

**Testimony before the
New York City Council
Committees on Criminal Justice and Finance
Chair Carlina Rivera
Chair Justin Brannan**

**By
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Good afternoon, Chair Rivera, Chair Brannan, and members of the Committee on Criminal Justice and Committee on Finance. 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 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, Acting Deputy Commissioner for Legal Matters Melissa Guillaume, Chief of Staff Kat Thomson, and Senior Policy Advisor Chelsea Chard. We meet today, when this Department is on the precipice of great change, to discuss the Executive Budget for Fiscal Year 2023. I intend to show this Council and our city that I as Commissioner, with the support of Mayor Adams, the Rikers Island Interagency Taskforce, and this Council, can lead the Department of Correction out of dysfunction and chaos that have plagued our agency for far too long.

Before I begin, I must acknowledge the recent losses of life. Dashawn Carter and Mary Yehudah passed away this month while in the Department's custodial care. We are heartbroken for their families and loved ones and my deepest condolences go out to them. Since we last met, we have also lost active-duty members of service, including Officer Edward Roman who tragically took his own life this past week. Our thoughts are with his family and loved ones as well.

Current State of Affairs

The dysfunction and resulting heartbreak that has become pervasive over the past several years within this agency troubles me profoundly. As I have shared with this Council, the impact of incarceration on my family has instilled within me a deeply rooted and firmly held commitment to criminal justice reform. My commitment was not born out of naivety and has not dulled with time. It is a commitment that has driven me throughout my career, a commitment that has been challenged – by both professional and personal experiences, and by events that have unfolded over the past few years in our city and in our country – but has never waived. This commitment brought me to Westchester County, also under a Monitor at the time, which I successfully transitioned out of Federal oversight. And it has brought me to this agency twice, first as the Chief Internal Monitor, and now as the Commissioner. We have a challenging road ahead, but my commitment to reform remains relentless and persistent. I will not be satisfied until we successfully turn this agency around.

The serious issues facing the Department were not created in a day and were not created in a vacuum. It was clear to me as I assumed the role of Commissioner in January that the same foundational issues persist today as when I was the Department's Chief Internal Monitor in 2016 and 2017 – deeply flawed security practices, inadequate supervision at all levels, ineffective utilization of staff, and an absolute lack of accountability. I documented these issues in a report published in December of 2016, and noted that, if they were not addressed, things would likely worsen. I could not have imagined five years ago that the Department would have reached the state of dysfunction it did in 2021.

Rather than face the facts of what existed then and seriously consider what was proposed, leaders of the Department went on to further ignore correctional best practices and policies which produced poor outcomes year over year. Instead of addressing these issues, the city systematically disinvested in its jail system. We ignored the crumbling infrastructure in our jail facilities and expected them to remain intact and safely house the incarcerated population. We disregarded the needs of staff, yet expected members of service to remain fit for duty and engaged in their work. A global pandemic upended every agency, every business, and every person across this city, but we closed and disinvested in the jail facilities and expected this Department to work towards the

goals of the borough-based jail program as though nothing had changed. The Department's ability to effectively operate has been crippled and it has resulted in tragedies for officers and people in custody alike.

The City & Department's Action Plan

Last week, the Federal Monitor filed an Action Plan for the City and the Department to address the decades of mismanagement that have brought us here today. I want to emphasize, as the Monitor did, that the conditions in the jails today are not only the result of failures within the Department. The failure of our jails represents the failure of a whole system; accordingly, it will take a concerted effort to move us forward. With the support of the Mayor, the Rikers Island Interagency Taskforce, and, I hope, this Council, this plan will be fully implemented, and our city can finally take the important steps towards reform and renewal. As the Monitor has also noted, there is no fail-safe path forward and no mechanism that will achieve immediate reform. A Receiver will not fix our jails or the systems that have failed around them any faster or more sustainably than we will, together. We must all have the courage to face this challenge head on.

Tomorrow, we will meet before the Court to discuss the Action Plan put together in consultation with the Monitor. I am in agreement with the plan, as it supports my vision for the Department. I am focused on creating a culture of discipline and service to persons experiencing incarceration that will ultimately lead to safer and more humane jails. My vision is of jails that embrace a model of rehabilitation and hope for the future instead of punishment and languishing. My vision is of an agency driven by passionate leaders with deep expertise in corrections and problem-solving. My vision is of modern jails that employ 21st century technology to drive efficient operations and solutions based in data and research. My vision is of a Department that treats its workforce with dignity and respect, and values them as people. My vision is of jails that serve the public interest and earn the public's trust.

Accountability & Safety

In my first four months as Commissioner, I have taken thoughtful and effective steps to create the agency I envision. At the end of February, just two months into my tenure, I instituted a strategic violence reduction plan at the Robert N. Davoren Center (RNDC) to address the heightened levels

of violence at that facility. This plan outlined changes to housing policies, improvements to staff supervision and accountability, and enhanced programming and services to provide critical opportunities for behavioral change and growth for young adults. The plan ended the misguided practice of concentrating gang affiliations in housing areas at RNDC, which allowed people in custody to overpower our staff and led to an atmosphere of violence and fear. The Federal Monitor noted its effectiveness by “reducing the level of fear among staff and people in custody.” Because of its success, we have since rolled this strategy out at other facilities with the anticipation of similar results. We have also strategically increased facility searches and tactical search operations at RNDC and throughout the Department, a practice that was largely abandoned during the pandemic. These searches have resulted in the recovery of 700 contraband weapons from RNDC alone, and 2,200 across all facilities. The number of slashings and stabbings at RNDC decreased by 45 percent in April as compared to March, when we instituted this strategic violence reduction plan, and decreased by 35 percent Department-wide. To put this in perspective, the number slashings and stabbings have decreased by 75 percent at RNDC and 60 percent Department-wide calendar year to date.

In just four months, these actions and others have resulted in a decrease in several major violence indicators calendar year to date Department-wide: rates of assaults on uniform staff have decreased approximately 28 percent, rates of assaults on non-uniform staff have decreased roughly 31 percent, and calendar year to date rates of use of force have decreased by 28 percent in total. I recognize the frequency of assaults and use of force incidents are still too high but, fortunately, the trends are moving in a downward trend, which I am intensely focused on sustaining.

Of course, implementing best-practices and sustaining these trends cannot exist without staff to perform their duties, along with a timely and meaningful discipline process for those who do not or cannot perform those duties. Since taking office, I have been laser focused on returning staff to the facilities and creating leadership structures to support our workforce and address our deeply entrenched organizational health issues. The number of unavailable staff continues to drop and has been reduced by nearly 40 percent since the beginning of the staffing crisis that began in the summer of 2021. To ensure our staff return to full duty, we are revamping our Health Management Division, which is responsible for overseeing and supporting uniform staff who are out sick. I can

assure the Council that the disarray and mismanagement of the Health Management Division ends with my administration. New leadership has already been appointed, and we are reviewing and revising critical leave policies that have allowed abuse to fester and lead to the crisis that emerged over the course of the pandemic. I look forward to sharing updates on these efforts with the Council once they have been finalized in consultation with the Monitoring team.

In conjunction with efforts to engage staff who are out sick and support them in returning to duty, we have been taking a close look at those members who appear unable or unwilling to fulfill their obligation to this agency and this city. For all of the rhetoric of previous administrations, accountability in this Department has been absent. In order for the Department of Correction to succeed, it is imperative that expectations for staff conduct are clearly communicated and that the consequences for violations and failures to fulfill duty are swift. To date, almost 100 staff members have been suspended this year for sick leave abuse, and some of those members have been referred to the Department of Investigation for further review. At least 150 medical incompetence cases have been referred for discipline, which is almost the same number of cases referred for discipline in the entirety of 2021. We intend to expedite the processing of more egregious cases to demonstrate unequivocally that these abuses will no longer stand. In the first four months of my tenure, I closed out and administered final disciplinary dispositions in over 800 disciplinary cases – holding staff accountable while at the same time allowing them to move forward with their careers and not be held in limbo. That’s more than the previous two Commissioners combined within the same time frame by a large margin. In my short time as Commissioner, I have shown that I am willing to address these issues not only expeditiously, but appropriately applying increased penalties in disciplinary dispositions when I believe further discipline is necessary, more-so than what OATH has originally recommended. I have issued over two times the number of days of suspension as the previous two Commissioners in the same time period, and over two times the number of terminations. I believe these initial steps have put us on a path toward improved practices and greater accountability, and I look forward to sharing more progress with the Council in the future.

Programs, Services, and Modernization

As these initiatives continue to take shape, they will create more space for reforms in other areas. While safety and security are major tenants of the Department, we cannot forget that our goal is to support behavioral change and skill building for people in our custodial care that leads to successful reentry into the community.

This can become a challenge when individuals remain in the Department's custody for extended periods of time. Nearly one third of the jail population has been in custody for more than a year, with some having been here for three years or more. Jails are simply not designed to hold individuals long-term. Through the work of the Taskforce, we've secured a commitment from the Bronx DA to expedite cases when someone has been detained for over a year, and are working with partners throughout the city to expedite more cases. For individuals who have already received a city-sentence, I am using my full power as Commissioner to assess and release as many as safely possible through the 6-A Work Release program. Last week, we released a cohort of 19 individuals through 6-A and are evaluating an additional 10 individuals for release. I intend to continue to exercise this power to the fullest so that no one is languishingly unduly in our jails.

For those that remain in our custody, we continue to strengthen our programs and services. Despite the ongoing challenges of COVID, we offer programming and services in a manner that is safe, and are committed to returning to a sense of normalcy within the jails. External contracted providers and dedicated Department Programs staff continue to show up every day to provide counseling, educational services, workforce development, reentry services, and more, to support the people in our custodial care during this challenging time. Credible messengers continue to engage with our young adults and have been instrumental in supporting our shift to a safer housing model at RNDC. Young adults housed in our school housing areas continue to attend school regularly and take ownership over their academic achievement.

To support these efforts and improve the quality of other services within the jails, we continue to move forward with technological innovations and initiatives. In the coming weeks, students will be able to take the GED exam online and receive their score in minutes, instead of having to wait weeks for their results. We hope this technological advancement will empower more individuals

in custody to successfully pursue their educational goals. Beginning in April, we transitioned away from operating commissary in our facilities and moved to a modern system with an expanded menu. Individuals in custody can place orders via the phones in their units and have items delivered directly to their housing the next week. In the coming weeks and months, we will continue to build our Management, Analysis, and Planning team, which will explore ways to modernize the jails, measure the impact of our newly instituted strategic initiatives, and move towards more efficient operations.

Leaders with Expertise

Five years ago, as Chief Internal Monitor of this agency, I recommended a change in leadership that would allow the then Commissioner to hire externally for executive staff to perform operational functions. As you can imagine, this recommendation was not well received by the leadership at that time, and it was clearly not implemented. I think we can all agree that leadership matters. The difference between today and 2016 is that I am now the Commissioner. I intend to exercise my power as Commissioner to the fullest to turn this agency around and to empower a team of experts to support me in this endeavor. Kat Thomson, the Department's new Chief of Staff, has proven expertise in data quality, operations development and optimization, and strategic planning. She developed comprehensive metrics and evaluations in support of compliance with a federal court monitor at the New York City Fire Department and I am confident she will serve this Department well as we tackle all of the challenges ahead of us. Under the direction of Chief of Staff Thompson, Deputy Commissioner Joshua Young is developing an office of Management, Analysis, and Planning that will provide a clear and comprehensive picture of our operations. This will allow us to untangle the years of mismanagement and make sound decisions based on measurable data and objective evaluations. DC Young has delivered large-scale transformation initiatives in every major branch of the criminal justice system and brings formidable expertise in data analysis, research, and systems change to this Department. Manuel Hernandez, the Department's new Deputy Commissioner of Investigations, has a distinguished career in law enforcement and served in the NYPD's Internal Affairs Bureau, where he investigated officer misconduct and enforced integrity and discipline for the nation's largest police department. His experience and dedication will help our agency deliver on promises of increased accountability that have gone unmet for far too long. Ronald Brereton is the newest member to join our leadership

team, and will serve as the Deputy Commissioner of Security Operations, in alignment with the Monitor's recommendation that the Department retains an individual with significant expertise in correctional operations and security. DC Brereton is a 33-year veteran of the New York State Department of Corrections and Community Supervision, where he has played a critical role in developing best-practices in multiple facilities that reduced absenteeism, decreased uses of force, and lead to smoother operations and more humane conditions. We are fortunate to have his expertise and experience to help guide us in creating a safer environment within our jails. The leadership team will continue to grow and will include a Staffing Manager, as recommended by the Monitor, who will develop staff deployment procedures based on logic, best practices, and data. I have the utmost confidence in my team of proven experts and leaders, and I am extremely grateful and humbled that they have joined me in this fight. I know that, together, we will successfully reform the agency.

Fiscal Year 2023 Executive Budget and Its Impact on DOC

As we turn to the Fiscal Year 2023 Executive Budget, we must keep in mind that we are tasked with disentangling decades of dysfunction and mismanagement. I fully agree with the Monitor and with this Council that this Department needs more efficient operations and safer, more humane jails. I have demonstrably begun the work that will make that happen and will continue to relentlessly pursue all of the goals laid out in the Action Plan. However, as the Monitor has noted, reformation of this Department cannot happen in mere months. Sustainable change takes time. We will not be deterred by failures of the past. We must do whatever it takes, collectively, to move forward with this most important work.

The Department's Fiscal Year 2023 Executive Expense Budget is \$1.30 billion. The vast majority of this, 86%, is allocated for Personal Services, and 14% for Other than Personal Services. The Fiscal Year 2023 Executive budget is \$83.5 million less than this year's budget of \$1.39 billion. As noted in my Preliminary Budget testimony, this decrease is largely due to funding provided in Fiscal Year 2022, prior to my tenure, for Emergency Executive Order initiatives and overtime.

Included in the Executive Budget are increases of \$50.0 million in Fiscal Year 2022 and \$73.1 million in Fiscal Year 2023. The following are some highlights of the major initiatives that were included in the Executive Budget:

- Risk Management and Accountability System (RMAS) Uniformed Staffing – an increase of \$59.1 million baselined beginning in Fiscal Year 2023 for 578 uniformed lines. This increase in funded uniformed positions is to support RMAS, which is a new operational requirement that calls for a more robust staffing plan within the housing areas designated for RMAS in the George R. Vierno Center.
- Overtime Adjustment – an additional \$52.0 million of American Rescue Plan Federal Funding in Fiscal Year 2022 to offset increased uniformed overtime spending.
- Facilities Maintenance and Repair Division – an increase of \$10.7 million baselined beginning in Fiscal Year 2023 to properly fund needed maintenance contracts for building systems, as well as the enhanced purchasing of materials and equipment to improve conditions within our jail facilities.
- Office of Juvenile Justice and Delinquency Prevention (OJJDP) Visitation Greeters – an increase in Federal funding of \$13.8 thousand in Fiscal Year 2022 and \$166.0 thousand in Fiscal Years 2023 and 2024 to fund specialized greeters tailored to enhance family visits for parents and children.

Capital Funding

With regards to capital funding, the Fiscal Year 2023 Executive Capital Budget and Commitment Plan totals \$9.6 billion, which covers Fiscal Years 2022 through 2031. The Department self-funded an additional \$26.8 million above the \$124.7 million that was self-funded in the Fiscal Year 2023 January plan for emergency work being performed on Rikers Island by the Department of Design and Construction. No additional funding in City capital funds were secured over and above the Fiscal Year 2023 January plan. I'd like to highlight that since the Preliminary Budget hearing, the Department has begun enabling work for the imminent demolition of the existing borough facilities as part of the plans to close Rikers Island. The Department has signed over the Brooklyn Detention Center to the demolition contractor and will shortly do the same for the Manhattan and Queens Detention Centers. This is a final step towards preparing the buildings for demolition, which will

begin in earnest this summer on all three sites. This important milestone demonstrates the City's continued commitment to the Borough Based Jails program.

Headcount

As we look forward, the Department is thankful to the Administration for approving an additional 578 uniformed positions in our baseline to support the enhanced staffing needs to safely operate RMAS. The Department continues to analyze our staffing needs so that we can return to a regular cadence of Correction Officer recruit classes annually.

The following is a summary of the changes to the Department's civilian and uniformed authorized staffing levels included in the Executive Budget:

- The civilian authorized full-time headcount is 1,966 in Fiscal Year 2022 and 1,962 in Fiscal Year 2023 and the out years.
- The uniformed authorized headcount is 7,460 in Fiscal Year 2022 and 7,638 in Fiscal Year 2023 and the out years. The authorized uniformed headcount increases from Fiscal Year 2022 to Fiscal Year 2023 due to the additional uniformed staff funded to support the implementation of RMAS. I want to be clear that the class of 400 funded by the prior Administration was not baselined in DOC's budget and was only provided in FY22. As a result, those funded uniformed positions drop out of the Department's budget in FY23. In total, the Department has only been funded for 578 additional uniform staff to support RMAS.

Conclusion

I am confident that my vision for this agency is achievable. Our jails are in urgent need of reform. It is natural when we encounter a problem so large and so grave to want to look away, to want to run, to feel paralyzed with the gravity and enormity of the task ahead of us. It is what countless people have done in the past when faced with the challenges of this agency. Knowing full well the challenges ahead, I did not run away from this agency in its time of need; I returned with renewed commitment. The majority of uniform staff stayed in the fight and came to work during the height

of the pandemic and continue to do so today. Several men and women with the same level of passion and commitment to the Department have joined my leadership team in the fight to reform, with more to follow. An interagency taskforce comprised of the city's leaders have already met seven times in just over one week to deliberate, disagree, challenge each other, and ultimately come together to support our work.

Today, I would like to extend a challenge to you: do not throw in the towel, do not run away; instead, let our shared commitment drive us forward, together. History has shown that, together, New Yorkers are unstoppable, overcoming the toughest of challenges. I reject the idea that there is a problem too big for us to tackle, together. I invite this Council, who has shown itself to care deeply about this Department, its staff, the people in custody, and the communities they go home to, to join us in this historic undertaking, so that we can sustain our progress together toward safer, more humane jails for incarcerated people and our staff.

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