

A MORE JUST NYC

Independent Commission on NYC Criminal Justice and Incarceration Reform

Testimony of Zachary Katznelson, Executive Director
NYS Assembly Committee on Corrections, October 1, 2021

I am Zachary Katznelson, Executive Director of the Independent Commission on New York City 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. Thank you for the opportunity to testify today.

As you well know, the jails on Rikers and the barge moored to the Bronx are a threat to the life of everyone there, be they staff or incarcerated people. Twelve people have died in them since December 2020.

On any given day, almost 1/3 of correction officers are not showing up. That means officers who do come to work are being forced to stay for double and triple shifts. Even then, numerous housing units have no officer present for hours, even days at a time. Basic services are not being delivered. People are not being produced for medical appointments or brought to court. People are attempting self-harm at deeply disturbing rates. Attacks on officers and incarcerated people are daily occurrences. COVID positivity rates significantly outpace those in the city as a whole. For all this, the City has been spending \$447,000 per person per year.

In this context, I urge you to please keep two things in mind.

First, it will take every actor in the system to end the emergency at Rikers. We need to bring down the jail population as much as safely possible and as swiftly as possible. Rikers cannot handle the number of people there today. The path to safely decarcerate is clear: implement the safe, proven strategies laid out in our Commission's 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](#). At the same time, we must ensure adequate staff are present on any given day to deliver services to anyone who remains locked up.

The relatively new Department leadership is doing its best to get officers back to work, to boost services and morale, to bring programming into the jails, and to reduce violence. I applaud their willingness to be forthright about the challenges they face. They inherited an absolute mess and have been working hard to deliver a new path forward. Thanks to their efforts, things are improving at the margins. But not fast enough or significantly enough.

Second, even if we can prevent more people from dying and curtail the chaos that defines Rikers today, our job will be far from finished. Because the starting point for this crisis was an already decrepit, dysfunctional, dangerous jail system. The unfortunate reality is *that* is what we are fighting to get back to right now, and that cannot be an acceptable endpoint.

Out of sight and out of mind for so long, Rikers is an irredeemable disaster.

The jails today are awash in weapons, most manufactured from the crumbling buildings themselves. Fans broken off and fashioned into blades. Plexiglass sharpened into shanks. The landfill on which most of Rikers is built – decades worth of garbage dumped into the shoals around the original bedrock – continues to decay, emitting noxious gas. Housing units are sweltering in the summer and freezing in the winter. Many are plagued by overflowing toilets, mold, and asbestos. Cell doors don't lock properly. Violence is endemic and only increasing, despite years of federal court monitoring.

If we needed any more reasons to close Rikers forever, rebuilding the jails on Rikers would cost far more than building jails in the boroughs. Our Commission has estimated that because of the isolation of Rikers, the unstable landfill on which the jail complex is built, and the challenges of massive construction around operating jails, it would cost 8-15% more to reconstruct jails on Rikers vs. the much smaller, smarter borough jails to come.

Therefore, it is absolutely essential that we press forward as quickly as possible to close Rikers forever. The borough-based jails must be built. And once the Rikers jails are closed, we can use the island for green infrastructure that will benefit the entire city.

So what can the state legislature do specifically to help? Here are six steps to start.

1. **Help end unacceptable case delays.** Over 1,500 people in Rikers have been waiting over a year for a trial. Almost 700 have been waiting for two years. These delays deny justice to incarcerated people who are jailed while presumed innocent, to crime victims waiting for accountability, and to taxpayers who foot the bill. The state legislature can address this by calling for and providing funding for: 1) the temporary assignment of additional judges and court personnel to NYC to expedite cases; and 2) paralegals, crime lab analysts, and state-of-the-art technology to help district attorneys and public defenders implement discovery reform.
2. **No longer permit people with serious mental illness to languish at Rikers.** 17% of the NYC jail population has a serious mental illness. Each year, hundreds of people who have been found so mentally ill that they cannot stand trial remain trapped for weeks at Rikers because there is no space for them in state mental hospitals. We need more treatment beds, and we need them now.
3. **Ensure DOCCS transfers to NYC one or more of its closed or underutilized prisons in Manhattan: Lincoln, Bayview, and Edgecombe.** These facilities can be used to get women and possibly others off Rikers for good, in a transformative setting.
4. **Implement the *Less Is More Act* immediately.** *Less Is More* will bring to New York the best of tried-and-tested parole reforms from law-and-order states like Louisiana, Missouri, and South Carolina. District Attorneys and Sheriffs, Republicans and Democrats, back the new law. We are grateful Governor Hochul has signed it. To comply

with the law, parole authorities must immediately lift parole warrants against anyone at Rikers who has been incarcerated longer than they could possibly be punished under *Less Is More*. That provision took effect the day the Governor signed the bill. Other provisions technically begin March 2022, but should be implemented today, to help with the crisis, and out of basic fairness. Parole officers should stop jailing people for technicals that will no longer be eligible for incarceration under *Less Is More*. And parole should no longer automatically incarcerate people on parole charged with new crimes, but instead defer to criminal court judges about whether to set bail or remand those people pre-trial. The millions saved by ending this unnecessary incarceration should be invested in meeting the housing, mental health, substance use treatment, and job needs of people on parole.

5. **Strengthen and pass merit time legislation sponsored by Chair Weprin, A.4251.** The bill would permit incarcerated people to earn time credits against any ultimate sentence by participating in educational, vocational, and rehabilitative programs while in jail. Similar programs in NYS prisons and nationwide have been proven to reduce violence behind bars linked to idleness, to lower recidivism, and to save money.
6. **Pass legislation permitting NYC DOC to hire people from around the country for warden positions,** infusing the department with fresh ideas and strong leadership. This step has been strongly recommended by the [Nunez Monitor](#).

We look forward to working together to achieve these vital steps.

Thank you again for the opportunity to testify. I'd be happy to answer any questions.