

A MORE JUST NYC

Independent Commission on New York City Criminal Justice and Incarceration Reform

Testimony before Committee on Finance and Subcommittee on Capital Budget May 21, 2020

On behalf of the Independent Commission on New York City Criminal Justice and Incarceration Reform, sometimes known as the Lippman Commission after our chairperson Judge Jonathan Lippman, please accept this submission regarding the budget for the Department of Correction, various criminal justice initiatives, and the borough-based jails.

1. The Shift to Alternative to Incarceration Programs Should be Permanent

The COVID-19 crisis has forced a renewed push to reduce incarceration to mitigate the virus' impact. The City has dramatically ramped up reliance on community supervision and support programs as an alternative to incarceration, for people charged with a wide range of offenses and with a wide range of needs. Thanks to these efforts and the impressive work of non-profits including CASES, Center for Court Innovation, Exodus Transitional Communities, Fortune Society, NYC Criminal Justice Agency, Osborne Association, Women's Community Justice Association, and Urban Pathways, the City jail population is under 4,000 people.

We should fully embrace, bolster, and make permanent this transition away from the more prevalent use of incarceration. Doing so will help interrupt the circumstances that contribute to crime and keep the now-lowered jail population from growing again. The monetary savings and humanitarian and public safety benefits promise to be tremendous.

2. Alternative to Incarceration Programs Are Working; Housing is Critical

While it is early days in this transition, there are strong indications that this model works, and could work even better with more stability. For instance, of 312 City-sentenced people released under the City's 6-A program, modeled on supervised release and run by non-profit supervised release providers, as of last week [only 14 or 4.5% have been re-arrested](#). This is so even with missteps during the crisis-accelerated release process from Rikers, such as people being released without medication, or without information about the 6-A program. The positive results outpace the impressive supervised release programs in place the past few years. A key apparent difference: the City is now providing housing for released people who need it. Stability matters.

3. Alternatives to Incarceration, Including Housing, Are Far Cheaper than Rikers

We understand the combined cost of a hotel room, food, and non-profit service provision and support can range from \$75,000-\$90,000 per person per year. While that is not cheap, it is far less than the roughly \$350,000 the City spends on incarcerating someone on Rikers for a year. Over the long-term, shifting people into programs like 6-A could save tens of millions of dollars.

4. Stronger Alternatives to Incarceration Can Mitigate Bail Reform Roll Backs

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Providing robust alternatives to incarceration will also mitigate the impact of legislative changes to bail laws that are scheduled to be implemented on July 1. The Center for Court Innovation predicts these roll backs could add 470 people to the Rikers population every day. But the actual number depends entirely on judges' discretionary decisions at arraignment. We must do all we can to guide that discretion away from incarceration, and strong alternatives to incarceration increase the likelihood judges will rely upon them. This too will save money.

5. Funding for Stronger Alternatives to Incarceration Should Come from DOC Budget

To further develop these far better and far cheaper alternatives, the City should shift money away from the Department of Correction.

DOC has the money to spare. As we have testified previously before this Committee, in recent years the DOC has had records levels of funding and staff, yet has failed on many fronts due to the lack of adequate management, accountability, and organization.

Pre-coronavirus, the City jails had a ratio of uniformed staff to incarcerated people of over 1.5:1. That is more than ten times the ratio of the [Federal Bureau of Prisons](#). During the crisis, DOC's ratio of officers to incarcerated people has risen further, and is now over 2:1. No other penal system in the United States – or the world – has this level of staffing, including countries considered to be leaders in the field such as Germany, Norway, and the Netherlands. Yet the conditions in City jails remain unacceptable. Perhaps counterintuitively, the *Nunez Monitor* has suggested that having so many staff actually exacerbates jail violence because, among other things, it encourages an overreliance on probe teams—the riot squads of the jails—rather than on effective supervision, de-escalation, and relationship building.

The Mayor's budget calls for a reduction of 1,730 uniformed postings for a savings of \$100 million in FY21 and \$144 million in FY22. We hope to see these savings invested to compound them further: for alternatives to incarceration and for community investments to help people avoid law enforcement contact in the first place. These would include supportive and affordable housing, mental health treatment (including help with trauma), drug treatment, youth employment programs, and better support for youth in foster care.

6. Within the Jails, DOC Must Reform Management, End Violence, and Boost Re-entry

The DOC budget should prioritize reforming management, ending jail violence, and strengthening re-entry initiatives, because brutality and degradation continue to plague the jails.

A. Close As Many Jails As Possible As Quickly As Possible

Once COVID-19 is no longer a scourge, DOC should re-close EMTC and continue to consolidate operations in as few jails as possible, as quickly as possible. Consolidation will not only save operational costs, it will provide the best chance to improve jail management.

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DOC struggles to maintain competent, consistent leadership teams at each jail. Fewer facilities will require fewer leadership teams. DOC could then end its current practice of frequently transferring the strongest wardens and deputy wardens to deal with hotspots. While those transfers might possibly help in the very short term, the lack of stability prevents the consistent leadership, communications, and relationship building necessary for lasting operational change.

Fewer jails should also make it easier to ensure steady staff assignments and that staff actually regularly work their assigned posts. DOC's failure to have many supervisors and staff consistently work as teams impedes officers from developing relationships with each other and with incarcerated people. That leads to less understanding, less trust, and more violence.

B. Allow DOC to Hire Wardens from Outside the Department

The Council should consider another key step to reform DOC operations, albeit outside the budget: change the civil service rules to permit the hiring of wardens from outside the Department. The current requirement that jail-based leadership be hired solely from within prevents DOC from bringing in people with outside perspectives and strong management skills.

C. Anti-Violence and Re-entry Programs Will Pay for Themselves

We also urge the Council to invest in anti-violence initiatives such as hiring violence interrupters for each unit of each jail. Reducing violence will not just make staff and incarcerated people's lives better. It will also save millions, likely paying for much of the initiatives. In FY 2018, [the City paid out over \\$23 million in personal injury settlements](#) lodged against the DOC (up from \$7 million in FY 2014). Re-entry-related spending, such as on literacy programs, including for people with special needs, will help people never return to jail, again helping lives and saving money.

7. Borough-Based Jails Must Be Built As Soon As Possible

As part of this new reality, the planning and procurement process for the borough-based jails must continue apace. The moral, public safety, and operational imperatives to close Rikers are as powerful as ever, and we will not reach that day without borough-based jails. Furthermore, as we work to recover from COVID-19, floating bonds in the years come to fund major infrastructure investments like the jails, affordable and supportive housing, and other projects will provide good-paying jobs for thousands of New Yorkers at a time employment is desperately needed. Now is the time to move forward swiftly with the borough-based jails.

Thank you for your time and consideration.