

**Testimony before the
New York City Council
Committee on Criminal Justice
Chair Carlina Rivera**

**By
Louis A. Molina, Commissioner
NYC Department of Correction**

March 23, 2022

Good morning Chair Rivera, and members of the Committee on Criminal Justice. I am Louis Molina, Commissioner of the Department of Correction. I am pleased to be joined today by the dedicated members of my leadership team, including Chief of Department Kenneth Stukes, First Deputy Commissioner and Chief Diversity Officer Lynelle Maginley-Liddie, Deputy Commissioner for Financial, Facility, and Fleet Administration Patricia Lyons, Deputy Commissioner for Programs and Community Partnerships Francis Torres, Deputy Commissioner for Legal Matters Asim Rehman and Chief of Staff Kat Thomson. Today, my colleagues and I are here to discuss the Preliminary Budget for Fiscal Year 2023 and my vision for the future of this Department, but it would be impossible to do that without acknowledging the impact of COVID-19 on our city and jails, and the reform that is urgently needed to address the long-standing issues facing this agency.

First, I want to acknowledge the deaths in custody that we have experienced this year: Mr. Tarz Youngblood, Mr. George Pagan, and Mr. Herman Diaz. Any death in custody is one too many and my deepest sympathy goes out to the family and loved ones of these individuals. When someone dies in custody, it is a public health issue, and we need to make sure all parts of our public health system and city at large are supporting these individuals in their time of need.

I also want to acknowledge the deaths of active-duty DOC uniform members of service. Last year, this Department lost 14 active-duty members of service, including some of whom died of COVID-19 complications. The start of my tenure has unfortunately been marked by grief due to the passing of staff as well. In 2022, we sadly lost three active-duty correction officers and one non-uniform staff member-Correction Officers Norka Jones, Aliesha Latouche, Alex Cormier and Electrician Arthur De Checchi. I also would like to acknowledge the loss of former Commissioner William Fraser and former Chief of Department Larry Davis. These individuals left an indelible mark at the Department and I want to express my deepest condolences to their families and colleagues. We owe it to them and our current staff and the public to improve this agency.

Introduction

It has been just over two months since I began my tenure as Commissioner of this agency, and I have already begun building a constructive partnership between the Department and members of this Committee. Today, I want to take the opportunity to share my vision for the New York City Department of Correction, and what I believe to be the pathway to achieving safer, and more humane jails. But first, I want to take a moment to introduce myself to you and the public.

First, as a native New Yorker raised in the Bronx it is deeply humbling to lead this agency, especially when a majority of the staff and people entrusted in our care look like me and come from the same kind of community, I grew up in. My vision for this agency is informed by both lived and professional experiences working in all three major pillars of our criminal justice system: policing, the District Attorney's Office, and corrections. Most recently I served as Chief of the City of Las Vegas Department of Public Safety. Prior to that I was the First Deputy Commissioner at the Westchester County Department of Correction, an agency that I successfully transitioned out of Federal oversight. I've also worked at the Brooklyn District Attorney's office, and I was a tenured uniformed member of the NYPD. I am also no stranger to the New York City Department of Correction or its long history with the Federal Monitor, having served as the first Chief Internal

Monitor and Acting Assistant Commissioner of the Nunez Compliance Unit from 2016 to 2017. Outside of my work experience, I know firsthand the impact of crime and incarceration on a personal level. Criminal justice reform work is deeply important to me and I made a commitment over two decades ago to change the system from within. I have wanted this job for a long time, despite knowing the many challenges the Department faces.

I want to be clear: I strongly believe in criminal justice reform. I am unequivocally committed to transparency and restoring public trust in this agency. I believe that working with the Council as well as other stakeholders throughout the city is essential to making our jails better. You will surely hear me say this again today, and throughout my tenure at this agency. These are the foundational principles that guide my work. Last month, I hosted members of this Committee on a tour of our jails to assess concerns and discuss how we can work together to address them. I've met with over 100 advocates and community-based organizations, dozens of elected officials, public defenders, and oversight bodies including the Federal Monitor, and intend to continue these meetings on a regular basis. These relationships and the conversations they bring are vital to me because I know that we share an important goal: to maintain safe and humane jails for the people in our custodial care and staff, so that we can enhance public safety in our city.

I hope to show you over the coming months that I value your input and your oversight.

State of our Jails & Commitment to Reform

I don't have to tell you that the need for reform in our City's jails has never been more urgent than it is now. The COVID-19 pandemic has created challenges that no one could have foreseen and exacerbated many that have long been at issue: deterioration of conditions, an overworked labor force, rising levels of violence, and an understandable concern for public safety. Throughout the pandemic, this agency worked tirelessly in partnership with Correctional Health Services to mitigate the spread of COVID-19 within our jails, consistently keeping the in-jail COVID-19 positivity rate lower than the city-wide average. That is something to be proud of and should not be overlooked, but we must recognize that there were tradeoffs. Although some people were

able to telework, staff and healthcare workers at this agency continued to heroically serve our city, while simultaneously managing the impact the virus had on their families and loved ones. People in custody have been living in jails with failing infrastructures, and with limited access to the programs and services they need and deserve as a result of COVID-19 quarantine and safety protocols.

This year, our population was projected to sit at fewer than 4,000 people in custody. And yet, due to impacts throughout the justice system brought on by the pandemic, today our population is at approximately just above 5,500. More violent offenders are being placed in our custody and staying in our care longer due to the Department's admissions outpacing discharges nearly every month from May 2020 through August 2021. From January 2019 to January 2022, the average length of stay increased from 187 days to 329 days. To place this in perspective, our department's length of stay is four times longer than Los Angeles County, which is the largest jail system in America.

While our incarcerated population has been steadily increasing, the Department's workforce has decreased significantly. The Department has nearly 2,000 fewer Correction Officers today than it did at the end of 2019, the last time the agency held a graduation ceremony for recruit correction officers until earlier this year. This attrition of staff, coupled with staff that is unavailable because of the impact of pandemic surges and other medical needs, has diminished our staffing levels. Fewer staff have been managing a larger, more challenging population, during a global pandemic. Morale when I took over this Department was at an all time low for everyone. It is vital that we take action now to address these issues.

Last week, the Federal Monitor filed a Special Report with the Court that highlighted longstanding issues troubling the Department. Much of the same that is in this report has been communicated to me by staff during my 2021 agency assessment and after my appointment as Commissioner when visiting our facilities and business units. The conditions and dysfunction described in the report are deeply troubling and unacceptable. Our staff and the people in our

custody deserve dignity and safety, and we need to be accountable and do better. As the Monitor and many others have pointed out, these issues were a long time in the making and many of them were made worse by this global crisis, which is still with us. Accordingly, these long-standing issues were not going to be solved in my first three months in this position.

As I said at the press conference when I was appointed commissioner, I will not be making any fly-by-night decisions to improve this agency. We will be undertaking strategic, evidence-based, comprehensive solutions to all of our problems.

Staffing

Our staff are our most vital resource and frontline leaders in our efforts for reform and we cannot succeed in any meaningful way without appropriately and adequately supporting them. We must focus on staff wellness and organizational health, which have been overlooked for far too long. To start, we have reinstituted the city's Employee Assistance Program on-site on Rikers Island, expanded faith-based resources exclusively for staff, and are looking to enhance the management of our Health Management Division.

When I took office at the beginning of this year, over 30% of our uniform staff were out sick. Over these past two months, we've been focusing efforts to engage staff who are out sick, providing on-the-ground, peer-to-peer support to get them back to work, fit and healthy. These efforts have been paying off – we have had over 1,300 staff return to work since January 1st, lowering the percentage to approximately 19%. In addition, our recent graduating class of recruits serves as a beacon of hope as we look toward the future of the Department and I am pleased to welcome them on board. They join the ranks of many dedicated members of service. Another cohort of recruit correction officers will graduate in late spring to support our workforce.

The year-to-date increase in staff availability has enabled us to return a majority of facilities to 8-hour tours, from working 12-hour tours. It has also greatly reduced our reliance on triple

shifts and incidences of unstaffed posts. While these initial trends are promising, we still have a long way to go to get staffing numbers back to normal.

We must also provide staff with the tools and authority to create and uphold safe and orderly facilities and will do so by aligning our policies and security procedures with correctional best practices. I will continue to make expectations clear and attainable, and processes for staff accountability meaningful and focused on improving outcomes. In the same way that we can't punish our way out of misbehavior among the population in custody, we can't just punish our way through staff accountability. However, when staff discipline is necessary, we will follow the corrective action process in a manner that is transparent and fair. To put that into context, in less than three months I have already reviewed roughly 300 disciplinary cases and supported disciplinary actions, which have included termination. This includes cases stemming from incidents that went as far back as 2017. I'm committed to a timely and meaningful disciplinary process.

We have already begun to explore technological solutions to optimize our operational decision-making through an evidence-based approach. It's time to embrace technology that is available to us to collect and utilize data in both our short-term decision-making and our long-term planning. I recognize that how we are managing this agency and using data to support our operational decisions will be critical to rebuilding trust that has been lost over the years.

In addition to these future-facing approaches to scheduling, deployment, and other operations we are exploring in new management initiatives to support our workforce and contract partners and effectively execute the mission of this agency. I am also looking forward to onboarding a new leadership team for our Training and Development Division and ensuring our correction officers, and staff at all ranks receive the best training and skills to successfully fulfill the mission of this agency. Together, with appropriate support and investment, I know we can succeed.

Programs & Community Partnerships

Focusing on staff support and resources, organizational health, and correctional best-practices as a means to ensure safety are fundamental to how we approach success. We need all these things so that we can provide targeted services to people in our custody. We absolutely must provide people in custody support, opportunity, and a belief in change.

The people in our custody have gone without congregate in-person services and family visitation for a majority of the past two years while adhering to housing and quarantine protocols designed to mitigate the spread of COVID-19. I want to be clear: these housing policies were and are necessary to keep people in a congregate setting healthy during a time of tremendous risk and uncertainty. But they had consequences. These services are lifelines for people in custody and restoring these vital connections was among my first priorities as we look to restore safety and stability in our facilities. As more staff became available to work, we began welcoming external providers back into the jails, and worked with our partners at the Department of Health to resume in-person visitation on February 9th. In the coming weeks, we will be restoring congregate religious and programs services in a safe, gradual manner, with modifications where needed, to ensure people in custody have access to the programs and services they need and deserve.

And we won't stop there. For me, programs and services are imperative – everyone benefits when people in custody are given the tools, they need to have less contact with the justice system in the future. As we move towards modern facilities with the borough-based jail plan, we must also modernize the way we are delivering our programs and services. I don't intend to wait until we have new facilities to bring this system into the 21st century. We are expanding the use of tablets for all people in custody. If there is anything the pandemic has taught us, it's to leverage technology. The tablets have been a tool for us to communicate timely updates and provide programming to people in custody and we are excited as we continue to expand access.

The services we provide must be meaningful, evidence-based and targeted to the needs of the population, and outcomes must be measurable. This Department will have a dedicated team whose full-time job will be to develop systems to track and evaluate programs and operations to ensure our decisions are data-driven and that our results can be shared transparently with our stakeholders.

As testament to my commit to more targeted and impactful programming, I've already made changes to Department policy that will allow more credible messengers into our facilities to engage with young people in custody and interrupt violence and gang issues. Increasing access and opportunities for education is a another priority for me. Recently, Department of Education Chancellor David Banks joined me on a tour of the East River Academy schools at two of our jails to discuss how to strengthen our partnership, so we can enhance educational opportunities for our students. This tour signifies a renewed commitment to educational access within our jails, which is proven to reduce recidivism and change the trajectory of a young person's life.

Our passionate workforce of programming staff, external contract providers, and uniform staff are committed to transforming our facilities into learning environments for the benefit of people in our care. Flooding our facilities with meaningful, targeted programming and educational services will decrease idleness and, in turn, reduce violence. More than that, it will support the wellbeing of those in our care and their hope for the future.

In order for everything I've spoken about thus to work, we must support people in custody in unlearning violent behavior, and learning to deal with conflict in a more constructive way.

Restrictive Housing Reform

Prior to the beginning of my tenure, the Board of Correction adopted new rules with this same goal in mind governing restrictive housing and implement Risk Management Accountability System (RMAS). RMAS is a tiered housing system designed to address serious violent behavior, in which each progressive level is designed to encourage and support behavior modification. It

is a critical part of a holistic approach to violence reduction. RMAS will move us away from a response to violence that was purely punitive and create a system that holds people accountable, separates them from the general population so that they cannot continue to do harm to others, and provides restoration and rehabilitation to address the root causes of their violent response to conflict. The fact is that there are people who commit acts of violence at Riker's Island, and we need a way to separate those individuals in order to keep people safe. But that method must be effective, it must be humane, and it must be fair. Those are the principles that I see in the RMAS rules, and those are the principles I am committed to implementing.

When I started as Commissioner, the agency's RMAS plan that was underway was not in line with my goals, the needs of our staff, or the spirit of the BOC rule. I knew we could do better. I greatly appreciate the Board, Council, and the public's patience as the Department has worked over the past two months to reshape RMAS into a system that will not only meet the legal requirements of the Board's rule but will go above and beyond to meet the spirit of the rule. All levels of the RMAS housing spectrum will be housed in one facility: GRVC. Individuals at all levels will have access to an open dayroom for congregate programming that mirrors general population units, as opposed to individualized dayrooms. We will not be using restraints of any kind during lockout in any RMAS unit. In order to maintain safety within this congregate setting, these units will maintain a low census and high staff ratio, with staff who have received specialized training. My Programs team has developed a comprehensive plan for both individualized and congregate programming that will progress with the individual through the RMAS Levels. This program plan is aimed at behavior modification for individuals living in these areas.

Though it is later than many had hoped for, I am firmly committed to full implementation of this improved plan for RMAS by July 1st and look forward to sharing more details with you as we move into the question portion of today's hearing.

Violence Reduction

RMAS will be an important tool in managing violence within our jails, but it is not our only tool. Violence rates have been increasing in New York City jails year-over-year despite many concerted efforts to turn the tide, and history has shown that there is no one solution. I recognize that we must take a holistic approach to address violence within our jails and I am not waiting for the implementation of RMAS to start that process.

As with staffing and programming and services, we must modernize our approach to violence prevention and reduction. We cannot manage what we cannot effectively measure – our new Management, Analysis, and Planning team will be focused on leveraging data and research to create a clear on-the-ground picture of our facilities' operations at any given time, with the goal of using that information to make operations more efficient and reduce violence within our city's jails.

Already, we've begun to move away from housing people in custody by gang affiliation and have started rebalancing housing units, in line with correctional best practices. I believe this will restore a sense of safety for both staff and people in custody that has been lost. We've also increased our use of Tactical Search Operations, which are a critical means of contraband recovery within our jails. Less contraband will lead to fewer seriously violent incidents and injuries.

These efforts, combined with the progress we've already made on programming and an increase in staff availability, have already brought a reduction in violence numbers. Since last year at this time, assaults on uniformed staff are down 19%, and assaults on non-uniformed staff are down 46%. Overall Use of Force is also down 25% compared to this time last year, which is certainly promising. We have made progress over the first two and a half months of this administration in light of the significant, longstanding challenges that were inherited from

our predecessors, but I recognize there is still significant work to be done to further decrease rates of violence and use of force across all DOC facilities.

Fiscal Year 2023 Preliminary Budget and Its Impact on DOC

As we turn to this Fiscal Year 2023 Preliminary Budget and its impact on the Department, we must face some hard truths that have been brought about by the pandemic. COVID-19 has impacted the population reduction goals and staffing projections that are inextricably linked to the borough-based jails plan. Despite these challenges, we remain committed to protecting all those living and working within our facilities and are working towards improving organizational health and operational efficiency.

The Department's Fiscal Year 2023 Preliminary Expense Budget is \$1.23 billion. The vast majority of this, 86% is allocated for Personal Services, and 14% for Other than Personal Services. The Fiscal Year 2023 Preliminary budget is \$106.6 million less than this year's budget of \$1.34 billion. This decrease is largely due to funding provided in Fiscal Year 2022 only for Emergency Executive Order initiatives and overtime.

Included in the Preliminary Budget are increases of \$100.1 million in Fiscal Year 2022 and \$13.9 million in Fiscal Year 2023. The following are some highlights of the major initiatives that were included in the Preliminary Budget:

- Tablet Program for People in Custody – an increase of \$6.6 million in Fiscal Year 2022 to expand access to programs and enrichment activities and reduce idleness
- Sick Call Initiative – an increase of \$14.6 million in Fiscal Year 2022 and \$1.6 million in Fiscal Year 2023 to help with the volume of uniformed medical evaluations
- Overtime Adjustment – an additional \$52 million in Fiscal Year 2022 to offset increased overtime spending
- ADA Improvements on Rikers Island – an increase of \$850 thousand in Fiscal Year 2022 and \$11.8 million in Fiscal Year 2023 due to capital ineligibility of various projects

- COBA Deferred Retro Payments – an increase of \$14.9 million in Fiscal Year 2022
- Vaccine Incentive for Staff – an increase of \$536 thousand in Fiscal Year 2022 to fund the \$500 incentive that was active this past October and November
- Contracted Attorneys – an increase of \$495 thousand in Fiscal Year 2022 to clear cases that must be closed pursuant to a Federal Court Remedial Order
- COVID-19 Testing and Vaccinations – an increase of \$8.3 million in FEMA funding for Fiscal Year 2022 to continue testing and vaccination services for DOC and CHS staff on Rikers Island

Capital Funding

With regards to capital funding, the Fiscal Year 2023 Preliminary Capital Budget, and Commitment Plan totals \$9.6 billion, which covers Fiscal Years 2022 through 2031. The major changes reflected in this plan are the self-funding of \$124.7 million for emergency work being performed on Rikers Island by the Department of Design and Construction and the redistribution of planned commitments associated with the New Academy from FY26 to FY23 through FY25. We fully support this redistribution, as our current academy is outdated and not conducive for training correctional professionals for 21st century best practices. There were no adjustments made to the Borough Based Jails projects in this financial plan.

Headcount and Overtime

Turning now to headcount and overtime, given the staffing challenges the Department has been facing this fiscal year along with continuing to keep EMTC and OBCC operational due to COVID-19, operating 12-hour tours as a result of the vaccine mandates and a higher than anticipated average daily population, our overtime spending will be comparable to what we spent in Fiscal Year 2017. As we see staff returning to work, we are moving towards reducing the reliance on overtime where practicable.

The following is a summary of the changes to the Department's non-uniform and uniformed authorized staffing levels included in the Preliminary Budget:

- The non-uniform authorized full-time headcount is 1,962 in Fiscal Year 2022 and 1,958 in Fiscal Year 2023 and the out years. Fiscal Year 2022 authorized headcount is slightly greater than Fiscal Year 2023 due to a baseline adjustment to MOCJ positions that reside in DOC's budget.
- The uniformed authorized headcount is 7,460 in Fiscal Year 2022 and 7,060 in Fiscal Year 2023 and the out years. The authorized uniformed headcount decreases from Fiscal Year 2022 to Fiscal Year 2023 due to the Correction Officer class of 400 that was funded in Fiscal Year 2022 and continues to remain unfunded in Fiscal Year 2023.

Closing

My testimony before you today is more than just words: it's about taking action. I am determined to move us forward and bring our jails into the modern era. Change has already begun, and I'm confident my plans for this agency will usher us towards success. Those plans include increasing accountability, restoring and supporting best correctional practices, enhancing support for our staff, and leveraging data to modernize our operations.

I am humbled to lead this Department at this time of crisis and am inspired by the commitment to public service embodied by our staff. But it's going to take more than just myself and our dedicated staff to improve the lives of individuals in our care that are in great need. I know members of this Council and the public have been frustrated with the long-standing issues facing this Department. I am too. We are at an historic moment in which, together, we have the opportunity to create a more humane system of justice for this city and this country. Thank you again for the opportunity to testify today and for your support. My colleagues, and I are available to answer any questions that you may have.



Ana Bermúdez
Commissioner

33 Beaver Street
23rd Floor
New York, NY 10004

212-510-3710 tel

Statement to the New York City Council

Committee on Criminal Justice

By Ana Bermúdez

March 23, 2022 – 10am

INTRODUCTION

Good morning, Chair Rivera, and members of the Criminal Justice Committee. I am Ana Bermúdez, Commissioner of the New York City Department of Probation (DOP). I am joined today by my cabinet: Deputy Commissioners Sharun Goodwin, Gineen Gray, Michael Forte, and General Counsel Wayne McKenzie. Thank you for the opportunity to testify about the important work of the Department of Probation and its Preliminary Fiscal Year 2023 Budget.

As some of us are new to each other, I want to take a moment to frame Probation's unique role among the other law enforcement and public safety agencies.

Statutorily, probation is an alternative to incarceration, where a judge has determined that the person can remain in the community under our supervision. In practice, it is an engine of change - a pivotal moment where the person has the opportunity to work with their probation officer to change their behavior, redress their actions, and transform their life.

Too often, public safety is narrowly defined as the absence of crime. However, true safety is much more than that – it is about having a strong connection to fellow human beings in your community. Often when people come onto probation, that connection has been eroded. Using a combination of prevention and intervention, NYC Probation officers work to rebuild that connection by helping people change their behavior, reconnect with their community, and create a path out of the system - what we call their “New Now.”



There are two other misconceptions that need clarification: we are often confused with parole and the supervised release system. Parole involves the supervision of people returning from prison by the State; while supervised release involves pre-trial oversight and is operated by the Mayor's Office of Criminal Justice (MOCJ) through community-based providers.

That NYC Probation works with justice involved people to get to a New Now and how makes us unique in this system. What we do cannot be the role of police officers, and community-based organizations don't have the enforcement powers sometimes needed while working on behavior change. We are able to leverage both risk management: the supervision or monitoring intensity, and risk reduction: the supportive elements that help people to change. And that is the pivotal role of this Department: utilizing a one size fits one balance of structure and support to help people change their behavior and remain safely in their community, leading to better life outcomes for them, their families, and our city.

Fiscal Year 2023 Preliminary Budget

As the City's largest alternative to incarceration, I am proud of this Department's critical role in safely supervising people on probation throughout the five boroughs. Last year, Probation provided intake, investigation, and supervision services for nearly 30,000 cases, and directly supervised more than 17,000 individuals. That is more than three times the average New York City daily jail census, and at a fraction of the cost of incarceration. And, with the numbers we are seeing FYTD, we are on track towards 40,000 total cases. In order to ensure we remain positioned to successfully manage this volume, our next Probation Officer civil service exam is a little over a month away, therefore we are launching a citywide recruitment advertising campaign to help find our next generation of change agents, because - make no mistake about it - Probation Officers are at the core of everything you are hearing about today.

Last year, despite the ongoing pandemic, Probation officers in our Intelligence Division (Intel) conducted 6,163 field visits and 1,757 enforcement actions, which included gang-related investigations, DUI field visit checks, failure-to-report home visits, bench warrant enforcement actions, responding to NYPD domestic incident reports, and transporting prisoners to and from other



jurisdictions. These actions, done with PPE and utilizing proper safety protocols, resulted in the recovery of various weapons, including firearms, and other contraband, allowing us to safely, and effectively, balance risk management with risk reduction.

For Fiscal Year 2023, the Department of Probation has a Preliminary Budget of \$119.2 million as compared to our Fiscal Year 2022 Adopted Budget of \$124.9 million. When compared to our current budget of \$125.1 million, the FY23 Preliminary Budget of \$119.2 million is \$5.9 million, or 4.7 percent, less – inclusive of a \$3 million PEG (Program to Eliminate the Gap) reduction. Of the \$119.2 million allocated to our Preliminary Budget: 68 percent, or \$80.9 million, is for Personal Services (PS), and 32 percent, or \$38.3 million, is for Other-Than-Personal Services (OTPS). \$97.3 million are City tax levy funds, \$14.6 million are state funds, \$6.3 million are intra-City funds, and \$1 million are federal grant funds. State funding, which at one time reimbursed almost half of local probation costs, now provides only 12.2 percent of our operating costs.

Our budget priorities focus on building transformative relationships that meet the unique needs of people on probation through Credible Messengers, using Age-Appropriate Interventions for our young people and their families, and providing critical resources and opportunities in the larger communities they call home through our Neighborhood Opportunity Network, (NeON).

Credible Messengers: Trusted Relationships that Transform Communities

In our work, it is not only the services and resources that we offer, but *how* they are offered and by *whom*, that makes the difference. Credible messengers are people whose life experiences, including their own justice involvement, help them to engage justice-involved young people and their families in ways that others, alone, cannot. As formerly system-involved people are often the most willing and best able to address some of the toughest challenges facing their own communities, we transform lives by effectively leveraging these trusted relationships in key areas of our work.

Our Arches Transformative Mentoring program for 16-24-year-olds on probation, which works with credible messenger mentors, is a proven success. An independent evaluation of Arches, conducted by the Urban Institute, found that one year after beginning probation, Arches participants' felony



reconviction rates are *69 percent lower*, and two years after, **remain** *57 percent lower*, compared to those not in the program. Any expert will tell you – those findings are simply unprecedented.

In Arches, credible messenger mentors run group sessions using cognitive behavioral interventions and are available 24/7 for one-on-one support. Working as a team with Probation Officers, mentors help young people make better and safer decisions, pursue their goals, repair relationships with family and community, and connect to education and employment opportunities; all of which helps to increase the safety of the participants and their communities. This is why last month's announcement by Mayor Adams that every person on probation under 21 years old will be connected to a credible messenger mentor is so important, and I want to thank him again for recognizing the effectiveness of this crucial intervention.

An influx of requests from other jurisdictions asking how to replicate the credible messenger model inspired the creation of an interdisciplinary national training and research center: the **Credible Messenger Justice Center (CMJC)**, in partnership with the non-profit Community Connections for Youth (CCFY) and the City University of New York (CUNY). CMJC recently released new research on transformative mentoring called "A Gathering Movement," which highlights the work of jurisdictions who participated in DOP credible messenger learning immersions. As part of their own efforts to similarly prevent crime and further advance community justice, these jurisdictions recognized the critical role of community-based credible messenger programs in reducing violence and changing lives.

To address the needs of our juveniles on probation and their families, we also use credible messengers as Parent Coaches in our Family Court Parent Support Program. Parent coaches, whose own children have been justice involved, provide individual support to parents, guardians, and families, who are so often confused, frustrated, and overwhelmed, in navigating the juvenile justice system. We have served over 2,500 families - resulting in a reduction in out-of-home placement - as parent coaches and families work together to find community-based options to support their children.

The Arches intervention, CMJC, and parent coaches are part of "what works" in criminal justice. The research shows that not only do community-based approaches to engaging justice-involved young

people work; but that connecting young people at high-risk of justice system involvement to credible messenger mentors strengthens communities and helps to safely keep people out of prison and jail.

Age-Appropriate Interventions

As someone who has dedicated their career to not giving up on our city’s young people and in my personal capacity as a parent, I can say without a doubt that young people have unique needs in comparison to older adults. Our experience in learning what works with this age group from Arches, inspired the launch of ACE (Anyone Can Excel); a one-size-fits-one approach to address the specific challenges facing young adults 16-24 under probation supervision in Criminal Court. Prior to ACE, “emerging adults” made up about one third of our caseloads, but disproportionately represented almost *half* of our re-arrests.

ACE is an evidence-informed and youth-centered model focusing on mentorship, goal setting, core life skills, job preparation, and accountability. The model is grounded in what works to improve outcomes for adolescents and young adults: the science of adolescent brain development, the Risk Need and Responsivity Principle, Motivational Interviewing, and both Restorative and Positive Youth Justice. Probation Officers function as coaches – as opposed to referees - and ACE Teams create a sense of belonging and hope for a successful future outside the justice system. The model prioritizes the voices of young people and helps them build the skills to advocate for themselves and their New Now. Most of all, ACE provides a strong community for all involved, as evidenced by ACE youth actually calling to check on the health and safety of their Probation Officers during this pandemic.

The Neighborhood Opportunity Network (NeON)

Focusing resources on the people and communities where they are needed most can make the biggest impact on advancing public safety and community justice. That ethos is what inspired the Neighborhood Opportunity Network (NeONSM), a unique and trusted place-based approach that provides a range of services to people on probation and other community members in seven New York City neighborhoods disproportionately impacted by the justice system for decades: the South Bronx, Harlem, Jamaica, Bed-Stuy, Brownsville, East New York, and Northern Staten Island. Those neighborhoods coincide with the findings of the “Seven Neighborhoods Study,” which revealed that almost all of the New York State prison population came from just seven neighborhoods in our city.



Our NeONs strive to have the opposite impact - serving as engines of equity - by working *with* residents and service providers to develop solutions from the ground up, invest valuable resources, and help to restore a sense of agency in these communities. And we are seeing the results pay off. Residents of NeON neighborhoods are now successfully completing probation at the same rate as residents of neighborhoods without these structural challenges. Though there is still a lot more work to do, I am proud of this Department's contribution towards ensuring that justice system outcomes are not solely defined by a person's zip code. Or as Borough President Vanessa Gibson recently said when visiting our South Bronx NeON: "Don't let your block, block your blessings."

Part of what makes the NeON model so powerful is how it grows and evolves to meet our communities' needs. Our **NeON Nutrition Kitchens**, the brainchild of committed probation officers who were feeding hungry clients, have been a lifeline in these communities, feeding *over half a million people* last year! That is an unimaginable *fivefold increase* from before the pandemic.

NeON Works, created in partnership with the Young Men's Initiative (YMI), the Center for Youth Employment (CYE), and the Mayor's Office for Economic Opportunity, is an employability development program designed for people on probation and other NeON neighborhood residents, particularly young adults aged 16-24. To date, NeON Works has served 876 people looking to advance their career goals, including 219 who secured a job or internship. And with our recently rolled out bus shelter advertising campaign in targeted neighborhoods, NeON Works is another way to ensure that more of the people we serve can access, and have the skills needed, to find and keep a job.

All these supports ensure that time with probation, mandated or not, is a holistic experience that connects people to new opportunities that can change their lives. That could not be more apparent than with **NeON ArtsSM**, our public-private partnership with Carnegie Hall that offers young people in NeON neighborhoods the opportunity to explore the various arts disciplines such as dance, music, theater, visual arts, poetry, and digital media. An independent evaluation by Westat and Metis Associates showed that NeON Arts increases engagement, builds stronger relationships - particularly with adults and other community members - and creates change within the participants in how they view themselves and their hopes for the future.



Since 2020, NeON Arts has served 3,278 New York City residents by quickly pivoting to digital programming, including over 1,000 people who received work experience and vocational skills. NeON Arts partnered with City Clean Up Corps and Artist Corps, helping to “Beautify NYC” by completing 21 projects across the city. The **Made in NY Animation Project**, our partnership with The Animation Project (TAP) and the Mayor’s Office of Media & Entertainment (MOME), has had over 8,000 young people learn digital animation skills, helping to grow the pipeline for NYC’s Tech and Video game sector. And our paid **NeON Photography** program has had over 600 participants, with work most recently exhibited and sold at Denise Bibro Fine Art and the Kente Royal Gallery. One particularly talented photographer sold *six* of his photos totaling over \$1,600, and he used that money to find and secure himself stable housing! *That* kind of life-changing impact speaks for itself. I want to thank you again, Chair Rivera, and the Council for its forward-thinking vision and previous strong support of NeON Arts through the Innovative Criminal Justice Programs initiative, for it is truly changing and saving the lives of the people we serve.

CONCLUSION

As you have heard, Probation is unique in our role of providing community-based prevention *and* intervention for people who would otherwise be incarcerated, keeping them in their communities where they can build their New Now. Another great example is Andre Whitehead, a former NeON Photography participant, who like many people on probation, had a path to success that was anything but straightforward. Since learning professional photography skills in the program, Andre has taken photos for Park Avenue Piano’s, New York Fashion Week, and even the Thanksgiving Day Parade, to name a few. He now teaches many of our NeON Photography classes around the city and was hired full time as the Assistant Director of NeON Photography. During my reappointment with Mayor Adams, Andre summed up the power of this program perfectly when he held up his camera and said: “this camera *saved* my life.”

And that’s the essence of our work – creating a New Now for people on probation in a one-size-fits-one approach so that we strengthen communities and change lives. Thank you for the opportunity to testify about the critical work performed by the committed staff of this Department. We are pleased to answer any questions that you may have.

COMMITTEE ON FOREIGN AFFAIRS
RANKING MEMBER, SUBCOMMITTEE ON
INTERNATIONAL DEVELOPMENT, INTERNATIONAL
ORGANIZATIONS AND GLOBAL CORPORATE
SOCIAL IMPACT
SUBCOMMITTEE ON EUROPE, ENERGY, THE
ENVIRONMENT AND CYBER

Congress of the United States
House of Representatives
Washington, DC 20515-3211

March 23, 2022

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON COAST GUARD AND
MARITIME TRANSPORTATION

SELECT SUBCOMMITTEE ON
THE CORONAVIRUS CRISIS

ASSISTANT WHIP FOR THE HOUSE
REPUBLICAN CONFERENCE

Chairwoman Carlina Rivera,

For too long this council has ignored the needs of those that keep us safe. I speak often with our law enforcement, both on the streets and those charged with keeping dangerous criminals secured behind bars. I have spoken to our corrections officers across this city about the staffing shortages, subsequent back-to-back 12 hour shifts and dangerous environments for both guards and inmates on Rikers Island. To deny any of this is to ignore countless news stories, and even worse the testimonies of those that serve our communities as corrections officers themselves.

Assaults on officers and inmates on Rikers Island are at all-time highs. For officers alone, assaults are up 24 percent last year. Inmate on inmate attacks are up 18 percent. According to reports, slashing and stabbings have increased 100 percent, now at 247 for 2021 up from 123 in 2020. In several instances, attempts to break up large scale gang fights, have resulted in requests for backup that have gone unanswered due to staffing shortages and limited availability of specialized units. This is only exacerbated by sheer increase in the prisoner population, up 1,700 individuals in the past two years.

Since 2016, 2,764 officers have retired or resigned citing "impossible working conditions." Efforts to replenish the ranks have fallen short with the only academy class for the last 3 years numbered at just 75 cadets. Estimates provided by the Corrections Officers Benevolent Association suggest that no less than 2,500 officers need to be onboarded to ease the staffing tension. If these dangerous situations are to be remedied, staffing shortages must be addressed and steps must be taken to make working conditions safer.

Madam Chair, I am pleased to see your interest in preventing sexual harassment, as stated in your official biography, and your accomplishments in this area for your constituents. I too am an advocate for women against these types of crimes. However, over two dozen reports exist of female Corrections Officers and nurses falling victim to sexual assault in the last 12 months. It appears there is much work to be done. These are credible accusations of Rape, attempted rape and sexual assault on Rikers Island victimizing these women as they are simply trying to perform their duties. Concisely, there is something gravely wrong. These facilities are understaffed, our Corrections Officers are under supported and unless this committee corrects course things will continue to get worse.

I was encouraged to see Mayor Adams affirm his support for "Solitary Confinement" as a punitive measure for violent inmates, a move widely applauded by Corrections Officers. However, I am gravely concerned with the plan to close Rikers Island by 2027 in favor of the so called "Borough Based Jail System." We can all agree that the facilities on Rikers need investment and modernization, however the creation of several smaller facilities and closure of Rikers will certainly lead to less capacity, and ultimately similar problems

to those I have previously highlighted. Rikers' proximity to all five boroughs and the relative security its geographic nature naturally provides cannot be understated. In fact, recent reports have highlighted that escape attempts have been unsuccessful due to the fact the jails are on a controlled island.

Setting aside enormous challenges in construction, and financing there are already indicators that this plan will fail. The proposed four "Borough Based Jails" are planned to have a bed capacity of just 3,544. This is of particular concern because the city's own estimates in a study conducted in 2017 suggested that a reduced jail capacity would approach 5,000 beds. Already, we see a problem, a shortfall of 1,446 beds. This should concern us all, before these borough-based jails have even begun they are not equipped to handle the city's needs. We are dealing with a surge in crime that would absolutely overwhelm the proposed plan.

In addition to the logistical difficulties, we must also consider communities like my constituency in Brooklyn. Simply put, they want nothing to do with a "Highrise jail." In talking with my constituents, they are adamantly opposed to the disruption the construction will create, the possibility of having another Rikers down the block and they fear negative impact on their communities in a variety of ways. Likewise, residents and community members in the Bronx and Manhattan have protested or taken legal action to stop the proposed jails in their neighborhoods. As someone who Represents lower Manhattan yourself, I am sure you have heard concerns from your constituency around a jail in their neighborhood.

It is time to invest in Rikers Island, not abandon it. The plans to build these jails in the 5 boroughs was originally proposed at a price tag of \$9 Billion in 2017. Considering inflation, labor shortages and supply chain issues we know this must be far below the actual price tag. I urge you to instead use a portion of these funds to rehabilitate the existing Rikers Island buildings and make much needed modernization and safety improvements to protect both inmates and officers, address the staffing shortages, provide protective equipment and inmate access to medical care. This committee needs to prioritize the safety of corrections staff and inmates, scrap de Blasio's plan to build new Jails in the boroughs.

Listen to the Corrections Officers, give them what they need to do their jobs, modernize Rikers Island, and strike the plans to put a jail in my constituent's community.

Sincerely,



Nicole Malliotakis
Representative, NY-11



UNITED PROBATION OFFICERS ASSOCIATION

2510 Westchester Ave., Suite 207 • Bronx, NY 10461 • P: 212.274.9950 • F: 917.398.1640 • www.upoa.com

Testimony of
Dalvanie K. Powell
President
United Probation Officers Association
NYC Council Committee On Criminal Justice
March 23, 2022

Good morning, Chair Carlina Rivera, and members of the Committee.

I am the President of the United Probation Officers Association. I want to thank the Committee for affording me, on behalf of the members of the United Probation Officers Association, ("UPOA"), the opportunity to present important issues on the future of Criminal Justice in the City of New York for your consideration when preparing your recommendations for next fiscal year's budget.

Currently there are approximately 748 probation officers and their supervisors. A very large number of my members are women and people of color. Prior to the Bloomberg administration there were approximately 1,550 probation officers. Over the last two years the Department of Probation staffing has been reduced almost in half and our workload has increased, in part, because of bail reform and the Raise the Age program that increased the number of our clients. We also have been required to

administer an electronic monitoring program for certain clients we now have to supervise. To perform our duties and responsibilities we need help.

The Department of Probation has issues with retention and recruitment. Our members are leaving to get hired into higher paying, criminal justice paying positions. While we recently had a civil service examination for Probation Officers in April 2019 and Supervising Probation Officers in May 2021, there has not been a civil service examination for Administrative Probation Officers since 2017. This does not speak well for advancement in a career path. Our salaries are the lowest in the metropolitan area for probation officers, which includes Nassau and Suffolk Counties and Westchester County. We do the same work as the probation officers in the nearby jurisdictions.

We have been asked to do more with less staff. To do more we need to find ways to be more efficient and productive and we need more training and better equipment.

Our members have bachelor and master's degrees and education and/or experience in social work to help our clients begin to live productive and lawful lives.

Our members are peace officers. My members are part of task forces with other agencies such as the U.S. Marshals, Drug Enforcement Agency, the NYPD and other law enforcement agencies. We carry firearms, make

arrests and execute search and arrest warrants. We need to be designated as police officers, especially since we do the same work as the police and face the same dangers.

We have begun to work with the Adams' administration in some of these areas. In fact, our Commissioner, Ana Bermudez, just this past Friday, March 18, 2022, announced at the graduation of new probation officers, that she is working with the UPOA to help in the ongoing fight for pay parity. This public statement coincides with other public statements she has made acknowledging the unfairness in the disparate pay of our members.

Because of the shortness of time allocated for the Department of Probation, I request that we meet with representatives of this committee to present a more in-depth picture and plans on how to enhance and adjust the work of the probation officers and our supervisors and the costs and funding for the needed changes.

Thank you.

I stand ready to answer any questions you may have now. Otherwise, I look forward to meeting with your representatives.



Brooklyn Defender Services
177 Livingston St, 7th Fl
Brooklyn, NY 11201

Tel (718) 254-0700
Fax (718) 254-0897
info@bds.org

TESTIMONY OF

**Elizabeth Daniel Vasquez,
Director, Science and Surveillance Project**

BROOKLYN DEFENDER SERVICES

Presented before

**The New York City Council Committee on Criminal Justice
Preliminary Budget Hearing**

March 23, 2022

My name is Elizabeth Daniel Vasquez. I am the Director of the Science & Surveillance Project at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. I thank Chair Rivera and the Committee on Criminal Justice for allowing us to testify at this critical hearing on the city's criminal justice budget.

For over 25 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. We represent approximately 25,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

In addition to zealous legal defense, BDS provides a wide range of services to address the causes and consequences of legal system involvement. We have built a practice around supporting people who are detained pretrial to mitigate the burdens and trauma created by confinement and to protect our clients from collateral consequences. Through our jail-based programming, we are

able to advocate for our clients to access services they are entitled to—such as medical care and educational access. Additionally, our established presence in New York City jails allows us to monitor and document the conditions New Yorkers encounter when incarcerated and advocate for the basic human rights, health and safety of our clients and other incarcerated people.

Background

How a society allocates its budget is a statement of its value. As the Council convenes to consider the funding needs of the Department of Correction (DOC), thousands of people are enduring horrific 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. We urge the City and this Council to take meaningful steps to decarcerate our jails and commit to funding programs and services that support and uplift our communities—not simply government systems that surveil, punish, and harm them.

Despite having the largest budget¹ and one of the largest staff of any jail in the country,² New York City jails have long been in a state of crisis; a violent, mismanaged disaster and a stain on this city. DOC’s failures have been clearly documented by the many testimonies from people in custody,³ both health and correctional staff,⁴ and correctional experts, and reported by major newspapers and networks, and by a federal monitor which has released 12 reports thus far.⁵ The level of crisis in the jails caused by DOC mismanagement cannot be overstated. People are

¹ “No other local jail system costs as much as New York City’s. The Los Angeles County jail system is the only other U.S. system that invests more than \$1 billion annually, at \$1.3 billion. But its average daily jail population is three times larger than New York City’s. In other words, Los Angeles has three times as many people in jail, yet a budget half the size of New York’s. Every other jail system invests less than \$500 million in its jails—a fraction of New York City’s \$2,276,133,447. New York City is also an outlier with respect to the cost of incarcerating a single person. In 2020, the city spent \$438,000 per year to incarcerate a single person.⁷ By comparison, in 2021, the District of Columbia averages an annual cost of \$138,000 per person. Detroit’s Wayne County follows at just under \$114,000 per person. And other large cities to which New York City is often compared lie even farther down the line of comparison. Los Angeles County spends about \$89,500, and Chicago’s Cook County approximately \$81,000. With the exception of Orleans Parish, Louisiana, New York City has seen the largest jail population declines of major cities over the last 10 years, both in percentage points (-58 percent) and hard numbers (7,400), yet it has not readjusted its corrections budget.” Via Vera Institute for Justice, *A Look Inside the New York City Correction Budget, 2021*, Available online at <https://perma.cc/X9L9-P7DQ>.

² Steve J. Martin, et al., *Special Report of the Nunez Independent Monitor*, March 16, 2022, Available online at <http://tillidgroup.com/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>.

³ Rebecca McCray, *What It’s Like at Rikers, According to People Who Just Got Out*: “They’re not feeding people, there’s no water, no showers, no phone calls,” *New York Magazine*, Sept. 23, 2021, Available online <https://www.curbed.com/2021/09/rikers-jail-conditions.html>.

⁴ Gloria Pazmino, *Staffing Dysfunction and Unsafe Conditions lead to Crisis on Rikers Island, NY1*, September 9, 2021, Available online <https://www.ny1.com/nyc/all-boroughs/public-safety/2021/09/10/rikers-island-staffing-issues-correction-officers-calling-out-unsafe-conditions-what-happened>.

⁵ All *Nunez* reports are available online here: <https://www1.nyc.gov/site/doc/media/nunez-reports.page>.

suffering and dying. They are enduring mental health and serious, worsening medical issues without access to medication or health care. They are starving without regular or sufficient meals. They are living in filthy conditions, held 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, and are sleeping on floors of showers covered in urine, vomit, and feces. People in custody—including those with no preexisting medical 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.

The Department and Correctional Officers' Benevolent Association will testify before this Committee that they need more funding and more staffing. However, last week, the federal *Nunez* monitor⁶ released a Special Report stating, “the issues facing the agency cannot be attributed to insufficient resources..., but rather raise[] the question of why, given the agency’s outsized budget, it has consistently failed to improve conditions” and that “the Department’s current staffing practices also call into question whether the Department is adequately managing its resources.”⁷ Conditions in the city’s jails are unsafe for the people who are detained and who work in the facilities, but continuing to pour money into a failing system has not—and will not—end the decades of dysfunction at Rikers.

Access to Medical Care

In October 2021, BDS, Legal Aid Society (LAS), and Milbank LLP filed a class action lawsuit in Bronx Supreme Court against the DOC over its failure to provide incarcerated New Yorkers access to medical care in the City jails. Amidst widespread acknowledgment of a total breakdown in City jail operations, our offices sought and won an order compelling DOC to comply with its basic obligations required by law and Board of Correction minimum standards to provide all individuals in its custody access to medical care without delay. By its own admission, DOC is still failing to provide that access, such that between December 2021 and February 2022, there were at least 1,909 instances where DOC failed to provide people in need of medical care access to their appointments. These numbers include people with scheduled appointments with the clinic to treat injuries or pain, people with chronic medical and mental health conditions who require regular medication or monitoring, people who need dental care, and people with scheduled surgeries at hospitals—the result, is that peoples’ conditions are worsening and becoming more serious as they wait for treatment, and they are suffering continual pain and

⁶ *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF)

⁷ Steve J. Martin, et al., Special Report of the *Nunez* Independent Monitor, March 16, 2022, Available online at <http://tillidgroup.com/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>.

facing difficulties walking, seeing, eating, or using their hands. Following the admission by a DOC official that the Department is not complying with the December court order to provide basic access to medical care, BDS, LAS, and Milbank LLP filed a motion for contempt asking the court to hold DOC accountable for its failure to comply.

DOC mismanagement and inability to abide by their statutory duty mean that people in custody face often insurmountable hurdles to getting medical care, including inaccessible or non-working phones to call the clinic and officers who cannot or will not escort them to their medical appointments. And the issue has not improved since the court issued its order. As the Monitor in *Nunez* has recognized, the breakdown in jail operations is due to mismanagement and not lack of staff. While DOC continues to fail to provide people in its custody basic services, thousands of people have missed medical appointments month after month for more than a year, and the consequences are significant and, unfortunately at times, deadly, for incarcerated New Yorkers.

Phone recordings and surveillance

Despite their claimed lack of human and financial resources, DOC continues to spend millions of dollars on persistent and pervasive corporate surveillance products that do not enhance facility safety.

In 2019, this Council led the country in recognizing that those detained pretrial should be able to contact their families, loved ones, and trusted advisors without paying exorbitant and extortionary fees.⁸ Making phone calls free inside our City's jails resulted in a groundswell of critical communication. For the first time in years, our communities were able to stay connected with their loved ones. Mothers and fathers spoke to their sons and daughters with regularity, opening doorways to outcome-enhancing community ties. Social workers in public defense offices saw a significant uptick in client contact, making services more accessible to people in pretrial detention and enhancing overall case outcomes. Free communication positively impacted public safety in New York City. But by 2021, it became very clear that—though of no monetary cost—New York City jail calls were far from free.

The first indication of this fact came with a public scandal: “In [2020], the New York City Department of Corrections (DOC) illegally recorded more than 1,500 privileged calls between people incarcerated in its jails and their attorneys. Many of these illegal recordings were turned over to prosecutors.”⁹ It turned out that the company behind these illegal recordings was the

⁸ Passed in July 2018 and implemented in May 2019, Intro 741 made New York City the first jurisdiction in the country to require free phone calls from its city jails. See <https://www.zeroprofits.org/phonecalls>.

⁹ Elizabeth Daniel Vasquez, “Dismantle NYC’s Mass Surveillance Project—Start with Jail Recordings,” Truthout.org (June 1, 2021), <https://truthout.org/articles/dismantle-nycs-mass-surveillance-project-start-with-jail-recordings/>.

DOC's phone and surveillance service provider Securus Technologies. Unfortunately, New York City was not the first jurisdiction where Securus had illegally recorded privileged calls.¹⁰

Illegal call recording is only the tip of Securus Technologies' overreaching surveillance iceberg:

- **All calls placed by detained people are recorded by Securus.** For example, if a New Yorker being held pretrial calls their mother to get an update on her health, that call is recorded. If a New Yorker being held pretrial calls their child to hear about her first day of school, that call is recorded. If a New Yorker being held pretrial calls their community social worker to discuss continued services and care, that call is recorded. Following calls being made free in 2019, DOC reported that more than 30,000 calls were being made from City jails per day.¹¹
- Securus Technologies databases those call recordings, stores them long-term, and provides search capabilities to those with access to its databases.
- Securus also collects and databases voiceprints—or visual representations of an individual's speech pattern—for everyone in detention. But the company also collects and databases the voiceprints of everyone *receiving* calls on its systems, as well.
- Finally, Securus provides a product that algorithmically transcribes those call recordings to text. Called “Word Alert,” this feature makes the entire call recording database word or term searchable by DOC.

Consequently, the identity of all call participants, the audio recording of all calls, and the searchable-text content of those calls are aggregated and searchable for every call made by anyone who is unlucky enough to be unable to afford bail.

But it does not stop with communications. In the background of its databases, Securus also collects other biometric and personal data through its other data streams. For example, Securus not only provides call services to DOC, but it also owns JPay, the system used by the City to allow family members to put money on their loved ones' jail commissary accounts. That financial transaction data, along with video visitation data, personal information of people in custody, public phone records, and more all get databased by Securus.

¹⁰ “Securus has allegedly recorded tens of thousands of phone calls between attorneys and their incarcerated clients in at least seven other states, according to lawsuits that have been filed in California, Kansas, Louisiana, Maine, Missouri, Texas, and Wisconsin,” via Ella Fassler, “Prison Phone Companies are Recording Attorney-Client Calls Across the US,” VICE Motherboard (Dec. 13, 2021) <https://www.vice.com/en/article/7kbbey/prison-phone-companies-are-recording-attorney-client-calls-across-the-us>.

¹¹ Julia Marsh and Aaron Feis, NYC inmates made 30 percent more phone calls after they were made free, *NY Post*, December 25, 2019, Available online at: <https://nypost.com/2019/12/25/nyc-inmates-made-30-percent-more-phone-calls-after-they-were-made-free/>.

Securus Technologies has built a vast and interconnected web of surveillance that is blanketing not only those presently detained in our City's jails, but also their families, communities, and advocates. This surveillance reality has not always existed in New York City. In fact, universal jail call recording only began here in 2008, when crime rates were both low and declining. And Securus itself was only brought to New York City in 2014. For decades before that, law enforcement was only able to record jail calls in the way they are able to record anyone's phone calls: with a specifically issued eavesdrop warrant.

Unlike other records that are sealed or expunged when an individual is released, this web is verging on permanent with extremely long data retention periods and absolutely no data oversight. Securus's surveillance web is constructed without any requirement of individual suspicion, no need for court oversight, and no need for a warrant. By contrast, if a person was able to afford bail, and therefore was not being held in our City's jails, law enforcement would only be able to eavesdrop on that person's calls with a specifically-issued warrant. The mere reality of being poor and unable to afford bail means a New Yorker today has fewer rights, less privacy, and diminished dignity. This web of surveillance is impacting Black and brown communities at a staggering rate, and when combined with the blanket of surveillance deployed by the NYPD, APS, and other law enforcement entities, this web decimates any notion of freedom, justice, and fairness in our communities. The time for the City Council to act to dismantle this web is now. The budget oversight provided by the Council is a critical first place to intervene.

The DOC first entered its contract with Securus Technologies "for the installation, configuration and maintenance of an inmate telephone system" on October 1, 2014. The original contract was set to run for a 5-year term. At the conclusion of that term, DOC had five 1-year sole options to renew the Agreement. The original contract expired on April 30, 2019. DOC extended that Agreement through March 31, 2020, and then exercised its renewal option to extend the Agreement again on April 1, 2020. This renewal expired on March 31, 2021.

In the meantime, in early 2021, the Department conducted the internal audits that revealed its illegal call recording of privilege calls. These audits and their results were conducted and available before the expiration of the second renewal option to the Agreement. However, despite Securus' Constitutional violations and technical failures, DOC quietly and with no oversight exercised its renewal option year on April 1, 2021, registering that renewal on October 27, 2021. According to the Comptroller's CheckbookNYC website, this renewal option was only extended through December 31, 2021. There is no publicly available information about the present state of the renewal term as the last registered contract on the Comptroller's site indicates an end date of December 2021. However, in the normal course, the 2021-2022 renewal option should have extended to March 31, 2022, and its renewal should be in consideration *now*.

The Council should urge the Department to refuse to exercise its next renewal option. Ending the agreement with Securus is the only way for New York to get its communities' data back. Until the date of agreement termination, Securus Technologies retains New Yorkers' data within their systems. However, DOC's original agreement with Securus contained the following provision:

7.3.2 Within thirty (30) days of expiration or early termination of the Agreement, the Contractor shall, at no cost to the DOC, perform the following actions:

- (i) transmit the DOC Data to the DOC or its designee in a format that is easily usable by the DOC or its designee and does not contain any proprietary software or other materials of the Contractor or third parties;
- (ii) destroy the DOC Data and any copies, extracts, descriptions, and summaries thereof contained in the Contractor's records or systems; and
- (iii) provide the DOC with a written certification of such destruction

When that data is returned to New York, the City and the Department should implement specific sequestration, notification, and destruction policies.

Ending the contract with Securus Technologies will not only preserve New Yorkers' rights and liberties, it will also save the City money. Presently, it appears that the Department pays Securus Technologies approximately \$200,000 per month for phone and surveillance services.¹² The Department issued checks for \$182.32K in January and \$190.39K in February 2022. The overall contract agreement indicates that the Department is paying Securus Technologies \$2.25M for a year of phone service. By contrast, almost every other City agency appears to pay well less than \$500K per year for such services.

Even if the Department's renewal term has already been non-publicly exercised, the City can still end its relationship with Securus now. Not only does DOC currently hold the sole renewal option on its agreement with Securus, the City and Department's original Agreement with Securus included a provision granting the City "the right to terminate this Agreement, in whole or in part, [with or] without cause...."

In addition to terminating the Securus agreement, the Council should urge the Department to issue a new RFP for phone services. This RFP should be limited to legal phone service only, and should not include surveillance products similar to Securus's. The web cast by Securus is neither unique nor exceptional in the correctional phone and surveillance industry. GTL, the other major corporate player in this space, offers a sweepingly similar product line and has engaged in similarly violative practices.

¹² See "Securus Technologies" results on CheckbookNYC.com [here](#).



The time for New York City to get out of business with predatory surveillance phone companies like Securus Technologies is now. Our communities' data should be returned from Securus. This two million plus per year project of surveillance should be dismantled. Neither our Constitutional rights to silence and to counsel, nor our dignity, privacy, and intimacy should be for sale in our City. New Yorkers deserve more.

Oversight and transparency

New York City's Board of Correction (BOC) provides essential oversight of city jails including providing public reports, data, investigations, and establishing and ensuring compliance with Minimum Standards for the Department of Correction (DOC) and Correctional Health Services (CHS). Additionally, the staff have authority to visit and inspect any DOC run facility, including areas designated in court houses and hospitals. Their presence is crucial in providing needed oversight of the city jails. This agency can be a leader in providing a transparent account of what occurs behind the walls of our city jails.

For the DOC to be held accountable, we must start with transparency and fully funding the BOC. The Board is essential at ensuring the public is made aware of the Department's violations of the BOC Minimum Standards; deaths in custody followed by an investigation; data and statistics related to sexual abuse, investigations, grievances, and the use of restrictive housing to name a few. People in custody and the public depend on the BOC, and without them we fear the City jails will become more isolating, only exacerbating the already known horrors within NYC DOC's correctional facilities.

The Board of Correction must be fully funded and staffed. Despite the Board's broad, and critical, charge, it operates on a shoe-string budget and continuously struggles to provide the necessary oversight and public reporting due to limited resources. For instance, in 2021, 16 people died in custody and three more people have died in 2022. The Board, which is responsible for leading death review panels in each case, has yet to produce a single report for any death in custody from 2020 to present. These delays hinder the ability to improve conditions: past reports describe how staff neglected to contact health officials after a medical emergency, how DOC staff dismissed protocols and isolated individuals with known disorders that should have automatically excluded them from restrictive housing, response times and a list of recommendations. The inadequate resources available to the Board to fulfill its mandated duties hinders progress and threatens to undermine the Board's entire function.



Conclusion

We thank the Council for holding this hearing to highlight the issues in NYC's jails. We urge the Council to use every mechanism in your power to end the suffering in the New York City's jails. We thank the City Council for the opportunity to testify today. If you have any questions or concerns, do not hesitate to contact me at evasquez@bds.org.

**The Bronx
Defenders**

**Redefining
public
defense**

**New York City Council
Committee on Criminal Justice
New York City Council Budget and Oversight Hearings on
The Preliminary Budget for Fiscal Year 2023**

March 23, 2022

**Written Testimony of The Bronx Defenders
By Tahanee Dunn and Ann Mathews**

Chair Rivera and Committee Members, we write to offer the perspective of those in the Criminal Defense Practice at The Bronx Defenders.¹ What is happening in the New York City jails is nothing short of a humanitarian catastrophe and a moral stain on New York. The failings are happening in myriad ways – from the overall inhumane conditions in which people are currently kept, to the failure by the Department of Corrections (DOC) to implement the Risk Management Accountability System (RMAS) as promised by November 1, 2021, to DOC’s denial of meaningful access to counsel to those in its custody.

To date, DOC has failed to end the use of restrictive housing, including punitive segregation and Enhanced Supervision Housing (ESH), as required by the Board of Correction (BOC) Minimum Standards promulgated in June 2021. DOC has also failed to implement the Risk Management Accountability System (RMAS) and the right to counsel at certain disciplinary proceedings. Instead, all of these measures have been continually delayed by a series of executive orders, all of which have allowed DOC to continue its use of a wide range of unduly harsh punitive housing regimes, including ones that effectively amount to solitary confinement. The delay in

¹ 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.

implementation is particularly alarming and troubling given that the HALT Solitary Confinement Act (HALT) goes into effect next week and will require significant changes to current practices within DOC.

DOC has been unable to provide clear answers to basic questions regarding how RMAS will, in fact, ultimately be implemented or to provide basic directives and operations orders addressing the many various topics raised. These open questions range from the straightforward – such as the timeline for construction of each level of RMAS – to questions about the specific design and layouts of the housing units. Those are just a few examples. One fundamental area in which questions abound relates to when and how DOC will allow legal representatives to be present in disciplinary hearings as required by the Minimum Standards, and arguably, soon by HALT as well. The right to counsel at disciplinary hearings was included in the Minimum Standards precisely because BOC recognized the importance of counsel at hearings that can result in further profound deprivation of liberty – that is, placement in restrictive housing units. The importance of counsel at such hearings is even more critical given the overall conditions at DOC, which are nothing short of abysmal. Our clients are more in need of meaningful access to counsel than ever, and that access is being denied not only at disciplinary hearings but at other even more basic levels.

Our clients are denied meaningful access to counsel daily: DOC routinely fails to bring clients to both in-person and virtual court appearances and regularly fails to bring clients to counsel visits. Attorneys consistently wait for hours on end at Rikers Island, only to be told that DOC will be unable to bring a client to a counsel visit. The inability of the defense team to meet regularly with clients not only deprives clients of their right to counsel but also threatens to bring the system to a halt. The system simply cannot possibly function when our clients cannot meet with counsel and when they are not even brought to court to participate in their defense. Each delay, each missed court appearance adds to the crisis, creating a cruel bottleneck that prevents case dispositions, increases the number of people detained on Rikers Island, and prolongs detention in deplorable and life-threatening conditions. It is untenable. It is unconstitutional. It is inhumane.

We urge the Committee to ensure that DOC abides by the Minimum Standards – and state law – and ends the use of punitive housing that amounts to solitary confinement. We urge the Committee to ensure that fundamental notions of due process are restored to those in DOC custody. We urge the Committee on Criminal Justice to exercise exacting scrutiny of DOC's current operations and to bring all its power to bear on ending the current humanitarian crisis in our city's jails.

CARNEGIE HALL

**New York City Council Fiscal Year 2023
March 23, 2022
Preliminary Budget Hearing: Committee on Criminal Justice**

Chair Rivera and Members of the Council Committee on Criminal Justice:

My name is David Freudenthal, and I am the Director of Government Relations at Carnegie Hall. Thanks for the opportunity to testify about the value and importance of the arts in the Department of Probation's portfolio of solutions to forge pathways for their clients and help them succeed.

In 1960, Carnegie Hall was saved from demolition by a citizen's campaign led by violinist Isaac Stern. An act of the New York State Legislature allowed the City of New York to purchase the building and establish the nonprofit, The Carnegie Hall Corporation, to operate the facility in service to all New Yorkers. Today, Carnegie Hall is a leader in creating far-reaching music education and social impact programs that inspire the next generation of music lovers, nurture musical talent, contribute to the evolution of music education, and explore how music can play a meaningful role in people's lives. Each year, these programs reach nearly 800,000 people in NYC, across the US and around the globe in schools, orchestras, arts organizations, homeless shelters, correctional facilities, refugee camps, hospitals, and more, supporting music learning at all levels.

To ensure that our programs intentionally prioritize those who otherwise may not have access to these opportunities, Carnegie Hall partners with the City's human services agencies, including the Department of Probation, with leadership support from the City Council's Innovative Criminal Justice Programs Initiative.

[NeON Arts](#) is a program of the Department of Probation in partnership with Carnegie Hall that integrates free arts programming into seven Neighborhood Opportunity Networks (NeONs)—community centers across the city—supporting young people, ages 16–24, in exploring the arts, establishing positive peer relationships, and developing important social and career skills. Carnegie Hall facilitates the participatory budgeting and grant-making process for NeON Arts, coordinating events and working with grantee artists, arts organizations, and community stakeholders. Workshop cycles typically occur three times throughout the year—the next cycle kicks off next month over Zoom and will end this July with celebratory showcase events at each of the seven NeONs highlighting original work by young people from throughout the five boroughs.

All New Yorkers have the right to high-quality artistic experiences, and NeON Arts is an expression of that vision. For Carnegie Hall, our belief is that all young people, regardless of their circumstances, should have opportunities to be creative, explore their talents, and develop skill sets that help them grow and overcome challenges. The issue of arts access is especially critical for system-involved young people, an area in which Carnegie Hall has invested deeply. Since 2013, the Hall has worked with the Department of Probation to scaffold meaningful opportunities for creative expression and personal development through NeON Arts. In our work together, we have shown the power of arts and culture to engage young people, strengthen our communities, and collaborate with community leaders and local artists and organizations to make our city a better place.

NeON Arts is a prime example of a robust, public-private endeavor that has adopted an entirely new approach to addressing some of our city's most pressing issues. Based on the success we have seen in NYC it is our hope that NeON Arts can serve as a model for other agencies with justice-involved clients across the country. Young people participating

in this program feel not only a great sense of pride in sharing their original work, but also a sense of responsibility to give back to their communities by sharing the opportunities and resources they have accessed through NeON Arts with their peers and neighbors.

As NYC navigates a full reopening, programs like these will be critical components of the city's strategy to meet people directly, effectively, and safely where they are. The Council's continued investment in these partnerships will be absolutely essential in the year ahead. We respectfully share with the Committee the key expense requests submitted to Speaker Adams in FY23 to ensure that these essential services for our city's youth to continue. We would be grateful for your support for these requests:

- **Renewal of \$200,000 for NeON Arts** will underwrite the return of place-based, in-person programming at all seven NeON locations—pending the rules regarding public gathering during the ongoing pandemic—in alignment with the Department of Probation's plan to return to fully in-person programming and services. The Council's FY22 \$200,000 investment was vital for serving and supporting residents who are most severely impacted by the effects of the pandemic, and we urge continuation of the program in next year's budget. NeON Arts supports the mental, physical, and emotional well-being of our city's young people by creatively and constructively engaging them online during these times of great uncertainty. NeON Arts will be more essential than ever in the days ahead in serving and supporting these communities, especially as the city recovers and fully reopens.
- **Renewal of \$25,000 for youth programs** will support the pilot of The B Side, a new free summer intensive program for twenty New Yorkers ages 16-24 interested in the business of music, with a focus on those from under-resourced communities. **Of these 20 spots, at least half will be reserved for alumni of our programs in partnership with DOP and ACS.**

The B Side will provide participants an interactive space to learn about the inner workings of the music industry. Curriculum designed and facilitated by teaching artists, guest speaker panels, and field trips will guide participants through the many roles and career opportunities across the industry. Participants, experienced youth development facilitators, and guests will be encouraged to co-create a learning community that supports the development of aspiring artists and future music industry leaders. In launching The B-Side, Carnegie Hall will draw upon our experience creating meaningful youth development programs in order to deepen our impact and provide young people with the tools they need to thrive, lead, and transform the music industry.

- NeON Arts is one of many programs that demonstrates the broad and deep impact of the arts and cultural sector in our city, especially through public-private partnerships. Carnegie Hall is also a proud member of the Cultural Institutions Group (CIG), a collective of 34 nonprofit museums, performing arts centers, historical societies, zoos, and botanical gardens across all five boroughs with a distinct private-public partnership with the City of New York and a commitment to serving all New Yorkers. In keeping with our shared public service mission, the CIG advocates for essential help from government to support the arts and culture sector at large in service to our communities. In the context of that advocacy, **Carnegie Hall endorses the sector's \$100M request and urges the Committee to express their support to the Speaker.**

A commitment to funding culture will bring economic resiliency and growth, kickstart a return of tourism, and lay the foundation for an equitable, educated, and safe city—resilient enough to withstand the shocks of future disasters and downturns. **Culture is the comeback of New York City, and we urge culture's outsize impact to be acknowledged and duly supported.**

We thank the Committee for their interest in these programs, and we encourage the Council to support NeON Arts, The B Side, and other programs by our cultural colleagues across the city. The Council has recognized time and again the value of the arts and creative experiences as key to the City's holistic efforts in the justice system, and **we respectfully request full reinvestment in this work in FY23.**

We welcome the opportunity to meet with each of you individually to discuss Carnegie Hall's programming partnerships in your district and citywide. Thank you for your support for and consideration of our requests, and thanks to our public partners, artists and arts organizations, teachers, stakeholders, and the talented young people involved in these programs for being a part of truly transformational changes.

CENTER FOR EMPLOYMENT OPPORTUNITIES

FY23 Preliminary Budget Hearing Criminal Justice Committee

March 23, 2022

TESTIMONY

My name is Derick Bowers, and I'm the Director of Social Enterprise in New York City for The Center for Employment Opportunities (CEO). Thank you to Chair Rivera and the members of the Criminal Justice Committee. I appreciate the opportunity to submit testimony about our program model and work across New York City, and the need for increased resources to help assist returning citizens with the ongoing support necessary to build career capital and financial stability.

CEO's mission is to provide immediate, effective, and comprehensive employment services to individuals recently returning home from incarceration and young adults who have had interactions with the criminal legal system. As the largest provider of reentry employment services in New York and the country, our intentional focus is to serve individuals facing the most significant barriers to gaining and maintaining employment, while also returning \$3.30 for every \$1 of public investment.

Background on CEO

Our four stage program has two core components: transitional employment, which we provide through partnerships with agencies like DOP, and vocational services to help participants attain long term employment outside of CEO. Since its inception, CEO has made nearly 39,000 unsubsidized job placements for formerly incarcerated individuals, over half of which benefited New Yorkers.

While we focus primarily on employment services, CEO maintains a commitment to meeting participants' complex needs through wraparound services. CEO is also committed to being an important part of this administration's gun violence prevention strategy, by engaging young adults between the ages of 18-24, who live in impacted communities and are out of school, and/or justice involved.

Funding Priority: Criminal Justice

Additional investment in expanded criminal justice services is critical for CEO and other organizations like CEO, and CEO respectfully asks for **\$100K through the Crisis Management System, \$150K through Innovative Criminal Justice, \$250K through the Speaker's Initiative, and as a member of the ATI ReEntry Coalition we are asking for an increase of the ATI Initiative by \$1.1 million for our Coalition partners.** As all participants come to CEO seeking employment, 100% qualify as low-income and are either unemployed or

underemployed. Without income to establish stability, returning citizens face a staggering 68% chance of re-arrest within the three years immediately following their release.

Additionally, formerly incarcerated individuals face an unemployment rate seven times higher than the national average. These barriers, paired with the current economic downturn due to COVID, disproportionately harms the young, those without a college degree, and marginalized job seekers (including persons with a criminal conviction). We are dedicated to changing this reality by channeling resources and opportunities to those who need it most.

CEO also recommends the **following policy changes**:

- 1. Close Rikers urgently and implement alternatives to incarceration.**
- 2. Provide holistic gun violence responses that protect communities of color from further harm.**
- 3. Stop incarceration for technical violations of supervision.**
- 4. Structure probation supervision so that it does not interfere with work obligations and goals.**
- 5. Increase access to high quality jobs for individuals with past convictions**
- 6. Remove barriers for recently incarcerated individuals accessing workforce training programs**
- 7. Eliminate policies that criminalize poverty through the legal system.**

CEO believes these recommendations, as well as an investment in additional criminal justice resources would provide an opportunity to expand our program to more justice-impacted individuals – which would help reduce recidivism, increase public safety and facilitate the employment and economic mobility of New Yorkers with a criminal record.

At CEO, we don't just put individuals to work; we help keep them out of prisons and jails.

Thank you for your time and consideration .

Derick Bowers
Director, Social Enterprise (NYC)
Center for Employment Opportunities
dbowers@ceoworks.org



520 Eighth Avenue, New York, NY 10018
p. 646 386 3100
f. 212 397 0985
courtinnovation.org

Research. Development. Justice. Reform.

Courtney Bryan. Director

**Center for Court Innovation
New York City Council
Committee on Criminal Justice
Preliminary Budget Hearing
March 23, 2022**

Good morning Chair Rivera and esteemed councilmembers of the Committee on Criminal Justice. Since its inception, the Center for Court Innovation (the Center) has supported the vision embraced by Council of a fair, effective, and humane justice system and building public safety through sustainable community-driven solutions. The Center's longstanding partnership with Council over the past twenty-five years has helped bring this vision to life through evidence-based and racially just programming that spans the entire justice continuum, which include:

- expanding diversion and alternatives to incarceration options across all parts of the justice system;
- prioritizing the rapid engagement and treatment of individuals suffering from mental health issues and substance use disorders; and
- implementing gender and family justice programming around human trafficking and offering supports for the whole family.

Our firsthand experience operating direct service programs and conducting original research uniquely positions us to offer insights that the Council can look to as it considers the development of initiatives that respond to needs of all New Yorkers. In each instance, our aim is to provide a meaningful and proportionate response, to treat all people under our care with dignity and respect, to prioritize public safety, and to produce much-needed cost savings for the City. And, as an anti-racist organization, to ensure the needs of marginalized New Yorkers are addressed.

The Center's Innovative Core Funding

This year, we ask the Council to continue and expand support for **the Center's Innovative Core Funding**. The Center uses this funding to flexibly respond to the immediate needs of New Yorkers by piloting novel and effective community-based pilots to test for scalable solutions. Through this work, the Center is making a deep investment in engaging individuals as far upstream as possible, to limit, and ideally prevent justice system involvement. Support would go to public safety and criminal justice responses in all five boroughs.

Examples of the programming this funding supports are reflected across the City. In Brooklyn, credible messengers from the Center's Neighbors in Action program engage individuals in communities impacted by violence, or experiencing socioeconomic challenges, in wrap-around services. Support would also lift up the Center's Midtown Community Court's Client Navigators, who build meaningful connections with individuals battling homelessness, mental illness, and/or substance use disorder to engage them in support services through two new pilot programs: Midtown Rapid Engagement Initiative and the Community First Program. At the Center's Staten Island Justice Center, the Youth Wellness Initiative provides robust mental health services to justice-involved youth and allows participants to co-design community engagement and service activities aimed at reducing mental health stigma.

In the Bronx, the Center's Bronx Child Trauma Supports uses this funding to provide therapy sessions to young people, ages 3-15, who have been victims of or witnesses to violent crime, thereby improving community health and reducing intergenerational trauma. And, the Center's Queens Community Justice Center's Youth Impact's peer leadership program engages youth diverted from the justice system in workshop and skill-building programming. We ask the Council to expand the Center's core funding so that we can continue innovating scalable solutions in response to issues we are seeing on the ground, and effectively serve the most vulnerable New Yorkers – including those that present with issues related to housing instability and/or homelessness.

Reducing Incarceration: Alternatives to Incarceration & Diversion Programming

The Center is committed to reducing unnecessary incarceration and identifying practical paths to safely shrink the jail system. We played a central role in crafting the plan to shutter the jail complex on Rikers Island by coordinating the Independent Commission on New York City Criminal Justice and Incarceration Reform, otherwise known as the Lippman Commission. The Center has measurable experience in implementing data-driven programs that meaningfully reduce incarceration without decreasing public safety. Alternatives to incarceration can prevent unnecessary disruption to individual lives, while providing linkages to additional services to decrease criminogenic factors that would otherwise grow in confinement. These models are studied to be safe, effective, and cost efficient, and avoid unnecessary incarceration that reduces the long-term adverse impacts it has on individuals, families, and communities.

Felony alternatives to incarceration programs for more serious charges pave the way for diversion at all levels of the justice system, and we ask Council to maintain its support in Brooklyn, and expand funding to support Manhattan's operations which are currently supported by asset forfeiture funding that is set to expire mid-point of FY23. The Center's **Felony Alternatives-to-Incarceration Courts** in Manhattan and Brooklyn, operated out of Manhattan Justice Opportunities and Brooklyn Justice Initiatives alike, offer the opportunity to resolve a case without a jail or prison sentence for people who don't qualify for other specialized courts like drug diversion or mental health courts. They offer a reliable and evidenced-based way for people to access alternative sentences, providing rapid assessment and tailored plans to address individual needs. They also provide access to culturally responsive community-based programs, individualized cognitive-behavioral therapy, drug treatment, or mental health treatment. All assessments and treatment plans are individualized, as is the way the Court responds to developments and setbacks in cases.

With City Council's support, we can expand access to these alternatives in New York and safely provide communities with more options to adjudicate harm, maintain community safety, and produce better outcomes for the individual otherwise facing jail or prison time, and the community at large.

The Center's **Manhattan Justice Opportunities** provides social services as alternatives to jail and other sentences. The restorative justice initiative at Manhattan Justice Opportunities, which is completing a pilot phase, brings together the harmed party and the person responsible for the harm to discuss the issues underlying the conflict, and the pathways for moving forward. The goal is to help resolve these conflicts, heal relationships, and reduce the parties' likelihood of future court-involvement. Cases that are eligible for restorative justice programming include interpersonal conflicts between people with ongoing relationships and hate crimes. We urge Council to support restorative justice facilitators to provide programming as an alternative to incarceration for criminal cases that involve harm and have a need for healing. A hallmark of Manhattan Justice Opportunities' programming is how individualized it is. All assessments and treatment plans are individualized, as is the way the Court responds to developments/setbacks in individual cases.

The need for more meaningful, effective, and equitable interventions for traffic-related cases has never been more urgent. With support from Council, the Center's **Driver Accountability Program (DAP)** operates in all five boroughs. DAP offers participants a constructive and restorative response to dangerous driving and works to change the risky driving behavior of people charged with driving-related offenses in criminal court. DAP provides diversion even for the most serious cases, and is piloting a restorative justice program that brings together drivers and their victims for a process of accountability and healing in cases where traffic crashes have caused serious injury or death.

Preliminary research suggests that the program changes participant driving beliefs and habits and encourages safer driving. A recent evaluation found a majority of participants felt that their driving behaviors changed since their ticket or arrest as a direct result of the program. The Center urges Council to renew funding to sustain those operations, as well as expand the program to fully implement the second tier of the program that offers a more intensive restorative response for the most deeper end cases involving serious injury or death.

The Center's pre-arraignment diversion model, **Project Reset**, operates Citywide and helps further reduce the jail population by decreasing the likelihood of failure to appear bench warrants at arraignment for low level Desk Appearance Tickets (DATs). Project Reset diverts New Yorkers with misdemeanor arrests away from the court system through community-based programming and access to opportunities, offering relief from the collateral consequences participants might otherwise experience if arraigned for a low-level crime, such as legal discrimination in housing, immigration, and employment matters, or even a bench warrant for failing to appear.

Pre-arraignment diversion is a component of the Points of Agreement. The Administration renewed Project Reset funding in FY22 for Staten Island, Queens, and Brooklyn,

with City Council continuing to fund the program in the Bronx, and the New York District Attorney's office supporting Manhattan for FY22. It is still unclear whether the Administration will cover funding for Bronx Reset in FY23. Therefore, we ask Council to provide support for this program in the absence of Administration funding so that its successes and impact continue.

Finally, the Center's Midtown Community Court (MCC) is piloting a program offering diversion options for young people with gun possession and related charges – the **Youth Diversion for Gun Possession Initiative** in collaboration with the New York City Law Department and Manhattan District Attorney's Office. Understanding the drivers of gun violence is the first step in supporting evidence-based solutions. In groundbreaking research on the drivers of gun violence, the Center surveyed over 300 young people in neighborhoods with historically high rates of gun violence to determine their reasons for seeking out firearms. The findings demonstrated widespread feelings of diminished safety and pervasive experiences of violence and trauma that motivated the 'security' of carrying a gun.¹

To appropriately respond to the complex drivers of gun violence, we seek Council support for MCC's Youth Diversion for Gun Possession Initiative. This initiative is the first holistic diversion option for young people arrested for gun possession and related charges and employs a team of case managers and a credible messenger who utilize their own experiences to connect with young people and help to change their behavior while simultaneously attaching them to meaningful services. The resulting trust, respect, and empowerment of participants are especially crucial to the success of this pilot.¹ Council support will allow MCC to continue this work as longer-term initiative that serves a greater amount of youth on expanded eligibility.

Precinct- and Court-Based Supports for Individuals with Complex Mental Health Needs

Mental health and the justice system cannot be siloed; they are inextricably intertwined. Properly addressing the mental health needs of all New Yorkers—necessary now more than ever before with the stressors of COVID-19 weighing heavily on already under-resourced communities—will allow us to lessen harmful interactions with the justice system and law enforcement. And, on the flip side, ensure that contact with the system is humane, with an emphasis on providing culturally competent treatment and programming.

Ideally, we address the mental health needs of individuals before they ever intersect with the justice system. For those who do intersect with the system, the Center seeks funding for Midtown Community Court's **Rapid Engagement Initiative** (the Initiative) which works in partnership with select NYPD precincts. The Initiative serves as a dedicated resource for the precinct-based rapid engagement of individuals who may have complex needs on the same day of an arrest. The Initiative offers individualized care to people arrested on cases that are DAT-eligible who want to connect to services by employing a highly skilled social worker from Midtown as the precinct's "on-call" social worker and Peer Navigator.

This timing is critical because often an arrest of someone may be the direct result of their dire need for mental health services and/or harm reduction services, along with other services. The intervention will use clinically informed best practices to help address any mental health, substance use, and other social service needs and connect individuals with local community-

based organizations. We urge Council to fund this rapid support for justice-involved people, helping them to address needs while also resolving cases quickly and avoiding warrants.

Finally, the Center's **Brooklyn Mental Health Court (BMHC)** provides specialized support to youth ages 18 to 24, who have unique social and cognitive needs and represent a growing percentage of cases served. With Council's continued support, BMHC offers twice monthly programs specifically for youth, including arts programs, movie trips, and meditation classes, all designed to nurture close engagement with the youth population to help them comply with their court mandates and avoid future contact with the justice system. The court's new Youth Engagement Specialist, a bilingual member of our clinical team, ensures young people are not left behind due to language barriers. Renewed funding will enable BMHC to continue and strengthen youth-focused programs, maintain the critical Youth Engagement Specialist role, and provide meaningful activities and healthy meals and snacks to participants, fostering close relationships that help youth to lead healthy non-justice involved lives.

Gender & Family Justice: Uplifting Survivors of Human Trafficking and Supporting Whole Families in Court & Upon Re-Entry from Prison

We urge Council to continue funding support for human trafficking survivors that extends beyond meeting immediate needs and possible criminal mandates, and includes elevating the voices and ideas of survivors by building survivor capacity and equipping them with the tools to become leaders and advocates in the anti-trafficking field and their local communities. As the Center's Bronx Human Trafficking Intervention Court (HTIC) referrals continue to go down, due to shared understandings of the harms traditional systems impose on survivors, the Center's Gender and Family Justice team, in collaboration with Rights4Girls, Courtney's House, and CATCH Court, are piloting **Bronx Project HEAL (Helping to Empower through Advocacy and Leadership)** out of the Center's Bronx Community Solutions (BCS).

By bridging the gap between community and institutions, Bronx Project HEAL will allow survivors to reimagine systems and engage in local advocacy on issues important to them. The Bronx Project HEAL pilot is rooted in an understanding of best practices, extensive consulting with local survivor leaders, and interviews with practitioners. Designed to center the needs and experiences of justice-involved trafficking survivors, Project HEAL is a six-to nine-month voluntary program that aims to enhance the capacity of survivors to become leaders and advocates in the community by creating a survivor leadership group. The group will offer community-based professional development experiences, leadership and advocacy opportunities, and mentorship and peer support. Among those who may be eligible for this voluntary program are current and former clients of BCS, including those who have worked directly with the program's human trafficking specialist.

There is scant support for the New Yorkers who are released from prison each year, many of whom have lived for decades behind bars, and nearly no support for the families who welcome them home. Despite strong evidence that social support is positively correlated with stable housing and that stable housing greatly reduces the risk of re-arrest amongst formerly incarcerated people, support is narrowly focused to material needs. The heads of households, primarily women of color, who welcome these loved ones home shoulder the emotional, psychological and spiritual challenges for all, after incarceration.

The Center's **Family Healing Project** uses restorative justice processes to offer supportive spaces for all who have been impacted by the criminal legal system. We urge Council to begin supporting The Family Healing Project as a discharge initiative which offers a restorative justice process and healing space for individuals returning to community from prison to rebuild relationships with those they care most about. By giving returning citizens the opportunity to build a strong network and strengthen connections with family members, the Family Healing Project aims to help these individuals navigate the challenges of reentry and conditions of parole while providing meaningful support to their families and loved ones to decrease rates of technical parole violations.

To round out support for families and infants, the Center seeks funding to build the capacity of the successful **Strong Starts Court Initiative (SSCI)** to meet the needs of a greater number of infants, toddlers, and their families throughout New York City. SSCI is a Family-Court-based project; it employs a two-generational approach to provide specialized supports for infants, toddlers and their families who have child protection cases, and it works to educate court-based professionals in an approach focused on early child development that will transform the traditional family court response to this extremely vulnerable population. SSCI offers an opportunity to address inter-generational system involvement in a way that builds trust with families, where 70% continue to reach out for services after their cases are concluded. With inquiries from other localities, and technical assistance provided to other Family Courts and child welfare systems across the state, Strong Starts is well positioned to expand capacity in NYC with the support of Council.

Conclusion

By partnering with the Center, the Council can go beyond transforming the justice system to cultivating vibrant and prosperous communities that center responses to criminal justice issues and enhance public safety for all its residents. We thank the Council for its continued partnership and are available to answer any questions you may have.

Notes

¹Swaner, R. & White, E. & Martinez, A. & Camacho, A. & Spate, B. & Alexander, J. & Webb, L. & Evans, K. (2020). Guns, Safety, and the Edge of Adulthood in New York City. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/gun-violence-NYC>

Ibid. at citation 1

Center for Court Innovation FY23 City Council Criminal Justice Proposal Summaries

Innovative Criminal Justice Programs Initiative

Center for Court Innovation General

- **Center for Court Innovation #128665 - \$1,000,000 (Renewal/Expansion)** This is an application to support the continuation of our alternative-to-incarceration, youth-diversion, and access to justice programs across all five boroughs in New York City. The Council's support allows us to serve tens of thousands of New Yorkers with mental health services, family development, youth empowerment, workforce development, and housing, legal, immigration and employment resource services. Our goal continues to be improving safety, reducing incarceration, expanding access to community resources and enhancing public trust in government to make New York City stronger, fairer, and safer for all.

Midtown Community Court

- **Midtown Community Court: Midtown Rapid Engagement Initiative (MREI) #128380 - \$403,060 (New)** Working in partnership with select NYPD precincts—namely Midtown South Precinct, the 10th Precinct, and the 20th Precinct—Midtown Community Court's rapid engagement pilot will offer individualized support to individuals who want to connect to services by stationing a Peer Navigator at each of the three precincts. The Peer Navigators will engage people as they are being released from the precinct after an arrest and support them through their case process, alongside a highly skilled case manager and social worker. The Midtown Rapid Engagement Initiative team will immediately engage individuals in need, assess their eligibility for pre-arraignment diversion programs (e.g., HOPE and Project Reset), and provide information about the court process. The team will use clinically informed best practices to help address any mental health, substance use, and other social service needs and connect individuals with local community-based organizations. This initiative will offer rapid support for justice-involved people, helping them to address needs while also resolving cases quickly and avoiding warrants.
 - **Also applied under Diversion Programs Initiative.**

Midtown Community Court

- **Midtown Community Court: Youth Diversion for Gun Possession #128360 - \$276,482 (New)** The Center for Court Innovation's (Center) Midtown Community Court

(MCC) will operate a Youth Diversion for Gun Possession initiative in collaboration with the New York City Law Department and Manhattan District Attorney's Office for young people charged with gun possession and related charges. This initiative is the first holistic diversion option for young people arrested for gun possession and employs a team of case managers and a credible messenger who utilize their own experiences to connect with young people and help to change their behavior while simultaneously attaching them to meaningful services. This proposal aims to expand a pilot currently underway at MCC into a longer-term initiative that serves a greater amount of youth on expanded eligibility.

- **Also applied under Diversion Programs Initiative.**

Alternatives to Incarceration (ATI's) Initiatives

Manhattan Justice Opportunities

- **Manhattan Justice Opportunities: Restorative Justice Program for Misdemeanant Clients #127632 - \$211,000 (New)** Manhattan Justice Opportunities—a court-based site operated by the Center for Court Innovation that provides social services as alternatives to jail and other sentences—proposes hiring two restorative justice facilitators to provide restorative justice programming as an alternative to incarceration for criminal cases that involve harm and have a need for healing. The restorative justice initiative at Manhattan Justice Opportunities, which is completing a pilot phase, brings together the harmed party and the person responsible for the harm to discuss the issues underlying the conflict, and the pathways for moving forward. The goal is to help resolve these conflicts, heal relationships, and reduce the parties' likelihood of future court-involvement. Cases that are eligible for restorative justice programming include interpersonal conflicts between people with ongoing relationships and hate crimes.
 - **Also applied under Diversion Programs and Innovative Criminal Justice Programs Initiatives**

Children Under Five

Strong Starts Court Initiative

- **Center for Court Innovation: Strong Starts Court Initiative #126136 - \$572,241 (New)** The Center for Court Innovation seeks funding to build the capacity of the successful Strong Starts Court Initiative to meet the needs of a greater number of infants, toddlers, and their families throughout New York City. The Strong Starts Court Initiative is a Family-Court-based project; it employs a two generational approach to provide specialized supports for infants, toddlers and their families who have child protection cases, and it works to educate court-based professionals in an approach focused on early child development that will transform the traditional family court response to this extremely vulnerable population.
 - **Also applied under Mental Health Services for Vulnerable Populations, Speaker's, and Innovative Criminal Justice Programs Initiative**

Diversion Programs Initiative

Driver Accountability Program

- **Center for Court Innovation: Driver Accountability Program #128651 – \$985,000 (Renewal/Expansion)** The Center for Court Innovation's Driver Accountability Program offers a meaningful alternative to the traditional legal responses of fines, fees, and short-term incarceration for vehicular offenses in criminal court. The program builds on Vision Zero's emphasis on enforcement and public education and uses principles of restorative justice to address the dangerous behaviors that are the primary cause of pedestrian fatalities. With support from City Council, the program currently operates at six sites in all five boroughs. A recent evaluation has highlighted the program's positive impact on participants' driving beliefs and behaviors. This application seeks funding to sustain those operations, as well as expand the program to fully implement its more intensive version, Circles for Safe Streets, which is a restorative justice program that brings together drivers and their victims for a process of accountability and healing in cases where traffic crashes have caused serious injury or death.

Felony Alternatives to Incarceration

- **Center for Court Innovation: Felony Alternative to Incarceration Program #128572 – \$1,976,516 (Renewal/Expansion)** The Brooklyn and Manhattan Felony Alternatives to Incarceration Courts, and Brooklyn Mental Health Court offer community-based interventions and rigorous judicial monitoring for felony cases (that are otherwise ineligible for drug, mental health, and domestic violence courts), which can decrease the use of jail and prison sentences and potentially lead to reduced criminal dispositions. The court is staffed by a team of resource coordinators, social workers, and mental health counselors who conduct independent assessments, prepare recommendations for programming and supervision, provide referrals to community-based providers, offer ongoing case management, supervision and compliance monitoring, and pilot new services, such as restorative justice interventions. The program and court part seek to significantly increase the use of ATIs, support and supervision offered to individuals charged with felonies and provide a model for jurisdictions across the country interested in enhancing public safety and reducing incarceration.

Project Reset Bronx

- **Center for Court Innovation: Project Reset #128410 - \$710,000 (Renewal)** Project Reset Bronx is a diversion program offering a new response to low-level arrests that is proportionate, effective, and restorative. The program offers people who are arrested for low-level, non-violent crimes and receive a Desk Appearance Ticket the opportunity to avoid court and the possibility of a criminal record by completing community-based programming. Participants engage in a one-time restorative circle discussion with community volunteers, during which they discuss their arrest, reflect on the impact of the incident, explore any underlying concerns or needs that may have contributed, and exchange stories that inspire a pathway forward. The circle process is designed to foster a

sense of connection and renewed sense of responsibility to community, reducing the social and emotional isolation that contributes to contact with the legal system.

Domestic Violence and Empowerment (DoVE) Initiative

RISE (Reimagining Intimacy through Social Engagement) Project

- **Center for Court Innovation: RISE Project #128476 - \$100,000 (Renewal/Expansion)** This is an application for continued support of the Center for Court Innovation's RISE Project. RISE is a part of New York City's Crisis Management System, working in partnership with Cure Violence sites to provide community-based intimate partner violence (IPV) prevention services in communities most impacted by gun violence and with a focus on individuals who may have gun violence linkages. RISE works to reduce IPV by engaging individuals who are causing abuse in voluntary programming to stop violence and change behavior; changing community norms to reduce tolerance for IPV; and training credible messengers to identify risk factors for IPV, promote healthy relationships, and connect community members who are in need of services to RISE. RISE incorporates components of Cure Violence and restorative justice models in its work.
 - **Also applied under Criminal Justice-Diversion Programs and Innovative Criminal Justice Programs Initiatives**

Mental Health Court-Involved Youth Initiative

Brooklyn Mental Health Court

- **Brooklyn Mental Health Court: Court-Involved Youth Mental Health #126096 – \$150,000 (Renewal/Expansion)** The Court-Involved Youth Mental Health initiative of the Brooklyn Mental Health Court provides specialized support to youth ages 18 to 24, who have unique social and cognitive needs and who represent a growing percentage of the cases we serve. Since 2017, more than 126 youth in this age range have pled into the Court. Thanks to City Council support, we now offer monthly programming specifically for youth, including arts programs, movie trips, and meditation classes—all designed to nurture close engagement with our youth population to help them comply with their court mandates and avoid future contact with the justice system. Youth support groups are also offered on a weekly basis. City Council funding also supports our new Youth Engagement Specialist role, a bilingual member of our clinical team. Renewed funding will enable us to continue and strengthen our youth-focused programs, maintain our critical Youth Engagement Specialist role, and provide meaningful activities and healthy meals and snacks to our participants, fostering close relationships that help youth to lead healthy, law-abiding lives.

Support for Victims of Human Trafficking Initiative

Bronx Community Solutions

- **Center for Court Innovation: Bronx Project HEAL (formerly Human Trafficking Intervention Court) #128523 - \$100,000 (Renewal/Redesign/Expansion)** This application is for Bronx Project HEAL (Helping to Empower through Advocacy and Leadership), an evolution of the Bronx Human Trafficking Intervention Court (HTIC) initiative. Based on the National Project HEAL curriculum, developed by the Center for Court Innovation, Bronx Project HEAL is a new leadership and peer support initiative for justice-involved human trafficking survivors that is informed by, co-created with, and often co-led by, survivors themselves. It is a 6- to 9-month voluntary program that aims to enhance the capacity of survivors to become leaders and advocates in the Bronx community by offering community-based professional development experiences, leadership and advocacy opportunities, and mentorship and peer support. Funding will support the implementation of the survivor leader empowerment program aimed at providing professional development services, including leadership and advocacy training, to survivor leaders to enhance their professional skills and encourage their participation in anti-trafficking policy and advocacy efforts.

Felony Alternatives to Incarceration

The Center for Court Innovation's felony alternatives-to-incarceration initiatives offer community-based interventions and judicial monitoring for participants with a wide range of felony charges and diverse needs. The goal is to improve public safety by increasing the use of social services and supervision that address root causes of criminal behaviors. Supervised by Center staff, participants complete mandated, individualized services designed to help them avoid future contact with the justice system, reduce unnecessary incarceration, and minimize the collateral consequences of involvement in the criminal legal system.

Concept

Brooklyn Justice Initiatives, Brooklyn Mental Health Court, and Manhattan Justice Opportunities, all projects of the Center for Court Innovation, operate robust felony alternatives-to-incarceration (ATI) programs for individuals arrested on violent and non-violent charges. The hallmarks of these programs are individualized, holistic community-based interventions that are paired with rigorous judicial monitoring. The Center's felony ATI initiatives decrease the use of jail and prison sentences and can lead to fewer criminal dispositions. The programs address an array of needs, including complex mental health issues, substance use, employment, and housing. Clinicians and onsite staff conduct assessments, prepare recommendations for programming and supervision, provide referrals to community-based providers, offer ongoing case management, supervision and compliance monitoring, and restorative justice interventions. These initiatives have increased the use of ATIs and provided a model for jurisdictions across the country interested in enhancing public safety and reducing incarceration.

How It Works

Cases are identified by the district attorney's office, defense agencies, or presiding judges and referred to Center staff. The felony ATI teams in Brooklyn and Manhattan are staffed by clinicians, case managers, and resource coordinators and supported by a consulting psychiatrist.

■ Clinical Assessment

Upon receiving a referral, clinicians gather the participant's relevant records and conduct a biopsychosocial assessment using a variety of clinical tools. Clinical assessments take a holistic approach to understanding a participant's needs by looking at employment, housing, trauma, substance use, mental health, community support, and prosocial programming. Clinicians synthesize the information gathered during the assessment into a report and prepare a related service plan to be reviewed by the court, defense counsel, and the District Attorney's Office. These plans include recommendations about programming.

■ Mandated Services

The Center's clinical staff draw on the results of the clinical assessment and their detailed knowledge of New York City's service provider landscape to refer participants to programming that is responsive to their clinical needs. Mandated services can include, but are not limited to, substance use treatment, mental health services, restorative justice programming, housing and benefit assistance, case management, educational and vocational training, job training, pro-social programs, and cognitive behavioral therapy interventions. Where appropriate, the felony ATI teams seek to refer participants to an extensive and growing network of community providers. Center staff also tailor service plans to meet the specific needs of the participant, including age, gender, and geographical location. This is both a clinically informed and participant-driven approach that ensures each plan is unique to the participant, which can increase the likelihood of engagement and success.

■ Case Management

Each participant has regular check-ins and case management sessions with a clinician. These provide opportunities to strengthen relationships with the participants, monitor progress, problem-solve any issues, and provide referrals to additional voluntary services. Felony ATI staff also maintain regular contact with the community-based organizations that are providing direct services to participants. This regular contact allows staff to holistically address any challenges or successes the participant experiences in treatment.

■ Monitoring and Compliance

Participants regularly return to court for status updates and to engage with their assigned clinicians in between court appearances. To ensure compliance, staff are in regular contact with participants (frequency of contact varies according to need and history of compliance). Center staff communicate regularly with service providers and solicit formal and informal progress reports. Based

on these conversations and reports, they prepare a specific and independent monitoring report in advance of each court appearance.

Participants are generally required by the court to attend court dates and in-person and virtual meetings with their clinician, maintain regular phone contact, and adhere to all program requirements and/or conditions. There is an understanding that progress is not linear, and there may be setbacks, but the goal is to improve and make progress based on each participant's unique needs.

Center staff collaborate closely and consistently with key stakeholders, including assigned defense counsel, prosecution, and judges to review referrals, treatment recommendations, and compliance concerns. These regular touchpoints provide a space to spotlight success and troubleshoot court-based or participant issues. This collaborative approach is spearheaded by Center staff and improves communication with all court actors.

For More Information

Email:

Jessica Kay

jkay@nycourts.gov



ALVIN L. BRAGG, JR.
DISTRICT ATTORNEY

DISTRICT ATTORNEY
COUNTY OF NEW YORK
ONE HOGAN PLACE
New York, N. Y. 10013
(212) 335-9000

March 16, 2022

Speaker Adrienne Adams
New York City Council
City Hall
New York, NY 10007

Dear Speaker Adams and Member of City Council,

On behalf of the Manhattan County District Attorney's Office, I write in support of key Center for Court Innovation ("the Center") FY23 City Council Applications that will expand and deepen alternatives to incarceration (ATIs) in Manhattan and sustain community-based prevention and re-entry programs that make our neighborhoods safer. The Center's proposal would expand mental health support, early diversion, and programming at the intersection of intimate partner violence and gun violence; pilot restorative re-entry supports for individuals and their families; create pre-court eviction prevention options, and much more. These programs address the pressing needs facing our communities and will enable Manhattan to move towards our shared vision of reducing unnecessary and harmful interactions with courts, jails, and prisons wherever possible – with the goal of building sustainable and community-driven pathways to public safety.

The Center has submitted multiple proposals to expand diversion opportunities in Manhattan for both misdemeanors and felonies. These programs work and must continue. The **Manhattan Justice Opportunities Felony Alternatives to Incarceration Court**, launched in June 2019 with support from my Office's asset forfeiture dollars, provides mental health screening, community based interventions and judicial monitoring on serious felony cases. This innovative model allows my Office to safely expand its use of programming without compromising public safety. As the funds for this program expire in March 2023, I urge the Council to sustain and expand this holistic diversion option in Manhattan.

Through **Manhattan Justice Opportunities' Criminal Court initiative**, which launched in January 2020, my Office has referred over 4,000 misdemeanor and low-level felony cases to community-based programming – doubling our initial projection of 1,100 referrals per year. Manhattan Justice Opportunity has a suite of tailored sentencing options in-house,

including restorative justice programming, civic engagement projects, employment case management, behavioral healthcare, and more. This initiative is essential to our Criminal Court practice and connects justice-involved individuals to the community-based services they need most. It is of paramount importance to sustain this program beyond December 2022, when initial funding is due to expire.

Additionally, I support the continuation and expansion of the **Driver Accountability Program**, which provides a constructive and restorative response to dangerous driving for people charged with driving-related offenses in Manhattan Criminal Court. The Driver Accountability Program can now accept more serious charges through a second tier of programming that handles cases involving death and utilizes victim mediation and prison sentence mitigations. This resource provides alternatives to fines, fees, and incarceration, when appropriate.

Many justice-impacted individuals present with persistent and untreated mental illness that requires rapid engagement, mental health treatment, and access to meaningful social services. I urge the Council to begin supporting pre-system engagement through the **Midtown Community Court Rapid Engagement Program**, a pilot that will offer individualized support at the point of arrest to individuals who want to connect to services by stationing a Peer Navigator at the precinct. This innovative model will create off-ramps that prevent people, including those with unaddressed mental health needs, from coming through our doors.

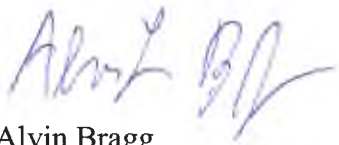
Additionally, I urge Council to support the **Midtown Community Court Youth Diversion for Gun Possession Initiative**, which operates in collaboration with Family Court to offer diversion options for young people charged with gun possession and related charges. This initiative is considered one of the first holistic diversion options for young people arrested for gun possession in Manhattan. Through this program, a team of case managers and a credible messenger utilize their own experiences to connect with young people and help to change their behavior, while simultaneously attaching them to meaningful services. We believe this is a valuable tool in the City's efforts to combat gun violence and are exploring ways to leverage this program in Supreme Court.

I urge the Council to continue supporting the Center's **RISE Project**, which provides community-based intimate partner violence prevention services in communities most impacted by gun violence. RISE works to reduce intimate partner violence by engaging individuals who perpetrate abuse in voluntary programming that seeks to change community norms surrounding tolerance for violence, and trains credible messengers to identify risk factors for intimate partner violence.

Finally, the Council should continue and expand support for the Center's **Innovative Core Funding**. The Center uses this funding to respond to the immediate needs of Manhattan residents by piloting novel and effective approaches to anti-gun violence, victim services, mental health integrations to diversion, and other pilots to test for scalable solutions. This funding allows the Center to quickly respond to community needs and develop novel approaches to combat violence in Manhattan.

The Center's long and documented history of conducting original research and operating direct service programs in Manhattan that promote equality, dignity, and respect aligns with my vision. Together, we reimagine a fairer and more holistic approach to justice that seeks to reduce incarceration and conviction wherever possible, all while increasing public safety and public trust. I encourage investment in each of the Center's programs to enhance fairness, accountability, and safety for the people of Manhattan.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alvin Bragg", with a stylized flourish at the end.

Alvin Bragg
Manhattan District Attorney



DARCEL D. CLARK

THE DISTRICT ATTORNEY
BRONX COUNTY

March 15, 2022

Speaker Adrienne Adams
New York City Council
City Hall
New York, NY 10007

Dear Speaker Adams:

On behalf of the Bronx County District Attorney's Office, I am writing in support of key Center for Court Innovation ("The Center") FY23 City Council applications. Funding will expand alternatives to incarceration for more cases, provide mental health support and early diversion, as well as aid programs that address the intersectionality of intimate partner violence and gun violence. Funding will also provide restorative re-entry support for individuals and their families, pre-court eviction prevention options, and innovative pilot programs that address pressing needs in communities within the Bronx. These programs will enable the Bronx to move towards our shared vision of reducing unnecessary and harmful involvement in the justice system wherever possible and allow us to build public safety through sustainable community-driven solutions.

To address the issue of street safety, I support the continuation and expansion of the **Driver Accountability Program**. The essence of this program is to provide a constructive and restorative response to dangerous driving and improve the risky driving behavior of people charged with driving-related offenses in criminal court. The Driver Accountability Program is accepting pressing cases which addresses cases involving deaths, victim mediation, and prison sentence mitigations.

The Center's pre-arraignment diversion model, **Project Reset**, re-directs New Yorkers with misdemeanor arrests from the court system. This is done through community-based programming. Project Reset also provides access to opportunities by offering relief from the collateral consequence's participants might otherwise experience if arraigned for a low-level crime. Some examples include legal discrimination in housing, immigration, and employment matters, or even a bench warrant for failing to appear in court. The City has just released its request for proposals for citywide Project Reset for FY 2023, which includes the Bronx. In order to improve Project Reset outcomes, I ask that the Council provide supplemental funding to enhance outreach with Project Reset participants at the precinct level.

The Bronx County District Attorney's Office partners with the **Bronx Child Trauma Support** program to support the provisions of clinical assessment and treatment of child victims and

witnesses to crimes in the Bronx. I request the Council continue its support of these direct services conducted through evidenced-based and trauma-informed intervention models designed to prevent or reduce post-traumatic stress symptoms, suicidality, re-traumatization, and future victimization.

The Center's **Bronx Human Trafficking Intervention Court** (HTIC) referrals continue to decline. Therefore, I urge the Council to continue funding the Center's pilot program, **Bronx Project Healing and Empowerment through Advocacy and Leadership** (HEAL). Project HEAL is a survivor leadership and peer support initiative for human trafficking survivors. It is being developed to engage survivors voluntarily and non-voluntarily. Project HEAL also allows survivors to self-advocate for the change they want to see through programming that involves education, advocacy, and leadership skill building, allowing survivors to meaningfully reimagine systems.

I urge the Council to continue supporting the Center's **RISE Project** which provides community-based intimate partner violence prevention services in communities most impacted by gun violence. RISE works to reduce intimate partner violence by engaging individuals who are actively volunteering in violence prevention programs. Such programs help to stop violence and change behavior by changing community norms to reduce tolerance for violence, and training credible messengers to identify risk factors for intimate partner violence.

Finally, I request that the Council continue to fund the Center's **Innovative Core Funding**. The Center uses this funding to respond to the immediate needs of the Bronx residents by piloting novel and effective approaches to anti-gun violence, victim services, mental health integrations to diversion, and other pilots to test for scalable solutions.

The Center has a long and documented history of conducting original research and operating direct service programs in the Bronx. Their mission to promote equality, dignity, and respect in communities aligns with my Office's vision. Together we can reimagine a fairer and more holistic approach to justice. We can do this by reducing incarceration and convictions as well as by building substantial and meaningful community-based support. I strongly encourage the City Council to consider funding each of the Center's programs which will ultimately enhance fairness, accountability, and safety for the people of the Bronx.

Sincerely,

A handwritten signature in dark ink, appearing to read "Darcel D. Clark", with a long horizontal flourish extending to the right.

Darcel D. Clark



OFFICE OF THE DISTRICT ATTORNEY
RICHMOND COUNTY

MICHAEL E. McMAHON
DISTRICT ATTORNEY

March 17, 2022

Honorable Adrienne Adams
New York City Council
City Hall
New York, NY 10007

RE: Support for Center for Court Innovation Fiscal Year 2023 Initiatives

Dear Speaker Adams and Members of the New York City Council:

As Staten Island's chief law enforcement officer, I write this letter to offer my support for the Center for Court Innovation ("CCI") and the critical FY'23 fiscal applications made by their organization to expand alternatives to incarceration opportunities and to provide mental health support, early diversion programming at the intersection of intimate partner violence and gun violence, restorative re-entry options for individuals and their families, pre-court eviction prevention options, and innovative pilot programs that address pressing needs in communities across the city. Many of these important initiatives and programs will enable Staten Island to move towards our shared vision of reducing unnecessary and harmful involvement in the justice system and building public safety through sustainable community-driven solutions.

Individuals demonstrating persistent and untreated mental illness require access to culturally competent mental health treatment. To address gaps in mental health-related support for court-involved youth in Staten Island, I urge the Council to continue and expand support for the Staten Island Justice Center's Youth Wellness Initiative. This initiative provides vital mental health services that address trauma and promote healing for young people on Staten Island involved in the justice system or at-risk of justice system involvement. Additionally, the initiative is geared towards providing holistic support to families by supporting the parents and caretakers of youth enrolled in the initiative.

I also urge the Council to continue supporting CCI's RISE Project, which provides community-based intimate partner violence prevention services in communities most impacted by gun violence. RISE works to reduce intimate partner violence by engaging individuals who are causing abuse in voluntary programming to stop violence and change behavior, changing

community norms to reduce the tolerance for violence, and training credible messengers to identify risk factors for intimate partner violence.

Finally, the Council should continue and expand support for CCI's Innovative Core Funding. CCI uses this funding to respond to the immediate needs of Staten Island residents by piloting novel and effective approaches to anti-gun violence, providing victim services, mental health integrations to diversion, and other pilots to test for scalable solutions.

CCI's long and documented history of conducting original research and operating direct service programs in Staten Island to promote equality, dignity, and respect in communities align with my office's vision. My office has proudly partnered with CCI to bring a Community Justice Center to Staten Island purposed to reduce crime and incarceration, and strengthen community trust in justice, while also creating safer, more equitable neighborhoods through community-driven public safety initiatives, youth opportunity, and economic mobility efforts. Together, we reimagine a fairer and more holistic approach to justice, aiming to reduce incarceration and conviction and build substantial and meaningful community-based supports through innovative courts and alternatives to incarceration programming and services. I strongly encourage investment in each of the programs and areas outlined above to ensure that they can continue this successful work.

Thank you for your kind consideration of this letter as you make important financial determinations on behalf of the City of New York.

Sincerely,



Michael E. McMahon

District Attorney

MEM/aem



**New York City Council
Testimony of the Corporation for Supportive Housing (CSH)**

**2022 Hearing: Committee on Criminal Justice
March 23, 2022**

My name is Cassondra Warney, and I am a Senior Program Manager at the Corporation for Supportive Housing (CSH). CSH's mission is to advance solutions that use housing as a platform to deliver services, improve the lives of the most vulnerable people, and build healthy communities. We have been working in NYC as a supportive housing intermediary for over 30 years.

Today, I thank you for the opportunity to share about the immediate actions New York City Council and Mayor Adams' Affordable Housing Leadership Team need to take in 2022 to make humane, innovative, and fiscally responsible policy changes and investments in supportive housing to reduce homelessness for people impacted by the criminal legal system.

Several thousand people on Rikers Island – approximately 2,589 people in a given year – are experiencing homelessness and struggle with ongoing behavioral health needs. When released, these community members struggle to find adequate support, cycle through crisis systems (including shelter and emergency departments), and likely return to Rikers Island. This group needs an intervention of supportive housing – a combination of affordable housing with voluntary, individualized services. We know supportive housing can be solution to ending homelessness, disrupt the cycling through costly crisis systems, reduce jail recidivism and, improve health comes for many populations, especially those with behavioral health needs and criminal legal histories.

In CSH's recently released report, [we outline](#) the fiscal costs of supportive housing to serve this group of people. **Today I wanted to elevate two essential budgetary elements that need to be changed this year to support the de-incarceration of Rikers Island, which include: (1) expanding Justice-Involved Supportive Housing (JISH) and (2) increasing the annual commitment to Supportive Housing.**

From a budgetary perspective, the City needs to do the following:

Increase the City's Annual Commitment to Supportive Housing:

- Increase NYC's commitment to supportive housing by 1,000 units, for a yearly total of 2,000.
 - Dedicate 500 of the 1,000 new units to individuals who do not meet the homeless chronicity requirement due to their incarceration history. *Most people who need supportive housing held at Rikers Island are not eligible for NYC 15/15, the current city supportive housing funding, because of the homeless chronicity definition.*
- Enhance rental subsidy to align with current FMR and increase service funding for scattered-site to **\$17,500** per person.

Expand rates for Justice-Involved Supportive Housing (JISH):

JISH is currently the only designated supportive housing program for people leaving Rikers Island, and there are only 120 apartments available. DOHMH has put forth an RFP to increase units to 500, however due to the contracts rates being too low, there have been minimal bids since 2019.



- Give providers current Fair Market Rent (FMR) with an annual escalator. Currently, they are receiving rates based on the FY2017 FMR that doesn't cover rent for the tenants in 2022.
- Increase service funding to \$20,699 for scattered-site and \$25,596 for congregate service. People who have experienced incarceration, homelessness, and struggle with behavioral health needs have trauma and complex needs, and these essential service providers need adequate staffing to serve this group of people. *Currently, providers only receive \$10,000 in services per person.*

New York City moving these recommendations forward will be an innovative milestone and example for communities nationwide. They will reduce significant racial disparities in the criminal legal, and homeless systems and end the cycle of homelessness and institutionalization for those struggling with complex behavioral health needs who are incarcerated on Rikers Island.

CSH looks forward to working with the New York City Council on seeing these budgetary needs reflected in 2023's Budget. Implementing these recommendations are cost-effective in the long run, and essential to helping these fellow New Yorkers while also making our City safer.

Please reach out with questions you or other City Council members may have. CSH greatly appreciates your time and attention on this critical matter.

Sincerely,

Cassandra Warney
Senior Program Manager, Metro Team, CSH

cassandra.warney@csh.org



**TESTIMONY OF
THE FORTUNE SOCIETY**

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

City Hall,
New York, NY

Wednesday, March 23, 2022

SUBJECT: New York City Council Budget and Oversight Hearings on The
Preliminary Budget for Fiscal Year 2023, The Preliminary
Capital Plan for Fiscal Years 2023-2026 and The Fiscal 2022
Preliminary Mayor's Management Report

PURPOSE: To discuss the ongoing crisis at Rikers Island and the need to shift investment to
preventing detention/incarceration and promoting successful reentry from city jails.

Presented by

Andre Ward

Associate Vice President,
David Rothenberg Center for Public Policy

The Fortune Society
29-76 Northern Blvd.
LIC, NY 11101
212-691-7554

<http://www.fortunesociety.com>

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

My name is Andre Ward and I am the Associate Vice President of 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 frequent medical and mental health neglect, and the inadequacy of programming which properly prepares those detained for community reentry. Investing in public safety must include supports for those reentering our communities, such as behavioral health services, substance use treatment, medical care, and employment support and, equally as important, discrimination-free housing to prevent homelessness and the damaging prison-to-shelter pipeline.¹

2022 marks 30 years since I was at Rikers, yet according to research and the experiences of the people we serve, Rikers Island continues to perpetuate the deplorable conditions of the past, including inadequate support for those with mental health needs. More than 40% of its population have a mental health diagnosis. The 18 people who have died on Rikers since January 2021 reminds me of what I, myself, witnessed as a young man: The death of fellow detainees, both as a result of those incarcerated harming one another as well as correctional officers abusing detainees. It is important to note that 85% of people incarcerated at Rikers are awaiting trial and are presumed innocent,² and none of them deserves a death sentence, which we outlawed in 2007.

It is also important to note that the court-appointed *Nunez* monitor issued a special report just one week ago on March 16 – outside of the normal reporting schedule – because conditions have become so dire that the Monitor considers reform to be impossible until certain foundational issues are addressed. Chief among those issues, and the first listed, is “(1) ineffective staff management, supervision, and deployment.”³ The issue of staff not being at their posts has *not*

¹ Gross, C. (2018). *The New York Prison-to-shelter pipeline*. Spectrum News NY1. Retrieved March 21, 2022, from <https://www.ny1.com/nyc/all-boroughs/politics/2018/02/27/ny1-investigation-more-inmates-released-upstate-prisons-going-into-nyc-shelter-system>

² Herscovitz, E., Gatewood, G., & Staff, T. C. R. (2021, July 22). *NYC Rikers closure called model for shrinking jail populations*. The Crime Report. Retrieved March 21, 2022, from <https://thecrimereport.org/2021/07/21/rikers-closure-called-model-for-shrinking-jail-populations>

³ The Nunez Monitoring team (2022, March 16). *Special Report of the Nunez Independent Monitor*. Retrieved March 22, 2022, from <https://legalaidnyc.org/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>.

improved, contrary to DOC claims. There has been little to no improvement in numbers of staff available to work with people in custody. As of January 26, 2022, 30% of staff are either not reporting to work and/or are not available to work directly with people in custody.⁴ That sets the stage for a rise in violent incidents – by people in custody against each other, against staff, and for staff use of force against people in custody. Three people have died at Rikers so far this year, the most recent of whom, Herman Diaz, died choking on an orange while no staff came to his aid – because no staff was present.⁵ And countless violent incidents resulting in serious physical injury have occurred because posts have not been filled with uniformed officers as required.⁶

Also disturbing are these two quotes from the Special Report: First - “the Monitoring Team’s staffing analysis which found that the Department cannot accurately identify where staff are assigned or their status at any given time.”⁷ And second - “the dysfunction is so profound and pervasive that even a basic post analysis identifying where staff should be and when is impossible to conduct at this time.”⁸ Furthermore, on the Department at least temporarily stopped providing staffing information to the Nunez monitor, and we hope they will resume providing that data as promised this month.⁹

I bring all of this to your attention because uncovered posts are costing lives. I hope the City Council and the Board of Correction will demand, receive, and analyze weekly reports of the number and percentage of shifts that have gone uncovered or have experienced gaps in coverage.

I am encouraged by Governor Hochul’s expressed interest in improving the legal system.¹⁰ I was also encouraged to learn from Mayor Adams’s Financial Plan Summary for this year that New York City has the largest reserves in city history, and that the mayor is committed to investing in longer-term crime prevention in the interest of public safety, like fixing broken schools.¹¹ As part of that prevention strategy, we implore the Council to:

⁴ *Id.*

⁵ Rayman, G. (2022, March 21). *Rikers Island inmate dies after choking on an orange and no correction officer was there to help – sources.* The Daily News. Retrieved March 22, 2022, from <https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-detainee-died-choked-staffing-crisis-20220321-s6k2mmpthzf2taizl22fmauw6i-story.html>.

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

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Governor Hochul signs criminal justice reform legislation to give formerly incarcerated New Yorkers Second Chances, reducing recidivism and enhancing public safety.* Governor Kathy Hochul. (2021, October 22). Retrieved March 21, 2022, from <https://www.governor.ny.gov/news/governor-hochul-signs-criminal-justice-reform-legislation-give-formerly-incarcerated-new>

¹¹ Jiha, J. (2022, February). *Www1.nyc.gov.* The City of New York Preliminary Budget Fiscal Year 2023 . Retrieved March 21, 2022, from <https://www1.nyc.gov/assets/omb/downloads/pdf/sum2-22.pdf>

- Take the recommendations of the Commission on Community Reinvestment and invest in the communities most impacted by mass incarceration.¹²
- Take immediate steps to aid people who are expecting release to remove the obstacles impeding successful reentry back into the community. This can be accomplished by funding programs which begin *before* release including continuous medical and mental healthcare, substance use treatment, entitlements and benefits, employment, education -- and housing that is free from discrimination. These investments are not only humane and common-sense, but are genuinely within the interest of public safety. Having these types of programs in place have been proven, time and time again, to greatly curb recidivism,¹³ which means reduced crime and improved community safety. We cannot expect reduced recidivism unless we take bold steps toward making successful reentry within reach.

In 2021, New York City spent nearly 3 times more for each incarcerated individual than the second most expensive jail system in the country, which translates to almost *half a million dollars per person*, per year.¹⁴ The spending is increasing steadily, even as the numbers of those incarcerated decrease.¹⁵ This is both unprecedented and unnecessary. When we are spending far more on incarcerated individuals than we are in investing in communities and reentry programs, this is clear evidence that something is terribly wrong – and must be fixed. A reallocation of funds could make these essential changes.

Let us give voice to the voiceless: We ask of you today to put funds where they can be best used – toward solving the inhumane and unjust treatment of people who are incarcerated, and supporting reentry and community uplift. We are respectfully requesting the following:

¹² *Commission on Community Reinvestment and the Closure of Rikers Island Report*. www1.nyc.gov. (2021). Retrieved March 21, 2022, from <https://www1.nyc.gov/assets/hra/downloads/pdf/hra-docs/Commission-Community-Reinvestment-Report.pdf>

¹³ *Prison reform: Reducing recidivism by strengthening the Federal Bureau of Prisons*. The United States Department of Justice. (2017, March 6). Retrieved March 21, 2022, from <https://www.justice.gov/archives/prison-reform>

¹⁴ *A look inside the new york city correction budget*. (2021, May). Retrieved March 21, 2022, from <https://www.vera.org/downloads/publications/a-look-inside-the-new-york-city-correction-budget.pdf>

¹⁵ *A look inside the new york city correction budget*. (2021, May). Retrieved March 21, 2022, from <https://www.vera.org/downloads/publications/a-look-inside-the-new-york-city-correction-budget.pdf>

- o Close Rikers; which is, as our CEO Joanne Page aptly described, “a pulsing tumor on our beloved city,”¹⁶ where people in DOC custody are subject to some of the worst jail conditions in the country¹⁷ – it must be closed without delay. Even shutting down two jails on the Island would save the city \$11 million per year.¹⁸
- o Reallocate the bloated budget for the DOC, where they far outspend any other city with far fewer incarcerated people,¹⁹ and invest in reentry programs with proven histories of reducing recidivism. Let’s begin these programs pre-release, so people can face reentry with the tools they need to succeed.
- o Following the Mayor’s recommendation, let’s invest in long-term prevention,²⁰ and invest in people and communities to fix broken schools but also worthy alternatives to incarceration, diversion programs, resources for substance use conditions, and more, where we can genuinely help, such as ending the school-to-prison pipelines in our communities.
- o Hire *no more* corrections officers, and let’s instead fix the vastly wasteful current system: They are *not* understaffed. We currently have 1.5 officers per incarcerated person,²¹ far more than we need. Instead, we need to end the costly abuses of unlimited sick leave²² and guards being

¹⁶ Page, J. A. (2022, January 17). *Adams' obligation to Rikers Island*. nydailynews.com. Retrieved March 21, 2022, from <https://www.nydailynews.com/opinion/ny-oped-adams-obligation-to-rikers-island-20220115-la7frefuvveqng54tp24hizsyu-story.html?outputType=amp>

¹⁷ Matt Katz, James Ramsay, Jake Offenhartz, & Elizabeth Kim. (n.d.). *Rikers detainees seek half-million dollar fine after being denied thousands of medical appointments*. Gothamist. Retrieved March 21, 2022, from <https://gothamist.com/news/rikers-detainees-seek-half-million-dollar-fine-after-being-denied-thousands-medical-appointments>

¹⁸ *NYC Department of Correction - New York City comptroller*. (2019). Retrieved March 21, 2022, from https://comptroller.nyc.gov/wp-content/uploads/documents/Correction_FY2019.pdf

¹⁹ *A look inside the new york city correction budget*. (2021, May). Retrieved March 21, 2022, from <https://www.vera.org/downloads/publications/a-look-inside-the-new-york-city-correction-budget.pdf>

²⁰ Jiha, J. (2022, February). *Www1.nyc.gov*. The City of New York Preliminary Budget Fiscal Year 2023 . Retrieved March 21, 2022, from <https://www1.nyc.gov/assets/omb/downloads/pdf/sum2-22.pdf>

²¹ NYC Comptroller, December 2021

²² Rayman, G. (2022, January 24). *Hundreds of Rikers Island correction officers caught abusing sick leave policies during COVID staffing crisis: 'just completely dysfunctional'*. nydailynews.com. Retrieved March 21, 2022, from <https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-island-correction-officers-abusing-sick-leave-policies-covid-20220124-24qbfqnuizfzifjavvvumw2ys4-story.html>

placed in non-jail posts, like working at the bakery or in the laundry room.²³ In other jail systems, these positions are filled by civilians, so that the guards can fulfill their necessary obligations. To that end, too, we must create accountability for corrections officers's while they are on the job – a recent investigation found that a majority of guards were not at their assigned posts, and were often found in the locker rooms or elsewhere.²⁴ Let us not be part of making this system more inefficient and more bloated than it already is, and let us hold them accountable to us, the taxpayers.

And finally, let's take the word corrections seriously. Let's correct the solely punitive pathways in New York City's criminal legal system, and make rehabilitation our priority. We can divert funds from the swollen, inefficient operations of the city jail system to programs with genuine promise of progress – from diversion and prevention programs to vocational training, education, mental health and substance use treatment and reentry preparation, so that people have the opportunity to avoid incarceration or leave places of incarceration with hope and the skills and tools they need to succeed. This is not only a pathway to humane treatment, but also one with a proven track record of improving public safety.²⁵

Leaders such as yourselves, I am sure, remain committed to making a difference in the way the criminal legal systems operates, and I deeply appreciate your time today. Yet the time is now to make these urgent changes and make a more fair and more just New York City.

²³ Ransom, J., & Pallaro, B. (2021, December 31). *Behind the violence at Rikers, decades of mismanagement and dysfunction*. The New York Times. Retrieved March 21, 2022, from <https://www.nytimes.com/2021/12/31/nyregion/rikers-island-correction-officers.html>

²⁴ Rayman, G. (2022, January 24). *Hundreds of Rikers Island correction officers caught abusing sick leave policies during COVID staffing crisis: 'just completely dysfunctional'*. nydailynews.com. Retrieved March 21, 2022, from <https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-island-correction-officers-abusing-sick-leave-policies-covid-20220124-24qbfqnuizfzjfjavvvumw2ys4-story.html>

²⁵ *Commission on Community Reinvestment and the Closure of Rikers Island Report*. www1.nyc.gov. (2021). Retrieved March 21, 2022, from <https://www1.nyc.gov/assets/hra/downloads/pdf/hra-docs/Commission-Community-Reinvestment-Report.pdf>

Testimony to the City Council Committee on Criminal Justice

Submitted by Anna Pastoressa

March 23, 2022

Dear Chair Rivera and Council Members,

Thank you for this opportunity to testify. My name is Anna Pastoressa. I'm a leader with Freedom Agenda and longtime leader in the movement to close Rikers.

In this budget I see that some New York City agencies are going to suffer with less funding, such as the Parks and Recreation Department, the Sanitation Department especially composting, even the Health Department and Youth Services, which are all very important to build and strengthen communities in NYC. Then I realize that we have been distracted by the introduction of vegan meals in schools, while money is being taken away from Education too. Mayor Adams talks about "prevention and intervention for youth so that they don't go into a pathway of crime". Unfortunately, I don't see those words reflected in this budget.

What I see instead is that the Department of Correction's budget is being increased by \$52 million from their last approved budget. This is a department that is not capable of and not willing to do the bare minimum of their responsibilities. They are not only abusing their sick leave by the thousands and wasting hundreds of millions in taxpayer dollars, but they are responsible for many wrongful deaths on Rikers Island. I have witnessed DOC atrocities against incarcerated people, abuses to visitors and illegal strip searches with my own personal experience when visiting my son who was incarcerated for 6 years on Rikers while waiting for trial. Correction officers were behaving like real criminals and they continue in the same criminal manner.

The inadequate and disturbing conduct of this department should be addressed, not funded. This department is not worthy, nor will it be "fixed" with more funding or more staff. The City of New York has already paid \$12.5 million to settle a case over illegal strip searches in the New York City jails, plus many more millions to settle wrongful deaths. DOC is the sole cause for those suits. But the proposed budget offers to now only maintain but increase their funding?

It's time to re-distribute funds where they are really needed, such as Education, Mental Health, Housing, Drug Rehabilitation, Composting, Parks.... The figures in this budget are invested in "punishment" of poor people who have no access to resources, who get arrested and sent to jail. The figures in this budget are also a punishment to tax payers, who have been wasting their money to pay correction officers salaries while they evade work and to pay for lawsuit settlements. New Yorkers are counting on our allies in the Council to divest from the department of correction and invest in local communities, especially in the ones in the poorest parts of our city.

Testimony to the City Council Committee on Criminal Justice

Submitted by Darren Mack of Freedom Agenda

March 23, 2022

Thank you Chair Rivera and Criminal Justice Committee members. My name is Darren Mack. I'm a Co-Director at Freedom Agenda. I'm also a member of the Commission of Reinvestment and the Closure of Rikers Island established by Local Law 193. This Commission is charged with ensuring significant reinvestment recommendations are made in vulnerable communities disparately and historically impacted by mass incarceration. That Commission has just released [its first report](#).

Research and data have shown a significant percentage of individuals impacted by the criminal legal system reside in historically under-resourced neighborhoods in New York City.

As a co-chair of the Youth sub-committee in the Commission, our mission is to identify investments that will prevent or remove young people from the criminal justice pipeline. The question remains, where will the city get the funding from? New York City's Department of Corrections has the highest DOC budget in the country. The proposed Fiscal Year 2023 DOC budget is \$2.679 billion dollars. We spend the most money in DOC and get the worst results. To be clear, we want the programs and services that the people held in pretrial detention rely on to continue to be funded to meet their basic needs. Therefore, we want to be strategic in right-sizing DOC's bloated budget in key areas like reinstituting a hiring freeze of more staff to DOC which already has the largest DOC staff in the country would save \$92M this year or reducing overtime spending by consolidating operations and closing at least two jails on Rikers could generate up to \$110M in savings.

I urge the City Council to deflate DOC's budget and we will be able to reinvest those resources to fund the Commission recommendations and all of the organizations providing programs and services in communities impacted by the criminal legal system.

Thank you!

Darren Mack

Co-Director, Freedom Agenda

dmack@urbanjustice.org



Testimony to the City Council Committee on Criminal Justice

Submitted by Sarita Daftary

March 23, 2022

Good morning Chair Rivera and Council members,

My name is Sarita Daftary and I am a co-director of Freedom Agenda, one of the organizations leading the Campaign to Close Rikers, and I'm glad to testify here today along with our members and partners.

Today, you have heard answers about the operations of the city jail system that are simply unacceptable. These problems did not originate with this administration or department leadership, but they must end here. We cannot lose more lives in DOC custody. We cannot see more lives forever damaged by the gross negligence of the New York City jail system. And we cannot allow mass absenteeism and fraud to be rewarded with more staff and more funding. Not only would that be a distraction from the real solutions needed to improve conditions in the jails, but it would continue the pattern of starving our social service agencies of resources that are instead lavished on the country's most corrupt jail system. It is long past time to stop.

Our members who have experienced Rikers and whose loved ones are there now have watched in horror as we see one after another preventable deaths. Imagine how every person who loves someone currently trapped on Torture Island must feel when learning that last week, a man died choking on an orange in a unit where the one officer available failed to intervene. The level of disregard for human life is chilling. Then let's consider that Mr. Diaz was incarcerated at EMTC, which has [715 uniformed staff](#) assigned to it according to the city's February 2022 Departmental Estimates. How many of those staff were home abusing sick leave, or simply not at their post, when Mr. Diaz was choking? Then let's further consider that Mr. Diaz suffered from addiction and mental illness. Herman Diaz would likely be one of the thousands of people in the city jail system who could be served by supportive housing, based on recent analysis by the CSH. This analysis shows that the city spends approximately \$1.4B annually to incarcerate over 2,500 people who could be served by supportive housing at a cost of \$108M. That means we could save \$1.2B, save lives, and make our city infinitely safer than jail ever could. The only question is why are we not doing that? So far, the city has been unwilling to change old patterns, hold DOC and its staff accountable, and plan for new careers for people who are no longer needed as correction officers. We desperately need this Council to move the city into a new era where we instead prioritize care, support, and upstream solutions.

In light of this reality, the Campaign to Close Rikers asks all members of the City Council to insist on the following changes to the Proposed FY2023 budget:

- **No new COs.** Freezing hiring for jail guards should produce about \$92M in savings this year. It is not yet clear if DOC plans to hire a new class of officers this year.

- **Reduce overtime spending** by consolidating operations and closing at least two jails on Rikers. This could generate up to \$110M in savings.
- **Maintain DOI's capacity to investigate DOC.** Despite reports of [corruption](#) and [fraud](#), the Mayor's budget would cut the number of DOI staff assigned to DOC by 20% (4 positions).
- **Increase Board of Correction headcount** in proportion to DOC headcount; this type of linked budget exists for other oversight agencies [like the CCRB](#). Increasing BOC headcount to 1% of DOC's would double the number of BOC staff positions, but would add only \$3.7M to the expense budget.
- **Redirect funds** to meet community needs like [supportive housing](#), healthcare, and programs for young people that will reduce the flow of people into the jail system.

Beyond these immediate responses, we need the leadership from the Council to initiate [a just transition](#), to invest in the jobs that move our city forward and the preparation New Yorkers need to access them.

We urge the Council to hold the Mayor accountable to his pledge to "go upstream" to address our City's problems and to close the pipeline that feeds Rikers. Unfortunately, this budget will not do that.

Thank you,

Sarita Daftary

Co-Director, Freedom Agenda

Sdaftary@urbanjustice.org

Testimony to City Council Committee on Criminal Justice

Submitted by Victor Herrera

March 23, 2022

My name is Victor M Herrera, a proud member of **Freedom Agenda, Fair Chance Housing, Treatment Not Jails, and Center For Community Alternatives** and am grateful to be here today to add my voice and my personal experience in the pre detention and State incarceration system and why continued funding a widely failed system that impacts the community in so many ways to a Human Rights crisis must End!

I was originally released on 9/13/01 (actually 9/11/01 was my intended release date). My incarceration was an intense experience both learned, traumatizing and what I would have to say only affected my mental health that required treatment. My life has faired better than many of friends. Detention and imprison only adds more to our community concerns. Returning citizens are now affected by a conviction, mental health, employment crisis and housing crisis, a clear pathway to an absence of resources and recidivism even made worse with repeated death.

What should happen is that the Committee needs to redirect funds to meet the community needs like Supportive Housing, Healthcare, and programs that work such as Re-entry. End funding failed systems like DOC and DHS and Non-profits Shelters systems. My most recent experience with three non profits Housing Works, Lantern Community Services and now Acacia Network has left me not only street homeless and sleeping in my car on the coldest of nights but even worse being disabled and suffering from mobility concerns that the Department of Homeless Services would go as far as attempting to cover even a physical assault upon my person by non profit personnel by attempting to transfer me under the guise of safety. The absolute funding of these institutions that solely end in human Rights crisis only end up becoming a more serious community health concern and this I just cannot see DOC and DHS operations and funding being no different in their approach to treatment and lack of humanity. End the over policing of our communities mentally and physically ill, in crisis and homeless and economically challenged by redirecting resources into our communities. Thank you.

Testimony to the City Council Committee on Criminal Justice

Submitted by Crystal Gooding, member of Freedom Agenda

March 23, 2022

Dear Chair Rivera and Committee members,

I am here to say that I am my older generation's wildest dreams. I am here to live out everything that they felt like they couldn't, that they were too scared too, did not have the guts too and did not know how to. I am here to speak up for what is right and not be silenced. The Criminal justice system should not be such a common part of our story, of our daily lives or our journey. The justice system has taken away so many of our fathers, our community leaders, our uncles, but there needs to be a way that we can ensure it doesn't now take our sons and our grandsons, that it doesn't permanently devour whoever we have left. There needs to be a stop within this system, where we are able to say enough is enough and the old way is not working. Someone needs to admit that the things we are doing now is causing damage and be able to reinvent and most importantly reinvest!!

My partner has spent the last 17 months on Rikers Island – the most expensive and most corrupt jail system in the nation. Everything we hear about the horrors of Rikers have been his reality – no recreation, no access to medical care, programs and visits suspended for months, and guards who have basically abandoned people whose safety and well-being they are supposed to responsible for. My partner struggled with a substance abuse issue for about a year and a half and he was sent to two different District Attorney appointed programs, both of which failed him. We don't just need treatment, we need quality treatment that meets people where they are and recognizes that recovery is a process. What I know for sure is that my partner's addiction is not being addressed on Rikers.

I am here today to remind everyone that this ridiculously high criminal justice budget is putting us further in debt and not in just a financial aspect but in a public safety aspect, in an education aspect, in a sense of community aspect, in a moral aspect. We are pouring into cups that are already overfilled and leaving the ones that so desperately need it empty. We are taking away from the people, the services, the access to basic human rights. Right now those cups are empty and enough is enough. Please redirect this budget into the people and give us a chance to now do things the right way and do right by the people who so desperately need it. We can't afford to wait any longer.

**Testimony of
The Legal Aid Society**

on

The Preliminary Budget for Fiscal Year 2023

**The New York City Council
Committee on Public Safety**

March 18, 2022

and

Committee of Criminal Justice

March 23, 2022

The Legal Aid Society welcomes this opportunity to provide this testimony before the New York City Council concerning the Executive Budget for Fiscal Year (FY) 2023 and its impact on the services we provide clients and communities.

The expansive reach of the Criminal Defense Practice runs from its dynamic advocacy of clients in court, to its presence and partnership in communities. As the primary public defender in New York City, staff zealously and tirelessly work to protect the rights of the most marginalized and disenfranchised in society, and our scope as the country's largest public defender goes beyond any single case or client. Our community engagement, impact litigation, and broader advocacy consistently strives for increased fairness and humanity in the criminal justice system and seeks to reduce the devastating and permanent consequences of system involvement for our clients.

Throughout this very difficult year, we at The Legal Aid Society's Criminal Defense Practice kept true to our mission, values and mandate as New York City's public defender. The Criminal Defense Practice includes experienced Trial offices in every borough, an Appeals Bureau, a Parole Revocation Defense Unit, Special Litigation Unit, and the aforementioned Prisoners' Rights Project and Community Justice Unit. In each area, the Practice has developed innovative projects that provide holistic wraparound services and push both the practice and discourse of criminal justice forward. The work of these projects -- the Exploitation Intervention Unit, Decarceration Project, Adolescent Intervention Diversion Unit, DNA and Digital Forensic Units, Wrongful Conviction Project, Workers Justice Project and Incarcerated Client Services Unit-- was never more needed than this year.

This past year, like the last few years, has been immensely difficult for the people we serve. The Delta and Omicron variants continued to devastate our client communities, causing many to lose their housing, employment, and other safety nets. Staffing shortages at the Department of Corrections created unsafe and inhumane conditions for those people incarcerated, resulting in harm and death for those most vulnerable. Recent increases in arrests for people accused of very serious crimes and case backlog resulting from Governor Cuomo's executive orders issued in 2021, have caused workload and caseloads of Legal Aid staff to skyrocket. Nonetheless, our staff continue to go the extra distance, doing whatever it takes to ensure they are present, and their clients are not alone.

While the challenges facing our clients continue to increase, and the resources needed to meet our clients' needs continues to grow, our contract funding has remained flat, causing enormous cashflow challenges that threatened payroll and operational support;

- **NYC Cost of Living Adjustments (COLA) that were promised by the Administration for FY 21 and FY22 were eliminated, and we have received no confirmation that COLAs will be received in FY23.**
- **Promised expansion of Pay Parity for more senior attorneys was halted.**

Justice in Every Borough.

- **Federal aid under the PPP program, used by many to cover the FY22 shortfall, were not applicable to our organization given our size and budget.**
- **Our City funding contracts for our criminal trial- level, including homicide representation and appellate-level legal services, have been keep flat since 2020, while costs continue to increase.**
- **The crisis at Rikers has resulted in a dramatic increase of calls to our crisis hotline by incarcerated people that require additional staff. Our funding did not increase.**

For the Criminal Defense Practice, funding from the Executive budget supports the constitutionally mandated trial-level and appellate-level legal services. The base contracts for this work have remained flat since 2020. In addition to the funding received by the Executive, we receive funding from the New York State Office of Indigent Legal Services that cannot be used to supplant New York City's responsibility to provide funding for indigent defense, as well as, funding from the Office of Court Administration that is set to expire at the end of the FY 23 year with no promise for renewal. This funding has also been kept flat since FY 20.

In addition, special annual allocations from the City Council support the following critical services through discretionary contracts:

- Our **Community Justice Unit**, which provides invaluable legal services to the Cure Violence/Crisis Management System community-based organizations. In FY 22 the total discretionary funding for this work was 1 million dollars. In FY 23, **we are asking for 1.3 million to allow us to keep pace with the increase in partner sites in each borough which have increased dramatically over the last few years.** As our City works feverishly to respond to the need for proactive violence prevention measures, we remain steadfast in our efforts to play the critical life-saving work.
- Our **Prisoners' Right Project**, which services detained and sentenced persons in local jails and those New York City residents serving a prison sentence upstate. In **FY 22 we were funded 1 million dollars for this work. In FY 23 we are seeking 1.4 million to allow us to expand the unit to meet the dramatically increased needs of those incarcerated in NYC jails given the crisis that is occurring at Rikers with staff shortages and continued COVID concerns.**
- Our **Pre-Arrest Diversion Project** that provides critical early intervention to those arrested and awaiting arraignment to increase the likelihood someone can be released on their own recognizance or to a program or services in the community. **In FY 22 we received \$930,000. In FY 23 we are seeking an enhancement in the amount of \$1,000,000. To increase staff that can work directly in arraignments serving people in mental health crisis**

- In addition, in FY 23 **we are seeking \$400,000 from the Support from Persons Involved in Sex Trade Initiative** to support the work of our **Exploitation Intervention Project** that serves cis and trans woman who are victims of trafficking and exploitation but find themselves caught in the criminal justice system.

Year After Year Flat City Contracts For Constitutionally Mandated Services Create Significant Strain On Services and Operations

The Legal Aid Society, as well as all other defender and legal services organizations, providing mandated and vital services to New York City are independent nonprofits that contract with the City to these provide services. The funding we are provided must cover all expenses, including personnel services, all fringe benefits, including healthcare and retirement contributions, occupancy and leasehold improvements, and all of the operational support (IT, Human Resources, Finance and Facilities). This simply is not the case for any City agency, nor the District Attorneys that are our opposing counsel on our client matters. When the District Attorneys are provided additional funding, the entirety of that funding can be applied directly to their personnel and programming. In contrast, when our budget is kept flat, cost escalations in healthcare and occupancy, technology refreshes or costs related to union contract obligations to our unionized staff must be paid for, leaving very little, if any, funding to replace attrition or add to the staffing level to meet increase workload. For example, occupancy costs are up 1.8% in base rent year over year, and medical insurance costs have increased an average of 10% over the last 2 years. In addition, salary changes required by contractual bargaining agreements, including employees moving up a salary step with an additional year of experience, a projected increase of nearly 4% for Criminal Trials.

We will be providing a full analysis of our FY23 asks to OMB, HRA, and MOCJ.

Pay Parity Funding and Restoration of Discussion Around Parity Expansion

The City exhibited important leadership in 2019 when it recognized the need to ensure parity with the City's Corporation Counsel and the City's defenders and legal services lawyers. The City made an extraordinary contribution to the economic stability of Legal Aid's hardworking attorney staff when the City supplemented our existing program revenue with a "parity" supplement for our most junior attorneys (years 0-5). Although we have not yet received parity dollars for either FY20 or FY21, we at Legal Aid immediately turned over the parity dollars to our staff and negotiated a new living wage salary scale for our staff on the expectation that the parity dollars would be baselined in FY21 and beyond.

Happily, the City reengaged with us to restart discussions about the promised expansion of Pay Parity for attorneys beyond five years of service and with good reason. We are experiencing serious attrition among our more senior staff, at the same time that we are facing hiring challenges of experienced attorneys to meet the growing demand for felony representation in the Criminal Practice (and housing representation in the Civil Practice). We learned through those discussions that at the same time the City was negotiating with the defenders over Pay Parity in 2019, Corporation Counsel's attorneys and attorney supervisors received an additional 3% raise which was not provided to the defender and legal services organizations. Therefore, while we continue to engage in the analysis needed to agree to the amount of funding we need in FY 23 to support our needs, it is incumbent on the City to increase our current parity dollars by 3%, to offset unfunded increases to our expenses and to restore parity with Corporation Counsel. We implore the City to make good on its commitment to ensure Pay Parity in FY 23. It would be an extraordinary hardship if, after taking this critically important step, the City were to decline to deliver on their promise.

CONCLUSION

We thank the Council for your long-standing support for The Legal Aid Society's essential criminal defense and civil legal services programs and we thank you for the value you place on our role in our City.



Testimony of:

**David Long
Executive Director, The Liberty Fund**

Before the:

New York City Council

**Committee of Criminal Justice
Budget Hearing
March 23, 2022**



Thank you for allowing me to testify today. My name is Dave Long and I am the Executive Director of The Liberty Fund.

This testimony outlines our programming and how funding from the NYC Council will enable continued justice reform while ensuring public safety. Attached is a two page flyer which provides the specifics on our work.

ORGANIZATION MISSION AND HISTORY

The Liberty Fund's mission is to reduce the number of New Yorkers subjected to unnecessary pretrial detention while simultaneously providing them with much-needed social services. We achieve our mission by providing pretrial services, including bail and robust case management, to any qualifying bail or ROR client throughout the pendency of their court case. The Liberty Fund reduces the pretrial jail population, prevents the poorest New Yorkers from having their lives upended and their freedom sacrificed, and provides support in order to avoid future interactions with the criminal justice system.

Since 2016, The Liberty Fund has successfully provided person-centered services and access to resources for the pretrial jail population using a court-based approach. As part of the Liberty Fund's model, our team addresses critical needs, helping clients meet their court requirements while connecting them to best-fit services, especially in housing and workforce development.

As NYC's first and ONLY New York State licensed city-wide charitable bail fund, The Liberty Fund is an independent 501(c)(3) organization originally established in 2016 in partnership with NYC Council and the late George McDonald, founder of The Doe Fund, NYC's leading agency in reducing recidivism and homelessness through social enterprise coupled with transitional housing and supportive services including workforce development. The FJC Foundation provided the funds to create a revolving bail fund for posting bail.

In January of 2020, as a proactive response to monumental bail reform efforts and in anticipation of great need, The Liberty Fund executed a strategic pivot from bail to implement the ROR Case Management Program. This innovative program provides voluntary person-centered case management to this vulnerable population. From January 2020 to June 2021, there were 82,221 individuals released on recognizance from NYC criminal courts. In response to COVID, we made a successful conversion to hybrid operations, and today, our justice work continues to be a proactive solution in terms of addressing criminal justice issues and racial inequities during the COVID crisis and beyond.

USE OF NYC COUNCIL FUNDING

Funding will enable us to continue to provide citywide pretrial services consisting of person-centered case management, social service referrals, court reminders, and wellness checks for bail clients and individuals released on their own recognizance (ROR) to help restore and stabilize their lives.

Our work fills a significant social service gap in the justice system while ensuring continued reform in a post-pandemic landscape that also ensures public safety. As the ONLY remaining charitable bail fund in NYC, The Liberty Fund brings comprehensive and restorative pretrial services to the justice system.

The Liberty Fund's target population are low-income individuals who: 1) have a misdemeanor charge and bail set at \$2000 or less and are financially unable to post bail; OR 2) are released on recognizance (ROR); and 3) voluntarily agree to participate.

Our model has four innovative features for impact:

- Pretrial - Interventions are initiated at the most critical touchpoint for success.
- Voluntary - Non-mandated services ensure no additional sanctions or restrictions are placed on our clients to prevent further "net widening."
- Person-Centered - Services are determined by the participant (self-determined) in order to better meet their individual needs, promote personal agency and connect them to best-fit services.
- Court-based - Low-touch interventions are leveraged during court appointments for effective time usage.

Each client participates in the following services during the pendency of their case:

- Access to Social Service Team - Services led by our Social Services Director (LCSW) and 2 certified Case Managers who also double as licensed New York State bail bond agents.
- Case Management - Intake, needs assessments, service plans, and wellness calls.
- Community-Based Referrals - Referrals to best-fit services with an emphasis on housing, job training and wellness programming.
- Critical Court Needs - Client court reminders and emergency needs, such as MetroCards, food vouchers, hygiene kits.

Core outcomes we will aim to achieve and track with our clients include:

- Achieve 90% court appearance rate, as measured by webcrims and client/attorney communications.
- 100% of cases receive needs assessments, case management, and court reminders.
- 100% client satisfaction, as measured by client exit interviews.

PARTNERSHIPS

The Liberty Fund partners with key stakeholders from the community as follows:

- **Defense Agency Partnerships** - The Liberty Fund has formal partnerships with CJA, NYCDS, Legal Aid, Bronx Defender Services, Brooklyn Defender Services, and the Assigned Counsel Plan (18B attorneys) for direct client referrals to provide our pretrial services. These partnerships have resulted in The Liberty Fund getting new clients starting in April 2020 during the pandemic court closures, including parole violations released from Rikers due to COVID.
- **Attorney Communication** - The Liberty Fund communicates with all client attorneys to help relay the most current information to all parties. This best practice has been important due to the unusual times.
- **Resource Manual** - The Liberty Fund has developed and regularly updates a citywide referral resource manual with a network of formal partnerships with several social service organizations. This manual has been specifically adjusted to ensure clients can navigate and access services in the post-pandemic landscape.

As a result, we serve vulnerable populations from all 5 boroughs. The following are zip codes historically served by The Liberty Fund:

BRONX: 10451; 10452; 10453; 10454; 10455; 10456; 10457; 10458; 10459; 10460; 10462; 10463; 10465; 10466; 10467; 10468; 10469; 10472; 10473; 10474; 10475.

BROOKLYN: 11202; 11203; 11205; 11206; 11207; 11208; 11209; 11210; 11211; 11212; 11213; 11215; 11216; 11217; 11218; 11221; 11222; 11223; 11224; 11225; 11226; 11229; 11230; 11231; 11233; 11237.

MANHATTAN: 10001; 10002; 10009; 10010; 10011; 10012; 10014; 10016; 10017; 10019; 10023; 10024; 10025; 10026; 10027; 10028; 10029; 10030; 10031; 10032; 10033; 10034; 10035; 10036; 10037; 10039; 10040.

QUEENS: 11377; 11354; 11361; 11367; 11368; 11373; 11385; 11411; 11412; 11413; 11418; 11422; 11429.

STATEN ISLAND: 10301; 10302; 10303; 10304; 10308; 10309; 10310.

COMMUNITY BENEFIT

The Liberty Fund benefits the community because our groundbreaking approach ensures no net-widening and builds personal agency for individuals from NYC communities that have been historically impacted by racial/social injustices. The Liberty Fund also ensures that the recent criminal justice reforms remain consistent while filling a critical service gap, especially in the post-pandemic landscape, to ensure public safety

Specifically, The Liberty Fund provides the following community benefits with our target population:

- **Filling a Critical Service Gap** - Few NYC programs like The Liberty Fund focus on the misdemeanor population, especially older and homeless individuals, resulting in higher recidivism rates if not addressed.

- **Racial and Social Justice** - Misdemeanor bail fundamentally penalizes poverty and rewards financial privilege, while Black/Brown people continue to be disproportionately arrested for misdemeanor crimes in NYC. The Liberty Fund is NYC's **ONLY** remaining charitable bail fund to serve these individuals.

- **Rising Detention Costs** - Pretrial detention is a significant financial burden to the community. The NYC Comptroller's office has placed the recent cost of incarcerating an individual in New York City at a record \$1,226 per day in 2020, not counting community losses from disruption of work, childcare, housing. Misdemeanor cases can often range up to three to five months to resolve.

- **NYC Parole Population** - Through our dynamic partnerships with defense counsel agencies, we are exploring ways to address and serve the stagnant parole violation population, which are non-violent, non-criminal offenses, and threaten efforts to close the Rikers jail complex.

IMPACT OF PAST FUNDING

Historically, The Liberty Fund's operations had been 100% covered by our discretionary contract with The New York City Council. Due to the COVID-19 crisis, our funding for FY2021 (beginning July 1, 2020) was eliminated. Then in FY2022, we received New York City Council once again to provide our essential pretrial services, which is expected to serve 200 people by 6/30/2022.

With this investment from the NYCS Council over the past 5 years, The Liberty Fund has:

- Helped 1,300+ clients access community-based services.
- Prevented 6,000+ days of detention.
- Facilitated annual cost savings of \$4 million on the City's incarceration spending.
- Achieved an 88% client court appearance rate.
- Paid \$843,450 for individuals who could not afford their misdemeanor bail prior to the 2020 bail reforms.
- Our model was a Merit Finalist in the Mutual of America 2019 Community Partnership annual competition.

Since its beginning in January 2020, our ROR Case Management Program has:

- Served over 200 people in need of critical pretrial services.
- Conducted over 10,500 court reminder and wellness calls.
- Sent over 5,200 client updates to assigned attorneys.
- Made 327 referrals to community-based organizations and providers.
- Maintained an 89% client court appearance rate.

THE LIBERTY FUND

Mission

The Liberty Fund reduces the pretrial jail population, prevents the poorest New Yorkers from having their lives upended and their freedom sacrificed, and provides support in order to avoid future interactions with the criminal justice system. We achieve our mission by providing pretrial services, including bail and robust case management, to any qualifying bail or ROR client throughout the pendency of their court case.

Target Population:

Vulnerable, low-income individuals:

- Misdemeanor charge and bail set at \$2000 or less.
- Released on recognizance (ROR).
- Voluntarily agree to participate.
- Past demographics include 87% men; 53% Black; 35% Latinx; 38% Ages 20-29; 42% Ages 30-39.

Program Design and Services

INNOVATIVE MODEL

Our model has four innovative features for impact:

- **Pretrial** - Interventions are initiated at the most critical touchpoint for success.
- **Voluntary** - Non-mandated services ensure no additional restrictions placed on clients to prevent further "net widening" as they stabilize their lives.
- **Person-Centered** - Services determined by client to better meet individual needs, promote personal agency and connect to best-fit services.
- **Court-Based** - Low-touch interventions leveraged during court appointments for effective time usage.

DIRECT SERVICES PROVIDED

Each client participates in the following services:

- **Case Management** - Intake, needs assessments, service action plans, and wellness calls.
- **Critical Court Needs** - Client court-reminders and emergency needs, such as MetroCards, food vouchers, hygiene kits.
- **Workforce Development and Homelessness Interventions** - Referrals to best-fit housing/job training programs.
- **Access to Social Service Team** - Services led by our Social Services Director (LCSW) and 2 certified Case Managers who double as licensed New York State bail bond agents.

Questions? Don't hesitate to contact us.

David Long, Esq.
Executive Director
dlong@libertyfund.nyc
(646) 373 0327

Check out more at www.libertyfund.nyc

Community Benefits



Racial and Social Justice - Misdemeanor bail fundamentally penalizes poverty and rewards financial privilege, while black/brown people continue to be disproportionately arrested for misdemeanor crimes in NYC, including non-violent, non-criminal parole violations. The Liberty Fund is NYC's ONLY remaining charitable bail fund to serve these individuals.



Filling a Critical Service Gap - Few NYC programs like The Liberty Fund focus on the misdemeanor population, especially older and homeless individuals, resulting in higher recidivism rates if not addressed.



Social Service Impacts - Since 2017, we have helped 1,200+ clients access community-based services, prevented 5,000+ days of detention, facilitated annual cost savings of \$3million, and achieved an 87% client court appearance rate.

Partnerships



Defense Agencies - including NYCDS, Legal Aid, Bronx Defender Services, Brooklyn Defender Services, and 18B attorneys.



NYC Parole Population - including exploring ways to address and serve the stagnant parole violation population on Rikers Island, which threaten closing the Rikers jail complex.



Attorney Communication - as a best practice to help relay the most current information to all parties.



Resource Manual - with a citywide network of social service organizations specifically adjusted to navigate a post-pandemic landscape.

Financial Need



The Liberty Fund's operations amount to \$472,738 for staff and program costs in FY2023. Financial support now will underwrite our essential services for NYC's most vulnerable, while ensuring both continued reform and public safety.

The Liberty Fund is citywide. Our clients have lived in these zip codes:

BRONX: 10451; 10452; 10453; 10454;
10455; 10456; 10457; 10458; 10459;
10460; 10462; 10463; 10465; 10466;
10467; 10468; 10469; 10472; 10473;
10474; 10475

BROOKLYN: 11202; 11203; 11205; 11206;
11207; 11208; 11209; 11210; 11211; 11212;
11213; 11215; 11216; 11217; 11218; 11221;
11222; 11223; 11224; 11225; 11226; 11229;
11230; 11231; 11233; 11237

MANHATTAN: 10001; 10002; 10009;
10010; 10011; 10012; 10014; 10016;
10017; 10019; 10023; 10024; 10025;
10026; 10027; 10028; 10029; 10030;
10031; 10032; 10033; 10034; 10035;
10036; 10037; 10039; 10040

QUEENS: 11377; 11354; 11361;
11367; 11368; 11373; 11385;
11411; 11412; 11413; 11418;
11422; 11429

STATEN ISLAND: 10301; 10302;
10303; 10304; 10308; 10309;
10310

Lucy Sexton

New Yorkers for Culture & Arts

lucy@ny4ca.org

City Council Committee on Public Safety hearing on
preliminary budget March 18, 2022

Thank you Chair Rivera and members of the City Council for this important and urgent hearing. My name is Lucy Sexton and I am with the cultural advocacy coalition New Yorkers for Culture & Arts.

While I realize we are talking about the budget, and you may be wondering why a cultural coalition is testifying at this hearing, I think we need to talk about a radical reimagining of NYC---one that respects the dignity and humanity of every neighborhood and every New Yorker.

What is at the core of public safety----strong vibrant connected communities, who know each other, who have programs for young people, and engaging activities for their seniors. Data has

shown that neighborhoods with cultural assets have improved outcomes in education, aging, mental health, community strength and safety, and decreased engagement with the criminal justice system. Every one of these areas will have hearings during this budget season. I ask you to remember the role culture plays in each area—so when you think of schools remember strong arts programs lead to student success; when you think of safety, remember that community centers with cultural programs can gather neighbors, increase street traffic, and provide a space for connection, expression, joy, and healing.

Let's talk specifics. You have heard about the NeON program today, and remember that NeON Arts is a key part of that work. It provides youth 16-24 in neighborhoods with highest rates of probation, in cultural classes and workshops----chosen by members of the community. The courses range from dance to photography to graphic computer arts, not only engaging them in rigorous and rewarding classes, but providing training for jobs in the creative economy. Now is not the time to be cutting NeON Arts but expanding that work exponentially!

There are so many ---underfunded--- cultural groups working with incarcerated and recently decarcerated people, from the Public Theater's successful partnership with The Fortune Society to the tiny but powerful Ritual4Return program providing theater workshops for people reentering their communities. Participants have the opportunity to dig deep into years of trauma, to tell their stories, to create and connect with family members, friends and members of their community. These programs are enormously successful, leading to successful reentry and reducing recidivism.

As we know too well, mental health is a huge part of public safety. I want to point to a past city program, originally called Hospital Audiences and then simply HAI. It provided arts and culture programs to people in shelters, at drop in centers, addiction centers, prisons, and an array of public health facilities. Psychiatric studies were done showing the power of providing a place to safely express and process emotions to marginalized clients. It was defunded and disbanded for a variety of reasons in 2018, and its clients and the city has suffered.

Finally I want to talk about the recent tragedy of the deaths of Officers Rivera and Mora. I was in East Harlem the next day, visiting the dance troupe KR3TS. Their leader Violeta Galagarza works with young talented dancers, many of them former gang members or kids otherwise at risk. One of their choreographers is a cousin of Jason Rivera, and within a few hours they choreographed an extraordinary dance of pain, and grief. They performed it for members of their precinct and posted it online mourning the officers and calling for an end to gun violence. This is the story we want to tell about our city. Officers are members of the community, the community holds them in time of tragedy, and everyone works together toward a safer future.

It's no secret that the pandemic has been brutal on the cultural sector. And the organizations most at risk are organizations disproportionately led by and serving BIPOC communities that have been hardest hit by all aspects of this crisis. I am asking the Council to break with conventional patterns of cutting arts and culture as some sort of amenity. I am asking that we invest more

robustly in culture for every New Yorker in every neighborhood
in every public school and senior center in prisons in shelters,
giving people invaluable tools to connect and heal and grow.

**Testimony before the NYC City Council
Committee on Criminal Justice**

Preliminary Budget Hearing

March 23, 2022

Kristin Hogan, LMSW, Program Coordinator
Court Advocacy Services
Elizabeth Gaynes, President and CEO
Osborne Association
www.osborneny.org



Thank you for the opportunity to speak with you today. My name is Kristin Hogan, and I am a Program Coordinator for Parole Mitigation in Osborne's Court Advocacy Services. The program I lead was established with discretionary funding from the Council to create an alternative to re-incarceration, to address the high numbers of technical parole violators on Rikers Island. We worked remotely, by phone and video, through the pandemic, and were successful in our goal of reducing the length of stay of parole violators on Rikers Island, avoiding unnecessary returns to state prison, and linking people on parole to needed community-based services. My program, discussed below, is one of many innovative Osborne programs supported by the Council and for which we have asked for continuing funding for FY 23.

For nearly nine decades, the Osborne Association – founded by a former prison warden and led for 40 years by a former Commissioner of the NYC Department of Correction under Mayor Fiorello LaGuardia – has been committed to transforming prisons and jails for the people who live in them, work in them, and visit them. Today we offer a wide range of diversion and reentry programs at sites in the Bronx, Brooklyn, Harlem, Buffalo, and Newburgh, as well as services at more than thirty New York State prisons and New York City jails including Rikers Island. We now serve more than 12,000 New Yorkers a year, and this June, we expect to open a 135-bed community reentry center in the former Fulton Correctional Facility, which we have developed over several years to address the pressing needs of people returning home without stable housing. This month we are opening a 52 unit supportive housing program in Brownsville for older people returning from incarceration.

As a member of the ATI/Reentry Coalition, we have been fortunate to have received discretionary Council funding for several years that has enabled us to support our Court Advocacy Services, as well as programs focused on elders in jail and reentry, video visiting that enables families to stay connected to loved ones in upstate prisons as well as Rikers Island, and a range of employment services citywide. We appreciate the Council's support in the past and look forward to working with new Council members alongside longtime colleagues.

We had anticipated that with the passage of Less is More, the need for my program focusing on people detained on violation warrants would be less than more. The opposite seems to be occurring. While the number of people returned to jail solely for minor technical violations has been reduced, there are still a significant number taking up bed space because of a pending criminal charge, often a minor charge, that creates a logjam leading to a long period of incarceration. In addition, those detained on parole warrants, even without criminal charges, are staying longer than the new law contemplated because in many cases, it seems DOC has been unable to transport people to the recognizance hearings in courts that are intended to be held within 24 hours.

Although our program has generated successes in more than 90% of cases, we experience significant difficulty in supporting the prompt resolution of cases because of the challenges of scheduling timely video-conferencing needed to move the cases forward - and even when we schedule a video-conference, there are often canceled at the last minute. This is not due to our being unfamiliar with working on Rikers Island. Osborne has deployed staff on Rikers Island in housing areas and visiting areas five days per week for many years. We know that even under ordinary circumstances, Rikers Island is not a good place to live, work, or visit. While we have seen progress in the struggle with Covid, we are still struggling with a system that detains people presumed innocent in conditions that defy international human rights standards and that do not meet the minimum standards of the NYC Board of Correction, the NYS Commission of Corrections, or those set by any court that has seriously considered the question. We are especially concerned with the number of our clients who are unable to access timely medical care or mental health services.

It is particularly ironic that this is happening in New York City, where our elected officials actually agreed to Close Rikers because they knew it was inhumane to hold people in conditions that have only worsened since that decision was made. The irony is even greater when you consider that the union representing correction officers has opposed the movement to Close Rikers Island while complaining about conditions that would be largely alleviated in new facilities, and claiming that the solution is to hire even more officers, when hundreds remain on the payroll but are not showing up, putting everyone who works and lives on Rikers at enormous risk – as if already having the highest staff ratio of any locked facility in the country, if not the world, is not enough.

Unlike the officers who are absent, leaving their brothers and sisters to work doubles and leaving housing areas understaffed, OUR staff wanted very much to return to provide the services and programs that we know keep people safer and inspire success. 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. We have operated a Reentry hotline, and our staff made efforts, with the support of DOC program staff, to provide as many services as possible through various methods of correspondence.

The crisis that has exploded into public view over the last few months has been building for years, and while it is easy to criticize current management, these conditions – including officers not showing up for months at a time – have been fomenting for a long time. No new commissioner could expect to turn this ship around in a few weeks, but the NYC Department of Correction will be hard-pressed to establish a safe environment with the size of the jail

population and the incredibly long length of stay combined with a workforce that seems unable to reliably get incarcerated people to medical appointments, mental health services, videoconferencing or court appearances.

A Jail Population Explainer: jail populations are a function of just two numbers: ***Numbers of Admissions*** and ***Length of Stay***. Reducing one or both of these factors is what you have to do to reduce the population. Notice that neither of those factors is typically within the control of the jailers. In general terms, numbers of admissions are dependent on who police arrest and what they assert in their charging documents; who prosecutors charge and what level of bail they ask; and who judges detain and on what basis. Length of stay is a function of judges, DAs, and defense counsel, and how long it takes to complete a detainee's case. Or in the case of parole violation warrants, how long from arrest to final hearing. Theoretically, the jail has no control over how long a case languishes.

But this formula, which works in nearly every jurisdiction in America, has broken down in NYC, because the jailers who are supposed to keep people safe in between court visits, and get people to court safely and on time, have not been able to do so. The recent parole reforms that are part of Less is More require recognizance hearings in outside courts, adding to the staff time needed to transport and manage the population. It isn't going well. Investment in ATI and discharge planning programs, as well as pretrial release and diversion programs, can reduce length of stay and also lead to long-term success.

Proposed Solutions

1) Reduce the number of people sent to Rikers/Decarcerate

This solution relies on the collaborative efforts of those outside of DOC. Police, prosecutors, defense attorneys, and Judges as well as parole officers should explore all alternatives to detention and diversion possible, and for those detained, advance court dates. For those being held on parole violations with a new arrest, the bail law provides multiple options to release people safely -- 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. Unfortunately, the Public Safety plans of the governor and mayor that rely on tried and failed enforcement methods and lies about bail reform seek to cover the lack of investment in real solutions to gun violence, mental health crises, and homelessness that would actually make a difference.

Greater decarceration efforts are possible. 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. Many factors have contributed to the growing population, including the slowdown and adjournment of court cases 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. But since most people on Rikers Island are pretrial, decarceration depends on DOC prioritizing its resources to make sure defendants are made available to attend court hearings to avoid case delays as the pre-trial average length of stay has skyrocketed. In addition, the Council should consider a law that would allow the Commissioner of the Department of Correction to determine where detention can take place, including house arrest with an electronic bracelet.

2) Conduct a detailed staffing analysis.

There are plenty of correction officers on the payroll, and it is sad that the City feels cornered into hiring new officers when improving the deployment of current officers, combined with improving living and working conditions, would be more effective. The truth is that no one should have to work or be detained under the current conditions. 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. Social workers could do intake assessments and civilians can handle bail windows and numerous other jobs. If the union disagrees, they should ensure that all COs without medical proof of illness are showing up to perform their jobs. The recent report of a death of a man (held on a new arrest and a parole violation) choking on an orange suggests that there was an A officer in the Bubble, who did not exit to help or call for help, but also suggests that there was no B officer in the unit who should have intervened immediately. If officers have returned in recent weeks through efforts of the new leadership, where exactly are they stationed?

Even without the officers who aren't showing up (and efforts of the new Commissioner to bring back more officers seem to be slowly working), Rikers Island has the highest ratio of COs anywhere and is the most expensive workforce in the country. The reality is that the deployment of COs and lack of sufficient coverage is a failure of jail operations, not a lack of officers, and is complicated by a Union that is dead set on making the case that more dues-paying officers are needed.

3) Tend to the well-being and mental/ emotional health of staff.

We are concerned about the well-being of Officers just as we are concerned about the well-being of those incarcerated, our staff, and visitors. 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 (already an excessive length of stay for pretrial detention). The current “staffing shortage” or lack of adequate staff management and an oversized corrections staff perpetuates and worsens itself: 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. Even as Covid wanes, 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 it 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). And 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.

4) Support meaningful programming and visiting.

To bolster their claims about the need to hire more officers, the union must paint all those in custody as dangerous predators, a ploy that enthralls the tabloids and fires up officials who want to blame the state legislature for criminal justice reforms that they see as the source of violence because they are unwilling to invest in real solutions. The tabloids seem to enjoy painting those incarcerated on Rikers as violent and sub-human. It is true that gun violence has increased during the pandemic – along with many other breakdowns in our public health system – but it is also true that people subjected to nauseating and dangerous conditions will react, get into arguments, and fight back. On-site programming and visiting that ameliorate conditions have also suffered because of inadequate staffing. While many service providers are back in facilities, it is not safe to run programs without adequate officer coverage. 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. We know our presence makes a difference, and the dedicated officers and DOC program staff we work with have let us know that, but we could do more and we believe the new Commissioner would welcome more.

5) Do What it Takes to Close Rikers.

We recognize that current DOC leadership, inheriting abominable conditions for those who live and work on Rikers, is making efforts to act. While all policies should lead to closing Rikers, if we aren't closing Rikers immediately, then conditions and space do have to be considered now. Many organizations and advocates have called for removing women permanently off Rikers Island into another space. We agree. The temporary move of women from RMSC to Bedford Hills did not go well, though it was no doubt well-meaning. There are currently just under 280 women, including 40 trans women. NYC should request that NYS turn over closed state prisons in Manhattan that previously held women. We believe the state would do this if asked, and although neither Bayview nor Lincoln would be immediately habitable, the cost of renovating them is far less than the various stalled Borough jails projects. Bayview, in particular, has the bones needed: it had rooms, medical facilities, and a convenient location. Even if the cost was more than the \$23 million Osborne spent re-purposing the Fulton Correctional Facility in the Bronx that will soon open with 135 beds in a community reentry center, it would be less costly over time to fix these closed facilities than to hire and train hundreds of unnecessary correction officers.

We are confident that those testifying today will have had plenty to say about intake, medical care, mental health care, and the issues that drive admissions and length of stay. Solutions to these challenges will take all of us: CHS, advocates, defenders, and COs should all be involved in developing a new process to ensure that no one remains in intake more than 24 hours, that no one is placed in cells or dorms that fail to meet minimum standards without variances, that solitary confinement is replaced with humane approaches to manage behavior. We need safe working conditions for us and COs.

You have way too many people – in the press, in public employee unions determined to keep a large membership, in public officials trying to score political points – all trying to point to bail reform, Raise the Age, Less is More and other efforts to restore humanity to an inhumane criminal legal system – as the cause of an increase in subway crime and gun violence. Given that Less is More has just begun, and bail reform is on life support because elected officials in state government have never stopped trying to drown the baby in the bathtub, it would be hard to lay crime spikes at the door of these reforms. But that has not stopped the media, some law enforcement agencies, and some of your colleagues from making these claims. This is really intended to provide cover for not investing in communities and young people to counter the devastating impact of Covid, of inequality, racism, poverty, and a lack of housing. But the research is on our side.

Osborne has long been working at the intersection of policy and practice. All of our work is grounded in an understanding of people's capacity to change, and in the importance of relationships, across generations, and we build our programs and services to ensure individuals and their families have the right and the opportunity to heal from and repair harm, restore their lives, and thrive. We believe public safety includes investing in and strengthening communities, expanding alternatives to jail and prison, and implementing pre-trial reforms and measures to expedite court processes.

We live here too. We understand the anxiety people feel about increasing violence. But what causes violence that undervalues human life is a system that undervalues human life. We have recently established a pilot diversion program with the Bronx District Attorney aimed at addressing the scourge of gun violence, for which we are seeking Council support, and hope that the Council will continue to support our Safeguarding Children program that trains and supports NYPD to implement child-sensitive protocols when a parent is arrested, as passed by the Council previously, complementing the range of services for children whose parents are in the criminal legal system.

Achieving public safety requires creative, data-informed approaches to reducing the number of people detained in the city's jails, and closing Rikers Island (a commitment the City has made with the support of the Council) where people are currently spending unprecedented amounts of time, with dire consequences to their health, families, and long-term wellbeing. We call on you to stand strong in affirming current bail and pre-trial reforms and Raise the Age, and oppose the Governor's 10 point plan, a reactive, damaging approach that will bring us backwards into the era of mass incarceration from which we were finally emerging.

We join you and acknowledge your ongoing commitment to robust efforts to provide people who come home from jail and prison with housing, a connection to healthcare, and access to the kind of opportunities we all need to survive and live our best lives. Thank you for your time and consideration.

Contact:

Kristin Hogan, LMSW
Program Coordinator,
Court Advocacy Services
khogan@osborneny.org

Elizabeth Gaynes
President and CEO
Osborne Association
egaynes@osborneny.org

Tanya Krupat, LMSW, Director
Osborne Center for Justice Across Generations
tkrupat@osborneny.org

Brad Cauthen, MSW, Director
Jail-Based Services
bcauthen@osborneny.org



**TESTIMONY OF
Mark Graham, MDiv.
The Redemption Center
Treatment Not Jail Coalition
Mr.Graham1539@gmail.com
Presented to the New York City Council
Committee On Criminal Justice
on Wednesday March 23, 2022**

My name is Mark Graham. I am the Executive Director of a transitional supportive housing program in New York City called The Redemption Center. I am a certified Peer Advocate with the Bridge Back To Life Program, as well as a proud member of the Treatment Not Jail Act Coalition. If passed, The Treatment Not Jail Act will expand existing law to permit treatment courts to accept people with mental health diagnoses, intellectual disabilities and other disorders that have impaired their functioning in society and have led to criminal legal system involvement.

I have two Master's Degrees, including a Master's in Divinity. I am extremely fortunate to be here today because my life should have gone in a very negative direction. I spent 3 years in juvenile prison, starting at 13 years old, followed by a horrific 22 continuous years in an adult prison starting at age 17. I received no help whatsoever for my addiction and mental health struggles before I entered into New York's carceral system. Prison was supposed to act as a deterrent to keep me from getting in trouble in the future. But while there, I was exposed to gangs, makeshift weapons, violence, and drug use. I learned all about guns, how to commit robberies, how to sell drugs, how to steal cars and a host of other criminal activities that I never knew existed. I walked into Juvenile Detention a child and walked out knowing what it was to be a criminal, which led to my two plus decades in New York's adult prison.

But somehow, the angels were with me because my once-vulnerable life has had a far better outcome than the great majority of my peers. Good outcomes are difficult-to-impossible for people leaving incarceration, as evidenced by the overwhelming prevalence of homelessness, unemployment, poverty and, yes, *recidivism*, among formerly incarcerated people. Indeed, the United States releases over 7 million people from jail and more than 600,000 people from prison each year. Leaving prison should mean having a fresh start, but for most returning citizens it presents even greater challenges. Within 3 years of their release, 2 out of 3 people are rearrested

and more than 50% are incarcerated again.¹ The rate of recidivism in the United States is 70% within five years of release.² In New York, our rates of recidivism reflect national trends and are unacceptably disturbing. An estimated 45% of all parolees in New York City experience a re-arrest within two years.³ For people with mental illness, incarceration brings about even worse outcomes. In New York City, these individuals return to jail nearly twice as fast as those charged with similar crimes but who do not have mental illness.⁴ Those diagnosed with psychiatric disorders, such as alcohol and drug use disorders, personality disorders, attention-deficit hyperactivity disorder, or schizophrenia disorders, face a higher risk of reoffending and committing violent offenses upon release than those without diagnoses.⁵

In my current work as a Peer Specialist with Bridge Back To Life, I counsel formerly incarcerated people in three different psychiatric hospitals in our city. Monday through Sunday each week, I witness the grotesque and dehumanizing revolving door that exists for people with untreated mental health and substance dependence challenges who were released from prison after serving their sentences. The majority of people with behavioral challenges who are released from New York's jails and prisons become homeless, mentally unstable, and drug and alcohol addicted from the moment they hit the streets. These are my clients, and sadly, many of them are "repeat clients." These people face stigma, discrimination, isolation, and instability. If they are not engaging in self-harm, attempting to take their own lives or overdosing on drugs, they are getting re-arrested for violent and non-violent offenses placing themselves and our communities at risk. This is what jail and prison does to people.

Too often, people buy into the false narrative that incarcerating members of our community who are involved in the criminal legal system make others in our community safer. These narratives prey on our community's fears by repeating this fallacy over and over. However, a robust body of research analyzing the impact of incarceration - in New York and nationwide - indicates that being in jail and prison actually makes someone more likely to re-offend.⁶ The reasons for this are not

¹ Kubrin CE, Stewart E. Predicting who reoffends: The neglected role of neighborhood context in recidivism studies. *Criminology*. 2006;44(1):165–97.

² First Step Alliance, Reducing Recidivism: Creating A Path To Successful Reentry, Feb 11, 2021, available at https://www.firststepalliance.org/post/reducing-recidivism?gclid=CjwKCAjwxOCRBhA8EiwA0X8hi2k9ABwP3oi7bMZRDtB53D7bc3jLi6IG5UX1rDhFnGF9PFqRb7vF02RoC_mEQAvD_BwE.

³ Ames C. Grawert, Cameron Kimble, and Jackie Fielding, Poverty and Mass Incarceration in New York: An Agenda for Change, Brennan Center for Justice, Feb. 23, 2021, available at <https://www.brennancenter.org/our-work/policy-solutions/poverty-and-mass-incarceration-new-york-agenda-change>.

⁴ Schiro, D. (2011, Oct. 25). Mayor's panel aims to end the illness-to-incarceration pipeline. *City Limits*. Retrieved from <http://citylimits.org/2011/10/25/mayors-panel-aims-to-end-the-illness-to-incarceration-pipeline>.

⁵ Sheppard, Sarah, Mental Health Effects Facing Recently Released Prisoners, *verywellmind.com*, Aug. 29, 2021 available at <https://www.verywellmind.com/mental-health-effects-facing-former-inmates-5195312#citation-3> (citing Chang Z, Larsson H, Lichtenstein P, Fazel S. Psychiatric disorders and violent reoffending: a national cohort study of convicted prisoners in Sweden. *The Lancet Psychiatry*. 2015;2(10):891-900).

⁶ Cullen, F. T., Jonson, C. L., & Nagin, D. S. (2011). Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science. *The Prison Journal*, 91(3_suppl), 48S-65S. <https://doi.org/10.1177/0032885511415224>; Stemon, D. (2017, July). "The Prison Paradox: More Incarceration Will Not Make Us Safer." Vera Institute. Retrieved January 2022, from https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf; Emily Leslie & Nolan Pope, The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments 60 J. OF L. AND ECON. 3, 529-557 (2017), www.econweb.umd.edu/~pope/pretrial_paper.pdf; Will

hard to identify. Incarceration is incredibly traumatizing and destabilizing. The people we send to jails and prisons are too often left to languish during their time inside with inadequate mental health treatment and medical care. Moreover, once their period of incarceration ends, these individuals are released without stable housing, medical care, mental health services or rehabilitation systems in place. These individuals are then expected to gain employment, housing and benefits while navigating the adverse collateral consequences that accompany a criminal conviction.⁷ This increases risks for substance use, exacerbated and untreated mental health conditions, and inevitably, further involvement with the criminal legal system - all at the expense of public safety.

Meanwhile, the data show that people who successfully complete mental health or drug diversion courts, should they be lucky enough to be eligible for them or accepted into one, have a significantly lower rate of recidivism.⁸ Moreover, diversion is proven to be significantly more cost-efficient than incarceration. While New York City spends \$556,539 per year to incarcerate just one person in its jail system, the New York State Office of Court Administration reports that every \$1 invested in treatment courts yields \$2.21 in savings.⁹

And a substantial portion of our city's pre-trial jail population would immensely benefit from the expansion of diversion opportunities. Indeed, roughly half of all those incarcerated suffer from underlying mental health issues¹⁰, yet there is currently no statute authorizing mental health courts, or otherwise permitting defendants to resolve their criminal cases by completing treatment programs. There is a statute that authorizes those charged with certain offense who are suffering from underlying substance use issues to enroll in drug diversion courts¹¹, but because eligibility is

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

⁷ Christopher Lowenkamp et al., The Hidden Costs of Pretrial Detention, THE LAURA AND JOHN ARNOLD FOUND., https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_hidden-costs_FNL.pdf; Baer et al. Understanding the Challenges of Prisoner Reentry: Research Findings from the Urban Institute's Prisoner Reentry Portfolio, Urban Institute Justice Policy Center (January 2006),

⁸ Michael Mueller-Smith & Kevin T. Schnepel, Diversion in the Criminal Justice System, 8 THE REV. OF ECON. STUD. 2, 883-936 (2021), <https://doi.org/10.1093/restud/rdaa030> (finding that diversion cuts reoffending rates in half and grows quarterly employment rates by nearly 50% over 10 years); Amanda Agan, Jennifer Doleac & Anna Harvey, Misdemeanor Prosecution (Nat'l Bureau of Econ. Res., Working Paper No. 28600, 2021), https://www.nber.org/system/files/working_papers/w28600/w28600.pdf (finding non-prosecution of a nonviolent misdemeanor offense leads to large reductions in the likelihood of a new criminal complaint over the next two years); David Huizinga & Kimberly L. Henry, The Effect of Arrest and Justice System Sanctions on Subsequent Behavior: Findings from Longitudinal and Other Studies, in, THE LONG VIEW ON CRIME: A SYNTHESIS OF LONGITUDINAL RESEARCH 244 (Akiva M. Liberman, ed., 2008); John Laub & Robert Sampson, Life-Course and Developmental Criminology: Looking Back, Moving Forward, J. OF DEV. AND LIFE-COURSE CRIMINOLOGY (2020); Shelli B. Rossman, Janeen Buck Willison, Kamala Mallik-Kane, KiDeuk Kim, Sara Debus Sherrill, P. Mitchell Downey, Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn, New York, Nat'l Inst. of Justice (April 2012), <https://www.ojp.gov/pdffiles1/nij/grants/238264.pdf>.

⁹ New York State Unified Court System, The Future of Drug Courts in New York State: A Strategic Plan (2017), https://www.nycourts.gov/legacyPDFS/courts/problem_solving/drugcourts/The-Future-of-Drug-Courts-in-NY-State-A-Strategic-Plan.pdf.

¹⁰ Greater Justice NY, People in Jail in New York City: Daily Snapshot, Vera Institute, <https://greaterjusticenyc.vera.org/nycjail/> (last accessed Jan. 21, 2022).

¹¹ CPL Article 216.

so narrowly drawn, very few have access. Indeed, according to a recent analysis, of the 15,190 people incarcerated pretrial in NYC jails in 2021, only 413 people were eligible for drug diversion court under current law.¹²

The Treatment Not Jail Act (S.2881B/A.8524A) would dramatically expand access to these diversion courts, thus creating meaningful off-ramps from incarceration and this horrendous cycle of trauma, torture, release and reoffense. First, the Treatment Not Jail Act will expand the statute authorizing drug diversion courts to allow admission for people with mental health diagnoses, intellectual disabilities and other disorders which have interfered with their functioning in society and led to their involvement in the criminal legal system. Moreover, under the proposed legislation, the decision to admit these individuals will fall to judges, not prosecutors, who will be empowered to order diversion - regardless of the underlying charge - where the court determines that the person's underlying mental health or substance use issue has contributed to their criminal legal system involvement, such underlying issue can be effectively treated, and it is in the best interest of the public to offer the individual community-based treatment. If successful in completing the treatment plan designed and administered by the court, the judge will be empowered to dismiss or reduce the person's criminal charges. Recent analysis has indicated that of the 15,190 people who were incarcerated pretrial in NYC jails, at least 8,810 would be eligible to apply for admission into these courts under the Treatment Not Jail model.¹³

In short, investing in diversion courts, community treatment and housing is a far more cost-effective and stability-promoting use of state resources than incarceration.¹⁴ Just imagine if a portion of money poured into New York City's noxious jails could instead be diverted into our communities to fix our housing shortage, increase mental health services, increase the number of hospital beds, and significantly, increase pre-trial judicial diversion opportunities, which, again are proven to reduce recidivism.

We therefore call on this City Council to pass a resolution in support of the Treatment Not Jail Act (S.2881B/A.8524A) in order to create a legal infrastructure that opens access to these critical diversion courts. Moreover we urge the City Council to re-allocate the Department of Correction budget to target diversion courts and the treatment programs and services that support them. We must start by shifting \$108M this year to [fund unmet supportive housing needs](#) for over 2,500 people who are currently cycling in and out of the City's jail system. We must then fully fund community-based mental health and substance use treatment services and expand our city's treatment courts, as envisioned in the Treatment Not Jail Act (S.2881B-Ramos/A.8524A-Forrest).

We have a responsibility to rely on facts and not fiction when life-impacting decisions are being made by our elected officials regarding whether to pour more money into our city's jails as opposed to our communities and to understand how impactful such a move will be on protecting public safety. The NYC Department of Correction (DOC) has proposed a budget of \$2.679 billion for

¹² Vera Institute for Justice, Summary of Vera's Findings on the Impact of Treatment Not Jails on Eligibility for Diversion, March 2022, available upon request.

¹³ *Id.*

¹⁴ Dr. Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, What Caused the Crime Decline?, The Brennan Center for Justice (2015), available at <https://www.brennancenter.org/our-work/research-reports/what-caused-crime-decline>.

fiscal years 2022 and 2023 with an annual cost per person of \$556,539. To put this in context, in 2021, [New York City has spent almost 3 times \(290%\) more](#) per incarcerated person than the second most expensive jail system in the country, yet people in DOC custody are subjected to [some of the worst jail conditions in the nation](#).

And yet, DOC requests a business-as-usual \$2.679 billion budget despite another blistering report issued on March 16, 2022 by the court-appointed federal monitor in *Nunez*, a class action suit about brutality and excessive force in NYC jails. Once again, the *Nunez* commission has filed a "[Special Report](#)" with the court detailing concerns about "the continued imminent risk of harm" and describing the jails as "unstable and unsafe." The March 16, 2022 *Nunez* report describes in excruciating detail the shocking levels of violence, neglect, dysfunction, incompetence and horrific daily harms facing detained individuals. The report describes a staff absentee crisis that shows no signs of abating; the alarming and atypical use of force rates that have become normalized in the agency; persistent poor security practices and unacceptable intake conditions where people are forced to sleep on the floor surrounded by feces. Finally, the report concludes that DOC has shown a lack of accountability, a lack of transparency and persistent non-compliance with court orders.

The time has come for a city budget guided by the facts. Funding that is being spent on systems that are not working, that hurt people, and cause more harm than good is unworkable. Nor does it protect lives- the lives of those who become entrenched in the criminal legal system because of an untreated condition or the victims of crime who seek public safety. When I speak to state legislators about the Treatment Not Jail Act, I am speaking from first-hand experience and knowledge. We are locking people up with no treatment and then releasing them thinking and believing that we have made the public safer. What we see going on in our subway system right now, and throughout the communities in New York State, is the result of misleading narratives about incarceration and recidivism. If we want a different result, a safer result, a more effective result, then we must do something different. Funneling more and more money into our corrupt and inhumane jail system is the equivalent of saying that we want things to continue the way they are. Instead, I urge you to start investing in solutions, like Treatment Not Jail, that pull people out of this horrific cycle of suffering and recidivism that incarceration causes.

Thank you. If there are any questions about my testimony, please reach out to me at mr.graham1539@gmail.com.



The Interfaith Center of New York

Testimony for Criminal Justice Committee of the City Council

Public Hearing March 23rd, 2022

The Rev. Dr. Chloe Breyer,

Executive Director, the Interfaith Center of New York

Greetings. Thank you, CM Rivera and CM Brannan. I am speaking here today as the Executive Director of the Interfaith Center of New York and Associate Pastor of St. Philip's Episcopal Church in Harlem. I also live a block away from Lincoln Correctional Facility, which is a fixture of my neighborhood in Harlem and did my Clinical Pastoral Education at Bellevue Hospital, which included visiting Rikers Island in 1997.

The Interfaith Center of New York, founded in 1997, is an educational secular nonprofit working with hundreds of grassroots and immigrant religious leaders representing faith and ethnic traditions including Afro-Caribbean, Buddhist, Christian, Confucian, Jewish, Hindu, Muslim, and Sikh in New York City. We bring together religious leaders, judges, social workers, and other civic officials to address shared concerns including domestic violence, healthcare, and criminal justice reform.

From 2020-2021 with the Micah Table and religiously diverse faith leaders from across New York, ICNY developed the [Economic and Racial Justice Compact](#) in advance of the 2021 Mayoral elections. With these points of the Compact and our diverse faith constituencies in mind, we ask that the City Council's Fiscal Year 2023 Preliminary Budget should include the following:

1. **The funding required to close Rikers' Island by 2026** and build a smaller network of more humane borough-based jails. The Council must keep its promises in this respect. Our leaders should not let the havoc wreaked on our city by the pandemic be compounded by veering off-track in the journey to a fairer justice system.
2. **Funding for a "Reentry Czar" who oversees and streamlines reentry services** that justice-involved individuals can apply for while in prison. These include IDNYC, healthcare, mental health services, housing, workforce development and other benefits.
3. **Funding for more alternatives to incarceration options** and for additional community-based violence interrupter programs.
4. **Provide funding for more affordable and supportive housing.** Supportive and affordable housing, not shelters, are the solution to homelessness in the Preliminary Budget.

Sincerely,

The Rev. Chloe Breyer
Executive Director



New York City Council Committee on Criminal Justice

March 23, 2022
10:00 a.m.

Preliminary Budget Hearing: Criminal Justice

Testimony of
The Legal Aid Society
Criminal Defense Practice

Presented by:

Mary Lynne Werlwas
Director
Prisoners' Rights Project
The Legal Aid Society
199 Water Street
New York, NY 10038
212-577-7981

CHAIRMAN RIVERA and MEMBERS AND STAFF OF THE COMMITTEE:

Thank you for providing The Legal Aid Society with the opportunity to address the Committee about the preliminary budgets for the New York City Department of Correction.

The Legal Aid Society's Criminal Defense Practice, which serves as the primary defender of low-income people in New York City prosecuted in the State court system, interacts daily with incarcerated people and their families to hear their experiences in DOC custody. In addition, since its inception 50 years ago, the Prisoners' Rights Project has investigated and remedied unconstitutional and unlawful conditions in the City jails through individual and class action lawsuits and administrative advocacy. Our litigation has included reform of the systems for oversight of use of force and violence in the jails; relief from dangerous conditions such as fire risks, overcrowding, and unsafe sanitation; successful efforts to bring high school education to youth held in these adult facilities; and redress of the failures of medical and mental health care systems that result in needless deaths in custody. We routinely engage with the Board of Correction to ensure that they perform their oversight role in promulgating and monitoring Minimum Standards for correctional practices in the jails.

Incarceration is expensive, as today's budget hearings will no doubt make abundantly clear. Yet the DOC budget requests will not even show the true costs of incarceration, which are borne not only by a multitude of City agencies who must address the health and economic harms that flow from incarceration, but ultimately by the City's families and communities themselves.

Even pre-trial detention of a few days imposes and imposes devastating costs on New York's families and communities. These costs begin with the need to post bail or pay for someone's release from jail after their arrest. When they cannot afford bail, it costs families to stay in contact with their loved ones as they have to pay exorbitant rates for phone calls and transportation to visit. On top of these direct costs, families lose income, child or elder support, and other financial contributions when a wage-earner is incarcerated. The NYC Comptroller's Office estimates that families unable to post bail lose \$28 million in wages each year while incarcerated.

While in custody, people lose time with, and connection to, their families, communities and even their lawyer. As a result, these New Yorkers are more likely to take a plea deal, admitting to a crime they did not commit just to get themselves out of jail.

The trauma that results from pre-trial incarceration affects thousands of New Yorkers every single day, taking a toll on family members' physical and mental health, education outcomes, and other measures of well-being. People can lose their jobs, homes, and potentially their children. New York's schools, hospitals, clinics, shelters, and social service agencies – to name but a few – must draw on resources to mitigate some of these disastrous results, but ultimately the true burdens fall hardest on the City's poorest families.

True leadership would recognize these costs of incarceration and take responsibility for the budgeting and policy decisions that lead to such devastating human outcomes. Consider the

human outcomes possible if this money could instead be invested in communities to alleviate poverty, end homelessness, ensure quality education, and tackle mental illness and substance use disorders. New York City's communities need and deserve this kind of leadership, and we ask the Council to provide it today.

Department of Correction Budget

Since 2018, the Department of Correction has been on the New York City Comptroller's "watch list," which leads to closer scrutiny of agencies whose spending increases rapidly year to year with only meager measurable results.¹ This close review is critical, given that New York City's spending per incarcerated individual has no parallel in the United States. As the federal monitor in *Nuñez v. City of New York*² wrote on March 16, 2022:

The total average spending per incarcerated individual per year skyrocketed to an all-time high of \$556,539 in fiscal year 2021, a per capita cost that is simply unparalleled. A national comparison of the per capita costs of incarceration completed by the Vera Institute last year, when the Department's spending per incarcerated individuals was \$438,000 (\$118,000 less than the current cost), found not only that the Department spends more per incarcerated individual than any city in the nation, but that it was at least three times higher than the next highest city and over 350% higher than the cost per incarcerated individual in Los Angeles, California and Cook County, Illinois.³

This extraordinary cost is even more appalling given the tremendously poor outcomes DOC has produced with these funds: dramatically increased violence by uniformed correctional staff, mismanaged jails that are the embarrassment of the nation, lives ruined and all too often lost by needless reliance on incarceration. For the Council to rubber stamp the DOC budget will only perpetuate this dysfunction and violence.

1. Funding an oversized workforce that doesn't come to work.

The most critical part of the FY23 DOC budget review should be scrutiny of DOC's vastly excessive personnel budget. The Department has approximately 7,900 uniformed staff and 1,700 civilians to supervise an average of 5,600 people in custody.⁴ This is grossly excessive by correctional standards: as the Monitor notes, "in relation to the size of the incarcerated population it manages, the Department has more staff resources than any other correctional system with which the Monitoring Team has had experience."

¹ See <https://comptroller.nyc.gov/reports/agency-watch-list/fy-2022/departments-of-correction-fy2022>.

² *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY) is a federal class action brought by The Legal Aid Society Prisoners' Rights Project seeking to redress excessive force and brutality in New York City jails. The United States joined the action, which is now in an enforcement phase after entry of a Consent Judgment and successive Remedial Orders.

³ Special Report of the *Nuñez* Independent Monitor ("March 16 Report"), *Nuñez v. City of New York et. al.*, *supra*, at 12 (available at <http://tillidgroup.com/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>).

⁴ *Id.*, at 13.

The problem is that DOC employs far too many staff who *do not come to work*. The March 16 Report contains the most recent and objective information about absenteeism, including:

- **30%** of the DOC uniformed workforce does not come to work: they are either out sick or on a medical status that means they are not available to work with incarcerated individuals.⁵
- “Roughly 1,400 staff are out on sick leave on any given day. Staff may be out sick for a few days (“new sick”), for more than 30 days (“indefinite sick”) or intermittently sick throughout the year (“chronic sick”). The Department does not have any systematic policies and procedures to confirm the legitimacy of these statuses. The processes that are in place are complicated and cumbersome and the Department has insufficient staff to adequately manage this process. Further, accountability for staff that abuse the system is limited and infrequent.”⁶
- “Medically Restricted Duty: This status is assigned when staff’s work must be restricted in some manner due to medical issues. The number of staff on this status has skyrocketed over the last two years and has increased almost 150% from 285 staff on this status in 2020 to approximately 700 staff on this status in 2022. The Department’s ability to identify posts for individuals on this status is convoluted at best, which means at least some portion of this group likely has no work to do at all. Furthermore, the on-going assessment of whether a level/restriction should continue to apply to a given individual is sporadic at best and likely means that individuals remain on this status when they can in fact return to work with no restriction.”⁷
- The 30% absentee rate has remained fairly constant between August 2021 and the end of January 2022. While the new administration claims to have gotten 1000 or more staff back to work. This is merely *correcting a spike* in absenteeism over the Christmas holidays, when over 3,500 correction officers were absent. As of March 7, 2022, the number of staff on sick leave had only decreased by *71 staff* from the August 24, 2021, level, which is 0.05% of the staff out sick on August 24, 2021.⁸

The Special Report also contains an unprecedented 6-page description of DOC’s complete failure to manage workforce deployment with any rationality or integrity.⁹ DOC cannot justify seeking *more* staff when it does not even know how it is using its *current* staff. DOC has no roster management software or plan; it cannot even identify which staff are assigned to which facility; it allows staff to circumvent housing assignments; maintains shoddy recordkeeping of

⁵ *Id.*, at 8.

⁶ *Id.*, at 35.

⁷ *Id.*

⁸ *Id.*, at 9.

⁹ *Id.*, at 32-38.

staff assignments; and deploys too many uniformed staff to positions that could easily be filled by civilians.¹⁰ Until DOC can demonstrate that it has a modern, professional staffing system it should not be given more resources to squander.

A major incident in the jails this January illustrates the human toll of this staffing crisis and dysfunction. As the Monitor describes:

On January 30, 2022, at EMTC, a detainee in a dorm housing unit went into medical distress convulsing on his bed. Detainees immediately attempted to attend to him while others went to summon help. As there was no officer in the housing unit, detainees appealed to the A-Station officer to summon medical assistance. The detainees became increasingly agitated during the almost ten minutes when there was no response from staff to attend to the medical emergency, at one point throwing a trash container against the A-Station window in an apparent attempt to prompt the officer to respond to the medical emergency. A cadre of ESU personnel entered the housing unit approximately ten minutes after the emergency occurred. The detainees were moved toward the back of the dorm at which point an ESU officer precipitously used a MK-9 cannister directly spraying a detainee who was simply standing alongside other detainees. At least two other officers immediately used their OC cannisters to wantonly start spraying the entire group of detainees who had retreated to the back of the housing unit. Further, a chemical munitions grenade was also thrown amongst the detainees, which are supposed to be limited to incidents that legitimately warrant an emergency response. Incredibly, thereafter the entire housing unit population was escorted to intake. Several detainees were refused medical attention because they had not been decontaminated. The investigator concluded that the incident was “unavoidable” and that none of the detainee witnesses needed to be interviewed as it would not alter the outcome of the finding of no violations by staff. The investigator never addressed *or even raised the issue of why no officers were present or available to attend to the detainee convulsing on his bed.*¹¹

To echo the *Nuñez* Monitor in sounding the alarm, such incidents at such rates “*are not typical, they are not expected, they are not normal.*”¹²

2. Emergency Services Units and canine operations should be defunded.

The budget seeks over \$11.2 million to fund two units of the jail that cause the egregious harm: the DOC Emergency Services Unit (ESU) and canine units.¹³ We cannot stress how critical it is

¹⁰ *Id.* at 34, 36.

¹¹ *Id.* at 30-31.

¹² *Id.* at 14 (emphasis in original).

¹³ City of New York Fiscal Year 2023 Departmental Estimates, <https://www1.nyc.gov/assets/omb/downloads/pdf/de2-22.pdf>, at 1300. Separately, on page 1302, the budget seeks \$5.1 million for 58 uniformed staff in the “Emergency Resp Unit.” It is unclear to us whether that unit is part of the Emergency Services Unit or a different command. To the extent that this funds tactical search operations like the ESU, this request, too, should be denied. The Monitor’s reports are replete with examples of the harms meted out by “Emergency Response Teams” that are independent of the ESU. *See, e.g.*, Twelfth Report of the *Nuñez*

that the Council deny this request. The ESU, which operates largely as a rogue unit outside the chain of command, is singularly responsible for some of the worst brutality in the jail facilities—and yet is celebrated in the Department as an elite unit. The evaluations of the Monitor firmly debunk this myth. The Monitor finds that ESU teams are “hyper-confrontational,” that they “almost always” escalate rather than quell violence, and that their poorly planned, unsupervised operations lead to chaos and security breaches.¹⁴ In the dangerous January, 2022 incident at EMTC described above, three of the ESU officers involved had disciplinary histories related to use of force violations; the ESU Captain had *pending* charges for failure to supervise an incident very similar to the January incident.¹⁵

Separately, the budget seeks \$5.1 million for 58 uniformed staff in the “Emergency Resp Unit.” (p. 1302). It is unclear to us whether that unit is part of the Emergency Services Unit or a different command. This too, should be denied.

Thus, while the ESU budget line is a small fraction of the budget, it has an outsized effect on inflicting violence and perpetuating racialized terror on Rikers, and the budget process should reflect our City’s clear renunciation of these tactics.

In addition to the \$11.2 million sought for personnel, the Capital Budget seeks *additional* funds to build a new \$11 million ESU compound on Rikers Island.¹⁶ The Capital Budget also includes a \$7 million project for a new canine facility on Rikers Island.¹⁷ It is outrageously wasteful for the city to spend capital funding for *new* administrative buildings on Rikers Island when that facility will be closed in a matter of years. There is no health and safety justification for this request. The City should defund all capital construction related to the ESU, and abolish the unit entirely.

3. **Funding for correction officers in closed facilities.**

The Council should question why the Preliminary Operating Budget seeks funding for uniformed staff at DOC facilities that have been closed for years. These include:

\$1.6 million for uniformed staff at Brooklyn House of Detention for Men¹⁸

\$8.26 million for 110 staff at the Queens House of Detention for Men¹⁹

Independent Monitor, *Nuñez v. City of New York et. al., supra*, at 49-51 (available at <http://tillidgroup.com/wp-content/uploads/2021/12/12th-Monitors-Report-12-06-21-As-Filed.pdf>).

¹⁴ Eleventh Report of the *Nuñez* Independent Monitor, *Nuñez v. City of New York et. al., supra*, at 46-50 (available at <http://tillidgroup.com/wp-content/uploads/2021/05/11th-Monitors-Report-05-11-21-As-Filed.pdf>).

¹⁵ March 16 Report, at 31.

¹⁶ <https://www1.nyc.gov/assets/omb/downloads/pdf/cpd2-22bx.pdf>, at 117.

¹⁷ *Id.* at 123.

¹⁸ City of New York Fiscal Year 2023 Departmental Estimates, <https://www1.nyc.gov/assets/omb/downloads/pdf/de2-22.pdf>, at 1306.

¹⁹ *Id.*, at 1305.

\$4.5 million for 65 uniformed staff at the Manhattan Detention Complex²⁰

\$96,987 for uniformed staff at the George Motchan Detention Center²¹

These figures cannot be explained as covering the skeleton crew necessary to maintain the physical plant of an empty facility, as there is no reason to use uniformed correction officers for that role, and non-personnel expenses such as facility maintenance are funded elsewhere in the budget.²²

4. **Fire Safety**

One of the most life-critical issues in Rikers Island is the absence of adequate fire safety mechanism. DOC is under court order in the *Benjamin* litigation brought by our office decades ago to provide fire safety, but it is not yet in compliance with that mandate. We are deeply troubled by the project orders detailed in the FY 2023 Capital Project Detail Data budget document that show needed fire safety repairs put on hold.²³ For example, the Fire Life Safety Phase II project, described as providing fire safety at all Rikers facilities, which had an original budget of \$80 million, is deemed “delayed due to budgetary constraints.”²⁴ The plan indicates that it will spend \$52 million on fire safety in 2026, but has no plans before then. Similar fire safety plans that are delayed are detailed on pages 102-107, 113 and 119. The latter two projects involve creating systems to allow locked cell doors to be opened centrally, rather than manually door-by-door, in the event of a fire. These repairs are expensive, but they are the cost of choosing to incarcerate people in the City’s decrepit and mismanaged facilities. They cannot wait.

5. **Securus**

A fundamental right we all hold is the right to counsel as protected by our US and NY State Constitutions. Everyone brought before our courts must have the assistance of counsel in defense to advise and advocate before our Courts. This indelible right is not diminished if a person is held in custody awaiting trial. People held in correctional facilities do not shed the

²⁰ *Id.* at 1306.

²¹ *Id.* at 1310, 1319, 1335.

²² *Id.* at 1319, 1335.

²³ Capital Project Detail Data, available at <https://www1.nyc.gov/assets/omb/downloads/pdf/cpd2-22bx.pdf>

²⁴ *Id.* at 101.

right to counsel.²⁵ Moreover, a person accused must have full faith in privileged, confidential communications with counsel to obtain the full protected benefit of right to counsel.²⁶

Among other responsibilities, NYC Department of Correction (DOC) is charged with safeguarding the fundamental right to counsel for people held in DOC facilities. To do so, they need to ensure that people held in DOC custody have protected, confidential communications with counsel.²⁷ To fulfill its responsibility in this regard, DOC entrusted the safeguarding of private telephone calls with counsel to a third party, Securus Technologies (Securus) with a proven record of violating those very rights and profiting off people held in correctional institutions.²⁸ In an effort to address the multitude of shortcomings, DOC created a protocol for defense counsel and providers to list counsel phone numbers to exempt and exclude any recording of client calls to counsel. Defense providers across the City complied providing list after list of counsel numbers entrusting DOC and Securus to follow through and protect such calls from any recording, let alone any access to a recording.

Nevertheless, DOC and Securus repeatedly recorded and disclosed confidential attorney-client calls to prosecutors and law enforcement. In 2020, we first learned of attorney-client recorded calls turned over to prosecutors when prosecutors provided our own recorded calls as part of discovery materials in criminal cases. We immediately requested an audit and action taken to protect attorney client communications.

²⁵ US Const. Amend. VI, NY Const. art I, § VI. *See, e.g. U.S. v. DeFonte*, 441 F.3d 92, 94 (2d Cir. 2006) (*per curiam*); *People v. Johnson*, 27 N.Y.3d 199 (N.Y. 2016). Moreover, prosecutorial access to privileged conversations between a defendant and his attorney is, of course, prohibited under the Sixth Amendment and CPLR 4503. *Massiah v. United States*, 377 US 201 (1964). Moreover, the Board of Correction Rules set forth the obligation to keep telephone communications with counsel confidential and protected. 40 RCNY 1-08(c)(5) and 1-10(h).

²⁶ “[T]he essence of the Sixth Amendment right is, indeed, privacy of communication with counsel.” *US v. Rosner*, 486 F.2d 1213 (2d Cir. 1973)(*citing Glasser v. US*, 315 US 60 (1942)). The right to confidential attorney-client is also codified, CPLR § 4503, and an ethical obligation to preserve such confidence. Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.6; *see also* NYS Bar Ass’n Formal Op. 11 (1994)(attorneys should use caution to protect confidences if communication device readily capable of interception).

²⁷ There is a disparate impact upon Black and Latinx communities in DOC failures to ensure right to counsel to people held in correctional facilities. The marginalized population in DOC custody had dropped in the early weeks of the pandemic due to public defender efforts before the courts to secure bail reviews and writs for vulnerable populations to below 4 thousand people. *See* NYC Board of Correction Weekly COVID-19 Update (March 16, 2022) Slide 5 (March 16, 2022)(<https://www1.nyc.gov/assets/boc/downloads/pdf/covid-19/BOC-Weekly-Report-03-05-03-11-22.pdf>). However, prosecutors continued to requested and obtained bail returning to pre-COVID-19 population levels approaching 6 thousand people. It is Black and Latinx people who continue to disproportionately be targeted for arrest and held in DOC custody. *Id.* (more than 4 out of 5 people at Rikers identify as Black or Latinx). Failure to provide a means of private, confidential communications with counsel denies right to counsel disproportionately on Black and Latinx communities held in DOC facilities.

²⁸ Securus profits when people held in correctional facilities seek to speak to counsel, family, loved ones and friends, charging people held, exorbitant rates to make a phone call, a practice NYC stopped by providing free calls. Ross, Keaton, Sued Every Way and Sunday. New Prison Phone Provider Has Troubled History, Oklahoma Watch (Aug. 27, 2020)(<https://oklahomawatch.org/2020/08/27/sued-every-way-and-sunday-new-prison-phone-provider-has-troubled-history/>).

In 2021, however, public defenders were stunned by media stories that DOC and Securus continued to record and provide thousands of recorded attorney client calls to prosecutors and law enforcement throughout the City.²⁹ As the stories broke, NYC Council, Committee on Criminal Justice held preliminary budget hearings and brought to light these critical failures, holding DOC accountable to oversee Securus and stop the recording of attorney-client calls.³⁰ DOC gave assurances that systems were already in place to address the wrongful recordings so it would not happen again.³¹

We called for full audits of all counsel phone numbers and disclosures of all the accessed recorded calls. This full disclosure would permit defenders to contact the recipient DA Office or law enforcement, connect with clients regarding the breach, and take needed next steps to enforce the right to counsel. We again received assurances that all steps were taken to protect counsel numbers and sequester any recorded calls. DOC, however, has yet to complete a full audit to search for all wrongly recorded calls with counsel.

Yet, at the end of 2021, we received a third round of over a thousand additional attorney-client calls recorded and accessed. This time, however, DOC declined to provide the recipient information disregarding the necessity of this critical information to act to protect the right to counsel. Three rounds of disclosures of thousands of wrongfully recorded attorney-client calls and DOC has neglected to do a full audit of all protected phone numbers and failed to stop the recordings and disclosure of privileged calls.

This news should not have been surprising given Securus' past record of violating right to counsel. Across the Nation, Securus demonstrated a consistent failure to protect attorney-client phone calls from recording and access to prosecutors.³² In several States, Securus has wrongfully recorded thousands of attorney phone calls with incarcerated clients and then provided access to

²⁹ Marcus, Chelsia Rose, *Over 1,500 private phone calls between NYC jail inmates and legal advisers wrongly recorded, audits show*, NY Daily News (Mar. 20, 2021)(<https://www.nydailynews.com/new-york/ny-rikers-jail-phone-records-lawyers-inmates-20210320-rdfb2lmuevgsdg5npad4egoqai-story.html>); and Marcus, Chelsia Rose, *NYC's 5 DA offices wound up with recordings of confidential jailhouse calls between inmates and lawyers*, NY Daily News (March 22, 2021)(<https://www.nydailynews.com/new-york/ny-jails-recordings-attorney-client-privilege-calls-20210321-tzbyxwnle5dc5jgvi5cona6wry-story.html>)

³⁰ NYC Council Committee on Criminal Justice, Preliminary Budget Hearing (March 22, 2021)(<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4809425&GUID=520FD426-0637-4563-A40D-DE1CDEF77373&Options=&Search=>)

³¹ *Id.* Tr. 49-51.

³² Complaint, *Austin Lawyers Guild v. Securus Techs, Inc.*, No. 1:14-cv-00366-LY (W.D. Tex. July 23, 2014). Securus would then settle asserting no intentional conduct and implementing systems in 2016, several years before NYC adopted similar process. Smith, Jordan, *Securus settles lawsuit alleging improper recording of privileged inmate calls*, The Intercept (Mar 16, 2016)(**Texas:** <https://theintercept.com/2016/03/16/securus-settles-lawsuit-alleging-improper-recording-of-privileged-inmate-calls/>); Margolies, Dan, Bombshell in Leavenworth Tapings Case: 1,300 Public Defender Calls Recorded over Two Years, KCUR NPR (June 6, 2018)(**Kansas:** <https://www.kcur.org/news/2018-06-06/bombshell-in-leavenworth-tapings-case-1-300-public-defender-calls-recorded-over-two-years>); McCarthy, Kieren, *Remember when Securus was sued for recording 14,000 calls between prison inmates and lawyer? It just settled*, The Register (May 21, 2020)(**California:** https://www.theregister.com/2020/05/21/securus_prison_wiretapping_lawsuit); Hogan, Samantha, Jailed Defendants Expected Private Attorney Calls. They Didn't Always Get Them, Pulitzer Center, (Jan. 27, 2022)(**Maine:** <https://pulitzercenter.org/stories/jailed-defendants-expected-private-attorney-calls-they-didnt-always-get-them>).

those calls to prosecutors and law enforcement, as evidenced in class action lawsuits and settlements.³³ Securus' repeated failure to honor and protect right to counsel raises serious questions regarding why NYC continues to fund Securus and further this practice of recording all calls, including protected attorney-client communications. This Council raised these very questions one year ago.

DOC contracted this primary obligation of protecting right to counsel to a dubious third party with a long record of violations of right to counsel and a business plan to profit off the marginalized people held in correctional facilities. We learn of repeated violations and a failure to protect and secure the right of counsel despite City Council holding DOC accountable for its failures. When, then, will this practice stop? When will we stop contracting with and funding Securus? When will we stop recording people indiscriminately solely because they lack the money and resources to secure freedom? It is time to act and protect and honor the right to counsel; it is time to cease the indiscriminate recording of people solely because they lack to resources to secure liberty.

³³ *Id.*

TRINITY CHURCH WALL STREET

03.23.22 - Trinity Church Testimony - Criminal Justice Committee - FY23 Preliminary Budget Hearing

March 23, 2022 | **Subject:** FY23 Preliminary Budget Testimony

Dear Chair Carlina Rivera and Members of the Committee on Criminal Justice:

My name is Susan Shah, Managing Director of Racial Justice at Trinity Church Wall Street. Thank you for the opportunity to provide testimony for this Fiscal Year 2023 budget hearing. We urge the Mayor and City Council to prioritize investments in services and support for justice-involved New Yorkers to reduce incarceration and homelessness and make our city safer.

Trinity Church Wall Street is an Episcopal Church in Lower Manhattan with a congregation of more than 1,600 parishioners who represent all five boroughs and form an ethnically, racially, and economically diverse congregation. In addition to our ministry, we carry out our mission of faith and social justice through a robust grantmaking program and engaging in advocacy at the City and State level to break the devastating cycles of mass incarceration, mass homelessness, and housing instability.

For years, Trinity Church has advocated for our City's lawmakers to allocate more funds for and better coordination of evidence-based initiatives—many of which Trinity has supported through our grantmaking—to decarcerate New York City's criminal justice system. These investments are critical to prevent individuals from reentering that system but remain underfunded.

We are deeply troubled by the deplorable conditions throughout New York City's jails and the impact that they have on the wellbeing of all justice-involved New Yorkers and the staff who work with them. For generations, the City's jails have been plagued with abuse, inhumane conditions, and violence. The COVID-19 pandemic has exacerbated and deepened this catastrophe, further highlighting that New York City's current carceral system cannot protect the health and safety of justice-involved individuals and those who work with them. Our current system fails to make New York City safer.

This humanitarian crisis requires our elected leaders to re-envision New York City's justice system and transform it into one that recognizes the humanity and dignity of all individuals and improves public safety. To achieve this goal, we believe that New York City must invest more funding into proven solutions.

TRINITY CHURCH WALL STREET

As such, we urge the Mayor and the City Council to commit to the following initiatives in Fiscal Year 2023 and beyond:

1. **Protect full funding for the City's plan to close Rikers Island by 2026 and build a smaller and more humane network of borough-based jails.** We are very concerned by efforts of the previous Administration to cut funding allocated for the City's plan to close Rikers, threatening the success of the entire plan. We urge the Mayor and the City Council to enact and financially support the recommendations made by the Commission on Community Reinvestment and the Closure of Rikers Island, established by Local Law 19334, and ensure that funding for the Commission is baselined into the City budget through 2027.
2. **Fund a high-level City Hall staff person to oversee reentry services.** Currently, no single City agency or individual is responsible nor held accountable for the outcomes of individuals once they are released from jail. A senior position reporting directly to a Deputy Mayor (either Health and Human Services or Public Safety) should be created to work in close collaboration with service providers, advocates, those with lived experience with the criminal justice system, and researchers to create and manage a unified reentry system that coordinates the actions and policies of Mayor's Office of Criminal Justice and the Departments of Correction, Probation, Health and Mental Hygiene, Social Services, and Housing Preservation and Development.
3. **Allocate additional funds to the "Credible Messenger" program.** We commend Mayor Adams for his recent announcement to expand funding for the Credible Messenger program to serve all youth under the age of 21 serving probation. Trinity has been a primary funder of the Credible Messenger Justice Center, which is housed at the Department of Probation. This program, which pairs young people with mentors who provide professional and personal support, has been shown to improve outcomes for justice-involved youth and prevent further interactions with the criminal justice system. We encourage both the Mayor and the City Council to further this program to reach more young people involved with the criminal justice system or those at-risk of involvement.
4. **Devote more funding to expand services that disrupt pathways to the criminal legal system for those struggling with mental health challenges.** Outpatient mental health treatment, respite care, alternatives to incarceration, and additional secure hospital-based wards are needed to address the interconnected issues of mental health and incarceration. For example, the City has proposed creating three new secure hospital-based wards with a total capacity of 394 beds by 2023. These would serve people with mental illness facing violent felony charges or those who the courts and physicians have determined cannot live safely in the community. However, data suggests that as many as 1,000 slots, spread across multiple hospitals, are necessary to meet the

TRINITY CHURCH WALL STREET

need. These hospital beds should be operated by Health + Hospitals, not the Department of Correction.

5. **Increase the number of community-based violence interrupter programs in neighborhoods most impacted by incarceration through the Crisis Management System.** This system, made up of a network of nonprofit organizations in 21 precincts, deploys credible messengers, (known as violence interrupters) who mediate conflicts on the street and connect those in need to services with the aim of reducing the risk of violence and criminal justice system involvement. Data shows that from 2010 to 2019, the program contributed to an average 40% reduction in shootings across program sites, as compared to a 31% reduction in comparison locations.
6. **Increase funding to expand the City's supply of supportive housing for justice-involved New Yorkers.** Data shows that permanent supportive housing is effective in reducing recidivism, homelessness, and time in in-patient psychiatric care for those who cycle in and out of these systems, saving an estimated \$16,000 per year per person. Experts estimate that New York City needs 800 such units to serve this population but currently only about 100 are in operation. The Administration and Council should allocate funding and expedite the creation of at least 700 new permanent supportive homes, using the Justice Involved Supportive Housing (JISH) model managed by the Mayor's Office of Criminal Justice.

Thank you for providing Trinity with the opportunity to submit testimony.

Hearing on the New York City Department of Corrections Budget

Written Testimony of Jullian Harris-Calvin
Director, Greater Justice New York
Vera Institute of Justice

Thank you for the opportunity to provide testimony today.

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

We have conducted a thorough analysis of the Department of Correction's (DOC) budget and how it compares to the jail budgets of other jurisdictions. As you know, New York City spends more than \$1 billion more than Los Angeles County, the nation's largest and second-most expensive local jail system.¹ That translates to \$556,000 per year for each person jailed in our city, or the equivalent of supportive housing for 13 people.²

Budgets are moral documents, and over the years, this city's corrections spending has illustrated what we care about, who we care about, and how we care for our communities. Today, I urge you to reconsider this year's Department of Correction budget, as it simply serves to enable and reward years of mismanagement, ineptitude, and negligence that continue to cost the lives of mostly Black people and other people of color.³ As you consider the DOC budget, I ask you to reverse that years-long trend by:

1. Not funding new corrections officer hires, thereby forcing the department to get its staffing house in order; and in that same vein,
2. reigning in overtime expenses, currently projected to rise to more than \$125 million.⁴

Last year, 16 people died in our city's jails—the most in a single year since 2016 when the citywide jail population was 49 percent higher.⁵ This year, Tarz Youngblood, George Pagan, and Herman Diaz died in DOC custody—within a single month's time.⁶ And it is only March. Given what you already know as well as more than a dozen detailed reports submitted by the jail system's federal monitor, it is time to face the necessary task of dealing with the city's DOC problem. A core aspect of that project is to refrain from continuing to fund the department's bloated and failing personnel rolls—which constitute 88 percent of the FY23 budget—at the expense of critical services that make our communities safer, healthier, and more vibrant.⁷

The mayor's FY 2023 budget proposes DOC expenditures that are largely consistent with previous years, falling just 0.7 percent lower than the FY 2022 modified budget.⁸ Meanwhile, essential City departments face enormous funding cuts. For example, the mayor's budget cuts the Department of Health and Mental Hygiene's budget by 36 percent, the Department of Youth and Community Development's by 21 percent, and the Department of Homeless Services' by 20 percent.⁹

We must not squander public funds in apparently short supply on a corrections system failing to do its job. The issue is not a lack of funding or a lack of staff, who outnumber people in detention by just under 2,000.¹⁰ According to the Nunez monitor's most recent report, "the use of force and violence in the jails are inextricably linked to the Department's mismanagement of staffing and its significant security failures."¹¹ Central to that mismanagement is chronic absenteeism; we see 30 percent of officers out sick on any given day—a number significantly more than any other uniformed municipal workforce—and overtime costs that reached \$153 million in FY21.¹² These

overtime costs alone are the equivalent of 3,629 supportive housing beds. We continue to await the final FY22 overtime costs.

New York City already has plans to transition to a smaller, more humane borough-based jail system by 2027. With a maximum capacity of 3,300 people, our jails will need far fewer corrections officers.¹³ And DOC will need considerable retraining to make sure we are not simply exporting the current culture of violence, absenteeism, and mismanagement to borough-based sites. City leaders must start planning for and working toward that transition now, and it begins with a budget that holds DOC accountable for maintaining appropriately staffed, well-managed, and humane facilities.

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

About

Testimony written by Jullian Harris-Calvin. For more information about this testimony, contact Jullian Harris-Calvin, director of Greater Justice New York, at jharriscalvin@vera.org.

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and community organizers working to transform the criminal legal and immigration systems until they're fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn't determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera's headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles. For more information, visit vera.org.

Endnotes

¹ Vera Institute of Justice, *A Look Inside the New York City Correction Budget* (New York: Vera Institute of Justice, 2021), <https://www.vera.org/downloads/publications/a-look-inside-the-new-york-city-correction-budget.pdf>.

² New York City Comptroller Scott M. Stringer, *NYC Department of Correction: FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, and Overtime* (New York: New York City Comptroller's Office, Budget Bureau, 2021), <https://comptroller.nyc.gov/reports/nyc-department-of-correction/>; and CSH, *Advancing Supportive Housing Solutions to Reduce Homelessness for People Impacted by the Criminal Legal System* (New York: CSH, 2022), 23, <https://www.csh.org/wp-content/uploads/2022/02/Reduce-Homelessness-for-People-Impacted-by-the-Criminal-Legal-System.pdf>.

³ Nunez Monitoring Team, *Special Report of the Nunez Independent Monitor* (New York: Nunez Monitoring Team, 2022), <https://legalaidnyc.org/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>.

⁴ New York City Office of Management and Budget, *The City of New York Fiscal Year 2023 Departmental Estimates* (New York: New York City Office of Management and Budget, 2022), 1292, 1302, <https://www1.nyc.gov/assets/omb/downloads/pdf/de2-22.pdf>.

⁵ Taiyler Simone Mitchell, "15 Rikers Island Inmates—All Men of Color—Died in 2021, the Largest Number of Deaths Since 2016," *Insider*, January 5, 2022, <https://www.insider.com/15-rikers-island-inmates-died-2021-most-deaths-since-2016-2022-1>; and Stringer, *NYC Department of Correction: FYs 2011-21 Operating Expenditures*, 2021.

⁶ David Cruz, "Another Rikers Island Detainee Dies, Second in One Week, Jail Officials Say," *Gothamist*, March 18, 2022, <https://gothamist.com/news/another-rikers-island-detainee-dies-second-in-one-week-jail-officials-say>.

⁷ Vera Institute of Justice, *A Look Inside the New York City Department of Correction Budget: One Year Later* (New York: Vera Institute of Justice, 2022), <https://www.vera.org/downloads/publications/a-look-inside-the-new-york-city-correction-budget-2022-report.pdf>.

⁸ New York City Office of Management and Budget, *The Preliminary Budget of The City of New York for the Fiscal Year 2023: Expense Revenue Contract* (New York: NYC Office of Management and Budget, 2022), 39E, <https://www1.nyc.gov/assets/omb/downloads/pdf/perc2-22.pdf>.

⁹ *Ibid.*, 133E, 66E, 38E.

¹⁰ Lauren Gill and Reuven Blau, "Hundreds of New City Jail Officers for Rikers Put Detainee Advocates on Guard," *The City*, July 11, 2021, <https://www.thecity.nyc/2021/7/11/22572991/rikers-island-getting-more-jail-guards-correction-officers>.

¹¹ Nunez Monitoring Team *Special Report of the Nunez Independent Monitor*, 39.

¹² *Ibid.*

¹³ Caroline Spivack, "Rikers Island Closure and Borough-Based Jail Plan, Explained," *Curbed New York*, February 26, 2020, <https://ny.curbed.com/2019/7/9/18307769/nyc-rikers-island-closure-borough-based-jails-plan-explained>.

New York City Council Committee on Criminal Justice
Testimony from Betsy Ramos
March 24, 2022

My name is Betsy Ramos and I spent a year at the Rose M. Singer on Rikers Island. Being a domestic violence victim, what I needed was services and care. Instead, I was assaulted by an officer, and my trauma was made worse.

That was decades again, and it has only gotten worse. Rosie's should shut down now, the city cannot keep it open for another five years. Moving women from Rosie's to Kew Gardens is a horrible idea. Kew Gardens Queens is far away from where most of the children and families of those inside live. Women would be sharing spaces and staff with men. As a domestic violence survivor, I can tell you that coming across the same men you're trying to get away from will be dangerous and traumatizing for the women.

It would be safer, quicker, and cheaper for the city to use either Lincoln or Bayview in Manhattan for women and gender-expansive people who are currently at Rosie's. Lincoln or Bayview can become a Women's Center for Justice that provides healing and stops the cycle of trauma. It can be a place where mothers feel safe having their children visit, and families can stay connected.

Women and trans people deserve better than Rosie's or Kew Gardens. They deserve justice and safety. Please create a Women's Center for Justice at Lincoln or Bayview in Manhattan. Thank you.

The New York City Council Committee on Criminal Justice

Testimony from Fay Owens

Harlem Resident

March 23, 2022

My name is Fay Owens, I am a Brooklyn girl residing in Harlem which is District 9, represented by Council Member Kristin Richardson Jordan. I am asking the City Council to change the plan for the women at the Rose M. Singer Center (Rosie's) on Rikers. Instead of plans to send them to Kew Gardens five years from now, where they would share spaces with men, they need their own site and care. Please create a Women's Center for Justice in Manhattan—either at Lincoln in Harlem or Bayview in Chelsea.

I am a formerly incarcerated woman; I have been jailed on Rikers Island 23 times. I was sexually assaulted 6 times during various times of my incarceration. If it were not for the women that I met through this horrific journey I am not sure if I would still be upright. No, I am sure I would not be upright without those women.

I am asking with the utmost respect that those at Rosie's not be moved to Kew Gardens as the city closes Rikers. That would further traumatize these women, as there would be spaces shared with men who might be the cause of the original trauma the women of Rosie's are facing. I am asking that Lincoln or Chelsea be the location for these women.

It is time we started treating those that are currently incarcerated as human beings. No one deserves to go through what I did at Rikers. We must break the cycle of trauma and abuse. If this were your daughter, mother, sister, aunt, niece, cousin, what would you propose the proper treatment would be for her? Do what is right because it could be your family member next.

New York City Council Committee on Criminal Justice
Written Testimony of Kelly Briem
March 24, 2022

Thank you, Council Members for allowing me the time to speak today. My name is Kelly Briem, I currently reside in the Castleton Corners section of SI. Council Member David Carr represents me.

I am 50 years old, a mother of six, and an executive in the business sector for over 20 years. I hold a bachelor's in psychology, and I am currently a masters level graduate student of social work. I am also a formerly incarcerated woman, domestic violence survivor, trafficking survivor, former sex worker and former heroin and crack addict.

There is a saying "doing the same thing expecting different results, is insanity. And here I sit before you decades later pleading to stop the insanity cycle of Rikers, in particular for the women and gender expansive people at the Rose M. Singer Center.

The city should change its plan to keep Rosie's open for five more years and then relocate women to a Kew Gardens building that shares spaces and staff with men. Instead, women and gender-expansive people should have their own facility in Manhattan—either at Lincoln in Harlem or Bayview in Chelsea—and it should be a place of healing that breaks the cycle of trauma and incarceration.

My story, like many who have passed through the doors of Rikers, is multilayered with trauma, bad decisions, and survival. My incarceration was during the mid-90's and although Rosie's was less than a decade old it was falling apart. I entered Rikers broken, bruised, depleted, chronically sexually assaulted and dehumanized by both systems and individuals. Rikers did not save me, if anything by the time I came out the other side I had full blown complex PTSD due to the chronic abuse of the correction officers. The abuse was both verbal and sexual. I feared anyone finding out and retribution, and the abuse contributed to the belief that I was not worthy of dignity.

During my times at Rikers I had no programming, no mental health support. I didn't even have clothes or shoes. My support was the women I was incarcerated with, and if it was not for them, I would not be here today. Aunties, mothers, grandmothers, sisters, daughters all rallied to hold each other up, forming community support. The amount of support and empathy that my sister in arms gave me stayed with me through my reentry and is the fuel for my advocacy and passion.

It's ironic how NY was the first state in the country in 1901 to have a prison nursery in Bedford Hills; a huge benchmark in this country, and how Rose Singer had dreams of creating a reformatory where women could blossom and shine. Instead, here we are with buildings and correction systems that are broken and have become houses of horrors. There is a reason why the Rose M. Singer Center was ranked in the top 12 of worst jails in the country for sexual assault.

I say once again NYC should be the benchmark for the rest of the country in creating a gender-responsive facility by utilizing either Lincoln or Bayview, instead of relocating the women to a co-ed facility that could actually create a bigger problem and trauma.

The insanity cycle is calling this "corrections" instead of what it really is: warehousing people, dehumanizing, and abusing them, and in some cases killing them. New York City can break this cycle by securing Lincoln or Bayview as a Women's Justice Center that is a place of care and healing for mothers, daughters, siblings, and children.

New York City Council Committee on Criminal Justice
Michelle Feldman testimony
March 23, 2022

My name is Michelle Feldman, and I am with the Women's Community Justice Association's #BEYONDrosies campaign which advocates for the women and gender-expansive people at the Rose M. Singer Center (Rosie's) on Rikers Island.

The mothers, daughters and sisters at Rosie's have been neglected and mistreated within the facility and by policymakers.

Under the borough-based jail plan, the group of under 300 women and gender-expansive people at Rosie's to be among the last to leave Rikers Island five years from now. They would be moved to a new Kew Gardens facility that has shared spaces and staff with men, opening in 2027. This is worse than conditions at Rikers; at least Rosie's is a standalone facility. The common entrance risks retraumatizing the estimated 77 percent of women in jail who are domestic violence survivors, and potentially exposing them to their abusers. Manhattan is the borough where the highest number of women are charged, and families will face long commutes, just like at Rikers, to visit their loved ones.

March is Women's History Month, and New York City can make history by creating a new plan for women at Rosie's. The #BEYONDrosies campaign is calling for a Women's Center for Justice—a more readily available, accessible, humane facility that is separate from men in Manhattan. Rikers Commission Chair, former NY Chief Judge Jonathan Lippman and the Mayor's Social Justice Commission have called for the use of a closed state correctional facility at Lincoln in Harlem or Bayview in Chelsea for this purpose.

Renovating Lincoln or Bayview would be faster and cheaper than new construction at Kew Gardens. Recent renovations of Crossroads and Horizons juvenile facilities took 18 months to complete, as opposed to the 5 years it will take to build Kew Gardens. Compared with Kew Gardens' new construction cost estimates, renovating Crossroads and Horizons was \$500/square foot cheaper, which could indicate similar savings to renovate Lincoln or Bayview.

The Women's Center for Justice can use a new model of gender-responsive care with a focus on Reentry from the moment of Entry. We envision women and gender-expansive people actually having the root causes of their systems involvement addressed so the cycle of incarceration is broken. Thank you.

The New York City Council Committee on Criminal Justice

Testimony from Nancy Sicardo

March 24, 2022

My name is Nancy Sicardo and I live in East Harlem. I have lived here for over 11 years and was born and raised in Manhattan. I have also experienced being at Rose M. Singer Center on Rikers Island and that is why I'm here today to ask for a better plan— a Women's Center for Justice at Lincoln Correctional Facility in Harlem.

I spent over a year and a half at Rosie's, and it was a humiliating experience. I didn't have shoes and was forced to walk around in slippers. Not having shoes was so degrading, it takes away your humanity and self-esteem. That's why I started my organization *Klicklacambeautiful* because I vowed not to let another sister come home without a pair of shoes.

Right now, the city is planning to keep Rosie's open for five more years, and then move women and gender-expansive people to Kew Gardens, Queens. At Kew Gardens, they would share spaces and staff with men. That is not what women need. I know what the women need because I was one of them, and I see what they go through today.

When I was at Rikers I was terrified of seeing the men. I remember that male guards would push up on women and there was a lot of sex that should never have happened. Women need privacy. Their respect and dignity is at stake.

In Harlem so many women are broken down. I see them going in and out of the system. They disappear and then they come back without their issues being addressed.

Lincoln Correctional Facility has been closed since 2019, and it can be transformed into a Women's Center for Justice that serves women inside and outside of the building. The city can stop the cycle of abuse and trauma that so many Harlem families have gone through for so long. As City Council Members, I ask you to help the city secure Lincoln from the state and create a place of hope and healing for Harlem women.

The New York City Council Committee on Criminal Justice

Testimony from Queen

March 23, 2022

My name is Queen and as a Black Trans woman, I had to fight to stay alive during my incarceration. We face so many barriers to employment, housing, and other areas that lead us to the criminal justice system. We just want to be treated as human.

But trans people are not being treated as human at Rikers. There was just a news report about a Black trans woman who was sexually assaulted three times since 2020. I know what it's like to live in fear, to have to worry about your safety every day in jail. When you're just trying to survive, there is no way you can actually get the help that you need to break the cycle of incarceration and find a stable, healthy path forward.

The Rose M. Singer Center on Rikers Island should shut down now. The city should not wait another five years. The plan to move women and gender-expansive people to Kew Gardens, where they would share spaces and staff with men is dangerous. CIS gender women and trans women need their own facility that is separate from men and that addresses their unique trauma and experiences.

What actually worked for me was connecting to LGBTQIA organizations who helped with housing, therapy and other services. These groups provided an accepting community that understood what I was going through and treated me with dignity and respect.

The City should use Lincoln in Harlem or Bayview in Chelsea for women, trans and gender-expansive people who are at Rosie's right now. One of these sites can be transformed into a Women's Center for Justice that provides the services and community that I was finally connected to, which changed my life. Putting trans people at Rikers, and moving them to Kew Gardens is wrong, and it just continues trauma and abuse. The city can do the right thing for women and gender-expansive people with a Women's Center for Justice in Manhattan.

The New York City Council Committee on Criminal Justice

Testimony from Ruth McDaniels, Harlem Resident

March 24, 2022

My name is Ruth McDaniels and I'm a Harlem resident, a retired law enforcement officer and a mother and grandmother. After working with every police precinct and school in our community, I can tell you that public safety starts with the mothers.

The mothers of Harlem are the hearts of our neighborhoods, and they've been so badly mistreated. Over the years I've seen mothers, daughters and children cycle in and out of the Rose M. Singer Center on Rikers Island and also holding things down while men were there. This is the product of mass incarceration, and it needs to be stopped.

Harlem can break the cycle by transforming Lincoln Correctional Facility into a Women's Center for Justice. This can be a place of healing that serves those currently at Rosie's, and women and families in the surrounding community.

Right now, the city is planning to keep women and gender-expansive at Rosie's for five more years, and then relocate them to a new Kew Gardens, Queens facility that is connected to a men's jail. Kew Gardens will be just as far for people from Harlem to visit their loved ones. And there will be shared spaces with men, which is traumatizing for women who have suffered abuse.

This is just replicating the same old problems that have torn apart Harlem families and other Black and brown neighborhoods. Too many women have been broken by the system. I will not sit back and watch this cycle continue playing out in our community.

If we believe that Harlem has a future, that Black people have a future, we need to get to the mothers. That is how we heal families and the next generation.

The Women's Center for Justice would replace the old failing model with gender-responsive care that meets the needs of mothers, daughters, and families. It can be run by nonprofits and offer housing, employment, and other services to residents inside and outside the building.

As City Council Members, you can do the right thing for the mothers and bring the Women's Center for Justice to Harlem.

New York City Council
Committee on Criminal Justice
Preliminary Budget Hearing – Criminal Justice
Written Comments of Kate Rubin, Director of Policy, Youth Represent
March 23, 2022

Youth Represent is dedicated to improving the lives and futures of young people affected by the criminal legal system. When the justice system creates barriers to success for youth, we use the law to help them leave the stigma of a criminal record behind. We provide criminal and civil reentry legal representation to young people age 16-26, assisting them with everything from rap sheet review to school suspensions to employment discrimination and any other legal needs they identify. We also engage in policy advocacy and youth leadership development through our City Dreamers Advocacy Camp. Our interdisciplinary approach allows us to understand our clients' legal and practical challenges so we can effectively represent them from courtroom to community.

Thank you to Chair Rivera, Committee members, and staff for the opportunity to provide testimony on the 2022 budget.

An Approach to Safety Rooted in Racial and Economic Justice, Public Health, and Youth Development

As elected leaders and members of the Committee on Criminal Justice, you know that our City is at a crossroads. The last fifteen years have been among the safest in our city's history, with record low levels of gun violence and other violent crime. In June of 2020 that trend reversed. According to NYPD data there were 901 shootings from June – August in 2020, compared to 332 during the same period in 2019.

Opponents of recent but long overdue reforms to our criminal legal system, including New York's Raise the Age law and bail reforms, have tried to blame this surge on those reforms. But the data—and common sense—tell a different story. My focus in this testimony is on Raise the Age and youth justice. **For the first eighteen months after Raise the Age went into effect in New York, shootings in New York City remained the lowest they have been in decades, even as arrests and incarceration of 16- and 17-year-olds declined.**¹ Only after months of Covid-19 infections, deaths, and lockdowns, did gun violence increase in New York City, as it did in many cities around the country where criminal justice reforms had not been enacted.

For young people, the effects of Covid-19 go beyond the initial lockdowns, hospitalizations, and community loss of life. Since the onset of the pandemic, young adults (aged 18-24) are experiencing anxiety and depression at higher rates than any other age group.² One in four young adults was found to have seriously considered suicide – an increase from one in 10 young adults pre-pandemic.

¹ See the New York State Raise the Age Implementation Task Force Final Report, p. 9 (<https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL%20Report-Raise%20the%20Age%20Task%20Force%202012-22-20.pdf>) and NYPD Historic New York City Crime Data (<https://www1.nyc.gov/site/nypd/stats/crime-statistics/historical.page>).

² Kaiser Family Foundation Issue Brief (Feb. 2021). The Implications of COVID-19 for Mental Health and Substance Use. <https://www.kff.org/report-section/the-implications-of-covid-19-for-mental-health-and-substance-use-issue-brief/>

Emerging evidence shows that the pandemic has negatively affected academic growth, widening pre-existing disparities for students at every level, including post-secondary students.³ A study published in *Pediatrics* found that nearly 1 in every 500 children in the U.S. has lost a caregiver, and children of color have been disproportionately affected, with the highest loss of primary caregivers in California, Texas and New York.⁴ In the midst of all of this, many of the services that young people rely on for support have been disrupted.

The combined health, mental health, academic, economic, and emotional tolls of the pandemic have created deep uncertainty for many young New Yorkers, leading some to question whether they can rely on the very institutions responsible for their health, safety, and development. Young people are looking to elected leaders to lead us out of the pandemic and into a just recovery. They are looking for lasting, community-based solutions to gun violence—not policies that blame, criminalize, and incarcerate young people.

Youth Represent was one of the lead organizations in the campaign to Raise the Age of adult criminal prosecution in New York, helping to secure passage of legislation in 2017 that finally ended New York’s shameful designation as one of the last two states in the country to automatically try *and incarcerate* all 16 and 17 year olds as adults. Because of the extreme violence experienced by teenagers at Rikers Island, a key provision of Raise the Age mandated the transfer of all 16- and 17-year-olds off of Rikers in October 2018, a year before the rest of the law was fully in effect for 17-year olds.

Raise the Age was a critical step forward, but it did not extend any protections to youth and emerging adults past the age of 18. Each year, tens of thousands of young people 18-25 are arrested and prosecuted in adult court and exposed to lifelong criminal records. **As of this week, there were over 1,200 young people age 18-25 incarcerated in New York City jails, nearly all of them Black and Latinx. Of those, over 500 are age 21 and under.** The annualized cost to incarcerate one person in DOC custody is over \$556,539⁵ -- many times the cost of even the most expensive college. And despite this extreme and excessive spending, we cannot even guarantee basic safety.

There are so many better ways to spend this money. The city must divest from systems that surveil, police, arrest, and incarcerate young people. Instead, we must make sustained investments in the things that are the foundation of genuine safety: housing, education, green spaces, healthcare, and living wage employment opportunities.

We must expand programs that take a public health approach to gun violence, including violence intervention programs. While New York State has led the nation by investing in these programs, the resources they receive remain a tiny fraction of those received by traditional law enforcement. Violence intervention programs must be funded to expand catchment areas, hire more staff, and create robust intake systems to serve more participants city and statewide.

³ “Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students.” US Department of Education, Office of Civil Rights, June 2021.

⁴ National Institutes of Health News Release (October 7, 2021): *More than 140,000 U.S. children lost a primary or secondary caregiver due to the COVID-19 pandemic.* <https://www.nih.gov/news-events/news-releases/more-140000-us-children-lost-primary-or-secondary-caregiver-due-covid-19-pandemic>

⁵ For FY2021, from NYC Comptroller, December 2021. FY2022 and FY2023 data is not yet available

We must also invest in health, mental health, and well-being for youth and families and in education and economic mobility. These investments are detailed in the [Raise the Age campaign's 2022 Youth Justice Platform for NY](https://raisetheagency.org/22-youth-justice-ny-platform/).⁶ Within this ecosystem of services and supports, legal services play a key role – helping young people overcome barriers to employment and education and maintain stable housing and family connections.

Youth Represent: Critical Legal Services for Youth

With support from the New York City Council through the Innovative Criminal Justice Programs Initiative, Youth Represent provides reentry legal services for young people in their own communities. Our clients come from across New York City:

- **25%** are from the Bronx
- **22%** are from Brooklyn
- **22%** are from Manhattan
- **13%** are from Queens
- **8%** are from Staten Island, Westchester, and New Jersey

Nearly all the young people we serve are youth of color:

- **46%** are Black
- **25%** are Latiné
- **7%** identify as multiracial
- **6%** are of Asian & Pacific Islander descent
- **3%** are White
- **9%** are Other or Unknown

The average age of all of our clients is 23 years old. In the midst of the Covid-19 pandemic, we were able to deliver 106 legal workshops to 1,322 participants and provided full legal services to 428 young people last year.

The young people we serve have been some of the hardest hit by the pandemic. Some are navigating pregnancy and parenting young children. Many have faced pressure to continue working in unsafe conditions. Others face employment and other forms of discrimination based on system-involvement. Throughout the pandemic, Youth Represent has continued to provide critical, client-centered support to young people facing legal issues.

Protecting Employment Opportunities: More than 80% of employers run criminal background checks, but we've found that nearly half of the young people we work with don't know what will show up on their record. We obtain RAP sheets, review them with our clients, and counsel young people on how to speak to employers about their criminal history accurately and effectively. We also correct mistakes on RAP sheets and ensure that records that should be sealed are. Finally, we make sure that young jobseekers understand their rights when applying for jobs and represent them if they face unlawful discrimination or have their privacy wrongfully violated by companies conducting criminal background reports.

⁶ <https://raisetheagency.org/22-youth-justice-ny-platform/>

Vanessa's Story: "Vanessa" had her vocational license suspended because she was facing a misdemeanor charge. By researching the collateral consequences of the prosecution's proposed plea and obtaining support letters for Vanessa, we were able to negotiate a better plea with a non-criminal disposition and obtain an immediate seal. Vanessa was able to obtain a certification of disposition from the court and get her job reinstated immediately.

Supporting young jobseekers with comprehensive legal services: Being able to find and keep a job often requires addressing other legal issues. We fight for needed repairs in apartments and defend families at risk of eviction from public housing that can stem from arrests or convictions. We represent young people in criminal and summons matters, using both legal and youth development principles to get the best possible outcomes for our clients. We also represent young parents with custody, visitation and child support issues and assist LGBTQ youth with name and gender marker changes.

Cee's Story: "Cee" is a non-binary young person who lives with their mother and two young siblings in a NYCHA apartment in the Bronx. Cee reached out because their home had become uninhabitable: the stove had not worked in more than a year, there was a mouse infestation, their kitchen pipes leaked, and paint was chipping off the walls. The family was forced to go to a friend's apartment just to bathe. We filed a petition demanding that NYCHA make needed repairs right away, providing extensive documentation of their failure to remedy the issues. The judge admonished NYCHA for their inexcusable delays and ordered them to remedy the conditions immediately.

Covid Response: With the onset of the pandemic, Youth Represent used technology to continue to provide robust services while working remotely. We launched a **chatbot** to allow young people to start the intake process seamlessly just by visiting our website; started a citywide **legal hotline** in collaboration with Community Service Society; and have relied on word of mouth and social media to spread the word about our services to young people who are disconnected from traditional service providers. We also shifted resources to respond to immediate client needs and launched an **emergency fund** that has covered expenses ranging from groceries to cleaning supplies to cab rides so a pregnant client could travel safely to prenatal appointments.

City Council Criminal Justice Programs Initiative Support: City Council funding through the Innovative Criminal Justice Programs Initiative has allowed us to provide critical legal services for youth. This year we have requested an additional \$25,000 – for a total request of \$100,000 -- to allow us to expand our legal services in neighborhoods with the highest rates of gun violence and to expand our Emergency Fund. We hope that you will renew and expand funding for Youth Represent and that you will do so in the context of a just budget – investing in the full range of services and supports that young people and families rely on.

Conclusion

The Covid-19 crisis has amplified the injustices that Youth Represent fights every single day. It has also heightened and clarified the need to divest from incarceration and invest in critical services and access to safe and healthy conditions for living and working for all youth and families. We **thank the Council** for your support and for championing young people across the city impacted by the legal system.



YouthBuild NYC Collaborative

Who we are and how we are looking to actively create positive outcomes in the criminal justice system!

Reps: Malik Sammons and David Calvert

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

Who we are:

Hello! My name is Malik Sammons, and I am a representative for the YouthBuild NYC Collaborative. Thank you so much for your time today! The Collaborative is a collection of New York City's 8 YouthBuild sites that span across all five boroughs. At these locations, we primarily focus on the empowerment of young people 16-24. This comes from the strong connections we make with our students and the resources we offer them. YouthBuild participants focus hard on obtaining their high school equivalency certificates, while also getting trained in such career tracks as construction, tech and broadband infrastructure, building operations, food and nutrition, and more. Our programs connect young people to employers and help them find jobs that fit them. We also offer alumni services to continue to assist our students for years to come; as we say, "Once a YouthBuild, Always a YouthBuild!"

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

YouthBuild and Criminal Justice

As a non-profit that has specialized in workforce development for over 40 years, NYC YouthBuild programs have gained a particular expertise in meeting young people where they are and helping to create a path for them to success. YouthBuild's primary audience is young people who are out of school and out of work. An overwhelming majority of our students come from economically deprived areas, are black or Latinx and have experienced hardship young people are not supposed to bear. About 30% of YouthBuild participants have a court-involved background; they are welcome in our programs. But court-involved and re-entry citizens are often ostracized in our society and forgotten about in creating substantial policy. This is hurtful to them, naturally, but also to all of us. We lose their productivity, their potential contributions and participation, their re-entry to the broader community. New Yorkers who face trouble with the criminal justice system can be incredible contributors to the workforce.

One example I think of is Eddie Gibbs, my East Harlem Assemblyman, who took office earlier this year. Assemblyman Gibbs has moved past his earlier transgressions and now is a living example of how an ex-offender can bring a strong impact to their community. Or take YouthBuild's national CEO, John Valverde, who previously served a 14-year sentence and emerged ready to lead a national movement, and to do it beautifully. He was more fortunate than many others, benefiting from access to higher education while in the lock-up; he achieved his BA and a law degree while incarcerated. What if every prisoner was able to access that kind of support?

There are ex-offenders holding down good jobs all over the place, beating the odds, but so many others are held back and denied entry. It is imperative that this large community of often untapped talent be invested in and given full opportunity to work and create careers and lives for themselves that are dignified and positive. Programs such as pre-trial diversion programs can be an impactful asset to young people who are caught in the plight of the criminal justice system. In 17 of 18 measured categories, the Center for Court initiatives *Project Reset* has shown beneficial results for young people including a considerable decrease in recidivism. There is a substantial amount of correlation between areas with high poverty rates, lack of resources and underfunded education and the rate of arrests for young people 16-24 in our city. This shows the need for systems to be put in place to help these youth find a better path forward. In a TedxTalk by a man formerly incarcerated as a youth at Rikers Island, he emphasized that the two things people in his former situation need most are education and access to jobs. With this anecdote and the correlations seen in broad scale throughout the city, there must be

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

improved public policy, adequate proactive funding, and significant resources put into establishing open pathways for people involved in the criminal justice system to have access to career tracks, education, human dignity, and opportunity that will not only help their personal futures, but also help to heal communities that have been left out, and increase public safety.

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

Who we are:

Hello! My name is Malik Sammons, and I am a representative for the YouthBuild NYC Collaborative. Thank you so much for your time today! The Collaborative is a collection of New York City's 8 YouthBuild sites that span across all five boroughs. At these locations, we primarily focus on the empowerment of young people 16-24. This comes from the strong connections we make with our students and the resources we offer them. Currently all YouthBuild participants obtain their high school equivalency certificate. In addition to this we offer a wide variety of career tracks from tech and broadband infrastructure to building operations. Our programs connect young people to employers and help for them to find a job that fits them. We also offer alumni services to continue to assist our students.

Our Connection to the Summer Youth Employment Program

As a non-profit who has specialized in workforce development for over forty years, NYC YouthBuild programs have gained a particular expertise in meeting young people where they are and helping to create a path for them to see success. Our primary audience is young people who are out of school and out of work. An overwhelming majority of our students come from economically deprived areas, are black or latinx and have experienced hardship young people are not supposed to bear. About 30% of YouthBuild participants have a court involved background. With that being said, court-involved and re-entry citizens are often ostracized in our society and forgotten about in creating substantial policy. New Yorkers who face trouble with the criminal justice system can be an incredible contributor to the workforce. One example I think of is Eddie Gibbs. One of our representatives who despite his transgressions with the criminal justice system, displays how people from this population can bring strong impact to their community. Someone who was formerly incarcerated himself and now is helping to change communities in New York for the better as an assemblyman. Or YouthBuild's CEO John Valverde who previously endured a 14 year sentence himself. It is imperative that this community of typically untapped talent is invested in and given opportunity to work and create a life for themselves that remains dignified and positive. Programs such as pre-trial diversion programs can be an impactful asset to young people who are caught in the plight of the criminal justice system. In 17 of 18 measured categories, the Center for Court initiatives *Project Reset* has shown beneficial results for young people including a considerable decrease in recidivism. There is a substantial amount of correlation between areas with high poverty rates, lack of resources and underfunded education and the rate of arrests for young people 16-24 in our city. This shows the need for systems to be put in place to help these youth find a better path forward. In a TedxTalk by a man formerly incarcerated as a youth at Rikers Island, he emphasized the two things people in his former situation need most are education and access to jobs. With this anecdote and the correlations seen in broad scale throughout the city, there must be policy, funding and resources put into establishing pathways for people involved in the criminal justice system to have access to career tracks and planning that will not only

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

help their personal future, but also help to heal communities that have been left out and increase public safety.

Malik Sammons
YouthBuild NYC Collaborative
206 East 118 Street
New York, NY 10035-4106
Email: msammons@yayb.org
Phone: 614-284-4726

March 14, 2022

Decarcerate, Defend, Divest & Redistribute

New York City runs a richly funded jail system with results that fail miserably.

These resources would be far better utilized outside the jail system to meet the needs of people returning to the community after fulfilling their debt to society.

Increased funding for community based services would promote successful transition and a reduce the likelihood of repeat offenses.

Please correct the misallocation of funds to allow formerly incarcerated citizens to reclaim their dignity and economic security.

Anne Becker

Brooklyn, NY

Annebecke@gmail.com

March 22, 2022

Committee on Criminal Justice

Members: Carlina Rivera (Chair,) Shaun Abreu, Althea Stevens, Lynn Schulman, Lincoln Restier, Shahana Hanif, Mercedes Narcisse, David Carr

“The (NYC Correction) Department’s facilities are unsafe.”

This is a finding of the March 16, 2022 Special Report of the *Nunez* Independent Monitor.

During 2020-2021, while NYCPD, NYCFD and hundreds of health care workers were showing up over the many months of the COVID-19 pandemic, NYC Department of Correction corrections officers were not reporting for work at a rate of almost one third. Indeed, even when a vaccine became available to protect co-workers and the many thousands incarcerated on Rikers Island, COBA union staff reported a vaccination rate among their members at 45%.

‘The Department’s facilities are unsafe’ and testimony after testimony before committees, such as the NYC Board of Correction, the “cause” behind unsafe conditions has been reported as due to a *shortage* of staff. Prior NYC Council hearings not only heard such testimony but supported a request for 400 new officers. In the budget before you, a bloated increase based on misinformation, lack of accountability and deflecting transparency about the issue of a shortage of correction officer staffing continues, as does a request for funding.

Today’s hearing should not end with repetitive. misstated causes – it is time for a solution – do not renew the COBA contract and do not award the dysfunction of the NYC Correction Department with a correction budget request for funds - rewarding inefficiency, departure from their members duty of ‘custody, care and control’ and a continuing legacy of dangerous ‘unsafe’ mismanagement.

More disturbing is the COBA union contract allowing for a 10% increase in hourly salaries once overtime is activated. A reliance on double and triple shifts that were mandated over the many months of flagrant officer absenteeism should give the Council members pause – as thousands of NYC workers cannot get even a 5% pay increase. The failure to have an enforceable policy against gross correction officer absenteeism is another factor the NYC Council should address in a budget that supports the NYC Department of Correction as it mismanages facilities on Rikers Island.

Finally, the human cost of the loss of life attributed to NYC Department of Correction mismanagement cannot be overstated, indeed is in this week's headlines.

“The (NYC Correction) Department’s facilities are unsafe.” and families of loved ones are depending on you to use your budget oversight responsibility and to not use approval of budgeted funds that support management dysfunction rather than critically needed solutions.

Kathaleen Linares

<https://www.documentcloud.org/documents/21138915-12th-monitors-report-12-06-21-as-filed>

I am a NYC resident, voter and tax payer, living in Park Slope, Brooklyn. I am aware of the dreadful, dangerous and inhumane conditions that exist on Rikers Island. I believe that the only moral response to the disaster that is Rikers Island is to shut down the jail. Instead, the money saved must be invested into communities for the services that have been shown, again and again, to be more effective in preventing crime than incarceration: Housing, mental health and substance use services, equitable education funding, community-based services - these are the investments that reduce crime. It is obscene that the annual cost of housing an inmate at Rikers is \$500,000! What is the return on that investment? It is unconscionable public policy to continue this massive allocation. Please close Rikers and invest in communities!