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Independent Commission on NYC Criminal Justice and Incarceration Reform

Testimony of Alana Sivin, Senior Advisor

NYC Council Committee on Criminal Justice, September 15, 2021

I am Alana Sivin, Senior Advisor at the Independent Commission on NYC Criminal Justice and Incarceration Reform, often known as the Lippman Commission after our chairperson, former Chief Judge of the State of New York Jonathan Lippman.

The jails on Rikers and the barge moored to the Bronx are profoundly dangerous. Correction officers are not showing up for work and people are attempting self-harm at deeply disturbing rates. Ten people have died this year alone. COVID positivity rates in the jails are rising. Basic services are not being delivered and far too often, people are not being produced for court.

For the sake of the lives of people incarcerated and working at Rikers, our City reduced the jail population at the outset of the pandemic – *without harm to public safety*. The need to decarcerate is perhaps even more urgent now. Lives are at stake. The Council has an essential role to play, and can start in three areas.

1. Reduce the Jail Population

We've outlined several strategies for actors at the state, city, and judicial level to take to safely reduce the jail population in our recent report, co-authored with the Center for Court Innovation, entitled [Closing Rikers Island: A Roadmap for Reducing the Jail Population in New York City](#). Some steps the Council specifically can take to reduce the jail population include the following:

- ***Fund multidisciplinary task forces in each borough to resolve cases of people sitting in jail, particularly the oldest cases.*** Today, over 1,400 people have been in jail for more than a year waiting for a trial, and over 600 have been waiting more than two years. Task forces bringing together all key actors could go case by case and justly resolve as many as possible, swiftly bringing down the jail population while ensuring public safety.
- ***Fund and require administration of ability-to-pay assessments throughout courtrooms in New York City, so judges have full information when making bail decisions.*** When deciding whether bail is necessary to ensure a person's return to court, judges must consider a person's "ability to post bail without posing undue hardship." Yet, only 15% of people in 2020 were able to pay bail in time to avoid going to jail. By passing

legislation that would place a team in every courtroom to conduct an ability-to-pay assessment to provide to the court, the Council can help give judges a more accurate assessment of the amount of bail that could be appropriate to set.

- ***Fund additional mental health treatment slots and staff to conduct emergency psychiatric assessments at arraignment.*** Roughly 17% of the Rikers population has a serious mental illness. Psychiatric assessments at arraignment could help avoid incarceration and divert people to treatment. The Council can also fund emergency expansion of outpatient services, short-term respite care, and residential placements with wrap-around services, so people with SMI are never arrested or jailed in the first place.
- ***Focus on people that face outsized harms from jail, have a lower risk of re-arrest, and cost much more to incarcerate.*** By funding proven community-based housing and wrap-around support for women, transgender, and gender non-conforming people, and older people, the Council can help create a strong presumption of release for such people.

2. Shrink the COVID-19 Court Backlog

The average time in custody in Rikers Island has increased significantly since the onset of the pandemic, growing from 261 days in March 2020 to 341 days as of June 2021. This increase has led to an estimated 740 more people languishing on Rikers waiting for a trial.

- ***Fund citywide expansion of a [case processing pilot](#) that sped up criminal cases significantly in Brooklyn.*** Money is needed for case expeditors and judicial training.
- ***Fully fund the Office of the Chief Medical Examiner to ensure critical evidence is reviewed and timely provided to prosecutors and defenders.*** Without this discovery, cases are kept in a holding pattern, and people remain incarcerated, whether guilty or not.

3. Expand the Criteria for Department of Correction Facility Leadership

The Department suffers from an epidemic of violence; one that persists despite years of federal court monitoring. There is a clear need for fresh ideas and strong leadership in each of the eight active DOC jails. The [Nunez Monitor](#) has recommended the City “expand the criteria for who may serve on Facility leadership teams, so the Department is not limited to selecting individuals from the uniform ranks.” Therefore, the Council should:

- ***Amend New York City Administrative Code § 9-117 to allow DOC to hire the best people from around the country to run NYC’s jails.***

Thank you for the opportunity to testify today. I am happy to answer any questions.