

# **Lippman Commission**

# *Mark-Viverito Calls for Reforms to Make 'Dream' of Shutting Rikers Island Reality*

Observer

By Jillian Jorgensen

February 11, 2016



Council Speaker Melissa Mark-Viverito today is announcing a sweeping set of proposals aimed at reducing the inmate population on Rikers Island and keeping more inmates in borough-based facilities closer to home—with the ultimate goal of shuttering the controversial jail complex.

“For too long, Rikers has stood not for more justice, but for revenge,” Ms. Mark-Viverito said in her State of the City address, delivered in the South Bronx. “We must explore how we can get the population of Rikers to be so small that the dream of shutting it down becomes a reality.”

The city’s jails and its Department of Correction have been in a harsh spotlight for the last two years, amid investigations from the press and U.S. Attorney Preet Bharara that alleged a culture of brutality by correction officers, climbing violence between inmates, and pledges of reform from Mayor Bill de Blasio and Commissioner Joseph Ponte. Correction officials frequently note the poor condition of the jails, which they say put staff and inmates at risk, while inmate advocates argue the jail is hard to access for families who want to visit, is far from courts where inmates must make appearances, and is out of the public eye.

The vast majority of inmates at Rikers Island are awaiting trial and have not been convicted of a crime. Only 16 percent of those who do await trial at Rikers Island are ever sentenced to prison time, Ms. Mark-Viverito said today, and many inmates languish in the jail for months on minor charges simply because they cannot afford bail—a statistic thrown into sharp relief by the story of Kalief Browder, a teenager who sat in Rikers Island for almost three years after he was accused of stealing a backpack, only for the district attorney’s office to dismiss the charges. After he was released, Browder hanged himself.

Among the people most outspoken about the problems with the state’s bail system that led to Browder’s long detention is former Chief Justice Jonathan Lippman—who attended the speech today and who Ms. Mark-Viverito said would head a commission to explore a “community-based justice model that will complement existing reform efforts.”

“It will recommend ways to continue to reduce pre-trial detention rates, and assess moving adolescents and those suffering from mental illness off Rikers in the short term,” she said. “It will also look at utilizing more community courts and borough-based jail facilities.”

That could be a tough sell with some of her fellow City Council members. While several have outspokenly criticized Rikers, called for it to be closed, or at least called for inmates under 18 to no longer be held there, housing inmates in the neighborhoods they represent rarely goes over well with constituents. (Outspoken Correction Officers Benevolent Association Norman Seabrook has often mocked Councilwoman Elizabeth Crowley’s insistence that young inmates be moved off Rikers by asking her to offer up space in her district.)

But Ms. Mark-Viverito made an emotional appeal through the story of Browder, whose mother was in the audience, citing the nearly two years he spent in solitary confinement for a crime of which he was never convicted.

“He endured unspeakable psychological and physical abuse. He was never even convicted of a crime, and the charges were eventually dropped,” Ms. Mark-Viverito said. “But it was too late. Kalief entered as a child, but left as a broken man. A few months later, Kalief died by his own hands. It was not one failure which led to his death; it was generations of failures compounded on one another.”

But perhaps looking to be pragmatic in addition to sympathetic, Ms. Mark-Viverito also made an economic argument for housing inmates closer to home.

“Far from the courthouses, it regularly costs the Department of Correction \$25 million per year just to transport inmates. And if you want to visit friends or family or see an attorney, it typically takes them an entire day just to travel to Rikers and go through processing,” she said.

To that end, the Council will develop a “video visitation program” so that family members who cannot make the often arduous trek to isolated Rikers Island can see incarcerated people via video chat from local libraries.

The Council will also work with the mayor’s office, Ms. Mark-Viverito said, to create a “Municipal Division of Transition Services”—aimed at helping people re-enter communities with education and drug treatment, in an effort to reduce recidivism.

Ms. Mark-Viverito hit on another priority of Mr. Lippman’s—getting the state to raise the age of criminal responsibility to 18, something Gov. Andrew Cuomo unsuccessfully sought to do last year.

She also announced plans for legislation to create an inspector general for the Department of Correction—but it’s unclear how it would differ from the IG post that already exists to oversee the department, which is part of the Department of Investigation.

# *Is Shutting Down Rikers Island a Dream or a Fantasy?*

Observer

By Jillian Jorgensen

February 11, 2016



As she outlined plans to study ways to shrink the population on Rikers Island and house inmates closer to home, Council Speaker Melissa Mark-Viverito called closing Rikers Island a “dream.”

Norman Seabrook, head of the union that represents correction officers, put it differently.

“That’s not a dream. That’s a fantasy,” Mr. Seabrook told reporters after the speaker’s State of the City address in the South Bronx.

Whatever it is, it is undoubtedly far down the road. But Ms. Mark-Viverito is seeking to get the journey started by naming former Chief Justice Jonathan Lippman to head an independent commission to study the current operations at Rikers.

“We are going to do the most careful, comprehensive look at Rikers that’s ever been done, have the data to back it up, and then make very concrete, direct recommendations,” Mr. Lippman told reporters after the speech. “We will not pull punches. I will not do it. My life has been based on looking at the fairness of the justice system and making sure that justice doesn’t depend on the size of someone’s pocketbook.”

The commission, Mr. Lippman said, will study who is at Rikers Island and ways to get some of those people out of the jail complex—which in the last two years has seen scrutiny from the media and from U.S. Attorney Preet Bharara, who sued the city over what he deemed a culture of brutality there. If the jail population can be reduced enough, he said, the city could consider alternatives to Rikers Island.

“Do you get to a point where the level is such that we say, ‘Gee can this again in the end come down to a community level, or does it have to be this kind of central place which, again, has received so much negative attention?’” Mr. Lippman said.

A spokeswoman for Mr. de Blasio, Monica Klein, said City Hall shared the goal of “safely reducing the Rikers population”—and cited efforts like bail reform and fast-tracking gun cases, but did not specifically endorse the idea of housing inmates in borough-based facilities rather than at Rikers.

“Wherever we house our jails, we will continue reducing our jail population—as a matter of fairness, justice, and safety. We look forward to working closely with this new Commission on these essential issues.”

Mr. Seabrook, the union leader who has been a proud obstacle to plenty of the reform efforts aimed at Rikers Island by Mr. de Blasio over the last several years—he filed court documents to try to stop a new use of force policy and has held City Hall press conferences decrying the mayor’s policies and telling him to “shape up or ship out”—pointed to something that would probably be an even larger obstacle to closing down the city’s controversial jail complex: resistance from residential neighborhoods who don’t want inmates nearby.

“At the end of the day, where do you put these individuals who continue to commit crimes? If you wanna put them on 65th and Park Avenue, Hell, I’m for it, but where are you going to put these jails?” he asked. “You’re gonna put them right here in the South Bronx, where we’re at. You’re gonna put them right in Bedford-Stuyvesant in Brooklyn. You’re not putting them on Wall Street, you’re not putting them on Main Street, and you’re sure as hell not putting them in Scarsdale.”

But before that thorny question could even be considered, the commission would first have to figure out how to shrink the jail population even further.

Mr. Lippman has been an advocate of reforming the bail system—Rikers Island is mainly a pre-trial detention facility, and many of its inmates are there because they cannot afford to post bail—and of raising the age of criminality, two things that would both reduce the size of the Rikers Island population, which is already at an all-time low despite increasing violence there. The city has already been exploring alternatives to bail, including pre-trial monitoring programs, particularly after the death of Kalief Browder, who hanged himself after serving three years at Rikers awaiting trial on charges of stealing a backpack that were dismissed. Ms. Mark-Viverito told his story today.

During the speech, Correction Commissioner Joseph Ponte sat in the very last row of the auditorium, looking typically dour. He joined the rest of the crowd in offering a standing ovation when Ms. Mark-Viverito thanked Browder’s mother for attending, but he didn’t clap when she referred to the “dream” of closing the jail complex, or spoke of “systemic racism” there. He left quickly after the remarks, without speaking to the press.

Mr. Seabrook, meanwhile, said he applauded Ms. Mark-Viverito “for her genuine feelings of trying to make a difference.” But he said any reform needs to include “both sides” of the table—including the officers who work at Rikers Island. If it did, he said he’s support the commission’s look at Rikers.

“As long as it’s a comprehensive look, on both sides,” he said. “If it’s just one-sided, that’s not comprehensive.”

Mr. Lippman said the law firm where he now works, Latham & Watkins, would set up the commission, and that it would receive help from the Center for Court Innovation. He said the commission would “include all of the players.”

“I think I have a background that allows me to bring the different sides of the equation to this table, and that’s exactly what I intend to do,” Mr. Lippman said. “And I hope I have the credibility on my own as someone who is concerned about fairness and that means everybody is heard. But we’re going to pull no punches about Rikers.”

# *Afternoon Bulletin: NYPD Officer Liang Convicted, Sex Ed for Valentines and More*

Observer  
By Felipe De La Hoz  
February 12, 2016





Officer Peter Liang, the rookie police officer who shot unarmed 28-year-old Akai Gurley at the Brooklyn Pink Houses, was convicted of manslaughter and official misconduct Friday. Sentencing has been set for April 14 and while Liang, who will be automatically expelled from the NYPD, could get as many as 15 years, the court does not have to incarcerate him. As the verdict was read aloud, Liang had his head in his hands. One unnamed juror called the decision “very, very, very difficult.” (*Wall Street Journal*)

In her State of the City address Thursday, City Council Speaker Melissa Mark-Viverito referred to shutting down the Rikers Island jail as a “dream,” a comment later disparaged by Correction Officers’ Benevolent Association president Norman Seabrook as a “fantasy.” Ms. Mark-Viverito has named former NY Court of Appeals Chief Justice Jonathan Lippman to head a commission that will examine the jail and methods to transfer prisoners out of it. Mr. Lippman, who is an advocate of reforming the bail system, said the commission would study who is held at Rikers and ways to get some of those people out of it.

In anticipation of this weekend’s expected freezing temperatures, members of the Uniformed Fire Officers Association joined Public Advocate Letitia James in handing winter coats to over 60 children at P.S. 115 in Washington Heights. The program, which was launched in 2012, has so far handed out coats to over 2 million children in need. The FDNY members discussed fire safety with the students in addition to providing some much needed winter warmth

Letitia James also had some fun Friday while educating New Yorkers about safe sex and handing out free condoms ahead of Valentine’s Day on Sunday. Ms. James, standing in front of a table with boxes of condoms and sexual health literature, joked with commuters as she passed out the materials at the busy Union Square station. The effort was intended to encourage people to practice safer sex, part of a city-wide campaign to curb sexually-transmitted diseases and unintended pregnancy. (Observer)

Mayor Bill de Blasio has warned that, though there is very little risk of contracting the Zika virus in New York right now, as warmer weather approaches the prevalence of mosquitoes will increase and, with that, the risk factor. The mayor and medical professionals have gotten together to discuss the best way to tackle the insect. The particular mosquito known to spread the virus is not found in New York, but a close relative does. (Daily News)

# *De Blasio: Closing Rikers Island Would Cost Billions and Be 'Very Difficult'*

Observer

By Jillian Jorgensen

February 16, 2016



Mayor Bill de Blasio thinks closing Rikers Island is a “noble” idea—but not one that’s likely to happen anytime soon, he said today.

“My job is to level with the people of New York City,” Mr. de Blasio said at an unrelated press conference. “This would cost billions and billions of dollars, be logistically very difficult, and we don’t have the space right now.”

In her State of the City speech last week, Council Speaker Melissa Mark-Viverito announced plans for a commission to study ways to shrink the population at Rikers Island—with the end goal of making the “dream” of closing down the city’s jail compound a reality.

“I understand, obviously, her idea that we have to make major, major changes in our correction system, and there is a certain appeal to the notion of starting over,” Mr. de Blasio said. “But it’s a very complicated idea.”

Rikers Island has been under a harsh spotlight for the last two years, following investigations from the press and a scathing report by U.S. Attorney Preet Bharara, which outlined what he deemed “a culture of violence” against young inmates by correction officers. And while the jail’s population has shrunk to an all-time low, violence has continued to rise—and correction officers have said they are increasingly the target of it, placing the blame on reforms, including the reduction of solitary confinement, put in place by Mr. de Blasio and his Commissioner Joseph Ponte.

Some advocates have argued Rikers itself is a major part of the problem: the facilities are old and crumbling, and geographically the island is easy for the rest of the city to ignore. The isolated location is very difficult for visitors to reach and far from borough courthouses where the inmates must make regular appearances—requiring the city to spend millions busing them.

This week, Gov. Andrew Cuomo, a perpetual foe, added his name to the list of people advocating a closer of the jail compound.

“We should close down Rikers and build a new state of the art jail that is just safer for the guards and for the inmates,” Mr. Cuomo said on NY1 this morning.

Of course, that requires putting the inmates somewhere. Ms. Mark-Viverito’s commission, which will be led by former Chief Judge Jonathan Lippman, will consider using more borough-based jails—not likely to be particularly cheap and certain to raise the ire of local officials who will find it hard to sell their constituents on jails in their districts.

“I see the merit in it, but we can’t embrace something until we figure out where would we then put the inmates, how would we pay for it,” Mr. de Blasio said.

While he repeatedly asserted shutting down Rikers would cost billions, the mayor said the city had not conducted a study of doing so—but had rather “looked at the basic question” of doing things different and “what would it take.”

Mr. Lippman said last week he was not beginning the commission with a particular outcome in mind, but intended only to study the population, see if it could be shrunk, and determine whether a different model is feasible. Mr. de Blasio he thinks “the world” of Mr. Lippman, with whom he has worked on efforts to reform bail laws, and that it was “fine” for others to consider the idea. But as the mayor, he said, he has to be pragmatic.

“I have to look out for what’s feasible,” he said. “And I have to look out for the taxpayer.”

# *Imagining a Rikers Island With No Jail*

The New York Times  
By The Editorial Board  
February 24, 2016

Any serious effort to repair criminal justice in New York City must do something about Rikers Island, the jail complex in the East River where justice goes to die, or at least be severely beaten.

The City Council speaker, Melissa Mark-Viverito, acknowledged this in her State of the City address this month, when she announced that the state's former chief judge, Jonathan Lippman, would lead a commission to comprehensively examine the city's criminal justice system. Its mission will be to reduce the jail population, now at about 10,000, enough to make it possible to consider shutting Rikers down for good.

Mr. Lippman is newly retired from the state's highest court, the Court of Appeals, after a distinguished career advancing justice for the poor. His involvement lends credibility to Ms. Mark-Viverito's intriguing proposal. Fixing Rikers has been talked about, fruitlessly, for years. Studies have been commissioned, consultants paid, lawsuits filed. Mr. Lippman, now with Latham & Watkins, says he will lead an open-minded investigation, but it's hard to imagine a conclusion more foregone: The sensible thing to do with Rikers is to close it.

The Times has reported for years on the savagery there. The Justice Department has investigated its corrupted, poisoned culture. The department's report on the abuse of teenage inmates is horrific reading. In a long history of often-fatal violence, incompetence and neglect, one tragic case stands out: that of Kalief Browder, who was 16 when he was taken to Rikers, accused of stealing a backpack. Because his mother could not make bail, he spent three years there, including about two in solitary confinement. He was assaulted by a guard and beaten by inmates. He tried repeatedly to kill himself, and after his release he succeeded. He was 22 years old.

Even if its inmates were not brutalized, its guards not thuggish, its corridors not afflicted by gangs, weapons and drugs, Rikers would still be a bad idea. It harks back to a time when prisoners were shipped out of sight. The costs and inconvenience to the city, which spends \$25 million a year just to transport inmates, and to family members, who lose a day's work to get there and back, argue powerfully for neighborhood-based alternatives.

Mr. Lippman promises that the commission will be driven by data, not politics, and have broad-based representation, including prosecutors, the defense bar, the Police Department, correction officers, prison-reform advocates and former inmates. "We will look comprehensively at the Rikers situation," he said, "and we'll connect it to things: reducing pretrial detention, alternatives to incarceration, reforming the summons process, trying to immediately reduce certain populations: women, the mentally disturbed, juveniles. And we'll look at the community-based justice options."

The difficulties are obvious. Many might agree that it's impossible to reform Rikers, but not want a jail next door. Even if the Rikers population is halved, that means placing thousands of inmate beds somewhere else in the city. Even in an era of falling crime, this is likely to meet with resistance. Mr. Lippman will have to combine political shrewdness and toughness to deal with the correction officers and their truculent union boss, Norman Seabrook, who called closing Rikers a "fantasy."

It's a good thing that Gov. Andrew Cuomo was swift to praise the idea of closing Rikers as a "big solution" to "a big problem." Mayor Bill de Blasio would be wise to embrace the solution, too. It's good that the City Council under Ms. Mark-Viverito and the New York Police Department under Commissioner William Bratton have already made progress on an ambitious array of criminal justice and policing reforms that blunt the ill effects of Rikers by keeping low-level offenders away from it. Mr. Lippman's commission should move things further while building support across the city for housing a smaller inmate population locally.

"Rikers stands for everything that's miserable about the criminal justice system," Mr. Lippman said. "By conquering Rikers, in a politically astute, smart, credible way — this is the ultimate challenge, to be able to take on something which is so widely viewed as the heart of all of our problems."

As for the island, it should be given back to the sea gulls, or used for affordable housing, or an extension of La Guardia Airport, or any number of other conceivable, nontoxic purposes. And once the poison is removed, the city could rename it Browder's Island, for young Kalief, whose suffering there has come to symbolize all that went so horribly wrong there for so many years.

# *Shut Down the Criminal Court*

Gotham Gazette  
By Steven Zeidman  
February 25, 2016





City Council Speaker Melissa Mark-Viverito should be commended for using her State of the City address, titled "More Justice," to call for criminal justice reform. She rightly observes that "we need more justice in the justice system" and ticked off some specific goals, including reducing the population at Rikers Island, creating civil procedures for minor violations, and improving the warrant process. However, the speaker must aim higher if she truly wants "more justice." More specifically, just as she referred to the "dream" of shutting down Rikers Island, so too should she call for abolishing the present Criminal Court.

While the tactics of the NYPD have been subject to vigorous debate, and the horrific conditions at Rikers Island have been increasingly exposed, the Criminal Court, the entity that reviews arrests and metes out sentences, has been free from any serious scrutiny.

Last year, about 350,000 people were arraigned in the city's Criminal Courts. More than 90% of the defendants were black or Latino. Only 14% of the cases were felonies and owing to Police Commissioner Bill Bratton's devotion to "broken windows" policing, misdemeanors and violations accounted for a whopping 81%. Almost 60% of those cases ended at arraignment, the accused's first appearance before a judge - a moment in time when the prosecutor, defense attorney, and judge don't know much of anything about the charges, the accused, the arresting officer, or any actual victim. This is not anyone's conception of a "court."

The speaker's call for "more" justice assumes there is already some amount present. It is hard to imagine the word "justice" occurring to anyone observing the court in action. Instead, it is as it has always been - an assembly line concerned primarily, if not exclusively, with rushing through cases. It is no secret that court administrators regularly evaluate judges on the speed with which they move their calendars and the number of guilty pleas they obtain in the process.

Most people assume that the Criminal Court adjudicates guilt or innocence with witnesses testifying under oath, an attentive jury, and a judge at the helm. In fact, there are virtually no jury trials in the Criminal Court as defendants are pressured in myriad ways to plead guilty or resolve their cases in any way other than a trial.

Consider this - the average time citywide from arraignment until the start of jury trial is 570 days. In the Bronx it is 826 days. Who can languish in jail or repeatedly come back to court for that long a period of time without experiencing emotional strain, missed work, missed school, etc.?

More deliberately pernicious is the time-honored "trial tax" - defendants are aware that they will get severely sentenced if convicted for having the temerity to exercise their constitutional right to a trial by jury. The result? In 2014, there were only 175 jury trials in the entire New York City Criminal Court (about 1/20 of 1% of the cases that entered the court the same year). On the other hand, there were about 175,000 guilty pleas.

Most people assume that the Criminal Court adjudicates the constitutionality of the arrest, as even non-lawyers are familiar with the prohibition against illegal search and seizure. However, pretrial suppression hearings, where officers testify under oath and judges determine whether they acted legally, are as rare as jury trials. It took a trial in federal court for a judge to find that the NYPD was engaging in hundreds of thousands of violations of the Fourth Amendment and the Equal Protection Clause. If the Criminal Court focused on its role as protector of constitutional rights and less on its self-imposed mandate to speed through cases, the stop-and-frisk debacle might have been stopped in its tracks years earlier.

What, then, does the Criminal Court actually do? Twenty-five years ago, a colleague examined Criminal Court data and argued that the court didn't do anything of substance. He found that the court failed to assure that persons accused of crime are accorded their rights under law, failed to seriously assess guilt or innocence, failed to mete out any kind of meaningful sentence to those ultimately convicted, and cost the taxpayer a huge sum of money. He pointed to the lack of adversarial litigation and concluded that the Court's essential function was taking guilty pleas to minor charges. As a result, he suggested it should be abolished.

I disagreed then, and still do now, with his finding that the Criminal Court didn't do much of anything significant. The Criminal Court does many things. Daily, it processes a multitude of young men of color, saddles them with arrest or criminal records, and renders them less employable, less likely to get into college, less able to get loans, less able to get licenses, etc. That reality breeds frustration, pain, anger, and alienation.

The Criminal Court brings in revenue. Ferguson, Missouri is not the only city that grows its coffers through its criminal justice system. In 2014, fines, surcharges, bail and related fees netted \$31,884,569 - that's just under \$32 million.

Ultimately, the Criminal Court is a highly efficient instrument of social control that maintains the status quo (or, as our Mayor might say, it perpetuates a tale of two cities).

Yet, while I reject my colleague's conclusion, I agree wholeheartedly with his ultimate recommendation -- the Criminal Court should be abolished. This goal is not so far-fetched. Consider that while advocates for prison abolition were initially seen as wild-eyed dreamers, we now hear that Speaker Mark-Viverito's "dream" of shutting down Rikers Island even has the support of New York Governor Andrew Cuomo.

Mayor Bill de Blasio conceded that the Criminal Court needed to be re-examined several months ago when he announced his "Justice Reboot" initiative. However, meaningful change requires more than shutting down and restarting or tinkering with the same basic program. The usual slate of reforms offered to improve the Criminal Court -- generally centered around the supposed need for swifter dispositions -- will accomplish little. A reduced backlog won't change the color of the defendants nor the continued meting out of unnecessary and undeserved criminal records.

Speaker Mark-Viverito recognizes the dysfunction that characterizes the Criminal Court. She is creating a commission, headed by New York's former Chief Judge Jonathan Lippman, charged with re-imagining "our entire criminal justice system."

To his credit, Judge Lippman has already promised to "pull no punches." That is exactly the right approach. The Criminal Court hasn't been fundamentally changed since its inception in 1962 and has repeatedly been referred to as a system in crisis. It is well past time for a new approach that focuses on assessing the nature and quality of justice delivered instead of the quantity and alacrity of cases disposed. Isn't that the true measure of a "court?"

# *Comptroller: Claims Filed Against City at Rikers Island Up 27 Percent*

Observer

By Jillian Jorgensen

March 02, 2016



Not only is Rikers Island in the midst of a “humanitarian crisis,” it’s also costing New York big money in lawsuits—and the city should consider shutting it down, Comptroller Scott Stringer said today.

“Rikers today, it is the wild west. It is the wild west of corrections,” Mr. Stringer said at a press conference in his Manhattan office today. “We have to own up to that. The data I’m presenting today should be a clarion call.”

Mr. Stringer said claims filed for personal injuries in the city’s correctional facilities—most of which are located on Rikers Island—had risen 27 percent in fiscal year 2015, costing the city \$13.1 million. That includes three settlements of \$1 million or more with families of inmates who died on Rikers Island, including Jerome Murdough, who died in an overheated cell and whose case Mr. Stringer settled.

Amid rising violence and several high-profile incidents—including the deaths of inmates and the slashing of a correction officer—Rikers Island has been under a harsh spotlight from prosecutors, the city’s Department of Investigation, Mr. Stringer, and others. Mr. de Blasio and Commissioner Joseph Ponte have promised reform, but recently, there have been calls to go further and close down Rikers Island entirely. Mr. de Blasio has argued that closing Rikers and moving inmates to less centralized jails would cost “billions and billions” of dollars.

“I think the mayor is right—to close Rikers, there would be a huge cost to doing that,” Mr. Stringer said today. “But there’s also a huge cost to not closing Rikers.”

The comptroller argued the claims were part of a disturbing upward trend—the 2,846 claims filed against the Department of Correction in fiscal 2015 is 73 percent higher than the number of claims filed in fiscal 2013, 1,643. They were filed as a result of violence—inmate-on-inmate, officer against inmate, inmate against officer—and also for slip-and-fall type cases where the crumbling physical plant of many of the jails at Rikers was allegedly to blame. In addition to claims, settlements have also increased, both the number of them and how much they cost.

The city has struggled to contain violence at Rikers, but a City Hall spokeswoman said today that uses of force with serious injury dropped 23 percent in 2015, and assaults by inmates on staff with serious injury dropped by 11 percent in 2015.

“The 23% reduction in serious uses of force and 11% reduction in serious assaults on staff make clear that Commissioner Ponte is taking aggressive steps to keep our inmates and officers safe,” spokeswoman Monica Klein said. “And from expanding officer training to announcing a new Use of Force policy to safely curtailing solitary confinement, we are putting clear reforms in place to address violence and improve inmate outcomes on Rikers.”

Some reforms underway at Rikers, including a new use of force policy, were mandated as a result of a federal lawsuit, *Nunez v. New York City*. The suit was originally filed by the Legal Aid Society, and was eventually joined by U.S. Attorney Preet Bharara, who wrote in a scathing report that there was a “culture of violence” against inmates in the city jails.

The claims figures were released as a “ClaimStat Alert”—a result of the program Mr. Stringer began to track claims and lawsuits filed against the city to determine trends and “hotspots” in an effort to avoid future lawsuits. He’s previously focused on claims against the NYPD—an agency he said had cooperated with his office and had since seen claims fall.

The jail with the most claims filed in 2015 was the Anna M. Kross Center on Rikers Island, which houses a mental health unit and a methadone clinic. The highest percentage increase was at the North Infirmity Command, a jail with a small population. Only one jail, the Rose M. Singer Center for women, saw claims decrease.

Of the 10 facilities with the highest number of claims, eight were on Rikers Island. The other two were the Manhattan House of Detention, colorfully known as The Tombs, and the Vernon C. Bain Correctional Center, which is located on a barge docked across the East River from Rikers Island.

The claims are on the rise at a time when the city is pouring money into trying to reform Rikers Island, spending \$112,000 per inmate a year and boosting its budget with a plan to hire more correction officers. It also comes as the inmate population in the city’s jails is at an all-time low—meaning there will soon be more uniformed correction staff on the city payroll than inmates in its jails.

“We are spending more tax payer dollars, only to see a rise in incidents that lead to claims,” Mr. Stringer said. “And some of those claims lead to settlements that truly create a huge cost burden to our city.”

The push to close Rikers got a boost last month when Council Speaker Melissa Mark-Viverito, meanwhile rolled out plans to put together a commission led by former Chief Judge Jonathan Lippman to study options for shrinking and possibly closing Rikers Island. Mr. Stringer said it was high time.

“We need to start planning for the day when the jail can safely and responsibly closed once and for all,” he said.

# *Lippman Details Plans for Commission Studying Rikers Island Closure*

Observer

By Jillian Jorgensen

March 17, 2016



Former Chief Judge Jonathan Lippman announced the members of a commission he'll lead to study Rikers Island today—a group that does not include correction unions or management and that he vowed would take an independent and “no holds barred” look at the city’s jails.

“Rikers is clearly a symbol of everything that’s wrong with the criminal justice system. The question is: what do you do about it?” Mr. Lippman asked on a conference call with reporters. “And what do you do about it in the context of the criminal issues that so feed the population at Rikers?”

Mr. Lippman has been tasked with asking and answering those questions by Council Speaker Melissa Mark-Viverito, who asked him to lead a commission studying whether the city could shrink the jail population enough to make “the dream of closing Rikers Island a reality.”

One key figure in the ongoing efforts to reform the city’s Department of Correction amid several high-profile deaths and lawsuits, Correction Officers Benevolent Association President Norman Seabrook, is not on the panel. Mr. Seabrook has taken legal action in an effort to forestall certain reforms, including a new use of force policy, and has dismissed proposals to shut down Rikers Island as unrealistic. Mr. Lippman said he spoke to Mr. Seabrook this morning and intended to speak to him often during the commission’s work—but that he wouldn’t be included as a member.

“We appreciate Judge Lippman reaching out and look forward to continuing our dialogue with him and the panel,” Mr. Seabrook said in a statement. “It would be nice however if the members of COBA, who put their lives on the line on Rikers Island every day, were officially invited to sit at the table. Reform has to be a two way conversation and we’re not sure if this panel achieves that.”

Mr. Lippman said Mr. Seabrook wasn’t on the panel for the same reason no members of the City Council, the mayor’s staff, or the district attorneys’ offices were.

“I think and believe that he is confident that I certainly, and the commission, does not put all the problems of the world at the feet of the corrections union,” Mr. Lippman said.

In describing the work of the panel, Mr. Lippman—an advocate for bail reform and community justice efforts—spoke broadly about problems and possibilities. But most of the media discussion has surrounded the particular possibility of closing the East River corrections compound and housing inmates closer to home in borough-based jails.

Perhaps to that end, in addition to criminal justice reform types—members of the Board of Correction, the Legal Aid Society, the Vera Institute for Justice—the commission includes MaryAnne Gilmartin, president of real estate development firm Forest City Ratner, and Partnership for New York City President Katherine Wylde.

“I think we’d be closing our eyes not to realize that, ‘Gee, a great many people are saying let’s close it down,’” Mr. Lippman said. “I’m very pleased and delighted by her involvement and some of the real estate expertise, and Kathy Wylde from the business partnerships. Because, look, this is a vital economic issue to New York City.”

Mr. Lippman pointed to a recent cover story in Crain's about what the city could do with the property on Rikers Island if it razed the jails there. (In addition to housing, a new runway for nearby LaGuardia Airport has also been suggested.)

"I think it is not surprising that many people are saying, 'Gee, why don't we just close it down,' because it has such, again, a negative connotation," Mr. Lippman said, adding the commission did not have a pre-determined goal or view on closing Rikers. "I think there are foundational issues that you have to look at before you could even begin to address that kind of elephant in the room, that kind of huge overarching question."



# *Rikers Island reform commission won't include correction officers union or jail administrators*

New York Daily News  
By STEPHEN REX BROWN  
MAR 17, 2016



A commission examining how to reform Rikers Island will include a cross-section of criminal justice experts and bigwigs from the business world — but not the correction officers union or the jail's administrators.

The chairman of the 27-person independent commission, former chief judge Jonathan Lippman, said it was his choice to not include the powerful Correction Officers' Benevolent Association, or reps from City Hall or district attorneys' offices.

The commission will be "a little insulated so we can have thoughtful, concerned discussions," Lippman said.

That didn't sit well with union boss Norman Seabrook, who is a frequent opponent of jail reform.

"It would be nice ... if the members of (the union), who put their lives on the line on Rikers Island every day, were officially invited to sit at the table. Reform has to be a two-way conversation," Seabrook said.

# *Activists Launch #CLOSErikers Campaign to Close Rikers Island*

Observer

By Felipe De La Hoz

April 15, 2016



There have been attempts to force the closure of the Rikers Island jail for years, but Glenn Martin thinks that the failed efforts so far have been missing a key ingredient: “the community’s voice.”

That’s why Mr. Martin, the founder of JustLeadershipUSA (JLUSA) has put together #CLOSErikers, a group formed by 58 community, faith-based, and criminal justice reform organizations, which launched its campaign with a rally on the steps of City Hall yesterday.

Discussion over the fate of the city’s notorious jail has flared up in recent weeks with calls from figures such as Governor Andrew Cuomo to close the complex, located on the island just northwest of the LaGuardia airport.

A commission headed by former chief judge Jonathan Lippman, of which Mr. Martin is a member, is set to consider the tangle of issues that would arise from attempting to close the jails, including the sensitive issue of relocating the detainees.

“The conversation so far has been mostly elite players just debating each other in the media. Today is the day where it’s about the community,” Mr. Martin told the Observer. Asked about the issue of cost, raised by Mayor Bill de Blasio and others, he said “If you’re going to build a \$3 billion light rail in Brooklyn, just double that and you can save kid’s lives. New York needs to own this, own Rikers Island.”

Several speakers referred to both the violence that takes place within and the decrepit state of the complex itself. A woman identified only as Anna P., the mother of a current Rikers inmate, said that her son had been incarcerated since October 2010 without trial in conditions that would be “considered environmental building violations in the regular world.”

The Rev. Rubén Austria, Executive Director of Community Connections for Youth, said he had come to “know about Rikers Island through visiting young people who were detained there,” who said they “didn’t come to Rikers as a violent person, but [they] left feeling like [they] had violent tendencies.”

Nathaniel Linden, a member of Vocal New York and former Rikers inmate, put it more simply: “You see the sun here? It doesn’t shine there.”

Mr. Martin said that part of the campaign’s objective was to provide “support for the mayor,” who he saw as willing to move forward on Rikers, though he used one of the mayor’s signature catchphrases to needle him on his progress: “It’s not the tale of two cities, it’s the tale of three cities. Rikers is that third city.”

Wayne Starks, a member of Vocal New York, described to the Observer an incident in which he was accused of stealing fish at a market in Chinatown and arrested. “I went through the system. Fortunately I didn’t have to go to Rikers Island. But I could have. I’m here to support those brothers and sisters that been thrown against the wall, arrested, and thrown into Rikers Island.”

The demands to close the “torture island,” as Mr. Martin put it, were described as a fight for civil rights.

“As an immigrant woman myself, I had to study the main ideals and the history of the U.S. Constitution in order to pass the test to be a naturalized U.S. citizen,” said Anne, the mother of a Rikers inmate.

“But in my own life, and in the life of my son, I’ve watched the U.S. Constitution be completely trampled on as my son’s civil and constitutional rights have been violated,” she added.

# *More New Yorkers Facing Eviction Have Lawyers, But No Right to Counsel Yet*

Observer

By Jillian Jorgensen

August 30, 2016



Mayor Bill de Blasio touted city investments in programs to provide lawyers to tenants facing eviction in housing court—but stopped short of endorsing the “right to counsel” that’s been advocated for in the City Council.

“The investments we make in legal services is one of the smartest investments we make,” de Blasio said today at High Bridge Library in the Bronx. “The best situation is to stop homelessness before it happens.”

The mayor was in the Bronx to release the first annual report of his Office of Civil Justice, which was created to help connect people to free civil legal services following legislation from Council Speaker Melissa Mark-Viverito and Councilman Mark Levine. While criminal defendants are guaranteed attorneys, people facing civil actions like an eviction are not—and many battle their landlords in court without any legal representation.

According to the report, only about one percent of tenants in housing court facing eviction had lawyers in 2013. Today, 27 percent have attorneys, the report said. Evictions handled by city marshals have dropped 34 percent since 2014.

But while de Blasio and Human Resources Administration Commissioner Steven Banks said investing in civil legal services was paying off big in terms monetary (it’s cheaper to pay a lawyer than to house a family in a shelter) and human (in keeping families from homelessness), he wasn’t ready to extend it to everyone appearing in housing court.

Two of the Council members joining de Blasio on the dais today, Levine and Councilwoman Vanessa Gibson, have both sponsored legislation to establish a “right to counsel” for those face life-altering decisions in civil courts—something that has become an increasing concern of many legal professionals, including former Chief Judge Jonathan Lippman. The bill would provide an attorney to those who earn up to 200 percent of the poverty level.

“Clearly I believe the core concept of making sure that people have representation, if they’re facing eviction specifically, is very, very important. We’re going to keep pursuing that, so that’s an area where I’d be open to additional investments,” de Blasio told the Observer. “Beyond that, there’s a lot to appreciate about the larger notion. It’s very, very costly. It would be a tough budget decision, because it would mean other things couldn’t be done.”

For now, de Blasio argued, the city should let its investments in legal services “play out” over the course of this fiscal year. “As we find specific opportunities to invest more in stopping evictions, that’s where I would make the priority,” he said.

After the press conference, Levine said the money the city was investing in legal services was a good start.

“We’ve made huge headway as the money we’re spending has been ramped up and has been proven to be so effective, and as the needs become ever more glaring in this age of anxiety about displacement,” he said in a telephone interview.

With 27 percent of tenants covered already, Levine said that number would climb even higher when all the city's new programs were online and with other help pledged for those in neighborhoods being up-zoned through the mayor's affordable housing plan. If those measures could extend legal coverage to about 40 to 50 percent of tenants, and if the knowledge they may face lawyers dissuades unscrupulous landlords from taking tenants to court, a right to counsel "becomes a very reasonable proposition," he said.

"I do think that this is a worthy investment and one that, by the way, saves a ton of money on the back-end," Levine said, noting the city would spend about \$3,000 per attorney but about \$40,000 per year, per family in shelters. "It's not a huge leap of faith to see this as financially prudent."



# *The Right Man for New York's Toughest Job*

Observer  
By The Editors  
September 20, 2016



NYC Commissioner of Correction Joseph Ponte delivered a speech on Friday. It was the same day that six Rikers guards were sentenced to prison for the 2012 beating of an inmate and in the shadow of former Chief Judge Lippman's commission assessing the future of the prison island. In his introduction of Ponte, the host, New York Law School professor Ross Sandler—who was Mayor Koch's cleanup transportation commissioner—described the role of correction commissioner as “the toughest job in New York.” Ponte's no-nonsense, no-hedging talk made it clear that description was not an exaggeration.

The 413-acre island houses some 10,000 inmates at any one time, and more than 67,000 different souls are incarcerated in the complex's nine jails over the course of the year. The staff numbers some 9,000 correction officers and 1,500 civilians. (The department runs three other inmate facilities, plus two hospital wards at Bellevue and Elmhurst.) Being a correction officer at Rikers is a grindingly difficult job in a dauntingly hellish place. There were 9,424 fights and assaults recorded in 2015. Most of the violence is inmate on inmate with a rate of 38 assaults per 1,000 inmates monthly, up from 25 per month in 2011. But inmate assaults on staff are up as well: 8.6 per 1,000 population monthly, up from 3.5 per 1,000 per month in 2011.

Two years ago, U.S. Attorney Preet Bharara issued a report detailing a “deep-seated culture of violence” against younger inmates including the rampant use of unnecessary and excessive force by correction officers. Judge Lippman's 27-member commission is assessing whether Rikers should and can be shut down, as several politicians—including Gov. Cuomo and City Council Speaker Mark-Viverito—have suggested.

While we await the commission's findings and recommendations, Ponte certainly has significant challenges. First among them is ensuring everyone's safety—guards and inmates. The commissioner got his audience's attention when he said that the first step was to rid the jail of illegal weapons. In 2015, some 2,200 weapons were recovered from inmates. And when he took the top job in 2014—coming from Maine where he had been the head of the state's Department of Correction—he found that only 18 percent of Rikers' spaces were covered by security cameras, an extraordinary number of the cell and control locking mechanisms hadn't worked for more than 10 years, and there were hardly any working X-ray machines.

Commissioner Ponte immediately convinced the mayor to invest \$72.5 million to remedy these fundamental shortcomings. The commissioner also found a jail complex (with maximum sentences of up to one year, Rikers does not qualify as a prison) completely devoid of educational programs for inmates. In addition to providing much-needed skills to inmates who will be back out on the streets in months if not weeks, the constructive activities reduce the chances of people acting out.

The Rikers complex—which is also the largest mental facility on the East Coast—has gang problems, infrastructure problems, and staffing and training problems. Correction officers—supported by a strong union long under the control of recently indicted Norman Seabrook—enjoy a 20-year retirement option. The commissioner pointed out that recruit classes have been doubled in size—to 1,200 incoming officers—just to keep the workforce size at an equilibrium barely sufficient to staff the facility.

That Judge Lippman's commission will recommend replacing Rikers with smaller, community-based jails is one obvious possibility. But just as there was significant community opposition to the refurbishment and reopening of the Brooklyn House of Detention in 2012 in the rapidly gentrifying downtown Brooklyn area, we anticipate similar NIMBY opposition in other neighborhoods. Unfortunately, as Ponte pointed out, new construction on Rikers itself could take 10 years.

The challenges of the criminal justice system—the swift and fair adjudication of those accused, plus the safety of people incarcerated and those guarding them—are immense. After hearing Ponte, we came to agree that it might be the toughest job in New York. But we are impressed that Ponte seems to be the right man for the job.

# *Facing Re-Election and Political Pressure, NYC Mayor Announces Plan to Phase Out Rikers Island*

Observer  
By Will Bredderman  
March 31, 2017



Mayor Bill de Blasio announced today he would finally bow to the urgings of City Council Speaker Melissa Mark-Viverito, Gov. Andrew Cuomo and countless left-wing activists and formulate a plan to shutter the Rikers Island detention complex over the next 10 years—although the crucial work of creating a new, diffuse jail system will fall upon his successor, regardless of whether the liberal Democrat wins re-election this fall.

Standing in the City Hall rotunda with Mark-Viverito at his side, de Blasio asserted that the continued drop in crime made it feasible for the city to begin the process of closing Rikers after five years, when he projected the population of inmates awaiting trial in all facilities citywide would fall to 7,000, off of 9,300 today (roughly 7,500 of those people are now on Rikers). The mayor is currently seeking a second four-year stint in office, and Mark-Viverito is term-limited after December, and so the next administration and a future Council leader will have to endure the arduous duty of siting the numerous smaller replacement jails in neighborhoods around the five boroughs and dealing with local backlash.

The plan the mayor outlined aims to reduce the jail population to 5,000 after a decade, which he said would allow the city to relocate all inmates from its famous—and infamous—incarceration island.

“New York City will close the Rikers Island jail facility. It will take many years, it will take many tough decisions along the way. But it will happen,” de Blasio declared, tying the jail to the larger issue of the country’s massive prison population. “Rikers Island is an example and an expression of a major national problem. The mass incarceration crisis did not begin in New York City. But it will end here.”

“The decisions going forward have to be made by the mayor and the City Council, whoever those people are,” he continued, noting each new jail facility would trigger the city’s complicated Uniform Land Use Review Procedure, which ultimately requires a vote of the full Council.

Mark-Viverito, for her part, referred the famous incarceration center “an abomination” and “a hellhole.” She labeled those who might object angrily to the placement of a jail in their area—like those who have protested incoming homeless shelters—“deplorable.”

“After decades of having a system that what it wants to do is strip away the dignity of individuals that have had some level of interaction with the criminal justice system, we’re trying to put some humanity back,” she said, though she equivocated a bit when a reporter raised the possibility of a jail in her district, before concluding, “I wouldn’t be against it.”

The figures and timeframe appeared somewhat arbitrary. The mayor was short for details on how precisely they arrived at the figure of 5,000 inmates, except that his team believed it was the threshold at which the inmate population would be manageable in smaller facilities without Rikers.

The timing was also unusual. A panel that Mark-Viverito commissioned and former Court of Appeals Chief Judge Jonathan Lippman spearheaded is due to release a report on Rikers that most expect will call for abolishing the facility.

But de Blasio insisted again and again that neither he nor any member of his administration has viewed the study. Nor did he or the Council speaker have anything in the way of an actual detailed roadmap to reinventing the jail system.

The mayor even revealed that the city had yet to scope out any particular locations for new jails, nor had even decided how many such new sites it would need.

Politically speaking, however, it does seem to make the possibility of a strong left-wing Democratic rival to de Blasio even more remote. And it positions Mark-Viverito, once rumored for a role in a presumptive Hillary Clinton administration, to claim a legacy of criminal justice reform and to launch her post-Council career as an advocate and potential future candidate for another office.

The mayor even maintained that the phaseout would not involve layoffs of correction officers, whose once-mighty union leader Norman Seabrook resigned last year amid corruption charges. He did, however, admit that a spike in crime in the next decade could upset the closure schedule.

“Any talk of getting off Rikers is meaningless if we don’t keep reducing crime,” he said.

The mayor is also counting on improved mental health services, changes to the bail system, alternative-to-prison sentencing and more efficiency in the courts to act as further valves on the Rikers population—though the last will require assistance from the state.

De Blasio’s office was feuding with Cuomo over the governor’s calls to shut down the prison as recently as a few weeks ago. The change of mind marks the latest 2017 pivot for the mayor, who recently announced his support for publicly-funded counsel for all tenants in housing court after opposing it for years.

The mayor suggested the city would eventually rename the island and use it to house other municipal institutions, host private interests or both.

# *Politicians sue city over racially biased, unfair property tax system*

New York Daily News  
By GREG B. SMITH  
APRIL 25, 2017



Politicians have complained for years that New York City's system of taxing property is unfair and hurts lower-income homeowners and renters.

On Tuesday, an eclectic coalition of civil justice leaders, homeowners and landlords did something about it, filing a lawsuit charging that the system is also racially biased.

Tax Equity Now NY filed suit in Manhattan Supreme Court backed up by mountains of data collected by former city finance commissioner Martha Stark mapping out a disparity that hurts certain homeowners and renters.

"Despite decades of criticism and widespread agreement that the current system does not work, very little has been done to change the system," Stark said. "Today that all changes."

The suit includes an unusual mix of supporters including homeowners from Queens and Brooklyn, the big landlord group Rent Stabilization Association, mega-developers like Related Properties and Two Trees, the good-government Citizen's Budget Commission and civil rights groups like the New York NAACP and the Black Institute.

In 94 pages, TENNY charges the city's system violates the state and U.S. Constitution by treating different property owners differently. And it alleges the system's racial bias violates the federal Fair Housing Act.

Data shows homeowners in upscale majority-white neighborhoods like Park Slope and Brooklyn Heights paying less than owners in predominantly minority neighborhoods like East New York and South Jamaica.

Owners of large apartment buildings also pay the highest effective tax rate based on the value of their buildings, and pass the burden on to their tenants.

The suit asks a judge to order the city and state to remedy these flaws by changing the way homes, co-ops, condos and rental buildings are assessed and taxed.

Complaints about the inequities in this system have been around for years but politicians — reluctant to adopt changes that would drive up certain property tax bills while lowering others — have left the formula untouched.

On Monday Mayor de Blasio agreed that the system is wrong and should be changed, but insisted that he couldn't touch it until after he's re-elected.

The suit was announced on the steps of City Hall by Jonathan Lippman, the former chief judge and a lawyer at Latham & Watkins, the firm that drafted the suit.

Lippman noted that back in 1975 in a case known as Hellerstein, all of New York was ordered to tax all property based on its full market value.

But the city got Albany to change the law, implementing a convoluted system that allowed for taxation based on a fraction of full market value, and capping how much assessments could rise to no more than 20% in five years.



These restrictions have had the effect of keeping taxes low for high-value property and shifting the burden to lower-value properties in working- and middle class New York City neighborhoods.

"Every public official says the system is inequitable and unfair, and yet nothing happens," he said. "The reason is — and it's so obvious — is that you can't have two sets of rules: One for people who have the resources and political power and another for people who are poorer and without those resources and have no political clout. This is wrong and why we're bringing this lawsuit today."

"From this day forward it is the beginning of the end for a system that is again unfair, inequitable and on top of that, clearly illegal," he said.

# *N.Y. senator pushes bill forcing NYC to shut down Rikers Island in three years*

New York Daily News  
By GLENN BLAIN  
JUNE 15, 2017



ALBANY — A newly elected state senator introduced legislation Thursday to shut down Rikers Island in three years.

Sen. Brian Benjamin's two-page bill would require the city to close the jail on or before July 1, 2020 and "establish other facilities and/or utilize existing facilities" to house prisoners.

"Rikers doesn't work," said Benjamin, a Manhattan Democrat, who was elected last month to fill the seat left vacant after Bill Perkins joined the City Council.

"It's dysfunctional and I strongly believe we have to turn back the clock on mass incarceration," Benjamin said.

His legislation runs counter to Mayor de Blasio's plan to shutter Rikers within 10 years. "I don't believe 10 years provides a sense of urgency," Benjamin said. "We can do better."

Natalie Grybauskas, a spokeswoman for de Blasio, said the city was sticking with the 10-year timetable and would follow the recommendations of a panel chaired by retired New York State Chief Judge Jonathan Lippman.

"We agree that Rikers Island should be closed as soon as possible," Grybauskas said. "Before we close Rikers, we need to bring down the population. The Lippman Commission agrees that a 10-year timeline is realistic for getting off the island. Collaboration with all stakeholders — including the state and the courts — will be crucial to achieving this timeline."

While Benjamin's bill has the blessing of Gov. Cuomo — who said at a rally in April that he would sign it if approved — faces long odds of winning approval before the Legislature ends its annual session on Wednesday. It has yet to be introduced in the Assembly.

"There are bills that are showing up tomorrow that are getting done," Benjamin said. "Things can happen."

# *The business case for closing Rikers*

Crain's New York Business  
June 20, 2017



There is an economic case for closing the jail on Rikers Island, and it has nothing to do with the savings taxpayers would realize by reforming the city's 19th-century approach to criminal justice. Don't get me wrong: Shutting down the penal colony would itself be a net positive for the city. Reforms such as making it easier for the accused to make bail could reduce by as much as half the jail's population of 9,500 inmates. And a smaller inmate population could save the city \$540 million in annual operating costs after 10 years, the nonpartisan Lippman Commission concluded.

But those savings are a rounding error compared with the economic cost of keeping Rikers open. The reason has nothing to do with the jail itself and everything to do with the 400-plus acres it sits on and one big problem that could be largely solved should the land be made available for redevelopment.

The problem, as so many New Yorkers know, is our lousy airports, which consistently rank among the worst in the nation for delays. At the top of the list is LaGuardia, which is about 200 feet across the East River from Rikers. Gov. Andrew Cuomo and the Port Authority are spending billions of dollars to remake the terminals, but if nothing is done to allow the airport to get more planes in and out, the new amenities will amount to a "more attractive place to sit and wait for delayed planes," said Jamie Torres Springer, a partner at HR&A Advisors.

Torres Springer spoke last week during our real estate conference, which looked at potentially game-changing development projects. His idea of using Rikers to add a runway at LaGuardia is not his alone. It was suggested in an April report by the commission created to study closing the jail and was put forward in a Crain's story last year on how to reimagine the island.

The reason it has become a focus of planners is simple: All three of the metro area's airports are space-constrained. But JFK is surrounded by the wetlands of a national recreation area. Newark is hemmed in by highways and housing. LaGuardia is the only place where a new runway could be situated. Doing nothing is not an option. The Regional Plan Association estimates that by 2030, failure to add runways would mean missing out on 40 million passengers and \$17 billion in economic activity annually. Expanding LaGuardia could make up \$7.5 billion of that.

As this week's cover story about Governors Island shows, there's not a lot of transformative development opportunities left in New York City. Rikers is one. The problems at the jail underscore the opportunity the island offers us.

# *Brooklyn DA Hopefuls Stake Out Positions on Bail Reform, Key to Closing Rikers*

City Limits  
By Theodore Hamm  
June 22, 2017



During Ken Thompson's short tenure, the Brooklyn D.A.'s office entered the national conversation on criminal justice reform. And the race to succeed Thompson is now taking place amid the discussion of how to close Rikers, an effort in which prosecutors will play a pivotal role.

The Lippman Commission report provides a clear blueprint for downsizing the city's jail population. In addition to ending the use of cash bail, the report advocates "the strong presumption of release for all misdemeanors and nonviolent felonies," which would reduce the city's jail population by over 40 percent.

Acting Brooklyn D.A. Eric Gonzalez, who endorsed the commission's call to close Rikers, doesn't support an across-the-board end to the use of bail for all misdemeanors and nonviolent felonies. While he considers himself to be a progressive reformer, at a recent candidate forum in Brooklyn Heights Gonzalez positioned himself as more moderate than most of his rivals. Four D.A. contenders—Ama Dwimoh, Marc Fliedner, Patricia Gatling and Anne Swern—have been staking out ground to the left of Gonzalez, while Vincent Gentile is also advancing a moderate view.

Activists working closely on bail reform, meanwhile, are watching to see which candidate will take the position most in sync with the effort to close Rikers. Regarding the use of bail, "We want to see a clear written policy from all the current D.A.'s as well as the candidates," says Alyssa Aguilera, co-executive director of Vocal-NY. Vocal opposes the use of bail for misdemeanors.

According to Gonzalez's spokesman, Oren Yaniv, the D.A.'s office does have an internal policy regarding bail but it's "not a public document." The policy, Yaniv says, is "presumptive release and to not ask for bail in misdemeanor cases." Presumptive release does allow for prosecutorial discretion, and Yaniv lists "character, criminal history, and the type of offense" as criteria for the use of bail.

Thus, while bail has been meted out less frequently in Brooklyn—used for 16 percent of the borough's misdemeanors in 2016, below the 18 percent citywide total—Gonzalez is preserving the office's prerogative to continue using it for low-level offenses. The office will not rule out the use of cash bail, Yaniv says, because "the only alternative to release is remand," meaning that "certain defendants who judges are not comfortable releasing" will be sent to jail.

But giving so much discretion to prosecutors does not necessarily result in decisions that are right-size to specific defendants, some argue. "Expanding discretion does not necessarily help make individualized decisions," says Swern, who oversaw the alternative-sentencing programs like the Red Hook Community Justice Center, created under Thompson's predecessor, Charles Hynes. She sees cash bail as "criminalizing poverty" and argues against its use for all misdemeanors—and "for nonviolent felonies where we are assured of the defendant's return."

Fliedner, who prosecuted Brooklyn cases of police misconduct including those of Peter Liang and Joel Edouard, is calling for a "no jail, no bail" policy, meaning that unless the DA's office will seek jail time, it won't impose bail. Fliedner disputes Yaniv's contention that the office currently practices that policy, stating that "any trip to Brooklyn criminal court will show you that 'no jail, no bail' is not the real-world practice." Along with Swern, Gatling, and Dwimoh, Fliedner opposes cash bail, calling instead for enhanced supervised release programs.

Former head of the city's Human Rights Commission Gatling views ankle monitors as a viable alternative to cash bail, citing their successful use in a pilot program in Washington, DC. Decisions regarding whether to use them would be on "case-by-case basis," Gatling says—thus leaving open the possibility of assigning them in misdemeanors. Other candidates are quick to raise the questions of who would pay for the monitors and whether they are viable on a large scale. Gatling, however, says the money can be recouped from the savings of not sending people to Rikers, which now amounts to just over \$130,000 per year on per-capita basis.

Dwimoh, best-known for her work in the D.A.'s office in defense of children, argues against the use of bail in all misdemeanor cases, and would staff the Early Case Assessment Bureau with experienced assistant district attorneys who would determine when bail is needed for non-violent felonies. Along with Swern and Fliedner, she advocates the expansion of the D.A.'s program of supervised release. "Successful pre-trial supervision combines supervision with services—and the D.A.'s current program should be much more robust," notes Dwimoh's campaign spokesman Evan Thies.

On the right of Gonzalez, and thus the other four main candidates, is Gentile, the outgoing councilman from Bay Ridge. Gentile highlights his credentials as a lawmaker, and says he'll push changes in Albany that will require judges to be provided with the financial background of defendants before determining bail, and that will allow judges to use threat of violence as a criterion (rather than just flight risk) in deciding whether to set bail and at what amount. According to Gentile, "if there's no jail sentence, the priority should be no bail"—but his main positions rely more on judicial discretion rather than prosecutorial policy.

The horse-race aspect of the D.A.'s race will become clearer in mid-July, when ballot petitioning wraps up and there's an updated campaign donation filing. Given his war chest and raft of endorsements, Gonzalez does seem to be the front-runner at his point, but there are several lengths to go. And as they continue to jockey for position, the various candidates are acquainting voters with a solid range of policy initiatives, many of which can help expedite the closure of Rikers.

One more note while we're at the track. We didn't include the longest shot on the board, perennial candidate John Gangemi. He's not known for his policy positions—but as he told the recent forum in Brooklyn Heights, he once helped conduct an investigation of race-fixing at Aqueduct.



# *De Blasio's plan to shut down Rikers Island slammed by correction officers' union head*

New York Daily News  
By ERIN DURKIN  
JUNE 25, 2017



The head of the correction officers' union slammed Mayor de Blasio's plan to shut down Rikers Island, saying it makes no sense to put jails in city neighborhoods.

"They want you to take your 5-year-old granddaughter and walk by a jail, so you can explain to her what these barbed wires are, and what this place is, and why it is there as she is going across the street to her school," Correction Officers' Benevolent Association president Elias Husamadeen said Sunday on the John Catsimatidis AM 979 radio show. "It just makes no sense at all. And you have to ask yourself who stands to benefit."

De Blasio released a ten-year plan for shuttering Rikers last week, but did not choose sites for smaller jails to replace the troubled island complex.

He instead said that was a task for the City Council, even though four members who represent courthouse sites where jails might go have already said they're open to the idea.

But Husamadeen said it's safer to keep prisoners locked up at the more remote island location.

"The guy that shot the 5-year-old, you want him in a jail next door to the mother, to the father? You want him in the community, the one that raped the old lady? You want him next door?" he said.

"If five inmates escape, guess where they are — they're right on the streets. If five inmates escape out of one of the ten jails on Rikers Island, they're not in the community, they're on the island, and we're going to get them before they leave the island."

The union head noted that several members of the Lippman Commission, which was convened by City Council Speaker Melissa Mark-Viverito to come up with a roadmap for closing Rikers, were from the real estate industry.

"You kinda get the idea of who might be behind the shutting of Rikers Island," he said.

De Blasio's office did not immediately respond to a request for comment.

# *It Will Take Tenacity and Guts to Shutter One of the Country's Most Notorious Jails*

The Nation  
By Jarrett Murphy  
JULY 5, 2017



*“Rikers Island is a stain on our great City. It leaves its mark on everyone it touches: the correction officers working back-to-back shifts under dangerous conditions, the inmates waiting for their day in court in an inhumane and violent environment, the family members forced to miss work and travel long distances to see their loved ones, the attorneys who cannot easily visit their clients to prepare a defense, and the taxpayers who devote billions of dollars each year to keep the whole dysfunctional apparatus running year after year. Put simply, Rikers Island is a 19th century solution to a 21st century problem.”*

“A More Just New York City”

The Independent Commission on New York City

Criminal Justice and Incarceration Reform

When he was running for mayor four years ago, Bill de Blasio promised he'd create a universal pre-K system. It was up and running within nine months of his inauguration. He said he'd reduce the NYPD's use of stop-and-frisk, and he did so. He vowed to create affordable housing, reduce the speed limit, create new sick-leave and living-wage provisions, reinvigorate the city's ferry system, create new rental vouchers for the homeless. And he has done or is doing some degree of all these things.

So why does no one seem to believe the mayor when he says he wants to close Rikers, the vast jail complex that has come to symbolize some of the worst abuses of the criminal-justice system?

In part, it's because for two years, as the chorus of voices calling for New York City to shutter the island's outmoded and isolated jail grew larger and louder, de Blasio dismissed them. Then, when de Blasio finally changed his mind on the last day of March, he announced it at a hastily arranged Friday-night press conference, 48 hours before an independent commission was almost certainly going to recommend closure. Since then, he has dragged out the timeline for emptying Rikers, suggesting a 10-year timetable as a minimum estimate, not an outside figure. And when the mayor finally released his plan for closing the complex—nearly three months after announcing his new position—the blueprint placed a large share of responsibility for achieving Rikers closure on other officials and said little about where new jails would go.

The biggest reason for the doubts about de Blasio's devotion, however, is that closing Rikers will require tough decisions. And de Blasio's critics believe that during his first 42 months as mayor he has shown little appetite for making those kinds of calls in the politically perilous area of criminal justice—a policy area where this mayor faces unusually high expectations and especially acute risks.

Many of the mayor's political foes—the tabloid editorial boards, for instance, and the correction officers' union—will push to derail the plan to close Rikers, whether now or in a few years when a new person occupies Gracie Mansion. But now there is an opposing force as well: a feisty advocacy campaign, #CloseRikers, that has shown a gritty commitment to demanding change rather than waiting for it. The potential for cities to serve as laboratories for progressive ideas stems not just from the fact that urban areas are home to left-leaning voters, but also from the truth that cities are where policy problems are harder to ignore or render abstract. Crumbling infrastructure slows your ride to work. Undocumented immigrants live and fear next door—or in your own home. The homeless spend their days in the park down the street.

Of these urban realities, crime is the most vexing, because it's where fear distorts a real threat to irrational proportions. Indeed, a grim reminder of the ongoing tragedy of violent crime in New York came early Wednesday morning, when, according to reports, a man with a gun walked up to a mobile NYPD command center on a Bronx street, pointed a gun at a 48-year-old cop, and killed her. He was shot dead in a second encounter with officers a short time later.

The cruel reality is that there will always be crime in US cities, though crime is for the most part much rarer than it used to be. Jails are part of the criminal-justice infrastructure designed—ostensibly—to keep crime at bay.

Of the 2.17 million people incarcerated in the United States in 2015, a third were in local jails—a proportion that has remained consistent over the past decade. While state and federal prisons get ink because of their notorious inmates and lengthy sentences, jails are where the most insidious problems of the justice system are manifest—where people who are presumed innocent endure lengthy waits for trial, where a transient population typically receives few of the social services that might prevent them from getting arrested again after release, where punishment for low-level crimes is most likely to occur.

Thanks to grassroots activism and official investigations, leaders in cities like Los Angeles and Chicago have come to recognize that jail systems—and closely related bail systems—are in desperate need for reform. But in LA and the Windy City, as well as places like New Orleans, reform efforts have bogged down.

Now New York is contemplating the boldest change of all. Thanks to an active grassroots campaign, it stands a chance of actually accomplishing it.

“Whoever is mayor is going to be held responsible for [this] mayor’s promise that New York’s policy is to move toward closure,” says Glenn Martin, the strategic force behind #CloseRikers. “If we do our job as advocates of shifting the political landscape of New York toward closing Rikers, it really won’t matter who is mayor. We’re going to create this sort of atmosphere—the sort of incentives and the sort of consequences—where no matter who is in the council or who is in City Hall, they’re going to have to continue to move this forward.”

For 85 years, Rikers Island has been part of the landscape of crime and punishment in New York. A 413-acre land mass in the East River, it is where the Department of Correction runs 10 jails that hold an average of 9,500 people on a given day, the bulk of the city’s prisoners. Some of the people detained there have been convicted and sentenced to terms of more than a year, and are awaiting transfer to state prisons. Others have been found guilty and are staying on Rikers to serve terms of less than a year for misdemeanors. The vast majority (78 percent at last count) are pre-trial detainees, presumed innocent and—for the most part—incarcerated because they couldn’t afford financial bail.

There have been at least two efforts to close Rikers in the past, one under Mayor Koch and another, subtler one under Mayor Bloomberg. Neither got traction. Mostly, the notion has been unthinkable. “When I was commissioner it was more about just trying to get control of the place. I’m sure at that moment closing Rikers would have had a ring of other worldliness,” says Michael Jacobson, correction commissioner under Mayor Rudy Giuliani and now a noted reformer who sat on the commission that recommended closing the island.

Jail reform wasn't on de Blasio's agenda, or anywhere on the radar screen of the city's political class, when he ran for mayor four years ago. But de Blasio did dive deep into other aspects of criminal-justice policy, soaring to the front of the 2013 race with an ad in which his biracial son talked about the racial skew of the NYPD's stop-and-frisk regime. De Blasio promised to sharply reduce the use of that tactic, which was already falling in the final years of Mayor Bloomberg—thanks to a grassroots campaign and federal lawsuit to end the practice—and he has done so. De Blasio also cut back on arrests for low-level marijuana crimes, launched a new community-policing program, and put more emphasis on addressing the mental-health causes of crimes.

Mid-way through de Blasio's first year in office, the US Justice Department issued a scathing report on Rikers. It found that the Constitutional rights of adolescent males there were violated by "rampant use of unnecessary and excessive force by staff" as well as by widespread "violence inflicted by other inmates"; it condemned the use of "solitary confinement at an alarming rate and for excessive periods of time." Then-Manhattan US Attorney Preet Bharara called Rikers "a broken institution." His office sued late in 2014, and settled with the city in mid-2015 after de Blasio's team promised a raft of reforms, from a new use-of-force policy to an end to solitary confinement for people younger than 18. That was enough for the Justice Department.

But there was a larger movement afoot that was less easy to satisfy. In October of 2014, New Yorker writer Jennifer Gonnerman published an article about the infuriating and deeply sad story of Khalief Browder, who spent the better part of three years on Rikers after being arrested at age 16 on suspicion of stealing a backpack. When Browder, his life wrecked by his time behind bars, committed suicide in June of 2015, protesters marched on the island. The following month, Marshall Project founder Neil Barsky penned a New York Times op-ed titled "Shut Down Rikers Island." In the fall of 2016, City Limits and City & State co-published a series looking at the case for and challenges of closing Rikers in which reporter Ed Morales surveyed all municipal elected officials. A few supported closing Rikers, but most clammed up. Over the next few months, however, more leaders—including Melissa Mark-Viverito, the speaker of the City Council—came out as pro-closure. New York State Governor Andrew Cuomo soon joined the chorus.

De Blasio repeatedly expressed sympathy with those calls, but dismissed them as impractical. "The problem is, it would cost many billions of dollars—and I have to look out for what's feasible, and I have to look out for the taxpayer—and it would require some kind of new facilities," he said in early 2016. "Where are you going to put them? How are you going to pay for them? So—a noble concept, but one that will cost many billions of dollars, and we do not have a viable pathway to that at this point."

#CloseRikers, led by Just Leadership USA's Martin but including a long list of progressive groups, stepped up the pressure. There was a big march in September 2016 featuring Emily Althaus of Orange Is the New Black and entrepreneur Russell Simmons. December saw a Gracie Mansion protest. In February of this year, #CloseRikers protested outside the mayor's State of the City address at the Apollo Theatre in Harlem and broadcast a TV ad slamming de Blasio for boasting of New York as a "sanctuary city" while continuing to operate a notorious penal colony. March saw a small but hearty band of #CloseRikers protesters rally outside a De Blasio event all the way down in Broward County, Florida.

Over the course of less than two years, #CloseRikers went from a fringe group collecting signatures outside Hostos Community College in the Bronx to something the mayor was asked about in his weekly sit-downs with the city's main political talk shows.

De Blasio has not credited #CloseRikers for his shift to supporting Rikers closure. Rather, he has given kudos to City Council Speaker Mark-Viverito for continuing to press him and offer ideas for how to achieve the goal of closing the jails on the island. De Blasio's staff insists the mayor was never opposed to the idea, and news reports published in early 2016 indicated City Hall was exploring its options behind the scenes.

For his part, the mayor has said that as months went by and the population on the island continued to shrink—the average daily population of the city's jails has dropped by nearly a third since 2010—it became clear to him that what had seemed impossible was really not.

Two days after de Blasio came out for closing Rikers, the commission led by former Chief Judge of New York State, Jonathan Lippman outlined a multifaceted approach to demolishing Rikers in the next 10 years. It proposed holistic crime prevention efforts in high-crime neighborhoods; diverting people at the point of arrest to civil courts when possible; eliminating money bail; and building smaller jail facilities in each of the five boroughs. The idea is to reduce the jail population to a point where it can be moved off the island into smaller facilities whose programs and layout reflect 21st Century thinking about correction.

De Blasio long ago embraced many of the commission's ideas and has already taken action on some of them, like bail reform and new mechanisms for keeping the mentally ill out of the criminal justice system. His own plan for closing Rikers, released in late June, embraces many of the commission's recommendations, like replacing short jail sentences with community service assignments.

But while De Blasio's blueprint says the “plan is to close Rikers Island and replace it with a smaller network of modern jails,” it says next to nothing about how and when and where those facilities will be built. Creating those new jails “will depend on the desires of neighborhoods and their elected officials,” the mayor's report says, as it commits the administration to “an open, ongoing conversation with New Yorkers and the City Council to work through these issues.”

But the mayor has made it clear that other leaders have to make the first move. “We need to see a commitment from the city councilmembers in the districts that have been initially proposed to specifically start the land use process to achieve it,” he told the Brian Lehrer Show, a public radio program. “All of it is theoretical ... unless a council member comes forward and says I'm going to support the placement of this facility.” He's also said Staten Island, the city's whitest and most Republican borough, shouldn't have to house a jail. (As it stands now, of the five Councilmembers whose districts include the likely site of new jails, two support it, one rejects it and the other two are staying mum.)

It's odd stuff to hear from a mayor who is planning to push through a dozen massive rezonings, and who earlier this year said he hoped to create 90 new homeless shelters around the city: Council support has not been identified as a precondition in any of those episodes. But it's far from the only place in the mayor's Rikers plan where he passes the buck to other officials: The report is dotted with asterisks to identify steps that “require action by parties other than the city.” The stipulation isn't untrue—the Council, state government, and district attorneys certainly have a role to play—it's just not typically the thing a mayor identifies in the public game-plan for what will be a key part of his legacy.

That kind of hedging has helped feed the fear that de Blasio doesn't really intend to close Rikers—or, at least, won't push to make it happen. While the Lippman Commission said it believed it was possible to get the Rikers population down to around 5,000 on an average day—the level at which smaller, borough jails could absorb everyone—de Blasio's plan only commits to a reduction from the current 9,400 or so to 7,000 over the next five years.

Below that level, the mayor sees an obstacle. “Once the jail population reaches 7,000 through implementation of the strategies laid out above, jail will be increasingly reserved in New York City for individuals who are facing very serious charges or who pose a high risk of flight,” de Blasio's report says; the report notes that three-fifths of the Rikers population at that point will be facing violent felony charges, and another third will be charged with non-violent felonies. “Because of this composition, further safe reductions to the size of the jail population will become increasingly difficult.”

On Friday, June 23, 9100 people were incarcerated on Rikers Island. Some 6300 of them were pretrial detainees. Murder in the second degree was the charge facing the greatest number of defendants, 487 of them. First degree robbery, attempted murder and second-degree assault—a D felony—rounded out the top four. Those four crimes comprised about a fourth of the pre-trial population. Now, those are merely charges, the people facing them are presumed innocent, and sometimes prosecutors overcharge as a negotiating tactic. But those are serious allegations, not the product of much-derided “broken windows” policing that focuses on minor, quality of life crimes. While many people picked up for low-level crimes do end up Rikers Island—and that is a problem unto itself—because of the short stints those defendants tend to serve, when it comes to the problem of how to close the island, ending “broken windows” is only part of the picture.

Both the mayor and the commission have called for further reductions in crime to drive down the number of serious charges. De Blasio already is implementing a neighborhood policing strategy that embeds cops in the community and links policing to social investments and physical improvements, like lighting, that can deter crime. But crime is already at historic lows.

In order to get deep reductions in the Rikers population, the city is likely going to have to figure out a way to allow more inmates facing serious charges to await trial at home, not behind bars. The Commission has called for expanding supervised release to, in some cases at least, “violent felony defendants and defendants charged with domestic violence offenses.” De Blasio has not.

The political risks in doing so are obvious, and that's what makes advocates nervous. De Blasio has always faced suspicion and derision over his ability to keep the city safe, and some of his opponents promote the canard that the city has become chaotic and dangerous on his watch (or at least that it “feels less safe,” my personal favorite). After two cops were killed in late 2014, de Blasio faced a near-mutiny by the NYPD and became more timid. While he has accomplished real criminal-justice reforms, he has stopped short on others. He didn't support a choke-hold ban or a bill that would improve notification around police searches, and his administration rolled back access to police disciplinary records. He has steadfastly defended “broken windows” policing and expanded the city's 35,000-strong police force.

If he's reelected in November, the city's term limits mean that de Blasio will oversee only the first five years of the Rikers closure effort, meaning he could be planning to reduce Rikers' daily population to 7,000 and ride off into the sunset. But it would be a huge gamble to leave the heaviest political lifts to a now-unknown mayor of the future.



But is Bill de Blasio the mayor who can push criminal-justice reform past the low-level crimes, deep into the territory where deep fears and potentially dangerous people live? Can he really change the role that jails play in the city? Advocates have already started pushing to answer those questions: One #CloseRikers advocate snuck into the gym where de Blasio works out one morning late last month to push him to speed up the timetable for shuttering the jails. “We’ll talk later,” said a stretching mayor.

Closing Rikers does have its opponents, like the Republicans challenging de Blasio’s reelection and the correction officers union. And there are plenty of reasons to think it won’t happen. “Anyone can pick one of them and say, ‘How are we ever going to do that? That’s ridiculous,’ whether it’s the siting, the population reduction, the cash cost upfront—there are real issues,” says Jacobson, the former correction commissioner. “We recognize this is going to take a huge effort, its just that at the end your going to get huge benefits,” including, he suggested, a large of plot of usable land, cost savings, and a more just justice system.

The question is one of will. Councilman Rory Lancman, a Queens Democrat, doubts that de Blasio has it. “I think [his announcement] is just a political ploy to get him through the 2017 election cycle and also to mollify the progressive wing of the Democratic party.”

Martin Horn, who quietly tried to depopulate Rikers as Bloomberg’s first correction commissioner, says de Blasio’s report is “thoughtful and well organized.” But the lack of attention to where new jails would go is alarming, because there’ll be no better time than now to have that fight. “Now is the time to strike,” Horn says. “If at this time with this consensus we can’t get it done, then that will tell us something about the prospects. The time to get the sites approved is now.”

Some worry that the moment will pass without real action. City Council Speaker Melissa Mark-Viverito, who pushed de Blasio to support closure, will leave office at the end of 2017. It’s unclear her successor will be so reliable an ally of #CloseRikers. “The only way we’re going to get to close Rikers is if the council pushes him hard and there’s no guarantee that the next speaker will do it,” Lancman says.

But Glenn Martin remains optimistic. “I’m 100 percent confident that it’s going to happen much earlier. I literally have no doubt that we will see the closure of Rikers in less than 10 years. Zero doubt. “After all, Martin notes, Rikers has helped to seed the city with people who dream of its demise. “We’ve built a tremendous amount of power in a very short period. I think that is because Rikers has caused harm to so many New Yorkers for so many decades.”

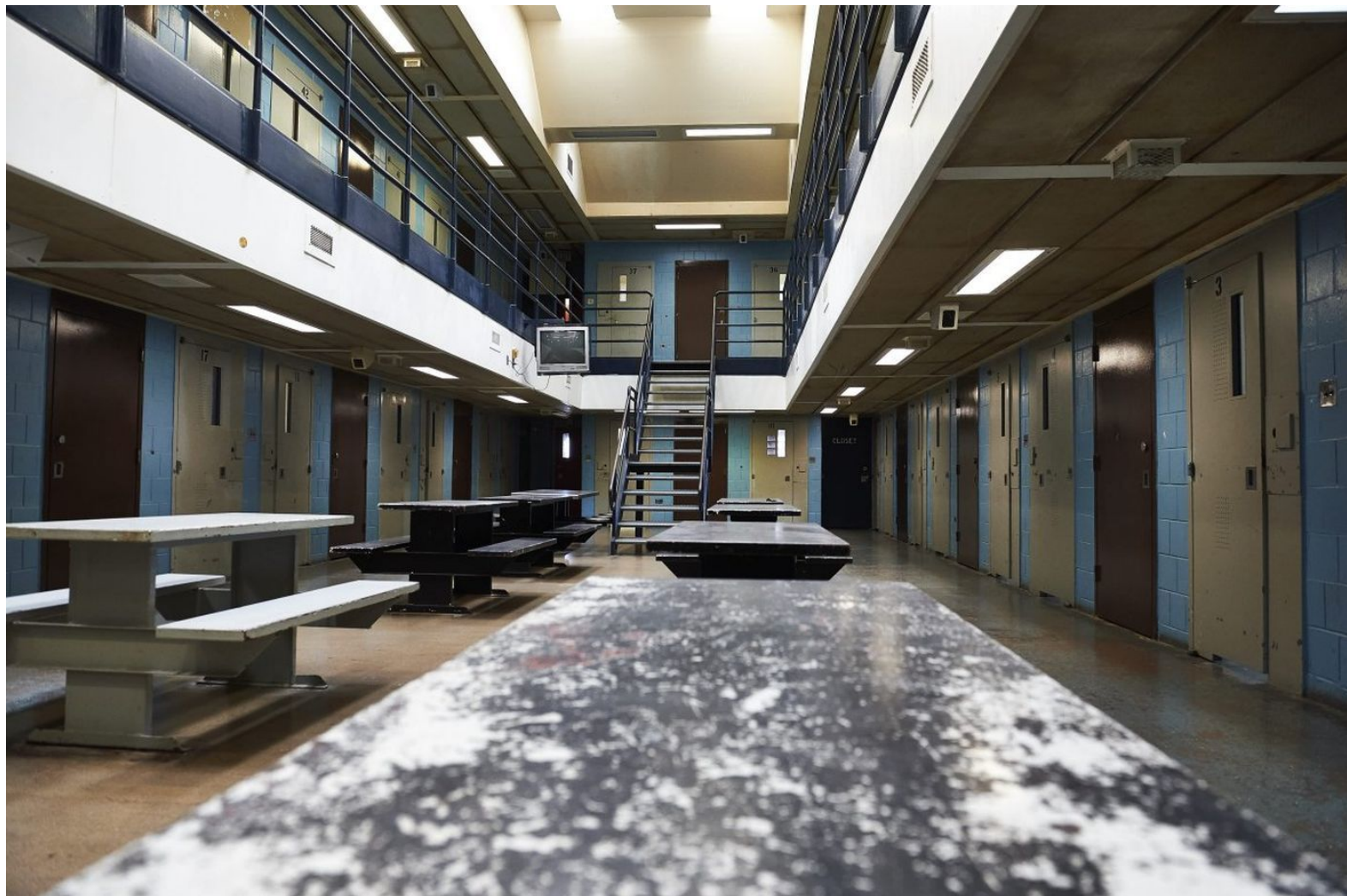
If you hold de Blasio to his word, he’s confident, too. His report says, “We believe these obstacles are surmountable.”

# *Rikers can close in less than a year*

New York Daily News

By BOB GANGI

JULY 12, 2017



Ever since Mayor de Blasio made the pledge in March and followed up with a 51-page blueprint for the "long and difficult path" to close Rikers Island in 100, oops I mean 10, years, pundits have debated: Does he have the political will or "guts"?

Was this merely an election-year promise that will fade from his radar screen upon his expected reelection? Where will the city find all those billions of dollars to build the needed new jails? The talking heads are having the wrong conversation.

As an advocate who's worked on prison and policing issues for decades, I'm certain that Rikers can and should close in less than 12 months. Now as a mayoral candidate challenging de Blasio, I commit that, if elected, I will implement a credible plan to close the jails on the island in year one of my term.

Here's why we can move forward so quickly to remove the dark stain of Rikers from our great city's landscape:

- Most of the people locked up at Rikers have not been judged by anybody — the police, the prosecutors, the judges — to be dangerous or predatory. Seventy to eighty percent of the population consists of pretrial detainees, presumed innocent. At least half of them have not even been charged with serious offenses, and many are there because they are too poor to afford low bail amounts. Moreover, none of the sentenced people have been convicted of serious offenses — if they had been, they would be confined in state prison instead. Many of them serve terms of 90 days or less.
- "Broken windows" policing contributes directly to the unnecessary confinement of New Yorkers on Rikers. De Blasio embraces that tactic, which targets New Yorkers of color — sometimes via false arrests and bogus tickets for engaging in petty infractions that have virtually been decriminalized in white communities.
- De Blasio has rejected the blue-ribbon Lippman Commission's most significant recommendation, to decriminalize four offenses: fare evasion (the NYPD's second-most-common arrest), marijuana possession, sex work and gravity knife possession. Following the commission's proposal would contribute appreciably to reducing the population on Rikers.

If elected, my administration will take these steps immediately:

- Direct the NYPD to end "broken windows" policing and to abandon the quota policies that put pressure on officers to make arrests and issue summonses to earn positive job evaluations.
- Decriminalize fare evasion, marijuana possession, sex work and gravity knife possession, by directing the NYPD to stop all those arrests except in improbable cases involving danger to the public.
- Establish a City Hall task force, accountable to me as mayor, that monitors court case processing. New York City's legal culture permits our courts to move more slowly than most other municipal systems in the country. This task force will, for instance, put pressure on judges to limit the number of court appearances per case as a way to prevent the longtime incarceration of detainees — the tragic Kalief Browder case comes to mind — as they await the disposition of charges against them.

- Use the bully pulpit of the mayor's office to press for the elimination of cash bail — ending a preventive detention system applied only to poor people — and to put pressure on the city's district attorneys to accept open discovery rules, a reform that would significantly reduce court case processing times.
- Remove from the city's budget the current allocations for spending billions of dollars on designing and building new jails, none of which the city will need if we put other available measures in place.

For reasons unclear, probably political and institutional considerations involving risks the mayor is unwilling to take, de Blasio is not prepared to adopt any of these steps.

Closing Rikers within a year will not only save billions in city funds; it will eliminate at least some of our police and criminal justice systems' abusive and discriminatory practices that inflict harm and hardship on vulnerable New Yorkers every day. Our city will be a better place for it, more just, safe and livable for all our people.

# *Adams calls for state commission to investigate Brooklyn's wrongful convictions 'crisis'*

Brooklyn Daily Eagle  
By Mary Frost  
July 18, 2017



Brooklyn Borough President Eric Adams on Tuesday called for an independent state commission to investigate who was responsible for dozens of wrongful convictions over the past decades at the Brooklyn District Attorney's Office.

Out of 70 cases investigated since 2014, 23 have been overturned by Brooklyn's Conviction Review Unit (CRU), initiated by former Brooklyn District Attorney Ken Thompson, now deceased. One of the exonerated men died in prison. Dozens of cases originating during the era of former DA Charles Hynes are still under review under Acting DA Eric Gonzalez.

"This is not a criticism of one particular individual, one particular prosecutor, one particular office," Adams emphasized. "We believe this is a statewide — if not a national — problem."

Adams said that no one would be let off the hook.

"For all we know there's a district attorney who's still in some office in the state who played a prominent role in this. Or that person could be a policy maker," he said. "We can't just pretend as though nothing went wrong. Something went wrong. A large number of innocent men went to jail. Not for a day, not for two days, but in some case 20 years, 27 years. These numbers are unbelievable to think about."

He added, "And if 20-plus men were released, that means that 20-plus killers are still on our streets."

The latest exoneration took place on July 12, with the release of Jabbar Washington, 43, who spent 20 years in prison for a 1995 robbery and shooting in Brownsville. The CRU investigation found that Washington's lawyers were blocked by prosecutors from obtaining key information, particularly that the witness who identified him in a lineup later retracted her statement.

Six or more of the wrongful convictions in Brooklyn were secured on cases investigated by disgraced ex-NYPD Detective Louis Scarcella, and Adams pointed out a disturbing pattern in these cases.

"When you use the same person who was addicted to drugs [as a witness] on a number of cases without a red flag going up, that means the entire system is broken," Adams said. "If you have a rogue detective, it is the system that is supposed to identify that detective's behavior and make sure the detective does not continue to influence or impact justice in an unfair manner."

Adams was joined by former Chief Judge of the New York Court of Appeals Jonathan Lippman and former New York Civil Liberties Union Executive Director Norman Siegel, who backed his call for a statewide commission.

Attorney Siegel called Brooklyn's wrongful convictions a "frightening and troubling story." Falsifying and manufacturing evidence, using coerced testimony and failing to disclose exculpatory evidence were regular practices at the Kings County DA's Office in the 80s and 90s, Siegel said.

“Throughout the period, one false conviction after another were secured, and dozens of innocent men and women, if not more, were sent to prison from Kings County alone,” he said. The criminal justice system, he added, remains unfair today.

Siegel called for the panel to have subpoena power to obtain documents and to openly report the facts uncovered. He also wants the panel to openly address the racial aspects of the false convictions.

Lippman said his career has been focused on fairness for everyone in the criminal justice system.

“One wrongful conviction is one too many,” Lippman said. “There is nothing that undermines the criminal justice system more than a person who is convicted of a crime that they didn’t commit. This goes to all players ... everybody is responsible, no finger-pointing. The judge, the prosecutor, the district attorney, the police — we’re all players in the system ... There are systemic lessons we have to learn.”

Adams said Cuomo’s staff indicated the governor was willing to meet and “flush out the concept” of the blue-ribbon commission.

In response to a reporter’s question, Adams said there was a “clear, documented history” of his own role when he was a police officer. “A person like Scarcella is a person I fought against for 22 years when protecting the people of this city,” he said.

When asked if the investigation would delve into the role of previous top officials in Brooklyn, Adams told the *Brooklyn Eagle*, “I can’t investigate my own office. Investigations should be done by outside entities to ensure the integrity of the investigation.”

Even former DA Hynes would not be exempt, Adams added.

“Let the truth be revealed. Everyone involved should be examined to determine who had a role. That’s what we’re calling for: A Truth and Reconciliation Commission,” he added, referring to South Africa’s post-apartheid investigation.

# *De Blasio can't play dumb forever*

New York Post  
By Seth Barron  
August 2, 2017





Mayor de Blasio and City Council Speaker Melissa Mark-Viverito had the making of a showdown recently. The speaker wanted the city to pay for the legal defense of all impoverished illegal aliens who had been convicted of crimes and were now facing deportation. The mayor, in an unusual fit of common sense, thought it would be appropriate for the city not to hire lawyers for anyone who had already been convicted of serious, violent felonies like murder, child abduction or arson.

In the words of de Blasio, “To provide additional legal defense” for these heinous felons “was not appropriate.”

In the end, comity was restored when an anonymous donor — a private foundation that funds similar projects — stepped in to cover the cost of helping to protect convicted, violent, illegal-alien criminals from being deported.

The mayor hailed it as a “good, solid solution.” But when asked how this deal was put together, and who was involved in soliciting the money, and even who ponied up the quarter-million dollars in question, de Blasio assumed a posture that New Yorkers have become familiar with lately: ignorance and apathy.

“I have no idea how that happened specifically,” he told a reporter on Tuesday. “I had nothing to do with it, though. I can tell you that much.”

Asked if his staff was involved, the mayor grew testy: “When I say the phrase, ‘I have no idea,’ it literally means I have no idea.” Asked further if there was any concern about conflicts of interests regarding the contribution, de Blasio doubled down on his know-nothing stance: “I don’t know. I was not part of the specific process. All I know is that the money comes from foundations.”

If you want to believe that the most transactional politician in the history of New York City doesn’t know which foundation is funding a key, controversial initiative under his administration, then I wish you well in setting up an EZ-Pass lane on your new bridge across the East River.

There’s a lot, apparently, the mayor doesn’t know, given how often he uses that phrase, which pops up almost every time he takes questions. After four men who raped a woman in Queens in July were disclosed to be living in a youth shelter, even though three of them were over 19, de Blasio mused, “I don’t want to speak to something I don’t know the details of.” Even after he was told that two of the accused are 20 years old, the mayor repeated, “I don’t know the specific rules when it involves minors.”

De Blasio’s operating strategy is just to play dumb when he doesn’t want to talk about something. When he went to Germany all of a sudden in order to take part in the “Hamburg Shows Attitude!” protest against the G-20, his office said that all expenses were covered by the rally organizers, although it emerged later that the city paid the cost of sending his security detail. Asked about how much it cost to protect him, de Blasio professed total ignorance.

“I’m not an expert on what they do,” he said. “I don’t know what their practice has been.”

Even when the mayor announced his intention to close Rikers Island, in accordance with a major report authored by the blue-ribbon Lippman Commission, he refused to admit that he knew what the report said.

“I haven’t read the report,” he told a reporter. “I know it may be central to your life,” de Blasio sneered, “but I have other matters going on at the same time.”

The mayor expressed his true and utter disregard for being questioned when he was asked about an e-mail that proved that at least some NYPD personnel were clearing homeless people out of the subway in advance of his demonstration in front of TV cameras that he is a regular straphanger.

“I don’t care, my friend, because it does not matter,” proclaimed de Blasio. “Read my lips — I don’t care. It’s an irrelevancy . . . a fraud because someone is just trying to stir the pot and give the New York Post something to write about.”

De Blasio can roll his eyes, use sarcasm, and say “I don’t know” and “I don’t care” like a bored teenager as much as he wants, because he is backed by the 800-pound gorilla of incumbency and the support of the public-sector unions for his coming re-election. But no chief executive ever gets away with claiming ignorance as an excuse forever.

# *NYC's former chief judge, jail experts to forge ahead with efforts to see Rikers Island closed*

New York Daily News  
By REUVEN BLAU  
SEP 13, 2017



Former Chief Judge Jonathan Lippman and a group of jail experts will continue their advocacy for the closure of Rikers Island and replacing it with smaller facilities across the city.

Lippman led the blue-ribbon panel which issued a report in March recommending the scandal-scarred Rikers Island be shuttered. Shortly before the report's formal release, Mayor de Blasio announced his own intention to close the jail.

In an effort to make that recommendation a reality, the commission has quietly gotten \$500,000 in City Council funding and has raised close to \$600,000 in private donations.

"In the days since the release of the report, it has become increasingly clear to me that there is an important role for us to play going forward," Lippman wrote the commission's 27-members on Wednesday.

The group plans to team up with the #CLOSERikers advocates led by Glen Martin as well as criminal justice groups like the Center for Court Innovation and the Vera Institute of Justice to promote the pathway to closure.

Martin and other inmate advocates have faulted the city's 10-year plan. They contend it can be done much sooner and question the mayor's sincerity to the effort.

In June, the de Blasio administration launched its 18-step roadmap to closing Rikers. The city also set aside \$30 million over the next three years to speed up the reduction in the inmate population, the first step in the plan.

There is an average of 9,400 people locked up in city jails each day, records show. That number will have to drop by 25% over the next five years in order for the city to move all of them off of Rikers Island, according to the city's plan.

# *Queens City Council members support site for new jail in their borough during Rikers shutdown plan*

New York Daily News  
By ERIN DURKIN  
OCTOBER 01, 2017



Eleven Queens City Council members are backing a site for a new borough jail as the city moves to close Rikers Island.

The pols wrote to Mayor de Blasio urging him to use the now-shuttered Queens Detention Complex, in Kew Gardens behind the borough's courthouse, to house detainees from Queens as part of the Rikers shutdown.

"It is centrally located in a civic center, it is connected to the courts, and with the proper capital investment it can be functional for this use," the council members wrote.

"The center was originally built for this purpose and for many years operated with little incident to the surrounding community. At the same time, selecting this facility would avoid the fraught process of placing community jails in residential neighborhoods throughout the borough."

The group includes criminal justice committee chair Elizabeth Crowley and Karen Koslowitz, whose district houses the mothballed detention complex.

After years of pressure, de Blasio embraced the move to close Rikers, where violence has surged for years. But his 10-year shutdown plan identifies no places for new jails.

A commission headed by former chief judge Jonathan Lippman recommended jails in each borough, near their courthouses.

De Blasio would not embrace that plan. Instead, he punted to the City Council the question of where to put the smaller lockups, even though reps for courthouse sites in four of five boroughs already said they'd support jails.

A de Blasio rep did not respond to a request for comment on the Queens Council members' letter.

Also joining the request were Costa Constantinides, Donovan Richards, Barry Grodenchik, Peter Koo, Rory Lancman, Jimmy Van Bramer, Daniel Dromm, Julissa Ferreras-Copeland, and Antonio Reynoso, all Democrats.

"These centrally-located facilities will help eliminate the current barriers to rehabilitation posed by Rikers' isolation and disrepair, including inmates' access to legal counsel, mental health services and medical care," the pols wrote.

The Queens Detention Complex shut down 15 years ago after decades of housing prisoners.

# *Lawmakers believe former Kew Gardens detention center would eliminate need for community jails if Rikers Island closes*

QNS

By Anthony Giudice

October 2, 2017



If Rikers Island closes, an empty jail in Kew Gardens should be re-opened, according to most of Queens' City Council delegation.

Nearly a dozen lawmakers from across Queens have officially signed on to a letter urging Mayor Bill de Blasio to select the former Queens Detention Complex in Kew Gardens as the site for the borough's reduced inmate population if the plan to close Rikers Island moves forward.

This effort is being led by Councilwoman Elizabeth Crowley, chair of the City Council Committee on Fire and Criminal Justice Services, and Councilwoman Karen Koslowitz, chair of the Queens Delegation.

In its plan to close Rikers Island, Independent Commission on New York City Criminal Justice and Incarceration Reform (aka the Lippman Commission) proposes a borough-based jail facility model where jailhouses are located in community civic centers and near court infrastructure.

Many residents of Queens fear that this would mean opening up smaller, community-based jails near their homes, schools, jobs and shopping centers.

The lawmakers, however, contend that using the Kew Gardens facility would mean there would be no need for community jails, as the inmates would be housed in the former detention facility near the court system.

"The center was originally built for this purpose and for many years operated with little incident to the surrounding community," the letter reads. "At the same time, selecting this facility would avoid the fraught process of placing community jails in residential neighborhoods throughout the borough, a move that we as lawmakers committed to the goals of the Lippman Commission forcefully oppose."

Crowley and Koslowitz, as well as the other elected officials who signed the letter, believe that the plan to close Rikers Island over a 10-year period would be beneficial for the city, the inmates and their families, the workers on the island, and taxpayers.

"Busing inmates to and from Rikers Island to get to their court appearances is fiscally irresponsible, illogical and dangerous," Crowley said. "Reverting back to the original model will save our taxpayers millions of dollars and help create a criminal justice system that better reflects our values as New Yorkers."

The request to use the former detention center was made after Koslowitz and Crowley — joined by Councilman Barry Grodenchik and city Department of Corrections (DOC) personnel — took a tour of the Kew Gardens facility, visiting the inmate intake center, cell blocks and recreational spaces.



“Rikers Island is a detriment to our city and an embarrassment to our criminal justice system. Last week, I toured the former Queens Detention Complex and there needs to be work done, either through expansion or a complete reconstruction, to be able to house an inmate population,” Koslowitz said. “The site would be convenient because of its proximity to the Criminal Court and would reduce the cost and traffic associated with transporting prisoners. However, we need to ensure if a plan like this moves forward, that there is a long public discussion centered on the community’s concerns.”

According to the lawmakers, de Blasio’s plan to close Rikers Island, unlike the Lippman report, does not specify where the city is planning on placing these new jails. Most recently, City Hall has stated that it will likely not weigh in on the issue until the end of 2017.

The other lawmakers to sign off on the letter include Council members Costa Constantinides, Donovan Richards, Grodenchik, Peter Koo, Rory Lancman, Jimmy Van Bramer, Antonio Reynoso, Daniel Dromm and Julissa Ferreras-Copeland.

Moving forward with their plan, the lawmakers intend on making their case to city officials and will begin looking into possible public funding streams to conduct work in conjunction with rehabilitating the site for future use.

# *A jail is not a hospital*

New York Daily News  
By EDITORIALS  
OCTOBER 07, 2017



Council Speaker Melissa Mark-Viverito and retired Chief Judge Jonathan Lippman, architects of the plan to close Rikers Island within 10 years, got a crash course on how to move one of the mountains in their way — lessons that need to sink in fast, whether or not the jail complex stays open.

Roughly 1 in 5 inmates has a serious mental illness. How to improve their conditions instead of imprisoning them, where they cycle through jail cells before returning to city streets, was the subject of a forum Wednesday highlighting other cities' success and just how far New York has to go.

In short: Very, very, very far.

At the forum, organized by the Greenburger Center, Metro-IAF and the Daily News, Miami Judge Stephen Leifman detailed the fruits of his 17 years leading the charge to steer mentally ill defendants to treatment: a large-scale program to get people with schizophrenia and other conditions who've committed crimes into monitored medical care as a condition of staying free. Men and women in his jurisdiction sign privacy waivers, so that — imagine this — hospitals can share medical details and courts get alerted when patients stop refilling prescribed pills.

How far such a program could go in New York City to coax the desperately sick, often homeless, into steady care, before they hurt people.

Former Texas mental health official Leon Evans told Lippman and Mark-Viverito that a similar approach in San Antonio shut jails — yes, in a jail-'em-all state — saving tons of money. New York has taken baby steps. Mental health courts refer defendants to programs pending dismissal of charges. Supportive housing aids 102 mentally ill people emerged from the justice system.

A hundred down — and untold thousands to go .

Lippman's commission recognized the need for reliable treatment as an alternative to jail, part of a plan to reduce Rikers' daily population of more than 9,000 to the 5,500 or less needed to relocate jails elsewhere.

Mayor de Blasio, who is all aboard the close-Rikers bus, has no hope of accomplishing that objective unless he follows other cities' lead.

But even opponents of shuttering Rikers can see: Too many seriously mentally ill New Yorkers are left to spiral ever downward, to their detriment and ours, without care.

# *Imprisoning the Mentally Ill: America's 'Shameful Tragedy'*

The Crime Report  
By Isidoro Rodriguez  
October 10, 2017



Efforts to close down Rikers Island, America's largest jail complex, need to begin with finding effective alternative treatment for mentally ill individuals who are confined behind bars because there are no other places for them to go, according to New York's former chief judge.

"These people are not in Rikers because they're hardened criminals," said Jonathan Lippman. "They're there because they have a problem, (and) they don't need to be brutalized by a penal colony that is a relic of the past.

"Instead of tough or soft on crime, let's be smart."

Lippman, who served as Chief Judge of the New York State Court of Appeals between 2009 and 2015, spoke at an October 4 forum on the future of the Rikers Island facility, which authorities have promised to close within 10 years.

He was chair of the Independent Commission that produced the April 2017 report recommending the closure of Rikers.

The forum, entitled "Closing in on Closing Rikers," was held at Baruch College of the City University of New York, and examined viable alternatives to prison for the mentally ill that have enjoyed success in other states.

At Rikers, 19% of the inmates have been diagnosed with a serious mental illness.

"We're not getting at that population yet, but if we're going to close Rikers we have to do so," said Cheryl Roberts, Executive Director of The Greenburger Center for Social and Criminal Justice, a nonprofit organization advocating for justice reform that co-sponsored this event.

Working with the New York Daily News and the Metro Area Industrial Foundation, The Greenburger Center invited behavioral health care expert Leon Evans, President and CEO of the Center for Health Care Services in San Antonio, Texas; and Miami-Dade County Mental Health Court Judge Steven Leifman—both of whom have pioneered strategies aimed at finding alternatives to incarceration (ATI) for the seriously mentally ill.

Leifman told the group he is still horrified by the memory of his visit years ago to a mental health hospital in Miami-Dade County while he was an intern for a prominent Miami legislator.

"I walked into a hellhole," he said, recalling the sight of one teenager strapped to a bed and given thorazine which made him overweight. The teenager, it turned out, was not there for psychiatric treatment; he was autistic.

In another part of the hospital, he witnessed six naked men being hosed off by a guard as if they were animals.

But today, he pointed out, the mental health system's failure to provide adequate care for troubled individuals has only shifted the burden to jails and prisons.

“(Some) 40% of all people with mental illnesses in this country at some point in their life will come into contact with the criminal justice system,” said Leifman, who has been one of the country's most influential advocates of ATI.

Other participants in the forum included New York City Council Speaker Melissa Mark-Viverito, an outspoken advocate for local and national criminal justice reform.

“Looking at the way we look at incarceration, and having the punishment fit the crime, is critically important,” said Speaker Mark-Viverito.

In support of this idea, to date, Speaker Viverito and the New York City Council have contributed over \$6 million to ATI initiatives, and recently passed the Criminal Justice Reform Act which decriminalized non-violent, low-level offences and replaced them with a summons.

The Act is a boon for the homeless and mentally ill that frequent New York City streets and subways.

“When you think about incarcerating someone for public urination, it's unpleasant, but does that really make sense?” asked Speaker Viverito, who believes that authorities have to re-envision their approach to non-violent offenders who are apprehended for minor crimes—if they are ever to reach their goal of permanently closing Rikers.

According to the National Alliance on Mental Illness, more than two million people are arrested and booked into jails each year. A 2010 survey by the Treatment Advocacy Center found that people with mental illness are nine times more likely to be incarcerated than hospitalized, and 18 times more likely to find a bed in the criminal justice system than at any state and civil hospital.

These statistics are reflected in Rikers where, according to a 2015 New York Times article, a total of 4,000 men and women with diagnosed mental illnesses are incarcerated at any given time.

This number represents more than all the adult patients in New York State psychiatric hospitals combined.

But the problem is nationwide, according to Judge Liefman.

“On any given day, there are approximately 360,000 people with serious mental illnesses in jails and prisons and another 760,000 under correctional supervision,” he said.

“This is a shameful American tragedy and it must and can be reversed.”

To demonstrate what can be done to achieve this goal, Leifman discussed the Eleventh Judicial Circuit Criminal Mental Health Project, which he implemented in Florida in 2000. The project seeks to steer people with mental illness that have committed low-level offences away from incarceration and towards community-based care.

“Anybody that gets arrested on a misdemeanor in Dade County, within three days they are evaluated and transferred from jail to one of our public or private crisis stabilization units,” said Leifman.

“Because they are on a criminal hold, we can reset the case to a few weeks, give them an opportunity to stabilize, have a team go see them, and offer them an opportunity to come into the program.”

If the person is accepted into the program, they can be in from three months to a year, depending on their illness and charges. While there, they are helped to find housing, clothes, benefits, and are assigned a peer counselor and case management assistance to lower their chances of reoffending.

Leifman said that, as a result of this program, recidivism rates in arrests of the mentally ill have, to date, fallen from 70% to 20%.

This focus on treatment and diversion over arrest and incarceration is believed by the criminal justice community to be the best option for improving what is considered a broken and costly system.

According to a 2014 report from The Hamilton Project at the Brookings Institution, the U.S. spends \$80 billion on incarceration costs every year. By relying on the criminal justice system to provide services, taxpayers are losing money by putting away people who come out worse than when they went in, Liefman observed.

“It’s gotten so bad that our communities are now having to choose between building a new jail and a new school or hospital,” he said.

“There’s something wrong with a society that is more willing to incarcerate its (population) than it is to treat it.”

For Judge Lippman, Rikers Island is a symbol of the misguided idea that mass incarceration has any rehabilitative function.

“Whether you’re there for three days, three weeks, or three years, you wind up in a much worse place than when you came in,” said Lippman, who agrees that diversion and treatment are the best course of action.

“It’s not just about punishing people, but it’s what the outcomes are for people coming into the criminal justice system and the impact on society.”

In addition, through research for his report recommending the closure of Rikers, Lippman found that by closing the prison, and focusing on smaller, more up-to-date facilities, New York would save over \$1 billion annually.

The first step, in his mind, is lowering the prison population from 10,000 to 5,000, and the mentally ill are a key population.

“We need programs to focus on mental health in particular,” he said. “Programs that identify people with mental health problems before they get into the system.”

He cited programs such as Crisis Intervention Training (CIT), which police departments around the country, including New York, Texas, and Florida, have begun implementing with some success.

Focusing on de escalation, conflict resolution, and training to identify the symptoms of mental illness, CIT enables officers to decide if diversion is a necessary response to any situation.

“From 2008, when we started CIT, we had 117,000 arrests in Dade County,” noted Leifman. “This year, it was 56,000. Our jail audit went in half,”

According to Evans of San Antonio’s Center for Health Care Services, CIT-trained officers working with his program’s “one-stop shop” for treating the mentally ill and others in crisis were able to decrease the county jail population by 22%.

“Treatment does work,” said Evans, whose center offers psychiatric care, substance use services, and general healthcare. However, he stresses that the success of these kinds of programs depends on collaboration.

While first serving as the Director of Community Services for the Texas Department of Mental Health and Mental Retardation, Evans became aware of all the people in the prison system of Texas who shouldn’t be there.

He immediately began working on an idea for a diversion program that would break the pattern of criminalizing the mentally ill in his county. However, in trying to get various departments and elected officials together, Evans experienced a lot of push back.

“Almost everybody said, ‘that’s a great plan, but not with my money,’” said Evans. “So, I went to the county judge.”

Working alongside the then newly appointed County Judge Nelson Wolff, Evans utilized this political muscle to help convene a health summit. Gathering together hospital executives, lawmakers, law enforcement officials, and business representatives, he built support for a more pragmatic and beneficial mental health system; one that meant less money spent on criminal justice, less-crowded hospitals, and homeless-free streets.

As a result, since the program’s implementation in 2002, Evans reported that recidivism rates for the mentally ill in his county currently stand at 6.6%, versus the national average for felons after release of 43% as reported by the Pew Research Center, and that taxpayers in San Antonio and Bexar County have saved more than \$50 million over the last five years.



It is an example of cooperation and cohesion that he insists is necessary to emptying out jails and prisons like Rikers around the country.

“Be brave enough to talk about what doesn’t work, collect the data,” said Evans. “It’s not about who’s doing good or who’s doing better, it’s about improvement.”

According to Leifman, thanks to benefits like the passing of Kendra’s Law and access to extended Medicaid, New York is, in some ways, ahead of the game.

“We just got the law changed to be able to expand our AOT, which is an amazing pool for (the mentally ill) population,” said Leifman. “That’s one of the things you already have with Kendra’s Law.”

Effective since November of 1999, Kendra’s law grants judges the authority to issue orders that require people who meet certain criteria to regularly undergo psychiatric treatment. Coupled with mental health courts, which offer early screening in the court system, the law is a powerful tool in identifying and diverting the mentally ill out of the criminal justice system and into developing ATI programs such as the Greenberger Center’s own Hope House.

Scheduled to open in the Bronx in 2018, Hope House will offer care and services comparable to the programs developed by Leifman and Evans.

The access to extended Medicaid allows prisoners to apply for insurance coverage while incarcerated and access said coverage upon release, the often impoverished mentally ill will have access to the funds needed to maintain medications and care.

Participants in the forum agreed that though many steps have been taken in the right direction, there is no one solution to the problem of Rikers, and no quick fixes in a system that still suffers from a “tough on crime” policy that stubbornly fails to acknowledge the data and science fueling the effort for change.

Joking that his program is an “overnight 17-year success,” Evans pointed out that achieving change and cooperation required the aid of a County Judge willing to bring together the community and make everyone work towards a solution.

He warned that what worked in one county in one state may not succeed elsewhere.

“Change is hard,” said Evans. “There’s so much politics involved, there’s so much money involved, and nobody wants the spotlight on them.”

Speaker Viverito agreed.

“Yes, we’re starting to see some sort of conversation and change of view and perspective on a national level,” she said. “But it’s still very challenging to get people to think that incarceration is not the only solution to the problem.”

Though the Criminal Justice Reform Act passed, and seemed a simple solution to ebbing the tide of New York's incarcerated, it, nonetheless, met with controversy and resistance.

"People thought that we were having the city run amuck," said Viverito.

"Bringing the mental health challenges to the forefront and making sure it's not a conversation that is held behind closed doors will take us a long way to dealing with the issue," said Viverito.

# *Reforms are on the way to improve delivery of justice and reduce jail spending*

New York Daily News

By GREG BERMAN and JULIAN ADLER

NOVEMBER 14, 2017



Almost everyone loses when misdemeanor defendants spend time in jail while their cases are pending in criminal court.

Our jails are accelerants of human misery — any problem a defendant has before he enters the gates of Rikers Island is almost sure to be worse when he leaves. The negative consequences of jail time ripple outward from each defendant to his family, his neighborhood, and indeed to all taxpayers in New York City, who must bear the brunt of supporting a correctional apparatus that costs upwards of a billion dollars a year.

There is now a concerted effort in New York City to create meaningful off-ramps out of the justice system, particularly for those who have engaged in low-level misbehavior. This can be seen in the recommendations of the Independent Commission on Incarceration and Criminal Justice Reform, chaired by former New York State Chief Judge Jonathan Lippman. This can be seen in the work by the Mayor's Office of Criminal Justice to make it easier to pay bail and to create a supervised release program so that thousands of defendants can be released to the community rather than detained. And this can be seen in the passage of the Criminal Justice Reform Act, which moved selected criminal cases out of the criminal justice system and into the civil system.

Perhaps most encouragingly, law enforcement agencies are also getting in on the act. The New York Police Department and the Manhattan and Brooklyn District Attorney's Offices have created Project Reset to divert young people facing charges like trespassing and shoplifting from the system prior to appearing in court. Prosecutors review each case in consultation with the defense bar and refer eligible cases to our agency, which provides short-term social services for participants.

Participants who successfully complete counseling sessions or group workshops have their cases dismissed. They do not have to go to court and no record of their engagement with the justice system is retained.

Diversion programs are not just a common sense approach to improving the delivery of justice, they also are cost-effective alternative to spending hundreds of thousands of dollars annually to detain each inmate on Rikers Island.

If these individual reforms are sustained over time, they will add up to something significant — a re-thinking of the standard approach to misdemeanor crime and an important step toward the creation of a more fair and humane justice system.

*Our cash bail system isn't working. We can fix it.*

The Washington Post  
By Jonathan Lippman  
November 28, 2017



*Jonathan Lippman is of counsel at Latham & Watkins LLP and former chief judge of the state of New York.*

From coast to coast, officials in the criminal-justice system are finally concluding that the nation's cash bail system isn't working.

California's chief justice, Tani Cantil-Sakauye, endorsed a judicial commission last month that found cash bail "unnecessarily compromises victim and public safety" and "exacerbates socioeconomic disparities and racial bias." On the other coast, a New York City commission I led came to a similar conclusion, determining that our jails are filled with people unable to post even modest bail amounts even though they pose little risk to public safety.

But is not enough to say that cash bail is unjust and contributes to the overuse of incarceration, especially when there are powerful forces — such as the bail bonds lobby — that are gathering to protect it. We must offer an affirmative vision as an alternative.

That is why I was pleased to see California judges, like our commission, call for the adoption of evidence-based assessment tools to make better decisions about who poses a risk to community safety and who can be safely released while their cases are pending.

Risk-assessment tools, which use scientific algorithms to make a prediction about the risk posed by each defendant, are not without their critics. Former attorney general Eric H. Holder Jr. and many public defenders across the country have argued that risk-assessment instruments effectively compound the racial bias that already exists in the criminal-justice system.

Their argument is simple: Police are more likely to arrest people of color. Prosecutors are more likely to charge people of color. And judges are more likely to sentence people of color to jail. All risk-assessment instruments rely on prior criminal conduct to one degree or another to predict behavior. Therefore, racial bias is effectively hard-wired into the risk-assessment process.

We need to wrestle with the concerns that Holder and others have raised, but we should not be deterred by them.

Well-designed risk-assessment tools draw on large data sets — aggregating and examining the behavior of thousands of defendants to predict how similar defendants will behave. Research has shown that science-based risk assessment is more accurate than the subjective analysis of the typical front-line criminal-justice practitioner. Risk-assessment tools allow prosecutors, probation officers and judges to make more informed and nuanced decisions about defendants.

No matter how well made a risk-assessment tool might be, it can be no better than the people who use it. As the Center for Court Innovation and others have argued, we need to introduce risk-assessment tools with care, making sure that the people who use them are qualified and trained and that we focus on results to make sure everyone is treated with fairness and consistency. We also need to make the algorithm for determining risk transparent so that we are not relying on prepackaged protocols that undermine or constrain professional discretion.

Fortunately, there are already many risk-assessment tools that can make the justice system fairer and more effective. Virginia's risk-assessment instrument led to the release of more than 550 nonviolent felons over a four-year period who would have otherwise been incarcerated. Contrary to conventional wisdom, the crime rate didn't budge. In Oregon, an actuarial risk-assessment tool effectively eliminated a persistent pattern of disparity in which judges were more likely to place African American young people in secure detention.

In my prior role as chief judge of the state of New York, I saw firsthand how the punitive lawmaking of the past generation — particularly mandatory minimum sentences — effectively moved discretion away from front-line judges. Our history tells us that we shouldn't be limiting judges' options; we should be expanding them. We need to give judges the tools they need to make the best decisions possible — and that means providing them with good risk-assessment tools.

Over the past few years, criminal-justice reform has become a bipartisan issue, with everyone from Sen. Bernie Sanders (I-Vt.) to the Koch brothers offering their endorsement. If we play our cards right, this opportunity might mean the end of mass incarceration in the United States. We should be using every possible tool to achieve this goal, including cutting-edge social science.

# *Council Committee Grills Mayor's Team on Plan to Close Rikers*

City Limits

By Jarrett Murphy

December 4, 2017





Closing the jails on Rikers Island will depend on getting public officials to agree that New York City can release significant numbers of people accused of violent felonies before trial, the de Blasio administration testified at a City Council hearing on Monday.

“I think with every person we reduce the population by, the people who are left on Rikers Island are increasingly those who are accused of violent offenses,” testified Elizabeth Glazer, Director of the Mayor’s Office of Criminal Justice.

Testifying at a hearing of the Council’s Committee on Fire Criminal Justice Services, the administration identified the mix of detainees and inmates on the island as a key obstacle to reducing the jails’ average daily population from the current 9,400 to the 5,000 or so that would permit relocating people to new, borough-based jails.

In March, after long resisting the idea, Mayor de Blasio announced that the city would move toward closing the 10 jails on Rikers. His shift came two days before a widely anticipated report by a commission convened by Council Speaker Melissa Mark-Viverito and chaired by former Chief Judge Jonathan Lippman, which recommended closure.

De Blasio’s late conversion to the cause of mothballing the island jails—and his saying that it would take at least a decade to do so—have made advocates suspicious of his commitment and impatient about the timetable. Those concerns drove the questioning and much of the testimony on Tuesday.

“I don’t think they are thinking with the boldness and the urgency that they need to,” Lippman told the committee. “We have to rethink this ‘tough on crime, soft on crime’ syndrome that doesn’t let us be smart on crime.”

The administration counters that, in Glaser’s words, the slogan “close Rikers’ masks the seismic systems change that must happen in order to achieve that one goal.” Among those changes: “reaching a consensus on approach to detention for people charged with violent crimes.”

Rikers holds people convicted of misdemeanors who are serving short sentences, people found to have violated the terms of their parole and folks sentenced to state prison who are awaiting transfer—but 75 percent of the population on an average day are people awaiting trial. Of those 6,930 people, 600 are charged with misdemeanors while 2,910 face a non-violent felony charge. The biggest group (3,420 or so) is people alleged to have committed violent felonies.

The city’s plan for getting Rikers’ daily population down to 7,000—the point at which people can begin to be moved to borough jails—foresees cutting the number of misdemeanor detainees in half and the number of non-violent felony defendants by 40 percent but only projects a modest reduction in the number of people accused of violent felonies.

Getting deeper cuts, and hitting the magic 5,000 mark, “will require developing solutions to complicated problems like chronic recidivism and reaching a consensus as to the appropriate use of confinement for those charged with violent crimes,” according to the de Blasio’s administration’s plan.

Asked at Tuesday's hearing why the administration's projections for reducing Rikers' population were so much more modest than the Lippman Commission's, Glaser replied with one word: "Reality." She described a complex set of factors, from the technical—judges need a new assessment tool for gauging the risks of releasing defendants before trial—to the political: elected officials, judges, district attorneys and the voting public have to accept that there are safe ways to release people accused of serious crimes before their trial.

Advocates acknowledge that the city faces limitations, but they say de Blasio's team is failing to take the initiative in pushing for changes. In particular, they believe the city could expand its supervised release program, which allows low- and medium-risk defendants to remain free pending trial.

"Supervised release is a terrific program. You can do more," Lippman said. "Of course you have to be careful."

Administration officials testified that an online bail payment system will be up and running by next April. Some committee members were angry that it would take that long, given that it was initially promised by last spring.

The administration has convened a 75-person task force to map out the task of closing Rikers, according to Glaser. The panel includes correction officials, prosecutors, defense attorneys and others. But even though the number of state parole violators is the only part of the jail population that is rising, and despite the fact that a change in state law would be necessary to change that, Glaser says there are no state representatives on the task force, although the city has invited them.

Close Rikers co-founder Glenn Martin told the committee that his coalition is exploring a way for Gov. Cuomo, who has called for a faster timeline for shutting Rikers, "to play much more active role."

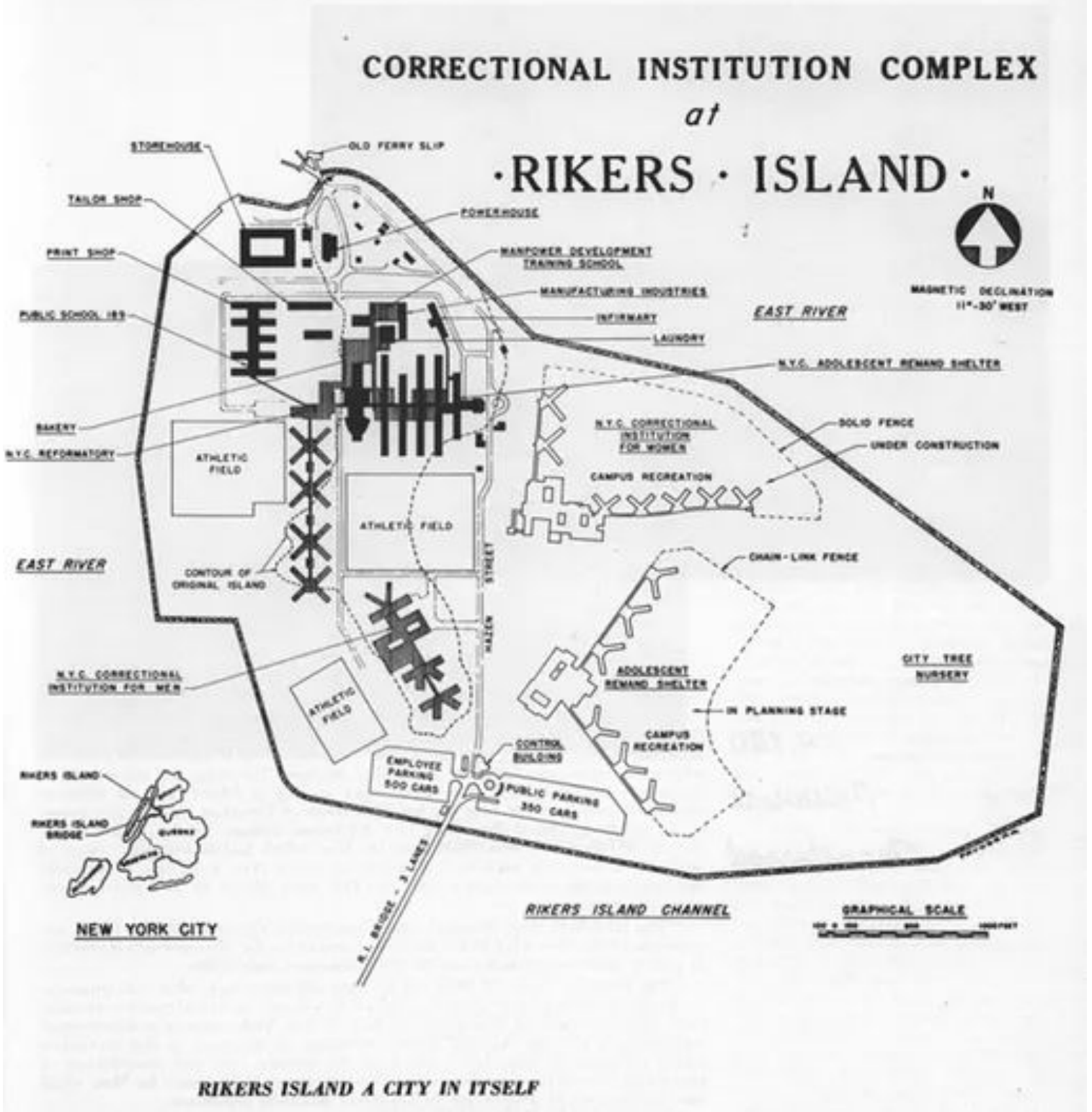
Beyond reducing population, closing Rikers will also require finding borough-based locations for new jails. Last month City Hall released a request for proposals for a firm to create a master plan for converting existing correction facilities in Brooklyn, Manhattan and Queens to take on more population and explore other sites.

On Tuesday, Councilmembers expressed frustration that the administration continues to insist it will not pursue a jail on Staten Island, and that it is holding off on starting the lengthy Uniform Land-Use Review Procedure for those sites.

For now, most of the city's detainees and inmates remain on Rikers. At least they can avail themselves of the 311 system. According to City Hall, last week alone, there were 724 calls to the city's complaints hotline from the island.

# Learning from Rikers Island: the future of carceral infrastructure in New York City

Archinect News  
By Alexander Walter  
December 8, 2017



*“Mayor de Blasio’s recent pledge to close the Rikers Island jail complex within ten years was met with celebration by many — and skepticism by others. After 85 years in the public imagination, it has become hard to believe that the East River behemoth could ever really be slain. But the reality of a post-Rikers future is coming into focus [...]. Rikers is toxic, and its era is done. A change is on the wind, it seems, and the island’s aura of inevitability is finally dispersing.” —*  
Urban Omnibus

In their *Urban Omnibus* essay, "A Jail to End All Jails," authors Jarrod Shanahan and Jack Norton take a closer look at the history and a potential future of one of the nation's most notorious prisons and the greater jail infrastructure of a city where the average daily incarcerated population was at 9,400 in 2017.

"Following the recommendation of the Lippman Commission in calling for a system of local jails to replace the central complex, de Blasio has released a plan for Rikers' closure and sought support from consultants and City Council members in siting new jails or expanding existing borough facilities to accommodate more prisoners. The logic goes that jails in the boroughs will be closer to courts, helping cases move through the system more efficiently, and closer to the support of family and social services, helping prisoners stay out of the system once released."

# *De Blasio's major Rikers failure*

New York Daily News  
By ELIZABETH CROWLEY  
DECEMBER 13, 2017



As chairwoman of the City Council's Committee on Fire and Criminal Justice Services for the past eight years, I have come to know the horrors on Rikers Island and the failures of the agency that runs it, the Department of Correction.

And for eight years — through oversight hearings, legislation and investigations — my fellow Council members and I pursued reforms for New York City's jail system, far too few of which materialized.

We're at another crossroads, and Mayor de Blasio is, sadly, failing to lead us in the right direction.

Like any problem that is allowed to fester, incremental improvements in the city's jails are useless. The only way to achieve genuine change is to start anew. The Independent Commission on New York City Criminal Justice and Incarceration Reform, convened by City Council Speaker Melissa Mark-Viverito and headed by former Chief Judge of the State of New York Jonathan Lippman, released a report this year calling for Rikers Island to close and for new jail facilities to be sited in areas of the city co-located near courthouses.

This achieves two goals, one moral and one fiscal, and it's rare that government policy can accomplish both:

It saves the city \$31 million a year in costs associated with transporting detainees and administering Rikers Island. And it puts detainees closer to where they need to be — before a judge and jury — so the innocent can go free and the guilty can be housed more appropriately than they are now.

When the report came out, de Blasio enthusiastically embraced the commission's recommendations, saying "the policy of the City of New York is to close Rikers Island" — but his fanfare is increasingly looking like failure. Last week, I led an oversight hearing to check in on the administration's progress. We heard a lot of talk but saw no real action.

The "road map" issued by the mayor's office in June to close Rikers was nothing more than recycled ideas from the Lippman Commission. All of the goals listed on the administration's website to update the public were either vaguely "in progress" or "in planning." The city's attempt to create an online bail payment system, which will significantly reduce the island's population, is a year behind schedule.

As far as finding feasible alternative locations to Rikers Island — an imperative if we're going to move forward with these plans — political support has emerged for a site in nearly every borough.

Eleven Queens Council members came out in support of using the Queens Detention Complex as the borough's jail, and my counterparts in Brooklyn and Manhattan have endorsed expanding facilities in their boroughs. These three sites can house approximately 75% of the jail population.

This makes the work all that much easier for the administration, but it hasn't even begun the land use process that it controls to get it started. It seems the mayor cannot pick up the phone and call the city planning commissioner to discuss plans for relocating the jail.

And de Blasio has summarily ruled out putting a new jail on Staten Island, greatly complicating the politics.

While the city stalls, other levels of government can — and must — act.

Four years ago, the federal government suggested that 16- and 17-year-old detainees be moved off of Rikers Island because of its conditions and into a dedicated juvenile facility. After the city's inaction, the state passed a law that forced it to comply.

De Blasio says it will take 10 years to close Rikers. State Sen. Brian Benjamin (D-Manhattan) recently called on the state to evaluate closing the jail within three years, which the governor and city controller think is a realistic goal.

The state's Commission of Correction, whose members are appointed by the governor, is empowered to "close any correctional facility which is unsafe." They must step in and take over the operations at our city's failed jails.

The problem of Rikers Island can no longer be ignored. Though the island is out of sight, we must not allow that to keep it out of mind. We have dumped millions of city dollars and resources into reforms that have no lasting impact, while real tragedies are taking place as the culture of violence spirals out of control.

The de Blasio administration does not seem to grasp this, so New Yorkers need someone else to step in. New York State must get involved, and create a more effective plan to close Rikers Island in far less than a decade.

We need a criminal justice system that better reflects our values as New Yorkers, and we need the leadership to make that happen.

# *Rikers Island closure a 'land grab' for developers: union head*

New York Post  
By Michael Gartland  
January 14, 2018





The union head who represents Rikers Island corrections officers slammed plans to close the jail complex as nothing more than a “political con game” and a “land grab” that would enrich well-connected real estate developers.

Elias Husamudeen, president of the Correction Officers’ Benevolent Association, said Sunday the closure plan has nothing to do with helping blacks and Latinos as some have argued, but “everything to do with business.”

The union big honed in on a report overseen by former New York State Chief Judge Jonathan Lippman that called for the closing of Rikers within ten years — noting its claim that the city and state stand to gain \$17 billion if the island is repurposed for use by LaGuardia Airport.

“It has everything to do with business,” Husamudeen said Sunday during an interview on John Catsimatidis’ 970 AM radio show. “There’s so much wrong with this. This is such a political con game.”

Both Mayor de Blasio and Gov. Cuomo support closing Rikers.

Two weeks ago, de Blasio announced the city would shutter one jail on the island, the George Motchan Detention Center, in the summer as part of his plan to close the complex entirely. Motchan is one of nine jails on the island.

De Blasio has said closing Rikers will take at least 10 years, prompting critics — and Cuomo — to call for a stepped-up timeline.

Husamudeen pointed to the make-up of the Lippman commission, charging that only two people on it have experience with jails.

“The majority of the people on your committee are real estate developers,” he said, referring to Lippman’s commission. “This is really a sham, it really is. It’s a land grab.”

The commission included members with ties to groups like LatinoJustice, the Legal Aid Society, the US Attorney’s Office and the Westchester County Department of Correction.

High-profile real estate Forest City Ratner also had its CEO MaryAnne Gilmartin take part as a member of the commission, though Husamudeen did not call the company out by name.

Husmudeen argued that politicians should be more focused on the safety of corrections officers, citing more than 2,000 assaults against union members since de Blasio became mayor.

“My thing is: take your island, take your jail, take the island. We don’t care. Make the jails safe,” he said.

Spokespeople from the mayor’s and governor’s office did not immediately respond.

# *Brooklyn DA Eric Gonzalez explains his Justice 2020 initiative*

Brooklyn Daily Eagle  
By Rob Abruzzese  
January 24, 2018



During his installation ceremony on Sunday, District Attorney Eric Gonzalez made reference to his Justice 2020 Initiative, but on Tuesday it was officially announced including details and a list of 63 Brooklyn community members who will serve on its committee.

“We have a historic opportunity in Brooklyn to create a national model of what a truly progressive prosecutor’s office can be,” Gonzalez said. “I plan to achieve that goal by consulting a committee of experts and creating a set of guidelines that will focus on those who do the most harm, while reducing incarceration and finding new ways to hold accountable those who can safely be diverted or deflected entirely from the criminal justice system.”

Gonzalez was voted in unopposed during the general election in November, but ran a primary campaign against five opponents where debates often evolved into which candidate could be the most progressive. Gonzalez often talked about making the criminal justice system more equitable for minorities and immigrants.

“We will use data to support and guide innovation and to reduce racial disparities in our system, work in collaboration with stakeholders and community partners to foster safe and healthy communities, and enhance our transparency and accountability,” Gonzalez said in a statement on Tuesday. “This vision will govern the direction of my office and I will task my staff with making measurable progress towards achieving the committee’s recommendations by 2020.”

Justice 2020 will rely on a Launce Committee which will “consist of criminal justice reform experts, defense groups, service providers, law enforcement, formerly incarcerated individuals, clergy and other community leaders,” according to a press release put out by the DA’s Office.

The committee will be co-chaired by Medgar Evers College President Rudy Crew and former Chief Judge Jonathan Lippman, who is currently of Counsel at Latham & Watkins LLP. Justice Lippman was also the chair on the Independent Commission on NYC Criminal Justice and Incarceration Reform that recommended closing Rikers Island.

The committee will meet in subcommittees and will present recommendations to the DA in the spring, according to the DA’s Office. Any recommendations made will be shared with the public as a set of goals for achieving reform by the year 2020.

Gonzalez made a name for himself as former DA Ken Thompson’s No. 2 and the person who was put in charge of the Wrongful Convictions Unit, which has become a national model. As acting DA, he hired immigration attorneys to help prosecutors avoid unintended collateral consequences for immigrants and has implemented bail reform designed to decrease reliance on cash bail. In August, he dismissed more than 140,000 summonses that were at least 10 years old.

Gonzalez explained that he can take his progressive agenda even further because of Brooklyn's historically low crime statistics. In 2017, the number of homicides and shootings in Brooklyn were the lowest in recorded history, according to NYPD Compstat reports.

The Launch Committee will be broken up into sub-committees to examine various aspects of the criminal justice system that could be reformed including alternatives to prosecution, violence prevention and gun strategies, civil rights and policing and conviction integrity.

The director of the launch committee is Jill Harris, special advisor to the DA, who formerly served as the deputy director of the ACLU's Campaign for Smart Justice, and was a trial attorney at the Legal Aid Society. The entire list of committee members is available on the Brooklyn DA's website.

# *Fordham A2J initiative gets students inside infamous Rikers Island*

ABA Journal  
BY KEVIN DAVIS  
MARCH 5, 2018



Deema Nagib, a third-year student at Fordham University School of Law, has traveled dozens of times to the notorious Rikers Island jail complex to meet with detainees who shared horror stories with her about life inside.

“Rikers is a place that’s just crawling with abuse,” she said.

Nagib listened to detainees talk about being beaten by guards, subjected to filthy, inhumane conditions and deprived of dignity. Nagib took complaints from them while on an externship with the Prisoners’ Rights Project of the Legal Aid Society.

Fordham has been encouraging students like Nagib to become engaged in a variety of programs to expose them to the criminal justice system and help ensure greater access to justice. The school last year launched its A2J Initiative to bring it all together.

“Access to justice is a critical issue in our society,” Fordham Law School Dean Matthew Diller said. “The A2J program is really a connecting thread to all we do here.” As a Jesuit university, Fordham is committed to providing education in the service to others. “That has a deep resonance within our community of students, faculty and alumni.”

One of the initiative’s most recent programs was a Feb. 20 panel discussion moderated by *60 Minutes* correspondent Scott Pelley about the impending closure of Rikers. The program featured several clips from a recent documentary, *Rikers: An American Jail*, by Bill Moyers in which detainees describe the dangers, the humiliation and fears of being incarcerated there.

Moyers called Rikers “a microcosm of what’s wrong with criminal justice today,” and said it “embodies the scourge of racism.”

In making the documentary, Moyers said, “I wanted to put a human face on the culture of cruelty that flourished at Rikers.”

New York Mayor Bill de Blasio last year pledged to close Rikers within 10 years, but others have urged that the violence-plagued jail close sooner. The mayor’s announcement followed a report from an independent commission that found frequent assaults between detainees, fights between detainees and staff and dangerous, unsanitary and unsecure facilities.

Cheryl Bader, a clinical associate professor of law at Fordham, believes it’s important to immerse students in the realities of the criminal justice system, and visiting Rikers is one way to do it. “One of our goals is to have our students understand the complexity of the situation, to hear the voices of those in the system, and coming face-to-face to see the toll that incarceration takes on the client,” Bader said.

Michael W. Martin, director of clinical programs at Fordham Law, said the students eventually will be in positions to foster change and develop prison reform policies. “They are all the potential leaders of our future,” he said. “It’s important to unveil the complexity of these issues and for them to see these people are not monsters.”

Frank Kearn, a third-year student, said one of the reasons he went to law school was because he sees the prison system as deeply problematic. William Jones, a 1L, says he was inspired by Bryan Stevenson, author of *Just Mercy*. ““The character of a society is not how we treat the privileged few, but how we treat the less fortunate, the mentally ill, those who are incarcerated,” Jones said, paraphrasing Stevenson.

Stanley Richards, senior vice president of the Fortune Society, a nonprofit organization that helps previously incarcerated people get back on their feet, was once incarcerated at Rikers and knows the culture of violence well. “The way you survive is through violence, and you learn that from day one,” he said during the panel discussion.

Former New York Chief Judge Jonathan Lippman, who is also a fellow with Fordham’s A2J initiative, served as chair of an independent commission that recommended closing Rikers and creating new facilities in each of New York’s boroughs. “Rikers is an accelerator of human misery,” Lippman said during the panel. “You come out worse than when you come in. Rikers doesn’t help public safety, it hurt public safety.”

Even at an estimated cost in the billions to close Rikers and build new jails, Lippman said it’s worth it. “There is no better investment than in closing this place,” he said. “This is about our values.”

Panelist Tracey L. Meares, professor at Yale Law School and visiting professor at Fordham, said that beyond the issues in the jails, policymakers must go deeper by addressing racial disparities and inequalities within the criminal justice system. “We need a new organizing principle,” she said. “We must treat the problem of crime in our communities. It’s a tragedy and is deforming our democracy.”

Nagib agrees that the problems at Rikers are systemic, and that closing one facility won’t solve the larger issues. “Unless they change the culture of corrections, nothing is going to change with the closing of Rikers,” she said. “It’s very symbolic.”

# ***OUR BAIL SYSTEM ISN'T WORKING***

Nationswell  
by Joseph Darius Jaafari  
March 16, 2018





For the past few years, states have been slowly making progress on reforming their criminal justice laws, including throwing out past marijuana infractions, ending solitary confinement for juveniles and recommending significantly less jail time for nonviolent crimes.

Now, bail reform is getting its time in the spotlight — or in the hot seat, depending — as New Jersey marks its one-year anniversary of ending the practice that requires defendants to pay their way out of jail before a trial. (Currently, the state releases low-level offenders to their homes, while others are held for 48 hours; during that time, prosecutors put together a criminal profile that determines if a person will be kept in prison.)

Many lawmakers are taking up similar reform strategies, as overhauling the nation's bail system also makes for smart across-the-aisle politics in a time of heightened partisanship. Senators Kamala Harris, D-Calif., and Rand Paul, R-Ky., last year introduced a bill that would incentivize states to end or reform their money-bail programs.

Bail was originally intended to motivate defendants to show up for all of their hearings; if they do so, their money is given back to them once their trial is over. But studies have found that posting bail — which can cost tens of thousands of dollars, depending on the crime — is no guarantee that someone will return to the courtroom. In the meantime, defendants arrested for a low-level offense and can't afford bail often sit in jail for days or weeks, costing them time away from family and their jobs, and costing taxpayers an average of \$38 million every day.

Data from a 2016 study conducted in Pennsylvania by Columbia University researchers found that there was no correlation between being released on bail and returning to court. What the researchers did find, however, is that those who couldn't afford their bail and thus remained in jail were more likely to commit future crimes by almost 10 percent. The study also found "significant evidence of a correlation between pretrial detention and both conviction and recidivism." In other words, our current money-bail system is one in which a minor offense often leads to more offenses, entrapping low-income people in a cycle of incarceration simply because they're unable to pay.

What's more, the Bronx Freedom Fund in New York City, which bails out people without requiring reimbursement, has found that nearly all of the defendants they sponsor do return to court, despite not having a financial incentive for doing so.

"We know that bail does not make people return to court in greater percentages," says Jonathan Lippman, the former chief judge for the New York Court of Appeals and current chair of the Independent Commission on New York City Criminal Justice and Incarceration Reform. In fact, he says, "The people who return to court are absolutely at the percentages of those [who weren't required to post] bail at all."

Lippman, among others, has been a supporter of using algorithms, or risk-assessment models, to decide whether bail should be mandated for a defendant.

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Though the bail-bond services industry grew by almost 3 percent between 2011 and 2016 and brought in \$2 billion in revenue, it's now facing increasing pressure as some jurisdictions have done away with the need for bail bondsmen altogether by eliminating cash bail.

In New Jersey, for example, bail-bond shops have seen a dramatic reduction in business and are operating under threat of closing. Last summer, reality TV star Duane “Dog the Bounty Hunter” Chapman stood outside a New Jersey courthouse and claimed that the elimination of bail bonds were “killing people.”

But for bail-reform advocates, Chapman’s argument is stale. And like it or not, that reform is coming, as New York, Delaware and California are all looking to eliminate — or at least reconsider — their money-bail practices.

“You have a lot of research to show that bail is harmful. Those points need to be disseminated,” says Zoë Towns, the director of criminal justice programs at the bipartisan advocacy group FWD.us, in response to how reform might affect bail-bond business owners. “Our position on bail reform and justice is looking at how we can drive down incarceration rates, and that may mean that structures within and outside the system need to be changed.”

# *Shuttering Rikers is a 'dishonest' plan: Quinn*

Queens Chronicle  
By Christopher Barca, Editor  
March 29, 2018



The plan to reduce the inmate population of Rikers Island ahead of its eventual closure, according to Assistant District Attorney James Quinn, is more than just untenable.

He told a crowd of more than 100 people at the Juniper Park Civic Association's meeting last Thursday that it's also beyond frustrating.

"They keep repeating that phrase over and over and over again," Quinn said of "mass incarceration."  
"Quite frankly, it drives us crazy."

In a presentation that lasted more than a half-hour, Quinn blasted the city's plan to close the incarceration facilities on Rikers Island and move to a system of borough-based jails — and those who support it — within the next 10 years.

The assistant district attorney's main message to the JPCA was that the statistics do not support the "dishonest" narrative that thousands of nonviolent offenders are locked up at Rikers for weeks or months at a time on minor charges — such as turnstile jumping — simply because they cannot afford to make bail.

Manhattan District Attorney Cy Vance even announced last month that his office will no longer prosecute most turnstile jumpers, saying the offense is one of many that low-income people sit at Rikers for extended periods of time over.

Quinn responded by saying such policies pushed by Vance and a number of city lawmakers are based on a "myth."

"The people who are talking that way are being dishonest," he said. "We can't believe what's being said in this argument."

Pointing to a number of statistic-filled posters he brought, Quinn said mass incarceration in New York City simply does not exist, as just 194 people per 100,000 residents of the five boroughs are locked up.

In comparison, San Diego, Los Angeles, Chicago, Houston, Phoenix and Dallas jail between 259 and 368 people per 100,000 residents, while Philadelphia has 810 people incarcerated per 100,000.

When it comes to the kinds of crimes the approximately 9,000 people are locked up on Rikers for, Quinn said only about 3,330 are actually eligible for bail — the others are either parole violators, remanded without bail while awaiting trial or already serving jail sentences of six months or less.

Of the 3,330 individuals, a combined 875 are charged with nonviolent D or E felonies and 227 are facing class A misdemeanor violations. And of those charged with D felonies, E felonies and misdemeanors, 194 are Queens residents.

"Whenever they argue about closing Rikers Island, they say, 'We just have to get the misdemeanor offenders out of jail,'" Quinn said. "Well, I'm sorry but there's only 227 of them. Even if you do that, you still have 8,800 people at Rikers."

In order to cut the population of the island to 5,000 inmates, as city officials seek to do, Quinn said everyone eligible for bail plus 700 others would have to be released.

And that's something District Attorney Richard Brown's office, he said, simply cannot support.

"If you want to say Rikers is a very dangerous place, OK. If you want to repair Rikers and make it a better prison, that's fine," Quinn said. "But if the cost of doing that is releasing 4,000 career criminals onto the streets of New York City, that's ridiculous. There's no other word for it.

"The people who are in Rikers belong in Rikers," he added to a loud round of applause. "That's not just my opinion. That's a fact that not a single one of these people is willing to address or dispute."

While the push to shutter Rikers has existed in some form for years, calls for its closure became deafening after the imprisonment and eventual suicide of Kalief Browder.

In 2010, Browder, then just 16, was arrested for allegedly stealing a backpack containing hundreds of dollars in cash and valuables inside.

His bail was set at only \$3,000, but his family could not afford to pay it. Browder was incarcerated at Rikers for the next three years — a period that included extended stays in solitary confinement and physical abuse from guards.

Charges against the teenager were eventually dropped in 2013 over a lack of evidence and witnesses, but Browder committed suicide two years later.

Last March, the Independent Commission on New York City Criminal Justice and Incarceration Reform, led by former Chief Judge of the state Court of Appeals Jonathan Lippman, called for the replacement of the violence-plagued island with a series of borough-based jails in a highly anticipated report.

In the months since, the Queens House of Detention in Kew Gardens has been tapped as the easternmost borough's jail — the purpose the building formerly served until 2002.

Quinn called the report "almost laughable" and "disingenuous," saying to applause that the commission was packed with legal experts and real estate developers who want to see the island closed for a variety of reasons.

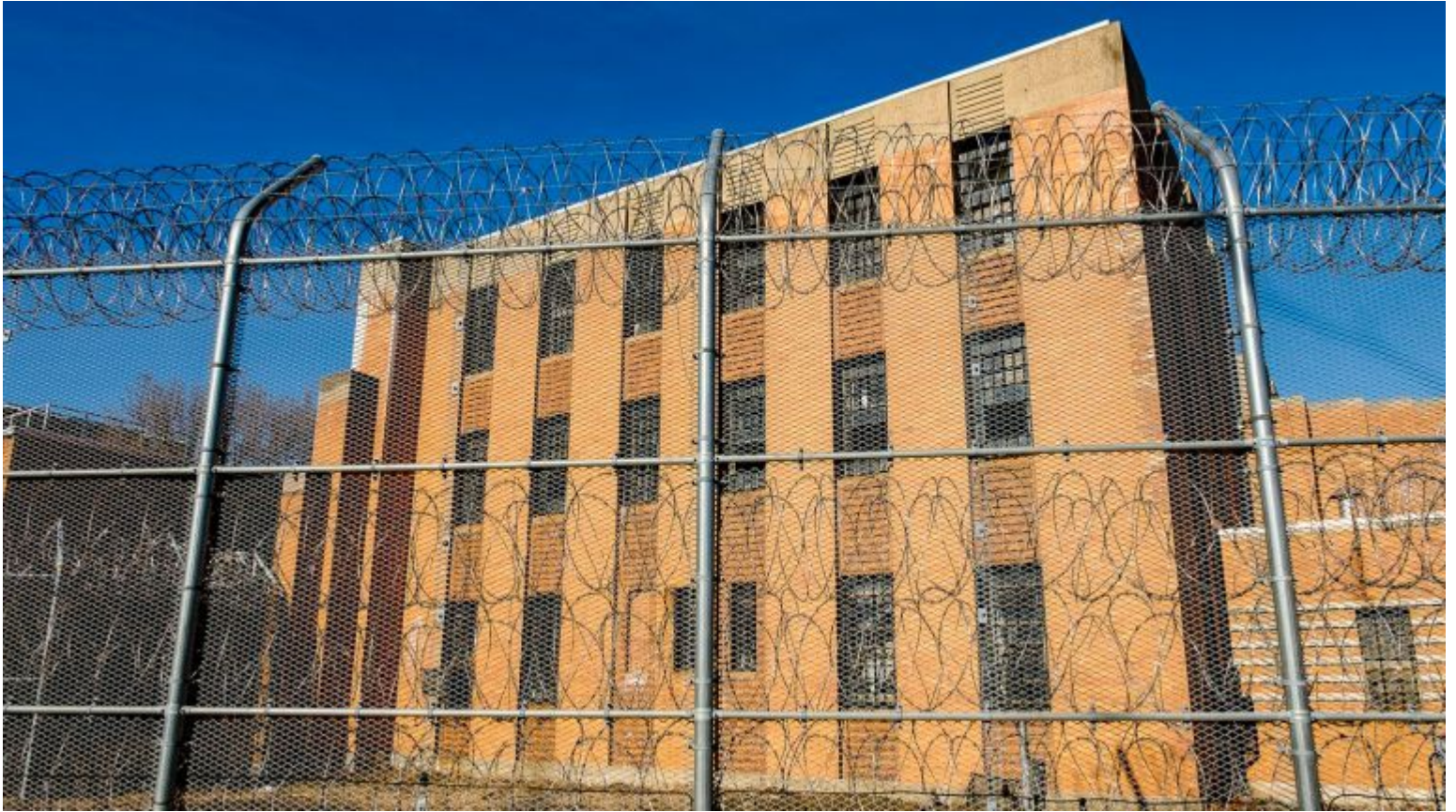
"I would love to have our defendants at the Queens House when they're on trial," he said. "That would be great. But the Queens House only houses 475 people. You would have to at least double its size in order to accommodate the 1,800 [people from Queens] in Rikers right now."

In thanking Quinn for attending the meeting, Councilman Bob Holden (D-Middle Village) — the former longtime president of the JPCA — called the assistant district attorney one of his biggest influences during his campaign for office last year.

"All my material during the election was from you," Holden said. "You are responsible, maybe, for me standing here. You gave me the material and I ran with it, but it was all your stuff."

# *Rikers Island jail complex could be closed by 2024*

AM New York  
By Matthew Chayes  
April 5, 2018



Rikers Island, New York City's violence-plagued jail complex, can be closed by 2024 — three years sooner than the city is planning, according to a panel led by the state's former chief judge.

The reasons, says a panel report to be issued Thursday, include a faster-than-expected process for choosing locations in the boroughs to put replacement lockups, a shrinking inmate headcount and new authority that Albany granted days ago to cut red tape in jail design and building.

“We think it is credible to believe that we can finish and complete the construction and closing this horror show by sometime in 2024 — or maybe even earlier,” the former chief judge, Jonathan Lippman, said in an interview. He chairs the Independent Commission on New York City Criminal Justice and Incarceration Reform.

Natalie Grybauskas, a spokeswoman for Mayor Bill de Blasio, said in an email, “We’re open to discussing any concrete options that make a shorter timeline possible, but haven’t seen the report.”

Lippman’s panel and advocates for inmates and their families want to close Rikers because the 1930s-era complex is decrepit and dangerous to inmates and guards alike; buses must transport inmates to courts across the city, wasting time and fuel; and visitors must take long journeys to see loved ones. Visits have been shown to reduce recidivism.

The U.S. Justice Department in 2014 said Rikers, where most inmates are pre-trial detainees and innocent under the law, has a “deep-seated culture of violence.”

In place of Rikers, the de Blasio administration has begun planning for jails in all boroughs except Staten Island, whose borough president secured an election-year promise that no jail would go there.

De Blasio said in February that the borough-based jails in Brooklyn, Queens and Manhattan would be near courthouses at existing facilities and at a new lockup planned for the Bronx.



# *The 'Herculean' Effort to Close Rikers Island*

The National Law Journal

By Karen Sloan

April 30, 2018



After a daylong visit in 2016 to Rikers Island, New York City's notorious jail complex, the members of the Independent Commission on New York City Criminal Justice & Incarceration Reform understood on a fundamental level that it had to shut down, said Jonathan Lippman, the former chief judge of the New York Court of Appeals and of counsel at Latham & Watkins.

"When we came back from that visit to Rikers—whether we verbalized it or not—we all knew what needed to be done here," Lippman said. Lippman was tasked by New York City Council Speaker Melissa Mark-Viverito to head the commission. "Nothing short of taking down this accelerator of human misery, this stain on the soul of New York City, would do," he said.

In April 2017, the commission suggested just that—issuing a 148-page report that recommended closing Rikers, cutting the city's jail population in half, and opening up smaller jails in each of the city's boroughs that would offer a more humane experience for both prisoners and guards. The report was quickly embraced by state and city officials, including Gov. Andrew Cuomo and Mayor Bill de Blasio.

Behind the commission's yearlong effort to create a roadmap to improve the city's ailing criminal justice system was Latham & Watkins. More than 30 lawyers and staffers at the firm spent upward of 3,000 hours supporting the commission's work. They were led by Lippman and litigation partner Kevin McDonough.

"Latham was the fundamental anchor of the commission," said commission member Ana Oliveira, president and chief executive officer of The New York Women's Foundation. "It was a huge undertaking. Latham made it happen."

The firm's initial task was to vet the many candidates for the commission and come up with a roster that represented every constituent group.

The Latham team spent the ensuing months tracking down and analyzing extensive data on Rikers' population—who prisoners were, why they were at the jail, and how long they had lingered there. They also researched jail and prison systems across the country and the globe to determine the most effective approaches, whether they could be replicated in New York, and how much that would cost. Finally, the Latham team compiled data on Rikers Island itself, such as the soil contamination and the impact of nearby LaGuardia Airport, to determine how the site could be repurposed.

Obtaining the necessary information from various authorities and entities alone was a herculean task, Lippman said.

Latham's work hasn't ended with the report's unveiling, however.

"We are equally committed to the implementation stage," Lippman said. "I am confident that this is going to happen. And I'm confident that we have a long road ahead."

# *Queens Council members call for a commission to study the cost of rejuvenating Rikers Island*

QNS

By Ryan Kelley

May 25, 2018



Councilman Robert Holden continued his push to keep Rikers Island open with new legislation introduced this week that gained support from several other Queens Council members.

On May 23, Holden introduced a bill that would create a commission to study the cost of renovating Rikers Island, which he said is a vital piece of information to consider before the city continues moving forward with Mayor Bill de Blasio's plan to reduce the inmate population, close the prison and open smaller jails in each borough by 2027.

Fellow Queens Councilmen Eric Ulrich and Paul Vallone, as well as Councilman Mark Gjonaj from the Bronx and Councilman Kalman Yeger from Brooklyn, also voiced support of the bill.

“We have the numbers where borough-based jails are concerned, but we should know the cost of rejuvenating Rikers’ facilities to determine if it’s a viable alternative,” Holden said in a press release. “If we’re going to have taxpayers foot the bill for the city’s jail facilities, we should be able to show them the facts and figures.”

Last year, the Council commissioned a study led by former New York State Chief Judge Jonathan Lippman that determined the cost of using borough-based jails to replace Rikers would be approximately \$10.6 billion. The Lippman Commission ultimately recommended the closure of Rikers, however, and de Blasio has since announced that the first of the island’s nine jails will close this summer.

Holden has been one of the more outspoken leaders against the mayor’s plan along with Queens County Senior Executive Assistant District Attorney James Quinn. The two represented the borough at a City & State panel discussion in March and later joined forces again at a Juniper Park Civic Association meeting to present their case for why Rikers should remain open.

The primary arguments for closing Rikers Island, according to the Lippman Commission’s findings, are that its buildings are dilapidated, it’s difficult for family members to visit inmates, it takes too much time and resources to ferry inmates back and forth to court and the facility lacks proper space for on-site programming.

Holden, Quinn and other critics argue that closing the prison would release suspected felons back onto the streets, cost far too much of the taxpayers’ dollars and lead to safety issues within the communities that would house the borough jails.

“The infrastructure at Rikers is solid, and before we sink billions into new jails, we should have all the information,” Holden said. “This study will help us gain a clearer picture of what it would look like to keep Rikers Island open.”

According to the bill, the 10-person commission would consist of three members appointed by the mayor, three members appointed by the speaker of the council and four members appointed jointly by the speaker and the mayor. The members — who cannot be city employees — would serve on the commission for one year and meet on at least four occasions. A report on the commission's findings would be given to the mayor and Council no later than six months after completing the study.

“Any decision of this magnitude needs to be made with thorough and reliable facts and figures,” said Vallone in a press release. “I’m proud to support this legislation because if and when Rikers Island is closed, we need to be able to tell the 8.5 million New Yorkers in this city that we did our homework and looked at all the options.”

De Blasio’s plan identifies the Queens borough jail site as the Queens House of Detention in Kew Gardens, which is currently used by the Department of Corrections for occasional training exercises. Manhattan and Brooklyn would also use existing jail facilities, but the Bronx would have to have a brand-new complex built.

“This is a common sense bill,” Ulrich said in a press release. “It’s simple — hardworking taxpayers deserve to know how their money will be spent if the city moves forward with its plan to close Rikers Island. Moreover, the city must take these costs into account before going ahead with any such plan.”

Holden’s bill has been assigned to the Committee on Criminal Justice and must be reviewed at public hearings, voted on by the Council and presented to the mayor for the final decision. If the mayor vetoes the bill, the Council can overturn his decision with a two-thirds majority vote.

# *Holden calls for commission to determine cost of renovating Rikers Island*

Times Ledger

By Bill Parry

June 5, 2018



City Councilman Robert Holden (D-Middle Village) has been such an outspoken critic of the city's plan to close Rikers Island and replace it with a borough-based prison system that Mayor Bill de Blasio paid a visit to Holden's Middle Village neighborhood in March during a snowstorm and discussed the impasse.

"Let's just say he gave me his talking points and I had my say," Holden said.

Last week, Holden introduced legislation to create a commission to examine the cost of renovating the jail facilities on Rikers Island. The City Council had previously commissioned a study on the cost of the borough-based system headed up by former New York State Chief Judge Jonathan Lippman which showed that replacing Rikers Island with smaller jails, such as the Kew Gardens Detention Complex, would cost \$10.6 billion.

"We have the numbers where borough-based jails are concerned, but we should know the cost of rejuvenating Rikers' facilities to determine if it is a viable alternative," Holden said. "If we're going to have taxpayers foot the bill for the city's jail facilities, we should be able to show them the facts and figures."

Holden said he was surprised that nobody did a cost analysis on renovating Rikers Island.

"Maybe it should be in the Council's hands to go get those numbers so that taxpayers' funds could go where it's more desperately needed, like repairing the subways and providing more affordable housing," Holden said. "The infrastructure at Rikers is solid, and before we sink billions into new jails, we should have all the information. This study will help us gain a clearer picture of what it would look like to keep Rikers Island open."

Holden's measure gained support from colleagues from the borough.

"This is a common sense bill," City Councilman Eric Ulrich (R-Ozone Park) said. "It's simple -- hardworking taxpayers deserve to know how their money will be spent if the city moves forward with its plan to close Rikers Island. Moreover, the city must take these costs into account before going ahead with any such plan."

Holden's bill was assigned to the Committee on Criminal Justice and will be reviewed at public hearings before the City Council votes on it.

"Any decision of this magnitude needs to be made with thorough and reliable facts and figures," City Councilman Paul Vallone (D-Bayside) said. "I'm proud to support this legislation because if and when Rikers Island is closed, we need to be able to tell the 8.5 million New Yorkers in this city that we did our homework and looked at all the options."

The 10-person commission would consist of three members chosen by the mayor, three appointed by the speaker of the Council and four members selected jointly by the speaker and the mayor, according to the bill. The members would serve for one year and a report on the commission's findings would be presented within six months after completion of the study.

"We'll review the legislation," City Hall spokeswoman Natalie Grybauskas said. "We're committed to closing Rikers Island and to keeping the island facilities in good working order as long as it remains open."

# *City seeks to dismiss property-tax lawsuit by civil rights and real estate groups*

Crain's New York Business  
By WILL BREDDERMAN  
June 13, 2018





Nothing's certain but court and taxes.

The city and an unlikely alliance of civil rights advocacy groups and real estate power players will face off in court this afternoon. Mayor Bill de Blasio and his lawyers hope to persuade a judge to throw out the Tax Equity Now New York coalition's lawsuit alleging discrimination in the city's system of property-tax excises.

During the era of urban decay in the 1970s and 1980s, New York extended numerous breaks and benefits to the predominantly Caucasian owners of houses, co-ops and condos to stem white flight. Among the benefits were statutes barring the city from raising a property's assessment more than 6% in a year or more than 20% over five years.

In recent decades, property values in prosperous white enclaves such as de Blasio's own Park Slope have shot up, but the caps have kept their tax bills from rising proportionally. This, Tax Equity Now New York and its supporters argue, has increased the relative burden on precincts of the city where many homeowners and tenants (whose rents are affected by property taxes) are minorities.

Martha Stark, TENNY director of policy and former Bloomberg administration finance commissioner, and the group's attorney, Jonathan Lippman, the legendarily liberal former chief justice of the state Court of Appeals, were scheduled to address the media following oral arguments. Its members include such progressive groups as the NAACP, the Black Institute and LatinoJustice, as well as the Rent Stabilization Association—the industry group for landlords of rent-regulated apartment complexes—The Related Cos., RXR Realty, Two Trees Management and Silverstein Properties.

The city has convened a commission to consider potential reforms in the city's levies and to beseech the state for changes in the tax law—a move de Blasio and Council Speaker Corey Johnson have advertised as a means of possibly bringing relief to strained homeowners. But the TENNY lawsuit, if successful, could shift more of the city's tax burden onto owners of houses, condos, and commercial and rental properties.

De Blasio, the owner of two Park Slope houses, has insisted that he sympathizes with some of TENNY's objections, but he objects to having changes to the law made in court. The plaintiffs say they brought their case because politicians had put off the task for years for the sake of political expediency.

# *Lock down a better jail site: Let common sense, not Council vetoes, prevail in the Bronx*

New York Daily News  
By DAILY NEWS EDITORIAL BOARD  
JUNE 02, 2018



The close-Rikers commission led by retired state chief judge Jonathan Lippman was clear as day about where new borough-based jail facilities ought to locate: "city-owned land in civic centers as close as possible to courthouses and public transportation."

For good reason. The whole point of the transformation is to make it as easy as possible for the accused to get to court, and for lawyers, family and community services to get to them, in sharp contrast to the isolated island jails.

Yet Mayor de Blasio stubbornly clings to plans to erect a new facility for the Bronx on the cusp of a crime-troubled residential neighborhood more than two miles away from the borough's Hall of Justice on 161st St., in expedient denial that the ideal site lies in plain sight.

Namely, right next door to the courthouse.

True, the city would have to secure a portion of that site from the state Dormitory Authority, which is currently in control. But never mind that: Councilwoman Vanessa Gibson drops a roadblock first, calling a lot next door to a criminal courthouse no place to put a jail.

Once her two terms in the Council are up, Gibson ought to consider a career in standup comedy, because that's just hilarious.

By contrast, Councilwoman Diana Ayala accedes to the remote site in her district favored by de Blasio, currently an NYPD tow pound. After all, she owes her seat to former Council Speaker Melissa Mark-Viverito, who championed the close-Rikers crusade.

The vagaries of Council politics ought not dictate the location of a jail that will cost hundreds of millions of dollars, maybe billions, to construct and serve the city for decades to come, not when the jail is supposed to serve the entire borough.

It sure sounded not long ago that Council Speaker Corey Johnson agreed with that line of thinking. He vowed to do away with the tradition of enabling local Council members to kibosh projects when the greater good demands it, saying: "Of course there's member deference involved. But there's no veto. No one gets a veto."

No veto means no veto. Pick the right site.

# *Lippman Commission calls for expanding supervised release*

City & State New York  
By JEFF COLTIN  
JULY 9, 2018



Bail reform stalled in the state Legislature this year despite a push from the grassroots to the governor, but a criminal justice commission is releasing a report saying that New York City doesn't have to wait until next year to keep more New Yorkers out of jail.

One key way that New York City could move forward without state legislation is to expand its supervised release program, according to a report that the Independent Commission on New York City Criminal Justice and Incarceration Reform is publishing on Tuesday.

Under supervised release, people who are arrested and charged are allowed to await trial at home rather than in jail. Unlike with bail, they don't have to pay for the privilege of staying out of jail. Instead, defendants are assigned a social worker who checks in intermittently before trial.

The Lippman Commission, as the group is commonly known, was convened by then-New York City Council Speaker Melissa Mark-Viverito in 2016 to study reforms that could lead to the closing of the Rikers Island jail complex. The commission, which released a blueprint in 2017, has continued to meet quarterly. This latest report is the first of many planned supplemental reports, following up on specific recommendations from the initial report.

As left-leaning voters seem to be increasingly energized by criminal justice reforms, Gov. Andrew Cuomo backed the elimination of cash bail for minor crimes this year. But the proposals couldn't pass the Republican-controlled state Senate.

The commission's chairman told City & State that the city can take action on its own. "There's no reason to wait for the Legislature," said Jonathan Lippman, the state's former chief judge. "There are things that could be done without legislation, and supervised release is at the top of the list."

New York City Mayor Bill de Blasio expanded the fledgling supervised release program citywide in 2016 to reduce reliance on bail. But two years later, the number of eligible defendants is limited, and judges still set bail for more than one-fifth of these cases.

The report, titled "Beyond Bail or Nothing: The Case for Expanding Supervised Release," argues that expanding the supervised release program could reduce the average daily jail population in New York City by nearly 2,000 people. This, combined with other fixes, would bring the jail population to below 5,000 – the target set by the de Blasio administration as to when all inmates could be moved off of Rikers Island.

Lippman said the report is intended for judges, defense attorneys and other players in the criminal justice system who need to realize there are other options beyond cash bail. "We're so conditioned to the bail system I think we lose the forest for the trees," he said.

Currently, the city only allows judges to grant supervised release to defendants accused of certain nonviolent crimes, among other criteria. The Lippman Commission recommends expanding the eligibility, even, in some cases, to defendants accused of violent felonies. It also calls on the city to significantly increase funding for social workers who supervise the defendants. The report doesn't estimate a cost, but Lippman said the program would more than pay for itself, given the high cost of incarcerating defendants awaiting trial.

Lippman acknowledged the political difficulty of allowing more New Yorkers accused of crimes to live in the community, but said this was a reasonable plan. "You can't be intimidated by the tough on crime/soft on crime continuum," he said. "You have to be smart on crime."

# *Queens leaders speak out against latest study related to the closing of Rikers Island*

QNS

By Ryan Kelley

July 11, 2018



A report released this week suggests a possible fast track to lowering the prisoner population at Rikers Island so the complex can be closed for good, but two Queens leaders are continuing to push back against the findings.

The study released on July 10 by the Independent Commission on New York City Criminal Justice and Incarceration Reform says that expanding the city's supervised release program and increasing the number of suspects released on recognizance could lower the Rikers population by 2,000 inmates. Led by former New York State Chief Judge Jonathan Lippman, the commission is also responsible for releasing the 2017 report that recommended the closure of Rikers Island.

According to Lippman, a "huge portion" of people in jail are there simply because they can't make bail, and the commission believes that jail should be a last resort.

"Supervised release can provide a meaningful alternative to bail that builds in appropriate accountability for defendants while also allowing them to be with their families, remain in school, and continue working," Lippman said in a press release. "The time to act is now. By expanding supervised release and the number of defendants who are released on recognizance, we can send fewer people to jail, accelerate the timeline for closing Rikers, and ensure better outcomes for thousands of New Yorkers every year."

The current supervised release program is administered by nonprofit agencies — in Queens, the New York City Criminal Justice Agency (CJA) — that review defendants' cases for eligibility prior to arraignment. To be eligible for the program, a defendant must be charged with a misdemeanor or nonviolent felony that does not involve domestic violence, have verifiable community ties and not have a high likelihood of being re-arrested for a felony as calculated by a risk assessment tool created by the Mayor's Office of Criminal Justice.

While participating in the program, defendants have to meet with a social worker one to four times per month, and the social worker reports back to the judge at each court appearance until the case is resolved.

First introduced as a pilot program in Queens in 2009, the program was then rolled out in Manhattan in 2013 before going into every borough in 2016 thanks to \$17.8 million in funding from the de Blasio administration over the course of three years.

The latest expansion recommended by the Independent Commission would use supervised release as the "default option" for all misdemeanor and nonviolent felony cases, allow some violent cases to enroll, educate judges and attorneys about the benefits of the program, identify barriers that inhibit the program and increase the use of release on recognizance. The study also notes that the city has expanded funding for supervised release to \$12 million for the fiscal year 2019.



Queens County Senior Executive Assistant District Attorney James Quinn, on the other hand, expressed his concern over expanding supervised release on a call with QNS. He and Councilman Robert Holden have been some of the most vocal Queens officials to oppose the Independent Commission's findings.

“The more expansive you make that, the more you get into the career criminals, and there's no way you can do that without having an impact on public safety,” Quinn said. “In my office we have 25 to 30 programs we put people into so they don't go into jail, and the ones in Rikers are the ones who have failed out or refused to go or have records that would make them dangerous to put into those programs.”

The Independent Commission notes in its report that 95 percent of all participants in supervised release programs in 2017 “avoided a felony re-arrest while participating.” A 2016 report from the CJA, however, notes that 27 percent of participants in Queens were re-arrested during their program.

Holden also refuted the new report, calling it a “playbook to make the streets less safe.” The councilman pointed out the subjective nature of court sentencing as problematic, saying that many judges are very lenient and there is no standard for defendants who pose a high risk of committing more crimes.

In May, Holden introduced legislation calling on the creation of a commission to study the cost of renovating Rikers Island to compare that with the cost of creating borough-based jails, and he gained support from Queens Councilmen Eric Ulrich and Paul Vallone.

The longtime civic activist referred back to a time when crime was out of control in the 1980s due to the drug epidemic and said that he remembered 30 “purse snatchings” taking place on Eliot Avenue in Middle Village over the course of a month. Where the city is now compared to then has been a complete turnaround, Holden said.

The councilman added he has no confidence that the study is well thought out if Lippman is in charge because “he is clueless about the reality of the streets.”

# *Bill to Create Prosecutorial Misconduct Commission Awaits Cuomo Decision*

Gotham Gazette  
by Ben Brachfeld  
July 03, 2018



Behind the veil of an unproductive state legislative session where, in its aftermath, the focus has been on what did not get done, one significant piece of legislation that made its way through both chambers and toward the governor's desk is a bill to create a new, independent state commission tasked with investigating prosecutorial misconduct by district attorneys, including misconduct that could lead, and has led, to false convictions. If the controversial bill is signed into law by Governor Andrew Cuomo, a Democrat running for a third term this year, the commission would be the first of its kind in the nation.

The legislation passed the Republican-led state Senate 45 to 12 and the Democrat-dominated Assembly 98-46, with members of both parties on either side of the bill. The bill has been lauded by public defenders and criminal justice reform advocates, but has been excoriated by prosecutors, an association of which is calling it unconstitutional and threatening a lawsuit.

The commission would consist of three appointees from the state's Chief Judge, currently Janet DiFiore, two by the Governor, two each by the Assembly Speaker, currently Carl Heastie, and the Senate Majority Leader, currently John Flanagan, and one each from the Assembly Minority Leader, currently Brian Kolb, and the Senate Minority Leader, currently Andrea Stewart-Cousins. According to the bill, the Governor's appointees would have to consist of one public defender and one prosecutor, while the Chief Judge's appointees must consist of one appellate judge and two judges from other jurisdictions. The rest of the appointees must be split evenly between prosecutors and defense attorneys.

The commission, which would oversee the state's 62 district attorneys and their subordinates, would be given full subpoena power for prosecutors and witnesses, be able to request relevant documents, and would be able to conduct investigative hearings against prosecutors accused of misconduct. If wrongdoing is demonstrated, the commission can take several actions, such as a censure or even recommending that the prosecutor be removed from their post. The commission's findings and recommendations would be compiled into an annual report to the Governor, Legislature, and Chief Judge.

False convictions, and subsequent exonerations, have become so commonplace in New York's criminal justice system that some district attorney offices, such as that in Brooklyn, have set up whole units dedicated entirely to reviewing past convictions. As of December 2017, the Brooklyn DA's Conviction Review Unit had requested exonerations for 24 wrongfully-convicted defendants.

"It's a significant problem," said Bill Gibney, director of the Legal Aid Society's Criminal Practice Special Litigation Unit. "The last time I looked, I think New York State was up in the top tier of numbers of wrongful convictions that have occurred. And with some regularity, prosecutorial misconduct is in the mix." It is impossible to fully account for all wrongful convictions. However, the University of Michigan's National Registry of Exonerations placed New York at number four in the country for exonerations in 2017.

The Registry recorded 13 exonerations in New York in 2017, for offenses including fraud, weapons possession or sale, sexual assault, and murder or attempted murder. Eleven of the 13 recorded exonerations involved “official misconduct” by individuals in positions of authority such as police officers or prosecutors.

One of them, Johnny Hincapie, served for 26 years before being exonerated for a 1991 subway killing. Several key witnesses had not been asked to provide testimony in the original case; when allowed to testify in 2015, they stated that Hincapie was not involved. Hincapie further claimed that he was coerced into a confession by a physically abusive detective.

The Registry has, as of June, counted 12 exonerations in New York State in 2018.

A 1963 U.S. Supreme Court ruling, *Brady v. Maryland*, established that prosecutors must turn over all potentially exculpatory evidence to the defense. And last year, New York’s court system became the first in the country to require that prosecutors turn over all potentially exculpatory evidence to defendants, before trial. Nevertheless, New York’s discovery laws are poorly regarded by advocates and politicians alike; despite the precedents and rules, no timetables for turning over evidence or penalties for failing to do so exist. Discovery reform has repeatedly failed to advance in Albany despite widespread support.

“There have been so many major cases, murder cases, of people staying in jail for years and years and years, and with the availability of DNA evidence now, there’s been a lot of exonerations,” said Senator John DeFrancisco, a retiring Republican who was the bill’s primary sponsor in the Senate, in an interview on WQXR’s The Capitol Pressroom.

“And what happens is, people get exonerated, and in the course of that, when they show by DNA it’s not them, further investigation shows that evidence was withheld by prosecutors that should’ve been turned over by the law,” DeFrancisco told host Susan Arbetter. He noted that taxpayers end up on the hook for an unnecessary jail sentence and remuneration fees, while prosecutors get off scot-free.

“We’ve had the same thing for judges since the ‘70s,” he continued, referring to the state’s Commission on Judicial Conduct, established through two constitutional amendments in 1976 and 1978, which serves to investigate, reprimand, and/or discipline judges accused of misconduct. In an interview with *Gotham Gazette*, DeFrancisco noted that judges were “apoplectic” when the commission began, but it has been highly successful.

“After several years, after complaints were brought and it was shown how fair the commission was, right now it’s second nature,” he said. “It’s changed the conduct of judges.”

Nevertheless, district attorneys are strongly against the proposed commission. “This legislation is a mistake and quite likely unconstitutional, and I urge the Governor to veto it,” Staten Island District Attorney Michael McMahon, a Democrat, told *Gotham Gazette* in an emailed statement. “As oversight already exists to address prosecutorial conduct, any attempt by the Legislature to impose additional measures will only tie the hands of prosecutors, and potentially threaten the safety of those we are sworn to protect.”

These existing oversight measures include “grievance committees,” subdivided by appellate division but sometimes with multiple committees per division. These committees investigate claims of misconduct by both prosecutors and defense attorneys, and can lead to censure or professional misconduct charges leveled against attorneys.

But the bill’s advocates say that the grievance committees are not enough. DeFrancisco and Legal Aid both told Gotham Gazette that the committees rarely, if ever, disciplined prosecutors. Legal Aid cited a [study](#), from the Center for Prosecutor Integrity, a criminal justice reform think tank, which found that less than 2 percent of prosecutorial misconduct cases nationwide resulted in punishment. The same study noted 151 cases of misconduct in New York State, found by trial and appellate courts, with only 3 of those cases resulting in sanctions.

DeFrancisco, who has sponsored the bill for several sessions, said that he waited years for the state’s prosecutor association, District Attorneys Association of the State of New York, to provide him evidence of the grievance committees effectively policing prosecutors, but it failed to do so.

The Queens District Attorney’s office directed Gotham Gazette to a letter sent from DA Richard Brown to the New York Law Journal on June 22, in which he stated that both the New York State Commission on Statewide Attorney Discipline, chaired by former Chief Judge Jonathan Lippman, and the New York State Justice Task Force found that allegations of “rampant prosecutorial misconduct” were unfounded.

“Despite each of these findings, the legislature has elected to pass legislation that subjects prosecutors, alone among those who practice law, to a duplicative and intrusive process that is not only violative of the state constitution, but will surely cause delay to the progress of ongoing investigations and prosecutions, much to the detriment of all New Yorkers,” Brown wrote. He is also urging Cuomo, a former assistant district attorney in Manhattan and former attorney general, to veto the bill.

The district attorneys for the Bronx, Brooklyn, and Manhattan did not return requests for comment.

In a separate appearance on Capitol Pressroom, David Soares, the president-elect of the District Attorneys Association of the State of New York, raised both constitutional and content-based critiques of the legislation.

On constitutionality, the legislation allegedly circumvents a section of the state’s governing document allowing only the Governor, not the Legislature nor an independent commission, to remove district attorneys from office. He noted that the Commission on Judicial Conduct was established through constitutional amendments, not regular legislation -- such amendments must be passed by consecutive sessions of the Legislature, then the voters by popular referendum.

Soares also criticized the legislation as not requiring complainants to provide a sworn affidavit, “under the penalty of perjury,” and that most instances of “misconduct” were actually not intentional.

He added that if the legislation were to be signed by the governor, then DAASNY would sue the state to block its implementation. The governor's office, in a statement to Gotham Gazette, did not address the potential lawsuit nor signal an intent to sign the bill or not.

"We believe there should be accountability for all officers of the court, and we will absolutely be reviewing this bill," said Cuomo spokesperson Tyrone Stevens.

DeFrancisco told Gotham Gazette that he believes the governor will sign the bill. "I think he will sign it. The governor, I think, understands this history here."

# *Here Is NYC's Draft Plan To Build Four Jails And Shut Down Rikers Island*

Gothamist  
BY CHRISTOPHER ROBBINS  
AUGUST 15, 2018



Without much fanfare, on Wednesday the de Blasio administration released its draft plan to build four borough-based jails as part of its initiative to close the violence-plagued facilities on Rikers Island over the next decade.

Each of the facilities in the Bronx, Brooklyn, Queens, and Manhattan would be built to hold around 1,500 detainees, which reflects the need, first outlined in the Lippman Commission report from last year, for the City to reduce its total jails population to around 5,000 people for the plan to succeed. The site in the Bronx may contain 234 housing units, some of them affordable.

When Mayor Bill de Blasio took office, the jails population was at 11,000; last year it dipped to 9,400, and this past May it stood at 8,485. The goal is to have that number down to 7,000 by 2022, and 5,000 by 2027.

Brandon Holmes, the campaign coordinator for the #CloseRikers campaign at JustLeadershipUSA, an advocacy group dedicated to halving the country's prison population by 2030, said that while the plans for the individual jails were a step in the right direction, "it's kind of like putting the cart before the horse."

"We need to be focused on decarceration, and how we reach that 5,000, before we address these other issues," Holmes told Gothamist. "The Mayor's Office has failed to bring all the stakeholders and agencies it oversees together to make this happen."

Holmes pointed to the NYPD's insistence on continuing the policies of Broken Windows policing—cracking down on low-level offenses like turnstile jumping, public urination, and marijuana possession, and the reluctance of the district attorneys in Queens, the Bronx, and Staten Island to move towards policies of not prosecuting those low-level offenses, as major obstacles to reducing the population of people who are awaiting trial, and haven't been convicted of a crime.

"If the communities don't understand that we are decarcerating, everyone is just going to say, 'Oh, there's a jail coming to my community, I don't like that.'"

Juan Cartagena, the president and general counsel for LatinoJustice PRLDEF, a national civil rights public interest law office, agreed.

"I don't think the City or the mayor is doing enough to [close Rikers Island], but nor is the governor. They are not in sync," Cartagena, who was a member of the Lippmann Commission, told Gothamist.

"The one that we don't talk about enough is Albany. They definitely have to reduce some of the engines of minor infractions—marijuana legalization. They have to increase case processing times, they have to provide clear avenues for better discovery so criminal defense attorneys can actually have all the knowledge to best represent their clients. Plus the elimination of cash bail," Cartagena said.



Stanley Richards, the executive vice president of the Fortune Society, who helped lay out the administration's plan to reporters at a briefing on Wednesday, said he understood those concerns, "but we can't let perfect be the enemy of good."

"We have enough momentum right now that we need to be moving, that 5,000 figure is non-negotiable. And at some point it will require the state to come to the table, it will require the mayor to continue to move, and he's doing it," Richards said.

In 2016, Mayor de Blasio called closing Rikers a "noble concept" but said it was ultimately unfeasible. It took the Lippman report and lobbying from former City Council Speaker Melissa Mark-Viverito to get him to agree that Rikers could be shut down.

"Whatever it took him to get to the table, he's at the table," Richards said. "The mayor is really taking this on."

In a statement, Tyrone Stevens, a spokesperson for Governor Cuomo, said, "Because the City repeatedly violated the civil rights of inmates, they are operating under a Department of Justice consent decree, which requires they be monitored for basic compliance with the law." Stevens added, "If the City is serious about closing the atrocity that is Rikers, they'll stop the deflecting and excuse-making, and just get it done."

Three of the four jail sites, in Queens, Manhattan, and Brooklyn, are on lots where jails currently exist. In Manhattan, at 80 Centre Street, the City envisions a 40-story building may include offices for the Manhattan DA's office, as well as "programming and recreational space." Brooklyn's site would also be close to 40 stories, on the site of the Brooklyn House of Detention.

In the Bronx, the City wants to build a 26-story jail on top of an NYPD tow lot in Mott Haven. From the City's plan:

The program for this development has not yet been identified, but for the purposes of analysis and based on a conceptual design, the proposed building is assumed to contain approximately 209,000 gsf of floor area, with approximately 31,000 gsf of ground floor retail and approximately 234 dwelling units, which would include affordable units.

"I would say to the communities, this isn't just about supplanting what we currently have on Rikers," Richards said, noting that the new facilities will have smaller, well-lit housing areas with access to services and recreation. "We are fundamentally changing the way detention happens...Those principles require space."

Richards added that the idea is to have pre-trial detention be seen as "a movement in time that they can begin to build a new life so they don't come back."

Councilmember Karen Koslowitz, who represents the Kew Gardens neighborhood where the 29-story Queens facility would be located on the site of the old Queens House of Detention, said she liked what she saw in the planning documents.

"While nobody likes or wants jails in their community, I think this jail, economically, it will be good for the community, people coming into the community to visit, your Correction Officers and Court Officers coming in, everybody looking to go to someplace to eat or hang out," Koslowitz said.

"In the long run, it's not going to be harmful to the community, otherwise I would never think of supporting it."

In a little over a month, the City will begin holding public meetings (dates and locations below) to receive input on the plans, with the hope that they will be certified by the end of 2018, so that the Uniform Land Use Review Procedure can begin in mid-2019.

# *Bill to oversee DAs misses the point*

Newsday  
By Madeline Singas  
August 16, 2018



Criminal justice advocates are right: The process to discipline New York lawyers is slow and secretive, and comprehensive reform is overdue.

District attorneys welcome changes to improve oversight of all New York's more than 177,000 licensed attorneys. But a bill now awaiting the signature of Gov. Andrew M. Cuomo would leave this broken system in place for most lawyers and create a costly, duplicative commission exclusively to oversee only district attorneys. It is wrongheaded.

The Assembly and Senate passed no meaningful ethics reforms — in the wake of a drumbeat of corruption convictions from within their own ranks — during this year's session. Most recently, former Senate Majority Leader Dean Skelos of Rockville Centre and former Assembly Speaker Sheldon Silver of Manhattan were convicted of federal corruption charges. It is especially troubling that lawmakers in Albany have rushed through this legislation to investigate and discipline only those with the authority to prosecute their own misdeeds.

In the bill, Senate and Assembly leaders give themselves the constitutionally questionable power to appoint a majority of the commissioners who would discipline or even seek removal of a district attorney who might be investigating any of them.

Moreover, the legislation would create an expensive bureaucracy for state taxpayers, and counties would face the potentially exorbitant cost of defending prosecutors against frivolous allegations before two overlapping disciplinary bodies with jurisdiction. All of this would distract prosecutors from their important work, seeking justice for victims and keeping our communities safe.

District attorneys have great power in our criminal justice system, and with that comes an obligation to adhere to the highest legal and ethical standards. We should be subject to vigorous, fair and independent oversight. But establishing a commission appointed in part by Albany politicians exclusively to police district attorneys in New York's 62 counties, while leaving the current flawed system in place for crooked Wall Street lawyers, client-scramming real estate attorneys, and corruption-enabling government lawyers is a mistake.

Two statewide panels of experts have examined attorney discipline and rejected the establishment of a new commission, instead proposing broad reforms to the existing grievance process.

In 2015, the Statewide Commission on Attorney Discipline, appointed by then-Chief Judge Jonathan Lippman, recommended standardized procedures and rules, increased transparency, and additional resources to improve efficiency and accountability. And last year, the New York State Justice Task Force, appointed by Chief Judge Janet DiFiore, recommended specialized training in criminal law for grievance committee members and the review of court decisions for findings of prosecutorial misconduct or ineffective assistance of counsel, among other reforms.

# *OP-ED: Making the case for community justice*

Downtown Express  
BY ANA L. OLIVEIRA  
August 22, 2018



It's time to put an end to the ongoing misery of the Rikers Island jails.

Doing so will require wholesale justice reform and investments in community programs to divert people out of the system in the first place.

It will also require establishing a smaller system of modern facilities in the boroughs that treat detained people with dignity and better prepare them to reenter society. This past week, the city released initial plans for an expanded jail adjacent to the criminal courthouse in downtown Manhattan, as well as plans for Brooklyn, the Bronx, and Queens.

The decision to close Rikers was spurred, in part, by a report from an independent group that was tasked with studying New York City's justice system.

I am a member of this group—sometimes called the Lippman Commission after its chair, former New York chief judge Jonathan Lippman—along with more than two dozen other New Yorkers from a wide range of backgrounds, including law enforcement, the judiciary, corrections, social services, and business. Several have themselves spent time behind bars at Rikers.

We heard from prosecutors and public defenders, correction officers and union representatives, and health care providers and educators who work in city jails. We heard from those who have been incarcerated, who described awful living conditions and a culture of brutality. We heard about the unique challenges faced by women at Rikers, who are more likely to arrive in the system with underlying histories of trauma and abuse that are often exacerbated by the harshness of the jail environment.

We also took a hard look at the data about who is in city jails. Nearly 80 percent are awaiting trial, and the rest are sentenced to less than one year or alleged to have violated the conditions of their parole, such as missing an appointment or failing a drug test. The majority—75 percent—return directly to our neighborhoods when they exit jail.

It did not take long for our commission to conclude, unanimously, that the Rikers jails should be closed. The outdated layout and poor condition of the jails themselves is a danger to correction officers and detained people alike. They lack well-designed spaces for programming to keep detained people busy when they are incarcerated—which is critical for safety—and for the care and services to help them succeed when they come home.

Rikers is also physically and psychologically isolated.

We heard again and again about the difficult, and sometimes harrowing, experiences of family who sought to visit Rikers, often spending most of a day traveling to and from the jails for just a few minutes with a loved one. Yet these visits are key to maintaining the bonds that help detained people when they return home, especially mothers who are separated from their children.

Because most of the people on Rikers are awaiting trial, they regularly must be bused to and from courthouses in each of the five boroughs. This process takes all day, even for court appearances that last only a few minutes. It causes case delays and costs more than \$30 million each year.

To address these deep-seated problems, our commission put forward a roadmap for a smaller and more effective justice system that would preserve safety while sending fewer people to jail.

We called for reforms at every stage of the process. These include diverting people with mental health and substance abuse issues out of the justice system so they receive the care they need, reforming the bail system so that your wealth doesn't determine whether you go to jail, and prioritizing alternatives to incarceration. Also critical are gender-responsive interventions to dramatically reduce the number of women held in jail, who often have not benefitted from previous reforms to the same extent as men.

Over the past year and a half, as initial changes have taken hold, the jail population has declined by more than 1,000 people—and the city remains safer than ever.

Our commission also called for borough-based jails located next to the city's criminal courthouses. These facilities can be much better-designed than the obsolete jails on Rikers, creating a more humane environment for correction officers and detained people. They can also provide benefits to the neighborhood—and the City's proposal to build on the site directly south of the criminal courthouse would permit the return of a plot containing the current Manhattan Detention Center, which is to the north of the courthouse, to the community.

Moving forward, the design of these facilities must take place with community involvement and address the concerns of those who live and work nearby.

Together, we can create a community justice system worthy of our great city and – in the process – become a beacon of fairness and justice for the rest of the country.

# *Closing Rikers will make the city safer*

Crain's New York Business  
By Richard M. Aborn  
September 26, 2018





With the announcement of plans for borough-based jail facilities, New York City is well on its way to closing the massive and infamous Rikers jail complex.

Shutting down Rikers is within reach because of a little-known success story. In the past two decades, the city has dramatically reduced the number of people it sends to jail, with no corresponding rise in crime. Just the opposite—the city is safer than ever.

But there are surprising statistics about our jails that show where we can further reduce the number of people we incarcerate.

Last year nearly half of the people who were processed into New York City jails were released less than one week later. If it was safe to release them in just a few days, then most shouldn't have been sent to jail in the first place. In fact, of all the people admitted to jail, more than 75% returned directly to our neighborhoods, usually within a short period of time.

There is no doubt that certain people should be held in jail while they await trial. I was a violent-crime prosecutor for too many years to think otherwise. But the Hippocratic Oath applies equally to criminal justice: "The first thing is to do no harm." The power of criminal law to take away liberty must be exercised with extreme caution.

As the statistics show, we can do more to reserve incarceration only for those who merit it and avoid it for those who don't. This is critical because the destructive impact of unnecessary incarceration actually threatens public safety by depriving those who would benefit from appropriate intervention and instead places them in jail, which only reinforces negative attributes.

Even a short stay in jail can cost people their job, home, access to educational opportunity and their reputation in the community. It can cut them off from loved ones who need their support—or whose support they need. It puts them in a stressful and sometimes dangerous jail environment that can expose them to bad influences.

For all these reasons, research shows that even a short time in jail increases the likelihood that people will end up back in jail at another point in their life.

In recent years there has been great progress toward using incarceration only as a last resort. The NYPD has abandoned the destructive stop-and-frisk policy of years past, replacing it with "precision policing"—a methodology of focusing on offenders that vastly reduces harmful contact with community members—and an intense focus on getting illegal guns off our streets. The Mayor's Office of Criminal Justice has focused, smartly, on fundamental drivers of crime in high-risk neighborhoods. The City Council is wisely investing in crime-prevention techniques that will keep many people out of the justice system in the first place.

The results of these efforts are palpable: Crime continues to hit historic lows even while arrests are down significantly. Fewer people are in state prisons, and the Rikers population has been steadily reduced from a high of 20,419 in 1991 to fewer than 8,300 today.

All indicators are pointing in the right direction. But the job is not done.

Last year an independent commission on which I serve—known as the Lippman Commission after its chairperson, Jonathan Lippman, a former chief judge of New York—put forward a blueprint for a fairer justice system, including reforms that would safely reduce the use of incarceration.

In particular, state action on policies such as bail reform and its associated elements would go a long way toward reducing unnecessary jail time.

For those who must be incarcerated, a modern system of borough facilities will better prepare them to eventually return to their neighborhood by linking them to important programs and services. Borough facilities also will encourage visitation by family and loved ones, which is linked to improved behavior in jail and better outcomes when people re-enter society.

The incessant torrent of violence on Rikers is far too well-documented to be disputed, and this dysfunction doesn't come cheap. The jail system costs taxpayers \$270,000 per bed every year. A smaller, better system would save enormous amounts of taxpayer money—money that can be better spent to further improve public safety through better education and job training.

Closing Rikers is the right thing to do, and it should be done with undue haste. There is no such thing as too soon.

# *Lancman, Quinn spar at Rikers debate*

Queens Chronicle  
by Ryan Brady, Associate Editor  
September 13, 2018



When Councilman Rory Lancman (D-Fresh Meadows) and Senior Executive Assistant District Attorney James Quinn debated closing the Rikers Island jail complex last Wednesday, tension was never far from the room.

Quinn, one of District Attorney Richard Brown's top lieutenants, has been a vocal critic of Mayor de Blasio's plan to shut down Rikers and build borough-based jails. In Queens, the city's plan is to redevelop the old House of Detention in Kew Gardens.

And Lancman, who in the past worked professionally as a trial lawyer and now chairs the Committee on the Criminal Justice System, is an outspoken critic of the jail complex who says the design of its buildings ensures that it cannot be a humane one.

The lawmaker has publicly expressed interest in running for Queens district attorney when Brown leaves the position.

The mood at the debate, which the Kew Gardens Hills Civic Association hosted, became particularly tense during an exchange about Kalief Browder, the former teenage Rikers inmate whose memory is invoked by advocates for the complex's closure.

He committed suicide after spending two years of solitary confinement at the complex, where he was battered by guards and inmates. Browder could not pay the \$3,000 bail that was demanded of him. He was incarcerated there after being charged with stealing a backpack but wasn't convicted.

Lancman and other criminal justice reform advocates have argued that Browder's tale is an indictment of the culture at Rikers.

But their version of the narrative, Quinn argued last Wednesday, is misleading.

"Kalief Browder did not commit suicide at Rikers Island. He committed suicide two years after he got out of Rikers Island. That is a fact," the ADA said.

When the crowd started to applaud, Lancman looked shocked.

"I think anybody who clapped should really look at themselves, look in their soul and find out what darkness exists there because I cannot believe that I witnessed that cruelty here tonight by the people who clapped at Kalief Browder's suicide," the councilman said, garnering some applause from part of the audience.

Lancman explained that he wasn't criticizing Quinn, just the people who clapped at his comment. The ADA stood by his own statement, though, and clarified its intent.

"I brought it up because the narration has always been that he killed himself because he was in Rikers," he said.

The councilman shot back. “And you dispute that his suicide wasn’t related to his time in Rikers? Oh, my goodness. OK!”

The two of them continued to go back and forth about Browder, as they did on other issues. Days after the debate on Monday — World Suicide Prevention Day — The Legal Aid Society issued a statement blasting Quinn for his remarks about Browder.

“It shocks the conscience that Queens District Attorney Richard Brown has remained silent since last week’s debate where his deputy attempted to downplay the devastating effects that Rikers Island had on Kalief Browder,” Tina Luongo, attorney-in-charge of The Legal Aid Society’s criminal defense practice, said in a prepared statement.

Brown’s office did not respond to a request for comment prior to deadline.

During one part of last Wednesday’s event, a member of the audience said she did not think the debate was really about race and prison reform, which Lancman had argued were central components of why the jail complex should be shut down. She instead said the meeting was instead about how a new jail in Queens would impact the surrounding communities.

The councilman respectfully disagreed with the comment

“With all due respect, the issue of closing Rikers and whether it should be closed is about race, is about prison reform,” he said.

“No!” members of the audience shouted.

“And I know that’s painful, fellow white people!” Lancman said. “I know that it is.”

“No!” they again shouted.

Among other issues, the assistant district attorney and the councilman also sparred over how much shutting down Rikers would cost — one of the topics studied by the Lippman Commission, an independent panel formed by then-Council Speaker Melissa Mark-Viverito that urged the closure of the jail system. The commission found it would be cheaper to build borough-based facilities than rebuild the existing ones at Rikers.

Quinn pointed out that sites to build the jails “hadn’t been decided” when the commission did its analysis, a fact he said calls the conclusion about costs into question.

# ***BROOKLYN RESIDENTS PROTEST ‘MINIATURE RIKERS’ AS CITY UNVEILS PLANS TO EXPAND BOROUGH JAIL***

Shadow Proof  
By ASHOKA JEGROO  
SEPTEMBER 25, 2018



Brooklyn residents let New York City officials and their corporate partners know on Thursday that, rather than the expansion of the Brooklyn Detention Complex proposed as part of Mayor Bill de Blasio's plan to shut down Rikers Island, they want "no new jails."

The public hearing inside PS 133's auditorium on September 20 was supposed "to provide the public with an opportunity to comment on the scope of work that outlines how [the] environmental impact statement, or EIS, for [the new jail] will be prepared" according to city officials at the beginning of the hearing. But local activists and residents were not there to just talk about the environmental impact statement.

Even before the town hall began, activists with the #NoNewJails campaign were at the entrance of the auditorium handing out literature stating that they "support the closure of Rikers" and "oppose new jail construction." Instead of investing in jails and the criminal justice system, activists demand that NYC "invest in community resources" and "close jails by investing in alternatives to criminalization and imprisonment."

The city gave out two small booklets that explained the mayor's plan "towards a borough-based jail system," which is supposed to cost an estimated \$10.6 billion over 10 years, and attempted to present the idea of new jails in a seemingly progressive way. One booklet described how the new jail in Brooklyn would look, stating that "there would be retail and community space" on the ground floor and even included a rendering of the street level view. The rendering showed a colorful and ultra-gentrified street with civilians nonchalantly walking past the aesthetically-pleasing glass front doors of the jail.

Dana Kaplan of the Mayor's Office of Criminal Justice gave a presentation at the beginning of the hearing. She said the Rikers Island jail complex could not simply be reformed and listed reasons, such as how its geographic location makes it inefficient and expensive, and how it affected local traffic.

But Kaplan never mentioned the culture of violence, torture, and sexual abuse by corrections officers or the fact that 89% of the people locked up on Rikers (itself named after a slave catcher) are Black or Brown.

In October 2016, a federal monitor found that jail guards habitually hit incarcerated people in the head simply for not following orders. In April 2017, the same federal monitor found that corrections officers used violence against incarcerated people, particularly young people, at "an alarming rate." And in April of this year, the same federal monitor found that even with new leadership, more resources, and a smaller jail population, violence by corrections officers had increased.

Unlike Rikers, this new Brooklyn jail, according to Kaplan, would look nice from the outside, include recreational space for people locked up there, and involve the surrounding community in its design.

"We are committed to working with the community to help influence and shape what the exterior design can be," she said. "It does not have to look like some of the fortress-like correctional institutions we have seen."

After Kaplan, Eric Fang from the architecture firm Perkins Eastman gave the sales pitch for this new jail.

Perkins Eastman is allegedly known for its (faux-)progressive approach to jail design and previously helped build at least three courthouses in NYC. In January, they were awarded a \$7.5 million contract just to lead a study of potential sites for the proposed new jails.

Fang presented a rendering of the jail's "welcoming lobby." He sat next to city officials when he wasn't speaking, which gave the appearance that Perkins Eastman was just another part of the city government.

Others were allowed to speak after the presentations. Politicians and their flacks were given a platform first.

Rather than opposing new jails outright, elected officials mainly complained about the process' lack of community engagement. Councilmember Stephen Levin, who supported building the new "modern, humane" jail, couldn't even finish his statement before being shouted down by the audience.

When the public was finally allowed to speak, there seemed to be near-consensus that Rikers Island needed to be shut down. The main division amongst the public seemed to be between people who opposed the new jail and a smaller group of people who thought the new jails were necessary in order to close Rikers.

Many of those who supported (or at least were willing to tolerate) the new jails were associated with Just Leadership USA's #CloseRikers campaign (with the exception of activist Darren Mack who usually sounds much more abolitionist than the rest of the #CloseRikers campaign).

Even Tyler Nims from the Lippman Commission, the City Council-created commission that suggested to Mayor de Blasio that Rikers be closed, indicated support for new jails. Nims confessed he was gladly surprised to see that everyone agreed Rikers should be closed but stated that doing so was impossible without opening up these new jails. He argued, while not ideal, they would be an improvement of conditions.

"If we really want to close Rikers as soon as possible, you will need to have a smaller system of jails," Nims said. "I sympathize with people who want to have nobody in jail, but if you realistically want to close Rikers as fast as possible, [...] I think that's the way to go."

Some of those who opposed the new jail did so because of its size and how it would affect the surrounding community. But a larger chunk of the people opposing the new jail were #NoNewJailsNYC activists.

#NoNewJailsNYC activists insisted there was no such thing as a "humane jail." They listed ways to close Rikers without having to open up new jails, such as ending Broken Windows policing and cash bail. They demanded that resources be invested in communities instead of incarceration and expressed concern that the brutal conditions that prevail on Rikers would simply continue in these proposed facilities.



“What is the guarantee that we will not end up with four new jails that are simply just miniature Rikers?” asked Kei Williams, a #NoNewJailsNYC activists and former member of the now-defunct BlackLivesMatter NYC chapter.

Lawyer and activist MJ Williams went even further. She questioned whether Rikers would be closed at all once these new jails are built since the city says it will close the complex only if the jail population decreases.

“If the city approves the construction of new jails based on its wrong-headed plan,” Williams said, “New York will end up with Rikers and four new jails.”

Albert St. Jean, an activist with the Black Alliance for Just Immigration (BAJI) and #NoNewJailsNYC, argued money would be better spent on providing mental healthcare, housing, education, and other resources to affected communities.

“The city must understand that Rikers is a microcosm of all the areas in which this society has failed the working class and poor Black and Brown New Yorkers,” he said to applause. “There is no need to invest resources into funneling more of us into the prison-industrial complex.”

Toward the end of the hearing, after many people had already spoken and left, Akeem Browder spoke in opposition to the new jail.

Akeem’s brother Kalief Browder was locked up on Rikers Island for three years, two of which were in solitary confinement, for allegedly stealing a backpack. The Browder family couldn’t afford Kalief’s \$3000 bail so he remained incarcerated and subject to the violence of corrections officers. His charges were later dismissed. Kalief died by suicide shortly after being released, and his death became a rallying cry for closing Rikers.

“What we really want is to say that there are better options for our communities than to put us in cages, abuse us, and keep us there for years against our will because we are poor,” Akeem said. He contended these new jails would only lead to more people being tortured and neglected like his brother.

When the three-hour hearing was finally adjourned, activists chanted “No new jails!” from the back of the auditorium.

There are three more hearings scheduled for the other boroughs where new jails are being built. The Queens hearing is set for September 26, followed by the Manhattan hearing on September 27 and ending with the Bronx hearing on October 3. The public can submit a written comment on the project until October 15.

# *OPINION: Locating new jails, difficult no matter what*

Brooklyn Daily Eagle  
By Raanan Geberer  
October 26, 2018



CROWDED PRISON BLUES

Since Mayor Bill de Blasio announced last year that he plans to close the city's troubled Rikers Island jail complex within 10 years, controversy has rippled throughout the city.

The reasons, cited by an independent commission, included poor conditions for inmates and guards, difficulty in visiting inmates, the high cost of transporting prisoners in and out of the remote facility and more. The commission, headed by former New York state Chief Judge Jonathan Lippman, also cited the "deep-seated culture of violence at Rikers Island," although the same could probably be said about at least half the jails and prisons in the United States.

This past August, the mayor announced four borough-based sites to replace Rikers. The borough that has been "left out" is Staten Island — de Blasio said at a press conference, "I know of very few inmates from Staten Island."

In Brooklyn, the mayor plans to expand the Brooklyn Detention Complex, better known as the Brooklyn House of Detention, on Atlantic Avenue in Boerum Hill. It seems like only yesterday that neighborhood groups were agitating to close the jail, which they saw as an impediment to development in the area.

The city's plan would demolish the existing building, then construct a tall new building containing nearly 1.5 million square feet. Although Councilman Steve Levin supported the plan, at a meeting at P.S. 133 in September, other elected officials as well as representatives of organizations such the Brooklyn Heights Association spoke out against it. They say the building would be out of sync with the surrounding low-rise neighborhood.

"The problems that exist on Rikers exist in the borough jails," Miriam Fishman, who lives nearby, told Gothamist.

A similar scenario is taking place in Queens, where the city wants to reopen and rebuild the long-vacant Queens House of Detention on 72nd Avenue in Kew Gardens. Local Councilwoman Karen Koslowitz said that the new facility would bring significant economic development to the area and provide hundreds of new parking spaces.

But in Queens, too, many local community leaders are opposing the plan. Kew Gardens Civic Association President Dominick Pistone said that "all this means is more congestion." State Sen. Joe Addabbo Jr. (D-Howard Beach) said, "If there's an issue at Rikers, then delve into that problem. Don't waste money spreading the pain across the five boroughs."

Although such issues are often left unsaid, one problem may be the fear that some, although certainly not all, of the visitors to the new jail facilities may come from the criminal subculture and may commit crimes in the neighborhood.

Mary Frost of the Brooklyn Eagle recently wrote an article detailing the three recent gunfire incidents over the course of three months in the Downtown Brooklyn area. Brooklyn Borough President Eric Adams, a former police officer, blamed this outbreak on gang members and other criminal defendants visiting court and parole offices there.

On the other hand, locating the new jails in the boroughs, fairly close to the courthouses, will save untold time and dollar costs when transporting prisoners to court and back again.

Building jail facilities is a sensitive topic, and I don't pretend to have the answers. Input from everybody who would be affected — correction officers, the prisoners themselves, judges and lawyers, police officers, neighborhood residents, people who use street parking in the affected areas and others — is vitally needed before we make a decision.













