

**Testimony before the  
New York City Council  
Committee on Criminal Justice  
Keith Powers, Chair  
By  
Dean Fuleihan  
First Deputy Mayor**

Good morning Chair Powers and Chair Miller, members of the Committee on Criminal Justice and the Committee on Civil Service and Labor. Thank you for the opportunity to testify before you today on the conditions of our jails. I am pleased to be joined by the Commissioner of the Department of Correction, Vinny Schiraldi, and members of his team. I want to thank everyone at DOC for the work they are doing, and I particularly want to thank every DOC employee who has worked so hard during this incredibly challenging time for the Department, particularly the officers who have worked throughout the pandemic. Your City is grateful for your service.

The conditions on Rikers are unacceptable and we are taking immediate action, we know we are facing a number of challenges, some are historic, which this Administration has addressed by reducing arrests and driving crime down, then we were hit by the pandemic, which has created so many challenges, and we are working hard to address these now. As the Mayor said, we have to recreate our progress and stay focused on the bigger goal. And we can do it, the City working together and working with our other partners in government to do just that, we can actually change the situation immediately and for the big picture. We have been working hard to address the many aspects of this situation but there has no one solution that can help solve everything. As you will hear from all of us today, we have steps to address both our immediate issues and our larger goals.

Yesterday, the Mayor announced a five-point Emergency Rikers Relief Plan to provide immediate assistance to the jails. To address immediate staffing shortages, we are using NYPD officers to provide staffing support in the courts, allowing staff to be transferred back to Rikers. We are toughening accountability for Absent Without Official Leave (AWOL) staffers, imposing 30-day suspensions for Correction officers who do not show up to a post. We'll be using contract medical providers to evaluate officers to make sure every single officer is on duty who should be on duty. Through a Mayoral executive order, we are expediting emergency repairs on Rikers Island to clean the facilities and make necessary repairs to ensure detainee and guard safety. Finally, we are opening two new clinic spaces to ensure all new detainees are processed in under 24 hours. We are leaving no stone unturned to support the Department and people in custody.

On a parallel track, we are working with the State. The first and most immediate step must be signing the Less is More Act into Law. We are encouraged by the conversations we have had with Governor Hochul and Lieutenant Governor Benjamin and appreciate their willingness to be active partners in this process. We are also working with the State to speed up transfers of those sentenced to State custody.

Additionally, there are over 1,500 people who have been at Rikers awaiting trial for over 1 year and we are in conversation with the Courts and DAs to speed up cases, starting with 500 cases immediately. We are also calling on Judges to use supervised release for non-violent offenders, instead of using pre-trial detention in the City jails.

New York City has led the way in ending mass incarceration. We drove incarceration to the lowest level it had had been since the 1940s while keeping crime at record lows. We have immense challenges ahead but cannot lose sight of our first and foremost goal of getting off Rikers Island permanently and creating a correctional system that is fundamentally smaller, safer, and fairer.

I look forward to your questions here today and would like to turn it over to Commissioner Schiraldi for his remarks.



**Testimony before the  
New York City Council  
Committee on Criminal Justice  
Keith Powers, Chair**

**By  
Vincent Schiraldi  
Commissioner**

**September 15, 2021**

Good morning Chair Powers and members of the Criminal Justice Committee. Thank you for the opportunity to testify before you today on the conditions of our jails. I am pleased to be joined by members of my leadership team, Chief of Department, Kenneth Stukes; Chief of Staff, Dana Wax; and First Deputy Commissioner, Stanley Richards.

In my first three months as Commissioner, I have been impressed by the dedication of my staff, especially the officers who continue to come to work despite the incredible challenges we're facing. Because so much has been said, and will be said during the course of this hearing, about officers AWOLing and calling in sick, I'd like to mention that during the depths of the pandemic, there were 403 officers who didn't miss a single day of work. There were also numerous officers who contracted COVID and, when they were better, immediately returned to work. These officers



are heroes. I don't think anyone is saying that enough. They are right out there on the front lines confronting some of our city's most dire social problems and caring for our most vulnerable citizens and I can't say enough about how proud I am of the officers who come back day in and day out despite some really grueling conditions. So while I'm here today to tell you all what is happening in the jails and what we need to make it better, I am also here to make a promise to my staff that I am going to do everything I can to make it safer for them to come to work every day and go home to their families safe and sound.

I am proud of the plan we have put together working jointly with city hall, but I'm absolutely not satisfied with conditions in our jails. And I'm not going to be satisfied until we get the violence in our jails down and make our jails a better place to work and live. My standard of care is for our jails to be a place where I'd feel good about my son or daughter working there, or feel that if my son or daughter were incarcerated there, they would be safe and I could sleep easy. We're not there yet, but that's my goal, and I think any other standard is unacceptable.

The primary three issues facing the Department right now are safety, adequate staffing, and population reduction. These three issues are, of course, intimately interconnected.

First I'll talk about staffing. Without enough staff available to work, it becomes increasingly difficult for the Department to provide excellent services and maintain safety within the facilities. By the way, when we do provide robust services and programming for people incarcerated, everyone's life inside our jails – correctional officers, health care workers, civilian staff, volunteers, and, of course, incarcerated people – will improve dramatically. I've seen that throughout my 41-year-career in other jurisdictions and in reforms I've undertaken myself – the





more people are productively occupied, the better facilities run *and*, the better people do when they return home to their neighborhoods and families.

The situation in the jails is worse than I imagined before I came on. Before the pandemic, the Department had about 400-500 staff out sick on any given day. Now, out of approximately 8,400 staff members, roughly 2,700 – or 32% – are unable to work with incarcerated individuals because they are out sick, AWOL, or medically modified. That means officers have been forced to work triple shifts and that there are sometimes posts with no staff on them, and makes it extremely difficult for us to provide basic services and maintain the level of safety that our officers, civilian workers, and people in custody deserve.

Despite all the challenges we're facing, I am optimistic about our ability to turn things around. Our New Day DOC plan focuses on safety of staff, ending triple tours, improving morale, and keeping people in custody meaningfully occupied. We have to do all of those things together – you can't just do one, you have to do all of it, and that's what we're going to do. We're engaged in what I consider a balanced and multi-faceted approach to tackling these problems because that's what it's going to take to get the job done – no home runs, just a lot of singles will get us there. Let me just touch on each of those and then I'm eager to get to your questions.

### **Staffing**

In terms of resolving our staffing issues, in addition to the previous 400 new staff we have committed to hiring, we plan on hiring another 200, increasing our commitment to hiring 600 new correction officers to fill in the gaps in our ranks and contribute to the overall safety of our facilities. Our first new class of officers will join the academy on October 1<sup>st</sup>, and we expect the



first 75-125 of them to be available to work on January 1. On top of these 600 new officers, we are also making efforts to bring back DOC staff in good standing who have retired or resigned within the last four years. With rapid reinstatement, these officers can return to working after two weeks of refresher training. Out of the 425 former officers we reached, 58 indicated they were interested in coming back and an additional 77 indicated they may be interested.

By partnering with Mt. Sinai Hospital and requiring officers who call in sick to see a doctor we have reduced by about two thirds the number of officers who are calling in sick. But we're also trying to make things easier for the staff who are putting in long hours by providing meals to staff on double and triple shifts, and offering free rides home and back to work for those working triple shifts. We've created space in our Staff Wellness Center for staff to sleep after long hours, and refurbished the staff garden to provide a restful place for staff to relax. Just yesterday we announced that officers who have not been AWOL or called in sick more than five days since April will receive a bonus for each triple they worked. And that bonus policy will be extended through December.

We have also ramped up and streamlined our disciplinary process for the most egregious cases of officers being AWOL or abusing our sick leave policy. As the Mayor announced yesterday, people who don't come to work, don't call in and don't have a real reason for doing so – effectively AWOLing - are facing immediate 30 day suspensions. OATH is planning to set aside specified days to hear uncontested AWOL cases so we can resolve them as quickly as possible. But we feel strongly we won't be able to discipline our way out of this problem. Instead, we need to create belief in the department's mission of turning lives around – that's when we'll have people eager to come to work.



## **Focus on YA and MO**

Another facet of our New Day DOC plan that will help improve conditions in the jails is our focus on young adults and people who are mentally ill. The units containing young adults and our mental observation units have some of the highest rates of violence throughout our facilities.

By the end of July, we met our goal of fixing half of the broken cell doors at RNDC, our young adult facility. When I started in June, the timeline to fix the remaining doors was two years, but with focus and pressure and help from City Hall, we now anticipate finishing the other 250 by February and are still pushing to do so sooner. We are also working strategically to safely reorganize housing across the Department in order to minimize conflict and reduce the presence of gang activity. Yesterday, for example, we began the first in a six week series of gang interventions with credible messengers from King of Kings and Exodus with some of the key gang affiliated youth in custody as part of our efforts to quell gang activity and increase the peace. Meanwhile, because we recognize that people must be held accountable when they commit serious acts of violence against staff or other incarcerated people, we are working closely with the Bronx District Attorney who personally came and visited Rikers Island and with whom we've been in frequent contact, to prosecute individuals who commit serious acts of violence in our jails.

However, we also understand that when conditions in our facilities improve, incarcerated individuals' morale improves, their behavior improves, and violence decreases. A primary focus of New Day DOC is increased programming, and there are a few reasons for that. First, it's just the right thing to do. Second, most of the people who enter our custody are going right back to their communities, and it's our duty to ensure that they are better off when they come out than



when they came in. Third, engaging people in programs gives them focus and hope for their futures, which makes them less anxious, less prone to violence, and eases tensions within the facility. As I said earlier, that makes our staff and everyone in our custody safer.

### **Jail Population**

In addition to bringing staff back to work and targeting the root causes of violence in the jails, we need to reduce the number of people in our custody. We are actively working on population reduction efforts by identifying areas within our control that contribute to case processing delays. We are also working closely with District Attorneys and the Office of Court Administration to get court cases resolved and get people where they are going faster. We are also asking the court system to prioritize the 2% of individuals in our custody who are responsible for 38% of the violence we see.

Case processing is vitally important because jails are not meant to be long-term facilities. Prior to the pandemic, 700 people incarcerated in our jails were incarcerated for more than a year; now that number is 1500. These long stays can cause frustration which can, in turn, lead to violence on behalf of those whose cases feel interminably unresolved. Moving those cases forward would be of great help as *part* of our efforts to quell violence and improve conditions.

Lastly, the city has been working with the state government to pass Less is More, a bill that will greatly reduce the number of people who violate state parole held in city custody on any given day. There are roughly 1,000 people held on state parole violations (including 275 in on purely



technical violations) in custody, and reducing this number would immensely help ease the strain on everyone who lives and works in the jails.

Reducing the jail population is particularly important given the increased COVID risks that we've seen across the country recently. Correctional Health Service has identified people at elevated clinical risk for a serious course of illness, should they contract the virus, and provides documentation to their attorneys and other relevant stakeholders, as appropriate, to help prioritize who they divert in the face of the pandemic.

Since March 13, 2020, CHS has provided advocacy letters to 3767 patients. Of the patients provided letters, approximately 65 percent have been discharged. CHS conducts additional risk assessments to identify its most medically vulnerable patients, including those under the care of the Geriatric and Complex Care Services (GCCS), for enhanced advocacy.

With your continued support and the support of my colleagues in the Administration, all of these initiatives represent a balanced approach to bringing folks back to work, making the lives of the people in our custody better and more productive, and reducing violence in our jails.

### **Deaths in Custody**

Finally, I would also like to address the recent tragedies we have experienced. Over the past 12 months, there have been eleven deaths in our custody. Five of them have occurred since I came on as Commissioner. With everything that is going on it's too easy to forget that human beings



are at the core of what we are doing here. Every single life that has been lost on my watch is one that I'm going to carry with me.

I want you all to know, and I want the families of the people who died in our custody to know, that I take every incident like this personally. We in the Department owe everybody in our custody and everyone who works in our facilities a measure of dignity, humanity and safety, and losing someone is never acceptable.

We recently spoke to a nationally recognized expert in suicide prevention in correctional facilities, and we learned that depression during the pandemic is pervasive across the country, but especially in correctional facilities. Still, we understand that *we* must do everything in our power to protect the mental and physical well-being of those in our custody.

The Department recently updated its suicide and self-harm prevention policies to better reflect industry standards and provide staff with crucial information regarding suicide risk factors, the identification of people at risk, and procedures for intervention and responses to threats or acts by people of concern. The suicide prevention policy also carries four main tenets that each contribute to reducing these behaviors among incarcerated individuals:

- We want to change the perception regarding self-injury – all self-harm actions must be taken seriously.
- Officers are prohibited from any discussion of “manipulative gestures” and are required to document what they see in terms of self-injurious behavior.
- The requirement of 1 to 1 supervision for suicide watch has been clearly established



- We have reinforced the guidance to officers on the immediate steps to take if they observe an individual engaged in self-harm.

In addition to relying on correction officers to help prevent suicides, we are also restarting the use of observation aides in housing units which ceased during the pandemic and during the time when so many people committed suicide. These are people in custody who have been trained to identify warning signs in others' behavior and immediately report such behavior to housing unit officers. Underscoring all of these efforts is a robust training plan for staff, which we are ramping up as we bring staff back to work.

### **Conclusion**

Finally, the problems we are facing are due to neglect spanning several decades, and as I have said before: I can't fix these problems on my own. No DOC Commissioner can. But I strongly believe that the city of New York can, but I need the support of every elected official in this city to take whatever measures are necessary to help us fix these problems. The fact that the First Deputy Mayor is here with us today says a lot about the commitment the city is making to getting the job done, so despite everything I'm optimistic we can and will get there.

The Department remains committed to ensuring the safety of our staff and everyone incarcerated in our facilities. However, like a lot of you, I am not satisfied about where we are right now. We have so much more to do, but we have a plan, and with your help, our plan is going to work. I am asking you to keep supporting us in what we're trying to do and keep the spotlight on what's going on our jails. I also want you to keep holding us accountable, because that forces us to keep



getting better. That's you doing your job to make me better at my job and I appreciate all of it.

My colleagues and I are happy to answer any questions.





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Margaret Egan  
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**Testimony of Executive Director Margaret Egan**  
**Oversight hearing on the State of the New York City Jails**  
**September 15, 2021**

Good morning, Chair Powers and members of the Committee on Criminal Justice. I am Margaret Egan, Executive Director of the New York City Board of Correction. I am joined by Board Member, Dr. Robert Cohen. Board Chair Jennifer Jones Austin is unable to join us today but sends her regards. Thank you for inviting me to share my testimony on the state of the City's jails.

The New York City Board of Correction is an independent oversight and regulatory agency charged with ensuring that the Department and the Correctional Health Services meet the Board's Minimum Standards, which cover areas inclusive of the entire experience of persons in custody, including, among other conditions, access to counsel, family visits, religious exercise and the provision of health and mental health services. Despite the challenges of COVID-19, the Board of Correction has continued its active oversight, through monitoring conditions at the City's jails, processing complaints by people in custody and their families and also through rulemaking. Just this summer the Board passed a historic rules package eliminating the use of punitive segregation, or solitary confinement, and mandating a new progressive discipline process called RMAS, which is based on the presumption that the safety of all is paramount, that persons in custody need human contact and programming and that any stay in restrictive housing should be brief, constructive and based on clear rules and processes to ensure forward movement. These new rules will take effect in less than two months, on November 1.

The Board of Correction has unique insight into the state of the jails, and what we currently see is a system in crisis on multiple levels, endangering the safety of persons in custody and staff. Most recently the Board issued a public statement decrying the sharp spike in suicides and incidents of self-harm in the jails and calling on criminal justice stakeholders to meet this crisis through urgent efforts to reduce the jail population. It is the Board's belief that without these steps, the problems that I will describe today: staff shortages, extended stays in inhumane conditions and lack of access to mandated services such as basic health and mental health care, will only worsen, and the correctional system will experience a rapid increase in serious injury and death.

Throughout the pandemic, the Board has continued to monitor conditions in the jails. When COVID-19 hit New York City in March 2020, the Board adapted its oversight model and prioritized monitoring the Department of Correction's and Correctional Health Services' evolving COVID-19 response. In May 2020, the Board began targeted on-site inspections to strategically supplement the remote oversight work. Board staff conducted tours to monitor facility compliance with agency plans and general operations and also to monitor compliance with BOC Minimum Standards amidst the public health crisis. Each visit is carefully planned to be responsive to the ongoing, exceptional health risks as well as oversight needs. Since the Spring of 2021, BOC has continued to refine this process and the on-site inspection work to allow for more robust, strategic tours as issues beyond the COVID-19 pandemic have emerged.

Today I want to provide a brief survey of what we have seen over the course of the last 18 months. The current state of the City's jails cannot be described without acknowledging the extreme challenges posed by the COVID-19 pandemic. The threat to both people in custody and to staff living and working in a congregate setting was immediately understood, and the first wave prompted coordinated efforts to rapidly reduce the jail population. By April 29th, 2020, the jail population fell to a historic low of 3,832. Over time, however, this trend has reversed. For the week ending September 3, 2021, the average daily population in the jails reached 6,043, which surpasses the 5,557 population count in the jails on March 16, 2020 during the height of the pandemic in the jails, and immediately prior to coordinated decarceration efforts that had reduced the jail population to approximately 3800.

The Board calls on all stakeholders to again come together to immediately decarcerate. We know that there is not one silver bullet to reduce the jail population. Instead, it must be a multi-pronged approach that utilizes all options.

Judges, DAs, and the defense bar should evaluate those held pre-trial for a safe return to the community through release on recognizance, supervised release, or electronic monitoring. For those individuals who have been held for over one year, these stakeholders should review cases for an appropriate disposition. The Commissioner of the Department of Correction should continue to review and release those held on city sentences. And, finally, the New York State Department of Correction and Community Supervision should stop detaining individuals on technical parole violations and review those currently held for release from jail. Not one of these is the only option. All must be utilized immediately.

Increased population and DOC staffing shortages add to the already difficult challenges presented by the COVID-19 pandemic and have exacerbated unsafe and unsanitary conditions. If the population continues to steadily rise, persons in custody and those who protect and work with them are in an impossible position and these troubling conditions will persevere.

Our observations have revealed four key takeaways. While these patterns and trends are not necessarily new, they have been intensified by the COVID-19 emergency, a steadily rising jail population, and, more specifically, the staffing crisis it engendered. BOC staff have not seen improvements in these areas in any facility except at RMSC.

First, there are severe, prolonged, staffing shortages. DOC has reported that upwards of 35% of staff are unavailable to work with people in custody on any given day. While all

areas of the jails are impacted by these current staffing shortages, Board staff observed inadequate staffing ratios in restrictive housing units like ESH and Secure. Staff state there should be four (4) uniform staff assigned in ESH level 1 units. Instead Board staff observed two ESH units with only one officer on post during two tours in July and August.

Board staff spoke with uniform staff and learned that staff are experiencing low morale, exhaustion from working triple and quadruple tours, and fear for their safety in the current conditions. According to DOC data from January 1 to September 1, assaults on staff without serious injury or use of force have increased 53%: from 726 in 2020 to 1,112 in 2021. There were five incidents categorized as serious injury to staff in the same period. Additionally, our analysis of incident reports shows a 530% increase in still-fires when comparing the first 8 months of 2020 with the first eight months of 2021. During that time period in 2020, there were 179 incidents categorized as fires, in 2021, there were 1178. While these fires are not always life-threatening, they present a safety issue for people in custody and staff and are clearly a sign of distress contributing to the chaos present in some units.

These incidents make the jails less safe for persons in custody as well as staff. They also lead to massive disruptions to normal processes, including access to services like medical care, because they divert staff, which is already spread thin. When far too few staff are added to a steadily increasing jail population now above pre-COVID levels, the inevitable result is violence, between staff and persons in custody, as well as between persons in custody.

Staffing shortages and the increasing jail population are also resulting in delays moving people out of intake. Every person entering the New York City jail system must first go to intake, where initial determinations about housing and medical and mental health care are made. Intake spaces are also used to send people to court and process their return as well as process transfers from other jails in the system. It is important to note that intake facilities are not designed for extended stays: for example, they do not have beds. A person staying overnight in Intake has a choice between a stone floor or a stone bench.

Because of COVID-19, DOC has made several changes to the physical location of the new admission process, so that it has shifted among the following facilities this year: EMTC, OBCC, VCBC and AMKC. Despite the change in location the same concerns persist: people in custody are spending extended periods of time in Intake, with limited or no access to mandated services, like shower, medical and recreation. Furthermore, staff are not adequately trained to work in Intake areas. The Board observed similar concerns at RNDC intake.

During a tour on June 24, 2021 staff observed the intake bathroom that is used for showers and decontamination of people in custody, instead being used as a holding space for individuals involved in uses of force. The area was filthy. The Board has also received several concerns from people in custody, advocates, and family members about their loved ones spending extended amounts of time in intake areas or “living-in” Intake.

The Department has reported, as recently as this weekend, a multidisciplinary approach to managing the intake areas. This team is to include security leadership, health affairs leadership, and custody management leadership and is charged with expeditiously

moving people through the intake process and into housing areas. The Board will closely monitor these changes to ascertain their success.

Third there is a lack of access to mandated and other services. In June, DOC began providing some congregate services such as religious services, barbershop, and in-person visits. Based on recent observations, review of housing area logbooks, and conversations with incarcerated individuals and staff, these and other mandated services are occurring in a very limited capacity, or sometimes not at all, due to staffing shortages.

Fourth there is a deterioration of sanitary conditions in the jails. It does not appear that proper sanitation is being maintained in the jails on a consistent basis. During recent tours Board staff observed unsanitary conditions in many housing areas, which were dirty with garbage, ashes, and feces on the floor. Additionally, some housing areas did not have an adequate supply of personal hygiene items or were unable to provide access to showers due to staffing shortages. PPE and cleaning supplies were not available in one unit during a recent tour. These conditions are unsafe both for people who live and work in these units.

One heartbreaking result of these overlapping crises has been the sharp increase in self-harm incidents, some resulting in fatalities. It seems undeniable that there is a direct link between the COVID-19 pandemic and a growing mental health crisis. As an article in *The City* illustrated last week, reported incidents of self-harm spiked dramatically after the appearance of COVID-19 in New York City, and that increase has persisted. We believe the dramatic increase in self-harm incidents is a direct result of the conditions listed above, and that the surest way to alleviate these conditions is to take immediate steps to reduce the jail population.

In addition to advocating for decarceration, the Board will continue to conduct our strategic on-site inspections across DOC facilities to measure compliance with Board Minimum Standards and will continue to work with facility leadership as well as the Commissioner and his executive team to highlight concerns observed during tours and aid in addressing them.

Thank you for giving me the opportunity to testify today, and I will now take any questions.

My name is Robert Cohen. I am a physician. I am the City Council appointee to the New York City Board of Correction. I speak to you in this time of crisis and tragedy. Not a moment, but an extended interval when death is stalking the people housed in City jails and will kill more until there is mass decarceration and an end the COBA job action. At this time the jails are unsafe for all, the people who work there and the people who live there.

The Board of Correction was not created because someone thought oversight was a good idea. It was created because of repeated crises which have plagued our jails for decades. I directed medical services for Montefiore Medical Center from 1981 through 1986. In the early 1980's the leading cause of death in the jails, as it is now, was suicide. The Board reviewed the suicides at that time and found that they were the result of a functional absence of effective mental health services. The City asked Montefiore to provide adequate mental health services and, within a year, the number of suicides had dropped from twelve to zero.

There is an epidemic of suicides in the jails today and it has the same cause -- severely troubled, individuals, identified as mentally ill, receiving inadequate or no access to mental health services -- harm themselves, hang themselves, or kill themselves by twisting their heads into food slots in clinic waiting rooms, as Tomas Carlo Camacho did on March 2.

Last week Dr. Ross MacDonald, the Chief Medical Officer of Correctional Health Services, wrote Councilman Powers and called for help because he could not reliably provide basic clinical services. He told you that persons living in the jails were dying and would continue to die as a consequence of the chaos in the jails. I have visited the jails in recent months investigating deaths in custody and found men who had spent days in intake waiting for housing and medical examination. Board staff have visited the jails and found that people living in the jails often do not have access to basic medical, mental health services, and hygiene, and that medical staff are sometimes afraid to deliver basic medical and mental health care. Dr. MacDonald has stated that the current conditions are resulting in a rapid increase in COVID-19 infection rate in the jails and that control mechanisms such as isolation and quarantine will not be possible because of the Department's dysfunction and overcrowding.

The reports of the Board of Correction for the past 50 years have repeatedly described crises in access to medical care, preventable deaths of seriously mentally ill persons, and violence. Years of litigation have confirmed that persons living in the jails are routinely subject to unprovoked violence by staff. During the five years of the Nunez monitorship the population decreased, while the amount of unprovoked violence increased each year.

The 11th Nunez Report stated: "the pervasive level of disorder and chaos in the Facilities is alarming. The conditions that gave rise to the Consent Judgment have not been materially ameliorated." The monitor identified the cause of the chaos: "First, the poor quality of Facility leadership hinders progress and must be addressed for the Agency to ever become successful." Commissioner Brann resigned the day the 11th Nunez Report was released.

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At our Board of Correction meeting yesterday concerned citizens asked why we were not citing the Department for mass violation of our Minimum Standards. They said that the Department was:

- Not providing minimally required medical care
- Not providing minimally required mental health care
- Not providing recreation
- Not providing routine access to Courts
- Not providing routine access to Attorneys
- Not assuring routine access to basic hygiene necessities
- And not assuring the safety of incarcerated people.

All of these are true. The Department is, and has been for months, a dangerous and deadly place to live. It is a dangerous place to work. What can the Board do? What can Commissioner Schiraldi do? What can the Mayor do? And what can the City Council do?

The Board of Correction, because we have unlimited access to the Jails, must visit all the facilities regularly, and report our observations publicly. It is critical that all New Yorkers know what is happening, and not happening, in the jails today. The Board has an obligation to visit each jail, to write up our findings, and to publish them for all to see. This Council should require us, **by legislation**, to provide this information to the people of New York City during this crisis.

I have known Vinny Schiraldi for many years. He is an extraordinary leader, and I believe that the actions he has taken and the programs that he has announced, particularly for Young Adults, are the right ones for the New York City Department of Correction.

The Mayor should lead the effort to decarcerate.

- Enable the Commissioner to release eligible persons into the 6-A program;
- Increase the use of supervised release as an alternative to pre-trial detention and encourage counsel for people already in pre-trial detention to request reconsideration of bail and seek supervised release.
- Ask MOCJ to lead a joint effort of the Defenders and the District Attorneys to identify all pre-sentenced detainees who could appropriately be released and present that docket to the Judges for reconsideration;
- Work through MOCJ to increase case processing rates by the Courts and direct Commissioner Schiraldi to address internal Department processing delays. Esias Johnson, who died on September 7, was incarcerated on \$1 dollar bail. DOC staff failed to take him to his scheduled Court hearing the day that he died in AMKC.
- Expedite pretrial (730) competency exams.
- Ask the Governor to immediately sign "Less is More."

The Mayor was the national leader in the movement for decarceration. He reduced the jail population by 30% in just 6 weeks in the spring of 2020. He should remember that there were no suicides in 2018 and 2019 while he was decreasing the population, and that the only deaths in the first nine months of 2020 were due to COVID. When he let the population increase the epidemic of suicides began. He should resume his decarceration leadership.

I have visited and monitored jails for Federal Courts throughout this country. Our City's jails are known as the most violent of jails. There is a culture of violence in the jails documented in excruciating detail in the Nunez Monitor's Reports and documented in Board of Correction minutes and reports over the past 50 years.

How do you change culture in the City's jails? The appointment of Commissioner Schiraldi is definitely a step in the right direction. But more importantly, critically, crucially, we must all understand and remember that jails are intrinsically terrible and violent institutions. They injure and deform everyone who lives in them and everyone who works in them. They should be as few and as small as possible. Mass decarceration, as the City did last spring, will mitigate the violence, will make everyone safer, will shorten, and end the long terrifying season of death which is now upon us.

Thank you for the opportunity to address the Committee.



Testimony of Brooklyn Borough President Eric Adams before the Joint Hearing of the  
Committees on Criminal Justice and Civil Service and Labor

I would like to thank the Chair of the Committee on Criminal Justice, Keith Powers, and the Chair of the Committee on Civil Service and Labor, I. Daneek Miller, for inviting me to testify today. Rikers Island has been a national embarrassment for far too long. The conditions I witnessed two weeks ago when I visited the facility are putting inmates and corrections staff at unnecessary risk. These conditions foment violence and self-harm among inmates while simultaneously endangering the safety and well-being of corrections officers. Rikers Island is not a problem that will correct itself or go away. We need to change our policies so that basic health and wellness conditions are met and staffing and resources are at levels that promote those policies. Mayor de Blasio's recent announcement addresses some issues, but far more needs to be done to address the conditions at Rikers and the criminal justice system as a whole.

There are several changes we can make today that will go a long way toward changing conditions on Rikers Island:

- Increased funding for the prosecutor's office located at Rikers Island to expedite criminal cases against inmates — particularly cases of assault and sexual assault against inmates and officers — so that there are immediate consequences for offenders and serious criminals can be moved to prison facilities
- Emergency build-out of off-site secure facilities that includes support for inmates who are dealing with mental health and substance abuse issues
- Partnership with the US Department of Justice and other government agencies to create a gangs and guns task force that addresses the explosion of gang-related violence, which is now a major driver of violent crime at Rikers Island. Some units have no corrections officers present and the gangs are managing access and medical care
- Immediate policy changes to Rikers Island operations, including an end to housing gangs by affiliation and a ban on forced triple-shifts for corrections officers
- Investments in job and skill training programs for inmates to ensure they are equipped with the tools to re-enter the workforce
- Increased recreation time for inmates during their time in the facility. A recent New York Times article described conditions in which many inmates have not been outside or had access to services in months
- Long-term transformation of New York City's jail system from a revolving-door punitive system to a holistic rehabilitation system, in which inmates can receive the services they need to heal and break the cycle of incarceration



These changes will take investments of both time and funding, but they begin a process of changing how we think about our system of incarceration. We cannot afford to continue to waste time pursuing the same old policies, hoping that the public will forget about the unacceptable conditions on Rikers Island. We have the opportunity and the obligation to act now to promote a more effective and humane system of corrections in New York City.

Thank you.



KENNY BURGOS  
Assemblymember 85<sup>th</sup> District  
Bronx County

# THE ASSEMBLY STATE OF NEW YORK ALBANY

CHAIR:  
Subcommittee on Reentry and  
Transitional Services

COMMITTEES  
Consumer Affairs & Protection  
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Election Law  
Labor  
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MEMBER  
Black, Puerto Rican, Hispanic, and  
Asian Caucus  
Puerto Rican/Hispanic Task Force

## TESTIMONY OF KENNY BURGOS, ASSEMBLYMEMBER New York State Assembly, 85th District

**Before the New York City Council Committee on Criminal Justice and Committee on Civil Service and  
Labor**

***Oversight Hearing: The Condition in Our City's Jails***

**September 15, 2021**

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Thank you Chair Powers, Chair Miller, and members of the committee for the opportunity to testify before you today. I'm Assemblyman Kenny Burgos, representing the 85th District in the Bronx, which includes Rikers Island.

To call Rikers Island, "Horror Island", is an understatement. Since taking office, I've visited on multiple occasions and each time has been more gut-wrenching and more grim than the last. As my colleagues can attest, the conditions that both detained individuals and corrections officers face are an ever-deteriorating human rights catastrophe that is just short of a concentration camp, of which every person who crosses that 4200-foot bridge becomes its prisoner.

Nevermind, that close to 85% of detainees are simply awaiting trial or intake, or that 89% are Black and Brown New Yorkers, or that nearly 50% are suffering mental health crises, or that the rate of self-harm in city jails is the highest in 5 years, or that corrections officers are stretched to their physical and emotional limits working triple or quadruple shifts as the jail population has swelled to well over 6000 people, these are our constituents, our neighbors, our family and friends. We wouldn't allow animals to live in these conditions; yet, we allow human beings to live in abject squalor--many without access to showers, toothbrushes, or toilets with 25 people to a room, urinating and defecating in bags, no access to air or sunlight, using sandwiches as pillows to eke out some semblance of comfort in this hellish environment. 10 individuals have died already this year on Rikers Island, and what's even more tragic than these deaths is that death itself feels like the only escape from these conditions.

*This is on us.* This is on the leadership of our city and state. This is an administrative, policy problem and it's on us to solve it, now. Esias Johnson is on the Mayor and Administration who hasn't even visited Rikers in over 4 years and has seemingly written it off. Brandon Rodriguez is on the Governor who hasn't signed and implemented the Less Is More Act. Thomas Braunson is on you, the City Council, who has the power to reshape the City's correctional system. Richard Blake is on the Court system that has slowed to a halt in swiftly hearing cases. Jose Mejia Martinez is on us, the State Legislature, for not doing enough to hold leadership accountable. Tomas Carlo Camacho, Javier Velasco, Michael Tyson, Segundo Guallpa, Wilson Diaz-Guzman, Allen Chey King, Robert Jackson, Juan Cruz, Raymond Rivera, Walter Ance, Layleen Polanco, Kalief Browder, and countless others are on all of us until we solve this crisis in our jails once and for all. **Decarceration is the only solution to end mass incarceration and we must act now before we lose another human life.**

Thank you again Chair Powers, Chair Miller, and committee members for your time.

# The Conditions of New York City Jails: What I Saw When I Visited Rikers Island

Testimony by  
The Hon. Jessica González-Rojas  
Assemblymember of the 34th Assembly District

to  
The New York City Councils'  
Committee on Criminal Justice and  
Committee on Civil Service and Labor

Joint Hearing on  
The Conditions of New York City Jails

September 15, 2021

New York City Councils'  
Committee on Criminal Justice and  
Committee on Civil Service and Labor

Good Morning, Chairperson Powers, Miller and to the members of the Councils' Committees on Criminal Justice and Civil Service and Labor. My name is Jessica González-Rojas and I am the Assemblymember of the 34th Assembly District. Today I am also testifying as an advocate, as a neighbor, and as a New Yorker.

On Monday, I visited Rikers Island with several of my colleagues in the state legislature. This was the second time I had visited the jail and it was the fourth visit I have made to a jail or prison in our state in 8 months in office. I will be direct. Rikers Island is in an absolute state of emergency. The conditions are inhumane and we must act if we truly want to save lives. Because no person deserves to go without food, without healthcare, without life-saving medication, and without basic sanitary conditions. No worker deserves to work triple shifts under unsafe conditions and there is legislation that I am a co-sponsor of at the state level that would address this persistent problem.

Rikers Island is as it has been known for so long: torture island.

I want to share a few names:

[Esias Johnson](#), [Brandon Rodriguez](#), [Robert Jackson](#), [Segunda Gualpa](#), [Wilson Diaz-Guzman](#), [Tomas Carlo Camacho](#), [Javier Velasco](#), [Thomas Earl Braunson III](#), [Richard Blake](#), and [Jose Mejia Martinez](#).

These are all people who were incarcerated on Rikers and have completed suicide. Why? Because the carceral system is not public health. The carceral system is not public safety. And we - as elected officials - should be sick to our stomachs that these deaths happened

on our watch. It nearly happened under my watch. On Monday I witnessed an attempted suicide; a young man tried to hang himself in my presence. This is a crisis so we must act.

I'm aware that the city has put forward a plan of action for Rikers Island but you know as much as I do that reform is not working. It has not worked. You cannot reform an inherently deadly institution. We must abolish it.

And I want to be clear. I want to ensure that all people are safe, including all workers and people who are incarcerated. So I'm asking for your help in accomplishing the following:

- 1) The Mayor, judges, District Attorneys, and the Council must take immediate steps to decarcerate the jails.**
- 2) We can take a step in doing so today by calling on Governor Hochul to sign the Less is More Act.**
- 3) We must truly end all forms of solitary confinement.**

This may seem radical to some but to have something we have never had, we must do something we have never done. We have never known a decarceral world that prioritizes our humanity and provides housing for all, universal healthcare, and relieves hunger. But we can achieve it if only we have the political will. Thank you for the opportunity to testify.

The following is the testimony of Senator Jessica Ramos, delivered yesterday to the Committees on Criminal Justice and Civil Service and Labor. Please don't hesitate to reach out if you have any questions.

Thank you,

Nadya Stevens  
Deputy Chief of Staff

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Good Morning Chair Miller, Chair Powers and members of the Committees on Civil Service and Labor, and Criminal Justice. My name is Jessica Ramos and I represent the 13th district in the New York State Senate, including Jackson Heights, East Elmhurst, Corona and parts of Astoria, Elmhurst and Woodside. Thank you for organizing this hearing to discuss the ongoing crisis in Rikers Island.

As many of you know, my colleagues and I toured Rikers Island earlier this week in response to reports of chronic staff absenteeism, incarcerated individuals languishing in intake, self harm, and more. What we witnessed when we arrived was far worse than anything we could have prepared ourselves to see. There were about a dozen individuals packed into small cells with no beds, deprived of food, water, showers and medical attention. I met one transgender woman who had been misgendered, assigned to male housing and abused. Another individual with HIV hadn't received his medicine in over a week and was housed with other men who've contracted COVID-19. A few diabetics had not had their sugar checked in days. And a handful of men I met had been unable to access the methadone clinic.

I met a man who admitted he began cutting himself just so that the open wounds would get him to the medics and maybe he'd be given medicine for his mental illness. I met men who told me they suffer from schizophrenia and bipolar disorder but had not received their medication in weeks, even months. Assembly Member Jessica Gonzalez-Rojas and I even witnessed a man try to take his own life before our very eyes. There are images, sounds and smells we'll likely never forget.

The violations of human rights taking place in Rikers Island are rampant. The population on Rikers Island is largely comprised of people who have not been convicted of the crimes they've been accused of. We're talking about people who are too poor to post bail and have no choice but suffer these inhumane conditions. Most haven't been able to connect with loved ones, haven't been produced for video conferences with their attorneys and haven't been produced for court appearances.

Aside from the violence resulting from the starvation and negligence of the incarcerated people on Rikers Island, the floors of the jail are covered in dead roaches, rotting food, and even human waste. The conditions at Rikers are not only deplorable for

incarcerated individuals. Our correction officers are being forced to work under these abject conditions, exposed to physical violence and illness. Many officers have already been victims of assault, with many female officers reporting sexual assault as well.

The staff shortage on Rikers Island has resulted in many forced to work three shifts in a row. That's over 24 hours straight. Too many have called out of work because they fear for their safety and are experiencing sheer exhaustion. 3,000 of our 8,400 correction officers are chronically absent from work. This is reprehensible.

As the Chair of the Labor Committee in the NYS Senate, I take safety at work very seriously. No individual should be forced to face these perilous circumstances just to feed their families. I introduced a bill this past session to ban triple shifts for correctional officers. S.6688a would disallow anyone from working more than 17 hours in a given work day, except as provided in an applicable collective bargaining agreement.

The Department of Correction plans to hire an additional 600 officers to make up for the shortfall. However, we cannot hire ourselves out of this problem. We have to move towards decarceration. All government agencies and stakeholders must work together to get the jail population under control, and there is so much that we can do right now.

At the beginning of the pandemic, the population at Rikers was 25% less than what it is today because the Mayor and the DOC Commissioner used Correction Law Article 6-A. They can do that again and release more than 250 people serving less than one year for non-violent and low-level crimes, and allow them to serve the remainder of their sentences on work-release. We can reduce the need for sprawling jail staff by reducing the number of people held in our jails in the first place. Prosecutors across the city and state can stop seeking cash bail and judges can work much more expeditiously and compassionately. The state court system must schedule trials for the 500-1,500 people who have been held in city jails for more than a year awaiting trial. It is unconstitutional that their right to a speedy trial is being denied.

New York State must stop relying on jails and prisons as the primary treatment provider for people with mental health needs. It is a sad fact that Rikers Island and city jails have more mental patients than all hospitals in NYC. My bill, Treatment Not Jails, S.2881a expands New York's judicial diversion law by including people with mental health challenges, intellectual, neurological, physical, and other disabilities, who can benefit from treatment and it ensures that treatment court participants are not jailed without due process.

Most immediately, Governor Hochul should sign the Less is More Act so we can stop trapping people in our criminal justice system for minor parole infractions, like showing up late to an appointment with their parole officer.

I refuse to be complicit in a system that deprives people of their humanity and so should each and every one of you. Shame on us for perpetuating this violence. We cannot continue to pretend that the prison industrial complex rehabilitates anyone. This system



does not make anyone-- not our correction officers, not those incarcerated, not our streets-- any safer.

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Nadya Stevens  
Deputy Chief of Staff  
NYS Senator Jessica Ramos  
718-431-3734

**Office of the District Attorney, Bronx County**

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**Testimony Before The City Council of New York  
Committees on Criminal Justice and  
Civil Service & Labor  
September 15, 2021**



*Pursuing Justice with Integrity*

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**Darcel D. Clark**  
**District Attorney**

Good morning Council Member Keith Powers, Chair, and members of the Committee on Criminal Justice, and Council Member I. Daneek Miller, Chair, and members of the Committee on Civil Service and Labor.

I am here to provide greater perspective about my office's role in maintaining order and safety at Rikers Island.

First, I will tell you about the level of violence that we are seeing; what we are doing to hold people accountable; and the urgency of the situation at hand.

Currently, the dangerous environment and staff shortages are impacting the criminal justice system by depriving victims of justice and defendants of their due process.

The inhumane conditions are denying those on Rikers Island the basic needs that this city and nation must provide.

Defendants are sitting in jail for over a year because they cannot go to trial amid this chaos, which in turn, leads to violence including most notably suicides.

It is clear that something must be done at all levels to resurrect safety and security for inmates and staff at Rikers Island. The current condition is a perilous situation putting lives at risk.

I want to emphasize that we are all in this together. We are united in our shared goal to make sure the jails are decent places and that everyone who must be there – whether you are incarcerated or employed there – remains safe.

My role is interlocked with the Department of Corrections (DOC) and the courts.

I prosecute incarcerated individuals on their underlying Bronx cases; and I have jurisdiction to prosecute those who commit crimes in the Rikers Island facilities.

These prosecutions move forward when defendants are produced in court. They need to be arraigned. They need to go to trial.

During my first year in office, I opened the Rikers Island Prosecution Bureau to increase the speed of justice when holding defendants accountable for violence in jails – whether the conduct is inmates on inmates, inmates on staff, or contraband smuggled in by visitors.

[My Public Integrity Bureau handles crimes by Rikers staff. This Bureau has three open investigations into attempted suicide and suicides at Rikers which occurred before April 1, 2021. Since April 1, 2021, the New York State Attorney General’s Office investigates all deaths in custody.]

I lobbied City Council to fund high-tech scanners utilized to intercept razor blades that went undetected by regular metal detectors when wrapped in duct tape.

Adjustments to my office’s bail policy along with criminal justice reform led to fewer defendants incarcerated. Then, we worked with the City to address the impact of COVID-19 at Rikers, which led to the release of as many defendants as possible who would not pose a substantial risk to public safety.

The population of Bronx defendants fell to 700 in the fall of 2020.

As of September 11, there are 1,114 Bronx defendants in DOC custody. The population has been steadily increasing since 2020 due to surge in violence within the Bronx.

Defendants at Rikers are largely accused of serious crimes such as murder, attempted murder, shootings, rape, domestic violence, child abuse, etc.

While this population is smaller than historical numbers, it will be a more volatile population if conditions persist that are unsanitary, unsafe, with inadequate supervision, and lacking repercussions when someone commits violence.

Since Grand Juries re-convened in March of 2021, the Rikers Island Prosecution Bureau has indicted 45 cases involving assaults on staff as well as assaults by detainees on detainees.

One particularly cruel act occurred when seven inmates overwhelmed an officer, then, stomped and punched another detainee while one defendant poured boiling water on the victim causing skin on his face, head, and arms to burn away. Fortunately, the victim survived and is recovering.

There are currently approximately 328 open investigations involving assaults on staff.

We are prosecuting violent cases for beatings, slashings, and rape. No one should be subject to such degradation, harm, and fear.

Regardless of how many cases we pursue, we cannot prosecute our way out of this.

Mayor DeBlasio announced a few measures yesterday. It's a start.

Increasing staffing levels is crucial to stabilizing Rikers.

Opening more intake centers is a critical step as well. Previously, there were intake centers in each borough. A month ago, all new intakes were funneled to one intake center at the Otis Bantum Correctional Center (OBBC). OBBC was not able to handle this large influx due to staffing issues and medical clearance/COVID issues.

Yet and still, new detainees must appear in court within six days of arrest. Unfortunately, OBCC has not been able to produce defendants for this quick turnaround time in many instances.

There are homicide cases where defendants are not produced for court appearances.

We have inmates indicted for violence while in jail who are not being produced for arraignment in a timely manner.

In addition, the courts must increase capacity by making more courtrooms available.

Increased capacity would allow us to hold more trials. Currently, we are limited to only two trials at a time. We are backlogged with trials for serious crimes. Meanwhile, defendants are in Rikers, waiting.

The Less is More legislation – releasing parolees who are jailed for curfew and other administrative violations—will help, as will getting sentenced inmates upstate.

Moreover, there must be administrative tools for swift and certain punishment after a violent incident. DOC and the Board of Correction must come up with a plan to address this.

I will continue to do all I can to fulfill my duty, but there must be an immediate plan involving all stakeholders to restore sustainable conditions at Rikers.

The situation is urgent, life-threatening, and unconscionable.

We cannot afford to wait for another incident. We must act now.

**NEW YORK CITY COUNCIL**  
**CRIMINAL JUSTICE COMMITTEE MEETING**  
**September 15, 2021**

Good morning. Thank you, Speaker Johnson, Chairpersons Powers and Miller, and members of the Criminal Justice and the Civil Service and Labor Committees for this opportunity to testify and discuss the concerns of 1199 SEIU members regarding conditions in our city jails. We represent healthcare workers across five states and in the District of Columbia, all of whom have demonstrated their dedication and commitment to serve those in need during the COVID-19 pandemic. We applaud each of them every day.

1199 SEIU represents 500 healthcare workers in Correctional Health Services, working shoulder to shoulder with the civilian and uniformed workforces in all city jails. Labor-Management meetings are held jointly with our sisters and brothers at NYSNA and the Doctor's Council. In the past, we testified before this body about the widespread safety issues that have been building for some time.

Currently, however, the situation is dire, and we have a real emergency on our hands. Rikers is experiencing a total collapse that presents a threat to all – civilian and uniformed workers, detainees, and their visitors alike. Our members are committed to treating detainees with dignity and respect, yet they have been sexually and physically assaulted, splashed with urine and feces, held hostage at knifepoint, threatened and assaulted with weapons, and have sustained serious injuries and trauma.

More recently, we even learned of a plot by detainees to take over the clinics and hold the workers hostage. Day after day, our members go to work wondering if they will make it back home to their families. This is not acceptable. The Department of Corrections (DOC) is responsible for ensuring that all staff and detainees are safe, and they must adequately staff our clinics. If they cannot, they must turn that function over to another entity because we know that staffing shortages endanger everyone in the jails.

Recently, detainees have languished at intake for days where they do not receive medical care, can't communicate with their attorneys, are not fed, and do not have access to showers, hygiene products, or bathroom facilities. The conditions at intake are such that detainees are at risk of transmitting diseases to each other, such as COVID, hepatitis, influenza, TB, etc. at very high rates.

When detainees are finally brought to the clinics, they oftentimes have extremely long waits to be seen, understandably causing them to become agitated, angry, and aggressive. Those who are mentally ill decompensate without proper care, spiraling downward toward self-harm. Last week staff shortages resulted in cancelled appointments and our inability to dispense medication. Because of the lack of correction officers, detainees could not be fed, brought down to the clinics, and the medical staff could not be escorted to the housing units to provide care. How long is it appropriate to allow those needing insulin and other life-saving medication to go without? Are 10 suicide cases so far this year insufficient for action to be taken? We must do better and put the necessary resources to ensure every person living, working, or visiting our jails are treated with dignity.

We cannot continue to dismiss the concerns of the staff by calling for de-carceration and closing Rikers. Corrective measures must be taken now. We cannot wait years for new jails to fix these problems. Failure to

correct the systemic shortcomings we are discussing here today will only cause the problems to continue to fester and today's problems will just be transferred to the new facilities, causing them to fail.

Steps that can be taken immediately include:

- **Increase the number of correction officers in the medical clinics.** If DOC cannot provide sufficient correction officers for the medical staff to safely provide care inside the clinics, they must turn that function over to H+H police or another entity. Safety is not negotiable.
- **Seek outside assistance.** If the DOC is unable to provide a safe environment for staff, visitors and detainees throughout the facility, they must seek outside assistance; identify an entity that has the capacity to safely run jail operations -- not sometime in the future, but now. DOC should also consider working to redeploy correction officers from other municipalities and agencies.
- **Release non-violent detainees.** This includes parole violators and persons detained on minor infractions and non-violent misdemeanors. This will reduce the population and provide relief to the staff.
- **Hold staff accountable.** Absenteeism must be addressed. We encourage accountability. DOC must redeploy corrections officers from other facilities.
- **Civilianization.** Minimally, on a temporary basis and until such time as the staffing issues are resolved, DOC should consider assigning civilian staff to perform duties that do not require interaction with detainees. This will alleviate excessive overtime that is not sustainable with staff working 16 and 24 hour shifts for consecutive days.
- **Investigation.** There must be an immediate investigation to ascertain how weapons, drugs, alcohol, and other contraband are getting into the jails and ensure that corrective measures are taken to prevent this from happening in the future.
- **Expedite admissions.** Process admissions in a timely manner. As stated above, we are hearing reports of backlogs that cause some to remain at intake for days in unsanitary and inhumane conditions, where they are not being properly served. By all accounts, returning intake to EMTC would be more efficient as it has 3 clinics and air conditioning which the current facility lacks. This will alleviate the backlog.
- **Stagger appointments.** Rather than bringing large number of detainees to the clinics at the same time, they should be staggered to reduce the wait time to be seen thereby reducing anxiety and frustration of those who wait.
- **Break up gang activity.** In recent months, the City has seen a drop in shootings and crime due to the crackdown on street gangs. However, housing these violent gang members together is just moving their activities from the streets into the jails, which jeopardizes the safety of everyone. There are gang initiations taking place and those gang are strong enough be able to conspire to take hostages and do harm to others.



- **Training.** Cross training is absolutely needed. Strategies to train all staff on de-escalation techniques, identifying mental health issues, responding to sexual violence complaints, and providing resources to reduce violence are essential. This includes access to recreational activities as incentives
- **End sexual assaults.** Steps must be taken to eradicate sexual violence against staff and detainees.
- **Provide sanitary conditions.** Having detainees in cells with fleas and insects, covered in body waste, and garbage strewn around is inhumane. This is deplorable and must be corrected immediately.

In sum, emergency situations require emergency responses but the overarching mission for DOC must be to change the culture of the jails.

Again, thank you for this opportunity to address our concerns. I'm happy to answer any questions you might have.



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Courtney Bryan. Director

**Center for Court Innovation Testimony  
New York City Council  
Committee on Criminal Justice  
Oversight – The Condition in Our City’s Jails  
September 15, 2021**

*Good morning Chair Powers and esteemed members of the Committee on Criminal Justice. The Center for Court Innovation strongly supports City Council action responding to the humanitarian crisis in our city’s jails. In less than 18 months from April 2020 to September 2021, the city’s daily jail population climbed by more than 2,200 people—an unsustainable jolt to a system already known for its violent and traumatizing conditions. This increase was not caused by correctional policies, nor can the jails become less noxious through correctional policies alone. Criminal justice agencies must act swiftly to implement safe and effective decarceration initiatives. In partnership with the Lippman Commission, we produced a [jail reduction roadmap](#) in July of this year and urge all criminal justice legal practitioners to combine our recommendations with the good ideas of others.*

**Overview**

**Holding people in the city’s jails in their current condition is demonstrably inhumane and must be a true last resort.** Recent reports point to escalating [violence](#)—which already reached a [five-year high](#) in 2020. The jails now suffer from growing [suicides](#) and [self-harm incidents](#), a [shortage of staff](#) reporting for duty, a shocking failure to ensure people receive [timely medical appointments](#), and a widely acknowledged environment of chaos, danger, and dehumanization impacting *both* those detained and correction officers, alike.

**The present crisis is a direct consequence of the city’s rising jail population.** Since falling to just over 3,800 people held on April 29, 2020—reflecting both declining arrests and [purposeful release efforts](#) to remove people from harm at the outset of the COVID-19 pandemic—the total population rose by almost 60% to over 6,000 people held today.

**Immediate Steps in the Current Emergency**

**The jail population must be significantly reduced ASAP.** We support the efforts of the current Department of Correction (DOC) Commissioner to engage judges and prosecutors to this end.

**Operating Programs** Bronx Child Trauma Support, Bronx Community Solutions, Brooklyn Justice Initiatives, Brooklyn Mental Health Court, Brooklyn Young Adult Court, Brownsville Community Justice Center, Domestic Violence Court, Harlem Community Justice Center, Legal Hand, Make It Happen, Midtown Community Court, Neighborhood Safety Initiatives, Neighbors in Action, Newark Community Solutions, Parent Support Program, Peacemaking Program, Project Reset, Queens Youth Justice Center, Red Hook Community Justice Center, RISE, Save Our Streets, Staten Island Justice Center, Strong Starts Court Initiative, Supervised Release, UPNEXT, Westchester Court Education Initiative, Youth Impact, Youth Justice Board

**We urge the city’s criminal justice agencies to start with the 4,500 people now held before trial, review every single case, and agree to the release of people who meet common sense criteria.** They could include:

1. Diagnosed with a chronic medical condition.
2. Ages 55 and older.
3. Women, transgender, or gender non-conforming.
4. Jailed despite a recommendation for release by the city’s validated [Pretrial Release Assessment](#).
5. Held on a first arrest—signifying by definition a lack of prior evidence of missing court dates, as is required under the law;
6. Already held for more than six months, the court system’s own standard for resolving cases.
7. Held simply due to an inability to afford bail.

Decision-makers could make exceptions based on legally relevant and highly credible evidence or one of the most serious charges in the penal law, such as homicide, violent sex crimes, domestic violence, or brandishing a gun.

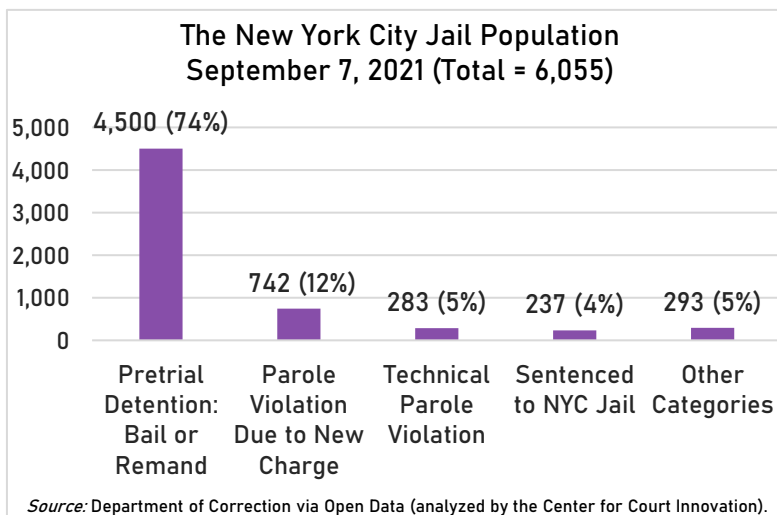
**Furthermore, the Governor could order the state’s Department of Corrections and Community Supervision (DOCCS) to review the cases of all people held on technical parole violations or violations stemming from pending misdemeanors and authorize the immediate release of the vast majority.** Such a step would mirror state action at the outset of the pandemic, which contributed to [up to 300 releases](#).

### **Key Facts About the Current Jail Population**

**To an unprecedented degree, the crisis in the jails impacts people—predominantly Black or Brown—who are presumed innocent.** Over nine out of ten people sitting in jail today have not been convicted of a crime and sentenced on the pending matter.

All told, 6,055 people were held in jail on September 7, 2021. Here is how they break down:

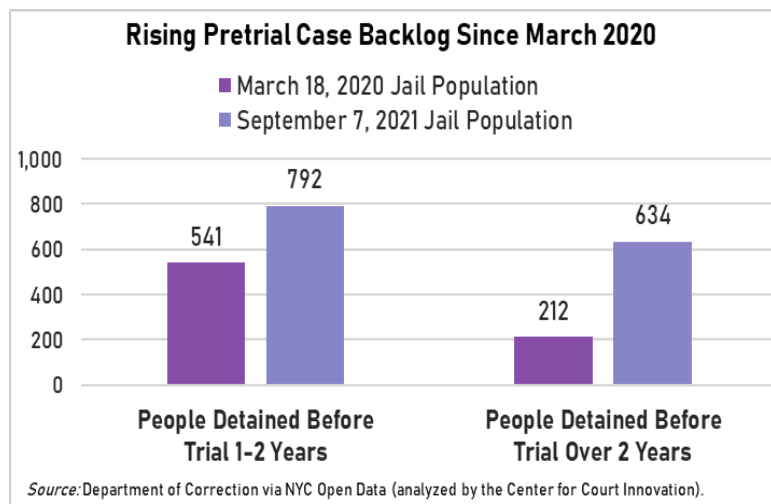
- **Pretrial Detention Due to Judicial Decisions:** *Seventy-four percent of the jail population consists of people held because they could not afford bail or were remanded directly to jail.* Less than 18 months ago, this same pretrial category made up 56% of the jail population. In absolute terms, just over 2,600 people were held pretrial at the end of April 2020, compared to 4,500 today. The steep rise in pretrial detention partly reflects the expected effects of the bail reform rollback—but we also



found that judges significantly [increased their bail-setting](#) on the same types of cases for which they had previously released people in the initial months of 2020.

- **Parole Violations:** Another 12% of the jail population is held because a new arrest led a parole officer to file a violation; and 5% are held on a “technical” parole violation. Combining these numbers with the above pretrial category exceeds 90% of the jail population who are not held pursuant to a conviction and sentence.
- **Jail Sentences:** Compared to 13% in 2016, only 4% of the current jail population is serving a jail sentence of less than one year. The population also includes a small number of people serving state prison sentences (generally people awaiting transfer) or held on warrants.
- **Racial Disparities:** Black New Yorkers make up less than a quarter of the city’s general population, but almost 60% of those held in jail on September 7. In the fourth quarter of 2020, judges set bail or remanded 61% of Black compared to 41% of white people charged with violent felonies—a [threefold increase](#) in relative racial disparities from the first quarter.
- **Mental Health Needs:** Almost half of those in jail required mental health services. The proportion formally diagnosed with a serious mental illness rose from 10% in FY 2017 to 17% in FY 2021, [according to the Comptroller](#).

- **COVID-19 Backlog:** Before the pandemic in 2019, because of outsized [case processing delays](#), only 35% of the city’s felony indictments reached a disposition within six months, the court system’s own time standard. Since then, delays have intensified. People held in pretrial detention on September 7—while presumed innocent—have been languishing for an average of 330 days. This is 70 days over the pre-COVID average. **As of September 7, almost 800 people have been detained before trial for from one to two years, and over 600 more have been detained over two years. It is unknown what these peoples’ ultimate lengths of stay will be before their cases are resolved.**



## **Jail Reduction Roadmap**

Having taken emergency release actions, the city must launch permanent steps to reduce overincarceration, many of which will require no more than one or several months to implement.

**This July, the Center for Court Innovation in partnership with the Lippman Commission released a [detailed roadmap](#) with nearly 40 concrete, data-driven recommendations to**

**safely reduce the city’s daily jail population.** We conservatively estimated our strategies could bring the population down to 2,700 to 3,100 people. We also emphasized that *even greater jail reductions are feasible*, and actual outcomes will hinge on implementation and prevailing attitudes towards justice, equity, and incarceration.

**Our report underscores that court administrators, judges, and District Attorneys will make or break decarceration.** We recommended that they make greater use of the city’s Release Assessment, which has been statistically validated to predict people’s return to court, [without racial disparities](#). When people pose a risk of flight, courts and prosecutors could rely more on the city’s [proven effective](#) Supervised Release Program, especially now that supervision check-ins can occur in-person. As it did successfully in November and December of 2019, the city is also responsible for initiating a new round of trainings with judges, prosecutors, and defense attorneys in every borough on the [supervision model](#) and the evidence supporting it.

**To create a more deliberative and fair decision-making process, we also proposed that court players agree to restructure arraignments into a rigorous two-step process:** First, courts would determine whether a credible risk of flight exists—a threshold required by law for setting pretrial conditions. Then, only if that is established, courts would consider arguments about the least restrictive conditions to assure return to court, using bail as a last option.

**We recommended instituting [Jail Population Review Teams](#)—one in each borough—composed of decision-makers, including defense attorneys, prosecutors, judicial representatives, service providers, and city officials.** Such a working group would be able to identify individuals held unnecessarily as well as respond, almost in real time, to the types of violent jail trends we have witnessed over the last few months with policy solutions.

**If the Governor signs the pending Less is More Act that curtails excessive parole detention, we projected this alone could slash the daily jail population by over 400 people.**

**Finally, viable alternatives to jail must exist within communities most impacted by crime and incarceration.** Programming and services responsive to individual needs, such as behavioral health services, educational resources, employment opportunities, and restorative justice, are vital to both facilitate reentry and prevent further crime.

### **What Can the City Council Do?**

The City Council can continue to draw attention to the overincarceration crisis that precipitated the jails emergency; and hold players accountable who send people to jail—mainly courts, prosecutors, and parole agencies. Several more concrete more steps are within its jurisdiction.

#### **Advance Racial Justice**

- ***Pass a resolution defining institutional racism based on outcomes, not overt bias alone:*** As indicated above, Black New Yorkers are overrepresented within the criminal justice system and the city’s jails, relative to the general population. The Council could publicly hold criminal justice leaders accountable for addressing steep **racial inequities** in the use of jail, even when decision-making may appear race-neutral on its face.

- ***Establish a permanent Working Group focused on institutional racism within the criminal justice system.*** A permanent Working Group (or Board) could analyze data, create public dashboards, hold ongoing public forums, and publish frequent reports and recommendations for correcting racial disparities at every stage of the system.
- ***Publicize adherence to city’s Release Assessment.*** Despite this updated tool’s extensive [validation process](#), courts do not appear to be sufficiently following its recommendations. In the fourth quarter of 2020, judges set bail or remanded people in [49% of cases](#) recommended for *release on recognizance* (ROR), a development that contributed to the above-noted rise in racial disparities during this timeframe. The Council could require regular (e.g., quarterly) reports on courts’ actual pretrial decisions; their correspondence with Release Assessment recommendations; and differences between actual disparities in courts’ decisions and any disparities linked to the assessment.

### **Minimize Pretrial Detention**

- ***Ensure people can afford bail.*** The bail reform law requires judges to consider people’s “individual financial circumstances” before setting bail. Yet in 2020, our [research](#) found that **only 15%** of people assigned bail in felony cases could pay at arraignment (before transport to jail), and even after 30 days, less than half posted bail. To curtail criminal penalties for people without access to money, the Council could impement a formal **ability-to-pay assessment**, requiring administration in *all cases eligible for bail*. Ideally, courts would permit the assessment to take place *before* finalizing a bail decision, but whenever a decision comes first, the Council could require subsequent administration if the individual is unable to pay bail at arraignment. For homeless people or those indigent based on other measures, or those for whom an existing bail amount is too high, the city should promptly notify the court and defense attorney. The Council could also require data collection on assessment results and how they compare to courts’ final decisions. The Center for Court Innovation has already created a potential implementation plan involving the city’s Criminal Justice Agency in administering assessments at the city’s criminal courthouses.
- ***Create a supervised release hotline.*** The Council could mandate a toll-free number for people to contact a supervised release provider from jail, which could activate program staff to coordinate with the defense and prosecution in preparation for the next court date.
- ***Establish Population Review Teams.*** As noted above, the Council could mandate **Population Review Teams** in every borough. At a bare minimum, these teams could review the cases of anyone still detained pretrial after 6 months—the court system’s own standard for resolving felonies. The city could be accountable for aggregate public reporting on cases considered by these teams, their demographic composition, recommendations made, and what actions courts or parole agencies ultimately took.

### **Shrink COVID-19 Backlog and Preexisting Case Processing Delays**

- ***Fund task forces in each borough to collaboratively expedite the cases of people sitting in jail due to the COVID-19 case backlog, especially the oldest cases.*** Presumably, staff at the Mayor’s Office of Criminal Justice would have to help organize and lead such task forces.

- **Fund an expansion of a [case processing pilot](#) that significantly increased timely case dispositions in Brooklyn—alleviating longstanding delays (pre-COVID-19) in resolving indicted felonies.** A relatively small amount of funding could support judicial training and “case expeditors” assigned to assist the players in each borough.

### **Release Priority Populations Based on Gender, Age, and Health Status**

- **Increase funding for proven community-based housing options for women, transgender, and gender non-conforming people who would otherwise be exposed to significant health risks and trauma in the jails.** The Women’s Community Justice Project has shown that it can successfully serve these groups in humane facilities analogous to supportive housing.
- **Require a needs assessment for people ages 55 and over.** Justice-involved older people often have underlying unmet needs. If they are sent to jail, the Council could require the Department of Correction to conduct a needs assessment and, based on its findings, send the court recommendations for community-based interventions.
- **Fund additional mental health treatment slots—and institute policies to ensure access.** Our report recommends greater **outpatient services, short-term respite care, and residential placements** with wrap-around services for people with serious mental illness. **Policies must facilitate access**—such as dedicated slots and staff on-call to conduct emergency psychiatric assessments at arraignment to avoid a scenario where slots exist but linkages do not.
- **Require the Correctional Health Services (CHS) to flag people with a chronic medical condition.** Given the extreme health risks they face if incarcerated, the Council could require CHS to seek client consent and routinely notify the court, defense, and state parole (if applicable) whenever someone in jail has a chronic medical condition.

*Rikers Island and the city’s other jails are failing to provide rehabilitation or increase public safety. Limiting the number of individuals exposed to its harms and growing violence is a necessary first step in addressing jail conditions, especially amidst the current, undeniable emergency.*

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PROTECTING KIDS. PROVIDING HOPE.

## Testimony before the New York City Council Committee on Criminal Justice The Condition in Our City's Jails, September 15, 2021

My name is Daniele Gerard and I am a senior staff attorney at Children's Rights. Since 1995, Children's Rights has been a national advocate for youth in state systems. We are also a member of the New York City Jails Action Coalition. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us into contact with young adult and youth corrections policy, as our clients are disproportionately represented in young adult and juvenile correction facilities. We are concerned about the welfare of young adults and youth on Rikers Island.

People incarcerated in city jails are suffering a life and death crisis. They are going without food, water, and basic medical care. At least nine have died in 2021 alone. The most recent man to die on Rikers was 24 years old. Hundreds of correction officers are on sick-out or are just not coming to work. Violence is way up, and nine times higher for young adults than for adults. Youth who have been to Rikers more than once report there is more violence than they have ever seen on the Island. They also state, which we all already know, that if there were meaningful programming, including educational and vocational programming, there would be less violence. The Commissioner himself acknowledged at yesterday's Board of Correction hearing that programming and supportive services "are not simply tools for safety and security, they *are* safety and security." But fewer staff means reduced access to programming and services.

Finally, the officers are well aware of individuals' street affiliations. The Department should stop housing young adults with rival affiliations together. We urge you to read the *Nunez* monitor's August 24th letter summarizing in explicit detail the systemic dysfunction in the City's jails.

The endless finger-pointing we read about in the press is not saving lives on Rikers. It is not making incarcerated persons safe. It is not improving conditions for the correction officers working double and triple shifts to make up for the third of their co-workers who don't bother showing up at all—and who suffer no consequences for putting people at great risk of harm and death.

Responsible officials have taken action before, and must do so again. Early in the pandemic, at the urging of advocates and the Board of Correction, the number of people incarcerated in New York City jails dropped by thousands. The Mayor reduced the number of people serving sentences to less than 100. The City convened judges and district attorneys to review cases for release, and the number of people detained pretrial (excluding people with parole holds) was reduced by 545 in just a few months. Now, however, the number of people detained pretrial has now swelled to over 4,600, bringing the total number of people in city jails on any given day to over 6,000 people.



We urge you to pass legislation immediately to deal with this crisis and to ensure it never happens again. Legislation should prioritize decarceration, increase mental health diversion, eliminate bail payments, and otherwise get as many people out of jail as possible. As you know, current data show that 76% of people in custody are detained pretrial, 35% are being held on non-violent charges, 85% are people of color, and fully 48% have symptoms of mental illness. These data make this legislation critical for the fair, just, and humane treatment of persons accused of crimes in New York City.

Finally, please ask yourselves, what kind of society throws thousands of people in jail and then abandons them? You can, and you must, stop this wretched treatment, this pointless torture, of our fellow human beings, especially the more than 1,200 who are under 26 years old and who will surely be scarred for life.

The time to act, the time to force the Mayor to act, is now. How many more people must die before our elected officials take action?

Thank you for the opportunity to testify today.



# A United Voice for Doctors, Our Patients, & the Communities We Serve

## Doctors Council SEIU Testimony Before the New York City Council Committees on Criminal Justice and Civil Service and Labor The Condition in Our City's Jail

September 15, 2021

Delivered by:  
**Kevin Collins, Executive Director**

Good afternoon Chairperson Powers, Chairperson Miller and Committees on Criminal Justice and Civil Service and Labor members. Thank you for the opportunity to testify before the New York City Council today.

Doctors Council SEIU, a united voice for doctors, our patients, and the communities we serve, is a national affiliate of the Service Employees International Union (SEIU), and we are a union representing thousands of doctors in employed practice in New York State and other cities and states. This includes the doctors in correctional facilities such as Rikers Island. This also includes doctors in the New York City Health + Hospitals (H+H), the largest public hospital system in the nation, mayoral agencies such as the Department of Health and Mental Hygiene, Department of Education, and the Office of the Chief Medical Examiner. \* (See end for more about us.)

My name is Kevin Collins and I am Executive Director of Doctors Council SEIU. We proudly represent and advocate for the physicians and dentists that work at Rikers Island and other correctional facilities.

Our members put their lives on the line during the COVID-19 pandemic and continue to do so. Doctors are essential workers who chronically worked short-staffed and burned out on the frontlines in the hardest hit areas of the COVID-19 pandemic.

I thank the elected officials for having this hearing and wanting to address issues. We look forward to continue working together to address the health and safety crisis at Rikers as well as care concerns.

I also thank the other health care unions - NYSNA and 1199 SEIU - for working in solidarity with us in lifting up the voices of our courageous members. As a doctors' union, we know it takes a team to deliver care and here we have a team of unions advocating together.

The topic of today's hearing is The Condition in Our City's Jail. The answer- not good, horrible and unsafe for the timely delivery of good care and the safety of the detainees and staff including our members.

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Our members basically want two (2) things: (1) the ability to deliver timely and quality care to detainees and (2) to be able to work through our shift without being assaulted or killed.

There is a vital shortage of correction officers, a failure to properly assign correction officers and a failure and inability of the Department of Corrections (DOC) and Correctional Health Services (CHS) of Health & Hospitals (H+H) to ensure existing policies are adhered to and new ones created to address the growing health and safety crisis confronting health care workers that also impairs the ability of inmates to receive needed care in a timely manner.

There can be no more business as usual. It is not working. The time has come for the DOC and City to listen to and act upon the voices and input of the health care workers who are working every shift afraid for our lives, health and safety and being harmed.

In July, we had a doctor who is a member of ours have a shank placed at his throat while delivering care. The doctor could have lost his life or suffered great bodily harm, and is dealing with the emotional trauma and impact of this. Health care professionals need to see immediate action and changes taken. We have members contact us in fear.

We and the other unions have been meeting with the City, DOC and CHS but not enough is being done to protect us now from the dangerous conditions at Rikers Island and to ensure that the detainees receive timely health care services.

We need now from the DOC and City a specific action plan in writing that addresses the health, safety and care concerns we have raised. The specific written plans must have who is doing what when not generalities. In many ways, these are the same concerns that have been raised over the years. Our members believe little to nothing has been done. In other ways, the issues and problems have become worse. The system has broken down. Morale is at an all time low. While our members will always endeavor to give the best possible care they are doing so without proper support and as importantly, those we care for are not receiving care in a timely or needed manner.

In May of 2014 these 3 same unions - Doctors Council SEIU, NYSNA and 1199 SEIU – advocated for many of the same issues as today. We talked about unfortunately things taking time. Also unfortunately, people are getting hurt. And things have to be expedited. We talked about things being out of control, the detainees running Rikers, the need for more correction officers, treating detainees without a direct line-of-sight to a corrections officer, and that this is not a hospital setting, this is a correctional facility. We noted how we're doing this job because we feel a dedication towards this community, regardless of what they've done to be here, but we don't want to have our life at risk, we don't want to be scared when we come in worried that we won't go home the same way we came in and we have these concerns every single day.

Here we are again in September of 2021. Same situation but worse.

Our members fear for their lives every shift. There is not enough correctional officer staff and not proper use and placement of the existing staff. Assaults, harassments, dangerous situations, etc. are too common and no improvements are being made. There is a lack of safety and security in the clinic due to the shortage of correction staff, and also because of inaction and failure to follow procedures.

As to care, serious concerns abound. Detainees are being delayed in receiving needed care.

We need more than an acknowledgement that these problems exist. We need specific written solutions and an action plan.

What our members witness and report to us is a total breakdown in security. Doctors and other health care workers are working under fear of losing their lives or being assaulted and are in fear for their health and safety every shift.

One doctor told us how when he was seeing one detainee, other detainees were brought to the cubicle entrance and started asking questions while the first detainee was being medically evaluated. The detainees then started walking around in the clinic area, not confined in any pen and then became very agitated. Then these detainees started cursing and yelling at the doctor and the situation became one in which the doctor was scared and defenseless. The doctor urges leadership to take effective measures now before a medical staff member gets injured or killed.

We see and hear how detainees go freely around without proper supervision or being placed in pens.

Medical staff tell us that they send emails, notify operations, complain constantly but nothing is ever done. As one medical staff put it, the concern is that one day someone will get injured or killed. That could be any of us. This is sad to say but the way things are escalating this very well may come soon. We desperately need help now.

Our members are yelled at, cursed at, spit at, threatened and assaulted. Those are some tough conditions to work under and deliver quality care in.

The growing health and safety crisis confronting health care workers also impairs the ability of inmates to receive needed care in a timely manner.

New admissions are not being processed in a timely manner because there is no officer in the clinic.

Detainees are not produced for medical follow up, nursing care, dental, wound care, medical and mental health follow up.

Detainees are not going to X-ray and specialty clinic due to shortage of correction officers.

EMS waits for a long time - up to one hour or more - for the DOC to provide a correction officer to go with the detainee to the hospital.

Sometimes Mental Health detainees have delayed wait times in the pen with no mattress, unsanitary conditions and sometimes no medications.

Sometimes detainees on suicide watch can have delays in being transferred out of OBCC because OBCC has no Mental Health observation house.

Medical staff need help now.

Care for the detainees needs help now.

The time is now.

But when we make suggestions for improvement what we hear back is either that the DOC and City cannot or will not make any change or that they admit they violated their own existing policy but there is no clear accountability or follow up.

Things are in many ways worse now than ever.

Based on the onslaught of security incidents in the Mental Health and the Medical Clinics, where the threat of physical injury and death has been looming over the past several months, immediate changes in security measures have to be taken by DOC and the clinical staff.

We have some suggestions and have had many of these already:

1. Return intake to EMTC, immediately. Reopen EMTC as is better designed for intake (has 3 clinics-one mental and 2 medical, X-ray, etc. vs. OBCC with only one entrance and one clinic). EMTC has a special house for mental health detainees with Air Conditioning vs. OBCC which does not and has no AC. New admissions processing should be less than 24 hours but now can be 3-4 days. Possible diversion of some admissions to AMKC at least for processing.

We were just informed last night that EMTC will reopen this Thursday, September 16, 2021, beginning at 8 pm. This is long overdue as we have been advocating for this for months. However, Rikers used to have 6 buildings doing admissions and more needs to be done, such as also doing admissions at AMKC which was actually renovated and used for admissions in the past.

2. As an example, one day last week 15 officers were needed to provide medical and mental services and we only had 3. No admissions were done and 125 were pending. We need more officers. We call on the use of correction staff from across New York State and other nearby states until the situation stabilizes and more correctional officers are hired and working. We also need more medical staff, especially to decrease wait times and crowding and agitation of detainees (including Tours II and III).
3. Improve scheduling and delivery of inmates to the clinics for all appointments and needs (including dental, x-ray, specialty clinic, etc.). As an example, we noted that one day last week 15 officers were needed to provide medical and mental services and we only had 3. This situation has unfortunately become the norm. No medical follow up and no mental health services were done. No medication distribution and no activity in clinics. On another day last week, in the morning we estimate that less than 25% of what should be done occurred. We need detainee/ patient escorts. Bring detainees in staggered shifts so not all at once is better flow and to minimize wait time and anxiety. Open mini-medical clinic at 1 Lower at OBCC during Tour II and perhaps Tour III where medical follow up and sick call can be done.
4. Stop extended holding of inmates in the pens. This leads to frustration and agitation that can lead to violence.
5. In the clinics, stop the practice of letting detainees wander around or wait in hallways or cubicles for appointments. There is a lack of supervision and monitoring inmates. There should be no detainees in hallways. Policies are not followed. There should be proper use of pens for temporary periods, such as just before and after being seen by providers.
6. There needs to be a special focus and measures for the mini clinics, specialty clinics and medical emergency responses, in light of the new threats around hostage taking (as there have been reports of possible plans to take our members hostage). When an emergency is called the medical clinic should have a dedicated clinic phone line to call from the emergency site if additional staff or equipment is needed at the

emergency area. The emergency area must be secure with enough officers before medical personnel can respond. We need a DOC Captain and officer in place prior to medical staff arrival. We need officers in all clinics including dental.

7. Reduce the waiting times for EMS to get officer escort in order to move detainees to hospital.
8. There should be policies on:
  - reducing the ability of detainees to attack a health care worker during a medical or mental health encounter and proper cuffing
  - thorough searching of detainees
  - better use of an Aggressive Inmate list generated jointly by DOC and the Administration and this list should be updated on a daily basis
  - DOC needs to stop referring inmates to Mental Health when the motive for referral appears to be an attempt to solve a security concern for Corrections
  - Under no circumstances should any member of the DOC suggest that Mental Health could be a vehicle to move a detainee to another facility, especially a Mental Health one. The emphasis should be to reassure the inmate that he will be provided with the necessary Mental Health services as needed.
  - Several Mental Health offices in RNDC are located in an area that is inaccessible from visual observation by a correction officer and this has to be addressed.

Part of being a healthcare worker and a union member is to advocate for ourselves, our fellow members and those we care for. This is what we are doing.

And if that advocacy cannot result in solutions then we will continue our advocacy until it does. We remain willing to work together with the City and DOC but that must be real, transparent, collaborative and timely. There can be no more business as usual. We hope the follow up will be different. Our members need it and so do the detainees.

We say: Respect us! Protect us!

Thank you for the opportunity to testify here today.

\* More About Doctors Council SEIU

We are a union representing thousands of doctors in employed practice in New York State and other cities and states, including the doctors of New York City Health + Hospitals (H+H). NYC H+H is the largest public hospital system in the nation.

Doctors Council SEIU also represents doctors in the New York City mayoral agencies including the Department of Health and Mental Hygiene (DOHMH), Department of Education (DOE) as well as doctors working at Rikers Island, the largest correctional facility in the nation.

Other agencies include Corrections, Fire, Police, Sanitation, Human Resources Administration, and the Office of the Chief Medical Examiner.

The work that our members do 24/7 helps the communities and residents of New York City every day. The

services we provide across the five boroughs of New York City are vital, numerous and far reaching, ranging from managing and responding to the Coronavirus pandemic, to seeing patients in hospitals and clinics, to doctors in schools, to visiting patients at home, to providing services for those throughout the tri-state region with World Trade Center issues, to work in the Medical Examiners Office, to work in corrections/fire/ police and sanitation, and so much more.



## New York City Anti-Violence Project

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### **AVP Testimony re: Rikers for Committee on Criminal Justice Hearing Testimony 9/15/21**

- Good evening, Chairs Powers and Miller, and Committee Members; my name is Zara Nasir and I am a Deputy Director at the New York City Anti-Violence Project (AVP).
- A little bit about AVP; we are the only LGBTQ-specific victim services agency in the city. We operate a bilingual 24/7 hotline and provide legal and counseling services, and advocacy for LGBTQ and HIV-affected survivors of all forms of violence. We have counselors that work with incarcerated survivors inside the jail systems.
- We've been saying for years; Rikers is a death trap. But now, the level of overcrowding and lack of sanitation, safety, water, meals, and medical care means we are in a crisis.
- In this chaos, LGBTQ people and people affected by HIV are extremely vulnerable to violence and death. Esais Johnson, the young Black gay disabled man who died in Rikers last week, is just the latest LGBTQ New Yorker to be killed within the system.
- LGBTQ and HIV-affected people face increased violence, and elected officials touring the facility reported seeing a transgender women placed in "male" facilities, deprived of hormone treatment, and people living with HIV deprived of life-saving medication.
- As Rikers' top doctor has said, the City is not capable of safely managing those in its custody." We join the New York Campaign for Alternatives to Isolated Confinement and the Jails Action Coalition in calling for immediate decarceration and an end to solitary.
- The jail population has doubled since July 2020. The Mayor, judges, DAs, & City Council must do what it takes to decarcerate immediately. Use the 6A program, push for "Less is More," utilize City bail funds, and most of all, stop sending people to jail when COs are unable to produce them for court appearances anyway, as the case with Esais Johnson.
- The Council also must end solitary confinement by amending, and then passing the legislation that would end this practice. We've been calling an end to solitary since Layleen Polanco's death in 2019, and three years later, we are still waiting.
- The City must stop stalling and relieve people in jails from these horrific conditions, now.





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## AVP DEMANDS SWEEPING CHANGES TO NYC JAIL SYSTEMS, CLOSURE OF RIKERS, AND FOR PERMANENT END TO SOLITARY CONFINEMENT

September 15, 2021

Contact: Audacia Ray, New York City Anti-Violence Project, [aray@avp.org](mailto:aray@avp.org)

Esais Johnson, a young gay Black man with autism, died at Rikers Island last week after he languished a month in the jail. The Department of Corrections failed to deliver him to three separate court hearings, preventing him from paying his \$1 bail. Johnson is the tenth person in Department of Corrections custody that has died in the jail system since December 2020, a huge spike over the previous two years, according to the [Daily News](#).

AVP's Executive Director, Beverly Tillery stated, "Rikers is a death trap. We have been sounding the alarm about the dangers at Rikers for several years now but despite pledges to close the facility, City officials continue to drag their feet, leaving thousands of New Yorkers in peril. Esais Johnson and Layleen Polanco should have been released on bail, but instead were left to languish at Rikers for weeks with no end in sight. LGBTQ people, especially those who are transgender, gender nonconforming, non-binary, and people of color, face severe criminalization and violence from police, and then when incarcerated, experience homophobic or transphobic violence from other incarcerated people and/or guards. We appreciate the legislators who demanded to tour Rikers this week and exposed the extent of the horrific conditions. Now, we need swift and definitive action to protect those we have put in grave danger."

The New York City Anti-Violence Project (AVP) stands with LGBTQ and HIV-affected survivors of state violence and the loved ones of those who have died due to confinement in city jails, including deaths caused by self-harm and/or suicide. As New York City's leading LGBTQ anti-violence organization, AVP demands that the City expedite the plan to close Rikers. Unsafe, overcrowded, and unsanitary conditions at



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Rikers are at crisis levels, as the jail population has doubled since July 2020. The Chief Medical Officer at the complex recently stated that he does “not believe the City is capable of safely managing the custody of those it is charged with incarcerating in its jails,” as reported by [NY1](#).

In this chaos, lesbian, gay, bisexual, transgender, gender non-conforming, and non-binary people and people affected by HIV are especially vulnerable. In addition to elevated rates of violence from other incarcerated people and guards, our community’s basic human needs are not being met. Elected officials touring the facility have reported seeing a transgender woman placed in “male” facilities, without appropriate medical care, including hormone treatment, and incarcerated people living with HIV deprived of life-saving medication.

AVP joins the New York Campaign for Alternatives to Isolated Confinement (NYC AIC) and the Jails Action Coalition to call for a permanent end to solitary confinement. Conditions are even more dangerous in the City’s restrictive housing units and solitary confinement cells, whose solid cell doors make ventilation extremely difficult and make it harder for staff to see if someone is in medical duress. AVP has been calling for the end of solitary since the death of Layleen Polanco in 2019, an Afro-Latinx trans woman who died after not receiving needed medical intervention in the City’s punitive segregation system which is commonly known as solitary confinement. In addition, AVP asserts that “protective custody” is in fact isolative punishment and not a way to keep LGBTQ people safe in jails and prisons. While there is currently legislation in the City Council aimed at ending this practice, the Council has not made the necessary amendments or progressed this bill. As the legislation stalls, many New Yorkers remain subjected to isolative torture in city jails. The practice of isolation as punishment needs to be ended immediately.



## **Statement of the Natural Resources Defense Council before the New York City Council Committee on Criminal Justice Oversight Hearing**

Sara Imperiale and Eric A. Goldstein

September 15, 2021

The Natural Resources Defense Council (NRDC) is a not-for-profit legal and scientific advocacy organization active on a wide range of public health and environmental issues across the country and in New York City where our headquarters have been located since our founding in 1970. For more than 50 years, NRDC has had a team of attorneys, scientists, and other experts working on quality-of-life issues and environmental matters important to New Yorkers, including support for public transit, safe drinking water, clean energy, sustainable waste-handling, access to parks and community green spaces, and environmental justice.

Amidst a crisis of life and death proportions unfolding at the Rikers Island jails, we contribute testimony today to reiterate NRDC's support for the Renewable Rikers plan to stop all incarceration on the island by 2027 and to transform the notorious jail complex into a model for environmental sustainability that directly benefits the same low-income communities of color that have been most harmed by detention at the jail complex.

Earlier this year, the City Council overwhelmingly passed three bills known as the Renewable Rikers Act that requires closure of the jails and directs the City to conduct feasibility studies for renewable energy sources plus battery storage, wastewater treatment, and organic waste composting on Rikers Island.

Crucially, Local Law 16 of 2021 specifies that starting on July 1, 2021 and every six months thereafter, the Mayor "shall transfer...every portion of Rikers Island that the Mayor determines is not in active use for the housing of incarcerated persons, or in active use for the providing direct services to such persons ...." Transfer of the entire 413-acre island away from the Department of Correction must be completed no later than August 31, 2027.

In July, the first of these mandated transfers took place when the Department of Correction transferred the James A. Thomas Center, a closed facility currently used for storage on Rikers, to the Department of Citywide Administrative Services. While this initial transfer of land away from the Department of Correction was a small but important step in fulfilling the promise of the Renewable Rikers legislation, it is essential that Mayor de Blasio transfer additional unused Rikers Island parcels this year before the end of his term.

The Rikers Island jail complex houses almost all the people held in custody of the City Department of Correction. A disproportionate number of people jailed are Black or Latino and many people are held on pretrial detention, often because they are unable to afford money bail.

The Rikers Island jails have long been plagued by inhumane conditions, inclusive of mold, heat, flooding, violence, and human rights abuses, according to the Independent Commission on New York City Criminal Justice and Incarceration Reform, chaired by former New York State Chief Judge Jonathan Lippman.

Most recently, there has been a wave of deaths of people incarcerated on Rikers Island. At least nine people have died in 2021, and many are reportedly being denied access to essential care like food and medical attention. As described by Board of Correction member Dr. Robert Cohen in the New York Times last month, “Every person they send to jail is at great risk of harm and death.”

Simultaneously, the recent floods from Hurricane Ida and other more frequent extreme weather events remind us that the climate crisis is also upon New York City. Closure of the Rikers jails presents an unparalleled opportunity to transform an inhumane jail complex with a long and troubling history and present into a model for modern, climate resilient environmental services that will benefit New York City and its residents for decades to come. While conditions must be improved immediately for New Yorkers being held in the Rikers jails, the City must also follow through on its commitment to reduce the number of people incarcerated in New York City and transfer inactive portions of the Rikers Island jail complex away from incarceration uses.

Thank you for your attention.



Testimony of

Stan Germán  
Executive Director

and

Natalie Fiorenzo  
Corrections Specialist

and

Rachel Sznajderman  
Corrections Specialist

New York County Defender Services

Before the

City Council Committee on Criminal Justice and Committee on Civil Service and Labor

Oversight Hearing on the Conditions in Our City's Jails

September 15, 2021

I am Stan Germán, the Executive Director of 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. I, along with Natalie Fiorenzo and Rachel Sznajderman, Corrections Specialists at NYCDS, submit this testimony on the rapidly escalating crisis in our city's jails. Thank you, Chair Powers and Chair Miller, for holding this hearing on what can only be described as a humanitarian emergency.

## **I. Background**

As Corrections Specialists at NYCDS, Ms. Fiorenzo and Ms. Sznajderman provide a direct channel of communication and advocacy for our incarcerated clients. When these clients express concerns relating to their health or living conditions in the jails, the Corrections Specialists intervene and advocate on behalf of these individuals to address the underlying issues and unmet needs.

Under normal circumstances, communication with clients and attention to their needs can be challenging, as our window into the facilities is quite limited. However, we can say with absolute certainty that the present abominable conditions and human rights violations taking place in the city's jails are unlike anything seen before. The current crisis of New York City Department of Correction (DOC) facilities makes it next to impossible to address the most basic of needs for our clients — needs like adequate access to food and water, provision of basic clothing and sleeping arrangements, attention to medical emergencies, medication for acute mental illness, access to legal counsel, and general safety.

## **II. Written Testimony and Reports from NYCDS Clients Incarcerated at Rikers**

In this written testimony, we seek to give voice to the innumerable reports we have received over the last few months from our incarcerated clients. Although as outsiders, we do our best to depict the unraveling of the Department of Correction, only our clients, who are made victims of this crisis on a daily basis, can truly capture the current state of our city's jails.

### **A. Testimony of Darryl Robertson, AMKC, Block 19 Upper B (West Side)**

Upon examination of the systems that make up America, one will see that myths, violence, and neglect are cemented in this country's blueprint. A closer look, and one will find that America plays an integral role in recycling trauma.

On April 23, 2021, just two weeks short of 7 months of sobriety, I submitted myself to an arrest warrant for a non-violent offense. For the first time in over 15 years of addiction I had found a self-regulated system that enabled me to enjoy the simplicity of day to day living without addiction. I found sobriety to be cathartic and powerful. Because of my newfound strength, and because I was raised in the culture that sells myths, I believed that surrendering to the justice system would add to the potency of my sobriety.

My first night at the Anna M. Kross Center on Rikers Island was not uneventful. I witnessed a man get stabbed four times in the head, then he was beaten unconscious by a group of

inmates. It was at this moment that I realized I had to come out of this newfound order associated with sobriety, and dive back into the disorder of survival.

...

It was after midnight. I wasn't asleep because now I was in survivor mode, a constant state of timidness and hyper-awareness. My body and face are in a constant state of constriction because I'm expecting violence to surround me, or worse, come my way. I turn toward the sound of loud moans and cries, similar to a little boy crying out for his mother. What I saw was not uncommon. The young man who was crying was cowering under another man, attempting to block punches aimed at his head and face. There was no officer on our cell block to stop the assault. About an hour later, another fight took place. This fight also concluded with a stabbing. Still no officer.

For the past month or maybe longer, inmates have been self-governing the cell blocks. I have seen officers watch inmates fight, without intervening, staring down from the central tower. I have seen inmates trap men inside of the janitorial closet and viciously beat them. I have watched an inmate get beat in the head with a push broom, and get slashed with a knife along the width of his chest. And nothing happens because we go days without an officer working on our cell block.

On top of the extreme violence on Rikers Island, the neglect of basic necessities is stripping me of any humanity that I attempt to hold onto. Despite my incarceration, I have maintained a position as a contributing writer for USA Today and Society for US Intellectual History, an academic publication. Necessary materials such as books and articles, which I need to complete essays and book reviews, sit in the Rikers Island mail room for weeks at a time. Last week, the first week of September, I received a package that has been sitting in the mail room since August 9, 2021. We are going days with toilet tissue or soap. We have not had outside recreation for nearly a month.

The violence and neglect that I am experiencing at Rikers Island mirrors the violence and neglect that operates under the many systems that make up America. As mentioned earlier, my newfound sobriety enabled me to actually enjoy a day to day life as opposed to relying on survival. I worked extremely hard to create order, which is imperative in combating addiction and emotional recovery. What I'm experiencing on Rikers Island reminds me of the neglect and abuse that I experienced at the hands of my mother. I am reminded of the trauma that comes with living in group homes as a child. I am reminded of the time that I was stabbed, chased with a gun, and robbed with a knife held to my throat. Now instead of building on the potency of my sobriety, my energy goes to managing fear and anxiety. I can't stop envisioning the knives going inside the flesh of human beings. I can't stop

hearing Captain Bates tell me that mail is not being passed out today. I can't stop envisioning Officer Chan giving an inmate paper towels so he can use the restroom.

America is the greatest myth on earth.

#### B. Widespread Reports of Unchecked Violence

As Mr. Robinson's testimony chillingly depicts, those incarcerated at Rikers Island face constant threat of extreme, unchecked violence, chaos and cruelty. While the Correction Officers' Benevolent Association (COBA) claims that widespread officer absenteeism is the result of the violence taking place on Rikers Island, in reality, the present culture of violence developed *because* nearly two-thirds of DOC's Corrections Officers have simply stopped showing up to work, fueling an atmosphere of complete anarchy and chaos.

In the Otis Bantum Correctional Center (OBCC), one housing unit has gone without a single Corrections Officer for more than two weeks. Every day we hear reports of our clients being attacked, stabbed, having scalding hot water poured on their bodies, and countless other horrific accounts of violence. To be clear, this violence is occurring because there are no officers stationed in the housing areas to stop it. When our clients request to be placed in Protective Custody, a housing unit designed to protect vulnerable clients from such attacks, they are met with inaction, and false claims of refusal. This leaves our clients in a hopeless, and extremely dangerous position.

Our clients are not only victims of this violence, but witnesses as well. Many of them have been forced to watch as fellow prisoners are subjected to violence. Those who ask for officer intervention are ignored, if there even is an officer around to ask.

#### C. Virtual Absence of Medical Care

Despite the increased rate of violence and injury in the facilities, clients consistently report receiving dangerously inadequate medical care, if they are lucky enough to be seen by medical staff at all. In the past, we could reliably expect Correctional Health Services (CHS) to, at the very least, inform facilities of a client's need to be seen by a doctor. Since this crisis began, these requests are being repeatedly ignored by the facilities.

One of our clients was attacked in DOC custody so brutally that he suffers from impaired vision and symptoms of a concussion. However, despite several requests, he has yet to meet with an eye specialist or neurologist. Another client is in remission for testicular cancer, and has recently felt a mass in his groin, as well as other symptoms present during his initial diagnosis. He has yet to receive any medical attention, despite multiple requests. One client who was able to see a physician was diagnosed with having a heart attack, yet received no follow-up appointments or further



testing, and did not receive his required heart medications. All of our clients' health concerns are exacerbated by the filthy conditions that they are forced to live in, developing bacterial and fungal infections from the lack of cleanliness, mold in the shower stalls, and toilets that do not flush.

Again, our clients not only suffer from untreated medical conditions, but are forced to watch helplessly as their fellow detainees' health crises go ignored. In one example, a client reported witnessing someone have a seizure. It was thirty minutes before facility staff intervened, as detainees tried to assist and call for help.

#### D. COVID-19

The ongoing global pandemic remains a grave concern, made only worse by the mismanagement of healthcare in DOC custody. The Delta Variant is proven to be at least two times more contagious than the original strain of the virus, and on top of that, those living in incarceration are 5.5 times more likely than others to contract COVID-19<sup>1</sup>. As we have learned throughout the past year and a half, masks are an effective tool in preventing the spread of the virus. However, we repeatedly hear reports from clients and NYCDS staff that corrections officers are not wearing masks properly, if at all. It is mandatory that people placed in Riker's are regularly provided with surgical masks.<sup>2</sup> Nevertheless, we have heard multiple accounts of clients not being given masks at all, or wearing the same mask for extended periods of time despite the recommendation that they are only effective for one day's use.<sup>3</sup>

Clients also cite a lack of soap, clean bathrooms, and other basic sanitary items in the jail. We have even heard reports of feces smeared on walls in dorm areas. These conditions are also responsible for the continued spread of COVID-19 in NYC jails.

Furthermore, quarantine protocols have gone largely ignored. At the Vernon C. Bain Center, known as "The Boat," clients witnessed officers moving between quarantine and non-quarantine units without masks. When our clients test positive for COVID-19, they are placed in dorms with 25-30 other COVID-positive detainees, all with varying symptom levels, and are rarely provided with proper PPE. It seems that clients with COVID are only taken seriously and provided medical care when they experience the most severe symptoms requiring hospitalization. The rise in cases as well as the severity can absolutely be attributed to the lack of attention given to those incarcerated who report feeling sick.

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<sup>1</sup> Salone, B., Parish, K, Ward, J., COVID-19 Cases and Deaths in Federal and State Prisons, JAMA July 8, 2020, available at <https://jamanetwork.com/journals/jama/fullarticle/2768249>.

<sup>2</sup> Board of Correction May 12, 2020 Meeting. Remarks of Cynthia Brann, available at <https://www1.nyc.gov/site/doc/media/commissioner-testimony-05-12-20.page>; DOC COVID-19 Action Plan, available at <https://www1.nyc.gov/site/doc/media/coronavirusap.page>.

<sup>3</sup> How often should you clean, or dispose of your face mask? WLNS News. April 6, 2020, available at <https://www.wlns.com/news/michigan/how-often-should-you-clean-or-dispose-of-your-face-mask/>.

### E. Lack of Psychiatric Care

The inattention to our clients' medical needs includes their psychiatric care. Many of our clients, and the majority of people currently housed in Rikers, suffer from some form of mental illness.<sup>4</sup> It is absolutely imperative that they receive, at the very least, their prescribed medications. Yet, many reports from our clients, attorneys, and social workers indicate that we can no longer rely on DOC facilities to ensure that is happening. Our clients that go into Rikers with steady support systems and good mental health are deteriorating, as they no longer consistently receive these vital medications. Occasionally, clients' medications are switched without explanation. For one client, this resulted in a suicide attempt. Reports of suicidal ideation are not taken seriously, or dealt with in a swift manner, the consequences of which have been demonstrated by the string of suicides and surge in self harm incidents that have taken place on Rikers so far this year.<sup>5</sup>

Even with judicial intervention, DOC fails to comply with the required mental health needs of incarcerated people. One of our clients was found mentally unfit by a judge pursuant to CPL Article 730, and was ordered by the court to be transferred to a specialized psychiatric hospital facility for treatment. For more than a month, the client has been waiting for a bed to become available at this facility. Rather than continuing to treat and monitor this extremely vulnerable individual, DOC staff have placed him in "Enhanced Segregation Housing" (ESH), which is essentially solitary confinement. It goes without saying that this type of harsh, punitive, and isolated environment is acutely damaging for this client, inevitably leading to further decompensation and possibly permanent brain damage.

### F. The Unending, Living Nightmare at Intake

Nowhere in the jails are the conditions worse than intake at OBCC. When our clients are first sent to Rikers, they are put through an intake process that is only meant to last a few hours, or one day at most. During this crisis, we have heard reports of clients being forced to remain in intake anywhere between 3 days to a month. This is extremely alarming for several reasons. Primarily, intake facilities were not built for long-term housing, and do not have the necessary infrastructure or basic materials that a person needs to sleep, eat, stay protected from COVID-19, and speak with their attorney or family. When a client is in intake, NYCDS staff have no way of knowing when

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<sup>4</sup> Independent Commission on New York City Criminal Justice and Incarceration Reform and Center for Court Innovation. Closing Rikers: A Roadmap for Reducing Jail in New York City at iii. July 2021.

Available at

[https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/60f5c1af1a4e121640f8564f/1626718640158/Roadmap\\_for\\_Reducing\\_Jail\\_NYC.pdf](https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/60f5c1af1a4e121640f8564f/1626718640158/Roadmap_for_Reducing_Jail_NYC.pdf).

<sup>5</sup> Self-Harm Is Exploding In New York City Jails, Internal Numbers Show, Gothamist, Sept. 7, 2021, available at <https://gothamist.com/news/self-harm-exploding-new-york-city-jails-internal-numbers-show-rikers>.

they will be assigned to a housing unit. If the intake office answers the phone when we call, which is rare, they are unable to provide any information.

Our clients have stated that intake housing is worse than solitary. Clients in intake are not allowed to make phone calls, and are therefore completely disconnected from their support systems outside Rikers, including their attorneys. In addition, conditions are deplorable. Clients are not brought to shower or given fresh clothes. There are not enough beds, and some of our clients report having to sleep on cell floors for days on end. Medical conditions here are even worse than what was described in the dorm areas. Those trapped in the intake limbo have virtually no access to medical care. Some clients even report being denied access to life-saving medications. The temperatures are unbearably hot, sometimes reaching over 90°F, with air vents laden with fecal matter.

#### G. Lack of Food and Water, The Most Basic Elements of Survival

Perhaps the most troubling of the conditions we hear from NYCDS clients is the repeated reports of lack of food and water in intake areas. We have heard on several occasions that there is no water provided, and detainees are lucky if they get one meal per day. Some clients even go multiple days without receiving a single meal. When meals do arrive, the food provided is often inedible. Some clients have found roaches in their food. Another reported that a dead mouse was found on his plate. Access to food, shelter, and clothing are the most basic human rights. They are not being provided here.

#### H. Interrupted Access to Counsel

This crisis has significantly limited our clients' access to counsel. Time and time again, our clients are not produced for court appearances, counsel visits, or video conferences, all with the same excuse: our clients refused. When an incarcerated individual refuses production or visits, it is required that 1) they sign a document confirming their refusal, and 2) it must be recorded on a body-worn camera. If we request one of these pieces of documentation, we receive an unsigned document with the note that our client "refused to sign." Later, when we establish contact with the same clients, they often report that they did not refuse, but in fact were never even asked to be produced for their court appearances, counsel visits, or video conferences. Rather, this major disruption in vital attorney-client communications is clearly due to a lack of corrections officers willing or available to escort our clients to these points of contact. Indeed, recently one of our clients had to answer the phone himself in order to be brought out for a counsel visit.

Thus, staff absenteeism has not only caused a proliferation of violence and a humanitarian crisis, it has also impeded our clients' constitutional right to an attorney.

### **III. The New York City Council Must Confront This Crisis with Every Tool in Its Arsenal**

The institutional causes of this crisis are manifold: a confluence of political absenteeism, bureaucratic collapse, general disregard for the lives and suffering of Black and brown New Yorkers, the enduring legacy of mass incarceration, and by extension, the widespread judicial and prosecutorial impulse to cage any human being brought into the criminal legal system, and of course, a labor contract and management culture that ostensibly allows thousands of public employees to not appear for work for months without consequence.

In contrast to the complex web of factors that led us to this crisis, the solution is actually quite simple: City Council must use every tool at its disposal to immediately release a substantial portion of the city's jail population. The following represent tangible policy measures that must be taken by City Council to immediately reduce the number of lives currently in jeopardy at Rikers Island.

#### **A. Call the City's District Attorneys to Account for Their Role in the Booming Jail Population**

We urge the City Council to use its oversight authority to call the city's District Attorneys to testify about their internal practices that have contributed to the surging population at Rikers Island. For example, in Manhattan, where NYCDS operates, our staff notes the widespread practice of prosecutors requesting exceedingly high amounts of bail in nearly every bail-eligible case, without regard to the severity of the instant offenses, the viability of the prosecution, any obvious underlying housing, drug or mental health challenges or any other mitigating circumstances which would clearly militate in favor of a non-incarceratory securing order.

In addition, we urge the City Council to question the city's DAs about the disturbing pattern of prosecutors attempting to set bail on cases in which non-bail qualifying offenses are charged. In one recent and representative example (among the myriad we see every day), in an arraignment shift last week, a Manhattan prosecutor vigorously argued for \$5,000 cash bail to be set in a misdemeanor case charging petit larceny (P.L. 155.25) and criminal possession of stolen property in the fifth degree (P.L. 165.40). Of course, neither of these offenses are, standing alone, bail qualifying offenses pursuant to C.P.L. 530.20. However, the prosecutor insisted on bail nevertheless, relying on the oft-cited, convoluted legal theory that because the alleged theft occurred in a TJ Maxx, and under U.S. Supreme Court precedent, *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), a corporation is considered a "person," this offense thus constituted an identifiable "harm" against a "person," triggering C.P.L. 510.10(4)(t).

This outright manipulation of the clear letter and spirit of the new bail laws not only subverts the will of the legislature, but has substantially contributed to the overflowing population in our city's jails. To be clear, this example is not an outlier. Rather, it is our office's experience that the city's prosecutors have a widespread practice of trying any and all legal distortions to circumvent the

new bail law's clear exclusion of most misdemeanors, drug offenses, and nonviolent felonies. Our office has dozens of examples of clients held in pre-trial detention on unattainable bail for low-level offenses.

Thus, we also urge the City Council to use its oversight authority to confront the city prosecutors about its clear role in contributing to the surging incarceration levels by aggressively arguing for bail even under dubious legal theories.

B. Convene the Conditional Release Commission, Thereby Allowing Release of Those Serving Definite Sentences.

In May 2020, at this organization's urging, the City Council passed legislation to institute a Conditional Release Commission which would review and recommend the release of certain individuals serving definite sentences (AKA "city sentences"). The legislation was inspired by the success of the citywide decarceration effort at the outset of the COVID-19 pandemic. This coordinated emergency measure safely reduced the population at Rikers Island and provided a much-needed public health safety valve to stem the spiraling spread of COVID-19 in our city jails.

The legislation seizes on existing state law, N.Y. Correction Law § 272, which allows New York counties (and New York City) to establish such commissions to relieve overcrowding in jails. The law authorizes the Commission to consider release for individuals who were sentenced to more than 90 days, have already served 60 days of their sentence. Certain cases are excluded, notably, any convictions ineligible for merit time pursuant to N.Y. Corr. Law. 803, domestic violence convictions, or obscenity offenses where the complainant was under 18 years old.

It has been over one year since this legislation passed and the City still has not established this Conditional Release Commission. We therefore urge the City Council to take measures to convene this commission, which promises to provide some measure of relief to the overpopulation at Rikers.

C. Pass Legislation Requiring Correctional Health Services to Notify Courts and Assigned Defense Counsel Attorneys Of Incarcerated People In Imminent Risk of Self Harm or Medical Danger

As this Committee was made aware last week, CHS has decried the dire medical and mental health conditions at Rikers Island, which they describe as "a collapse in basic jail operations, such that [the Chief Medical Officer, Ross MacDonald, MD] do[es] not believe the City is capable of safely managing the custody of those it is charged with incarcerating in its jails[.]"<sup>6</sup> Dr. MacDonald

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<sup>6</sup> MacDonald, Ross. Letter to Councilmember Keith Powers, Sept. 10, 2021, *available at* <https://www.ny1.com/content/dam/News/static/nyc/pdfs/RM-city-council-letter-9-10-21.pdf>.

specifically warns of the imminent risk of danger to the medically and mentally vulnerable, as “[u]navailability of staff has resulted in delays in transferring patients to clinics for care, to mental health units or to the hospital, even when 911 has been activated and EMS has arrived to transport them.” *Id.* Even more alarming, CHS reports a lack of correctional staff to properly observe individuals placed on suicide watch. This dire dearth of medical and mental health services is an urgent matter, as it coincides with a surge in suicides, overdose deaths, and other incidents of self-harm at Rikers.<sup>7</sup>

In crafting an immediate decarceration strategy, those most at risk of self-harm or medical danger must be prioritized. We therefore urge City Council to require CHS to report to the city’s courts and assigned defense counsel any incarcerated person facing imminent risk of self-harm or medical danger.

#### D. End Solitary Confinement to Stem the Surge In Suicides and Self-Harm

Amid the aforementioned explosion of suicides and self-harm incidents in our jails, City Council must pass legislation to end solitary confinement, which significantly exacerbates the mental stability of those subjected to it. Solitary confinement is torture, causes death, and worsens safety. Yet, despite the statewide passage of HALT Solitary Confinement earlier this year, under the newly enacted Risk Management Accountability System (RMAS) scheme, the DOC continues its practice of solitary confinement. Thus, City Council must amend and pass Int. No. 2173 to ensure all people in city jails, including in alternatives to solitary, are afforded the existing minimum standard of 14 hours daily out of cell, and that out-of-cell time and programming actually take place outside a cell, with other people and in a shared space conducive to meaningful human interaction. Amending and passing this bill is long overdue, is fully in the Council’s control and must happen now.

#### E. Require DOC to Publish Daily Reports of Staffing Levels Broken Down by Facility

At the very least, City Council must pass legislation requiring DOC to accurately report – on a daily basis – the staffing levels at each facility. This will allow institutional stakeholders considering the release of incarcerated individuals, namely prosecutors and judges, to fully appreciate the urgency of the person’s circumstances. In addition, it will permit advocates for those incarcerated to understand the nature and level of conditions that their clients are facing.

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<sup>7</sup> Self-Harm Is Exploding In New York City Jails, Internal Numbers Show, Gothamist, Sept. 7, 2021, available at <https://gothamist.com/news/self-harm-exploding-new-york-city-jails-internal-numbers-show-rikers>.

### **III. Conclusion**

Even in the best of times, our clients leave Rikers Island scarred and unmoored, traumatized by the horrors they have experienced in custody and having lost any semblance of stability they possessed before they entered. In the current crisis, our clients are lucky to leave alive.

The reports outlined above demonstrate the severity and danger of this rapidly escalating humanitarian crisis. Though each account is unique, there is a shared sentiment in every story we've heard: the jails have never been this bad in the history of their existence. Every day we wake up and fear that one of our client's names will be in the headlines of yet another death on Rikers Island. Our request is simple: immediately decarcerate. There are too many incarcerated people on Rikers Island, and DOC Corrections Officers cannot ensure even the most basic health and safety to all of them. Urge DAs to stop seeking bail with abandon, with no regard to individual circumstances or deference to the clear mandate of the bail statutes. Take swift action to release people currently held in Rikers. Over three quarters of the people currently held in DOC custody are awaiting trial. They have not been convicted of any crime, but with conditions like these, they are facing the death penalty.

For any questions about this testimony, please email us at [sgerman@nycds.org](mailto:sgerman@nycds.org), [nfiorenzo@nycds.org](mailto:nfiorenzo@nycds.org), and [rsznajderman@nycds.org](mailto:rsznajderman@nycds.org).



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**Testimony of Jared M. Trujillo, Esq.**

**On Behalf of the New York Civil Liberties Union**

**Before the New York City Council Committees on Criminal Justice and Labor**

**Regarding the Conditions of New York City Jails**

**September 17, 2021**

The New York Civil Liberties Union (“NYCLU”) thanks the New York City Council Criminal Justice Committee and Labor Committee for holding this important joint hearing on the condition of New York City jails. The NYCLU is the New York affiliate of the American Civil Liberties Union. It is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.

The NYCLU is deeply committed to ensuring all humans in custody are treated fairly and humanely. The current conditions at Rikers Island are not only inhumane, they are deadly. 10 people at Rikers have died this year, which is significant increase from previous years.<sup>1</sup> At the joint committee hearing, Public Advocate Jumaane Williams, and several elected officials from state government testified as to the horrific conditions they witnessed at Rikers. Each account noted how incarcerated humans were crammed into tight spaces including showers where there was no space for them to sit, surrounded by dead insects, rodents, and rats. Two Queens lawmakers noted that they saw an incarcerated person try to hang himself, and that they had to call for a corrections officer to prevent the man from completing suicide. The Public Advocate noted that he met a transgender woman that was placed in a cell with men. Numerous lawmakers recounted several incarcerated people approached them because they had not been able to contact a relative, and they wanted the lawmaker to let their relatives know that they are safe.

Likewise, Dr. Robert Cohen, a Board of Corrections member and former Director of Montefiore Rikers Island Health Services echoed many of the observations of elected officials. He also noted that incarcerated people spent days in intake waiting for housing and medical care, and that many are not getting the mental health services that they need, which likely contributed to the record number of completed suicides. He also noted that incidences of unprovoked violence by staff have increased. Department of Corrections Commissioner Vincent Shiraldi also noted the horrific

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<sup>1</sup> Jan Ransom, “10 Deaths, Exhausted Guards, Rampant Violence: Why Rikers Is In Crisis,” New York Times. Sept. 15, 2021. Available at: <https://www.nytimes.com/2021/09/15/nyregion/rikers-island-jail.htm>



conditions of the jail, and he remarked how mass absenteeism from corrections officers is a primary contributor to the disfunction and inhumane conditions. On any day, 1600 officers call in sick to work, or they simply do not report for duties.

Of course, news of the deplorable conditions at Rikers is not new. However, as the population of Rikers has ballooned back to pre-pandemic levels, living conditions for those incarcerated have only gotten worse.<sup>2</sup> It is imperative that city leaders take several actions to remedy this situation.

As a threshold issue, the City Council must ensure that future hearings conform to the requirements and spirit of the Open Meetings Law, and provide sufficient notice – the law requires 72 hours - of the time and place for meetings.<sup>3</sup> Due to late changes with virtually no notice for this hearing, it fell short of that standard.

Initially, this hearing was scheduled and publicized on the City Council’s website as an in-person hearing at City Hall to take place on September 15 at 10 a.m.<sup>4</sup> In reliance, advocacy organizations, directly impacted family members, corrections officers and other union members, formerly incarcerated people, and other members of the public made decisions about whether they could attend – and prepare for – the hearing. This included making child care arrangements, and determining whether to take leave from work. While non-English speakers are typically required to request language access services at least 72 hours before virtual hearings, there was no notice of a virtual hearing, so there was no notice as to this requirement.<sup>5</sup>

However, on the afternoon of September 13, this hearing was changed from an in-person hearing, to a virtual hearing to be held on September 15 at 10 a.m. No notice was given to advocates for incarcerated persons. There were no social media post to inform the public of this change. The change was not publicized. As a result, many advocates did not find out about the meeting’s change to virtual until the next day, September 14.

Registration to speak at the virtual hearing closed on or before 9:45 a.m. on September 14. This is customary, as many city council hearings require members of the public to register to speak 24 hours before the meeting starts, unlike in-person hearings, where members of the public can register at the time of the hearing.<sup>6</sup> Registration closed with less than a day of notice. Many people did not even know that the meeting moved to virtual by the time that registration closed. Several advocacy organizations, including the NYCLU, reached out to council staff to urge them to reopen registration for the hearing. Council staff responded to emails politely and expeditiously. However, members of the public were unable to register for the hearing for several hours. The City Council, nor either committee, publicized registration for the meeting being reopened. For a member of the public to know that the online link to register for the hearing reopened, they would have either had to have heard it from a contact, or they would have had to repeatedly check the City Council website during work business hours on a Tuesday. Instructions on the City Council’s website noted that non-English speakers needed to send requests for language access at virtual hearings 72 hours before the

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<sup>2</sup> *Id.*

<sup>3</sup> *N.Y. Pub. Off. Law § 102(2)*

<sup>4</sup> Notice, instructions, and registration for all New York City Council hearings is available at <https://council.nyc.gov/testify>

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

hearing, which would have been impossible for this hearing. The totality of circumstances made a Wednesday morning meeting even more inaccessible to the public.

Importantly, both advocates for the rights of incarcerated persons, and advocates for corrections officers scheduled rallies and press conferences outside of City Hall to take place immediately before the hearing. The rallies were to begin at 9 a.m. These rallies were heavily advertised for nearly two weeks. Media advisories were issued. For many members of the public, this would be their only opportunity to be heard on this issue. At the virtual hearing, members of the public – both advocates for incarcerated people and rank and file corrections officers and their advocates - were not called to speak until five hours after the meeting had begun, after elected officials, the BOC, the Department of Corrections (DOC), and law enforcement union leaders were called to speak. However, with little notice, advocates were forced to shorten the press conference and rallies and end them at 9:30, so that members of the media could leave in time to see the beginning of the hearing at 10 a.m. If advocates had more than one day of notice, they could have explored different means of engaging with the press. The short meeting notice deprived them of that opportunity.

Notably, no reason was given as to why less than 72 hours notice was given as to the change in place of the meeting. As of the submission of this testimony, meetings later this month are still scheduled to be in-person. In-person work plans for city employees have not changed. While circumstances of the COVID-19 pandemic may make virtual hearings more desirable, it is imperative that the council follow the Open Meetings Law, and that the City Council also make all reasonable efforts to publicize the time and location of hearings with as much notice as possible.

While public notice is always important, it is even more pressing for this hearing because it concerns a remote jail facility, on an island most New Yorkers will never visit. Incarcerated people have limited access to notify the public of their conditions. They have even less access now, when phone access for incarcerated people is irregular. The DOC Commissioner referred to the conditions at Rikers as a humanitarian crisis. Good government requires making all efforts to enable people to speak.

It is imperative that the city reduce the population of Rikers in order to end the crisis. Mayor de Blasio must use Corrections Law 6A work release to reduce the number of people serving city sentences immediately.<sup>7</sup> This was done at the beginning of the pandemic to reduce the number of people serving city sentences to less than 100.<sup>8</sup>

Importantly, it is important for city leaders to prevent people from being sent to Rikers from court, especially while conditions there are so egregious. District Attorneys must avoid asking for bail that accused persons cannot afford. Further, District Attorneys and judges must review cases for release.

Ultimately, the crisis at Rikers is a policy decision. In April 2020, there were fewer than 2,800 people at Rikers. Now, there are over 6,000. This has fueled the current crisis that has been a

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<sup>7</sup> Michael Rempel, “COVID-19 and the New York City Jail Population,” Center for Court Innovation. Available at: [https://www.courtinnovation.org/sites/default/files/media/documents/2020-11/COVID\\_jail\\_NYC.pdf](https://www.courtinnovation.org/sites/default/files/media/documents/2020-11/COVID_jail_NYC.pdf)

<sup>8</sup> *Id.*

factor in the needless deaths of 10 people this year, and inhumane conditions for those who remain on Rikers. City leaders can not merely point to Gov. Hochul and the Less is More Act. They must take action themselves.

**Testimony of Melissa Iachán to the New York City  
Council Oversight Committee Hearing on  
Conditions in NYC Jails  
September 15, 2021**

Good morning, my name is Melissa Iachán, and I am Senior Supervising Counsel in the Environmental Justice Program at New York Lawyers for Public Interest (“NYLPI”). I have previously spoken on behalf of NYPLI and our strong support to close Rikers Islands jails over the past five years, as well as advocated for the “the Renewable Rikers Act,” which we are so grateful that the Council overwhelmingly passed this past February. The Renewable Rikers Act represents a tremendous step forward towards restorative justice and decarceration; however, the horrific news of what is happening on Rikers Island right now catapults us in the wrong direction.

On September 10th, Ross MacDonald, the Chief Medical Officer for the New York City jail system sent a letter to the New York City Counsel detailing the appalling conditions of the Rikers jails, including the overcrowding and the resulting unsanitary conditions, lack of basic necessities such as food and hygiene, and violence occurring because of the Department of Correction’s failure to adequately address these issues.

The overcrowding and health crisis in Rikers Island requires the greatest possible decarceration of the jails. The Renewable Rikers Act was enacted to benefit the communities most impacted by Rikers Island because of our City’s unjust system of overincarceration. But contrary to the policy behind this Act, we are seeing more people being put into Rikers Island. There are over 6,000 people now on the island, an increase from 4,166 people last year, and many on Rikers are pre-trial detainees. We have seen five suicides and 10 deaths this year on Rikers Island. This system is not sustainable, and people are dying because of it. The increase in the number of people who are incarcerated and Department of Correction staff’s incompetency has created distressing, and even deadly, situations. This does not even take into consideration the high risk of COVID-19 wildly spreading throughout the jail. Now, more than ever, we need to implement Local Law 16 and transfer control of the vacant portions of Rikers Island from the Department of Correction (“DOC”) to the Department of Citywide Administrative Services (“DCAS”) in order to facilitate creating new sustainable and green infrastructure, make our City safer, and treat our people humanely.

The need for decarceration is further amplified with the climate crisis and the onslaught of heat waves affecting people in Rikers who are without air conditioning. The outdated infrastructure at

Rikers Island does nothing to mitigate the heat and the measures taken by the Department of Correction are not enough to protect the inmates from the high temperatures in their cells.

It is not enough to hire more DOC staff, who have been reported to abuse their power in the jails. It is absolutely not productive to use NYPD on Rikers, especially considering the role of the police against communities of color and low-income communities. Importantly, allowing DOC to instead of contracting its footprint on the Island, expand it by reopening decommissioned jails directly violates Local Law 16—the heart of the Renewable Rikers Act--and should not be enforced. The closed areas on Rikers Island have already been vacated and are in even poorer conditions than the buildings still in use. Those areas were closed so we could transition Rikers Island from its horrible legacy of harm towards our Black, Brown, and poor New Yorkers to becoming a critical resource for New York City to generate renewable energy in a way that directly benefits overburdened communities and phase out of fossil fuel reliance entirely. But Mayor de Blasio's "Emergency Rikers Relief Plan" is in direct opposition to closing Rikers, and further showcases the administration's failure to meet the statutory commitment to meet deadlines for transferring unused property at Rikers. The time for action is now.

We are calling for the Mayor, judges, district attorneys, and the City Council to fully decarcerate the jails immediately by releasing those in the jails being detained pre-trial or finishing City sentences, and stop sending anyone to the jails. This is the prime opportunity to move forward with the Renewable Rikers Act and use the 413 acres on Rikers Island to benefit communities that have borne the brunt of mass criminalization, environmental burdens, and disinvestment. Decarceration, and accelerating the transfer of control of Rikers Island to DCAS, would put the City in a position to more realistically achieve our climate goals through a renewable, regenerative, and restorative post-carceral Rikers Island. We firmly believe this is a moral imperative for our City, and it can become a reality, and it is our responsibility as New Yorkers to make sure our fellow New Yorkers are not needlessly suffering in our beloved City.

Thank you.



**TESTIMONY TO:**

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

**SUBMITTED BY:**

**Zoë Adel, Criminal Legal Advocacy Manager, Brooklyn Community Bail Fund**

**September 15, 2021**

Thank you to the Committee on the Justice System for holding a hearing on the urgent life and death crisis in New York City jails.

Due to New York's clear disregard for the lives and well-being of incarcerated people, in the last few months there has been a horrific wave of deaths of people incarcerated at Rikers Island, including Brandon Rodriguez, Robert Jackson, Segunda Guallpa, Wilson Diaz-Guzman, Tomas Carlo Camacho, Javier Velasco, Thomas Earl Braunson III, Richard Blake, Jose Mejia Martinez, and Esias Johnson who was found dead at Rikers just over a week ago. These tragic deaths could have been avoided if the individuals were not incarcerated in the first place.

There are currently over 6,000 people languishing in the city's jails, subjected to the same inhumane conditions that resulted in the recent deaths at Rikers. The City Council, Mayor, judges, and district attorneys have the opportunity to prevent further tragedy and loss by taking action immediately. **New York needs rapid decarceration.**

**Instead of increasing our reliance on jails, which only serve to exacerbate unaddressed trauma, mental health issues, and instability, New York must invest in efforts to prevent violence and address fundamental needs in impacted communities.** That includes investments in housing, mental healthcare, youth programs, skills-based job training, and education. Importantly, it includes reducing the jail population by releasing currently incarcerated people and stopping the flow of people into jails.

Specifically, the New York City Council should pass legislation to require the jail system to prioritize and facilitate decarceration. The City should call on district attorneys and judges to testify regarding their practice of using bail as ransom and their manipulative interpretation of the new bail law. They regularly request and set unaffordable bail—only 15% of defendants are able to pay bail at arraignment.<sup>1</sup>

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<sup>1</sup> Michael Rempel and Joanna Weill. One Year Later: Bail Reform and Judicial Decision-Making in New York City. New York: Center for Court Innovation, 2021. Accessed at: [https://www.courtinnovation.org/sites/default/files/media/document/2021/One\\_Year\\_Bail\\_Reform\\_NYS.pdf](https://www.courtinnovation.org/sites/default/files/media/document/2021/One_Year_Bail_Reform_NYS.pdf)

**Last month, a court watcher with our Court Watch NYC program<sup>2</sup> observed a particularly alarming case** in which a Black man with documented mental health issues and a history of petty theft was accused of stealing air fresheners and phone chargers from a store. In a malicious interpretation of the new bail law’s “harm to person or property” provision, the judge set \$7,500 cash/\$25,000 bond, reasoning that the petit larceny misdemeanor was bail eligible due to the incidental harm caused to the store owners. It’s abundantly clear that district attorneys and judges have taken advantage of a lack of oversight of their practices.

The crisis on Rikers is raging. Yet, it’s not new. The unacceptable use of force in local jails is well documented. Even after a federal lawsuit and 11 monitoring reports, the levels of staff abuse and other abuse has risen. For decades, abuse of and disdain for incarcerated people has defined the culture of the Department of Correction. Federal monitor reports consistently document staff utilizing abusive techniques and dehumanizing incarcerated people.<sup>3</sup> Predictably, law enforcement—with the support of the Mayor—has already argued for increased staffing and training as a solution to the human rights violations that have plagued the criminal justice system for decades. **I urge you to oppose all so-called “solutions” to the current crisis that will expand the system of jailing or carceral surveillance in any way.**

Decades of evidence prove that jails do not keep people safer.<sup>4</sup> It’s why the city decided to close Rikers. It’s why New York passed bail reform. And why the Board of Correction, which oversees NYC’s jails, requested that the city and state drastically reduce the number of people incarcerated as part of the city’s public health response. Last year we showed that we can safely and effectively reduce the pretrial jail population to its lowest point in decades, with demonstrably positive results. Yet, the number of people jailed—the vast majority of whom are incarcerated pretrial, locked away on nothing more than an accusation—continues to skyrocket.

Anything short of decarceration, especially during the current public health and humanitarian crisis behind bars, would demonstrate a lack of commitment to the freedom, safety, and dignity of New Yorkers. **The New York City Council, DAs, judges and Mayor should be taking every step possible to reduce the number of people jailed immediately.**

Thank you again for the opportunity to submit testimony.

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<sup>2</sup> Court Watch NYC is a volunteer-powered program of the Brooklyn Community Bail Fund. We watch court proceedings, shift power in the courtroom, report what we see, and hold court actors accountable to ending the injustices in the criminal legal system that target Black, brown, indigenous, immigrant/migrant, queer and TGNC communities.

<sup>3</sup> Eighth Report of the Nunez Independent Monitor, 2019. Accessed at: [https://www1.nyc.gov/assets/doc/downloads/pdf/8th\\_Monitor\\_Report.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/8th_Monitor_Report.pdf)

<sup>4</sup> Don Stemen. The Prison Paradox: More Incarceration Will Not Make Us Safer. New York: Vera Institute of Justice, 2017. Accessed at: [https://www.vera.org/downloads/publications/for-the-record-prison-paradox\\_02.pdf](https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf)

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

**Re: Oversight- The Conditions in Our City's Jails  
September 15, 2021**

**Written Testimony of The Bronx Defenders**

**By Julia Solomons, Orayne Williams, Tahanee Dunn, and Martha Grieco**

**I. Introduction**

Chair Powers and Committee Members, my name is Julia Solomons and I am a Senior Policy Social Worker at The Bronx Defenders.<sup>1</sup> I first want to thank you for your dedication to this important issue. The state of our City's jails right now is nothing less than a crisis. The City must act before more lives are lost.

The Board of Correction (BOC), the Commissioner of the Department of Correction (DOC), Correctional Health Services (CHS), many major media outlets, and advocates have all publicly stated, in no uncertain terms, that conditions on Rikers Island constitute a humanitarian crisis. People in custody are dying, with 10 deaths already reported this year. Every new admission into custody is an additional life at risk of great harm and death. Rates of self-harm have increased dramatically,<sup>2</sup> COVID cases are rising again,<sup>3</sup> and the staffing crisis in the facilities has led to inhumane levels of neglect and abuse. The *Nunez* monitor's most recent letter to Southern District Judge Laura Swain very clearly attributes continuing deterioration of the jails' conditions

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<sup>1</sup> The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement.

Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called *holistic defense* that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

<sup>2</sup> <https://gothamist.com/news/self-harm-exploding-new-york-city-jails-internal-numbers-show-rikers>

<sup>3</sup> <https://hhinternet.blob.core.windows.net/uploads/2021/09/CHS-COVID-19-data-snapshot-20210902.pdf>



to years of mismanagement, poor supervision, and failing to hold staff accountable on the part of DOC leadership,<sup>4</sup> and is now fueled by hundreds of correctional staff going AWOL.

In the FY 2021-2022 budget, the City chose to allot more funding to DOC to hire 400 additional officers, but it has become abundantly clear that investing in an abusive, mismanaged, and corrupt system does absolutely nothing to protect the lives of those incarcerated in the facilities, or the lives of those working there. Continuing to further bloat the DOC budget and add staff to a system where absenteeism has been an ongoing problem for decades will only exacerbate the egregious conditions in our city jails. We strongly encourage the City to invest in resources that uplift the communities most impacted by the current crisis on Rikers Island, and shift focus from punishment and neglect to care and support.

We share with you some of the most gut-wrenching examples of the tortuous conditions our clients have experienced recently in the jail facilities to illustrate that this is no longer about fixing a broken system: it is time for transformation and real, lasting change. We ask the City Council to truly listen to these stories and consider offering new solutions, such as:

- **Pass legislation that truly ends solitary confinement and restrictive housing in all jail facilities, focusing instead on programming and rehabilitation;**
- **Directly call on District Attorneys and Criminal Court judges to decarcerate, and facilitate DOC and CHS involvement in this process; and**
- **Invest in emergency and transitional housing and other resources that support decarceration efforts.**

Our city jails have been crumbling, literally and figuratively, for decades. Over the past 18 months, the global pandemic has sped up that deterioration to a point where having bail set in a criminal case is very possibly a death sentence, and yet the jail population continues to increase. The City must intervene immediately and correct the failures of the carceral and criminal legal systems.

**I. Pass legislation that truly ends solitary confinement and restrictive housing in all jail facilities, focusing instead on programming and rehabilitation**

This past June, after over a year of public hearings and deliberation, the Board of Correction published their final restrictive housing rule. The rule, while making progress in certain areas such as access to counsel in disciplinary proceedings, fell far short of transformative change for people in custody. It simply recreated solitary confinement under a different name, denying people in custody even the basic rights afforded to them by the HALT Solitary Confinement Act passed by the State Legislature this spring. The rule creates new restrictive units, called RMAS, that DOC has already begun operating unofficially and that have already caused great harm to many of our clients. Coupled with the pandemic and the staffing absenteeism crisis, levels of

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<sup>4</sup> <http://tillidgroup.com/wp-content/uploads/2021/08/2021-08-24-Letter-to-Court-re-Conditions-FINAL.pdf>

neglect and violence have escalated to alarming levels. People are being denied their very basic needs such as food, access to the outside, and access to their legal team, and denial of those necessities is worse the more restrictive the setting a person is in.

Our young client “M” has been housed in some form of restrictive housing for the large majority of his incarceration, including “unofficial” restrictive housing units at the Northern Infirmary Command (NIC). These “unofficial” units isolate people in cages indefinitely with no congregate programming or human contact other than the ability to speak to other people in custody through a fence. His legal team explains that while he has struggled throughout, they have “never heard him afraid like this.” Not only has he been denied food and showers for days at a time, not been brought to court for several appearances and not produced for video conferences with his attorneys, but his life has been put intentionally at risk by correctional officers. He described how the officers abuse the systems of isolation and punishment that currently exist to exacerbate violence and threats to the safety of everyone. They have most recently created unsanctioned units called CMUs, where they intentionally mix people with different security classifications and affiliations, in direct conflict with safety protocols that DOC has established and claims to follow. Many of our clients have explained that this unsanctioned practice by the officers allows them to fuel violence among the people in custody as a way of protecting themselves, and that this practice is especially common within restrictive units.

M observed six stabbings within one week in one secure unit, and described his environment as “blood everywhere.” Officers have taunted and pushed him to engage in violence with other people in custody in exchange for their favor and positive regard. This young person is a perfect example of someone who the Correctional Officers Benevolent Association (COBA) would paint as violent and dangerous, but in actuality he is just a child—a child subject to torturous conditions, denial of his basic needs, and acute and ongoing isolation with no access to his family or community, basic education, or any type of supportive programming.

Council Member Dromm has introduced Int No 2173, which aims to mandate true out of cell time and access to meaningful programming for everyone in custody. It is an important bill, but in order to accomplish its goals, it requires amending before being passed. **City Council must amend and pass Int No 2173 to** ensure all people in city jails, including in alternatives to solitary, are afforded the existing minimum standard of 14 hours daily out of cell, and that **out-of-cell time and programming actually take place outside a cell, with other people in a group setting** and shared space conducive to meaningful human interactions. Amending and passing this bill is long overdue, fully in the Council’s control and must happen now. While the passage of Int No 2173 wouldn’t fully alleviate M’s suffering, it would signify a shift towards viewing him as an adolescent who needs meaningful engagement with peers and mentors, access to education and intellectual stimulation, and to be treated with dignity and basic respect in order to become the person he has every right and all the potential to become.

## **II. Directly call on District Attorneys and Criminal Court Judges to decarcerate, and facilitate DOC and CHS involvement in this process**

Despite the media coverage of the crisis at Rikers, BOC statements calling for decarceration, and the tireless pleas of advocates begging District Attorneys and judges to allow their clients to remain at liberty, approximately 300 new people are being sent to Rikers island every week<sup>5</sup>. District attorneys continue to ask for bail amounts that our clients cannot pay, and judges continue to deny the reality of the conditions in the jails. One judge in the Bronx asked if the person they were arraigning was vaccinated for COVID-19, reasoning that if they were vaccinated they would be safe in jail and if they were not, then any risk to their safety was their own responsibility. Though the Commissioner has said that he plans to speak with judges and District Attorneys to further efforts to “depopulate” the jails, the disconnect between the reality of those living the horrors of Rikers and those with the power to keep people out or release them from jail remains, impacting the lives of thousands of people.

The conditions at the Otis Bantum Correctional Center (OBCC), particularly in the intake unit, are a clear example of the urgent necessity to decarcerate for the sake of the safety of those in custody. Countless clients of The Bronx Defenders have shared horror stories about their experiences there—people spending so long without any medical attention that their withdrawal from substances becomes life-threatening and they are reliant on other people in custody to keep them alive; 25 people crammed together in a tiny cell; sleeping on the floor for weeks; and witnessing the suicide of 25 year old who had his entire life ahead of him.

The words of these clients and their advocates, however, has not been enough to move judges. Bail applications based on horrendous conditions continue to be largely unsuccessful. One client was beaten so severely while in intake at OBCC that his eye was swollen shut, and because he never received any medical attention, he was brought to his court appearance a few days later still wearing the same shirt covered in crusted, dried blood. **The best the judge could offer was the opportunity for his advocate to document the injuries with photos before he was sent back to the exact same conditions.** Another client’s entire cell was pepper sprayed. He received no medical attention and no food, and was sent back after his court date, only to be moved to another unit within the facility where there has been no correctional officer for several weeks. Several people on his unit tested positive for COVID-19 but without any officer to manage movement. The dorm remains mixed with positive and negative individuals with no way to protect themselves.

It is the City’s responsibility to do what is necessary to keep people safe, which, as stated very clearly by the BOC,<sup>6</sup> is to reduce the jail population immediately. The City Council, in partnership with the Mayor’s Office, must do more to facilitate the direct communication between DOC, CHS, and court actors necessary to decarcerate the jails. When defenders made bail applications and submitted writs to ask for clients’ release at the beginning of the pandemic, DOC submitted affidavits claiming that the conditions were being managed and that people in custody were safe. At this juncture, when that is now indisputably no longer the case, DOC and CHS must be directed by the Mayor, unless and until legislation is passed that creates a legal

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<sup>5</sup> <https://greaterjusticenyc.org/nycjail/>

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<https://www1.nyc.gov/assets/boc/downloads/pdf/News/board-statement-on-recent-suicides-in-the-new-york-city-jails-20210901.pdf>

mandate, to do everything they can to communicate that clearly and transparently, directly to court actors. **The DOC Commissioner must be directed by the Mayor to brief the five New York City District Attorneys, as well as Chief Administrative Judges, on the conditions at each individual facility, providing updated information on a regular basis and urging increased scrutiny of bail request and bail setting practices and other judicial and prosecutorial actions that lead to an increased jail population. Additionally, CHS must be required to provide detailed letters to the court regarding any mental or medical health risks for each individual in custody, alongside any documentation of requests for medical attention.**

Without the pointed communication and involvement of DOC and CHS, judicial and prosecutorial practices contributing to the rising jail population will not change, and that communication will not happen unless they are required by the City to do so.

### **III. Invest in emergency and transitional housing and other resources that support decarceration efforts**

While addressing the conditions for those who remain inside is critical, investment in community resources that support people upon release is equally important, and has been proven to contribute not only to getting people released from jail, but also keeping them from ending up back inside the facility walls.

Our clients' reports have made one thing abundantly clear about the state of our city jails right now—basic needs, not only for everyday survival but also medical and mental health, are not being met. While this is inhumane and unacceptable across the board, for our most vulnerable clients, it is actually causing lifelong and permanent damage. If they were to be released, and subsequently able to have their needs met in the community, it could mean a very different outcome for their lives, and in some cases that outcome hinges upon what resources are available to them in the community.

One Bronx Defenders' client went into custody already navigating severe medical needs including bullet wounds after having been shot by the police. Despite being housed in the Northern Infirmity Command, he went weeks upon intake without medical attention to his wounds or other medical needs, even with repeated requests from his advocates. Bail applications made to the court for his release were unsuccessful, and he continued to languish without care until very recently the nerve damage from the bullet wounds became so severe that he risked losing his entire arm unless a finger was amputated. **He lost this finger and is being told he may lose another one in the near future, simply because the jail was unable to respond to his medical needs.**

This client is only one of many who have been denied care, many waiting weeks and months to receive medications that are critical to their stability, both physical and mental. While historically the jail system has always been unable to meet the needs of our most vulnerable clients with complex needs, at this juncture they are unable to provide even the most basic levels of support

to address the most immediate needs. **The care systems within the facilities are beyond repair, and the most important thing the City can do right now is to invest in community resources that facilitate people’s release.**

One concrete example of this type of investment, proven to be successful, is the creation of the Exodus-run hotels overseen by the Mayor’s Office of Criminal Justice (MOCJ). This initiative has not only reduced the jail population by supporting defenders’ release efforts, but has also provided our clients with critical support upon release to which they would never have had access in a shelter. This resource has offered judges and prosecutors the assurance they need to grant release for some of our most vulnerable clients, especially clients with more complex mental health or substance use needs who may be otherwise barred from traditional residential programming, either based on level of need or charge exclusions. Exodus has provided wraparound support, addressing not only the most immediate need of housing, but also providing critical case management support in connecting clients to the medical, mental health, and vocational supports that they need to maintain stability in the community. The overwhelming prevalence of homelessness, poverty, and unemployment among formerly incarcerated people is the strongest predictor for people cycling back through the criminal legal system. The support that Exodus Transitional Community provides our clients is a breath of fresh air for many — providing resources and support to achieve critical personal goals, which, in turn, positively impacts the outcomes of legal cases, as well as community health and safety.

As of now, however, the six operational hotels are consistently at capacity, and the contract is set to expire in December. If these transitional supports are taken away, it will likely lead to more individuals remaining incarcerated for the duration of their case simply because they do not have a safe and stable place to live or the community support that is needed to coordinate the specialized care they need for their individual substance use services, mental health care, or reentry plans.

MOCJ has championed the idea of “smaller, safer, fairer” city jails, and the City has committed to reducing the jail population to 3,300 by 2026, and yet, currently, there is nothing small, safe, or fair about the state of our city jails. **Investing in community resources that have proven to increase releases is a concrete way to reduce the jail population, and to do so safely, in a way that offers people what they need to be successful in the community.**

#### **IV. Conclusion**

The time for long-term mitigation measures such as training for correctional officers or the establishment of working groups to address culture change within the jails has passed. This crisis is too acute, too many lives have already been lost, and an immediate and transformative

response from the City is already overdue. Justice-involved New Yorkers deserve far better than this; they deserve basic safety and care, to be treated with dignity and respect, and they deserve the City's true investment in their wellness and stability. City Council must act to pass legislation that immediately ends restrictive housing, create actionable steps towards decarceration, and make true investments in community resources that facilitate decarceration and a supportive reentry.

Thank you for your time and attention to these important issues.



**TESTIMONY OF:**

**Kelsey De Avila – Project Director, Jail Services**

***BROOKLYN DEFENDER SERVICES***

**PRESENTED BEFORE:**

**The New York City Council Committees on Criminal Justice and Civil Service and Labor**

**Oversight Hearing on the Conditions in Our City's Jails**

**September 15, 2021**

My name is Kelsey De Avila and I am the Project Director of Jail Services at Brooklyn Defender Services (BDS). BDS provides comprehensive public defense services to nearly 30,000 people each year, thousands of whom are detained or incarcerated in the City jail system either while fighting their cases in court or upon conviction of a misdemeanor and a sentence of a year or less. Many of the people we represent are incarcerated pretrial because prosecutors ask for, and judges set, bail in amounts that the individuals cannot afford. The impact of this decision is significant and far-reaching: the conditions in the New York City jails are the worst they have ever been. People are suffering and dying, yet the population continues to grow.

We appreciate the Council considering these pressing issues and Chairs Powers and Miller for the opportunity to testify today about the crisis at Rikers Island and other New York City jails. We urge this Committee and the Council to take immediate action to drastically reduce the jail population and bring an end to the deadly humanitarian crisis happening in our City's jails.

In my role as Jail Services Project Director, it is my job to monitor the conditions of confinement that affect the incarcerated people we represent. In the past six years, I have visited Rikers Island hundreds of times and had thousands of conversations with people who are detained. I have testified before this Committee dozens of times to highlight concerns raised by people inside. And yet today is different: I'm not going to share a handful of the most horrific stories or suggest

incremental changes. Make no mistake, the time for incremental changes has long since passed, and there is no meaningful distinction between one horrific story from the next. Conditions at Rikers and in the other City jails are the worst they have ever been.

### **Escalating Crisis in City Jails**

NYC jails have long been in a state of crisis; a violent, mismanaged disaster and a stain on this City. It has been clearly documented by endless testimonies of lived experience from people in custody, both health and correctional staff, and correctional experts; major newspapers and networks, and by a federal monitor which has released 11 reports<sup>1</sup> thus far. The level of crisis in the jails cannot be overstated. People are suffering and dying. They are enduring mental health and medical crises without access to medication or care. They are starving without regular or sufficient meals. They are suffering in filthy conditions, living in units surrounded by literal garbage. Toilets are broken and overflowing into living areas. Intake cells are over capacity, people are being confined for days and weeks inside showers with no beds, mattresses, or toilets, are sleeping on floors of showers covered in urine, vomit, and feces. People—including those with no preexisting conditions—are experiencing rapid deterioration of their physical and mental health. With units going unstaffed, New Yorkers are left crying out for help while locked in a cell with no officer at their post. These are just a few examples of the horrific conditions in which New Yorkers are being held by this City. All the while, this prosecutors and Courts are content to send more and more people to the jails for what far too often amounts to a death sentence. What is happening today is a crisis once thought unimaginable, with deadly consequences and no end in sight unless serious action is taken.

In the oral and written testimony provided for this hearing, the Council will be told a litany of horrors that impacted people are being subjected to – some testimony will come from directly impacted people, while others will be offered by advocates, lawyers, friends, and concerned New Yorkers. But no matter what words we share or how unpleasant they may seem, they are only words. Whatever we share here today pales in comparison to the horrifying, inhumane reality that as of September 14, 2021, 6,082 people are forced to suffer.

The crisis reaches all corners of jail operations. According to Ross MacDonald, Chief Medical Officer for the New York City jail system, the City jails have sustained “a collapse in basic jail operations, such that today I do not believe the City is capable of safely managing the custody of those it is charged with incarcerating in its jails, nor maintaining the safety of those who work there. The breakdown has resulted in an increase in deaths which we refer to as jail-attributable, where jail conditions meaningfully contributed to the death.”<sup>2</sup>

For some, the horrifying reality, isolation, and torture resulting from the complete breakdown of basic jail operations that Dr. MacDonald referenced has tragically become too much to bear. The desperation results in acts of self-harm and violence at levels previously unseen in DOC facilities. In 2021, alone, there have been at least five suicides and a total of 10 deaths of people in custody, with two people dying merely weeks apart. By contrast, DOC reported no suicides at

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<sup>1</sup> <https://www1.nyc.gov/site/doc/media/nunez-reports.page>

<sup>2</sup> <https://www.ny1.com/nyc/all-boroughs/politics/2021/09/11/rikers-island-chief-jails-medical-officer-says-nyc-cannot-safely-manage-it>



Rikers in 2018, 2019, and most of 2020, according to the NYC Board of Correction's September 1, 2021 statement<sup>3</sup> on recent suicides in the New York City Jails.

As the Council convenes to consider the life-and-death situation in the Department's facilities, thousands of people are enduring those conditions merely a few miles away. They are our families, friends, and the people we – New York's elected officials and public defenders alike – are charged to serve.

They are people like Mr. A, who for weeks has been locked in intake, a temporary holding area designed to last no more than 24 hours. Thirty days into his confinement in the "temporary area," he remains in an intake cell with almost 30 people. The toilet in the cell is exposed for all to see, but it hardly matters as it is broken and inoperable. Because it does not flush and leans to the left, feces and urine spill out onto the floor. Because there are no beds in the cell, the men are forced to sleep surrounded by or even on top of raw sewage. Although they beg for a mop to clean the floor, officers have provided no response. Mr. A, and no doubt many others, has been holding his bowel movements for days because he's afraid and embarrassed.

Mealtime offers little relief for Mr. A or the others in his cell. Although meals are distributed, there are only enough trays to feed half of the people in the cell, at most. Some make the difficult decision to skip their own meals so others that did not eat earlier can have at least minimal sustenance. The treatment of medical emergencies is equally shocking. One man in the intake cell began having seizures because he hadn't had access to his medication for days. When his cellmates' pleas for help and screams for a doctor went unanswered, the men in the unit lifted the man from the floor and carried him to the front of the gate, as if to prove the basis for demanding help. Rather than getting a doctor or providing emergency relief, officers used chemical agent spray to push the entire group to the back of the cell while the man continued to have a seizure at the gate covered in chemical spray. When DOC finally opened the cell, they continued spraying chemical agent spray into the cell as they pulled the man out by his arms. Despite well-established protocols and policies, no one in the cell was allowed to decontaminate and no one received any relief—shower, circulating air, water, or milk—for their burning throats and eyes.

Meanwhile, people detained in these cells are essentially lost in the system. Because it is the Intake Unit, the DOC website does not yet reflect their presence at Rikers, so family members, friends, and advocates are unable to post bail. This results in a particularly appalling cycle: people are in an especially horrifying unit, no one is able to post bail to free them from that horror, and thus they remain at Rikers – in some cases even in intake – to endure even more horror.

Once people finally receive a "permanent" placement in a facility, the situation is hardly better. The uniform and continuous denial of access to basic yet essential services, including medication, food and telephones to call their loved ones stokes tension in the units. Without any other way to access basic human needs, people in custody become desperate to get the attention of the few correction officers around. In response to this desperation—often manifesting as yelling, punching walls, or banging heads on bars, DOC routinely dons riot gear and forcibly

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<sup>3</sup> <https://www1.nyc.gov/assets/boc/downloads/pdf/News/board-statement-on-recent-suicides-in-the-new-york-city-jails-20210901.pdf>

pulls people out of cells and throws them into locked, DOC-controlled showers. Officers use these locked showers as makeshift solitary confinement cells, leaving people for days at a time, forcing them to sleep on the floor, surrounded by feces, vomit and urine from themselves and others that preceded them. Most people are not provided any food at all. Without access to a phone they cannot call to alert loved ones or advocates of their location. When legal representatives try to visit, we are met with officers laughing and saying, “it’s not going to happen, but good luck.” Other times officers tell us they cannot “locate the person” or “there’s no escort officer available so you can either wait all day or come back another day.”

For those not forced into these inhumane lockups, conditions in general population are similarly inhumane and intolerable. Reports of attempted suicides have become common and almost daily in our discussions with people in custody. For instance, Mr. B is in a cell in a general population unit. There has not been a correction officer on the floor of their unit for weeks, resulting in weeks-long solitary confinement for most of the men in the unit. If you’re loud enough, and lucky enough, to catch the attention of an officer in the “bubble,” the officer *may* unlock your cell. One man in Mr. B’s unit was so desperate to be let out of his cell that he declared he would commit suicide and followed through by hanging himself with a bedsheet. Only after the entire unit erupted loudly enough for officers in the hallway to hear was the man cut down. EMS arrived shortly thereafter and carried him out on a gurney. No one in the unit has seen him since.

The Department and the Correction Officers Benevolent Association (“COBA”) consistently claim that these problems are due to a “staffing shortage.” **This is a blatant lie: There is no staffing shortage.** The Department already has one of the largest forces in the country and far and away the highest staff-to-incarcerated person ratio. The false narrative around staffing shortages is perpetuated by the incessant need to increase power and control of correction officers over people in custody, bring back solitary confinement, and reverse decades of reforms. The reality points instead to **absenteeism, excuses, negligence, and mismanagement: over 2,000 correctional officers are simply not showing up to work yet they continue to be paid by this City.** For any other professional, unexcused absences would result in discipline or even termination. Yet here officers are continuously allowed to remain on payroll and milk the taxpayers. This is inexcusable. NYC Department of Correction is responsible for staffing the jails, as well as for the conditions faced by people in custody and staff, and must hold accountable, through discipline or termination, any DOC officer who is absent without approval. Contrary to calls from COBA and the mayor, hiring additional officers is not the answer in this moment of crisis, not when the Department is already over-staffed, officers won’t start for months, and there is nothing to prevent additional officers from choosing to not come into work. Rather than pour additional funds into the already bloated Department budget, the City should instead use those funds on programming, resources, and housing, as is allocated in the budget, that will help keep people at home in the very communities that are overrepresented in this City’s jails. This crisis is of the Department’s and COBA’s own making. The City should investigate whether the officers’ actions violate COBA’s mass absenteeism provision, as well as a renegotiation of funding and unlimited sick leave.

## **Recommendations**

The conditions in the City’s jails are in crisis and cannot be remedied with more staff. While rates of crime—including violent crimes—continue to decline across the City,<sup>4</sup> the population in the jails is rising.<sup>5</sup> At the start of the COVID-19 pandemic, the City and State recognized the danger and took limited steps to release people from the City jails as a public health measure. The COVID-19 crisis is not over and now the City must contend with a co-occurring crisis of suicide, death, and chaos inside the jails. Just last year, the number of people detained pretrial was reduced from 3,247 at the start of the pandemic to 2,702 by the end of April. Currently, the number of people detained pre-trial has ballooned to over 4,600, bringing the total number of people in city jails on a given day to over 6,000 people.

The risk of death now, from both neglect and the possible spread of COVID delta variant, is even greater than it was when the City released some of the most medically vulnerable early in the pandemic. There have already been at least 10 deaths in 2021, from suicide and lack of medical care. That effort to reduce the jail population must resume immediately before another life is lost. We call on the City Council to work with the Mayor, District Attorneys, Judges, and the State to drastically reduce the jail population and stop sending more people into the jails.

- 1. Visit the City jails to see what is happening firsthand and based on those experiences call on the City to stop sending people to jail and immediately address the horrendous conditions.**

The people detained in New York City jails are not simply our clients or your constituents—they are our neighbors, family members, friends and loved ones. We ask that you, as elected officials, to make unannounced visits to Rikers Island to see what is happening and speak with people who are being detained. No one should be forced to live or work in these conditions. The Council must exert all possible power to stop the abuses. The Council must demand answers to why officers are allowed to just not show up and holding DOC accountable for cleaning up its act immediately, not just waiting until they can train new classes of officers. The City Council must ensure DOC uses all available staff to ensure people are treated with basic humanity.

- 2. Call on District Attorneys and Judges to stop asking for and setting bail.**

The City must stop sending people to jails where they face immediate harm or death. New Yorkers are dying on Rikers because they were unable to afford bail or unable to post bail while in intake. The purpose of bail is to ensure people return to court – it is not intended to be a death sentence. No New Yorker should be exposed to these horrific conditions. The Council should call on District Attorneys to stop requesting and Judges to stop setting bail immediately.

- 3. Call on the Governor to immediately sign Less is More and release New Yorkers held on technical parole violations.**

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<sup>4</sup> <https://data.cityofnewyork.us/Public-Safety/NYC-crime/qb7u-rbmr>

<sup>5</sup> <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>

New York incarcerates more people for technical violations—like missing a meeting with a parole office or being late for curfew—than any other state. The legislature passed the Less is More Act, which would restrict the use of incarceration for technical parole violations. The bill remains unsigned and Governor Hochul has the power to immediately sign and implement the bill – freeing thousands of New Yorkers from jails around the state. The Council must call on the Governor to sign and implement Less is More now to make sure no one is held in inhumane and deadly conditions over something so minute as a curfew.

#### **4. Hold the Judiciary responsible for setting the least restrictive bail option**

Judges of the New York City Criminal Court are appointed by the mayor. The Mayor and the Council must hold judges accountable for ensuring the proper implementation of the bail laws and the public safety of New Yorkers—including those who have been accused of a crime. The City Council should strongly remind courts and DAs that bail should not be used to detain, but rather, as a means to incentivize people to return to court. The Council should demand that judges and DAs are regularly using and offering *all* available options including:

##### ***Authorize non-cash bail alternatives***

On the limited occasions where courts do set bail, the following reforms are necessary:

- Credit card bail should always be authorized;
- Unsecured or partially secured bond equal to, not higher than, the cash or insurance company bond amount should be an option in all cases;
  - The default for partially secured bond should be decreased from the now-standard 10% down to as little as possible, particularly where a surety does not have cash readily available
- Allow for one surety to proceed along rather than requiring two or more.
- Allow for an “appearance” bond (so that a defendant can self pay).

##### ***Require the Department and the Courts to simplify the process to post partially secured bail.***

The process of posting partially secured or unsecured bail has become incredibly difficult if not impossible and, in many cases, serves only to discourage sureties from posting bail. Judges should not maintain strict rules about the paperwork or documentation that sureties need to present the court. For instance, one judge instructed the court officers that a surety should not be allowed to enter the courtroom without two months of paper paystubs. When the surety produced online bank statements showing that automatic deposits of two months of paychecks, the court denied his entry as not meeting the judge’s requirement. Putting aside the unlawfulness of restricting access to the courtroom in this way, the law does not require any documentation beyond a signed justifying affidavit from a surety, and judges should not be free to concoct their own baseless rules.

##### ***Set bail at lower rates than requested***

Courts are obligated only to set bail if it is truly the least restrictive means to ensuring that a person will return to court and taking into account the person’s ability to pay. Far too often, DAs engage in gamesmanship, asking for an extraordinarily high amount of bail assuming judges will set a slightly lower amount, and far too often, courts live up to that expectation. The council should push DAs offices to tie their requests to the only relevant factor to their offices – the

lowest level to ensure a person's return to court – and for judges to act independently of the DAs and set bail at the least restrictive rate after considering ability to pay.

***Increase the use of supervised release, hospitalization, or ATD programs***

Alternative to detention programs are available but underutilized and the City Council should encourage courts to more regularly order these programs, and DAs to consent. Jail are not an appropriate place for people with mental health histories or substance use disorders. When presented with an alternative program – even if it is not Supervised Release – the courts should utilize these programs more often.

People with preexisting mental health conditions are suffering in DOC. Judges have the option to order hospitalization for at least 72-hours sua sponte, at the request of the defense attorney or at the request of the defendant.. When appropriate, the court should consider hospitalization pursuant to Mental Health and Hygiene Law § 9.43 and the Council should question judges who are routinely denying defense requests for hospitalization. For New Yorkers living with serious mental illness, hospitalization should be an alternative to jail. Courts should regularly order, and DAs should regularly consent to, these alternatives to incarceration.

**5. Require DOC and BOC to Immediately Use All Available Resources, Personnel and Otherwise, to Ensure Basic Humanity and Access to Basic Human Rights**

The New York City Department of Correction remains one of, if not the single highest resourced corrections departments, with one of the highest staff-to-incarcerated person ratios in the country, *even with the massive staff absenteeism currently taking place*. And yet the Department continues to fail to provide access to basic human needs. The City Council should require *all* paid DOC staff, regardless of rank, to do everything in their power to mitigate these harms, even if it means DOC captains and executives are replacing line staff to provide medications, medical care, food, recreation, and any other services. City Council should also require DOC to eliminate any and all policies that serve as barriers to people accessing services, including but not limited to requiring people to have escorts to move around DOC facilities. City Council must also require the Board of Correction to issue notices of violation for every violation of the minimum standards that the Department commits. The Council should require both the Department and the Board to identify policies and resources in their control that can be changed in order to alleviate the barrier to accessing services.

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We thank the Council for holding this hearing to highlight the issues in NYC's jails and urge the Council to use every mechanism in your power to reduce and eliminate the suffering in the New York City's jails. If you have any questions, please contact me at [kdeavila@bds.org](mailto:kdeavila@bds.org) or 347.988.0795.



**TESTIMONY OF  
THE FORTUNE SOCIETY**

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

City Hall,  
New York, NY

Wednesday, September 15, 2021

**SUBJECT:** Conditions in New York City Jails

**PURPOSE:** To discuss the immediate changes needed to address the health and safety of detainees and staff on Rikers Island

Presented by

**Andre Ward**

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**Testimony by The Fortune Society**  
**September 15, 2021**

Good afternoon. My name is Andre Ward and I am the Associate Vice President for the David Rothenberg Center for Public Policy at The Fortune Society. The Fortune Society is a 54 year-old organization that supports successful reentry from incarceration and promotes alternatives to incarceration, thus strengthening the fabric of our communities. We do this by: believing in the power of people to change; building lives through service programs shaped by the experiences of our participants; and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative correctional system.

I am a formerly incarcerated Black man who spent three and a half years on Rikers Island, from 1988 to 1992, as both an adolescent and adult. During this period, I experienced and witnessed countless episodes of abuse and neglect, including, the overcrowding of dorms, and the inadequacy of, programming to prepare those detained for community reentry, supports for those with mental health needs, and medical care, like being told to take an aspirin for a serious medical issue. Most affecting was my witness to the death of fellow detainees, both as a result of detainees harming one another as well as Correctional Officers abusing detainees.

Fast forward 29 years and according to research and the experiences of the people we serve, Rikers Island continues to bear conditions of the past. While the dorms may no longer be overcrowded as they once were, there remains, insufficient programming to prepare individuals for release, a lack of quality medical care – especially during COVID-19, and inadequate support for those with mental health needs, with more than 40% of its population having a mental illness and 10%, a serious mental illness.<sup>1</sup> This is most notable, as Rikers is one of the three largest providers of psychiatric care in the Country, the other two also being jails; the Los Angeles County Jail and Chicago’s Cook County Jail. Lastly, detainees are still harming one another and Correctional Officers continue to abuse those detained. Findings from a two-and-a half-year civil rights investigation of Rikers Island exposed nearly 200 incidents concerning use-of-force against detainees.<sup>2</sup>

COVID-19 has exacerbated the conditions on Rikers Island, leading most recently to a tremendous staffing crisis, with thousands of officers calling out sick and failing to report for duty and the incarcerated population increasing. This crisis is placing both detainees and staff in danger. In a letter exclusively obtained by NY1, Ross MacDonald, Chief Medical Officer for the City’s Correctional Health Services, urges the City Council to request State or Federal assistance. In the last year alone, 10 people have died, including five who committed suicide.<sup>3</sup> Jose Mejia Martinez,

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<sup>1</sup> Alisa Roth “Shutter island: At Rikers, people with mental illness fall through the cracks over and over again” <https://www.nydailynews.com/opinion/shutter-island-rikers-fails-mentally-ill-article-1.3919307>

<sup>2</sup> PetersonDelleCave LLP “Complaints of Inmate Brutality Force Policy Change on Rikers” <https://www.nycpolicemisconductlawyers.com/complaints-of-inmate-brutality-force-policy-change-on-rikers.html>

<sup>3</sup> Gloria Pazmino “Rikers chief medical officer: Jail needs ‘outside help’” [https://www.ny1.com/nyc/all-boroughs/politics/2021/09/11/rikers-island-chief-jails-medical-officer-says-nyc-cannot-safely-manage-it?cid=app\\_share](https://www.ny1.com/nyc/all-boroughs/politics/2021/09/11/rikers-island-chief-jails-medical-officer-says-nyc-cannot-safely-manage-it?cid=app_share)

to name one, was among those who died after he was denied medical care. According to MacDonald, this crisis is leading to a “new and worsening emergency that has developed over the course of the last year.”<sup>4</sup> Every person they send to jail is at great risk of harm and death, according to Dr. Bobby Cohen, member of the Board of Correction.<sup>5</sup>

It is evident that the conditions on Rikers Island must be addressed immediately and drastically. As COVID-19 variants continue to rapidly spread, the conditions on Rikers will only worsen. We therefore implore the Mayor, Judges, District Attorney’s Office and the members of City Council to take swift action by doing the following:

- 1. Decarcerate:** The Mayor could once again use Article 6-A of New York Correction Law authorizing the Department of Correction to permit sentenced individuals to be released early and serve the remainder of their sentence at home.<sup>6</sup> Since being appointed, the new DOC Commissioner moved quickly to review individual cases and released 312 people who had been sentenced to jail, with the requirement that the assigned Supervised Release provider monitor their case. As of April 22, 2020, after one month of being released and under supervision, only seven of the 312 individuals—2.2 percent—were re-arrested. Of these, four were for alleged misdemeanor offenses.<sup>7</sup> The City Council must pass any and all legislation that can help decarcerate, including, increasing mental health diversion, facilitating bail payments, and investing in discharge planning.
- 2. Provide greater transparency:** The Mayor, City Council and Board of Correction must promote independent oversight, and offer greater transparency and accountability when reporting on the number of COVID-19 cases and deaths. Legal providers have consistently raised this issue, receiving insufficient responses to ensure the health and safety of clients. Moreover, in some instances, FOIL requests have gone unanswered.<sup>8</sup>

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<sup>4</sup> Gloria Pazmino “Rikers chief medical officer: Jail needs ‘outside help’”  
[https://www.ny1.com/nyc/all-boroughs/politics/2021/09/11/rikers-island-chief-jails-medical-officer-says-nyc-cannot-safely-manage-it?cid=app\\_share](https://www.ny1.com/nyc/all-boroughs/politics/2021/09/11/rikers-island-chief-jails-medical-officer-says-nyc-cannot-safely-manage-it?cid=app_share)

<sup>5</sup> Jonah E. Bromwich and Jan Ransom “An ‘Absolute Emergency’ at Rikers Island as Violence Increases”  
<https://www.nytimes.com/2021/08/24/nyregion/rikers-island-emergency-chaos.html>

<sup>6</sup> Center for Court Innovation, New York Criminal Justice Association and CASES “RIKERS 6-A EARLY RELEASE PROGRAM Results After One Month of Operations”  
[https://www.nycja.org/assets/Rikers-Early-Release-Briefing-Note-4.30.2020\\_-FINAL.pdf](https://www.nycja.org/assets/Rikers-Early-Release-Briefing-Note-4.30.2020_-FINAL.pdf)

<sup>7</sup> Center for Court Innovation, New York Criminal Justice Association and CASES “RIKERS 6-A EARLY RELEASE PROGRAM Results After One Month of Operations”  
[https://www.nycja.org/assets/Rikers-Early-Release-Briefing-Note-4.30.2020\\_-FINAL.pdf](https://www.nycja.org/assets/Rikers-Early-Release-Briefing-Note-4.30.2020_-FINAL.pdf)

<sup>8</sup> Rob Abruzzese “Brooklyn Defenders and others want transparent COVID protocols for NYC jails”



3. **Pass legislation to end solitary confinement on Rikers:** The City Council must amend and pass legislation to end solitary confinement and generate methods that ensures safety for all. Solitary confinement is torturous, aggravates safety, and causes death. The Mayor’s June 9, 2021 announcement on ending this practice has, according to many, fallen short. 74 Senators and Assembly Members, led by the legislation’s chief sponsors, Sen. Julia Salazar and Assembly Member Jeff Aubry wrote, “we are dismayed by NYC’s plan to implement a new system which would essentially constitute solitary confinement by another name in violation of HALT.”<sup>9</sup>
  
4. **Disband the New York City Department of Correction:** For decades, the culture of the NYC Department of Correction has made for a demonstrably insufficient practice in providing for the safety and health of those incarcerated on Rikers Island. Instead, a culture of silence has prevailed and acts of abuse and neglect continue. From January 2019 to August 2020, 56 percent of the more than 270 Correctional Officers who were disciplined — including a dozen supervisors — lied, misled investigators or filed incomplete or inaccurate reports. At least 17 Officers made false statements in interviews with officials investigating the allegations.<sup>10</sup>

I urge this Council to take swift and drastic steps to address the ongoing health and safety concerns, threatening the lives of detainees and staff on Rikers Island.

Thank you for the opportunity to testify today.

Respectfully Submitted,

**Andre Ward**

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<https://brooklyneagle.com/articles/2020/09/15/brooklyn-defenders-and-others-want-transparent-covid-protocols-for-nyc-jails/>

<sup>9</sup> Erin Durkin “State lawmakers say city’s solitary confinement overhaul falls short”  
<https://www.politico.com/states/new-york/albany/story/2021/08/02/state-lawmakers-say-citys-solitary-confinement-overhaul-falls-short-1389390>

<sup>10</sup> Mihir Zaveri “When Guards in New York City’s Jails Lie About Use of Force”  
<https://www.nytimes.com/2021/04/26/nyregion/guards-rikers-use-of-force.html>



Testimony to the New York City Council Committee on Criminal Justice and the Committee on Civil Service and Labor

Submitted on September 15, 2021 by Mary Crowley, Chief External Affairs Officer, Fountain House (contact information: [mcrowley@fountainhouse.org](mailto:mcrowley@fountainhouse.org), 917-282-8799) and Christina Sparrock, NYC Advocacy Advisor (contact information: [christina.advocacy@gmail.com](mailto:christina.advocacy@gmail.com); 917-647-8191)

Thank you for hearing this testimony.

My name is Christina Sparrock, a Fountain House member and our NYC Advocacy Advisor. Fountain House is a NYC-based national nonprofit working with and for people most impacted by serious mental illness to ensure that they lead connected and healthy lives. We do this through both direct service and policy and advocacy. This testimony is submitted jointly with my colleague Mary Crowley, Chief External Affairs Officer. We are grateful to the Committee on Criminal Justice and the Committee on Civil Service and Labor for holding this hearing at a critical moment for our city, and for this opportunity to testify.

For 73 years, Fountain House has welcomed people living with serious mental illness into our home base at 425 West 47<sup>th</sup> Street, which is called a clubhouse. Why a clubhouse? This is intentional - to convey a place where people come by choice, a place of belonging and welcoming. For that reason, we refer to people who are part of our community as members. Between our 47<sup>th</sup> street clubhouse and our Fountain House Bronx clubhouse, we work together to help 2500 members in New York City recover their dignity and futures. Another 14 clubhouses across all five boroughs serve an additional 2500 members. Our model has inspired 200 replications around the country, and we now have hubs in every region that work

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together on policy and advocacy, in addition to direct service. All told, clubhouses serve 60,000 people across the country.

Fully a quarter of Fountain House members have been involved with the justice system, and almost half have a history of homelessness. Thanks to involvement in our community, we have a recidivism rate of less than 5% and 99% of our members are stably housed. Our members also have double the employment rate of people living with SMI overall, and obtain greater educational goals.

We achieve these results through our history of innovative programming and outreach.

Today, that is needed more than ever. In the pandemic era, the proportion of people in Rikers Island Jail who live with serious mental illness has increased, even as services to keep people out of jail or to help them when they leave have decreased. It is our belief that essentially no one with serious mental illness should be on Rikers Island, and that they need and deserve public health and not criminal legal solutions.

That is why we are members of Correct Crisis Intervention Today-NYC, better known as CCIT-NYC, a grassroots membership organization advocating for non-law enforcement responses to public health emergencies, which too often are the front door to the justice system.

And that is why we have developed our new OnRamps program. OnRamps provides outreach to people with serious mental illness in need of services, community and connection. This includes people who are or have been involved in the justice system and/or are homeless. OnRamps involves street and park outreach, as well as direct work with people leaving Rikers Island Jail. We deliver this program in several ways, and with several key partners:

- Community First. A partnership of Manhattan Community Court, Breaking Ground, Times Square Alliance and Fountain House, Community First is an alternative to a law enforcement response to people who are
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unhoused, or needing mental health supports or other services. Our goals are to meet people where they are, establish trust over time, and connect them with community and services that they desire – including housing, Fountain House membership and employment opportunities, and healthcare. Our kiosk in Times Square, called “The ReCharge Station,” offers coffee and cellphone chargers, and is a hub for outreach and establishing these relationships. Community navigators of staff and peers build relationships and are available to address people’s immediate needs and connect them to services.

- Guesthouse. A partnership with the Fortune Society, this program provides housing and programming to men upon release from Rikers. During their time at the Guesthouse, our guests obtain necessary documents, participate in community with the up to 12 residents, and have the opportunity to become FH members (as most have) and obtain employment. They reside with us as we work with them until we find more permanent housing.

- Fort Greene Park Social Well-Being Team. Our newest program is in partnership with the Fort Greene Park Conservancy and the NYC Parks Department, and was developed by Christina Sparrock, advocate, and CCIT-NYC member and Fountain House member. The goal of the program is to divert people in the park from the criminal-legal system and keep them in the community. We developed a training curriculum provided to park staff that provides them with an alternative to the default of calling 911. The alternative is the Social Well-Being Team. The team partners peers and professionals in a unique mental health response model to engage with people effectively and respectfully at different stages of their wellness, including connecting people to services. The 20 plus members of the Community Advisory Committee representing housing, mental health, employment and other organizations have contributed to the efficacy of this program. Simply stated, it takes a village to make a promising program.

Fountain House’s history shows that investments in these pilot programs works. We are demonstrating that a consistent group of people (peers) building safe trusting relationships – in pocket environments like Community First, Fort Greene, or home communities like Guesthouse – helps people feel heard and seen,

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validated, and hope. This creates a pathway for more enduring community engagement, housing and care.

We ask the Council for funds to ensure these innovations are sustained and evaluated, with close examination of research backing their effectiveness that allows them to quickly be brought to scale across the city. And because all these programs are dependent on critical services, we require commensurate investments in safe, supportive, affordable housing coupled with services.

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**Testimony**  
**Before the New York City Council**  
**Committee on Criminal Justice, jointly with the Committee on Civil Service and Labor**  
**Hearing on the Human Rights Crisis on Riker Island**  
**Wednesday, September 15th, 2021**  
**Presented by:**  
**Georgi Page, Member & Steering Committee, 350Brooklyn**  
**Chair of City Action Committee,**

Good Morning. My name is Georgi Page and I am a volunteer member of 350Brooklyn, a local environmental group working to counter the global climate crisis, which means that all of my advocacy work is unpaid. I serve as Chair of 350BK's City Action committee and I am also a member of their steering committee. I am basically liquidating my savings so that I can do this work and hold our elected representatives accountable to the people - work that I feel is critical. I dedicate my testimony today to honor Kalief Browder and the 4600 pre-trial detainees being held and brutalized at Rikers Island today.



As I have joined in the flights **for** Electric School Buses and **against** Peaker Plants I have also worked to help make 350Brooklyn more inclusive....As environmentalists it might seem to others that the plight of detainees is beyond our scope. And the reality is that wherever we think we are going as a movement - and a people - we cannot get there by leaving any of our brothers and sisters - or our humanity - behind! In fact, our humanity must come first! **To paraphrase a famous quote: Humanity is not a destination we will someday arrive at - it is HOW we will get there.**

So, through that lens, I ask each one of us to take personal responsibility for what is happening RIGHT NOW on Rikers island, for the pre-trial detainees standing in pools of waste, for the

brutality, killings and the suicides (10 suicides and counting in 2021 alone) -- and for motivating DOC employees with a new sense of mission, as well. As a citizen, my role is to keep drawing your attention to it - and it's your job to listen when we say that this is NOT to the kind of society we want to fund. Now I love unions but we need the courage to listen to more voices than just the unions, and the big money, and the status quo - while young people - innocent for all we know! - weave sheets into ropes to hang themselves in Rikers cells. That is why I am here today: because I was reminded that the planet we are fighting to protect must be one worth living in, and that means that we must do more to protect the most vulnerable, while at the same time moving toward a Renewable Rikers. And since the site seems irredeemable and is built on methane-leaking pile of waste, it must continue to close.

- We MUST amend and pass Intro 2173, legislation to end the barbarism of solitary confinement
- We MUST release detainees being held for technical parole violations
- We MUST hold perpetrators of abuse and brutality accountable with independent oversight agreed-upon by The Mayor, The City Council and the BOC.
  - The BOC must immediately release their reports about deaths in custody.
  - And, personally, I think that the detainees should be involved in the oversight.

Sadly in NYC it seems that it's become normal to pay 10x the rate of other cities for everything - and that's not just money out of a magic cookie jar somewhere -that's OUR MONEY. And what is being done with our money and in our names is completely unacceptable. **It's unacceptable to spend 300k/year per detainee on Rikers and to have them living in the conditions they are living in - imagine what we could do for these individuals (and for our city!) if we actually invested that money in offering access to legal counsel, healthcare and proper diet and trainings, instead of warehousing people like cattle,**

350Brooklyn, the organization that I represent, joined in the fight for Renewable Rikers because we believed in a new, green hopeful vision for our city, through restorative justice. We learned that the CLOSURE of Rikers was carefully, thoughtfully dreamed, defined and developed by communities directly impacted by the trauma and abuse of Rikers - and it must proceed as soon as possible! The Borough Based Jails must proceed rapidly, and if not we will want to know why! The FUTURE of the island has also been re-imagined by these communities, as well as by judges, urban planners and a host of other experts, before the Renewable Rikers Act was passed. Thank goodness that years before NYC's Ida flooding someone was thinking it might be a good idea to build more wastewater treatment capacity. It's not right for the city council to merely talk about fixing and closing Rikers (...or getting Electric School Buses for our kids, or creating resilience in our city) and then to not do it.

**Please find the conscience and your courage and immediately close this facility that has become the rotten core of our Big Apple. It is the foul legacy of an earlier generation and it cannot stand for us or represent how justice is served in our city.**



**NEW YORK CITY COUNCIL**

**COMMITTEE ON CRIMINAL JUSTICE**

**COMMITTEE ON CIVIL SERVICE & LABOR**

**OVERSIGHT HEARING – THE CONDITION IN OUR CITY’S JAILS**

**SEPTEMBER 15, 2021 10:00 AM ET**

**TESTIMONY OF MARY RINALDI**

**POLICY & ADVOCACY**

**GOSO - GETTING OUT & STAYING OUT**



Good morning to Chair Powers, Chair Miller and members of the Committee on Criminal Justice and the Committee on Civil Service & Labor, my name is Mary Rinaldi, and I am the Policy & Advocacy Advisor at GOSO – Getting Out and Staying Out, a nonprofit headquartered in East Harlem that serves justice-involved young men citywide.

Thank you for this opportunity to submit written testimony.

GOSO is writing to register our deep concern with the conditions in our city's jails and to demand from our city government – the Mayor, City Council, District Attorneys and judges – immediate decarceration and a true end to solitary confinement in our city's jails. For months, community-based justice organizations, human and civil rights organizations and concerned citizens have sounded the alarm bells about the rising rate of incarceration in New York City jails, the incapability of the Department of Correction to keep people safe in their care, and the increasingly inhumane conditions experienced by New Yorkers in detention.

Nine deaths this year<sup>1</sup>, public outcry over inhumane conditions and a criminal legal system that continues to jail New Yorkers pre-trial at an alarming rate, has finally motivated oversight from New York State and City elected officials. Today, almost 6000 people are detained pre-trial<sup>2</sup> in our city's jails. In March 2020, 3200 people were detained pre-trial in NYC jails. The latter number is still too high, but the former is simply unconscionable. New York City Council members voted to close Rikers by 2027 in March of this year, and the Mayor signed that bill into law. Bail reform laws were passed in 2019 and even with the rollbacks in 2020, judges are still required to set bail by assessing the defendant's 'ability to pay.' And yet, we have witnessed skyrocketing pre-trial detention numbers and a ballooning jail population, while poverty and homelessness have increased across the city.

A GOSO staff member witnessed the following during an August 31, 2021 Rikers Island visit to the AMKC dormitory: “The housing areas were filthy; and at least two of the units did not have air conditioning, which is inhumane, considering there was a brutal heat wave a few weeks prior to our visit; some detainees commented they couldn't sleep. The surface areas everywhere we went were filthy and the common spaces for each dorm were so full that only a small percentage of the hall could congregate there. Further, widely accepted COVID protocols were not being followed: there were many unmasked DOC officials, and no space for detainees to maintain proper social distancing. During an ongoing pandemic, the fact that federal and state COVID safety protocols are not being followed, increasing health and mortality risk unnecessarily, is deeply concerning.”

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<sup>1</sup> Associated Press. (2021, Sep 08). Inmate's Death Is 9th at Rikers Island Jail Complex in 2021. US News & World Report. Retrieved from

<https://www.usnews.com/news/best-states/new-york/articles/2021-09-08/inmates-death-is-9th-at-rikers-island-jail-complex-in-2021>

<sup>2</sup> NYS Division of Criminal Justice Services. (2021, August 31) *Jail Population by Month Report*.

[https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_population.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_population.pdf)

Further, the reports of New York State elected officials after their September 13th visit to Rikers Island included witnessing a suicide attempt<sup>3</sup>, witnessing unsanitary and inhumane conditions like being locked in showers<sup>4</sup>, left to defecate in bags<sup>5</sup> and hearing from detainees that they do not know when they will eat next, that they are only fed once per day after begging for food, that they are thirsty and don't have enough water<sup>6</sup>. And that is just a small slice of the horrific conditions at Rikers Island elected officials witnessed.

The City Council, the Mayor's Office, District Attorneys and the Department of Correction must do more and must act immediately to address this humanitarian crisis. This is a life or death for every single person detained in NYC jails, as Dr. Robert Cohen, a Board of Correction member, stated to the New York Times<sup>7</sup>: "Every person they send to jail is at great risk of harm and death".

Therefore, we demand the following:

- 1. The Mayor, judges, District Attorneys, and City Council must fully decarcerate now.**  
Because the City is not able to keep people alive or healthy or meet their most basic needs, everyone in the jails must be released and not one more person should be sent to city jails. The City can no longer send people to an island, lock them in their cells without access to food or medical care, and leave them to die without their or their family's ability to do anything about it.
  - a. The Mayor, judges, and District Attorneys must release people & stop sending people to jails.** Early in the pandemic, at the urging of advocates and the Board of Correction, the number of people incarcerated in New York City jails dropped by

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<sup>3</sup> González-Rojas, J. [@votejgr]. (2021, Sep 13). [I just came out of Rikers Island where @jessicaramos & I witnessed an attempted suicide. The conditions on Rikers are inhumane. We need action. 1. District Attorneys stop asking for cash bail 2. The Mayor must release ppl inside 3. We urge the Governor to sign Less Is More]. Twitter. <https://twitter.com/votejgr/status/1437487081622851586>

<sup>4</sup> Biaggi, A. [@SenatorBiaggi]. (2021, Sep 13). [Today, I visited Rikers Island and what I saw was horrifying beyond words—garbage and bleach covered floors, incarcerated people kept in showers instead of cells with little food and water. No one is safe on Rikers. @GovKathyHochul must sign the Less is More Act immediately.] Twitter. <https://twitter.com/SenatorBiaggi/status/1437509603667939333?s=20>

<sup>5</sup> Gallagher, E. [@EmilyAssembly]. (2021, Sep 14). [There's garbage everywhere, rotting food with maggots, cockroaches, worms in the showers, human feces and piss. Most of the toilets are broken so men are given plastic bags to relieve themselves in.] Twitter. <https://twitter.com/EmilyAssembly/status/1437787196904325128?s=20>

<sup>6</sup> Gallagher, E. [@EmilyAssembly]. (2021, Sept 13). [I was told by many people being held there that they're given a single meal a day, and even that has to be demanded and begged for. Everyone was thirsty and had limited access to water.] Twitter. <https://twitter.com/EmilyAssembly/status/1437787198766583829?s=20>

<sup>7</sup> Bromwich J. & Ransom J. (2021, Aug 24, updated Sep 14). An Absolute Emergency at Rikers Island as Violence Increases. *The New York Times*. <https://www.nytimes.com/2021/08/24/nyregion/rikers-island-emergency-chaos.html>

thousands of people on a given day. The Mayor used the 6A work release program to reduce the number of people serving sentences to less than 100. The City also convened judges and DAs to review cases for release, and the number of people detained pretrial (not including people with parole holds) was reduced from 3,247 at the start of the pandemic to 2,702 by the end of April (the number of people detained pre-trial has now swelled to over 4,600, bringing the total number of people in city jails on a given day to over 6,000 people). These releases were carried out in recognition of the risk of death from COVID. The risk of death now, from both neglect and the possible spread of COVID delta variant, is even greater. There have been 9 deaths in 2021, from suicide & lack of medical care.

- b. **The City Council must pass any and all legislation that can help decarcerate,** including increasing mental health diversion, facilitation of bail payments, & more.

  - i. The City passed legislation in 2019 to establish a Conditional Release Commission, with power to release people serving City sentences. That commission must be activated now.
  - ii. The City should be calling DAs to testify, asking them how they can defend their continual practice of using bail as ransom, by requesting sums of money they know defendants can't pay. Only 15% of defendants are able to pay bail at arraignment, and the consequence for that lack of funds is risk of immediate harm and death at Rikers.
  - iii. The City Council could pass legislation to require the jail system to prioritize and facilitate decarceration. For example, DOC could automatically send a notice and recommendation to the court regarding anyone jailed pretrial on a first arrest, given that first arrests signal the lack of credible evidence of a flight risk. CHS might also be required to flag for the court people with chronic medical conditions, who face harms, including death, if held in the City jails.
2. **The City Council must amend and pass legislation to end solitary confinement and utilize proven methods for well-being and safety for all.** Solitary confinement is torture, causes death, and worsens safety. Yet the city continues solitary by another name. Right now, people are being thrown into cells, sometimes shower cells, and left alone without staff checking on them. Interventions like CAPS in NYC jails and RSVP in San Francisco jails are proven to dramatically improve the well-being and safety for everyone.

  - a. City Council must amend and pass Intro 2173 to ensure all people in city jails, including in alternatives to solitary, are afforded the existing minimum standard of 14 hours daily out of cell, and that **out-of-cell time and programming actually take place outside a cell, with other people in a group setting and shared space conducive to meaningful human interactions.** Amending & passing this bill is long overdue, fully in the Council's control and must happen now.
3. **Disband the NYC Department of Correction.** For decades the DOC has shown itself incapable of keeping people safe and healthy. Even after a federal lawsuit and 11 monitoring reports, the levels of staff abuse and other abuse has risen. Now, under new leadership committed to reform,

the agency is still unable to change the entrenched culture of disregard for the lives and well-being of incarcerated people fast enough to save lives.

Now is the time to take these necessary steps, to have the moral courage to do what is right for the well-being and safety of New Yorkers in pre-trial detention and for their families and neighbors.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Mary Rinaldi". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Mary Rinaldi, Policy & Advocacy Advisor

[GOSO – Getting Out & Staying Out](#)

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Dear Members of the Committee on Criminal Justice:

I am an Associate Professor of Nursing at Hunter College. I have two decades of experience with families in the criminal legal system. I led the Association of Women's Health, Obstetric, and Neonatal Nurses committee on standards of nursing care for incarcerated pregnant and postpartum people. I was also an invited member of the American Nurses Association committee on standards of nursing care for incarcerated people. I write with great urgency today from the perspective of a nurse, researcher, and citizen of New York City.

**Decarceration is the only way to reduce the urgent life and death crisis on Rikers Island.**

We as a city cannot continue to incarcerate people without access to food or health care.

We as a city cannot keep people in de facto solitary confinement due to dangerous conditions that we created.

We as a city cannot continue to put health care workers, including my fellow nurses, in danger for trying to care for their incarcerated patients in horrific circumstances.

The Mayor, judges, and district attorneys rapidly decarcerated city jails early in the COVID-19 pandemic due to the extreme risk of jail-attributable death due to incarceration. That risk still exists, and it is made worse by the current levels of extreme dysfunction on Rikers.

**We have community alternatives to address the core needs of most incarcerated people for mental health and substance use treatment, as well as housing and education. These programs desperately need the Council's support in order to meet the current need to get and keep as many people off of Rikers Island as possible.**

Sincerely,



Lorie S. Goshin, PhD, RN, FAAN



## Testimony of the #HALTsolitary Campaign & Jails Action Coalition

Presented before the New York City Council  
Committee on Criminal Justice & Committee on Civil Service and Labor  
On Conditions in New York City Jails  
September 15, 2021

We wish to start by expressing our deepest sorrow, condolences, support, and love to the families and loved ones of each of the people who have died in New York City's jails this year and in the past. Our City of New York has failed you and killed your loved ones, and we are all responsible. Thank you to the Committees on Criminal Justice and Civil Service and Labor for holding this critical and urgent hearing. The conditions in New York City jails are horrific and deadly, and immediate action must be taken by all stakeholders in order to save lives.

The #HALTsolitary Campaign is a New York statewide coalition led by people who have survived solitary confinement, family members who have or who have lost loved ones to solitary, and other leaders in the human rights, advocacy, health, and faith communities. Comprised of more than 400 organizational supporters, the #HALTsolitary Campaign aims to end solitary confinement for all people and create more humane and effective alternatives. The #HALTsolitary Campaign also aims to build on these changes – and their pursuit – to dismantle the racial injustices and punishment paradigm that underpin the entire incarceration system.

The New York City Jails Action Coalition (JAC) is a coalition of activists that includes formerly incarcerated and currently incarcerated people, family members and other community members who are working to promote human rights, dignity and safety for people in New York City jails. Since its formation in 2011, JAC has been at the forefront of the struggle to decarcerate the New York City jails, end solitary confinement in New York City jails, and promote the health and well-being of all New Yorkers, including people incarcerated in New York City jails.

There is an urgent life and death health crisis in NYC jails, and among other changes: **1) The Mayor, judges, district attorneys, the Governor, and the City Council must do everything in their own respective powers to fully decarcerate the jails immediately in order to release everyone in the jails and stop sending anyone to the jails; and 2) The City Council must amend and pass legislation, Int No 2173, to truly end all forms of solitary confinement and use models proven to improve well-being and safety for everyone.** Other immediate steps include 3) disbanding DOC and 4) creating true accountability mechanisms for death and abuse.

## **Key Facts on the urgent life & death health crisis on Rikers Island and the city jails**

There has been a horrific wave of deaths of people incarcerated at Rikers Island. At least 10 people have died in the past nine months, including reports of [Esias Johnson](#); [Brandon Rodriguez](#) (violently extracted by officers with batons and helmets, and then locked in solitary confinement, where he died by suicide); [Robert Jackson](#) (died while locked in solitary without staff checking on him for 15 hours); [Segunda Gualpa](#) (died by suicide); [Wilson Diaz-Guzman](#) (died by suicide); [Tomas Carlo Camacho](#) and [Javier Velasco](#) (died while locked alone in mental health observation units); [Thomas Earl Braunson III](#) (found dead in his cell after enduring horrible conditions); [Richard Blake](#) (died after telling staff he wasn't feeling well); and [Jose Mejia Martinez](#) (died after he wasn't provided medical care).

As has been reported by people who have been incarcerated, their family members, legislators and public defenders who visited Rikers Island, the Chief Medical Officer for the city jails, and the Governor, there are beyond horrific conditions in the New York City jails and even the most basic minimum standards and standards of humane treatment are not being followed, leading to the above deaths and so much additional suffering. Specifically, people are being denied access to food and to medical care. People are being locked in solitary confinement in showers amidst their own feces, in suicide watch units without staff supervision, and in other cells without being checked on for hours and days. The massive absenteeism of security staff is exacerbating the longstanding abuses of the City jails. With the delta variant and COVID increasing across the City, there is a major threat of more infection, harm, and death.

Dr. Robert Cohen, Board of Correction member, stated in the [New York Times](#): “Every person they send to jail is at great risk of harm and death”. Dr. Ross MacDonald, the Chief Medical Officer for New York City’s Correctional Health Services, has [described](#) a horrific humanitarian crisis that “has resulted in death and threatens the well-being of everyone who works and resides in city jails.” Governor Kathy Hochul, upon signing the Less is More Act into law, has [asked](#), “How does this hell on Earth exist today? This questions who we are as people that we can allow a situation that we’ve seen in Rikers exist in a prosperous, mighty city like New York. The fact that this exists is an indictment on everyone, and I’m going to do what I can.”

### **All Officials Must Do What is in Their Power to Do to End this Deadly Crisis:**

- 1. The Mayor, judges, district attorneys, the Governor, and City Council must fully decarcerate now!** Because the City is not able to keep people alive or healthy or meet their most basic needs, everyone in the jails must be released and not one more person should be sent to city jails. The City can no longer send people to an island, lock them in their cells without access to food or medical care, and leave them to die without their or their family’s ability to do anything about it.

- **The Governor has now done at least part of her part** by signing Less is More and immediately ordering the release of people incarcerated on technical parole violations. **Now every other official must do their part and do what is in their power to do.**
- **The Mayor, judges, and district attorneys must release people and stop sending people to jails.** Early in the pandemic, at the urging of advocates and the Board of Correction, the number of people incarcerated in New York City jails dropped by thousands of people on a given day. The Mayor used the 6A work release program to reduce the number of people serving sentences to less than 100. The City also convened judges and DAs to review cases for release, and the number of people detained pretrial (not including people with parole holds) was reduced from 3,247 at the start of the pandemic to 2,702 by the end of April (the number of people detained pre-trial has now swelled to over 4,600, bringing the total number of people in city jails on a given day to over 6,000 people). These releases were carried out in recognition of the risk of death from COVID. The risk of death now, from both neglect and the possible spread of the COVID-19 delta variant, is even greater. As noted above, there have been 10 deaths in the last nine months, from suicide and a lack of medical care.
- **The City Council must pass any and all legislation** that can help decarcerate, including increasing mental health diversion, facilitation of bail payments, and more.
  - The City passed legislation in 2019 to establish a Conditional Release Commission, with power to release people serving City sentences. That commission must be activated now.
  - The City should be calling DAs to task, asking them how they can defend their continual practice of using bail as ransom, by requesting sums of money they know defendants can't pay. Only 15% of defendants are able to pay bail at arraignment, and the consequence for that lack of funds is risk of immediate harm and death at Rikers.
  - The City Council could pass legislation to require the jail system to prioritize and facilitate decarceration. For example, DOC could automatically send a notice and recommendation to the court regarding anyone jailed pretrial on a first arrest, given that first arrests signal the lack of credible evidence of a flight risk. CHS might also be required to flag for the court people with chronic medical conditions, who face harms, including death, if held in the City jails.

**2. The City Council must amend and pass legislation to end solitary confinement** and utilize proven methods for well-being and safety for all. Solitary confinement is torture, causes death, and worsens safety. Yet the City continues solitary in various forms by



other names, even amidst this current crisis in a way that is fueling the crisis. Right now, in addition to the continued use of punitive segregation and structurally restrictive housing, people are being thrown into cells, sometimes even shower cells amidst their own feces or suicide watch units, and left alone without staff checking on them for hours or days. Brandon Rodriguez is dead because he was locked in solitary confinement in a shower and left to die. He was 25 years old. Several of the other people who have died this year are no longer here because they were locked in solitary confinement in cells or suicide watch units for hours or days without staff checking on them. Even before the current crisis, Layleen Polanco, Kalief Browder, Bradley Ballard, Jason Echeverria, Carina Montes and others have all died because they were locked in solitary confinement.

Interventions that are the opposite of solitary and involve full days of out of cell programming and activities, like the [Clinical Alternatives to Punitive Segregation \(CAPS\)](#) in NYC jails and the [Resolve to Stop Violence Project \(RSVP\)](#) in San Francisco jails, are proven to dramatically improve the well-being and safety for everyone, including in jails and in the outside communities to which people return from. For example, the RSVP program involved people who had carried out assaults, sexual assaults, and other repeated actions labeled as heinous, and yet over a one year period that it was studied violent incidents dropped to zero.

The City Council must *amend* and pass Int No 2173 to ensure all people in city jails, including in alternatives to solitary, are afforded the existing minimum standard of 14 hours daily out of cell, and that **out-of-cell time and programming actually take place outside a cell, with other people in a group setting** and shared space conducive to meaningful human interactions. **Amending and passing this bill is long overdue, fully in the Council's control, and must happen now.**

3. **Disband the NYC Department of Correction.** For years and decades the DOC has shown itself incapable of keeping people safe and healthy. Even after a federal lawsuit and 11 monitoring reports, the levels of staff abuse and other abuse has risen. Now, under new leadership committed to reform, the agency is still unable to change the entrenched culture of disregard for the lives and well-being of incarcerated people fast enough to save lives.
4. **The Mayor, City Council, and Board of Correction must promote independent oversight and ensure transparency and accountability**
  - The BOC must immediately release all reports on deaths in custody, and any they don't have yet they must investigate and issue their reports asap. During their testimony, the BOC indicated that the reason they were not being transparent with their reports was purportedly for respecting the privacy of the family members of

the people who died. Yet, Brandon Rodriguez's mother testified that their family themselves had *not* received any such reports and urged their release. Now is a moment for, at the very least, full transparency.

- The City Council must pass legislation requiring an independent investigative body with enforcement powers to investigate all deaths and other abuses more broadly, including the roles played by DOC, CHS, BOC, COBA, the Correction Captain's Union, and the Assistant Deputy Wardens Union.

**Conclusion: Each Official's Actions Must Rise to the Gravity of this Crisis**

This is beyond a crisis. The City has killed New Yorkers with its jails. It can not continue to do so, and every official and elected representative must do what is in your power to decarcerate and end all solitary, medical neglect, and abuse. The Governor has taken a major step within her power by signing the Less is More Act passed by the state legislature, and ordering the release of people incarcerated on parole violations. Now it is time for all other elected representatives and officials to do what is in their power to do. The Mayor and Commissioner can also immediately release people, and they must. The District Attorneys must stop seeking bail and judges must stop setting it, and they all must facilitate the release of people currently incarcerated in the jails. The City Council must finally amend and pass Int No 2173 to end solitary confinement, and must take other measures to support decarceration. The state legislature and Governor must end cash bail so people are no longer sent to face the risk of death because they are poor. Each elected representative and other official must do everything within in your power to stop this crisis and save lives.

**Testimony before the NYC Council Committee on Criminal Justice,  
jointly with the Committee on Civil Service and Labor  
Re: “The Condition of Our City’s Jails”**

Submitted by DeAnna Hoskins



Chairman Powers, Miller and Members of the committees, thank you for holding this hearing today and for the opportunity to testify.

I am DeAnna Hoskins, President and CEO of JustLeadershipUSA. I come before you today, like many of you, appalled at the recent reports coming out of Rikers Island detailing what amounts to a true human rights crisis.

In my career in criminal justice, I have seen the carceral state from all sides of the bars. I have been incarcerated myself, I have been employed in Correctional administration at a maximum security correctional facility and I have managed federal and state policies overseeing the operations of correctional facilities. I have been involved with over 20 state facilities and at least 80 local jails. **Rikers Island stands apart. In any other city that has declared a state of emergency at a local jail, Federal assistance and oversight would be utilized.** What is happening there is a total breakdown of the system; and not one that can be fixed with emergency measures. **This is a crisis** that affects not just those individuals who are incarcerated, but the employees as well, and the families and communities of those who are incarcerated. **We must fundamentally change the conditions of confinement. We must fundamentally change the conditions of employment. We must fundamentally change how we view and treat ALL citizens of New York City.**

I find it frustrating, though sadly not surprising, that it takes the sort of traumatic events experienced last week by the State delegation to pull this issue back into the spotlight for a moment. Perhaps some emergency measures will be taken, and no doubt, this hearing itself will shine some needed light.

But I want to be very clear: **there is no fixing Riker’s Island.** Judge Lippman and the Lippman Commission determined that. Former Speaker Melissa Mark-Viverito embraced that, as did Mayor DeBlasio and this Council. In a difficult fight JustLeadership USA was in the trenches with you when you made the courageous decision to CLOSE RIKERS once and for all. There is no other way to fix this problem, the dysfunction is entrenched in the walls of the facilities hidden from view on that island.

This is the moment when we have to recommit to the plan to close Rikers Island and I strongly encourage the next Administration and the next Council to listen to the voices of those closest to the problem, the voices of those who have been most harmed, as we seek to address it.

At JLUSA, we work nationally to ensure that directly impacted people are at the table when these decisions are being made. Nationally, we have provided training to over 1,100 leaders,

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empowered campaigns in 7 states and given voice to individuals, families and communities fighting for a more Just US.

I am grateful for the opportunity to testify today and I look forward to the work we will undertake together to address this crisis. **But let me be clear, this is further evidence that the closing of Rikers Island and de-carcerating New York City must remain top priority and Building and Investing in Communities mandatory. It is time for less talk and more action.**



New York City Council Committees on Criminal Justice, Civil Service and Labor

September 15, 2021  
10:00 a.m.

**Oversight: The Conditions in our City's Jails**

Testimony of  
The Legal Aid Society  
Criminal Defense Practice

Presented by:

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Thank you for the opportunity to testify about the perilous conditions threatening lives in the New York City jails. In our experience, this moment marks the most dangerous time in City jails since September 1970, when deplorable conditions caused uprisings in the Queens House of Detention and Manhattan Detention Complex (“the Tombs”), leading to judicial limits on new admissions and the subsequent closure of the Tombs.<sup>1</sup> City leaders at all levels must take bold, unprecedented, coordinated action right now to end this human rights catastrophe.

### **“People are fighting over bread”**

An extraordinarily diverse array of voices—elected officials, doctors, corrections professionals, incarcerated people pleading for help – are sounding the same alarm: New York City cannot safely operate this jail system. These are just a few statements of the gravity of the harm:

*LAS client, mental observation unit, AMKC, September 8, 2021:* “It’s like a horror movie.” The client reported that people have not gotten recreation in months, and have not cut fingernails, toenails or hair. He reported that people are distressed over lack of medical care. Facilities are covered in feces and urine, not only because people are decompensating, but in order to get any kind of attention from correctional staff. People are starting fires in order to be released from cells in cell units and intake areas.

*The Chief Medical Officer of Correctional Health Services:* “In 2021 we have witnessed a collapse in basic jail operations, such that today I do not believe the City is capable of safely managing the custody of those it is charged with incarcerating in its jails, nor maintaining the safety of those who work there.”<sup>2</sup>

*Federal monitor overseeing violence in the jails:* “[T]his state of seriously compromised safety has spiraled to a point at which, on a daily basis, there is a manifest risk of serious harm to both detainees and staff.”<sup>3</sup>

*Public Advocate Jumaane Williams:* “This is the most horrific thing I have ever seen in my life. I have been coming to this jail since 2008 and this is unlike anything that has ever happened.”<sup>4</sup>

*Councilmember Jessica Ramos:* “The conditions on Rikers Island are heartbreaking, deplorable, & unacceptable for both the people who are incarcerated and those expected

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<sup>1</sup> See generally *Rhem v. Malcolm*, 507 F.2d 333 (2d Cir. 1974).

<sup>2</sup> Letter to Council Member Keith Powers from Dr. Ross MacDonald, Chief Medical Officer of Correctional Health Services (“Ross MacDonald Letter”), September 10, 2021, <https://www.ny1.com/content/dam/News/static/nyc/pdfs/RM-city-council-letter-9-10-21.pdf>.

<sup>3</sup> Letter to Judge Swain from the Office of the Monitor (“First Emergency Nuñez Letter”), *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY), ECF No. 378, Aug. 24, 2021, at 3, <http://tillidgroup.com/wp-content/uploads/2021/08/2021-08-24-Letter-to-Court-re-Conditions-FINAL.pdf>.

<sup>4</sup> Jacob Kaye, ‘Shame on us,’ *electeds say after Rikers visit*, QUEENS DAILY EAGLE (Sept. 13, 2021), <https://queenseagle.com/all/2021/9/13/shame-on-us-electeds-say-after-rikers-visit>.

to care for them. In the hours I spent there, I saw about a dozen men in one cell, many who haven't received their medication in days & weeks, and I even saw a man try to take his own life."<sup>5</sup>

*LAS client, September 11, 2021, in OBCC intake: "People are fighting over bread."*

### **The Collapse of Medical Care and Basic Jail Services**

The most common concern we have heard from our incarcerated clients in the last few months has been the inability to obtain medical care because staff are unavailable or unwilling to transport individuals to the clinic. Individuals have reported chronic cancellations of appointments, both to in-jail clinicians and outside specialists, simply because of lack of escorts. Others report the trauma of observing fellow incarcerated people suffer serious medical emergencies, including acts of suicide or drug overdoses, with delayed or no response from medical or correctional staff.

These near-daily reports are confirmed in the letter from the Chief Medical Officers of Rikers Island describing the operational failures and resultant denial of medical care.<sup>6</sup> He reports that "unavailability of staff has resulted in delays in transferring patients to clinics for care, to mental health units or to the hospital, even when 911 has been activated and EMS has arrived to transport them. More recently we have seen breakdowns in basic functions such as failing to provide correctional staff to supervise some housing areas or observe incarcerated people placed on suicide watch."<sup>7</sup> We will not summarize here the detailed information and nuanced analysis contained in this letter, as it speaks for itself. For the jails to degrade so thoroughly that individuals are rationally living in genuine terror that they have *no* recourse to medical care is a human rights disaster.

### **Conditions in Intake Areas Are Deplorable**

The conditions in intake areas—communal spaces through which all incarcerated people enter or leave a DOC facility—are particularly inhumane. Intake cells are not designed to be livable even in typical jail operation, because they are intended only for transit or to serve as a temporary waiting area for the adjacent medical clinics. There are no beds, only benches, and no private toilet stalls. Intake does not have the regular food or medication distribution system that exists for housing areas, nor programming or recreation. There are no phones by which to call the sick call line for access to medical and mental health staff or to reach attorneys or loved ones. There is exceedingly poor sanitation, and no access to cleaning supplies. It is simply not an environment in which people can live.

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<sup>5</sup> Jessica Ramos (@jessicaramos), Twitter (Sept. 13, 2021, 7:11 PM), <https://twitter.com/jessicaramos/status/1437554491251888128>.

<sup>6</sup> Ross MacDonald Letter.

<sup>7</sup> *Id.*

Yet individuals are now languishing in these intake areas not just for a few hours, but overnight and even for days. Numerous clients have reported in the last several months that they have been held in intake areas, at times crammed with 25-30 people, for days, a week, or more. The living conditions are inhumane: they do not have regular access to substantial food, adequate water, medication, or adequate medical attention. They miss court dates and cannot get clean clothes or take showers. They report that the floors are covered in trash, roaches, and human excrement because toilets often don't work and so people are forced to relieve themselves on the floors where they all sleep. Reports from other sources confirm our clients' accounts. After a September 13, 2021 visit to Rikers, public defenders and elected officials described seeing people held in "segregated intake units" that were showers, two feet by six feet, with plastic bags as a substitute for toilets.<sup>8</sup> Senator Jessica Ramos relayed "deplorable conditions," including "dead cockroaches...fecal matter, and food that has been sitting there rotting," and said she and another senator observed a person attempting suicide.<sup>9</sup> The Chief Medical Officer of CHS, Dr. Ross MacDonald, described "pervasive problems of overcrowded pens where incarcerated people are held for days on end...people [are] kept in temporary spaces such as showers, at times standing in feces."<sup>10</sup>

### **The Extraordinarily High Death Rate in 2021**

Though deaths are not the only measure of harm to people in custody, the sharp uptick in deaths in 2021 has been devastating. In all of 2020—in a global pandemic—there were seven reported deaths in custody.<sup>11</sup> In 2021, *so far*, there have been at least 10, including:

1. January 23, 2021: Wilson Diaz-Guzman hanged himself from a sprinkler head with a bedsheet. He was 30 years old.<sup>12</sup>
2. March 2, 2021: Tomas Carlo Comacho was found unresponsive, on his knees, with his head through a slot in his cell door in a mental health observation unit. He was 48 years old.<sup>13</sup>
3. March 19, 2021: Javier Velasco hanged himself in a mental health observation unit after attempting suicide three days prior. He was 37 years old.<sup>14</sup>
4. April 19, 2021: Thomas Earl Braunson III was found dead in his cell amidst horrible conditions. He was 35 years old.<sup>15</sup>

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<sup>8</sup> Alice Fontier (@AFontier), Twitter (Sept. 13, 2021, 10:46 PM), <https://twitter.com/AFontier/status/1437608762068672516>.

<sup>9</sup> A video of Senator Ramos' comments was posted to Twitter. See Nick Pinto (@macfathom), Twitter (Sept. 13, 2021 at 3:13 PM), <https://twitter.com/macfathom/status/1437494786920001540>.

<sup>10</sup> Ross MacDonald Letter.

<sup>11</sup> Jan Ransom, 'Disorder and Chaos' in N.Y.C. Jails as Pandemic Recedes, THE NEW YORK TIMES (June 19, 2021), <https://www.nytimes.com/2021/06/19/nyregion/rikers-island-chaos-suicides.html>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Reuven Blau, *Rikers Detainee Endured 'Horrible Conditions' Before Dying in Cell, Jails Overseer Finds*, THE CITY (Aug. 1, 2021), <https://www.thecity.nyc/2021/8/1/22605140/rikers-island-horrible-conditions-jail-deaths>.



5. April 30, 2021: Richard Blake died after reportedly telling staff he wasn't feeling well. He was 45 years old.<sup>16</sup>
6. June 10, 2021: Jose Mejia Martinez was found dead in his cell. He was 34 years old.<sup>17</sup>
7. June 30, 2021: Robert Jackson was found unresponsive in his cell, having reportedly been left unsupervised by an officer who abandoned a post after working for over 20 hours. He was 42 years old.<sup>18</sup>
8. August 10, 2021: Brandon Rodriguez hanged himself with his shirt in intake, after being beaten by officers during a use of force and then isolated. He was 25 years old.<sup>19</sup>
9. August 30, 2021: Segunda Gualpa was found unresponsive in his cell in an apparent death by suicide. He was 58 years old.<sup>20</sup>
10. September 7, 2021: Esias Johnson was found unresponsive in his mental health unit after reportedly requesting medical attention. He was 24 years old.<sup>21</sup>

This is an extraordinarily high death rate for a jail. It is of particular concern that so many have been deaths by suicide, especially when the Board of Correction indicates that there were no reported suicides in 2018, 2019, and most of 2020.<sup>22</sup> The deaths of these people should compel us to immediate action.

### **The Chronic Overstaffing of the Department Jeopardizes Security and Safety**

With over 8,500 correction officers, New York City jails are one of the most over-staffed jails in the country.<sup>23</sup> This outsized workforce does not make the jails safer: to the contrary, the surplus of staff contributes to poor deployment and supervision, and the Monitor has found is a *precipitating* factor in violence at Rikers Island.<sup>24</sup> The Monitor found:

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Susan Edelman and Dean Balsamini, *City probing death of Rikers Island inmate after guard left post*, NY POST (July 10, 2021), <https://nypost.com/2021/07/10/city-probing-death-of-rikers-inmate-robert-jackson-after-guard-left-post/>.

<sup>19</sup> Graham Rayman, *Staten Island detainee hangs himself in NYC jail using t-shirt: sources*, NY DAILY NEWS (Aug. 13, 2021), <https://www.nydailynews.com/new-york/nyc-crime/ny-man-dead-rikers-island-20210813-4dmqk7zi2rbcbp2ntfwdxho2ba-story.html>.

<sup>20</sup> George Joseph, *Detainee Found Dead in His Cell at Rikers Island*, GOTHAMIST (Aug. 30, 2021), <https://gothamist.com/news/detainee-found-dead-his-cell-rikers-island>.

<sup>21</sup> George Joseph, *Another Man Found Dead On Rikers After A Month In DOC Custody*, GOTHAMIST (Sept. 7, 2021), <https://gothamist.com/news/another-man-found-dead-rikers-after-month-doc-custody>.

<sup>22</sup> New York City Board of Correction, *Statement on Recent Suicides in the New York City Jails* (Sept. 1, 2021), <https://www1.nyc.gov/assets/boc/downloads/pdf/News/board-statement-on-recent-suicides-in-the-new-york-city-jails-20210901.pdf>.

<sup>23</sup> First Emergency Nuñez Letter, at 3; Eleventh Report of the Nuñez Independent Monitor (“Eleventh Report”), *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY), ECF No. 368, May 5, 2021 at 10-11 (“The size of the Department’s complement of Staff, particularly the number assigned to the jails, is highly unusual and is one of the richest staffing ratios among the systems with which the Monitoring Team has had experience. This is true even with the unusually high number of Staff who have not reported to work due to chronic illness, COVID-19, and other reasons...notwithstanding the abnormally high absenteeism, the Department *still* has an extraordinarily large number of Staff to operate the jails.”).

<sup>24</sup> Eleventh Report, at 10-11.

All too often, problems are precipitated, exacerbated, and catalyzed by the number of Staff who are present at the scene.... Even as Facility leadership and Staff claim that there is an insufficient number of Staff in the Facilities, time and again, the Monitoring Team observes more Staff than reasonably necessary responding to incidents.... Facility leadership believes more Staff are always needed, when, in fact, it appears that Staff simply need to be deployed more effectively and need to apply a different skill set to resolve tensions. More often than not, Staff and Supervisors default to requests for additional Staff to address issues that can and should be addressed by the Staff on the unit and their Supervisors. In most cases, it appears the Staff and Supervisors on the unit are simply unwilling or unable to accept and execute their core responsibilities, such as to provide basic services and resolve interpersonal conflict, and instead seek more Staff to address the problem. The Monitoring Team's observation of Facility operations reveal an unusually large number of Staff working in the Facilities despite some markers that could suggest understaffing (e.g., high use of overtime; high rates of violence and use of force; problems with dependable service delivery including commissary, barbershop, recreation; difficulty releasing Staff who need to attend training), each of which leads to additional problems. These include environments that undervalue de-escalation and problem-solving and overuse physical intervention; frustration among people in custody that leads to negative behaviors; Staff calling out for their regularly assigned shift because they do not want to be held over for an additional shift; fatigue, impatience and morale problems among Staff who are working extra shifts; and an inadequately trained workforce. The staffing issue seems to be one of roster management and deployment versus insufficient numbers of Staff.<sup>25</sup>

The Monitor described one such fairly ordinary incident:

This was an incident in which two incarcerated individuals in a secure day space recreation area were refusing to cuff-up. A Response Team arrived and immediately used OC spray on the two individuals who were standing passively facing the five-member Response Team (during the course of the incident five additional applications of OC were applied). The two individuals were quickly subdued. Separately, one Response Team member repeatedly used hard impact body and head strikes to an individual cornered in the back of the day space. After the individuals were restrained, the small day space was flooded by no less than 10 to 12 officers creating such a crowded milieu, that officers could be seen tripping over one another. That such a cadre of additional officers were not only available, but deployed to respond to this incident, raises a number of important questions regarding staffing management.<sup>26</sup>

### **Uniformed Staff Will Not Come to Work**

The City does not need more correction officers. It *does* need its current employees to show up to work—and in unprecedented numbers this year, DOC uniformed staff have refused to do so. As the *Nuñez* monitor reports:

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<sup>25</sup> Eleventh Report, at 11-13 (emphasis supplied).

<sup>26</sup> Eleventh Report, at 12.

“As of the end of July 2021, the Department reported that of the approximately 8,500 uniformed staff members, approximately 1,650 were out on sick leave and another 1,400 were medically monitored (in most cases meaning they may not work with incarcerated people).

Further, at the end of July 2021, DOC reports that collectively, staff failed to report to another 2,300 shifts they were expected to work and did not notify the Department—effectively absent (“AWOL”).

Thus, approximately 3,050 of the 8,500 staff have either called in sick, or are on restricted duty and not working with incarcerated people and, moreover, substantial numbers of AWOL staff are simply not reporting for work when scheduled, without providing notice or reason.”<sup>27</sup>

As a result, there are not enough staff to operate the facilities at even the most skeletal level: entire housing areas *have no staff* at all; staff are not available to escort individuals to the medical clinic, counsel or family visits; and as we detail more below, the Department cannot provide incarcerated people in its care basic necessities such as food or beds. The ubiquity of AWOL is inexplicable given that DOC officers have *unlimited* sick leave with pay. This sick leave policy not only contributes to the exorbitant costs of incarceration by increased overtime liability, but also directly leads to the dangerous phenomenon of officers working double and even triple shifts to cover for their absent colleagues. Moreover, the City’s operational ability to respond flexibly to sick or AWOL absences by re-deploying staff is constrained by its excessive designation of staff who are *not* sick as “medically monitored,” and therefore unable to work directly with incarcerated people.

The abuse of these policies in the past six months has been egregious. Commissioner Schiraldi recently described staff were “sharing their vacation experiences while out sick on social media,” and noted a posting calling for a department-wide “bang-in,” in which people who could otherwise work simply do not come.<sup>28</sup> The Commissioner reported that the DOC “19% sick rate is more than 6 times higher than NYPD’s (3%) and 3 times higher than FDNY’s (6%).”<sup>29</sup>

That uniformed staff can be absent in these numbers, but continue to draw a city paycheck and pension, represents an extraordinary collapse of government oversight and accountability. The City’s fiscal responsibility would mandate that it address this abdication of duty and abuse of the public fisc with appropriate consequences even if these actions had fewer repercussions. But the fact that the human toll in injury, disease, suffering and even death is so catastrophically high creates a genuine public emergency.

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<sup>27</sup> First Emergency Nuñez Letter, at 4.

<sup>28</sup> Commissioner Schiraldi Talking Points, *Staffing Crisis Press Conference* (Sept. 7, 2021), <https://www1.nyc.gov/site/doc/media/remarks-by-commissioner-09-07-2021.page>.

<sup>29</sup> *Id.*

## **An Artificially Small Leadership Pool Deprives the Jails of Skilled Supervisors**

While the staff absentee action has acutely paralyzed the jail system this spring and summer, the current conditions arise from longstanding failures of facility leadership—wardens and deputy wardens—to model and demand basic correctional competence in operation of the jails. The *Nuñez* monitor described with alarm the “security lapses and breaches of the most fundamental duties of staff such as abandoning housing units, failing to secure doors, and allowing detainees access to highly secure areas.”<sup>30</sup> Put simply, “the poor quality of Facility leadership hinders progress and must be addressed for the Agency to ever become successful.”<sup>31</sup>

Facility leadership perpetuate the cycles of violence and incompetence in part, the Monitor observed, due to a lack of experience or familiarity with modern or different correctional practices. According to the monitor, “facility leaders rarely emerge as champions of an idea or new practice and often seem to be myopic due to a lack of experience in other jurisdictions. They simply do not know of other ways to solve problems besides ‘how we’ve always done it.’”<sup>32</sup>

This limited vision and skill is rooted in the process by which the City chooses facility leaders. As the Monitor described:

Currently, the only individuals who may serve as Wardens and Deputy Wardens are those currently in the uniformed ranks. This creates a narrow field without many choices, selects from those with DOC-only experience, perpetuates DOC’s culture, and excludes well qualified candidates who have served in similar positions in other jurisdictions. Therefore, the Monitoring Team recommends that the Department broaden the criteria of candidates who may serve in these roles, which will allow for the selection of individuals based on their breadth of experience and demonstrated effectiveness as leaders. Only then, with the right people at the top of the Facility hierarchy, will the vision for elevating the quality of supervision further down the chain of command and the essential improvements to Staff practice become possible.<sup>33</sup>

It is imperative that all City leadership commit to changing these entrenched practices to allow New York to break these cycles of violence and incompetence.

## **Regression to Outdated, Inhumane Punishment is Not Necessary to Achieve Safety**

The City must certainly act immediately to address the crisis within DOC, but those actions must be responsive to the actual problems within that system. At a time when conditions in the jails have already descended to the level of a humanitarian crisis, it would be a tremendous mistake

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<sup>30</sup> First Emergency *Nuñez* Letter, at 2.

<sup>31</sup> Eleventh Report, at 8.

<sup>32</sup> Eleventh Report, at 10.

<sup>33</sup> Eleventh Report, at 15.

for City officials to heed incendiary calls from the correction officers' union to "bring back the box"<sup>34</sup> and regress to the outdated, inhumane practice of punitive segregation.

As a threshold matter, there are already decades of data about the destructive effects of isolated confinement. The Department has had punitive segregation as a tool since its inception—one it "relied very heavily on," as Commissioner Schiraldi said recently<sup>35</sup>—and still the jails remained unsafe. Isolation deteriorates and decompensates. History has taught us that it has not been an effective mechanism to create safety for staff or people in custody.

And now, the dysfunction, absence of basic life necessities, and inability to access medical or mental health care breed an environment of tension and serious conflict. As Dr. Rachael Bedard, CHS Director of Geriatrics and Complex Care Services, put it when discussing the current conditions in DOC, "When people are hopeless, terrified, have no avenues to get what they need, are sleepless, off meds, and traumatized, they hurt themselves. They hurt each other. They hurt officers and staff."<sup>36</sup> People in custody report the same--needing to set fires, create scenes, hunger strike to get essential services like food or an escort to a medical clinic. When human desperation and fear is the driver of these behaviors, the answer cannot be more leeway with tools of isolation that will only serve to prevent access to those same necessities and deteriorate further the person's mental and physical health. The City must reject any suggestion that it should revert to a reliance on inhumane correctional practices like punitive segregation, and instead must move forward to addressing the fundamental needs of people in custody and staff.

## **Recommendations**

The City and State must take immediate steps to prevent further suffering and loss of life.

### **1. Decarcerate Immediately.**

There are approximately 6,000 people currently incarcerated in city jails, a sharp increase from approximately 3,900 in April of 2020, and a direct consequence of bail reform rollbacks.<sup>37</sup>

Approximately 4,600 people detained in city jails are held pre-trial, including more than 1,100 people charged with non-violent felonies as the top charge, and more than 390 people charged with misdemeanors as the top charge.<sup>38</sup> We urge prosecutors and judges to use their discretion to reduce the number of people sent to jail by releasing people currently held pre-trial. Prosecutors and judges' willingness to decarcerate saved lives at the height of the pandemic and a similar will is necessary in the present crisis. We also urge Commissioner Schiraldi to brief the chief administrative judges and five New York City District Attorneys as to the inhumane conditions

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<sup>34</sup> Rachel Sherman, *Rikers Staffing Crisis Limits Access to Medical Care*, THE CITY (Aug. 26, 2021), <https://www.thecity.nyc/health/2021/8/26/22643199/rikers-staffing-crisis-medical-care>.

<sup>35</sup> *Id.*

<sup>36</sup> Rachael Bedard, MD (@rachaelbedard), Twitter (Sept. 7, 2021, 7:56 AM), <https://twitter.com/rachaelbedard/status/1435210425008787459>.

<sup>37</sup> People in Jail in New York City, Daily Snapshot: Comparing April 30, 2020 with September 13, 2021, THE VERA INSTITUTE, <https://greaterjusticenyc.vera.org/nycjail/>.

<sup>38</sup> *Id.* at chart 2.

in city jails and urge increased scrutiny around bail requests/bail setting and any other prosecutorial/judicial action that increases the current DOC population.

Approximately 275 people are detained in the city jails because of an alleged technical violation of parole, including failing to make an office report or testing positive for drug use.<sup>39</sup> If the “Less Is More Act” (S1144 Benjamin /A5576 Forrest), were in effect today, every person charged with a technical violation of parole would be entitled to release.<sup>40</sup>

Approximately 770 people are detained in the city jails because they are charged with a parole or probation violation and have a pending criminal case. When a person is charged with a parole violation, criminal court judges have no discretion to order release or impose affordable bail. Less Is More would eliminate mandatory detention for parole violations and if it were in effect today, every person charged with a parole violation within this group would be eligible for bail consideration by criminal court judges.

We urge the Governor to sign Less Is More and Acting Commissioner Annucci to implement it immediately by lifting violation warrants for those people currently in city custody. The passage of Less is More by the New York State legislature was vindication of the principle that the over-incarceration of people on parole was bad public policy; to continue to incarcerate people who would be released under that bill in the current inhumane environment is beyond unjustifiable.

There are approximately 224 people currently serving a sentence in the city jails. We urge the Mayor to exercise the power conferred by Correction Law Article 6-A to grant work release to this group. The Mayor’s similar intervention during the pandemic resulted in a meaningful reduction in the jail population, removing people from congregate settings as infections spiked.

## **2. Halt new admissions to DOC.**

While the City must reduce the jail census with decarceration efforts, the City must likewise use every tool to avoid adding to that census by setting intake limits. This measure is often used to handle overcrowding—but in New York City jails, the harms of overcrowding have been generated by staff absenteeism and overall systemic dysfunction. Because the Department cannot safely manage the current jail census, and while judges and prosecutors remain unmoved by the humanitarian crisis their decisions perpetuate, it is incumbent on the criminal system in the city to refrain from sending people into DOC facilities. That relief has at times come from a court order, such as in the California prison system or the 1970s shuttering of The Tombs in New York City.<sup>41</sup> In some jurisdictions, like in a county in Washington, law enforcement itself instituted the limit—notifying arresting officers that the county jail was too backlogged and that they therefore must identify alternatives to arrests and incarceration for certain felony cases.<sup>42</sup> City leadership

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<sup>39</sup> *Id.* at chart 1.

<sup>40</sup> Less is More Act (S1144-A), Senate for the State of New York, 2021-2022 Regular Sessions (January 7, 2021), <https://legislation.nysenate.gov/pdf/bills/2021/S1144A>.

<sup>41</sup> *Brown v. Plata*, 131 S.Ct. 1910 (2011); *Rhem v. Malcolm*, 507 F.2d 333 (2d Cir. 1974).

<sup>42</sup> Andrew Epperson, *Police respond to new detainee intake limit at Washington County Jail*, KNWA (Oct. 15, 2019), <https://www.nwahomepage.com/knwa/police-respond-to-new-detainee-intake-limit-at-washington-county-jail/>.

now must find the political will to use tools such as these to stop the constant flow of people into a correctional system that will demonstrably imperil their health and safety.

### **3. Ensure the workforce comes to work.**

The City cannot continue to tolerate “excessive and unchecked staff absences” that so significantly contribute to the basic operational failures in the jails and pose serious risk to everyone detained and working there.<sup>43</sup>

The City must, at minimum, take three actions to address this persistent absenteeism.

First, the City must immediately hold AWOL officers accountable, with suspensions without pay for those who fail to come to work in short periods (one to two shifts), and with swift, stronger discipline for those who are AWOL. Second, the City must urgently address the abuse of sick leave for what it is—a concerted effort to disrupt the basic operation of a city agency—and seek relief accordingly. The *Nuñez* Monitor has expressed parallel concerns and recommendations, both to discipline AWOL staff and consider whether the sick leave data indicates a job action permitting judicial relief.<sup>44</sup>

Finally, the City must consider how these workforce actions should impact the contract with COBA, which is fast approaching a bargaining period. The City should not permit contractual arrangements that are rampantly abused by city employees to the point of peril, both for their colleagues and the incarcerated people they are obligated to protect. If there are sick leave or other personnel management policies that imperil people in the city jails, those policies cannot continue.

### **4. Ensure medical clinic access and audit missed clinic appointments.**

The public reporting and accountability mechanisms currently in place for access to medical care are not sufficient. Though the quarterly reports produced by CHS are important, they are too delayed to meet the urgency of this moment.<sup>45</sup> To keep pace with today’s crisis, the Council should mandate regular, weekly audits of the following data points: missed appointments (medical, mental health, outside specialist, dental, substance use), length of time from when a person enters DOC custody to the point at which they are seen by medical staff, and reasons for failures to complete appointments.

The Council should inquire about a number of barriers to clinical access. First, the Council should seek clarity about “refusals” to go to medical/mental health appointments and how those refusals are verified, to disincentivize officers who misrepresent that a patient has refused when

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<sup>43</sup> First Emergency *Nuñez* Letter, at 3.

<sup>44</sup> Letter to Judge Swain from the Office of the Monitor (“Second Emergency *Nuñez* Letter), *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY), ECF No. 380, Sept. 2, 2021, at 2-3, <http://tillidgroup.com/wp-content/uploads/2021/08/2021-08-24-Letter-to-Court-re-Conditions-FINAL.pdf>.

<sup>45</sup> The most recent CHS report about access to medical and mental health services only has data through June 2021. Correctional Health Services, CHS Access Report: April-June 2021, <https://hhinternet.blob.core.windows.net/uploads/2021/09/chs-access-report-quarter-2-2021.pdf>.

in fact they wanted to go to the clinic—a practice our clients reported to us regularly even before the current crisis. The Council should also probe whether the escort policies that currently govern how a person gets to the clinic are necessary. If people are not able to go to the clinic because DOC policy requires two officers and a captain for people in certain statuses, for example—who are persistently not available—that policy should not be a barrier to adequate medical or mental health care.

### **5. Institute a 24-Hour Cap on Intake Stays.**

It is completely unacceptable that people are housed in intake cells for days. As noted above, the units have been the site of multiple recent deaths in custody. The City cannot allow these conditions to continue, nor permit the backlog of people stuck within them. The City was once under a federal court order in *Benjamin* to house people within 24 hours,<sup>46</sup> which was only terminated when the Department demonstrated a period of compliance with that requirement.<sup>47</sup> Since that time, decades ago, the Department has persistently failed to house people in reasonable time, endangering their health and safety. The Department should again be compelled, whether by legislation or otherwise, to assign people to livable housing units—**within 24 hours**—where their basic needs can be met. The *Nuñez* Monitor likewise supports this time frame.<sup>48</sup>

### **6. Establish an Ombudsman.**

The Council should create more direct access to people in the jails, thereby also providing another layer of accountability for the Department. There should be an ombudsman assigned to every facility, to regularly tour the units, receive complaints from people in custody and staff, and relay them to the Council. The ombudsman should regularly and publicly report on the complaints received, conditions observed, and actions taken to address them.

### **7. Expand the Pool of Potential Facility Leaders.**

DOC should implement the clear recommendation of the Monitor to expand the criteria for who may serve on Facility leadership teams, so the Department is not limited to selecting individuals from the uniform ranks.”<sup>49</sup>

### **8. Implement Other Urgent Recommendations from the *Nuñez* Monitor.**

On September 2, 2021, the *Nuñez* Monitor recommended a series of additional immediate actions for the City to take in “improv[ing] basic security procedures and management of the jails” to “address the ongoing dangerous and unsafe conditions in the New York City jails.”<sup>50</sup> These recommendations include security recommendations, reducing reliance on probe teams to

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<sup>46</sup> *Benjamin v. Koehler*, No. 75-CV-3073 (S.D.N.Y. May 3, 1989).

<sup>47</sup> *Benjamin v. Kerik*, No. 75-CV-3073 (S.D.N.Y. Aug. 30, 2000).

<sup>48</sup> Second Emergency *Nuñez* Letter, at 2.

<sup>49</sup> Eleventh Report, at 15.

<sup>50</sup> *Id.*



address everyday issues, employing video monitoring capabilities, responding to self-harm incidents, and providing basic medical care and other services such as access to food and water.<sup>51</sup> The City should immediately implement each of those recommendations.

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<sup>51</sup> *Id.*

**TESTIMONY BEFORE NEW YORK CITY COUNCIL'S  
COMMITTEE ON GOVERNMENTAL OPERATIONS**

**Presented on September 20, 2021**

My name is Olivia Adéchi and I am a paralegal casehandler with the Immigration Law Unit at The Legal Aid Society. For 145 years, The Legal Aid Society has advocated for those least able to advocate for themselves. The Immigration Law Unit of The Legal Aid Society, founded in the 1980s, provides legal representation to vulnerable New Yorkers seeking immigration relief for themselves and their families. We assist those in detention, fighting unlawful deportations and represent low-income individuals in gaining and maintaining lawful status. Combining this representation with affirmative litigation work, the Immigration Law Unit strives to ensure that families can stay together and stabilize their living situations. Over the most recent year, the Unit assisted in nearly 4,500 individual legal matters benefiting over 10,500 New Yorkers citywide. I am pleased to provide testimony in support of Int. 1867-2020 on behalf of The Legal Aid Society.

I moved to New York City with my family as a toddler and have lived here since then under various visas, with a work permit and then as a lawful permanent resident. I am one of New York City's over 3 million immigrants who comprise around 37 percent of the City's population<sup>1</sup> and 43 percent of its workforce.<sup>2</sup>

During the COVID-19 pandemic, immigrants represented over half of the one million essential workers that kept the city going as the rest of us worked from the safety of our homes.<sup>3</sup> In fact, foreign-born workers represent approximately 56 percent of the workforce in essential industries and 58 percent of the workforce in essential occupations.<sup>4</sup>

Growing up I remember so vividly the days we learned about the American Revolution in school. I was captivated learning about the key events, beliefs, and language that became the cornerstones of U.S. society. One thing that stuck with me even as a kid was the phrase most frequently attributed to James Otis, "taxation without representation is tyranny." It rang in my head when I turned 18 and considered the fact that I had been working and filing my own taxes for two years, was being taxed on all my purchases, and I was not even close to being able to vote in the city I had called home for well over a decade. I had all the same responsibilities and duties to the state as

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<sup>1</sup> NYC Mayor's Office for Economic Opportunity, "An Economic Profile of Immigrants in New York City" (2017), <https://www1.nyc.gov/assets/opportunity/pdf/immigrant-poverty-report-2017.pdf>

<sup>2</sup> NYC Mayor's Office of Immigrant Affairs, "State of our Immigrant City" (2020) <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf> (hereinafter "State of our Immigrant City").

<sup>3</sup> State of our Immigrant City, <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf>

<sup>4</sup> State of our Immigrant City, <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf>

my fellow New Yorkers but lacked this crucial right. I knew acutely that I was a member of multiple underrepresented and under-resourced demographics and had no real recourse to civic action despite being a long-time New Yorker.

Immigrant New Yorkers are integral to the fabric, functioning and tax base of this city and always have been, yet they do not have the right to meaningfully participate in the local electoral politics that have huge impacts on so many facets of their lives. This lack of access to civic participation is particularly problematic now because during the pandemic the zip codes with high immigrant populations had the highest mortality rates and loss of income.<sup>5</sup> The pandemic underscored and exacerbated existing inequalities faced by low-income and immigrant communities at every level of public and private life.

The Legal Aid Society supports non-U.S. citizen suffrage in New York City because if our city is to call itself a democracy, it cannot do so without enfranchising all adults who call it home, regardless of their citizenship or immigration status. This is why The Legal Aid Society supports Int. 1876-2020 as an important step toward universal suffrage. That is also why we believe that protecting the noncitizen's right to vote also means protecting the noncitizen from federal laws that attempt to suppress it.

Generally, federal law does not preclude non-citizen voting in state or municipal elections, as long as it is lawful for noncitizens to do so under state or municipal law.<sup>6</sup> Of greater concern is falsely claiming that one is a United States Citizen when one is not, which is a ground of deportability, for which there is no waiver.<sup>7</sup> It is also a federal crime.<sup>8</sup> But, because these provisions apply to claims of citizenship only, and not voting explicitly, a voter registration form that does not give voters the option of choosing their citizenship, dramatically reduces the likelihood that this ground of deportability could be implicated.

The Legal Aid Society believes that New York City must ensure the noncitizen's right to vote, which means it must ensure the noncitizen's right to vote without fear. Federal laws that punish unlawful non-citizen voting and false citizenship claims, should be viewed as forms of voter suppression laws, which disenfranchise noncitizens, not unlike the way citizens are disenfranchised by rules requiring voter IDs or stripping persons convicted of felonies of their right to vote altogether. This is to say, municipal laws that attempt to enfranchise noncitizen voters should also do

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<sup>5</sup> NYC Mayor's Office of Immigrant Affairs, "Fact Sheet: COVID-19 Health and Economic Impacts on Immigrant Communities" (2020) <https://www1.nyc.gov/assets/immigrants/downloads/pdf/covid-immigrant-fact-sheet-20200731.pdf>

<sup>6</sup> 18 USC § 611 (prohibits noncitizen voting in federal elections); 8 USC § 1182(a)(10)(D)(makes voting "in violation of" state or municipal election law a ground of inadmissibility); 8 USC § 1227(a)(6) makes voting "in violation of" state or municipal election law a ground of deportability).

<sup>7</sup> 8 USC § 1227(a)(3)(D).

<sup>8</sup> See 18 USC § 911 (criminalizes the same and makes it punishable by no more than 3 years in prison); 18 USC § 1015(f) (same, but punishable by no more than 5 years); 42 USC § 15544(b)(same).

all that is possible to protect them from these federal voter suppression rules. Therefore, the most ideal noncitizen voting legislation will be that which enfranchises, as well as shields, New York City's voters.

Accordingly, because voter registration error is inevitable, The Legal Aid Society strongly recommends striking Section 1057-k(i)(5), which requires a space to indicate whether the applicant is a citizen of the United States, and to instead rely solely on the section 1057-k(i)(9) affidavit providing for an attestation that the applicant is either a lawful permanent resident or is authorized to work in the United States. This would eliminate the risk of erroneous and unintentional indication of citizenship.

We also recommend that the City verify employment eligibility, whether through e-Verify or other means, during the voting period of any municipal election (including the period during which absentee and mail-in ballots may be cast), and to automatically suspend the voting ability of individuals who had registered on the basis of employment eligibility but who do not continue to have such eligibility during the voting period. This would avoid the risk of subjecting the voter to allegations of inadmissibility or deportability for having voted in an election in violation of a municipal ordinance.<sup>9</sup>

Ultimately, legislation that enfranchises all non-U.S. citizen New Yorkers, regardless of their work authorization or other immigration status, is the most effective way to protect all noncitizens from potentially accidentally voting unlawfully. For this reason, universal suffrage is the most effective way to shield New Yorkers from federal voter suppression rules.

Moreover, The Legal Aid Society encourages the strongest possible confidentiality laws that will prohibit the City from ever sharing copies of noncitizen voter registration forms with the federal government.

Such rules, procedures, and safeguards will help protect noncitizens from allegations of false claims of U.S. citizenship and from inadvertently voting during a period of ineligibility, and would shield their right to vote from the federal laws designed to suppress them.

In order to better protect and equip New York City voters, we recommend the City employ a variety of outreach methods, including voter education presentations, advertisements, distribution of flyers, and publication of online and newspaper notices.

Growing-up I always had some sort of legal immigrant status, never moved out of the tristate area and had zero contact with the criminal legal system. I had a best-case scenario for someone who moved here at a young age because I had a pathway to citizenship. Still, it is only after 14 long years, incredible diligence on my family's part, and thousands of dollars spent in the course of successive steps in my immigrant journey, that I am getting my U.S. citizenship and will finally be

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<sup>9</sup> See 8 USC § 1182(a)(10)(D) and 8 USC § 1227(a)(6), *supra* note 6.

eligible to vote in the city that contributed so much to who I am and that I have also greatly contributed to. I urge the city council to recognize the importance and equality of immigrants in this city by enfranchising them so that their voices can be heard on the electoral issues that impact the daily lives of all New Yorkers. This is particularly important as the City begins to emerge from the devastation wrought by COVID and faces critical choices about the city's future, it is past time to approve Intro. 1867-2020 and remedy this wrong.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Olivia Adéchi', written in a cursive style.

Olivia Adéchi  
Paralegal Casehandler  
Immigration Law Unit



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

New York City Council

Committee on Criminal Justice (Jointly with the Committee on Civil  
Service and Labor)

Hearing re: Rikers Island Crisis

September 15, 2021

Board Chair  
Matthew Mazur

Board Members  
Jonathan Abady  
Damaris Hernández  
Miriam Gohara  
Melody Rollins-Downes  
David Sanford  
Elinor Tatum

Executive Director  
Rick Jones

Managing Director  
Alice Fontier

**Testimony of the Neighborhood Defender Service of Harlem<sup>1</sup>**

**By Meghna Philip, Special Litigation Attorney, Criminal Defense Practice**

I am a public defender at the Neighborhood Defender Service of Harlem, where my colleagues have been working relentlessly to protect our clients from the crisis on Rikers. Our clients have told horror stories about the conditions they are facing, and how the crisis has worsened in recent weeks. But what I and others saw on Monday when we visited surpassed even clients' descriptions, because the deadly, illegal conditions DOC is holding people in defy language.

The jails cannot house people safely. The Department of Correction cannot guarantee our incarcerated clients their basic constitutional rights, or their basic humanity. The situation is dire, and the city has been sitting on its hands. New York City must decarcerate, with urgency. If it does not, people will continue to face torturous conditions, serious illness, and death, in the city jails. The City Council must recognize the humanitarian crisis that is unfolding, and put serious pressure on all stakeholders—**particularly the city's judges and district attorneys**, and also the Governor, and Mayor—to do everything in their power to drastically reduce the population at Rikers, as soon as possible.

As public defenders, every day we are witnessing increases in bail requests by prosecutors: a wider range of cases in which they are seeking bail, including even misdemeanors; and higher amounts of bail being requested. There is a woeful and willful blindness amongst DAs and Judges when it comes to the

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<sup>1</sup> Neighborhood Defender Service of Harlem (NDS) is a community based public defender office. Since 1990, NDS has been working to improve the quality and depth of criminal, family, and civil defense representation for those in Harlem and Northern Manhattan who would otherwise be unable to afford an attorney.



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

current conditions at Rikers. We urge the City Council to put pressure on these groups to do all they can to immediately reduce the population at these failing facilities; and to pass legislation to permanently dismantle New York's epidemic of mass incarceration.

My testimony focuses on two of the many urgent issues facing our incarcerated clients. First, our clients are facing unacceptably long periods languishing in intake, without adequate basic services, and with no medical care, or mental health care. And second, our clients are being denied their constitutional right to counsel, because we, their lawyers, are being denied the opportunity to have legal visits with them.

Being processed through intake on Rikers and transferred to a housing unit should normally take hours.

Instead, our clients are remaining in the intake limbo, with little to no access to medical care or mental health treatment, no access to any programming, no access to counsel, and in abysmally unsanitary and COVID-unsafe conditions, for weeks on end.

On Monday, elected officials including Councilmember Lander joined us for a visit to Rikers, and several went to the Otis Bantum Correctional Center, where all new arrivals to the island are being processed. The intake facility was, to quote the legislators, a "horror show".

It is not a surprise, after witnessing these conditions firsthand, that in the last 5 months, 5 people have made the desperate and heartbreaking choice to take their own lives on Rikers – several of these deaths have occurred in intake. This cannot continue. No human being deserves this, and no one should be sent to Rikers Island, with the horrors of intake at OBCC as their point of arrival.

Intake is not a housing unit. There is no access to programming, or services, in intake. And due to the failure of DOC staff to report to work, and the influx of people being sent to pre-trial detention over the last several months, the intake facilities are severely understaffed, with many units having no staff supervision at all. CHS doctors told us on Monday that they are effectively unable to visit clients at intake. Clients often arrive on the island with urgent medical and mental health needs – for example, serious injuries from their time of arrest, or even transfers straight from hospitals if they were in the middle of a medical or mental health crisis. Now they are landing at OBCC, where the CHS staff is telling us they cannot access or treat them. They are being made to live in





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showers that are being used as makeshift housing units, using plastic bags to hold their urine and feces; or being packed into cells with 25-30 other people, without masks, without any ability to distance, without beds, sleeping on floors where toilets are overflowing sewage and trash litters the floor. CHS doctors also told us on Monday that COVID is currently spreading at intake at a rate they have never seen on Rikers throughout the pandemic.

The harrowing observations of our colleagues who went into OBCC on Monday speak for themselves, and the immediate solution is clear: DAs need to consent to clients' releases, and stop asking for bail at every opportunity. Judges need to stop setting bail, willfully blind to these decrepit and horrific conditions. The Mayor and Governor need to use their powers to release people on city sentences and parole holds. The City Council needs to intervene immediately to make these things happen.

Beyond the irredeemable horror of intake, a pervasive issue that clients in intake, as well as in all of the other facilities, are facing, is the deprivation of their right to counsel and right to due process.

Our clients are not being produced for legal visits and videoconferences. On Monday at the RNDC facility, I met multiple people who told me they were not taken by COs to legal visits. My colleagues have, on numerous occasions, come to Rikers and waited for hours and hours for their clients to be produced, to no avail. We are told that there are no escorts available to bring clients down. We are told that our clients are refusing to be produced – but this isn't true, because when we speak with our clients, they tell us they are not refusing production, and in many instances had no idea about the legal visit or videoconference.

This is unacceptable. Our clients have a constitutionally guaranteed right to counsel; but because of wealth-based pretrial detention, and cash bail, they are living in unconscionable conditions that are denying them that right. They cannot participate in their legal defense. And we cannot inform them about what's happening in their case.

This is not only unconstitutional and unacceptable with respect to their due process rights; it is also a contributing factor to the desperation on the island right now. Clients need contact with their advocates, with our social workers, with investigators on our staff. They need to know what is happening with their criminal cases, and in some instances their parole cases--the reasons for them being trapped on that island. They also need to be able to report their





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conditions to us, so we can advocate from the outside for them, to try and do all we can to get them what they need, especially considering the abject failure of DOC to be able to monitor their mental and physical health and well-being. Doctors are reporting to us that the lack of access to counsel and information about cases is leading to stress that corresponds to increases in self-harm, and attempted suicides.

We have been hearing reports from clients at OBCC, but often being denied visits to clients in intake because of the crisis. One of my colleagues had a client at intake who suffers from serious mental illness. When she first attempted to visit him on the island, she was forced to wait hours, and told there were no staff at intake to produce him. Days later, when she was finally able to have a videoconference with him, he was wearing nothing but a hospital gown. He was held in the intake unit for 17 days. During this time, he did not receive necessary medications, and did not receive any mental health care. He reported that he had been sleeping on the floor, where there was leaking toilet overflow. He reported being assaulted numerous times, with no way to protect himself, people piling on top of him.

We have been hearing these sorts of stories from clients, during the limited opportunities we have to connect with them. But it took us visiting alongside elected officials exercising their statutory power to see that facility, in order for us to see the conditions our clients are facing within. And we all left that visit with pages of names, and phone numbers, of people seeking our assistance in reaching out to their attorneys, and their families, who they have had no ability to contact.

This all needs to change, immediately. The city needs to decarcerate, now.



**NEIGHBORHOOD DEFENDER SERVICE**  
**OF HARLEM**

**NY City Council  
Committee on Criminal Justice**

**Oversight Hearing on Conditions at Rikers**

**September 15, 2021**

**Wendell Walters  
Senior Policy Associate  
Osborne Center for Justice Across generations  
The Osborne Association**

Good morning. My name is Wendell Walters and I am a Senior Policy Associate at the Osborne Association. Osborne is one of the oldest and largest criminal justice organizations in the city and state. Our headquarters are in the Bronx and we have satellite offices in Brooklyn, Harlem, Newburgh and in Buffalo. We serve 12,000 participants each year covering the full spectrum of the criminal legal system from arrest to reentry. We are looking forward to the opening of the Fulton Reentry Center next spring, our new transitional housing facility in the Bronx that will house 135 men returning from incarceration. We have worked in DOC facilities, providing discharge planning, workforce development, therapeutic services and visiting support for more than 25 continuous years. We have staff on Rikers Island providing services in housing areas and visiting areas 5 days per week.

Thank you for the opportunity to speak today about the state of the City jail system and specifically the conditions at Rikers Island. As you have heard, there is an alarm sounding and it will take all of us to respond. It is fitting that we are here today just days after the 50th anniversary of the Attica uprising and massacre. Attica began with incarcerated men asking to be treated humanely, seeking basic necessities and respect. It ended in state-sanctioned murder and loss of lives, both incarcerated and staff. Rikers has now reached a crisis point and it is all of our responsibilities to act so that both those incarcerated and those who work on Rikers are safe, and treated humanely and with respect.

Although our staff was unable to work in the jails for several months due to Covid, we continued to communicate with DOC officials, staff and incarcerated people and their families. The crisis that has now exploded into public view has been building for a few years, and while it is easy to attribute it to Covid-19, it has been fomenting for a long time. No new commissioner could expect to turn this ship around in 3 months, but any effort will make waves. A lot has transpired in the last few days to call attention to and address the crisis,, from Dr. Ross MacDonald's brave and important letter to this Committee, and the Mayor's Emergency Actions announced yesterday. While these actions may address some of our concerns, there is still more to be done, and the takeaway for all of us is: DOC cannot remedy this crisis alone. While current DOC leadership is acting with expediency, bureaucracy, divisiveness and a lack of urgency are barriers they alone cannot overcome. Monitors and advocates have long complained about broken locks; it was a near miracle that Commissioner Schiraldi, finally paying attention, had "gotten the wait time down" for fixing locks on gates from 9 months to 7. Making sure a gate locks in a jail cannot wait 7 months!

There are so many stakeholders involved and historically, each has blamed the other or framed the problem adversarially. Now is the time to stop doing this as people are literally dying in custody and the officers who are showing up to work are suffering as well: ten incarcerated people (that we know of) have died in Rikers this year so far, including 5 who have taken their own lives through suicide. It's not fair to blame an officer who has been working 20 hours straight and left their post exhausted, for a death that occurred 15 hours later. Blaming individuals will not lead to the deep multi-pronged change that is needed to keep everyone involved safe.

While my testimony could detail and document alarming scenarios that our staff have encountered, that our clients have desperately reported, that elected officials who toured Rikers this past Monday importantly spoke about, that the Chief Medical Officer's letter detailed, and that others will testify about today, I want to highlight some immediate solutions grounded in our current and past experiences providing services on Rikers, including programming for young people, discharge planning through ICAN, court advocacy services with pre-trial clients and those incarcerated on parole violation warrants, and video visiting and parenting support programs to prepare and support incarcerated women and men for successful reintegration back into the community.

**1) Reduce the number of people sent to Rikers.**

This solution should begin immediately and relies on the collaborative efforts of those outside of DOC. Police, prosecutors, defense attorneys, and Judges should explore all alternatives to detention and diversion possible, and advance court dates. The bail law provides multiple options to safely release people -- and should require that the decision take into account the costs and risks of the currently unsafe, life-threatening, and overwhelmed nature of detention in DOC custody. It is simply not safe to house the current number of detainees with complex legal, medical, and mental health needs.

**2) Decarcerate immediately.**

Greater decarceration efforts are needed and we know this can be done. The decision-making that led to a census of 3,800 people detained on Rikers during the height of the pandemic one year ago should be reinvigorated. The census is now almost double this, at around 6,800. Many factors have contributed to this startling increase including the slowdown and adjournment of court cases, continued jailing of parole violators, and unreasonable bail.

An obvious step is to return to Article 6-A that authorizes DOC to allow sentenced individuals to serve the remainder of their time at home. We call on our District Attorneys in each borough to once again instruct their offices to use, to the greatest extent of their power, the many diversion and ATI programs available to them. We also call for the signing of the Less is More bill by our new Governor to reduce jail time for parole violations, and to increase use of supervised release for those currently detained on bail. And lastly, DOC must prioritize its resources to make sure defendants are made available to attend court hearings (most of which are by video) to avoid case delays as the pre-trial average length of stay has skyrocketed. Esias Johnson, age 24, who died at Rikers last week, missed three consecutive hearings because he was not brought to his video hearing where a Judge could have heard his case for \$1.00 bail.

**3) Implement an immediate plan - abiding by Covid precautions and protocols- to move people out of the Intake Unit within 24 hours (this is now part of the Emergency Relief Actions the Mayor outlined yesterday).**

The Intake unit now poses a danger to both those being admitted and to staff. Admissions are taking far longer than they should due to increased admissions and staff shortages. Usually to

be completed within 48 hours it is now by some reports taking up to 12 days or more. This overcrowded area is now causing sickness and risk of COVID spread. The incoming people are not able to shower or get proper medical attention. Only emergency medical care is being provided, and even access to water and food is limited. While awaiting admission these individuals have no access to telephones either, since they do not have PIN numbers needed for phone calls.

A solution to this crisis will not emerge from Mayoral decree; it requires changing how intake and assessments are done, where they happen, and by whom. CHS, advocates, defenders, and COs should all be involved in developing a new process to ensure that no one remains in these temporary units for more than 24 hours. This may require emergency contracts for additional medical or other staffing, if needed, to expedite the necessary screenings.

While the Intake unit is a distinct health issue on its own, the inability to provide adequate medical care to the whole of Rikers is such that the Chief Medical Officer at CHS was compelled to publicly raise this issue in a recent letter to the committee chair. His comments are alarming as he states that Rikers is experiencing a “collapse of basic jail operations” because of insufficient staffing that has caused increased risk to the medical staff and calls for the state or the federal government to step in and provide assistance. The timing of this “collapse” could not be worse as the COVID infection rate in Rikers is now above the rate for New York City. A commitment to masking, COVID testing, exposure protocols, and vaccinations must remain a priority even during this current state of affairs. Over the past few days, we have heard from several of our clients in custody that they have been unable to get timely COVID tests or medical attention when they are ill. Staffing shortages affect the provision of care in multiple settings: we were told of a recent medical emergency that required EMS intervention; EMS was delayed for a half hour after they arrived because there was no one to open the gate.

#### **4) Take care of the staff who are coming in, and hold those accountable who are AWOL.**

We are concerned about the well-being of Officers just as we are concerned about the well-being of those incarcerated. Everyone on Rikers needs to be safe and to return home to their loved ones, whether at the end of an 8 hour shift or after 8 weeks or 8 months or longer.. The current staffing shortage perpetuates and worsens itself: now Officers who want to come in and perform their job worry they will have to stay double or triple shifts if they do. Prior to Covid, concerns about Officer well-being led to the creation of the DOC Staff Wellness Center and a recognition that PTSD levels were high among retired COs. With Covid, the stress has only increased and the need to provide confidential and universal support is critical. Seeking out mental health services is highly stigmatized in paramilitary agencies so a universal approach is needed: every Officer should see a mental health professional (however often is decided) as a check in and in recognition that the job is stressful. The onus should not be on Officers to seek out this support. This universal approach could also prevent or flag concerns about any staff who may be or become overly aggressive or hostile; it could reduce the number of DOC staff

currently in categories that preclude them from interacting with those incarcerated (also a cause of the staffing shortage on housing units, for escorts, visits, and more).

Creating opportunities for COs to weigh in on decisions related to jail operations is also a form of validation and support. There are many correctional officers who perform their jobs admirably, and take their jobs seriously. We have consistently heard from these officers that they want to have a say in planning and decision making, but they are not asked or involved.

Additionally, staff who want to speak up about abuses or unlawful behavior need whistleblower protection. They have much to say but it is not safe for them to do so.

While greater support is needed for those doing their jobs, greater accountability is needed for those who are not. Managing the resources and staff at Rikers is a significant challenge. While the ratio of correction officers to those in custody is among the highest in the nation with more than one officer for each incarcerated individual, there have been reports that one-third of corrections officers fail to show up to work each day due to Sick Leave or being AWOL causing undue burdens on those who do come to work. Double and triple shifts are now common and inadequate coverage is inevitable. Short staffing has an impact on morale, medical care, safety and programming.

There is no doubt that being a corrections officer on Rikers is a stressful job and an appropriate level of sick leave is warranted. The proposed plan by the Commissioner- to bring DOC's sick policy in line with that of the NYPD and FDNY- and ensure that the system is not being abused is the right one and protects the officers who must cover for those engaged in such abuse. However, there must be accountability for those who are AWOL and simply do not come to work. It corrupts the system and leads to even more abuse. Unfortunately, the implementation of the Commissioner's plan will take time. Given the current state of Rikers we are not sure the Commissioner can wait any longer to make the necessary changes. The Mayor's Actions (announced yesterday) will hopefully reduce the practice of staff being AWOL.

#### **5) Explore all options for interim "outside" staffing assistance**

In addition to the staffing crisis in intake, there are tens of units without any staffing at all at any given time. We learned that this past Monday, there were 20 units at RNDC alone that had no staff present and that there were many more units like this in other facilities on the Island. This creates great risk of harm by violence, by unaddressed medical emergencies, and lack of access to medication, food, and water. While there needs to be a process to bring existing officers back to work and treat them with respect and care, there is also an immediate and urgent staffing emergency that amounts to a humanitarian and safety crisis. We implore DOC and the Mayor's office to explore options for temporary staffing with corrections partners in other jurisdictions as well as any other potential partners - including OCFS, FDNY, federal and state officers and even National Guard medics or similarly trained professionals. There are certainly specialized positions like those in intake that may require corrections training and experience,

but outside partners can be relied upon for needed food and water distribution, wellness checks, and transportation.

#### **6) Conduct a detailed staffing analysis.**

The allocation and assignment of staff is also a problem. Osborne does not profess to know all the civil service requirements or the details of the collective bargaining agreement with the corrections union but we receive frequent reports that certain officers are relegated to non-custodial areas and are forbidden to work outside their designated units even when there are notable and dangerous shortages. Osborne has been witness to the sight of many officers gathered at one location, while other units have virtually no one on duty.

Recognizing there are union issues to be addressed, jobs that would be better suited to non-Corrections staff or require a different skill set should be performed by non-uniformed staff. If the union disagrees, they should ensure that all COs without medical proof of illness are showing up to perform their jobs

#### **7) Support meaningful programming and visiting.**

On-site programming and visiting have also suffered because of inadequate staffing. While many service providers are back in facilities, it is not realistic to run an anger management group with 48 men in a housing unit. It is also not safe for programs to be run in dorms that later turn up on the "exposed list" meaning that someone tested positive for Covid just after a group occurred. Meaningful programming is a critical tool that can reduce violence and idle time, promote transformation, and assist with successful reentry. Programming must be a priority with proper space provided and steady Officers assigned in order for effective services to be delivered. This cannot happen until DOC has adequate coverage by COs across posts and locations.

After much delay, DOC has restarted in-person visiting on a limited basis to the relief of many families. However, scheduling via the online pre-registration process is still difficult and there is no weekend visiting which is not convenient for working families. DOC has stated that staffing shortages are the barrier to restarting weekend visits.

Amidst this gloomy picture, we want to point out a few positives:

- 1) At RMSC (where the First Lady's funding has allowed for more social services staff), the social service staff are working very hard trying to get to all the units and attend to the women's needs as best they can.
- 2) Regarding visiting: Covid restrictions for visitors seem solid and taken seriously; visitors must switch over their masks and are provided new masks, and at least at the women's facility, visiting room officers are taking steps to ensure visitors get their full time to visit. These are steady officers, some of whom have worked the visiting room for 10+ years.



- 3) Video court officers have been very helpful and trying to troubleshoot. These are also steady officers.
- 4) DOC Programs staff have worked tirelessly for months to provide some services and get needs addressed for people in custody.

We echo those calling for immediate action. This urgent call is not a critique of the current DOC leadership who we believe are working around the clock to address as much of this as they can as quickly as they can. They need all of our help. We need an “all hands on deck” approach in order to ensure safety and well-being for all on Rikers as we work to shrink the population detained there, and close the jails on the island in favor of borough-based jails that are smaller and more humane.

Thank you.

**Contact Information:**

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# TRINITY CHURCH WALL STREET

## **Trinity Church Wall Street - Testimony - City Council Criminal Justice Committee Oversight Hearing** **September 15, 2021 | Subject: The Conditions in New York City Jails**

Good morning Chair Powers and members of the Committee on Criminal Justice. My name is Susan Shah, and I am the Managing Director for Racial Justice at Trinity Church Wall Street Philanthropies. Thank you for providing me with the opportunity to testify on behalf of Trinity at today's oversight hearing to discuss the current conditions on Rikers and throughout the City's jails, as well as our recommendations for what the City can do to address the short- and long-term crises at hand.

Trinity Church Wall Street is an active Episcopal church down the street from City Hall with more than 1,600 parishioners, who represent all five boroughs and form an ethnically, racially, and economically diverse congregation. In addition to our ministry, Trinity carries out its mission of faith and social justice by engaging in advocacy and operating a grant making program that seeks to help break the cycles of mass incarceration, mass homelessness, and housing instability in New York City.

As part of this mission, Trinity Church helped to form the Faith Communities for Just Reentry campaign, a coalition of over 40 faith leaders from all five boroughs that came together to develop a policy agenda – informed from the experiences of our grantee service providers working directly with justice-involved individuals – that seeks to address the urgent needs of our neighbors leaving City jails and improve the City's reentry system.

The situation unfolding at Rikers Island and throughout the City's jails is nothing short of deplorable. When harm happens in our city's jails, that harm goes far beyond the jailhouse walls. It follows those who are released from jail, and it impacts them, their loved ones, and countless other individuals. The crisis at Rikers is a crisis in New York City.

As you know, more than 75% of those who are detained in our city jails are there pre-trial. We also know that 90% are BIPOC and almost 60% are Black. And we know that about half have been designated as Brad H status, which means that they have exhibited symptoms of mental illness. And we know that due to the COVID-19 pandemic and resulting slowdowns with the judicial process, New Yorkers are spending more days locked up and away from their loved ones, the majority of whom are being held as detainees.

It costs \$477,000 to incarcerate someone for a year at Rikers. What does this half-million dollars get you? Deplorable conditions, inhumane treatment, violent assaults, solitary confinement, and uses of force by corrections officers. What you don't get is adequate health and mental health care, programming, and other critical services that address the humanity of everyone inside. When you combine all of this with the fact that jails have become [hot spots for COVID-19 transmission](#) and incarcerated men and women were not given enough PPE or ability to social distance at the height of the pandemic, we have clearly demonstrated that we are willing to spend hundreds of thousands of taxpayer dollars to have zero regard for someone who has been accused of a crime.

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This situation is absolutely unacceptable and requires strong leadership from the City to come up with a comprehensive plan that addresses both the immediate crisis at hand and the long-term issues that continue to persist throughout the City's jails.

To that end, Trinity recommends that the City take the following steps to address both the acute and long-term problems that have contributed to the current crisis in the City's jails:

1. **Provide DOC Commissioner Vinny Schiraldi with the support and resources needed to effectively address this crisis through the end of the current Mayoral Administration and into the next Administration.**
  - a. We have been heartened by Commissioner Vinny Schiraldi's recent recognition of the seriousness of this crisis and his efforts to develop a proactive, comprehensive and well-thought-out response to it, starting with immediate steps to address the DOC's current staffing issues.
  - b. We encourage Mayor de Blasio to continue supporting Commissioner Schiraldi with the resources that he and his team need to address the crisis in the City's jails effectively.
  - c. We also strongly encourage the next Mayor of New York City to retain Commissioner Schiraldi to serve in the leadership of the next Administration and provide him with the opportunity to continue to address the problems that have long plagued Rikers Island and the City's jails.
  
2. **Recognize and acknowledge that more jail produces less safety for NYC communities and employ evidence-based strategies to shrink the jail population immediately. This includes:**
  - a. Close the Rose M. Singer Center on Rikers by moving the fewer than 300 women to a standalone facility in Manhattan so they are closer to services and loved ones.
  - b. Provide Alternatives for People with Serious Mental Illness by funding additional outpatient treatment slots and community-based residential facilities—akin to supportive housing—for people with a serious mental illness.
  - c. Improve the pretrial decision-making process by using pretrial release and 'ability to pay' assessment tools and encouraging the use of supervised release to only detain those who pose a credible risk of flight. The City should also create a process to continuously review jail population trends and identify specific groups of people that can be released from jail.
  - d. Speed up case processing times by establishing a formal case timeline and limiting the length of adjournments.
  - e. Sentencing more people to ATI (alternatives to incarceration) programs that are in the community and are much better equipped to provide accountability and address individual underlying needs. The City should also expand restorative justice programs and mental health courts because they have proven track records of reducing recidivism for people charged with violence, enhancing accountability, and meeting the needs of victims.
  - f. Invest in a coordinated reentry system in New York City (see below).

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3. **Reaffirm the City's commitment to equitable jails by advancing its plan to close Rikers Island by 2026.**
  - a. The crisis unfolding at Rikers Island further underscores the fact that Rikers and the City's current network of jails do not and cannot protect the health and safety of those who are detained and working inside them.
  - b. As faith leaders, we affirm that there is a moral imperative to provide humane care to our neighbors who are held in any form of detention, and we believe that there is no path to make Rikers Island and the City's existing jails an acceptable place to detain our brothers and sisters.
  - c. Over the past few months, we have been alarmed by how the Mayor has walked back City Hall's full commitment to the plan to close Rikers by delaying the timeline for closure to 2027 and reducing the overall budget that is required for the plan.
  - d. We urge the City Council and the Mayor to reaffirm the commitments that were made in October 2019 to close the 10 jails on Rikers Island by 2026 and move to the smaller and more humane system of borough-based jails.
  - e. We also call on the Mayor and the Council to fully honor the funding commitments that were outlined in the [October 2019 Points of Agreement](#) as part of the plan to close Rikers, and to expand the much needed community investments in housing, mental health, and violence interruption initiatives.
  
4. **Implement a series of measures to protect the health and safety of those who are released from City jails amid the COVID-19 pandemic, specifically by:**
  - a. *Providing every justice-involved individual with peer and expert informed education and access to the COVID-19 vaccine while detained, as well as COVID testing upon release.*
    - i. In light of the incredibly high COVID-19 transmission rates in New York City jails throughout this pandemic, we urge the City to ensure that incarcerated New Yorkers and corrections staff are prioritized for access to the vaccine.
    - ii. We also call on the City to partner with trusted entities, such as community health care providers, to provide individuals in City jails with comprehensive public health education on the vaccine to address the historical and legitimate mistrust between those in jail and their in-custody medical providers.
    - iii. In addition, we believe that it is imperative for the City to provide COVID-19 testing as part of the discharge process to ensure that individuals being released from City jails can protect their families and communities from the spread of the virus when they return home.
  - b. *Ensuring that every individual has a valid form of identification upon their release.*
    - i. Valid forms of identification are essential to access housing, employment, public benefits, and a wide array of services. However, we have heard countless stories from our grantees and those who have been incarcerated about how individuals are released from City jails without official government identification, thereby impacting their ability to build their futures after incarceration.
    - ii. We urge the City Council to support and pass Council Member Gibson's [Intro 2394-2021](#) before the end of the current session, which would require that the City provide IDNYC cards to individuals as part of the discharge process.
    - iii. In addition, we call on the City to ensure that there is a process in place to guarantee that an individual, who was detained with a valid government ID is given their ID back before they are discharged.

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- c. *Guarantee that individuals have immediate access to Medicaid coverage upon discharge.*
  - i. Due to a lag in re-enrollment in Medicaid, many people released from City jails do not have immediate access to health care coverage, which often requires them to either forgo much needed healthcare or pay for vital medication and other services out of pocket.
  - ii. Trinity calls on the Mayor to ensure that the NYC Department of Correctional Health Services guarantee a continuity of healthcare between correctional and community settings, as well as ensure that an individual's Medicaid is properly activated prior to their release from jail.
  
- 5. **Invest in a comprehensive, coordinated reentry system in New York City to ensure the success of our neighbors returning from jail and to reduce rates of recidivism, specifically by:**
  - a. *Strengthening Local Law 103 of 2016 to improve coordination of reentry initiatives among City agencies.*
    - i. While Local Law 103 of 2016 mandated that the Mayor establish a Municipal Division of Transitional Services and appoint a coordinator to lead reentry initiatives, it did not give any authority to the division to mandate policy or programmatic changes among other City agencies.
    - ii. Trinity calls on the Mayor and City Council to amend this law to ensure that the coordinator is a high-level position that reports directly to the mayor - and has the authority to mandate needed changes across City agencies.
  - b. *Consolidating service provider contracts between NYC DOC and MOCJ to prevent overlaps in services provided within City jails and during the reentry process, as well as to ensure the use of best practices across providers.*
    - i. Trinity recommends that the City should better integrate the Health Justice Network, which is run by DOHMH and provides comprehensive reentry services for individuals following their incarceration, into this framework and baseline funding for this initiative.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

Good afternoon to Councilmembers and all interested stakeholders. My name is Jon McFarlane and I am an active Civil Rights Union Leader at VOCAL-NY.

There is a growing crisis on Rikers Island that is quickly turning into an extinction-level event. I term it as such because people are dying in Rikers and other jails around our city at an alarming rate. There have been 10 deaths this year alone and if you have to ask why then tune into the words of our elected officials who just this week witnessed the unbearable and inhumane conditions that detainees and others are enduring on this island.

The people caged on Rikers have to share cells with insects the size of small birds. Others are forced to sit in their own feces under conditions of excruciating temperatures due to recurring NYC heatwaves, with no access to clean water or fresh air. Individuals locked in cells have resorted to sharing a jug of water in order to stay hydrated. There is little to no access to standard medical care or recreational activities. Combine these deficiencies with COVID-19 and you have a perfect storm resulting in continuous fatalities under a system unwilling to reform in the name of humanitarianism.

And while some might suggest that more funding to employ additional correctional officers would significantly improve both working conditions and living conditions alike, I respectfully argue that this action would simply enable more correctional officers to neglect individuals who are languishing behind bars. They will continue being denied access to vital medication, life - saving treatment, nutritional food services, and recreational activities all in the name of staffing shortages.

I reason that the ultimate solution to this growing problem is to close the Rikers Island facility and release individuals from an institution that is responsible for imposing the ultimate penalty upon pre-trial detainees without due process or just cause. Our elected officials, policymakers, legal professionals, judicial advocates, criminal justice activists, and the public-at-large must all have a role toward abolishing a penal system that punishes and oftentimes kills rather than rehabilitates.

The time to act was yesterday, was decades ago, and we can't wait any longer to act. Crack the cell doors open and let these people live.

Thank you for your time today.

Jon McFarlane  
VOCAL-NY Leader  
jonmacone@yahoo.com



## Empowering communities to Power Change

September 15, 2021

### Founders

Vernice Miller-Travis  
Peggy M. Shepard  
Chuck Sutton

WE ACT for Environmental Justice  
1854 Amsterdam Ave, 2nd Floor  
New York, NY, 10031  
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### Board of Directors

#### Chair

Rory Christian

### RE: The Condition in Our City's Jails

#### Secretary

Sarangi Iyengar

Dear Chair Keith Powers and the Committee on Criminal Justice:

#### Treasurer

Ken P. Mak

Thank you for the opportunity to testify regarding the condition of our city's jails.

#### Members

Gregory Anderson  
Peter Bokor  
Dennis Derryck, Ph.D.  
David Evans, Ph.D.  
Abiola Fasehun  
Eric A. Goldstein, Esq.  
Jeff Jones  
Vernice Miller-Travis  
Phillip Morrow  
Dart Westphal

WE ACT for Environmental Justice, an organization based in Harlem, has been fighting to improve environmental health at the city, state, and federal levels for more than 30 years. We recognize and fight to remedy the negative cumulative impacts of unjust policies that have plagued marginalized communities for decades.

I am Lonnie J. Portis, Environmental Policy and Advocacy Coordinator at WE ACT. I routinely analyze New York City policies and programs for equity and environmental justice and have been doing research and advocacy work at the intersection of environmental health and carceral facilities.

#### Executive Director

Peggy M. Shepard

We strongly feel that incarceration is an environmental justice issue and must be treated as such. Black and Latinx individuals are incarcerated at a disproportionate rate due to historical, systemic racism that permeates every point of the criminal justice system. Despite commitment to the prison abolition movement, policy actions need to work to improve current conditions, while still working towards long term societal shift.

**We ask that the City Council continue to support and enforce the plan to close the Rikers Island jail complex since it does not meet health and safety standards of basic housing conditions. The current condition in which incarcerated individuals live is hazardous to their health and a clear violation of their human rights.**

According to The Hon. Jonathan Lippman's report, *A More Just New York: Closing the Caper on Rikers*, "Physical conditions remain inhumane and unsafe at the Rikers jails and the three existing jails in the boroughs. None of the eleven operating jails are sustainable or acceptable". Environmental justice issues currently plaguing the City's carceral facilities include:

- lack of clean water and sanitation;
- poor air quality and high levels of air pollution;
- lack of access to healthy food;
- environmental results of climate change such as extreme heat and cold;

*\*West Harlem Environmental Action (WE ACT for Environmental Justice) is a 501(c) (3) nonprofit organization.*  
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[www.weact.org](http://www.weact.org)



- unhealthy housing;
- siting of facilities on toxic sites and;
- exposure to toxic chemicals while doing labor

All of these issues compound cumulative burdens that come from environmental hazards in which those incarcerated lived previously and to which people go back upon release. Consequently, rates of cancer or illness among incarcerated (and formerly incarcerated) persons have not been addressed by the City. Incarcerated persons should not continue to be subjected to unhealthy, toxic living conditions while the City ignores major environmental harm caused by the Island's operations.

New York City has the opportunity to pioneer a cultural shift with our relationship to individuals in carceral facilities: We can decouple incarceration and dehumanizing, hazardous environmental health conditions. Conditions of confinement matter and are of utmost importance.

Again, we urge the City Council to think about the future of our city and to right any and all wrongs done to harm marginalized communities. Decades of attempts at reform prove that there is no way to simply rehabilitate Rikers Island or undo the life long health problems endured by those incarcerated -- the only solution is complete closure.

Lonnie J. Portis

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**Testimony of  
Youth Justice Network**

Before the Committee on Criminal Justice

September 15, 2020

**Re: The Condition of the City's Jails**

Chair Keith Powers:

On behalf of Youth Justice Network, I thank the Committee on Criminal Justice for the opportunity to speak. My name is Messiah Ramkissoon and I am the Senior Director for Programs and Community Partnerships at Youth Justice Network.

On behalf of Youth Justice Network, I extend my condolences to the families of the ten people who have lost their lives at Rikers Island this year. I ask the Council and this City to act with urgency to keep Black and brown young people alive on Rikers Island; and to put in place a tangible supportive infrastructure so that they may be able to make a life and future for themselves when they are released.

Youth Justice Network—formerly known as Friends of Island Academy—was founded in 1990 on the school floors of EMTC, when there were 21,000 people a night on Rikers Island, 3500 of whom were Black and brown teenagers. Our founders were teachers and advocates who worked inside and outside Rikers – and who created an intentional response to the absence of transitional and aftercare services for the youngest people in custody.

This City is rich in resources—public servants, elected officials, agencies, advocates, intellect, courage, experience, money. Advocates have been sounding the alarm about conditions on Rikers Island since our organization was founded, 31 years ago. How are the current levels of inhumanity on Rikers Island possible? Because of years of inaction from leadership and policy that continues to entrench systems of cash bail and mass incarceration and worsening conditions of confinement.

Eighteen months ago, the Covid-19 pandemic produced an intentional effort by the City to keep people alive—literally—by getting them off of Rikers. Through these collaborative efforts at multiple points along the case process, daily population at Rikers dropped to below 3,809 on April 29, the city's lowest since the 1940s.<sup>1</sup> Last night, the census was 6,082.<sup>2</sup> Nearly 1100 of those people are between the ages of 18 and 25.<sup>3</sup>

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<sup>1</sup> COVID-19 and the New York City Jail Population:

[https://www.courtinnovation.org/sites/default/files/media/documents/2020-11/COVID\\_jail\\_NYC.pdf](https://www.courtinnovation.org/sites/default/files/media/documents/2020-11/COVID_jail_NYC.pdf)

<sup>2</sup> [https://vera-institute.shinyapps.io/nyc\\_jail\\_population/](https://vera-institute.shinyapps.io/nyc_jail_population/)

<sup>3</sup> [https://vera-institute.shinyapps.io/nyc\\_jail\\_population/](https://vera-institute.shinyapps.io/nyc_jail_population/)

People in custody, Correction Officers, DOC civilian staff, and outside providers of health, medical, religious and other special programs are all sounding the alarm. Action needs to be swift and undeterred by political considerations.

We must keep the closure of Rikers Island on track. Today, we can take in intentional, swift, collective action to reduce the average daily population by reducing admissions and accelerating releases.

Our recommendations are as follows:

- Release any young person who is not otherwise remanded by the courts and has a cash bail that they cannot post by expanding use of supervised release.
- Release any person who is held on a technical parole violation. Releasing technical parole violators will reduce the population by 272 people.<sup>4</sup> Governor Hochul can immediately take action by signing the Less is More legislation.
- Invest in private resources, and work with the City and DOC to build on alternatives to detention pending disposition of the case process – especially during the pandemic.
- Clear bureaucratic pathways: City justice agencies contract with many exceptional small and medium sized organizations who stand ready to help. Accelerate the processing of payments and contracts to their organizations, so they can devote all their energies to the job at hand and not to meeting payroll or laying off committed staff.
- **Speed intake and service connection.** Do not allow young people to languish in intake and admissions units and connect them immediately to case processing triage services to determine whether early bail advocacy can help secure their release;
- Invest in community-based reentry, access to in-custody programs and services, mental health services.
- Use data about different gatekeepers and pathways into detention and tailor alternative pathways and alternative policy approaches to minimize decisions which result in detention or extended detention

As a coalition of partner organizations working with young people, we stand ready to intervene and provide support.

Thank you for the opportunity to address this Committee.

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<sup>4</sup> [https://vera-institute.shinyapps.io/nyc\\_jail\\_population/](https://vera-institute.shinyapps.io/nyc_jail_population/)

# A MORE JUST NYC

## Independent Commission on NYC Criminal Justice and Incarceration Reform

Testimony of Alana Sivin, Senior Advisor  
NYC Council Committee on Criminal Justice, September 15, 2021

I am Alana Sivin, Senior Advisor at the Independent Commission on NYC Criminal Justice and Incarceration Reform, often known as the Lippman Commission after our chairperson, former Chief Judge of the State of New York Jonathan Lippman.

The jails on Rikers and the barge moored to the Bronx are profoundly dangerous. Correction officers are not showing up for work and people are attempting self-harm at deeply disturbing rates. Ten people have died this year alone. COVID positivity rates in the jails are rising. Basic services are not being delivered and far too often, people are not being produced for court.

For the sake of the lives of people incarcerated and working at Rikers, our City reduced the jail population at the outset of the pandemic – *without harm to public safety*. The need to decarcerate is perhaps even more urgent now. Lives are at stake. The Council has an essential role to play, and can start in three areas.

### 1. Reduce the Jail Population

We've outlined several strategies for actors at the state, city, and judicial level to take to safely reduce the jail population in our recent report, co-authored with the Center for Court Innovation, entitled [Closing Rikers Island: A Roadmap for Reducing the Jail Population in New York City](#). Some steps the Council specifically can take to reduce the jail population include the following:

- ***Fund multidisciplinary task forces in each borough to resolve cases of people sitting in jail, particularly the oldest cases.*** Today, over 1,400 people have been in jail for more than a year waiting for a trial, and over 600 have been waiting more than two years. Task forces bringing together all key actors could go case by case and justly resolve as many as possible, swiftly bringing down the jail population while ensuring public safety.
- ***Fund and require administration of ability-to-pay assessments throughout courtrooms in New York City, so judges have full information when making bail decisions.*** When deciding whether bail is necessary to ensure a person's return to court, judges must consider a person's "ability to post bail without posing undue hardship." Yet, only 15% of people in 2020 were able to pay bail in time to avoid going to jail. By passing

legislation that would place a team in every courtroom to conduct an ability-to-pay assessment to provide to the court, the Council can help give judges a more accurate assessment of the amount of bail that could be appropriate to set.

- ***Fund additional mental health treatment slots and staff to conduct emergency psychiatric assessments at arraignment.*** Roughly 17% of the Rikers population has a serious mental illness. Psychiatric assessments at arraignment could help avoid incarceration and divert people to treatment. The Council can also fund emergency expansion of outpatient services, short-term respite care, and residential placements with wrap-around services, so people with SMI are never arrested or jailed in the first place.
- ***Focus on people that face outsized harms from jail, have a lower risk of re-arrest, and cost much more to incarcerate.*** By funding proven community-based housing and wrap-around support for women, transgender, and gender non-conforming people, and older people, the Council can help create a strong presumption of release for such people.

## 2. Shrink the COVID-19 Court Backlog

The average time in custody in Rikers Island has increased significantly since the onset of the pandemic, growing from 261 days in March 2020 to 341 days as of June 2021. This increase has led to an estimated 740 more people languishing on Rikers waiting for a trial.

- ***Fund citywide expansion of a [case processing pilot](#) that sped up criminal cases significantly in Brooklyn.*** Money is needed for case expeditors and judicial training.
- ***Fully fund the Office of the Chief Medical Examiner to ensure critical evidence is reviewed and timely provided to prosecutors and defenders.*** Without this discovery, cases are kept in a holding pattern, and people remain incarcerated, whether guilty or not.

## 3. Expand the Criteria for Department of Correction Facility Leadership

The Department suffers from an epidemic of violence; one that persists despite years of federal court monitoring. There is a clear need for fresh ideas and strong leadership in each of the eight active DOC jails. The [Nunez Monitor](#) has recommended the City “expand the criteria for who may serve on Facility leadership teams, so the Department is not limited to selecting individuals from the uniform ranks.” Therefore, the Council should:

- ***Amend New York City Administrative Code § 9-117 to allow DOC to hire the best people from around the country to run NYC’s jails.***

Thank you for the opportunity to testify today. I am happy to answer any questions.

Alexa Avilés  
Democratic Nominee, City Council District 38

Keith Powers,  
Chair, Criminal Justice Committee  
New York City Council

Dear Council Member Powers,

Conditions on Rikers Island have deteriorated past the point of no return, and the only adequate solution to this crisis is to decarcerate without delay. Hiring more Corrections Officers and shifting NYPD officers to the courts will not make a difference fast enough and only reinforces a failed system.

At present, those held on Rikers - most of whom have not been convicted of a crime - are not even being taken to hearings and are suffering gross violations of their basic rights. The only solution is to empty the cages, immediately.

As a family member of several people who have been caged at Rikers, I know firsthand the trauma and dehumanization that impacts everyone in the family. Right now, thousands of mothers, fathers, aunts, grandmothers and children are worried sick about the wellbeing of their loved one. As someone who has interacted with this violent facility for more than 25 years - this is an emergency of proportions I have never seen.

This is not some complex mission at a space station on mars, but a facility that our city controls. The blood of those lost - 10 people this year alone - is on your hands and all of those who'd rather look away than use their power to step up, to meet their public responsibility, to meet the meaning of a society that believes in human rights and justice and dignity for all. It is time to step up and do the right thing.

The City **can** take concrete steps to release incarcerated people today:

- Allow the release of as many people caged in Rikers as possible, as soon as possible, starting with those with parole violations, those over 50, and those at risk due to their health conditions.
- District Attorneys can decline to bring charges on new cases and consent to pretrial release for those inside, given the grave humanitarian crisis. DAs must stop asking for bail.
- The Governor can sign and rapidly implement the Less is More legislation, which would end the practice of jailing people for most technical parole violations.
- The Mayor should focus on holding his Department of Corrections accountable and ensure adequate care and services are provided to the City's jail population on release.

The City's jail population has increased by over a third in the last year, in the midst of a deadly global pandemic. We are moving in the wrong direction. It is the city's responsibility to provide safety for all people in its facilities - no matter what they have done. We are failing on purpose and it is unacceptable.

Not only must the City begin releasing those jailed on Rikers Island immediately, we must commit to a vision for public safety that no longer relies on policing and incarceration. Less incarceration means more safety and justice for all.

Respectfully,

Alexa Avilés

Democratic Nominee, City Council District 38

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CENTER FOR EQUITY,  
HEALTH, AND JUSTICE

**Testimony of Gabrielle Parks**  
Member, of Katal Center for Equity, Health, and Justice

**Hearing on the Current Conditions of City Jails**

**Submitted to the New York City Council  
Committee on Criminal Justice –  
Council Member Keith Powers, Chair**

**September 15th, 2021**

Contact: Melanie Dominguez, Community Organizer, [melanie@katalcenter.org](mailto:melanie@katalcenter.org).

My name is Gabrielle Parks. As a community member from Brooklyn and member of the Katal Center for Equity, Health, and Justice, I strongly urge the city to decarcerate our jails, accelerate plans to close the Rikers Island Jail Complex, and demand Governor Hochul to sign the Less Is More Act now.

The current crisis on Rikers is unacceptable and it is putting incarcerated individuals in life-threatening situations. People are being forced to sleep in showers, toilets are overflowing inside cells, and incarcerated individuals are having to take over entire units since Correctional Officers are completely absent. This situation is ripe for disaster and more preventable deaths will occur without swift action by both city and state-level officials. It is immoral and unconscionable to treat human beings this way.

Throughout the summer, I had loved one incarcerated on Rikers Island. My loved one has pre-existing health conditions and contracted COVID-19 while incarcerated on Rikers. This caused immense stress on myself and our family as we know access to quality health care and other services are extremely hard to get at Rikers. It was incredibly hard telling my children that he would be alright, when in reality I did not know what was going to happen and if he would make it. This put immense strain on our entire family and network, we were all locked up with him. Unfortunately, this situation happens to thousands of families across New York City. My loved one was not sentenced to die on Rikers so he should have been put in dangerous situations that negatively affected his mental and physical health. These are children, siblings, fathers, uncles, etc. and it is disgusting how we treat incarcerated individuals in this city and state. They are all part of the human family, every single person on Rikers is family and they deserve to be treated with dignity. The Mayor, City Council, and Governor must do everything in their power to address this dire crisis.

This year alone, we have seen a record number of deaths on Rikers Island, which is only getting worse with District Attorneys and Judges continuing to send people to jail pretrial and Correction Officers missing work by the thousands. This combination has led to the population of Rikers growing to over 6,000 from below 4,000 at the height of the pandemic, which is leading to overcrowding and unsafe conditions. To address this current crisis, the city needs to immediately start decarcerating the jail system, accelerate plans to close Rikers, and stop incarcerating people for alleged technical violations of parole.

No one should be incarcerated on Rikers during this crisis for a non-criminal technical violation of parole like missing an appointment with a parole officer, being late for curfew, or testing positive for alcohol or other drugs. On Rikers today, there are over 270 people solely incarcerated for technical violations of parole and almost another 800 people incarcerated for a parole violation connected to a new criminal case. This is completely unacceptable given the dangerous conditions on Rikers, all these individuals should be released immediately. And we know that Black and Latino people are incarcerated at far higher rates for technical violations of parole than white people. For instance, Black people are incarcerated at Rikers for technical violations of parole at 12 times the rate of white people. Restricting the use of incarceration for technical violations of parole will support people in reentering their community after incarceration; responsibly reduce the NYC jail populations; promote safety and justice for families and communities; and save NYC taxpayers \$273 million annually. Signing the #LessIsMoreNY Act into law will get hundreds of people off Rikers Island and help the city get closer to shuttering the jail complex for good.

At Katal, we call on Mayor Bill De Blasio, Speaker Johnson and the NY City Council, District Attorneys and Judges to immediately address the current crisis on Rikers by decreasing the



number of people currently incarcerated, accelerating the plans to close Rikers. We also call on Governor Kathy Hochul to immediately sign and implement the Less Is More Act.

The way we treat the most vulnerable in our society reflect our own humanity and what is currently occurring on Rikers Island is absolutely disgraceful. Our elected officials should not wait any longer, drastic steps are needed.

I humbly and graciously thank you for your time and for giving me the opportunity to testify at today's hearing.

Thank you,

Gabrielle Parks  
Member, Katal Center for Equity, Health, and Justice



**Testimony of Henry Robinson**  
Member, of Katal Center for Equity, Health, and Justice

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**September 15th, 2021**

Contact: Melanie Dominguez, Community Organizer, [melanie@katalcenter.org](mailto:melanie@katalcenter.org).

My name is Henry Robinson. As a community member from Brooklyn and member of the Katal Center for Equity, Health, and Justice, I strongly urge the city to decarcerate our jails, accelerate plans to close the Rikers Island Jail Complex, and demand Governor Hochul to sign the Less Is More Act now.

Right now, the conditions on Rikers Island are horrible and life-threatening to the individuals incarcerated there. This year alone, we have seen a record number of deaths on Rikers Island. The crisis only seems to be getting worse with District Attorney's and Judges needlessly sending more people to jail pretrial and Correction Officers refusing to come to work. This has led to the population of Rikers growing to over 6,000 from below 4,000 at the height of the pandemic. As a result, people incarcerated on Rikers are being forced to wait in intake for weeks at a time -- sometimes without a bed, a working toilet, or access to a shower. This is not how humans should be treated, and it puts people at serious risk of mental and physical injury or death. Rikers is a torturous and chaotic environment, and the only viable solution is to shut it down.

To address this current crisis, the city needs to immediately start decarcerating the jail system and stop sending people to Rikers for being unable to pay bail or due to an alleged technical violation of parole. In 2017, I was incarcerated on Rikers Island for almost three months for a technical parole violation. I had just gotten injured at work due to a cast iron ball falling on my foot and fracturing several bones. This made walking and getting around incredibly difficult. Not too long after, I also got a new parole officer who immediately treated me worse than the previous one. One night while waiting at a bus station on my way home -- since I couldn't walk -- she called me while waiting outside my apartment to see where I was since my curfew was in 15 minutes. I let her know I had to wait 30 minutes for the next bus and that I would be a few minutes late. Once I arrived, she was incredibly hostile towards me, and then another aggressive parole officer arrived and told me not to say one word. They ended up violating me for allegedly being verbally and physically threatening to my PO and for a curfew violation.

While on Rikers with my foot still fractured, I received no medical support and was put into dangerous situations that led to me being assaulted by several people, which only made my injuries worse. The conditions during my period of incarceration were incredibly unsafe, and the inability to get medical treatment was a serious concern. In the end, I was incarcerated for 87 days. After reviewing the body camera footage of the PO, they dropped the violation for verbally and physically threatening my PO since there was no evidence. I was solely violated for being 15 minutes late for curfew. This was my first time being late for curfew, and being incarcerated for 3 months really messed up my living conditions, all my food went to waste, and I had to start over from scratch completely. This situation not only impacted me but also affected my friends and family, who had to support me during this senseless period of incarceration. Unfortunately, this type of scenario happens all too often.

Right now, there are more than 5,000 people incarcerated statewide for technical violations of parole, which by definition, a technical violation of parole, such as missing an appointment with a parole officer, being late for curfew, or testing positive for alcohol or other drugs, is not a criminal offense. Today on Rikers, there are over 270 people solely incarcerated for technical violations of parole and almost another 800 people incarcerated for a parole violation connected to a new criminal case. And we know that Black and Latino people are incarcerated at far higher rates for technical violations of parole than white people. For instance, Black people are incarcerated at Rikers for technical violations of parole at 12 times the rate of white people. Given the recent crisis, an alleged technical violation should not be a death sentence. The current system of re-incarceration for technical violations of parole harms individual lives and families without any public safety gains and drives up the population on Rikers Island, and

costs NYC taxpayers \$273 million annually. Signing the #LessIsMoreNY Act into law will get hundreds of people off Rikers Island and help the city get closer to shuttering the jail complex for good.

At Katal, we call on Mayor Bill De Blasio, Speaker Johnson, and the NY City Council to immediately address the current crisis on Rikers by decreasing the number of people currently incarcerated, accelerating the plans to close Rikers, and investing the savings into communities most impacted by mass incarceration. We also call on Governor Kathy Hochul to immediately sign and implement the Less Is More Act. No one should be subjected to the harmful and torturous conditions on Rikers Island. This is a dangerous crisis that requires urgent action from both city and state-level elected officials.

I humbly and graciously thank you for your time and for giving me the opportunity to testify at today's hearing.

Thank you,

Henry Robinson  
Member, Katal Center for Equity, Health, and Justice





I first want to speak on the safety concerns. We have staffing shortages throughout Rikers. With an estimated 2,000 officers out on leave workers are not safe doing their job. Those officers left on duty are forced to work triple shifts. The tremendous staffing shortages cause delay and prevent patients from getting the health care services they need, including mental health services.

An intake unit is a pen with benches and no place to sleep. Detainees may spend up to 3 nights with limited food and water. Recently a unit housed 47 inmates, far more than maximum capacity. Delays in examining detainees rob us of critical time needed for treatment of COVID-19, diabetes, cardiac conditions and other illnesses.

Between July and September 2020 the self-injury rate for inmates nearly doubled that of the previous quarter. We had over 500 incidents of inmates hurting themselves April-June 2021. There is a mental health crisis amongst inmates that needs to be addressed. Nurses at the mental health unit feel unsafe and unprotected. Patients are unsupervised leading to altercations with nurses and other staff.

We have seen a lack of accountability from DOC and Health & Hospitals when it comes to the conditions in our city jails. The number of detainees is growing while staffing shortages create constant crisis mode for all workers including our nurses. As nurses continue to deal with the current COVID-19 pandemic there is increased violence and threats of violence. Nurses have become victims in an unsafe

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environment leading to physical attacks, threats, and total chaos. I am currently recovering from an attack that required surgery.

We seek “a safe and effective solution for colleagues who face great personal risk simply by fulfilling their professional duties. Staff works under fear of losing their lives or being assaulted and in fear for their health and safety every shift.”

Moving forward the city must take action to protect patients and staff in our correctional facilities. We need to make an effort to be proactive when it comes to the mental health of our patients and the safety of our city workers.

Thank you for your time today.

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**Brandon J. Holmes**

**Testimony submitted at 9/15 Committee on Criminal Justice Hearing**

In the past nine months, Rikers Island has claimed 10 lives. As Dr. Bobby Cohen just said, a long terrifying season of death. Two weeks ago, Survivors of Rikers rallied outside City Hall demanding action from this administration and they spit in our faces when the Mayor said that he would task NYPD with relieving DOC in courts. In any crisis, the Administration's only response is to double down on law enforcement responses.

We have had all of the warning signs: March 2020 BOC called for the immediate release of 2000 prisoners. This was never realized. December 2020, in response to a rapidly increasing jail population and two deaths on Rikers in a single month, we marched on Gracie Mansion to present demands for decarcerating our jails. These were never realized. May 2021, and periodically over the last 5 years, the Nunez Federal Monitor reports have detailed the increasingly toxic and deadly environment on Rikers Island.

The acting DOC Commissioner Vinny Schiraldi & Chief Medical Officer Ross Macdonald have told us clearly that we need to hold DOC staff accountable & reduce the jail population to improve the immediate conditions of the jails. Since the Mayor has abdicated his responsibility to NYers accused of a crime, despite his lip service to "valuing our people," the Council is our last hope. You must use your authority to hold all systems agents accountable.

After years of successful efforts to reduce incarceration, and before the emergency release programs implemented in response to COVID-19, the number of people detained pre-trial in New York City had dropped to about 3,200 people in March 2020. Since then, the number of pre-trial detainees has risen to over 4,600 people, more than the total jail population at the peak of COVID-19 in Spring 2020. 6A, supervised release, hotel placements... We need a deeper interrogation into why the Administration has slowed or paused these release efforts. The Mayor needs to be pressured to hold his stance on releasing the City sentenced population.

Recent reports show that judges are routinely setting bail when the Criminal Justice Agency recommends them for release. When judges set bail, they continue to ignore defendants' financial circumstances - only 15% of people are able to pay bail at arraignment. Further, judicial decisions show increasing evidence of racial bias - judges were almost 50% more likely to set bail on Black people accused of violent felony charges than on white people facing identical charges in the fourth quarter of 2020. The Council can take immediate action to drive & support decarceration:

- Council could require MOCJ & future administrations to assess and report on each defendant's ability to pay – which was included in the 2019 state bail reform laws, but without a specific actor assigned to the task, it is not happening - and judges continue to set excessive bails that make freedom dependent on wealth, with death becoming a natural consequence of being too poor to pay. With this requirement

and parallel reporting in place, Council will be prepared to ask DAs and judges why they would request or set bail of \$10,000 for a defendant who can clearly only pay \$500.

- The Council must immediately amend and pass Councilmember Danny Dromm's legislation to end solitary confinement in New York City, especially in light of the Mayor & BOC's new rules developed in collaboration with DOC which only serve to establish solitary by another name and circumvent the HALTsolitary bill which passed in Albany.

If this City cannot guarantee people will not die in their custody, the City should not be holding anyone in their custody. Decarceration is the ABSOLUTE SOLUTION to this immediate crisis which will protect our communities on all fronts. Not increasing law enforcement roles in the courts or recruiting new officers to do the same bad job. If a Correction Officer had ensured 24-year old Esias Johnson made his court appearance, he would have been able to post his \$1 bail and return home to his mother before he became Riker's 10th casualty in a war on black, brown, and poor New Yorkers.

We know what must happen next: DECARCERATE. IMPROVE CONDITIONS. DIVEST FROM LAW ENFORCEMENT. And CLOSE RIKERS NOW.



To the City Council Committee on Criminal Justice, I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers.

The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support.

The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Especially during a pandemic, locking people up in an unsafe environment is not the solution. Thank you for reading.

**Brigitte Lamarche**

To the City Council Committee on Criminal Justice, while I was unable to attend this meeting, I contributing this testimony to voice my support for immediate decarceration of Rikers and all citywide jails, in the interest of public health and humanity more broadly. The city's so-called leaders must commit to emptying the cages immediately. Furthermore, they must provide a transparent and public plan to shutdown Rikers *immediately*, not simply by 2027. It is evident that the ongoing operations and existence of Rikers is incompatible with human rights and decency. It is a dehumanizing hub of violence and illness.

You must take back your lie that Rikers is closing and take real action to radically decarcerate the 6,000 people who are forced to survive deadly conditions right now. The city must make the following commitments: 1. Release people caged on Rikers 2. Radically reduce the number of arrests made by the NYPD by ending broken windows policing 3. Improve conditions inside and 4. Provide holistic non-carceral re-entry support. Each of these changes must be made with the goal of decarceration in mind. The only solutions are to institute mass releases and care for those inside -- not more COs, who have proven unable to manage violence inside Rikers; not more cages, which facilitate violence; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside are on your hands as much as they are anyone else with institutional power. You must ensure immediate releases in the thousands.

The people incarcerated at Rikers are my neighbors and my community. Do not forget that you not only represent me; you represent every person facing those detestable conditions within Rikers.

Cailin-Potami-

To the City Council Committee on Criminal Justice,

I am attending this meeting to write my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Sincerely,  
Caitlyn Passaretti

To those in power who are responsible for the wellbeing of our community,

As Jumaane Williams, Jessica Gonzales-Rojas and Jessica Ramos witnessed on their recent visit to Rikers, what this entire board has been well aware of for *seven years*. The conditions at Rikers are inhumane, deadly, and a deep shame to every single one of you. De Blasio proposed in 2017 to shut down Rikers by 2027. This is not soon enough. Shut it down now. You cannot continue to let people die. The solution is not to hire more guards and building more jails. The solution is to get our suffering community members out immediately. All of the funding towards hiring more cops and building more jails must go towards supporting the homecoming and rehabilitation of our community members. I want to see a commitment to getting our people out of there and home safely. Bring the number of incarcerated folk at Rikers to far below 4,000 immediately. Right now. The only solution is to release and care for those inside. More people will die in Rikers and it will be in your hands. New York City is watching. Release them in thousands right now.

Cassidy Leverett

To the City Council:

I am listening to the City Council hearing on the emergency at Rikers, and I am disgusted by the lack of empathy for the real victims – the incarcerated individuals, many of whom have not been convicted of a crime. They are dying, being tortured, malnourished, suffering medical neglect and disgusting conditions. Sure, we can devote more resources to the Cos but at the end of the day, we all saw the videos of COs watching and doing nothing while Layleen Polanco died in her cell at Rikers just this past year. What about the COs who pepper sprayed Jamel Floyd to death? We need to reduce the population at Rikers, eliminate cash bail and fix our criminal justice system so we can reduce incarceration rates. As a New Yorker in Harlem, I feel safer if our neighbors in Rikers and other jails are safe, and I feel even safer if they can be safe at home. I do not feel safe when copaganda sways public officials to be “tough on crime” and criminalize poverty and being black and brown. Please listen to the public and respond to this humanitarian crisis by closing Rikers and releasing people from jail.

Catherine J Newcomb

To the City Council Committee on Criminal Justice, I am submitting this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

**Cy Bloomfeld**

## Testimony to the City Council Committee on Criminal Justice

September 15, 2021 Oversight Hearing

Good afternoon Chair Member Powers and Committee Members,

We are in another crucial moment and simultaneously for some City Council members a dilemma. A quandary which is going to take brutal honesty, will, and courage in order to deal with this crisis we are faced with once and for all.

COBA has a clutch on its members and the future of New York City. There are officers who believe in rehabilitative approaches, who believe in reform, who believe in closing Rikers, who don't want to see their own children targeted by systems of mass incarceration, and have voiced that. But those are not the voices COBA chooses to represent. COBA has vehemently opposed every reform from treating 16 & 17 year olds like 16 & 17 year olds with Raise the Age, to bail reform, to limiting solitary confinement, but thank goodness electeds wisely did not feed into their fear mongering and passed legislation to bring us steps closer towards a more just system.

COBA has argued that their "hands are tied" because the Federal monitor has restrained their ability to use force. This shows that COBA views their members in the same way they view incarcerated people – one dimensional and incapable of change. What their members need is to learn a new approach. If officers in other jail systems can do this, why does Benny Bosco think his members aren't capable?

COBA's decades of corruption and toxic leadership has created monsters - but not the people incarcerated. On August 31<sup>st</sup>, in response to calls for decarceration in the wake of the suicide of Segundo Gualpa, an active duty correction officer commented on Facebook ***"The inmate population will continue to decrease as long as they KEEP KILLING THEMSELVES...That will definitely reduce the inmate population. That crook will no longer be in the street. It's a WIN WIN."*** (see attached images). This officer is a Black woman, as is Rebecca Hillman who stood by as Ryan Wilson hanged himself last year. These women have become indoctrinated to

see incarcerated people as less than human, like too many others in DOC, and they cannot be responsible for human lives.

Only two things would immediately address the crisis on Rikers Island – decarceration, and current officers coming back to work. COBA has opposed both and instead is pushing to hire more officers who would not be available to work until the jails until 2022 at the earliest.

This Council has the power to disband the Department of Correction, and should be working to do so now. Finally, after years of absent leadership, DOC finally has a Commissioner and Deputy Commissioner committed to change. The best thing the Council could do is enable them to start from scratch. This has been done in Camden NJ with their police force, and Mexico with their federal prison system. Like Rikers, the DOC is too broken to be fixed. How much longer can the Council expect the people of this City to tolerate spending \$450,000 per year per incarcerated person for a Department that can't even keep them alive?

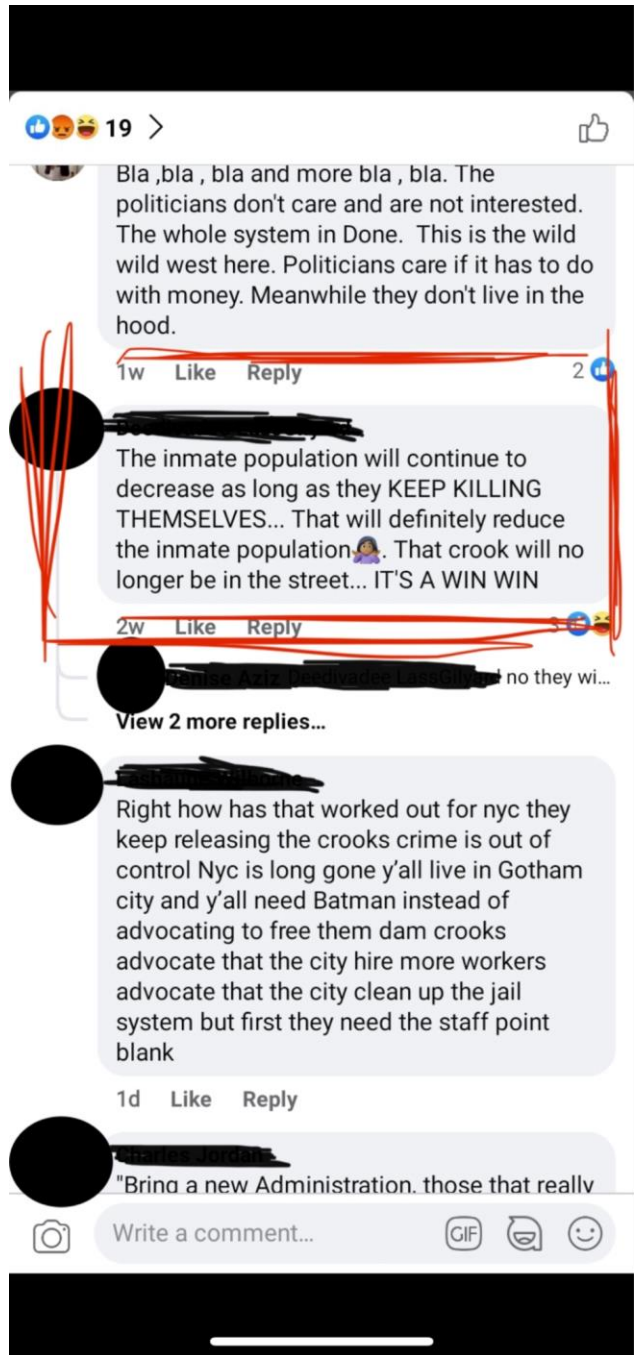
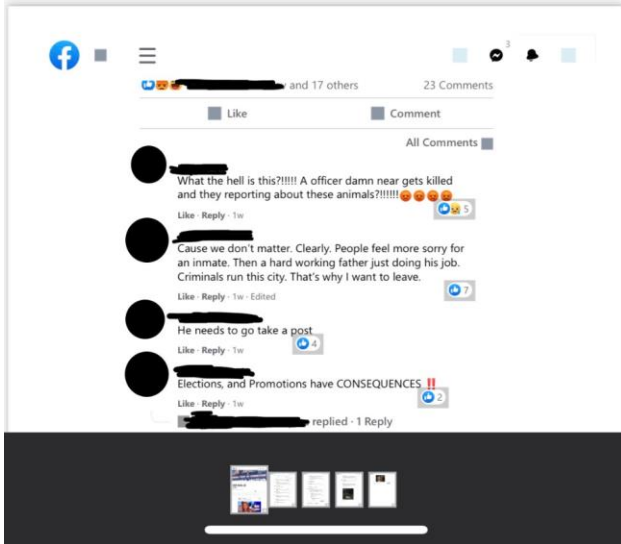
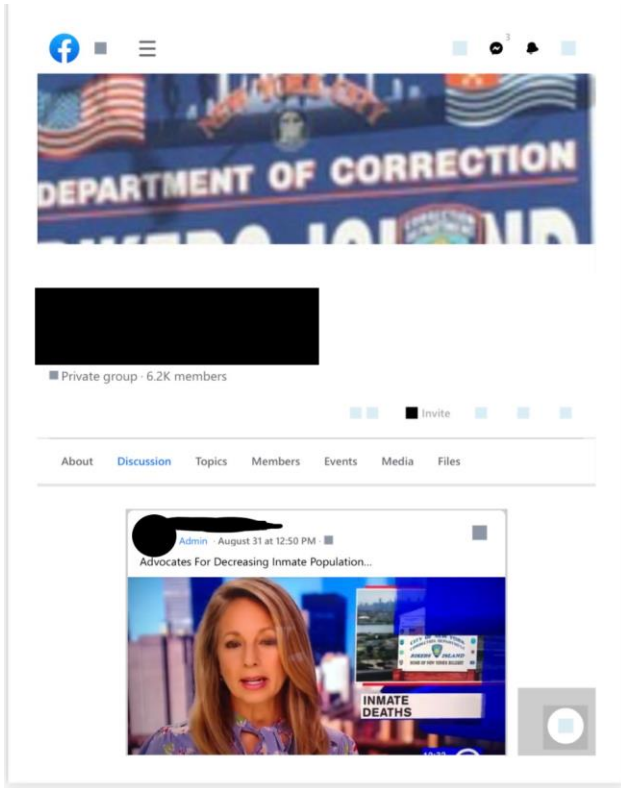
Thank you so much,

Darren Mack,

Co-Director, Freedom Agenda

[dmack@urbanjustice.org](mailto:dmack@urbanjustice.org)





9/15/21

Greetings to all,

This letter is being read on behalf of Dr. Tawanna Gilford. She is a NYS psychologist, co-founder of the stop false police reporting group, and sister of a man who served time in prison for a crime that he did not commit.

Dr. Gilford states,

First and foremost, I would like to thank the organizers for bringing this issue to the forefront as we demand relief for our incarcerated loved ones. Secondly, I ask us to pray and demand justice for those individuals and families that are affected by the public health crisis at Rikers Island.

I speak from my personal and professional experiences when I express that the circumstances at Rikers are deplorable, inhumane, and threatens both the physical and psychological safety of staff and incarcerated individuals alike.

We must ask ourselves... is this the best that we can do? During the first wave of the Covid-19 pandemic, I advocated for my brother and for thousands of others to be freed due to increased risks infection due to the

inability to properly enforce social distancing, a shortage of PPE, and staffing issues. Those requests were largely unaddressed by our then Governor Cuomo. Now at the local level of government, we now have our mayor who mirrors the same behavior of not prioritizing the health and safety of all individuals who are behind the wall.

In our call to action, we must demand that the Mayor and the Governor declare a state of emergency over this public health crisis and begin to transfer those incarcerated individuals to temporary placements based on security/safety risk. Low risk cases and those with non violent charges could be considered for electronic monitoring in the community. Individuals with chemical dependency/behavioral health concerns can be temporarily placed in an appropriate setting until they are ready to proceed with the case.

As we stand together today, we must be mindful to consider all possibilities to increase safety and not just choose the lesser of the two choices presented.

So let us declare that starting today, we will relentlessly seek overall safety throughout Rikers Island and will also push for temporary transitions until a permanent and safer solution could be implemented.

Thank you for your time and be well.

September 15th, 2021

To the City Council Committee on Criminal Justice,

I am writing this testimony to show my support for immediate decarceration of NYC jails, starting with Rikers Island.

The city must commit to emptying the cages, immediately with a swift, transparent, and public plan to shut down Rikers -- not by 2027 but *immediately*. Today.

The city must reconcile the lie it spread in 2019 that Rikers is closing. Instead, I ask that you take real action to radically decarcerate. 6,000 people are in deadly conditions right now.

The city must commit to releasing people caged on Rikers, fewer arrests, fewer prosecutions, improving conditions inside, and providing holistic surveillance-free re-entry support. The only solution is mass release and care for those inside, not more cops, not more COs, not more cages. Expanding Rikers will not prevent the violence that is characteristic of NYC jails.

As the City Council, the deaths of those inside are on your hands. You must ensure immediate releases in the thousands. You have the power to save lives and reunite communities.

/s/

Roxanne Zech

September 15, 2021

To the City Council Committee on Criminal Justice,

I am submitting testimony to voice my support for immediate decarceration inside New York City jails, starting with Rikers. Jails are always sites of violence and death, but the horrors at Rikers have grown to unprecedented levels and our city leaders must take action immediately. However, the solutions that have been proposed by City officials - building new jails, opening closed facilities, adding more correctional officers and police - are not only woefully inadequate, but, as history tells us, they will only further exacerbate the violence characteristic of cages, COs, and cops. Instead, the city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, providing holistic non carceral re-entry support, and to releasing a transparent and public plan to shut down Rikers -- not by 2021, but immediately. These are concrete steps city officials - including City Council - can take.

I am urging you to ensure immediate releases in the thousands and to shut down Rikers without building new jails.

Thank you for your time.

Sincerely,

Rachel Foran

To the City Council Committee on Criminal Justice, I am submitting this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

**Hannah Baker**

To the City Council Committee on Criminal Justice: I am submitting this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. I urge Councilmembers to commit to a transparent and public plan to shutdown Rikers -- not by 2027 but immediately. More than 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day.

Hiro Yoshikawa



## **Personal Testimony to the City Council's Criminal Justice Committee 9/15/2021 Hearing – "Oversight – The Condition in our City's Jails."**

Thank you for this opportunity to lend my voice to the subject of this hearing.

I am concerned from three perspectives: I am a homeowner in Brooklyn, I am an advocacy volunteer active in the movement to close Rikers, and I have a friend who has been held pretrial at Rikers Island for going on nine months, his case still in the discovery phase! He has had bail set, but does not have the financial means to pay for his freedom while awaiting trial. His latest court date postponement was due to staff getting him to the video court room too late for the judge to proceed that day. Whenever he has access to one of the few telephones in his dormitory, he calls me and tells me about the conditions he has been living with. I will list here some of the things he has described over these ten months:

1. Days at a time with no toilet paper, the men using wash cloths for toileting
2. Some weeks at a time with no clean laundry – no clean clothing, no clean sheets, no clean towels or wash cloths
3. Increasing overcrowding for COVID conditions (many beds just three feet apart), newcomers sometimes not receiving any bedding for more than a day and standing against a wall at night
4. Sporadic mail service, sometimes no mail coming in or going out for up to a week – delayed pickup resulted in his absentee ballot for the primary getting sent out after the postmark deadline
5. No drinking water available other than from bathroom faucets and limited bottled water from commissary
6. Limited commissary items available for purchase
7. Scarce attention to people with obviously serious mental health issues – when he sees mentally ill individuals transferred to another unit or facility, it is after that individual has already suffered days in the Rikers environment
8. Sporadic violent outbreaks as frustration builds among people whose basic needs are routinely ignored – the chaos and violence have been escalating
9. Limited access to law library
10. People not being escorted on time, if at all, to video conferences, court appointments, medical services
11. No voter registration or absentee ballot information or forms routinely available
12. Phone calls often cut off before the fifteen minute allotment, along with few telephones even provided to the dorm and difficulty getting to one, sometimes for days
13. Incoming mail not forwarded when individual is moved to a different residential space – (I know this myself because I had a letter returned to me as addressee unknown when my friend had been moved from one building to another)
14. No or limited outdoor time, no fresh air
15. COVID vaccination procedures questionable to individuals, lack of trust in medical services along with fear of transmission of the virus

**Please be aware that I am submitting this list on behalf of someone who cannot address the committee directly, because he does not have the money to buy himself out of jail while awaiting trial. Were he wealthier or had wealthy connections, or if NYC had a truly just system, he could have spoken for himself!**

It is obvious that conditions have continued to degenerate from the “normal” state of these jails that has earned Rikers Island the nickname of Torture Island. The problems of staffing, etc. are well documented, as you well know.

There are minimum standards in place for the City jails. They are being blatantly ignored. New Yorkers expect our elected leaders, including the City Council, to take action now to bring about real change. Part of that change must include decarceration – my friend and the thousands of people at Rikers with him cannot be forced to endure these conditions until a complete overhaul of the Department of Correction is completed.

Thank you,  
Jane Ehlke  
Brooklyn, NY 11201  
September 6, 2021

## **Testimony of Jerrel Lewis, survivor of Rikers Island**

My name is Jerrel Lewis. I'm 34 years old and a father of 3: I have a 12-year-old daughter, a 2 year old daughter and a 4 month old son. I live with my girlfriend and youngest two children.

Throughout my life I have struggled with drug use. I have been arrested several times for drugs and gone to prison for drug offenses. I tried to get sober, doing inpatient drug treatment at the start of 2019, but relapsed and consequently, was arrested for felony drug possession of crack cocaine in July 2019. The prosecutor offered me a plea deal to misdemeanor drug possession with a sentence of 60 days. The judge let me wait to be sentenced until after the holiday, but by the time I was scheduled for sentence, COVID-19 was in New York and my case was adjourned for over a year.

During that time, I turned my life around. I voluntarily checked myself into treatment at Odyssey House. I found a job working at Amazon. I spent time with my children and in May 2021, witnessed the birth of my third child, a beautiful baby boy Jaiden. By the time my case was scheduled for sentence again in July of 2021, I had been out of trouble and sober for nearly two years.

Despite this, District Attorney refused to acknowledge my rehabilitation and sobriety and the incredible work I had done, and insisted on imposing the original sentence of 60 days jail. My attorney and I begged – BEGGED – for time served or ongoing outpatient treatment in my case, but the DA refused.

I had been to prison before, but nothing could prepare me for what I saw at Rikers. I was at OBCC from July 28<sup>th</sup> to September 3<sup>rd</sup>. It was the most traumatic experience of my life. I spent weeks in intake, which is not where anyone is supposed to live. The first day I was in intake, people had to beg for water.

Eventually I finally got transferred to the dorm, where life was even worse. 40-50 people were crammed in, and there were no corrections officers there. Things were very chaotic and dangerous. I saw someone get stabbed and there was no one to take them to medical or stop the attack. He had to stagger down the hall by himself to get help. I also saw someone try to hang themselves with a sheet, which was horrifying to watch. COs ignored people who said they were going to hurt themselves or even taunted them, saying “Do it” when they asked for help.

It’s no wonder people were pushed to violence and self-harm under the conditions we faced. Food arrived at random times, when it came at all. Somedays we would get one meal and it came late at night and even then, it wasn’t enough food. We tried to use our own money to buy food but the commissary was closed. Toilets were inoperable and overflowing, with only one toilet for 40 people or more. No one was available to escort people to medical appointments, and people missed their prescriptions. We did not have access to showers, could not change our sheets or clothes, could not even wash our hands. We lost all access to recreation and programs. The entire time I was there, I never saw the light of day.

To be clear, this is torture. This is pushing people to the brink mentally. People were losing their minds in there, and I saw myself slipping away. In this intense, life-threatening environment, I went into survival mode. I ended up relapsing and using drugs, honestly, because it was the only thing I could do to keep from going insane and harming myself.

To cap off this torturous experience, on the day I was released a CO maced me. My release time kept getting pushed and pushed and after 12 hours of sitting in discharge, I started asking question. In response, they maced me.

I am safe now, but I am seriously traumatized by what I experienced at Rikers. I don’t think I’ll ever be the same. No one who experienced that will be. City Council, I am begging you,

you cannot let more people endure this treatment any longer. You have to end this crisis and get people out of there. This is life and death.

To the City Council Committee on Criminal Justice,

I am writing to voice my support for immediate decarceration inside all NYC jails, including Rikers Island, where 10 people have needlessly died in less than a year.

The City Council and Mayor must commit to immediately emptying these deadly cages, with a transparent and public plan to completely shut down Rikers. This should have happened years ago, it needs to happen right now-- not in 2027. We expect real action, real lives saved and families reunited, not lies and slogans to launder the image of the self-styled “progressive” gala-going Mayor.

It is unconscionable that the so-called progressive Mayor and the New York City Council would continue to throw the poorest and most-marginalized people into crowded cages in the midst of the most deadly pandemic in a century. It is unbelievably stupid that the Mayor would consider sending untrained NYPD into these jails, and it is offensive that he could, with a straight face, claim that this is some sort of a solution.

The solution is clear-- release your incarcerated people now.

In addition to releasing those who are caged on Rikers, the city must also commit wholeheartedly to fewer arrests, ending broken windows policing, defunding the NYPD and funding community care that can actually eliminate the harms that lead to crime.

The people inside city jails are your constituents too. They are part of New York City. Their deaths and suffering and the suffering of their many families are all on your hands if you don't do everything in your considerable power to immediately end these barbaric conditions.

Thank you,  
Joe Craig

To the City Council Committee on Criminal Justice,

I am submitting this written testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. City Leaders must commit to emptying the cages, immediately, with a transparent and public plan to shutdown Rikers. But commitment is not enough—the public has been given commitment before. It is time for ACTION.

6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers; fewer arrests; ending broken windows policing; improving conditions inside, and providing holistic non carceral re-entry support.

Please consider taking action on a humane plan now.

Thank you,  
JuKB

To the City Council Committee on Criminal Justice, I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers.

I attended today's hearing and I am absolutely dismayed at the conditions within these prisons, for both correctional workers and inmates. Many people inside, including elderly people, have been detained for minor infractions. These people must be released ASAP for public health, if not any other reason.

Think about the families separated and grieving due to the current status of these prisons. Would you want your relative to endure such dehumanizing conditions? Decarceration is the only answer.

Katherine Jin



To the City Council Committee on Criminal Justice,

I am writing this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but ***immediately***. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. **The only solution is releases and care for those inside**, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

In justice,

Kristina Bassi

Wednesday, September 15, 2021

Committee on Criminal Justice Oversight Hearing - The Condition in Our City's Jails.

Good morning members of the New York City Council, and thank you for the opportunity to testify. My name is Lucia Alonso and I work with the Women's Community Justice Association, a nonprofit advocating for justice-impacted women, trans, and gender nonconforming people.

As we speak, there is a growing crisis in NYC jails. At least 10 people have died on Rikers this past year from suicide and lack of medical care. These individuals include **Esias Johnson**, **Brandon Rodriguez**, who was violently extracted by officers with batons and helmets, and then locked in solitary confinement where he died by suicide, **Robert Jackson**, who died while locked in solitary without staff checking on him for 15 hours, **Segundo Gualpa** and **Wilson Diaz-Guzman** who both died by suicide, **Tomas Carlo Camacho** and **Javier Velasco** who both died while locked alone in mental health observation units, **Thomas Earl Braunson III**, who was found dead in his cell after enduring horrible conditions, **Richard Blake**, who died after telling staff he wasn't feeling well, and **Jose Mejia Martinez**, who died after he wasn't provided medical care.

In order for us not to lose any more loved ones, the City must fully decarcerate immediately, & truly end solitary confinement and replace it with proven models that improve the well-being and safety of everyone.

The City has shown us time and time again that they are unable to keep people alive and healthy, and meet their most basic human needs. The City must stop sending people to an island, locking them in cells without access to food, medical care, hygiene products, and leaving them to die without their loved ones' ability to know or do anything about it.

In regards to the women detained on Rikers, we must close the Rose M. Singer Center immediately. The number of women detained has more than doubled since the beginning of the Covid-19 pandemic. Rosie's is a decrepit building that is vulnerable to flooding as seen in the past two severe storms we have had.

We have gotten reports from women on Rikers that there is no access to hygiene products including pads and tampons, leaving people to bleed on themselves and through their clothes. There is no access to mental health support for weeks at a time, and no one to speak to about general health issues.

What is meant to be a jail sentence has turned into a death sentence. The Mayor, judges, DAs, & City Council have the responsibility to fully decarcerate now and stop sending people to city jails in order for this crisis to end.

Thank you for your time.

To the City Council Committee on Criminal Justice, I am submitting a testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's leaders must commit to emptying the cages and release a transparent and public plan to shut down Rikers immediately, not by 2027 as currently planned. To say that Rikers is already closing is disingenuous and deceitful, and you must take real action to radically decarcerate. 6,000 people are being held in deadly conditions right now—in 2021 alone, 10 people have died inside of Rikers. The city must commit to releasing people caged on Rikers, making fewer arrests, ending broken windows policing, immediately improving conditions inside, and providing holistic non-carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Madeline Weikel

Wednesday, September 15, 2021

To the City Council Committee on Criminal Justice,

I am submitting this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shut down Rikers -- not by 2027 but *immediately*.

You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. **The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support.**

The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day.

As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Margaret Evans

To the City Council Committee on Criminal Justice

I am writing to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. Rikers has been a national shame for years before this crisis, and it is past the time to act. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

**Matilda Sabal**

“To the Board of Corrections, My name is Meryl Ranzer. I am a human being who cares about the rights, freedom, and dignity of all human beings. I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers. As a mother, daughter, sister, aunt, friend, and member of the NYC community, I am disgusted with the lack of care given to the human beings incarcerated in our community. We keep hearing talk of the, “big lie” from DC. We have our own big lies here in the supposed, “liberal bastion” of NYC. We celebrate the excess of the Met Gala, while right next door we commit human right’s abuse at Rikers.

Our NYC elected’s are paying fast and loose with people’s lives. They are shameless as they voted to close Rikers, but also to open new jails. They are smart enough to know that new jails equals more abuse.

They **MUST** commit to emptying the cages, and bring numbers down to below 4000, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the Board of Corrections, the deaths of those inside is on your hands as much as anyone else. You must demand immediate releases in the thousands.”

#FreeThemAll

Meryl Ranzer

I am writing to demand that the city decarcerate rikers island as soon as possible. There is no other solution to the ongoing crisis there, which started well before the pandemic. This is not a matter of more COs, more staff. This is a hellhole of a place meant to degrade people out of their humanity, and there is no use for mincing words here. Every single person who has the capacity to release people from there and is refusing to do so is much more violent than person currently locked up in there.

nadav gazit

To the City Council Committee on Criminal Justice,

I am writing to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but immediately. Small steps are not enough - 6,000 people are in deadly conditions right now and need to be released.

The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Natalie Naculich



Hi, thank you. I'm an attorney who has represented folks on Rikers. I want to start by stating five historical facts.

First, when Rikers opened in the 1930s, it was celebrated as the humane jail to fix overcrowding etc. in other jails. Now of course the city wants to repeat the cycle by building new jails on the same mistaken premise that led to Rikers.

Second, in the 1970s, the city was having conversations just like this one, but about the Tombs. Then a court ordered the Tombs shut down. When it reopened after upgrades, law enforcement and media denounced how cushy the jail was, saying it was too nice for prisoners.

Third, last June, the city jail population was so low that we were almost at the point that everyone could be moved off Rikers. But councilmembers and officials in meeting after meeting said no, existing non-Rikers jails—like the Tombs—are too *inhumane*, we can't do that.

Fourth, for years now we've had federal court-appointed monitor for the city jails, which was supposed to be helping improve conditions.

Fifth, as Commissioner Schiraldi repeatedly harped on during the hearing today: the staff-to-incarcerated person ratio is higher than it has ever been.

Now that's the history.

Yet during this hearing, I heard almost exclusively talk about things that the history tells us don't work.

- Opening new units/facilities on Rikers,
- State/fed oversight or intervention,
- Hiring more staff,
- Doing some repairs.

With the exception of a few testimonies (e.g., Dr. Cohen, AM Mamdani) broad-based release (beyond 6-A, beyond Less Is More) was hardly even mentioned.

Despite the history outlined above, no official in that hearing challenged the premise that outside intervention, more jail space, more staff etc. are solutions—even though history teaches us that they're not.

How can you pretend that you're doing your jobs responsibly, while you ignore, and refuse to reckon with, this history?

I implore you to look at *\*city-level\** release options. I'm not talking about a few dozen people under 6-A. I'm talking about bail vouchers—the city paying bail for everyone who's in on cash bail. I'm talking about going after DAs' funding for remanding people or setting bail.

No doubt there are other options—you're the lawmakers, do your jobs.

But please quit pretending Rikers is going to be safe. You all condemned people to this when you voted to keep Rikers open while the city built new jails. You have their blood on your hands. You need to start getting them out, and preventing new people from being condemned to experience torture or to die there.

Thank you.

Nathan Yaffe

To the City Council Committee on Criminal Justice, I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day.

**Olivia Acuff**

## Testimony to City Council Committee on Criminal Justice & Committee on Civil Service and Labor

September 15, 2021

Thank you, Chair Powers, Chair Miller, and other Council members for the opportunity to testify today.

So many advocates and even City employees have made and will make many important points about what all actors and this Council must do to decarcerate immediately.

Additionally - every single City Council member should put out a public statement, sent to all your constituents and media, to condemn the Police Commissioner's blatant and repeated lies about bail reform and releases from jails due to Covid. The root causes of crime are complex and the NYPD has zero ability to address them, since most of them are rooted in unmet needs and systemic disinvestment. Dermott Shea has no real answers about how to keep our communities safe, but wants to maintain and expand his power, so he and his officers decided to launch a coordinated campaign of lies and fearmongering. The [NYPD's own data](#) debunks the Commissioner's efforts to blame incidents of violence on decarceration. The public deserves the truth, and if the Mayor and NYPD Commissioner won't provide it, the Council must drown them out. The Mayor may be content to let people die on Rikers to appease Dermott Shea, but this Council cannot allow that.

Second, the large majority of this Council made a commitment to closing Rikers Island and to the Renewable Rikers Plan. But the administration's Emergency Rikers Relief Plan outrageously includes opening more space for incarceration on Rikers Island. Local Law 16, the central part of the Renewable Rikers Act, required that on July 1<sup>st</sup> of this year the City start designating and transferring to DCAS all areas on Rikers Island that are not currently housing or providing direct services to incarcerated persons. The City failed to meet that commitment, transferring only JATC when they could have also transferred EMTC, GMDC, and several empty areas on the Island. The law in fact required them to transfer these areas. EMTC should have already been out of DOC's control, but now it will be reopened because the Mayor, DAs, judges, and the Governor are so deeply committed to expanding incarceration. The Council must hold the City accountable to implement the Renewable Rikers legislation and expedite the closure of jails on Rikers.

Lastly, about the complaints from some officers that their hands have been tied by the Federal monitor, I'd like to remind the Council why we have a Federal monitor. Because officers were abusing their power with impunity and subjecting incarcerated people to unconstitutional levels of violence, including head strikes, painful escort techniques, improper use of OC spray, and force that is disproportionate to the actual threat. For some officers, like the union leaders, that's their preferred approach. For others, they followed the example of officers who've been on the job longer. Either way, the Council must remember that the only reason that recognizing the human rights of incarcerated people feels like oppression to some correction officers is because they were allowed to operate with impunity for so long.

Sincerely,

Sarita Daftary

Co-Director, Freedom Agenda

sdaftary@urbanjustice.org

To the City Council Committee on Criminal Justice, I am submitting my testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. This past week has shown that Rikers is incredibly dangerous and not fit for ANY person to be within. You must take back your lie that Rikers is closing and take real action to radically decarcerate. The 6,000 people inside are dealing with deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside are on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Sasha Verma

To the City Council Committee on Criminal Justice, I am submitting this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

**Sohini Das**

Today I am joining you to testify on why I think we should start treating people like humans who deserve to live, people with families, friends, and neighbors. Anti-Blackness is why jails, its conditions, and the treatment within them are justified. This is an inherently anti Black decision to keep jails up and running despite all the personal experiences and studies that prove and share how egregious jails are. Sit in your political stance. To continue with the legacy of slavery and colonialism and criminalize, kill and torture Black people. I urge you to understand that there is no way around this being exactly what you continue when you have these insulting hearings deciding people's fate. Playing god. It does not matter what race you are, white supremacy and colonialism is upheld by anyone who is committed to it through state sponsored, mandated, monitored and ran institutions like jails. I am here to urge you to close Rikers. It should be closed now not in 2027. The billions you were going to invest to continue the legacy of slavery, invest it in Black children's lives and use it to fund hospitals. In NYC Black birthing people are 12X more likely to die during child birth than white birthing people. In the state of NY when you are Black, it's a matter of which preventable death will be yours because the people in power are choosing to build new jails for you and your kids rather than funding hospitals in Black neighborhoods, funding mental health facilities that aren't carceral, housing people, stopping evictions, improving transportation and making it free instead of pouring money into police that destroy lives for not being able to pay \$2.75 etc etc etc etc. please repeat all those etc because they are important. The money being poured into Rikers, police, and new torture chambers could be used much better ways.

You have a very important decision to make. Deciding to have blood on your hands or being able to live with yourself peacefully knowing you really are a good person and not a monster. Free them all, close the jails, free the people.

Soleil H

To the City Council Committee on Criminal Justice, I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers. As a public health professional who has worked in clinics and NYC public schools across the city, closing Rikers is imperative to the health of our community and families. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

T.J. Huang



To the City Council Committee on Criminal Justice, I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Tony Plunkett  
9/15/21

To the City Council Committee on Criminal Justice,

I am attending writing to voice my support for immediate decarceration inside NYC jails, starting with Rikers. The city's so-called leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Thank you,  
Vanessa

## Decarcerate and END Dangerous Inmate Conditions at Rikers

To the City Council Committee on Criminal Justice, I am writing this testimony to voice my support for immediate decarceration inside NYC jails, starting with Rikers. . I have read Assembly Member Emily Gallagher's testimony on the horrendous and inhumane conditions within Riker's Otis Bantum Correctional Center. There are overcrowded conditions, without adequate air conditioning, access to bathroom or handwashing facilities garbage everywhere, lack of medications and little food. During the ongoing pandemic these conditions are especially heinous and are endangering the lives of those at Rikers, as well as acting as spreading to those outside of facilities.

The city's leaders must commit to emptying the cages, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. You must take back your lie that Rikers is closing and take real action to radically decarcerate. 6,000 people are in deadly conditions right now. The city must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the City Council, the deaths of those inside is on your hands as much as anyone else. You must ensure immediate releases in the thousands.

Alannah Lejeune

To the Board of Corrections, I am attending this meeting to voice my support for immediate decarceration inside NYC jails, starting with Rikers. This city **MUST** commit to emptying the cages, and bring numbers down to below 4000, immediately with a transparent and public plan to shutdown Rikers -- not by 2027 but *immediately*. **NO LONGER** can this city hide the inhumane realities inside it's despicable prisons. No longer can you pretend that these suffering people are any different from you, your families, and communities. NYC must commit to releasing people caged on Rikers, fewer arrests, ending broken windows policing, improving conditions inside, and providing holistic non carceral re-entry support. The only solution is releases and care for those inside, not more COs, who have proven unable to manage violence inside Rikers; not more cages, which will not prevent the violence that is characteristic of NYC jails; and not more cops, who send more people inside every day. As the Board of Corrections, the deaths of those inside is on your hands as much as anyone else. You must demand immediate releases in the thousands. **THIS HUMAN RIGHTS CRISIS CANNOT WAIT.**

brie6b

Good afternoon.

I would like to thank Chairs Holden and Miller for holding this oversight hearing on the conditions in our city's jails.

My name is Anthony Wells, and I am honored to represent more than 20,000 workers who are members of Local 371, Social Service Employees Union (SSEU), District Council 37. We represent Associate Correctional Counselors, Correctional Counselors, Program Specialists, Community Titles and workers from H & H assigned to Rikers.

This moment requires blunt and truthful talk. The problems New York City faces at Rikers Island did not suddenly appear. It took years. Blaming New York City Correction Officers won't get us any closer to solutions than we are today.

The facts don't need explanations. We need more correction officers, tested, trained and hired. We need more promotions to supervisory ranks done immediately.

No post in a jail can ever be left uncovered. And that requires trained personnel. It's not surprising we are experiencing more jail violence, more suicides, more assaults on more correction officers and civilians. If you're injured you call in sick. If you can't take a day off because every post in jail must be filled, and you are ordered to work, you get sick. The worst outcomes are happening. People are dying.

More uniformed personnel are needed in New York City Correction Department facilities, now. Get people background checked and into the academy.

However, without additional social service workers—without our members--working at Rikers and throughout the system, our ability to reclaim lives will continue to decline. We know how to help keep families together, bonds that are frayed when detainees await further court action. We understand how connections must be maintained. We understand when intervention is required to assist.

We know which programs work and which ones don't.

The latest attacks on correction officers, civilians, and the recent rash of suicides and violence are symptoms of larger issues, and they predict clearly what will occur unless thoughtful people work together quickly.

Let me add that the physical conditions are deplorable and unacceptable. We filed a PESH complaint, which was upheld, but the conditions still exist.

We are at a turning point. We can be bold, or we can react.

My request: be bold. Only more personnel--trained social service professionals--and sufficient numbers of uniformed personnel will stop this tragedy. I ask you today to allow us all to work together. We know what must be done. Create a working group. Count us in. Take advantage of our experience. Together we can do our very best to avert greater tragedy. None of us can do it alone.

Thank you.