

**New York City Council, Committee on Fire and Criminal Justice
Hearing on the Closure of Rikers Island
December 4, 2017**

**Testimony of the Independent Commission on New York City Criminal Justice and
Incarceration Reform**

By Hon. Jonathan Lippman, Chairperson

Introduction

Good morning, Speaker Mark-Viverito, Chairperson Crowley, and members of the Committee on Fire and Criminal Justice. As you know, I am the Chair of the Independent Commission on New York City Criminal Justice and Incarceration Reform and former Chief Judge of the State of New York. The Commission is a group of twenty-seven civic leaders and experts from a range of backgrounds, including law enforcement, social services, business, the judiciary, academia, and philanthropy, as well as those with personal experience being held on Rikers Island. The Commission's mission is to help the City of New York move towards closing the jail complex on Rikers Island, improve the functioning of the criminal justice system, reduce the use of unnecessary incarceration, and encourage the development of state-of-the-art, borough-based jail facilities.

I wish to thank Speaker Mark-Viverito for being a tireless champion for the least advantaged among us, especially in the area of criminal justice, and for establishing the Commission. I also wish to thank Chairperson Crowley for her courageous and principled stance on criminal justice issues and her hard work leading this Committee.

In April 2017, the Commission recommended that the jails on Rikers be shuttered once and for all, and replaced by a modern and rehabilitative system of borough-based facilities located in civic centers near the city's criminal courts. To do so would mean substantially

reducing the jail population by enacting a range of criminal justice reforms that keep more people out of the criminal justice system in the first place in favor of rehabilitative or diversion programs. Transitioning to a smaller, borough-based jail facility model would then allow for the transformation of Rikers Island itself. As outlined in our report, possible uses for Rikers include siting transportation and energy infrastructure projects crucial to the future of New York City, freeing up local neighborhoods that have historically been burdened with unwanted facilities for community redevelopment.

Rikers Remains A Stain On Our City

Despite the great public and political support for their closure, the jails on Rikers remain a stain on our City, and they are only getting worse.

The Commission's report detailed the many problems of Rikers, from the brutal violence afflicting inmates and corrections officers alike, to the obsolete and decaying physical plant, to the island's isolation from the city and its courthouses, to the stunning fact that the population on Rikers is more than 90 percent composed of men and women of color.

The tragedy has deepened over the past year. One need only glance at newspaper headlines to know that the violence continues unabated. This is something that our city should be ashamed of. It is our moral imperative to end this relentless tragedy as quickly as possible.

Let Urgency Be Our Watchword

Urgency must be our watchword, because the human costs of the current system of over-incarceration are mounting each and every day. But urgency is also required because without immediate action, we may lose this historic opportunity for systemic reform.

As someone who ran New York court's system for many years, I know first-hand how difficult it is to make change, particularly in the criminal justice arena, even when the stars are aligned.

There will be no quick or simple fix. On the policy level, we will only succeed by making many different adjustments, from investing in neighborhood-based crime prevention strategies to reforming bail practices to increasing the speed with which felony cases move through the courts, to name just a few. The Commission's April 2017 report, titled *A More Just New York City*, includes 44 recommendations for reducing our reliance on incarceration and improving the relationship between the justice system and the communities that it serves.

The Mayor's office has put forward its Smaller, Safer, Fairer plan that contains strategies that a start - but they are incomplete. The Independent Commission has called for safely lowering the jail population to 5,000 people, and we have specified how to get there. On the other hand, while the Mayor's plan requires a population of 5,000 or fewer to close the jails on Rikers Island, it only provides concrete steps to reduce the population to 7,000—and even that intermediate step would not be reached for another five years. We call on the City to be bolder.

Closing Rikers Will Require Commitment And Culture Change

The specific reforms outlined in the Commission's report are important. But policy changes will not be enough.

We must also have a corresponding shift in the way that our institutions approach incarceration. As a matter of principle, incarceration should be used only as a last resort. The presumption should be that you are out unless there is a reason for you to be in. Right now, you

are in unless there is a reason to be out, which results in poor people being denied their liberty because of the amount of money in their pockets. This cannot be what justice is all about!

Incarceration must not only be used sparingly, but also humanely, with a focus on preparing people to re-enter society. This means our correctional staff must be trained to rehabilitate instead of punish. The great majority of people held on Rikers will soon return to our communities. If we do not prepare these men and women to succeed when they leave jail, we should not be surprised when they return.

Borough-Based Facilities

Changing the culture of our criminal justice institutions and reducing the jail population is only part of the battle. If the misery on Rikers is to end, the city must build facilities that can house reduced jail populations near criminal courthouses to maximize access to services and minimize case processing delays. Existing facilities in Manhattan, Brooklyn, and Queens should be rebuilt and expanded according to modern design principles. We have met with council members and the borough presidents in these areas, and there is overwhelming support to move forward. New locations must also be developed in the Bronx and Staten Island.

I am encouraged by the City's announcement to begin a master planning process and look forward to reviewing the RFP when it is finally made public. But this process is only the beginning, and I urge the City to move expeditiously towards actual construction. This entails taking the concrete steps now that are necessary to put stakes in the ground in relation to siting, land use, community involvement, and the commitment of dollars to this effort. We must ensure that there is a timetable in place to close Rikers and this affront to humanity and decency.

Nothing else will do! And, I also cannot reiterate more strongly the Commission's belief that jail

facilities must be equitably distributed near the courthouses in each of the five boroughs – including Staten Island.

These new or upgraded facilities will inevitably raise concerns from some of those who live nearby, which is understandable. In planning these facilities, the city must hear and account for those concerns. But, we know that modern jails can make good neighbors, fit with their communities, and be aesthetically pleasing. They can and should incorporate community centers or other needed community spaces. We know that borough-based jails can work, because we have examples in our own city, in thriving neighborhoods in downtown Brooklyn and Manhattan.

It is also imperative that the new facilities do not simply replicate the problems that afflict our current jails. They must be built on the principle that environment influences behavior. Well-designed jails are built to encourage positive behavior, maintain a sense of humanity, and better prepare people for reintegration into their communities.

In closing, we are deeply grateful to the Council for hosting this important hearing, and supporting the continued work of the Commission. Everyone involved in improving the justice system and closing Rikers Island must recognize the fierce urgency of this historic moment, and we thank you for being at the forefront of these efforts.