York Daily News*³⁸
- *New York Post*³⁹
- *Vital City*⁴⁰

Advocacy and Community Groups

1. A Little Piece of Light⁴¹
2. Amplifying Activists Together⁴²
3. Birth from the Earth⁴³
4. Brennan Center for Justice⁴⁴
5. Bronx Climate Justice North⁴⁵
6. Bronx Defenders⁴⁶
7. Brooklyn Defender Services⁴⁷
8. Brotherhood Sister Sol⁴⁸

9. Brooklyn for Peace⁴⁹
10. Bronx Defenders⁵⁰
11. Campaign Zero⁵¹
12. Center for the Independence of the Disabled, New York (CIDNY)⁵²
13. Citizen Action of New York⁵³
14. Citizens Union⁵⁴
15. Community Access⁵⁵
16. Correctional Association of New York⁵⁶
17. Corporation for Supportive Housing⁵⁷
18. Families for Freedom⁵⁸
19. Families and Friends of the Wrongfully Convicted⁵⁹
20. Fled Collective⁶⁰
21. Fortune Society⁶¹
22. The Gathering for Justice⁶²
23. Housing Works⁶³
24. Hour Children⁶⁴
25. Incarcerated Nation Network⁶⁵
26. JustLeadershipUSA⁶⁶
27. Katal Center for Equity, Health, and Justice⁶⁷
28. KAVI- Kings Against Violence Initiative⁶⁸
29. Latino Justice⁶⁹
30. Legal Aid Society⁷⁰
31. National Alliance on Mental Illness of New York City, Inc. (NAMI-NYC)⁷¹
32. National Action Network NYC Chapter Second Chance Committee⁷²
33. Neighborhood Defender Service of Harlem⁷³
34. New Hour for Women & Children – Long Island⁷⁴
35. New Pride Agenda⁷⁵
36. North Bronx Racial Justice⁷⁶
37. NYC Brown Berets⁷⁷
38. New York Communities for Change⁷⁸
39. New York County Defender Services⁷⁹
40. NY Renews⁸⁰
41. New York State Defenders Association⁸¹
42. Nurses for Social Justice⁸²
43. Prison Families Alliance⁸³
44. Providence House, Inc.⁸⁴
45. Queens Defenders⁸⁵
46. Raging Grannies⁸⁶
47. Strategy for Black Lives⁸⁷
48. Unchained⁸⁸
49. Youth Represent⁸⁹
50. Vera Institute of Justice⁹⁰

If you or your group supports the call for a federal receiver – or if you have any questions or clarifications – please email Yonah Zeitz, Director of Advocacy at Katal: yonah@katalcenter.org.

¹ United States Attorney’s Office, Southern District of New York. “Statement Of U.S. Attorney Damian Williams on Intention to File for Contempt and Seek a Court-Appointed Receiver to Address Conditions on Rikers Island.” July 17, 2023. <https://www.justice.gov/usao-sdny/pr/statement-us-attorney-damian-williams-intention-file-contempt-and-seek-court-appointed>

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³ Office of the New York City Public Advocate. “NYC Public Advocate Introduces Bills to Reform City Jails, Resolution Calling for Rikers Receivership.” June 8, 2023. <https://www.pubadvocate.nyc.gov/press/nyc-public-advocate-introduces-bills-reform-city-jails-resolution-calling-rikers-receivership>

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²¹ Salazar et al., Letter to Judge Swain, 2023.

²² Salazar et al., Letter to Judge Swain, 2023.

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- ⁵³ Citizen Action of New York signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
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- ⁶⁴ Hour Children signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
- ⁶⁵ Incarcerated Nation Network signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
- ⁶⁶ JustLeadershipUSA. “Deanna .Hoskins and Others Call for Rikers to Be Placed into Federal Receivership.” August 9, 2023. <https://jlusa.org/2023/08/09/deanna-hoskins-and-others-call-for-rikers-to-be-placed-into-federal-receivership>
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- ⁶⁸ KAVI signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
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- ⁷² National Action Network NYC Chapter Second Chance Committee signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
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- ⁸⁰ NY Renews signed onto Katal’s receivership support list.
- ⁸¹ On August 20, 2023 Susan Bryant from the New York State Defenders Association signed a letter on behalf of the organization, supporting federal receivership of Rikers Island. <https://katal.info/receiversupport>
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- ⁸⁴ Providence House, Inc., signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
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- ⁸⁷ Strategy for Black Lives signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
- ⁸⁸ Unchained signed onto Katal’s receivership support list. <https://katal.info/receiversupport>
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Testimony to NYC City Council Committee on Criminal Justice

Public Hearing

November 30, 2023

Emily Appel, LMSW
Parole Program Coordinator
Court Advocacy Services



Thank you, Chair Rivera, and members of the Criminal Justice Committee for holding today's hearing and for the opportunity to provide testimony today. My name is Emily Appel and I am a program coordinator with Court Advocacy Services, providing defense-based advocacy for indigent clients at Osborne Association. Osborne is one of the largest and oldest criminal justice service organizations in the state. We serve participants from arrest to reentry and have offices in Harlem, Brooklyn, Buffalo, Newburgh, White Plains, and Troy, with our headquarters in the Bronx. We are in the courts, on Rikers, in State prisons, and in communities. We have been providing Court Advocacy Services in New York City for 30 years. I want to note that MOCJ was the initial funder of these services and we thank them for their history of innovative and effective funding to advance safety and justice.

In my 3 years at Osborne, I have been an advocate for individuals accused of law-breaking, often for serious offenses. As part of our Court Advocacy Services team, I get to know the individuals behind the charges; I talk with their families and friends; I learn about their childhoods to be able to understand, and create an individualized plan to address, the root causes of their involvement with the criminal legal system. This approach promotes public safety, while saving public dollars spent on pre-trial detention and prison sentences. Incarceration and detention do not address root causes of crime. Corrections systems are not resourced to provide the treatment many New Yorkers need and they should not be asked to do so when community-based providers are available. Three CAS clients have died while in pre-trial detention since I started: William Johnstone, Erick Tavira, and Isaabdul Karim. Their needs could have been met safely in the community.

Our work is effective in terms of saving dollars and lives:

- Our services reduce jail and prison sentences by 1,300 years annually, saving taxpayers millions of dollars
- 80% of our Court Advocacy Services clients avoid jail detention by meeting their court requirements;
- In 2020:
 - 267 people stayed home rather than being in jail or prison due to our advocacy and comprehensive community-based service plans;
 - 222 individuals avoided court and cleared their record due to our advocacy and service planning.

We thank the Council for investing in ATD and ATIs. Osborne is a member of the ATI and Reentry Coalition and we are grateful for the longstanding support of the Council. A unique and critical aspect of the Coalition members is our collaborative, client-focused approach: we often refer to each other's programs to best meet the needs of our clients and prevent re-offending or recidivism. While NYC faces challenging fiscal times, we urge an increased upstream, cost-effective investment in ATIs, giving budget and population relief to strained City and State

Corrections systems. Solutions to these complex challenges lie in community-based alternatives combined with an investment in supportive affordable housing.

Increasing our investment in ATDs and ATIs is also an urgent matter of racial justice: 94% of people in NYC jails are Black and brown; close to 90% are being held pre-trial. Their detention has ripple effects (increasing stressors and challenges) for thousands of children, families, and communities of color. Additionally, almost 100% of our clients have first been victims of violence and/or endured childhood traumas. This harm was rarely named or treated, and so the saying “hurt people, hurt people” continues to play out. But it doesn’t have to: ATIs break this cycle of harm; they promote healing and safety.

To underscore the importance and effectiveness of alternatives to detention and incarceration, as well as illustrate the harms caused by pre-trial detention and incarceration on Rikers, I’d like to tell you about a few of our clients:

Pre-trial release successes

Mr. S. had struggled with the legal system since his first arrest in his early twenties. He had never been offered services to address his mental health or the behaviors that were leading him to arrest. When he came to Osborne, he was in his 60s and ready to exit this system permanently. He had previously cycled through it on the same charges, with minimal intervention. He had been attacked in jail and was being held in protective custody solitary, further adding to the trauma he had already experienced and potentially increasing his risk of recidivism. We discussed his history, assessed his needs, and made a plan for him to be released safely to the community to receive treatment targeted at the root of his issues for the first time. We successfully advocated for his release under monitoring from Osborne in early 2022. He participated in outpatient treatment and was in the community for close to 1.5 years before his trial. This was his longest time in the community without being arrested. He found an apartment and moved out of shelter. He got a job and supported himself in the community. He was able to seek physical therapy for a pre-existing medical condition, which went untreated while he was previously incarcerated. He made significant progress in twice-weekly therapy, which he had never received before and which is not available in jail. The DA agreed to an ATI with continued treatment based on his success in that program. He was sentenced to 18 months of community programming under supervision in August 2023, and is still successfully participating in treatment and living safely in the community.

Ms. C. When her case was referred to CAS, Ms. C was being detained on a cash bail which she could not afford. CAS noted Ms. C had a complex trauma history, untreated mental health issues, compounded grief, and unsafe housing. Ms. C described an unstable childhood during which she struggled with intense untreated anxiety, housing instability, physical health issues, and complex trauma. Ms. C lost her father and numerous loved ones to gun violence and was left with an

insurmountable amount of grief. Due to these immense losses Ms. C developed anxiety and PTSD. In the community she was prescribed medication, but never received holistic mental health care to address her trauma. Ms. C also suffered from a medical condition which led to frequent hospitalizations. CAS referred Ms. C to be considered for a women's housing program in an attempt to separate her from her neighborhood, which she feared returning to. Ms. C was accepted at HourChildren, HousingPlus, and WPA for services. Through these programs, Ms. C would have had access to talk therapy, psychiatric services, holistic re-entry support, peer mentoring, and most importantly, housing. This treatment plan was submitted in January, 2023. On April 24, 2023, the judge granted our bail application and Ms. C was finally released to the community under monitoring by CAS. She walked out with her advocate and was escorted to her housing program. Ms. C is still residing at her program, participating diligently with her mental health treatment and case management, and has gotten a job. Her case is still ongoing in court, but she has the chance to prove to the judge that she is capable of change and ready to move forward and address her mental health in a cost effective way and with services that are not available in jail, before being sentenced.

Pre-Trial release - missed opportunities

Mr. R. is 30 years old, a father to two young children, and was born and raised in the Bronx. Before this arrest, he was living in a shelter and attempting to get back on his feet after a severe back injury (which occurred after the original crime he was charged with) and a long period of instability. In August, 2023, Mr. R was arrested for a probation violation related to missed program appointments and was remanded without bail. While being detained on Rikers Island, Mr. R.'s physical health severely declined. At the time of his arrest, Mr. R. was still able to walk, although it was difficult and painful. Currently, he is confined to a wheelchair as the lack of support in maintaining his mobility and no access to a supportive bed have seriously aggravated his conditions. Mr. R. told us that he did not receive the needed MRIs of his back or needed medication. He stated he continues to be in constant, severe pain. Mr. R missed several video conferences with Osborne because he was in excruciating pain and unable to physically make it to the booth. "This place is literally killing me, I would take a hundred years of house arrest rather than be in this place." His wife stated that Mr. R.'s detention has caused significant emotional stress on their family. She reported that their 16-month-old son with special needs has stopped trying to talk, and their five-year-old daughter has had emotional breakdowns in class. Mr. R. was ultimately released 11/20/23 after 3 months.

Detention Extends the Timeline of the Case

On the legal side of things, detention greatly delays the case and our work in particular. If someone is in the community, we usually can finish our work in 6-8 weeks and the case can move along. If they are incarcerated, our own timeline is extended by several weeks because it takes a week to schedule each video conference, and they are so often canceled. If someone is in the community, they can be much more involved with their case. The attorneys often don't have

the time to schedule video conferences for updates and can't call their incarcerated clients back, so they often give updates on the case at court, right before going in front of the judge. If someone is detained pre-trial, they face hugely increased pressure to plead guilty just to get out of detention, even if they are innocent or could have won at trial. They can't participate as actively in their own defense because they have significantly reduced access to their attorney or legal team.

According to DOC's own data [dashboard](#), there are currently 498 individuals on Rikers awaiting trial for more than 2 years (at a cost of \$556,000 per year this comes to \$553,776,000 spent over two years) and an additional 837 people awaiting trial for between 1 and 2 years (at a total additional conservative cost of \$465,372,000). **For this amount of money - over \$1 BILLION, ATI providers could serve 100,000 people, promoting public safety and positive outcomes for individuals, families, and communities.**

Detention does Not Guarantee Appearance in Court

Being detained doesn't guarantee that someone will be present at their court date. So many people detained at Rikers missed their court dates in 2022, it made the news.¹ I have been in court when the wrong person with the same name is brought in, or when the participant is in the building but cannot be produced to the courtroom because of a broken elevator in corrections, so the attorney waives an appearance and the hearing happens in their absence. The process of production is very outdated and a minimum of 24-48 hours notice is currently required to produce a client to court. Often, our bail advocacy is fairly last minute since it revolves around a bed opening up at a program somewhere. There's always a possibility that the request gets put in too late, and then everyone is at court ready to go except the client who is still at Rikers. When that happens, there is no remedy. They cannot bring the person over on the same day, so we have to reschedule it and we often lose the bed. If the only purpose of pre-trial detention is to ensure return for court, that is not necessarily happening. We can help DOC by reducing the population and easing the court production demands on them.

Detention of those with Mental Health Diagnoses

Pre-trial detention is also especially difficult for clients with mental health diagnoses. The NYC Comptroller reports that one in five people detained have serious mental health illness, while half have some kind of mental health diagnosis.² Unless someone is in an Mental Observation (MO) unit, reserved for folks with Serious Mental Illness designations (which does not include the trauma of incarceration or depression related to arrest), their only access to therapy is one session of talk therapy a month and some medication management. This does not meet a standard of care, despite the best efforts of dedicated CHS clinicians. They also change clinicians each time

¹ <https://gothamist.com/news/1-in-4-people-jailed-in-nyc-are-not-being-brought-to-court-on-time>

² Preliminary Mayor's Management Report, 2023:

<https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2023/doc.pdf>

they transfer to a new facility, which further disrupts their care. If someone is treated in the community, it is likely to be more effective and more cost-effective. We can help DOC and CHS by lessening the population of people in need of mental health treatment.

We watch people - people who are sons, daughters, fathers, mothers, brothers, sisters, grandfathers, aunts - deteriorate behind bars. I've had people come into each successive video conference with new or worsening injuries. I've seen individuals go from being able to participate in their own defense to decompensating to the point of being found unfit for trial. A lot of people see pre-trial detention as necessary for our collective safety...but in most cases it is not. The harm it inflicts - at a cost of half a million dollars per person per year - is tremendous and radiates outward, into our families and communities. The rising population puts undue stress on DOC's staff and budget. Investing a fraction of this money into ATDs and ATIs literally saves lives and contributes towards a safer, fairer, more equitable, stronger City. We know public safety requires all of us: defense, prosecutors, courts, providers, corrections, government agencies and elected officials. We thank MOCJ and the City Council for your longstanding commitment to and investment in community-based solutions.

Thank you.

**Testimony of Damon Rowe, Managing Director of Operations,
Greenburger Center for Social and Criminal Justice
before the
New York City Council
Committee on Criminal Justice**

November 30, 2023

Thank you for this opportunity to provide written testimony to your Committee. My name is Damon Rowe, and I am the Managing Director of Operations for the Greenburger Center for Social and Criminal Justice. The Center is a 501(c)(3) not-for-profit corporation and advocates for needed criminal justice and mental health reforms.

The Center focuses on the plight of justice involved people living with mental illness, especially those who have serious mental illness. In short, we believe mental illness is a public health issue, not a criminal justice problem. Yet today, people living with serious mental illness are 10 times as likely to be in a jail or prison than in a psychiatric hospital.¹ Of the estimated 1.9 million people currently incarcerated nationwide,² some 70% have at least one diagnosis of mental illness or substance use disorder or both and 1/3 live with serious mental illness.³ In fact, today, Cook County Jail in Chicago, LA County Jail and Riker's are the three largest mental health centers in the Country.⁴

In August 2023, Comptroller Brad Lander found a significant increase in the number of people detained on Rikers with a diagnosed serious mental illness. Specifically, the Comptroller found:

¹ [National Judicial Task Force To Examine State Courts' Response to Mental Illness, State Courts Leading Change: Report and Recommendations, Oct. 2022, at 9](#)

² [Prison Policy Initiative, 2022.](#)

³ [Unjust Punishment: The Impact of Incarceration on Mental Health, Patricia Warth, NYS Bar Association, 2022.](#)

⁴ [American's Mental Health Crisis Hidden Behind Bars, NPR, February 25, 2020.](#)

The number and share of people detained and diagnosed with serious mental illness [on Rikers] rose significantly, from under 700 in July 2020 to over 1,200 as of May 2023. One-in-five people detained have serious mental health illness, while half have some kind of mental health diagnosis... At the same time, the number of missed medical appointments increased 21% as of the most recently available data, a trend that began at the outset of the pandemic. No additional mental health services have been added, and a program to house severely ill people in secure facilities at Bellevue and other Health and Hospitals facilities is delayed.⁵

Given these statistics, it is difficult to envision how the City will close Rikers absent adequate residential treatment diversion options. The NYC ATI/ReEntry Coalition provides many of these services but there has been a service gap when it comes to diversion options for people charged with felonies who also live with a serious mental illness. Ten years ago, one of those people was Francis Greenburger's oldest son and it is why the Center developed the Hope House residential treatment model for this population.

After 10 years of work, the Center has just broken ground on its first of a kind residential treatment model called Hope House on Crotona Park in the Bronx. Hope House, anticipated to open in late 2025, is an Alternative to Incarceration (ATI) for those with Serious Mental Illness (SMI), including those with co-occurring Substance Use Disorders (SUD) accused of felony level crimes. People charged with misdemeanors only are not eligible for Hope House.

Hope House will offer a longer-term (one-to-two year expected length of stay) residential program for 8 men and 8 women operated by the Greenburger Center for Social and Criminal Justice, Inc., (GCSCJ or Hope House), with an on-site treatment program provided by an outside provider and residential and security staff on-site 24/7.

⁵ <https://comptroller.nyc.gov/reports/the-state-of-new-york-city-jails/>

The model is a first-of-its-kind model in the nation because of its use of bond agency authority to provide security in a voluntary ATI program and its co-located integrated residential and therapeutic treatment services. These features are discussed in more detail below.

Whenever possible, veterans will have preference. Preference will also be given to individuals living in the Bronx at the time of their arrest as follows: up to 4 beds will be reserved for people residing in the Bronx at the time of their arrest where such bed is available and more than one candidate is being considered, one of whom is a Bronx resident. Hope House will serve people ages 18 and older, residing in New York City's five boroughs, though at the request of the local community board, Hope House will not accept people accused of sex offenses at this location.

A Voluntary Program for those Determined Mentally Competent to Participate

Admission to Hope House is on a voluntary basis with advice of counsel and consent of the Court. In cases where sentencing law mandates incarceration, Hope House will require district attorney (DA) consent before enrollment including acknowledgment and agreement by the DA that such charge will be dropped and replaced with a lower charge including agreement that a non-incarceral sentence should be imposed, where the terms of the Plea Agreement are met. Where the client is unable to complete the terms of the Plea Agreement, a DA must also agree that any time spent at Hope House can reduce the sentencing determination by an equivalent amount should a term of incarceration ultimately be imposed.

A client's competency to make this voluntary decision will be carefully considered. A client not able to demonstrate a rational and factual understanding of the elements and consequences of the decision and the services offered at Hope House will not be enrolled in the program. Clients actively violent or threatening violence are also not eligible.

The Diversion Process

Once determined competent, a client's enrollment occurs at the point of a Court ordered Plea agreement, including the following five components:

- A plea of guilty to the agreed upon charge(s), with sentencing adjourned until either: completion of the mandated ATI residential treatment phase or early discharge from the ATI;
- Imposition by the Judge of nominal cash bail (i.e., \$1.00), pursuant to NYS Criminal Procedure Law section 510.10(5), as a condition of the Plea and release to the ATI, to be enforced by an outside bond agent or other authorized person but specifically trained by Hope House;
- A commitment by the Court to a sentence requiring no further incarceration upon successful completion of the ATI program, but could include a period of post release supervision, including, where appropriate, an agreement for term of probation;
- A stated sentence of incarceration that will be imposed if the client does not successfully complete the program, which sentence will be no greater than that which would have been imposed in the absence of program participation; and
- A commitment that, should the client be unable to successfully complete the ATI program, the sentence that the client receives will be reduced by one day for each day that the client spent in treatment.

Security Provided by Bond Agency Authority or Authorized Staff as per CPL Section 530.80

As part of the Plea agreement, Hope House will not accept a client unless the client voluntarily asks for and the Court imposes nominal cash bail on the client allowing a bond agent retained by Hope House to return the client to Court should the client no longer wish to remain in the care of the ATI or where the client becomes an

unmanageable risk such that the client must be returned to Court for further proceedings on the Plea as set forth above. The authority authorizing a bond agent to take a client into custody where forfeiture of bail is threatened is CPL 530.80. This bail bond supervision model was based upon successful work done by the Vera Institute of Justice with misdemeanor defendants. Learn more at: <https://www.vera.org/publications/bail-bond-supervision-in-three-counties-report-on-intensive-pretrial-supervision-in-nassau-bronx-and-essex-counties>

As part of the Plea Agreement, clients wishing to withdraw from the program will also agree to remain on-site for up to 24 hours to allow safe transport back to court during court hours. Clients will only be taken into custody by a bond agent as a last resort. If a client is taken into custody, custodial control will be exerted off Hope House property.

Use of cash bail avoids the need for and delay of securing and effectuating a bench warrant, a major obstacle for judges and DAs who have been hesitant to divert this population under currently available ATI options. As importantly, it also allows Hope House to require training of bond agents so that if needed, a client will be taken into custody by a person specifically trained to deescalate a mental health crisis rather than a police officer.

Access into the facility will be monitored. All doors exiting to the outside will either be alarmed or locked, but locks will have an emergency panic bar to enable people to exit the building in an emergency. At no time will clients be locked in their rooms. Clients will also leave the building with peers or staff until such time as they can leave the building safely on their own without a peer or staff.

Treatment Philosophy & Licensure

Program and residential staff will provide evidenced based work-ordered-day programming, mindfulness and meditation, violence reduction, restorative justice

programs, and life skills training, including job/education services. The residential component will be licensed as an NYS Office of Mental Health (OMH) 595-Congregate Care facility.

The Continuing Day Treatment Program (CDTP) and related staff will provide evidenced based trauma counseling; psychiatric and nursing care; medication management for psychiatric conditions; cognitive and dialectical behavioral therapy, where necessary; and opioid and substance use disorder treatment and management. CDTP services will be provided by Argus Community, Inc via an OMH CDTP Satellite license. The CDTP will be located in the same building as the residential program.

Re-Entry into the Community

Re-entry planning will comply with NYS Office of Mental Health licensure requirements and will begin at the time of enrollment. The goal of Hope House residential and therapeutic programming will be stabilization of any substance use disorders, management of psychiatric symptoms, and the treatment of underlying mental and physical disease. Upon stabilization, residential program staff will work to instill life and where possible, job skills which are essential to successful re-entry into the community.

Beginning in the second year of a client's stay, or as soon as possible, residential staff and a re-entry coordinator will work with clients and nonprofit organizations with extensive community experience with Hope House's target population to provide support in three major areas: 1) evaluation, motivational counseling, referral to residential programs; 2) family education, support, and reconciliation services; and 3) re-entry/recovery support and case management service.

Re-Entry efforts will be closely coordinated with our partners in the NYC ATI-ReEntry Coalition.

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**New York City Council
Committee on Criminal Justice
November 30, 2023**

**Hearing on Oversight:
Alternatives to Detention and Incarceration in New York City**

Testimony of The Legal Aid Society

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The Legal Aid Society thanks Chair Rivera and the members of the Committee on Criminal Justice for holding this hearing on alternatives to detention and incarceration in New York City. We welcome and encourage the City Council to continue to exercise its oversight powers to ensure that adequate and effective alternatives to detention and/or incarceration are available to youth involved with the legal system as the result of an arrest.

Our focus today is on alternatives to detention (ATDs), alternatives to incarceration (ATIs), and alternatives to placement¹ (ATPs) (collectively “Alternative Programs”). These Alternative Programs can provide services and supports critically needed by justice-involved individuals without jeopardizing public safety and are particularly important for justice-involved youth. Ensuring an adequate array of effective Alternative Programs must be a priority for NYC.

We urge the City Council to ensure that enough programs are available offering community-based services – including mental health treatment, educational supports, and employment opportunities – so that youth do not languish in detention or incarceration. There are currently insufficient programs available to serve justice-involved youth, resulting in unnecessary remands of Family Court and Youth Part clients, where both the individual youth and the community would be better served by intensive, community-based services. Further, at a time when ACS secure detention

¹ For youth prosecuted in Family Court, an incarcerative disposition of a case is called “placement” rather than “incarceration.”

is over capacity, resulting in the unacceptable “housing” of youth in classrooms and deprivation of personal space,² the need for Alternative Programs is even more urgent. Finally, it is beyond question that the youth who suffer as a result of the lack of appropriate programs are almost all Black and brown youth from under-resourced neighborhoods in NYC. We call on the City Council to ensure that these youth are not allowed to be needlessly incarcerated. As discussed in more detail below, the lack of adequate ATDs, ATIs, and ATPs undermines public safety and harms NYC’s youth.

The Legal Aid Society

The Legal Aid Society represents the majority of children and youth prosecuted in New York City’s Family Courts and Criminal Courts. We have dedicated teams of lawyers, social workers, paralegals and investigators devoted to serving the unique needs of children and youth, including those charged as juvenile delinquents, juvenile offenders and adolescent offenders. The Legal Aid Society’s Juvenile Rights Practice represents the majority of youth prosecuted in Family Court in New York City. The Legal Aid Society’s Criminal Defense Practice represents the majority of indigent defendants prosecuted in Criminal Court in New York City. The Juvenile Rights Practice and the Criminal Defense Practice’s Adolescent Intervention and Diversion (AID) Unit have adopted an integrated representation model to ensure seamless and comprehensive representation of 16- and 17-

² <https://gothamist.com/news/teens-in-nyc-detention-centers-are-sleeping-on-the-ground-due-to-overcrowding-staff-say>

year-old youths who appear in the Youth Part, the majority of whose cases are removed to Family Court. In addition to representing our clients in trial and appellate courts, we also pursue impact litigation and other law reform initiatives.

NYC's Juvenile Legal System – A Brief Overview

ACS's Division of Youth and Family Justice (DYFJ) is responsible for the detention of all youth in New York City and for the placement of youth adjudicated as juvenile delinquents (JDs). Currently, youth between the age of 7 and 18 can be charged as juvenile delinquents and prosecuted in Family Court. Children ages 13-15 who are charged with certain crimes may be prosecuted as juvenile offenders (JOs) in Criminal Court. Youth charged with more serious crimes at age 16 or 17 may be prosecuted as adolescent offenders (AOs) in Criminal Court.

If detained, children and youth are remanded to ACS custody. ACS DYFJ operates two detention facilities: Crossroads Juvenile Center in Brooklyn and Horizon Juvenile Center in the Bronx. Each of these facilities is authorized to hold JDs, JOs, and AOs. At present, these facilities are over capacity, and ACS has gotten a waiver from New York State to allow JDs and JOs to be held in temporary cots in classrooms.³

³ <https://gothamist.com/news/teens-in-nyc-detention-centers-are-sleeping-on-the-ground-due-to-overcrowding-staff-say>

ACS also contracts with nonprofits for the operation of nonsecure detention facilities (NSDs). Only youth charged as JDs can be remanded to NSDs, which, while designated as “non-secure,” are nonetheless locked facilities. Each NSD facility has the capacity to house twelve detained youth.

In addition to detention, ACS DYFJ is responsible for and oversees the “Close to Home” (CTH) placement facilities where youth adjudicated juvenile delinquent (JD) are placed. ACS DYFJ contracts with not-for-profit agencies who operate these congregate residential placement facilities, which include both non-secure placement (NSP) and limited secure placement (LSP). As indicated above, an ATP would be a community-based dispositional alternative with intensive services for an adjudicated JD, instead of placement in a facility such as CTH.

Racial Disproportionality Pervades Detention and Placement

Appalling and longstanding racial disparities exist in NYC’s juvenile legal system; justice-involved children and teens are almost exclusively poor and Black. According to ACS Detention Demographic Data for FY 21, 66.9% of all New York City youth admitted to secure detention facilities in 2021 self-identified as Black, despite Black children representing only 22% of the population of children in NYC.⁴ Similarly, 71.9% of those admitted to non-secure detention facilities identified as Black.⁵ Additionally, many youth of color have experienced trauma and at least one significant issue beyond poverty that causes instability in their lives.⁶ These injustices are rooted in racial inequities that permeate society; the juvenile legal system included.

Increased Census of Youth in Secure Detention

Juvenile detention facilities have seen a dramatic increase in population since early 2019.⁴ According to The Mayor’s Management Report for Fiscal Year 2023 (MMR) the average daily population in juvenile detention has risen from 45 in 2019 to 198 in Fiscal 2023.⁵ The MMR attributes the increased census to the fact that “majority of young people in detention are now older Adolescent Offenders with pending cases in the adult criminal court system, which is a lengthier process than Family Court.”⁶ As explained below, it is a matter of public safety and intelligent policy to avoid unnecessary detention. Detention exposes youth to potential trauma, exacerbates mental health issues, increases the likelihood of further system involvement, and has a long term negative impact on youth.⁹ With this increased census it is particularly essential to examine and address the dearth of appropriate Alternative Programs. We urge the City to take all reasonable steps to address this important issue.

ATDs, ATIs, and ATPs are Essential and Effective Interventions for Youth

It is well established that community-based alternatives to detention, incarceration, and placement *work*.⁷ Effective programs *increase public safety* by providing individuals with the tools

⁴ Mayor’s Management Report for Fiscal Year 2023 at p. 232. Available at https://donbuqm3ub5fw.cloudfront.net/files/2023_mmr_ce1a8eaa8b.pdf

⁵ Id.

⁶ Id.

⁷ See, e.g., The U.S. Office of Juvenile Justice and Delinquency Prevention’s Literature Review regarding “Alternatives to Detention and Confinement,” available at <https://ojjdp.ojp.gov/model-programs-guide/literature->

they need to succeed. Alternative Programs are particularly effective for those under age 25. Science has established that the adolescent brain is not fully developed until approximately age 25,⁸ providing an important window for assisting youth in developing pro-social behaviors. For example, programs that provide viable credible mentors and assist youth in coping with stressors offer effective support for youth during their formative years.⁹

Alternative Programs also are dramatically more cost effective than incarceration. According to the Justice Policy Institute New York spends nearly \$900,000 per youth in confinement per year.¹⁰

In contrast, studies have established that rather than improving public safety, incarcerating youth *increases* the likelihood that they will reoffend as compared to community-based programming.¹¹ In addition, the individual youth are not only more likely to recidivate as a result of

[reviews/alternatives_to_detection_and_confinement.pdf](#) (August 2014) (“research has shown that juveniles who are kept in the community recidivate less often than previously detained youths”).

⁸ [The Promise of Adolescence: Realizing Opportunity for All Youth](#). The National Academies of Sciences, Engineering, and Medicine 2019. The National Academies Press. Available at, https://www.ncbi.nlm.nih.gov/books/NBK545481/pdf/Bookshelf_NBK545481.pdf at 18.

⁹ Raposa, Rhodes, Stams, et al. The Effects of Youth Mentoring Programs: A Meta-analysis of Outcome Studies. *Journal of Youth and Adolescence* 48, 423 –443 (2019) Support that mentoring interventions can have positive outcomes for youth. Available at, <https://doi.org/10.1007/s10964-019-00982-8>

¹⁰ Justice Policy Institute, *Sticker Shock 2020: The Cost of Youth Incarceration*. Available at https://justicepolicy.org/wp-content/uploads/2022/02/Sticker_Shock_2020.pdf at 7. See also, Weissman, Ananthakrishnan, and Schiraldi, *Moving Beyond Youth Prisons: Lessons from New York City’s Implementation of Close to Home*. Columbia University Justice Lab (February 2019) Available at <https://justicelab.columbia.edu/sites/default/files/content/Moving%20Beyond%20Youth%20Prisons%20-%20C2H.pdf>

¹¹ Sarah Cusworth Warker and Jerald Herting. The Impact of Pretrial Juvenile Detention on 12 Month Recidivism: A Matched Comparison Study, *Crime & Delinquency* Vol. 66 (13-14), 1865 –1887, 1881. Available at, <https://journals.sagepub.com/doi/pdf/10.1177/0011128720926115> at 1869 (Youth who experienced detention are 16%

incarceration, but are also likely to be harmed and possibly even traumatized by the experience of incarceration. As the U.S. Office of Juvenile Justice and Delinquency Prevention has reported:

...[R]esearch has demonstrated that detention and confinement facilities negatively affect a child's mental state, academic aptitude, and employment prospects. Placing a juvenile in secure facilities hinders the juvenile's developmental process, leads to depression, and increases the risk of suicide or other self-harm [citation omitted]. Placed in detention or a confinement facility, the juvenile is cut off from conventional opportunities for growth, and any positive ties he or she may have had in the community are severed [citation omitted]. In addition, researchers have found that more than 40 percent of juveniles in secure facilities suffer from at least one learning disability [citation omitted]... Finally, as a result of their period of incarceration, detained juveniles typically receive lower wages and experience greater difficulty finding employment compared with their peers [citation omitted].¹²

Given the detriment to public safety and the harm inflicted upon individual youth, incarceration of youth should only be used as a last resort. Notably, the American Academy of Pediatrics recently made exactly this point.¹³ Clearly, we need more alternatives to detention, incarceration, and placement in New York City to ensure that all youth are given this essential opportunity.

more likely to be incarcerated as an adult than other justice-involved youth.); see also <https://njdc.info/wp-content/uploads/2016/10/The-Harms-of-Juvenile-Detention.pdf>

¹² The U.S. Office of Juvenile Justice and Delinquency Prevention's Literature Review regarding "Alternatives to Detention and Confinement," available at <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/alternatives-to-detection-and-confinement.pdf> (August 2014) at 1-2.

¹³ See <https://www.aap.org/en/advocacy/juvenile-justice/protect-children-reform-the-juvenile-justice-system/>

NYC Lacks Adequate Appropriate ATDs, ATIs, and ATPs

Our staff of attorneys and social workers routinely diligently look for Alternative Programs which meet client needs and have available space. Unfortunately, the lack of space in appropriate programs poses a significant challenge. This dearth of appropriate programs can result in youth spending unnecessary time in detention and negatively affect their rehabilitation.

Home-Based Alternative Programs: Home-based Alternative Programs involve therapeutic services provided to youth and families in their homes. One important feature of these programs is the availability of therapists who regularly go to clients' homes to provide individual and family therapy, as well as drug counseling. Many youths in need of these programs have mental health diagnoses requiring therapeutic treatment, and thus home-based interventions assist favorable outcomes and provide intensive support. However, our staff regularly report a shortage of available home-based alternative programs, leading to unnecessarily long stays in detention and a lack of adequate supports in the community.¹⁴

Community-Based Alternative Programs: Community-based Alternative Programs require youth to travel to participate in programming in the community. Our attorneys and social workers

¹⁴ One issue with the Juvenile Justice Initiative (JJI), a home-based ATP, is that it will not accept a youth if they have a second open case. However, some clients need ATPs specifically because they face imminent placement as a result of a second case.

routinely advocate for the use of such programs for clients. However, depending upon the demands of the prosecutor and/or judge, our staff often struggle to find suitable available programs. Our staff report the following limitations in available Alternative Programs:

- **Duration:** Many prosecutors and judges demand longer-term programming than is available, requiring defense attorneys to cobble together more than one program to satisfy their demands. Many programs are time-limited to six months or less. This duration may be based upon evidentiary research supporting the specific program model. If so, such information should be shared with stakeholders to support the sufficiency of a single program. If not, longer programs should be developed to satisfy all stakeholders.
- **Age limitations:** Many programs are for youth aged 16 and above, and therefore do not serve youth charged as juvenile offenders, who are 13 to 15.
- **Long waiting lists:** Some programs have long waiting lists due to limited space and program staff. This is especially true if the client and/or family members need a Spanish-speaking case worker or therapist.

Further, all programs need more access to better employment services and to paid work. Our clients want and need jobs. One program that helps with jobs is Exalt, but once Exalt ends, the client often finds themselves with a resume but few, if any, job prospects. One idea worth considering is for the City to expand the Summer Youth Employment Program to function year-round, with the City and/or its partners providing paid work to participating youth.

The programs also need to have educational specialists. A primary issue is that many court-involved youth have to switch schools due to safety concerns, yet judges and prosecutors also require proof of school attendance. Given the above, these transfers need to happen quickly. Dedicated program personnel to assist the parent/guardian navigate educational system issues would be helpful. The Legal Aid Society's Educational Advocacy Project can assist but has limited capacity.

Alternative to Placement Programs: We also want to highlight the need for additional ATP programs for youth in the dispositional phase of juvenile delinquency cases (disposition is akin to "sentencing"). Unfortunately, the recent closing of the effective Esperanza program which served both as an ATP in Family Court and an ATI in the Youth Part has been a huge loss for clients in NYC. Esperanza provided an intensive, therapeutic, community-based program which also contained a trauma-driven therapeutic component addressing the needs of youth with a trauma history. The contract with its proposed replacement, CASES IMPACT, was reportedly cancelled and no substitute has been provided.

CONCLUSION

Thank you for holding this hearing to address these important topics. We look forward to continuing to work with the City Council and are happy to answer any questions you have.

Contact:
Lisa Freeman
lafreeman@legal-aid.org

Justice in Every Borough.



Freedom
Agenda

Testimony to the City Council Committee on Criminal Justice

Submitted by Darren Mack, Co-Director, Freedom Agenda

November 30, 2023

Thank you, Chair Rivera and Council members, for the opportunity to testify today.

My name is Darren Mack and I am a co-director of Freedom Agenda, one of the organizations leading the Campaign to Close Rikers.

I want to thank the Council for convening this hearing to bring attention to the substantial positive impact that alternatives to incarceration and detention have for our city. As we've heard, these programs benefit not only the individuals who are able to participate in them, but by extension, their families, communities, and our entire city.

What this hearing, and the decades-long work of these organizations has made clear, is that when harm has been done, we have solutions that are much better at delivering accountability and preventing future harm than incarceration could ever be. Adequately supporting these alternatives is an essential piece of delivering on the legal and moral commitment to closing Rikers and ending mass incarceration.

While the successes of these programs are clear, so are the failures of Rikers. Pre-trial detention creates harm that ripples throughout families and communities as even a short stay in jail can cause people to lose their jobs and housing, can disrupt access to healthcare and treatment, and can remove caretakers and income-earners from households that rely on them. Considering those disruptions, it's not surprising that spending time in jail actually increases the likelihood that a person will be rearrested. While people are detained at Rikers, they're exposed to an environment that fuels cycles of violence instead of interrupting them. Among our members who have loved ones at Rikers now, every one of them has suffered serious physical injury and lack of access to medical care. Members who were there decades ago endured the same harms. And yet, New York City plans to spend \$2.6 billion dollars to operate Rikers Island this fiscal year. At a per person annual cost of over \$500,000, incarceration is the most expensive and least effective intervention our City has. In a time when the administration is looking to cut the City's spending, it simply does not make financial sense to continue funding Rikers when we have alternatives that deliver much more safety and community stability at a fraction of the cost.

Expanding alternatives to incarceration must include making these resources available to people with a higher level of need. For example, one of our members is the mother of a young man with mental health challenges who has been at Rikers for more than two years. He was homeless at the time of his arrest, and faces accusations that she believes stem from his poor mental state. But despite his mother's efforts, she has been unable to secure an alternative for him that could address his treatment and housing needs. Meanwhile, his mental state continues to deteriorate. He's been in juvenile detention

before, and there is no reason to think that more time in jail will address the root causes of his behaviors, but right now it's the only intervention our City is offering. Thousands of New Yorkers are languishing on Rikers Island right now in similar circumstances. That is a tragedy.

So, the question before this Council and this administration is what we will do to bring these solutions to scale. This City Council must ensure that in this year's budget we provide alternatives to incarceration and detention programs with the full funding needed. By doing that we will make our city safer, we will reduce the jail population, and we will stay on track to close Rikers.

Thank you,

Darren Mack

Co-Director, Freedom Agenda

Dmack@urbanjustice.org

Hearing on Alternatives to Incarceration
Written Testimony of Jullian Harris-Calvin
Director, Greater Justice New York
Vera Institute of Justice

November 30, 2023

My name is Jullian Harris-Calvin, and I am the director of the Vera Institute of Justice's Greater Justice New York Program, which works to build a leaner, fairer justice system in which public safety in New York is synonymous with equity and community health, and incarceration is a last resort. Thank you for the opportunity to submit written testimony.

City leaders and residents concerned about public safety and the need for a balanced budget should seek a criminal legal system that does not rely on incarceration as our default safety tool. New York City needs to use proven and evidence-based safety solutions—ones that promote accountability while interrupting cycles of harm by addressing the root causes of crime. Alternatives to incarceration (ATIs) connect people to treatment, counseling, case management, and other support, effectively breaking cycles of instability and crime. And they do so at a fraction of the cost of incarceration.

According to the city's Independent Budget Office, the budget for ATIs in the next fiscal year is \$48 million.¹ That figure is less than 2 percent of this year's budget for the Department of Correction and less than 0.5 percent of the budget for the New York Police Department.² In other words, city spending on policing and jails hugely eclipses spending on ATIs. Such a lopsided allocation of resources contradicts all the evidence showing that, in many cases, community-based services produce safety more effectively than jails or law enforcement.

Nearly ninety percent of people incarcerated in New York City jails are presumed innocent and awaiting trial.³ Research shows that pretrial detention is harmful and ineffective; it exacerbates the instability that often leads to crime in the first place, ultimately increasing the likelihood that someone will be rearrested.⁴ It is also far costlier than community-based safety solutions; the comptroller's most recent analysis, from 2021, puts the cost of jail in New York City at over \$556,000 per person per year, more than ten times the annual cost of a supportive housing bed.⁵ Issues of effectiveness and cost aside, sending someone to jail in New York City means sending them to Rikers Island, where conditions have been so abhorrent and inhumane that 28 people have died since the start of last year.⁶

Copious evidence supports the types of supportive interventions provided by ATIs. A recent ten-year longitudinal study of participants in Frequent User System Engagement (FUSE)—a program that provided housing and support services to individuals who were frequently cycling in and out of jails, homeless shelters, and hospital emergency rooms—found that providing people with access to supportive housing significantly reduced stays in jail and shelters, generating savings of \$15,700 per person, equal to two-thirds of the cost of FUSE.⁷ Mental health treatment has been shown to generate up to \$2 in public safety benefits for every \$1 spent.⁸ Research also shows that connecting people to substance use treatment significantly decreases the likelihood of crime, generating economic value that sometimes entirely offsets the cost of treatment.⁹ Access to jobs training, too, decreases the likelihood of rearrest nearly 20 percent while improving employment outcomes by more than 50 percent.¹⁰ Pretrial detention, in contrast, can lead to the loss of housing, employment, or child custody.¹¹

New York City is fortunate to have a wide range of service providers that support people awaiting trial. Everyone benefits as a result: New Yorkers are connected to support instead of violence and trauma, families remain together, and neighborhoods experience more community cohesion, stability, and safety. In addition, these ATIs help lower New York City's jail population, which is critical to meeting the city's legal mandate to close Rikers and replace it with smaller, more humane borough-based jails.¹²

At a time when our city is grappling with rising expenses and shrinking budgets, investing in ATIs—which save money while improving safety outcomes—must be a top priority.¹³ The Adams administration and City Council must rebalance safety spending in line with the research. Doing so will promote safety and justice, ensure the timely closure of Rikers Island, and keep families and communities together.

Thank you again for the opportunity to submit testimony. Please do not hesitate to contact me if the Vera Institute of Justice may provide further support to you all.

¹ New York City Independent Budget Office. Further information available upon request.

² New York City Office of Management and Budget (OMB), *The City of New York Fiscal Year 2024 Expense, Revenue, Contract Budget* (New York: OMB, 2023), 151E, 104E, 70E, nyc.gov/assets/omb/downloads/pdf/erc6-23.pdf.

³ Vera Institute of Justice, "People in Jail in New York City: Daily Snapshot," accessed November 30, 2023, greaterjusticenyc.vera.org/nycjail/.

⁴ Core Correctional Solutions, *The Hidden Costs of Pretrial Detention Revisited* (Houston, TX: Arnold Ventures, March 2022), craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf.

⁵ New York City Comptroller Scott M. Stringer, *NYC Department of Correction: FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, and Overtime* (New York: New York City Comptroller's Office, Budget Bureau, 2021), 3, https://comptroller.nyc.gov/wp-content/uploads/documents/DOC_Presentation_FY_2021.pdf; and Corporation for Supportive Housing (CSH), *Advancing Supportive Housing Solutions to Reduce Homelessness for People Impacted by the Criminal Legal System* (New York: CSH, 2022), 23, <https://www.csh.org/wp-content/uploads/2022/02/Reduce-Homelessness-for-People-Impacted-by-the-Criminal-Legal-System.pdf>.

⁶ Sam McCann, "28 People Have Died in New York City Jails Since the Start of Last Year," Vera, October 6, 2023, vera.org/news/28-people-have-died-in-new-york-city-jails-since-the-start-of-last-year.

⁷ CSH and the Columbia University Mailman School of Public Health, *FUSE 10-Year Follow-Up Report: Initial Findings* (New York: CSH and the Columbia University Mailman School of Health, 2023), 16, [csh.org/wp-content/uploads/2023/10/FUSE-10-Year-Report-Initial-Findings.pdf](https://www.csh.org/wp-content/uploads/2023/10/FUSE-10-Year-Report-Initial-Findings.pdf).

⁸ Elisa Jácome, *Policy Brief: How Better Access to Mental Health Care Can Reduce Crime* (Stanford, CA: Stanford University Institute for Economic Policy Research, 2021), 4, perma.cc/UL8R-XCKM.

⁹ Austin Frakt, "Spend a Dollar on Drug Treatment, and Save More on Crime Reduction," *New York Times*, April 24, 2017, [nytimes.com/2017/04/24/upshot/spend-a-dollar-on-drug-treatment-and-save-more-on-crime-reduction.html](https://www.nytimes.com/2017/04/24/upshot/spend-a-dollar-on-drug-treatment-and-save-more-on-crime-reduction.html).

¹⁰ Center for Employment Opportunities, *Improving Long-Term Employment Outcomes: Promising Findings from New York State* (New York: Center for Employment Opportunities, 2019), 2, ceoworks.org/assets/downloads/CEO-Improving-Long-Term-Employment-062922-2a.pdf.

¹¹ Léon Digard and Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (New York: Vera, 2019), vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf.

¹² New York City Comptroller Brad Lander, *The State of New York City Jails: One Year of Measuring Jail Operations and Management on the Comptroller's DOC Dashboard* (New York: Office of the New York City Comptroller, 2023), 2, comptroller.nyc.gov/wp-content/uploads/documents/The-State-of-New-York-City-Jails.pdf; and New York City Council, Local Laws of The City Of New York for the Year 2021, No. 16, perma.cc/37EU-AQ8H.

¹³ Emma G. Fitzsimmons, "Eric Adams Slashes Budgets for Police, Libraries and Schools," *New York Times*, November 16, 2023, [nytimes.com/2023/11/16/nyregion/nyc-budget-cuts-schools-police-trash.html](https://www.nytimes.com/2023/11/16/nyregion/nyc-budget-cuts-schools-police-trash.html).

Sexual deviants used to sexually harass people who have wonderful lives and families are being misdiagnosed Munchausen by proxy. They put people in unwanted shared living with manufactured conflicts for obvious religious freedom violation of judeo-christianity. They try to steal people's intellectual property designs etc. By Munchausen by proxy. Theft by Munchausen by proxy. Judeo-christians are responsible for most of the creative ideas some are young and needlessly homeless to steal their possessions innovations inventions and ideas. They place jews and christians in scenarios they know violate their religious freedom and beliefs in bible like homosexuality in living situation is forbidden. It's intentional and criminal.

Rose of Sharon enterprises

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I represent: Bronxconnect

Address: _____

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I represent: Bronx Connect

Address: 432 E 149th St

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Name: Yorah Zeitz, Director of Advocacy

Address: 147 Prince St, Brooklyn NY

I represent: Katal Center for Equity, Health, and Justice

Address: _____

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Name: Carole Eady - A T I Coalition

Address: Mary Pl Bx 10455

I represent: Center For Comm. Alternatives

Address: 25 Chapel St, BK 112.02
13

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I represent: Center for Community Alternatives

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Name: Zachary Honoroff

Address: Mayor's office of Criminal Justice

I represent: MOCJ, Deputy Director of Research
Innovations

Address: _____

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Name: Nora Daniel

Address: Mayor's office of Criminal Justice

I represent: MOCJ, Chief of Staff

Address: _____

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Name: Jordan Mantoya

Address: Mayor's Office of Criminal Justice

I represent: MOCJ, Executive Director of Pretrial
Services

Address: _____



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Name: Angel Arias

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I represent: MOCJ, Community Outreach Manager

Address: _____

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Name: Amanda Berman

Address: _____

I represent: Center for Justice Innovation

Address: 520 8th Ave NY NY

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Name: Megan Kirk

Address: 151 Lawrence St., 4th Fl, Brooklyn 11201

I represent: CASES Nathaniel ACT

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Name: Mark Hooley (PLEASE PRINT)

Address: in all st

I represent: CEO

Address: SP Bawa

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Name: Jacquelin Gosdigian (PLEASE PRINT)

Address: _____

I represent: Brooklyn Defender Services

Address: _____

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Name: AVERY MCNETL (PLEASE PRINT)

Address: 360 E 161st St

I represent: The Bronx Defenders

Address: 360 E 161st St

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Name: Andre WARD

Address: 29-76 northern Blvd

I represent: The Fortune Society

Address: _____

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Name: Jennifer Parish

Address: 40 Hector, NY, NY

I represent: _____

Address: _____

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Name: Tracie Gardner

Address: _____

I represent: Legal Action Center

Address: 225 Varick St

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Name: Darren Mack

Address: 40 Rector St. NY, NY 10006

I represent: Freedom Agenda

Address: 40 Rector St

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Name: Cecilia Teuber

Address: _____

I represent: BronxConnect

Address: 432 E 149th St, The Bronx, NY 10455

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Name: Christopher Jeffries

Address: 432 E 149 St Bronx NY

I represent: Bronx Connect Youth Advocacy

Address: _____

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(PLEASE PRINT)

Name: David Boyce

Address: 21 104th St

I represent: Bronx Connect

Address: 429 E 149 Street

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