

An aerial photograph of Rikers Island, a large correctional facility in New York City. The image is heavily stylized with a blue color overlay. The text is superimposed on the top half of the image. The island's layout, including various buildings, courtyards, and the surrounding water, is visible through the blue tint.

# **A MORE JUST NEW YORK CITY**

**CLOSING THE CHAPTER ON RIKERS**

**OCTOBER 2019**

# CONTENTS

**3 LETTER**

**4 EXECUTIVE SUMMARY**

**6 NEW YORK CITY JAILS ARE IN CRISIS**

**7 THE PATH TO CLOSING RIKERS**

**8 RETHINKING INCARCERATION**

**12 FUTURE OF JAILS**

# DEAR FELLOW NEW YORKERS:

New York City is at a crossroads: will we close the jails on Rikers Island forever, or will those shameful places continue to exist and harm New Yorkers for decades to come?

This is a moral issue. The Rikers Island jails and the criminal justice practices that those jails represent are accelerators of human misery that disproportionately impact low-income black and brown communities. It is long past time to shutter Rikers, once and for all removing that stain from the soul of our great city.

As the City Council deliberates on the plan to significantly reduce the number of people in jail and enable the closure of Rikers with a smaller system of modern, borough-based jails, we should keep a few things in mind.

First, rejecting this plan will mean Rikers, the jail barge in the Bronx, and the existing borough jails will continue to exist for generations to come. That cannot be our legacy.

Second, there is no viable path to closing Rikers that does not include rebuilt borough-based facilities. The existing borough jails, which barely have space for 2,000 people today, are beyond repair, outmoded, and unsafe.

Third, the majority of New Yorkers support this plan. A poll from our Commission found that 59% of our fellow residents support closing Rikers and building borough-based jails. 88% say people with mental illness should be in health care settings not jails.

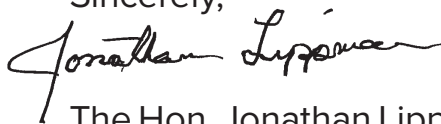
Fourth, we can safely achieve the City's revised goal of 3,300 people or fewer in jail. We have already made tremendous strides, reducing the jail population by nearly 2,500 in the past two-and-a-half years. Our city is as safe as it has ever been. We have proven that justice reform and public safety reinforce one another.

Like any plan, this one can be improved. Moving forward, we call on the City to:

- **Move people with serious mental and physical illnesses out of the jails and into health care settings**
- **Invest in people and communities long harmed by Rikers, including supportive housing, mental health treatment, and diversion and re-entry programming**
- **Demolish empty jails on Rikers as soon as possible to ensure these jails are closed forever**

Let's seize this moment, and pass this plan to close the Rikers jails on October 17.

Sincerely,



The Hon. Jonathan Lippman

# EXECUTIVE SUMMARY

In April 2017, our Commission called for deep changes to the criminal justice system in New York City, including the permanent closure of the dysfunctional jail complex on Rikers Island. Today, we are closer than ever to that goal.

## A HISTORIC OPPORTUNITY TO CLOSE RIKERS

The administration's current plan parallels, in important respects, the blueprint that our Commission put forward two-and-a-half years ago. It would reduce New York City's eleven operating jails to four, cut the number of jail beds from 14,000 to fewer than 4,000, and reduce the number of people in jail to 3,300 or fewer.

Rebuilding existing jails in Brooklyn, Manhattan, and Queens, and establishing a new jail in the Bronx to replace the current jail boat docked off of Hunts Point, will improve safety and conditions for incarcerated people and correction officers. This smaller, borough-based system would mean that people in jail would be closer to their families, services, lawyers, and courts. This will speed cases, boost chances for re-entry, and reduce recidivism. Final designs must include robust input from all stakeholders, including nearby residents, formerly incarcerated people, and advocates.

## WE HAVE MADE MAJOR PROGRESS

Over the last three years, the number of people in jail has declined by 25 percent—meaning that 2,400 fewer people are in jail today than in September 2016. The city remains as safe as it ever has been. In the years ahead, there is a clear, safe, smart path to continue reducing incarceration by effectively implementing recently-passed bail and discovery reforms, ensuring that cases move quickly through the courts so that people are no longer held for months and years in jail, and fixing New York State's parole system so that it helps people succeed rather than sending them back to jail.

## THE CITY JAILS REMAIN IN CRISIS

Even with fewer people in jail, and far more correction officers than incarcerated people, violence in the City jails continues to rise. Physical conditions remain inhumane and unsafe at the Rikers jails and the three existing jails in the boroughs. None of the eleven operating jails are sustainable or acceptable.

## **ENDING VIOLENCE, MISMANAGEMENT, AND IMPUNITY**

Rikers is indelibly marked by violence, mismanagement, and lack of accountability. The best chance to overcome these persistent and intertwined challenges is to incarcerate many fewer people, and to hold those who remain in jail in a much smaller system of jails in the boroughs. However, changes cannot wait for the closure of Rikers. The City must begin transforming DOC culture, management, and practices immediately.

## **COST SAVINGS**

Rebuilding borough jails will require a significant capital investment, but we project that a smaller, more modern system ultimately will save \$1.8 billion in annual operating costs, supporting major investments in communities that have been impacted by the criminal justice system.

## **THE RIGHT PLAN AT THE RIGHT TIME**

For decades, the jails on Rikers Island have symbolized inequity and pain. Today there is a once-in-a-generation opportunity to put an end to these jails forever, including through enactment of zoning changes so the island can never be used for incarceration again. If we squander this chance, we will subject New Yorkers to the misery of Rikers for years to come. Now is the time to act.

# NEW YORK CITY JAILS ARE IN CRISIS

The New York City Department of Correction (DOC) operates eight jails on Rikers Island, three jails in Brooklyn, Manhattan, and the Bronx, and a jail in Queens used only during the day for people making local court appearances. All of the jails are marked by neglect, violence and unacceptable conditions.

## INHUMANE CONDITIONS IN CITY JAILS

From 2016 to 2019:

### DAILY JAIL POPULATION

 **-25%**<sup>1</sup>

### NUMBER OF CORRECTION OFFICERS

 **+4%**<sup>2</sup>

### USE OF FORCE RATE WITH SERIOUS INJURY

 **+113%**<sup>3</sup>

### VIOLENT INCIDENT RATE AMONG INCARCERATED PEOPLE

 **+45%**<sup>4</sup>

Physical conditions are unsafe and dilapidated. The jails are plagued with sewage backups, mold, malfunctioning or nonexistent heating and cooling systems, leaking roofs, inadequate fire safety systems, and flooded bathrooms.<sup>5</sup> Poor sight lines limit the ability of correction officers to spot brewing trouble or people who are ill or attempting suicide.

Rikers' very location harms people. The inaccessibility of Rikers Island interrupts important connections between incarcerated people and their families, service providers, and lawyers, who often must spend an entire day traveling to and around Rikers for just a brief visit. Because Rikers is so remote, DOC often delivers people to court late or not at all, delaying cases for weeks, and needlessly extending incarceration.

In addition, DOC has failed to stem violence in the jails, both among incarcerated people and between correction officers and incarcerated people. The federal court-appointed *Nunez* Monitor has reported rising levels of unnecessary use of force by correction officers and has described DOC's "record of assessing misconduct, as well as imposing discipline for such misconduct [as] woefully inadequate."<sup>6</sup>

# THE PATH TO CLOSING RIKERS

The City's plan would significantly reduce the number of people in jail and eliminate seven currently operating jails. Borough facilities will be closer to courts, visitors, service providers, and lawyers, maximize safety and programming, and greatly improve DOC's chances of changing culture and reducing violence.

## JAILS TODAY



### NUMBER OF OPERATING JAILS



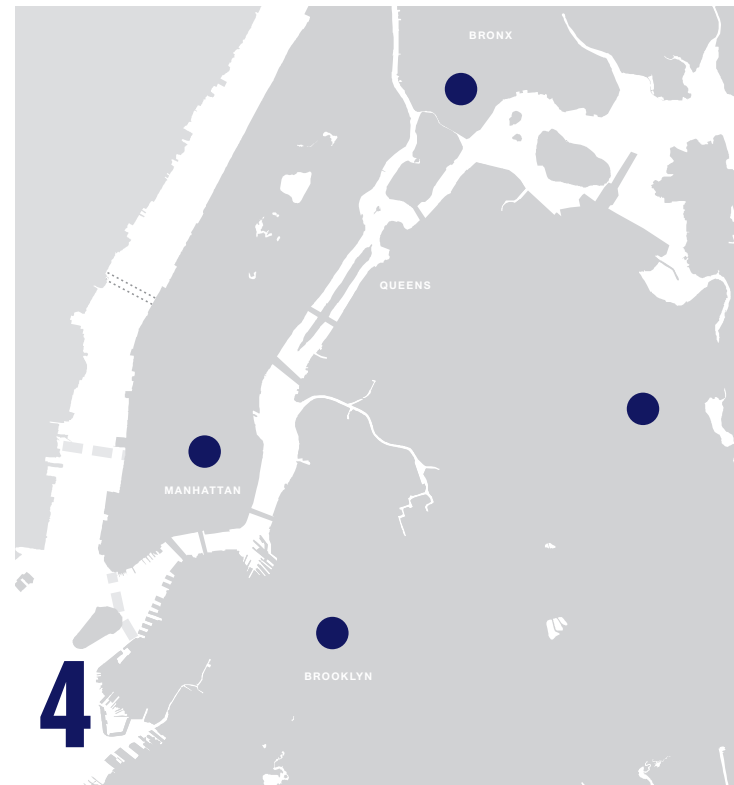
### ANNUAL OPERATING COST (FY2020)



## AFTER CLOSING RIKERS



### NUMBER OF OPERATING JAILS



### PROJECTED ANNUAL OPERATING SAVINGS (GROSS)



# RETHINKING INCARCERATION

One of the fundamental principles of our blueprint for reform is that **incarceration should be used as sparingly as possible**. In April 2017, we concluded that New York City could and should reduce the number of people in jail by half or more while protecting public safety.

**With focus and commitment from every actor in the justice system, fundamental changes can result in a jail population of 3,300 or fewer.**

**The past few years have demonstrated we can safely decarcerate City jails.**

The number of people in jail on any given day has fallen by 25% since 2016,<sup>10</sup> and the number of people admitted to jail at some point over the year has fallen by 38%.<sup>11</sup> Fewer people are being arrested and charged, and more of those who are charged are being released at arraignment. Many fewer people have been forced to spend time in jail, and the largest share of the decline in jail has come in young people between the ages of 18 and 24 years old, a positive sign for the future.<sup>12</sup> With all of these changes, New York City is as safe as it has ever been.

**The impact of pretrial reform legislation.** Pretrial reform legislation that takes effect in 2020 promises to increase fairness and to significantly reduce the number of people incarcerated in New York City jails in the years to come. If implemented effectively, we project that bail reform legislation could result in a reduction of 2,000 people or more.<sup>13</sup>

**Yet too much remains unchanged.**

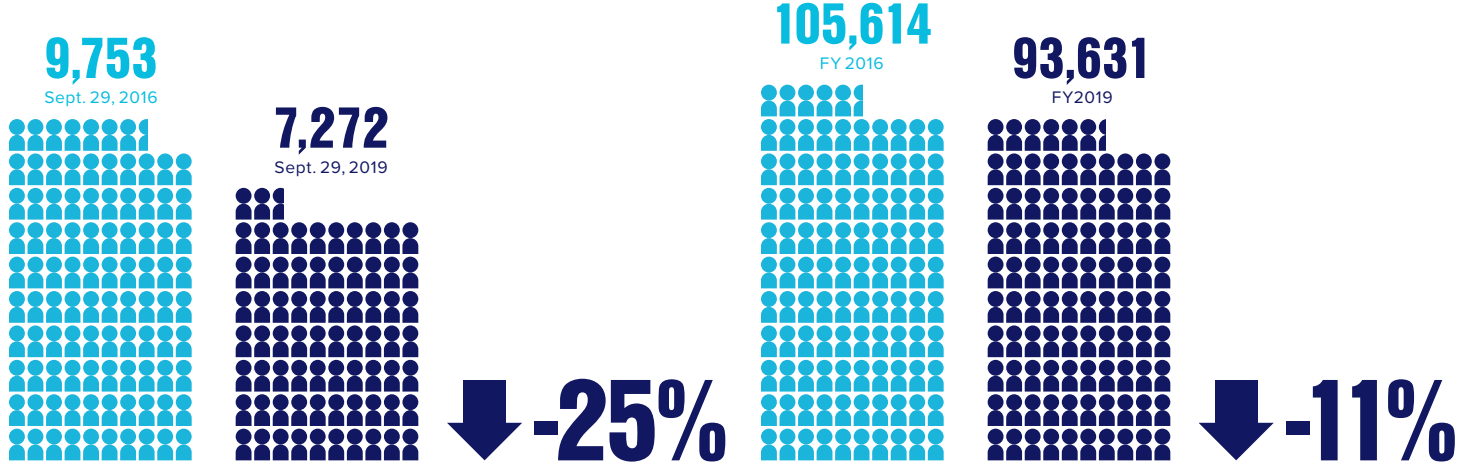
- **Racial disparities.** The massive racial disparities in our jail system have not budged. This must be addressed at every level of government, inside and outside the criminal justice system, but particularly by the police and district attorneys.
- **Parole detention.** More and more people are being jailed because they are accused of non-criminal parole violations or are charged with low-level offenses but are ineligible for any form of pretrial release because they are on parole. The New York State laws and regulations governing parole must be changed — and we project that reforms like the Less Is More Act could help reduce the number of people incarcerated in New York City jails for parole reasons by 750 or more.<sup>14</sup>
- **Case delays.** Criminal cases in New York City too often last for months and years — almost twice as long as in the rest of the state.<sup>15</sup> Recently-passed discovery reform legislation should help, and moving forward, judges, district attorneys, and defense attorneys must work together to increase case speeds. These reforms could help reduce the number of people in City jails by 600 or more.<sup>16</sup>



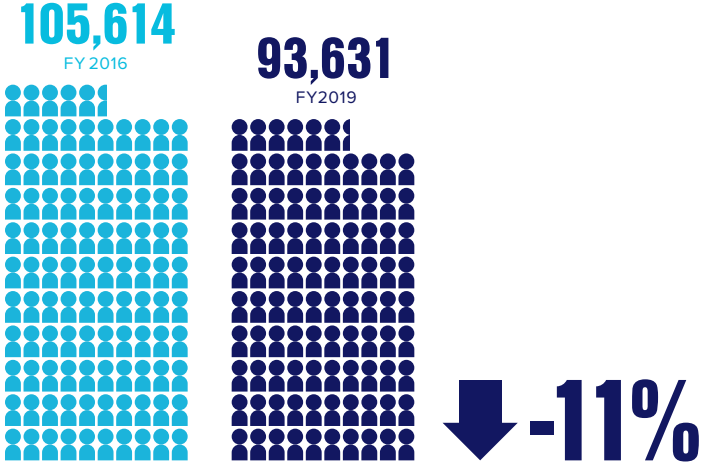
# JAIL IN NEW YORK CITY: 2016-2019

In the three years that have passed since our analysis of the City's September 29, 2019 jail population, the number of people in jail has declined by nearly 2,500. The figures below illustrate what has changed, what has not, and opportunities for further reform.

## DECLINING DAILY JAIL POPULATION<sup>17</sup>

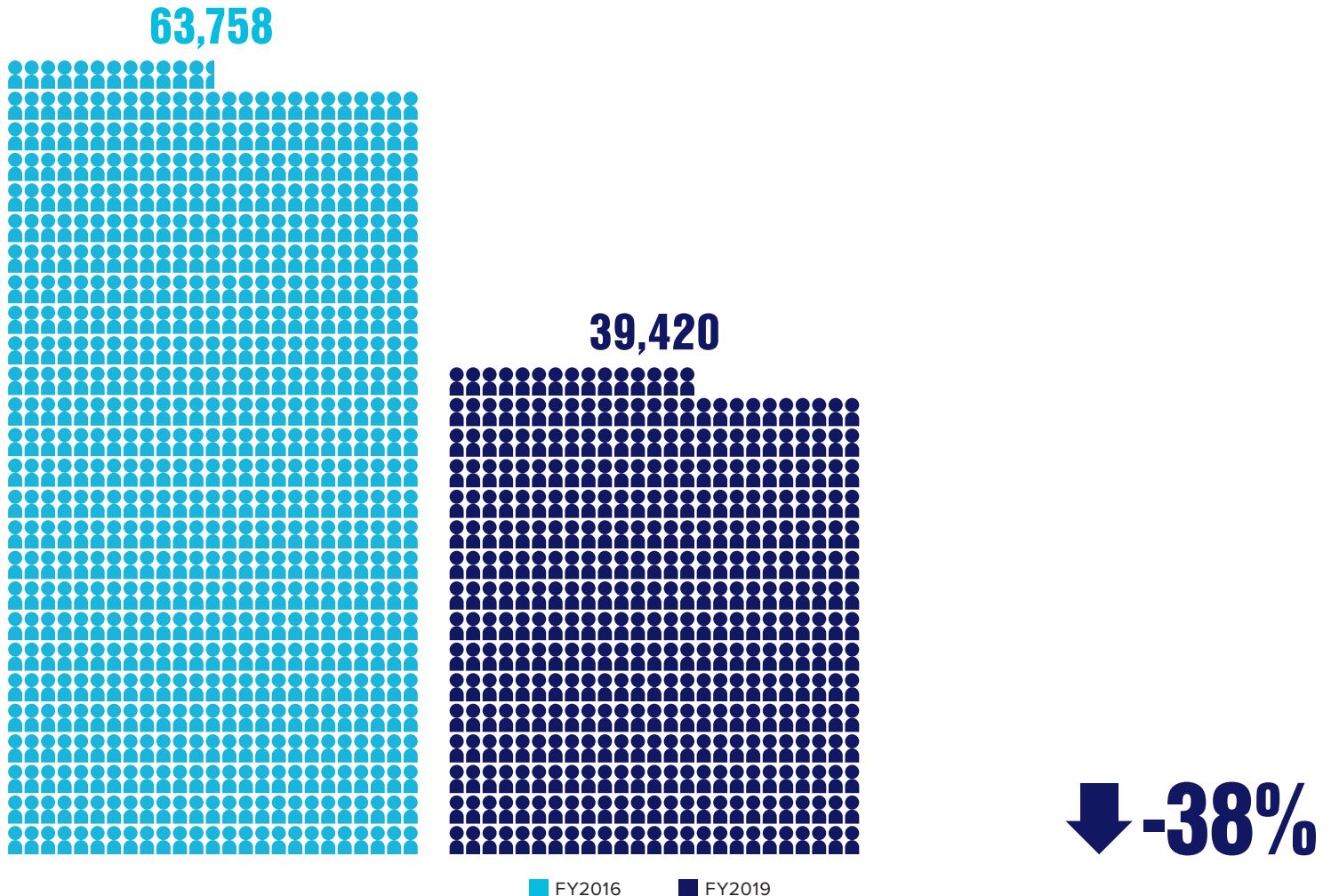


## DECLINING MAJOR FELONY CRIME<sup>18</sup>



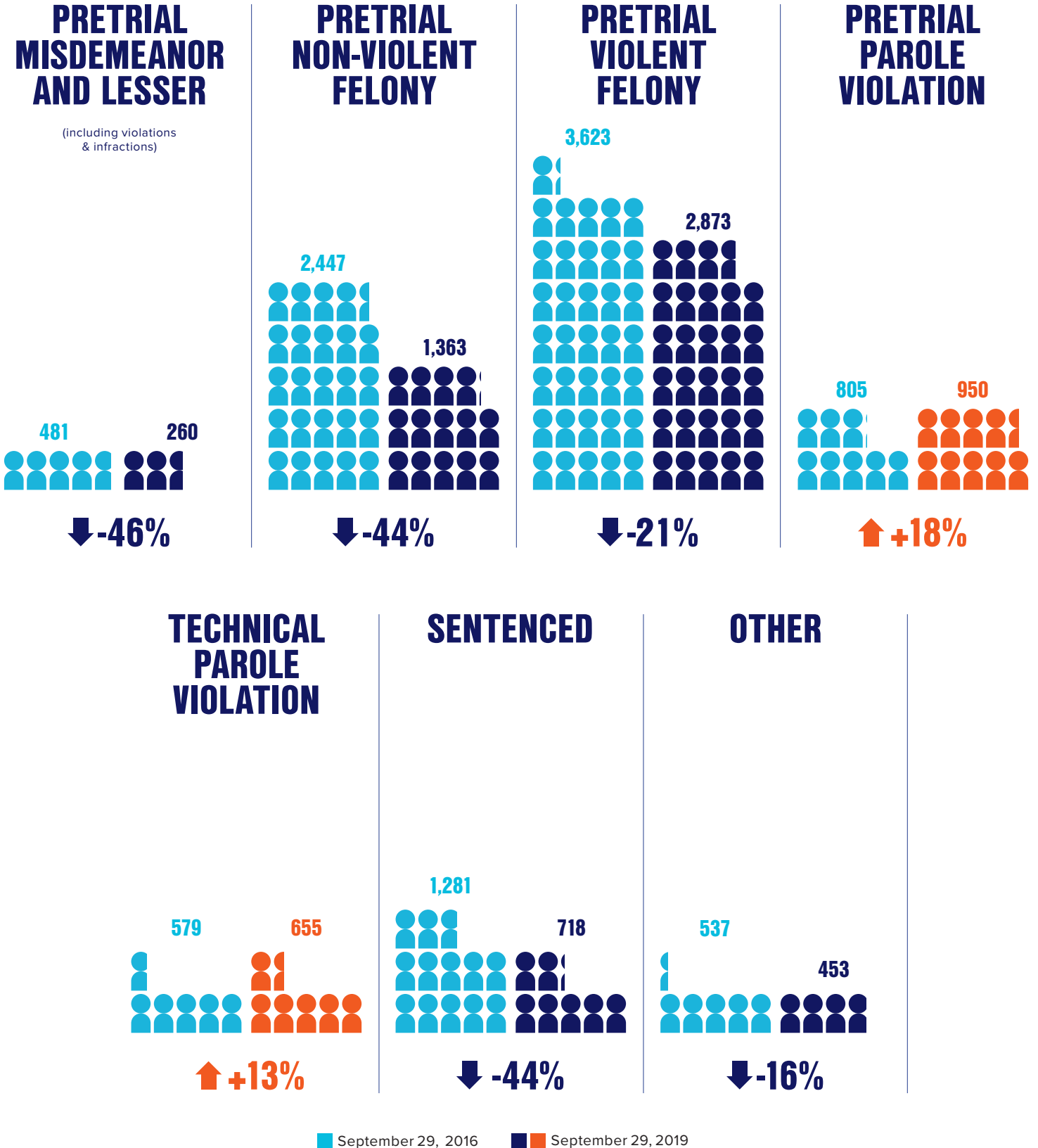
## DECLINING JAIL ADMISSIONS<sup>19</sup>

The number of people admitted to City jails declined by nearly 40% between 2016 and 2019.



**REASON FOR DETENTION<sup>20</sup>**

Every category of reason for detention has declined significantly, with the glaring exception of alleged parole violations.

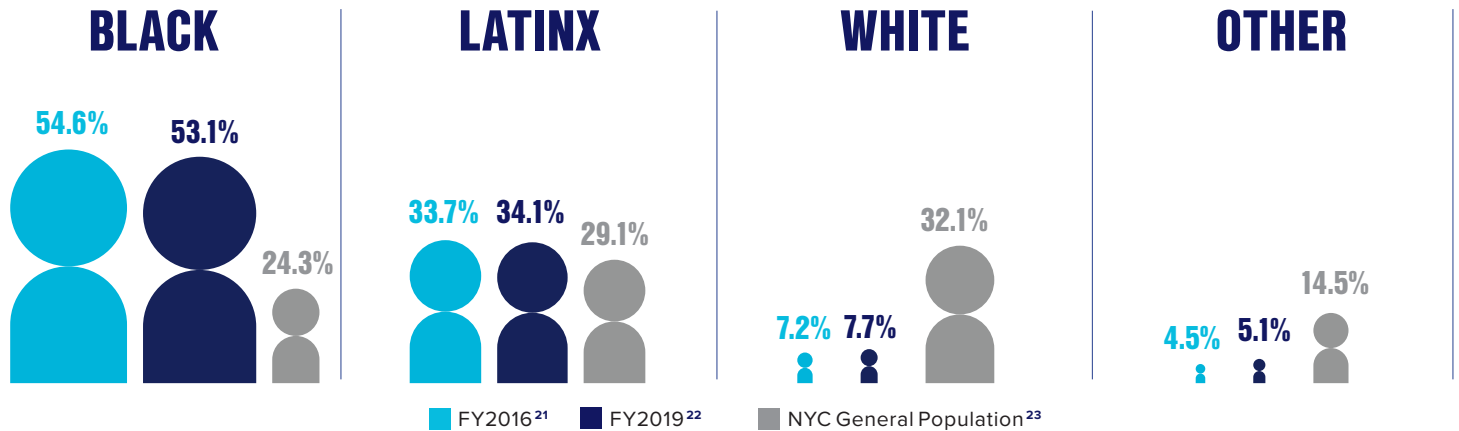


# JAIL DEMOGRAPHIC PROFILE: 2016-2019

As the number of people in jail has declined, racial and gender dynamics remain largely unchanged. The number of people with serious mental health diagnoses has increased, and the average age of incarcerated people is rising.

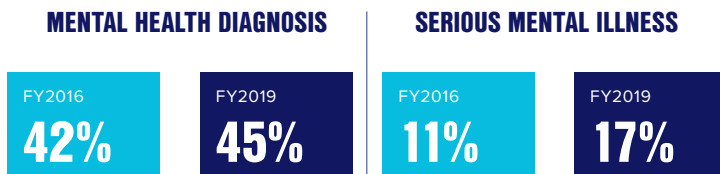
## RACE / ETHNICITY

Black people continue to be detained at more than double the proportion of the city's population.

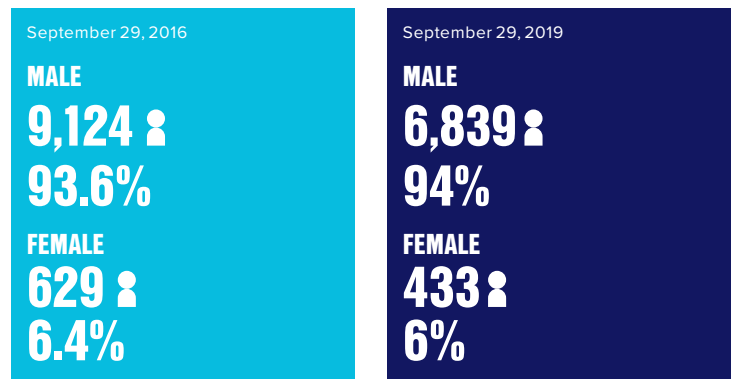


## MENTAL HEALTH<sup>24</sup>

The proportion of people in jail with mental health and serious mental health diagnoses (such as schizophrenia, bipolar, and depressive disorders) has increased.

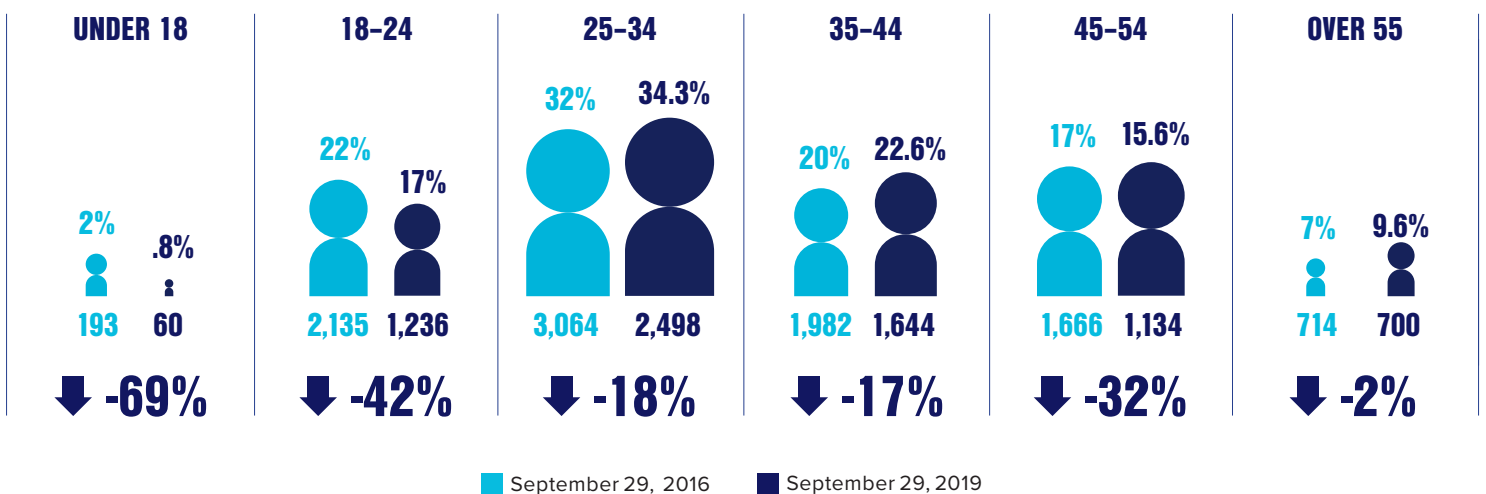


## SEX<sup>25</sup>



## AGE<sup>26</sup>

The largest drop in jail was in people under 25 years old, a promising sign for the future. The number of incarcerated people over 55 suggests that much more has to be done to keep the oldest New Yorkers out of jail.



# FUTURE OF JAILS

Closing the jail complex on Rikers is a chance to envision a much smaller detention system in New York City that keeps incarcerated people, staff, and visitors safe and treats them humanely. This process begins with City Council approval of the ULURP application for siting the borough facilities, but will demand ongoing focus on the final design for the facilities, large-scale changes to correctional culture and practices, and steps to ensure that the Rikers jails are closed forever.

## BETTER LOCATION

Ending the isolation of Rikers is the starting point. The proposed borough facilities will be much more accessible to visitors, lawyers, and service providers, improving conditions and post-release outcomes.

## IMPROVED DESIGN

The design principles for the proposed facilities call for open sightlines, dedicated programming and medical space, adequate recreation space, normalized environments, better intake and visitation rooms, and natural lighting. These features will improve safety and conditions for incarcerated people and correction officers and staff.

It is imperative that these principles are fully realized as the final designs for each jail are finalized. Recently-introduced minimum standards legislation in the City Council is a positive step.<sup>27</sup>

→ **The City must put in place a design process that ensures the full inclusion and participation of outside stakeholders, including community members, impacted people, and advocates.**

## MENTAL HEALTH

In a post-Rikers system, there must be a focus on improved conditions for people with mental health diagnoses, and particularly those diagnosed with serious mental illness, who are among the most vulnerable people in City jails.

→ **The City should find alternative locations, outside of the borough jails, where incarcerated people who have serious mental illness or other serious medical conditions can receive treatment in a secure but therapeutic environment.**

## WOMEN & BEYOND ROSIE'S

Following the lead of advocates, the City has proposed a centralized facility in Queens for incarcerated women. While this is a positive step, advocates have argued that the women's facility should be more centrally located.

- **As this process moves forward, the City should explore all potential sites, including the recently closed Lincoln state correctional facility, where women can be kept completely separate from men and provided trauma-informed services.**

## CHANGING DOC CULTURE AND MANAGEMENT

Redesigning jails will not be sufficient, on its own, to create a better environment. Equally, if not more, important is changing the operational principles and culture at the Department of Correction.

A much smaller system of four jails in the boroughs will be simpler to administer than today's eleven jails, providing the best chance for the City to solve the interrelated problems of mismanagement, lack of accountability, and violence in the jails. Fewer jails with fewer people locked up will be easier to operate, and supervisors will be able to apply closer scrutiny to staff and improve oversight, training, and mentoring.

But changing long-standing practices is difficult and demands more intense focus from this administration (and future administrations).

- **These changes cannot wait for the closure of Rikers. The process of culture change has to start today.**

## ENSURING THAT RIKERS IS CLOSED FOREVER

A commitment to criminal justice reform at every level of government and by the public will be needed to ensure that the Rikers jails are closed forever. But there are many steps that the City and Council can take now. One positive step is commencement of a zoning process to demap Rikers Island so that it may not be used for incarceration after 2026.<sup>28</sup>

- **To ensure the closure of Rikers, complete the process of demapping Rikers so that it may not be used for incarceration, demolish unused jails on the island as the number of people in jail declines, and start repurposing the island for alternative uses such as green infrastructure as the jails are closed.**

# NOTES

- 1 Lippman, Jonathan et al., *A More Just New York City* (April 2017) at 25. Available at <https://bit.ly/2m6xfXa>; NYC OpenData, *Daily Inmates in Custody* (visited Sept. 30, 2019). Available at <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>.
- 2 Mayor's Office of Operations, *Mayor's Management Report, Department of Correction* (September 2019). Available at <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/doc.pdf>.
- 3 *Id.*
- 4 *Id.*
- 5 Lippman, *A More Just New York City* at 72.
- 6 Seventh Report of the Nunez Independent Monitor, *Nunez v. City of New York* (Apr. 18, 2019) at 11. Available at [https://www1.nyc.gov/assets/doc/downloads/pdf/7th\\_Monitor\\_Report.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/7th_Monitor_Report.pdf).
- 7 The City has announced a projected future jail population of 3,300. We presume an additional 495 beds to account for a 15 percent inefficiency rate consistent with the City's earlier plans.
- 8 The City of New York, *Adopted Budget Fiscal Year 2020: Department of Correction Agency Expense Budget Summary* (June 2019) at 97E. Available at <https://www1.nyc.gov/assets/omb/downloads/pdf/erc6-19.pdf>. The expense budget for FY 2020 is \$1,359,323,467. Fringe benefits cost \$681,035,781, pensions \$500,944,602, and debt service \$168,967,737.
- 9 In our original report, we projected that a smaller and more efficient borough system would reduce operating costs by \$1.6 billion per year once up and running. Since that time, the City has reduced the target jail population for a post-Rikers borough system, which will result in further operational savings, which we now estimate would be \$1.8 billion annually for a 4,000-person population. Accounting for the costs of construction, financing, expanded training and programming, and a projected \$260 million annual investment in community services, we project a net annual savings of \$818 million that would increase over time as construction financing is paid down. See *A More Just NYC* (April 2017) at 90 for further explanation of the breakdown of costs and savings. These savings are likely to increase further now that the City and City Council have agreed on an even lower jail population target of 3,300 people.
- 10 Lippman, *A More Just New York City* at 25; NYC OpenData, *Daily Inmates in Custody* (visited Sept. 30, 2019).
- 11 Mayor's Office of Operations, *Mayor's Management Report, Department of Correction*.
- 12 Lippman, *A More Just New York City* at 25; NYC OpenData, *Daily Inmates in Custody* (visited Sept. 30, 2019).
- 13 On September 29, 2019, approximately 1650 people were incarcerated on charges that will no longer be eligible for detention in January 2020 and were not also incarcerated pursuant to a parole warrant. We assume that 85-90% of these people will no longer be in jail in the future, discounting for those who may be subject to incarceration for repeated failures to appear in court or who are subject warrants for other reasons. We project that the combined impact of the bail reform laws on people who are incarcerated on detention-eligible charges — such as requirements that courts set partially secured bonds, set the least restrictive conditions of release, and consider the defendant's ability to pay, the expansion of supervised release to most bail-eligible charges, and greater eligibility for charitable bail funds, as well as non-legislative updates to the Criminal Justice Agency's risk assessment— could result in the reduction of the jail population by another 400 to 700 people.
- 14 Using the formulas from our *Stopping Parole's Revolving Door: Opportunities for Reforming Community Supervision in New York* report, we project that legislative reforms to the state parole system could result in 750 fewer people in jail on any given day. Lippman et al., *Stopping Parole's Revolving Door: Opportunities for Reforming Community Supervision in New York* (June 2019). Available at <https://bit.ly/2ZtFYBd>.
- 15 New York City Independent Budget Office, *Does It Take the Court System Longer in New York City to Process Indicted Felony Cases Than Elsewhere in the State?* (April 10, 2019). Available at <https://bit.ly/2B2AzGV>.
- 16 After accounting for the impact of bail and parole reform, we project that faster case processing times could result in approximately 600 fewer people in jail, using the formula from our initial April 2017 report. See *A More Just New York City* (April 2017) at 53-60, 145.
- 17 Lippman, *A More Just New York City* at 25; NYC OpenData, *Daily Inmates in Custody* (visited Sept. 30, 2019).
- 18 Mayor's Office of Operations, *Mayor's Management Report, New York City Police Department* (September 2019). Available at <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/nypd.pdf>.
- 19 Mayor's Office of Operations, *Mayor's Management Report, Department of Correction*.
- 20 Lippman, Jonathan et al., *A More Just NYC Progress Report and Legislative Agenda* (December 2018) at 7-8. Available at <https://bit.ly/2EyFWRs>; NYC OpenData, *Daily Inmates in Custody* (visited Sept. 30, 2019).
- 21 Lippman, *A More Just NYC Progress Report and Legislative Agenda* at 7.
- 22 See *NYC Department of Correction at a Glance* (August 2019). Available at [https://www1.nyc.gov/assets/doc/downloads/press-release/DOC\\_At\\_Glance\\_FY2019\\_072319.pdf](https://www1.nyc.gov/assets/doc/downloads/press-release/DOC_At_Glance_FY2019_072319.pdf).
- 23 U.S. Census Bureau, *QuickFacts: New York City, New York* (July 1, 2018). Available at <https://www.census.gov/quickfacts/newyorkcitynewyork>
- 24 Mayor's Office of Operations, *Mayor's Management Report, Department of Correction*.
- 25 Lippman, *A More Just NYC Progress Report and Legislative Agenda* at 7.
- 26 *Id.*; NYC OpenData, *Daily Inmates in Custody* (visited Sept. 30, 2019).
- 27 New York City Council, *Int. No. T2019-5170-A* (on full Council agenda Oct. 17, 2019).
- 28 Gloria Pazmino, *NYC to Propose Banning Construction of New Jails on Rikers Island*, NY1 (Oct. 9, 2019). Available at <https://www.ny1.com/nyc/all-boroughs/politics/2019/10/09/rikers-island-no-new-jails-nyc-to-propose-plan-to-legally-codify-closure>.

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