



January 19, 2022

Hon. Eric Adams
Mayor of the City of New York
City Hall
New York, NY 10007

Re: Recommendations for Combating Mass Incarceration in New York City

Dear Mayor Adams:

We are writing on behalf of the Mass Incarceration Task Force, Criminal Justice Operations Committee, Criminal Courts Committee, Corrections and Community Reentry Committee and Civil Rights Committee (collectively “the Committees”) of the New York City Bar Association (City Bar) to congratulate you on your inauguration as Mayor of the City of New York. The City Bar is an independent organization and professional home for approximately 25,000 lawyers, judges and law students; our mission is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest. The Committees share your commitment to comprehensive, thoughtful reforms that make our communities safer and reduce the number of jailed or imprisoned New Yorkers. As you plan your priorities for your Administration, we urge you to consider the pressing issue of mass incarceration and our recommendations for reducing the jail population, while remaining mindful of the proliferation of misinformation that threatens continued success of criminal justice reform.

The Committees, led by the Mass Incarceration Task Force, has compiled a thorough report that details several key areas of focus and comprehensive policy recommendations to reduce mass incarceration across New York City and New York State.¹ The report calls on our City and State legislators to implement sweeping revisions to the criminal justice system, so that its central purpose is to address the root causes of crime and more effectively and compassionately prevent further crime. The report details how this can be done by: arresting fewer people, arraigning fewer people, convicting fewer people, sending fewer people to prison, reforming prisons, reforming

¹ “A Pathway Out of Mass Incarceration And Towards a New Criminal Justice System: Recommendations for the New York State Legislature,” New York City Bar Association, May 13, 2021, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/a-pathway-out-of-mass-incarceration>. (All sites last visited Jan. 14, 2022).

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

parole and reentry, expanding sealing of convictions, recognizing mental health issues and concerns, and including those convicted of crimes of violence in reform.

We urge you to review this report in its entirety as you shape your criminal justice agenda. Here, however, we call your attention to a few key recommendations that, as Mayor, you can immediately incorporate and champion to address mass incarceration.

Police Reform

Reforming NYPD tactics that result in unnecessary, and violent, arrests is key to reducing mass incarceration. We encourage you to enact the following measures to ensure arrests further public safety and do not unnecessarily swell our City's jail population and court dockets:²

- create alternatives to police, such as employing non-law enforcement responders for mental health-related calls, and expand investment in community mental health programs
- review impacts of disability, ableism, and audism in policing practices and policies
- invest in violence intervention programs
- reduce and reimagine school safety officers
- revamp traffic enforcement so as to reduce unnecessary police contact
- change NYPD priorities, decreasing focus on low level crimes and increasing focus on violent crimes
- enhance police training
- demilitarize the police and reduce use of military tactics during protests
- support further decriminalization of low level crimes
- reform discipline processes, making them more transparent and accountable to public oversight
- create an independent prosecutor for police misconduct; and
- require information sharing among District Attorney offices in New York City when misconduct by an officer is determined to have occurred.

² For more information on the City Bar's recent recommendations related to police reform, see "Police Reform Efforts in New York State and New York City: More to Do," Sept. 29, 2020, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/additional-police-reform-efforts-ny-abuse-and-violence>.

Expand Alternative to Incarceration Options (ATI Programming)

Innovative programs like Project Reset and Project HOPE, based on the consent of district attorneys and/or the police department, divert New Yorkers who have committed minor crimes back to their communities for therapeutic programming and drug treatment. If an individual completes the program, their case is dismissed without the individual ever having to appear in court. The success of these programs in terms of recidivism, lowered rates of overdose, and fiscal savings is well-documented. ATI programming provides prosecutors and police officers with the ability to direct individuals whose crimes are minor and/or are the result of homelessness, substance use disorders or mental illnesses towards services rather than to the courts, and effectively reduces our jail population and maintains public safety. Currently, too few program options exist for pre-arraignment diversion. As Mayor, we urge you to expand pre-arraignment diversion by funding and promoting programs like Project Reset and Project HOPE to provide additional opportunities for people to obtain needed social services and avoid further involvement in the criminal justice system.

Augment Non-Law Enforcement Public Safety Interventions

New York City continues to be the nation's safest big city with overall crime rates remaining on par with 2019's historic lows. While instances of gun violence and homicides have risen since 2019, particularly during the pandemic, they still occurred less often than during previous mayoral administrations. Moreover, it is imperative that we address this trend in effective ways that ratchet down violence rather than potentially exacerbating it. Though policing is a critical response to discrete incidents, data show that community-based, public health-centered violence intervention programs do a better job of preventing and decreasing gun crime than traditional policing and prosecution. Here in New York City, implementation of the Save Our Streets program in Crown Heights led to twenty percent less gun violence than in adjacent police precincts.³ Richmond, California's Advance Peace program resulted in an eighty-five percent reduction in firearm assaults and sixty-five percent decrease in related homicides.⁴ And a study in Chicago found a thirty-one percent drop in homicides and a nineteen percent decline in shootings in two neighborhoods where violence interrupters worked.⁵

Even when responding to moments of crisis, alternatives to policing that deploy social workers, medical professionals, and crisis workers instead of the police create better outcomes for New Yorkers. Notably, the Behavioral Health Emergency Assistance Response Division (B-HEARD) pilot program in Harlem and East Harlem is a promising step in this direction, with preliminary data showing that compared with traditional responses, fewer B-HEARD clients were transported to hospitals and more people in crisis received care rather than refusing medical

³ Sarah Picard-Fritsche and Lenore Cerniglia, "Testing a Public Health Approach to Gun Violence: An Evaluation of Crown Heights Save Our Streets, a Replication of the Cure Violence Model," Center for Court Innovation, https://www.courtinnovation.org/sites/default/files/documents/SOS_Evaluation.pdf.

⁴ "Evaluation & Impact," Advance Peace, <https://www.advancepeace.org/about/learning-evaluation-impact/>.

⁵ David B. Henry, Ph.D., Shannon Knoblauch, B.A. and Rannveig Sigurvinsdottir, M.A., "The Effect of Intensive CeaseFire Intervention on Crime in Four Chicago Police Beats: Quantitative Assessment," Sept. 11, 2014, https://cvg.org/wp-content/uploads/2019/09/McCormick_CreaseFire_Quantitative_Report_091114.pdf.

assistance.⁶ We urge you to transform crisis response approaches to align with advocates' calls for systemic change, and include peers as first responders, encourage separation between 911 systems and police deployment, and increase the likelihood of receiving an alternative response.

Promote Reentry

Individuals released from prison should have access to stable housing, continuity of mental health and medical care, and assistance with job placement. Currently, numerous non-profits provide these services. Funding to these non-profits must be increased to ensure these organizations have sufficient resources to provide services to all who are released. Regardless of who provides the services, these services must and should be provided. They are a common-sense way to reduce crime and harm to individuals from incarceration. In addition, the costs of successful provision of services will be offset in the long term by reducing reincarceration and recidivism.

Fund Mental Health Treatment

It is indisputable that there is a massive over-representation of those with mental illness at every stage of the criminal justice process. We must begin to fund mental health treatment outside the criminal justice system and, when individuals with mental illness commit crimes, divert them into treatment wherever possible. We urge you to arrest, arraign, convict, and imprison fewer individuals with mental illness. If we are to truly make the criminal justice system a just and equitable system, we must also treat the mental illnesses of those who are in prison.

Close Rikers Island by 2027

The ongoing humanitarian crisis on Rikers Island underscores the paramount importance of building a borough-based system of jails.⁷ We applaud your commitment to closing Rikers Island. And we support the City's current plan to close Rikers Island by 2027 and build a smaller, safer, fairer jail system. Rikers Island and the current borough facilities were created in a different era and do not serve the current needs of incarcerated New Yorkers and their families. Notably, the borough-based plan includes safer housing units, ample programming space, the ability to house people close to their communities, families and courts, child-friendly visiting space, modern air conditioning and heating, access to natural light and normalized environments, and is designed to enable best practices and safety.

⁶ Madeleine Muzdakakis, "NYC's New Mental Health Response Teams Report Better Outcomes Than Police in Trial Period," My Modern Met, Aug. 4, 2021, <https://mymodernmet.com/nyc-b-heard-mental-health-response/>.

⁷ The City Bar has issued multiple reports in support of closing Rikers Island. *See e.g.*, "Statement in Support of Closing Rikers Island," Oct. 15, 2019, <https://www.nycbar.org/media-listing/media/detail/closing-rikers-island-support-for-borough-based-jail-plan> (support for closing the correctional facilities at Rikers Island and replacing them with a smaller system of borough-based facilities); *see also* "Mass Incarceration: Where Do We Go From Here?" Jan. 19, 2017, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/mass-incarceration-where-do-we-go-from-here> (support for Rikers Commission, which focused on reducing jail population at Rikers Island with the "ultimate aim" of closing the jail facility); Support for the "Less Is More Act," Report on Legislation by the Corrections and Community Reentry Committee, et al., reissued Feb. 2021, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/less-is-more-act-technical-parole-violations> (need for parole reform to eliminate reincarceration on technical parole violations and noting that such incarceration is a "serious obstacle" to City's plan to close Rikers Island).

We understand that the plan to close Rikers Island will be costly and that violence at the sprawling jail complex is worsening by the year.⁸ However, it is important that our city not revert to ill-fated solutions of the past, such as reinstating solitary confinement – a practice that the Board of Correction voted to abandon just last year.⁹ Though a seemingly impactful tool in the short term, solitary confinement has deleterious long-term mental and public safety consequences¹⁰ that will not move our beloved city closer to a safer, more just criminal justice ecosystem. Rikers must close and we urge your administration to end the Rikers era and humanitarian crisis by making expeditious efforts towards developing and building facilities that will humanely and safely house incarcerated New Yorkers.

Lead NYC in the Fight Against Criminal Justice Misinformation

You will assume office during a period of heated public discourse about the impact of criminal justice reform on community safety and stability. As lawyers committed to making our criminal legal system fairer and more just for all New Yorkers, we are disturbed by a lawlessness narrative that blames reform -- especially, bail reform -- for an overstated increase in crime rates. This narrative presents a false choice between public safety and criminal justice reform. But rhetoric is not fact, and the facts are clear: bail reform has been shown to reduce the number of people in jail without compromising public safety.¹¹ Of the 11,000 people released from New York City jails between January and June of 2020—as a result of bail reform and in response to the threat of COVID-19 behind bars—less than one percent were involved in any gun violence during that period.¹² Of that less than one percent, approximately half were involved as victims or

⁸ See Twelfth Report of the Nunez Independent Monitor, Dec. 6, 2021, <https://www.documentcloud.org/documents/21138915-12th-monitors-report-12-06-21-as-filed>.

⁹ See Notice of Adoption of Rules, Board of Correction, City of New York, June 2021, <https://www1.nyc.gov/assets/boc/downloads/pdf/RULE-AND-SBP-6-4-21-Legal-11833206.pdf>.

¹⁰ See “The Impacts of Solitary Confinement,” Vera Institute of Justice, April 2021, <https://www.vera.org/publications/the-impacts-of-solitary-confinement>.

¹¹ Tiana Herring, “Releasing people pretrial doesn’t harm public safety,” Prison Policy Initiative, Nov. 17, 2020, <https://www.prisonpolicy.org/blog/2020/11/17/pretrial-releases/>; see also “Empire State of Incarceration,” Vera Institute of Justice, February 18, 2021, <https://www.vera.org/empire-state-of-incarceration-2021> (“the first few months of bail reform implementation showed that releasing more people pretrial made communities no less safe”; citing University of North Carolina study showing Philadelphia District Attorney’s decision to stop requesting bail for people charged with one of 25 misdemeanor and felony offenses decreased the number of people who spent at least one night in jail and “did not increase failures to appear for court or re-arrests of people out on bail”); “The Facts on Bail Reform and Crime in New York City,” Center for Court Innovation, Feb. 3, 2021, https://www.courtinnovation.org/sites/default/files/media/documents/2021-02/Handout_Bail_Reform_Crime_02032021.pdf (New York Post analysis of NYPD data revealed that, of 528 shootings through June 30, 2020, only one person released due to New York’s bail reform was charged with a shooting; and studies of New Jersey, Chicago and Philadelphia’s restricted use of bail and pretrial detention found the reforms had no adverse effect on recidivism or court attendance. “There are no rigorous evaluations of bail reforms in any jurisdiction suggesting that they compromised public safety”).

¹² Craig McCarthy, Carl Campanile and Aaron Feis, “NYPD’s own stats debunk claims of bail reform leading to spike in gun violence,” NY Post, July 8, 2020, <https://nypost.com/2020/07/08/nypds-own-stats-debunk-claims-about-bail-reform-link-to-shootings/> (“In fact, just 91 of the approximately 11,000 people sprung from Rikers Island under the initiative — or 0.8 percent — have been found to be anywhere near a shooting this year, the figures show”).

bystanders to gun violence.¹³ And recent data from the Mayor’s Office of Criminal Justice underscores the point, showing that in June 2021 less than one percent of people awaiting trial in New York City were rearrested for violent felony offenses.¹⁴ Meanwhile, pretrial detention has harmful effects on individuals and their families and communities, as even short periods of pretrial detention are associated with higher incidences of future involvement with the criminal justice system.¹⁵ As you step into this critical leadership role with influence well beyond our city borders, we urge you to bring your experiences and expertise to bear and to use data, facts and transparency to rebut misinformation suggesting that bail reform has led to the release of dangerous people into the community and threatening criminal justice reforms that make all New Yorkers safer.

Congratulations again on your inauguration as Mayor of the City of New York. We are heartened by your commitment to a safer, fairer, and more just New York for all who live in, work in, and visit this great city, and stand ready to assist you and your administration in any way we can.

Respectfully,

Sarah J. Berger, Co-Chair
Jullian D. Harris-Calvin, Co-Chair
Mass Incarceration Task Force

Tess M. Cohen, Chair
Criminal Justice Operations Committee

Anna Cominsky, Member
Criminal Courts Committee

Gregory D. Morril, Chair
Corrections & Community Reentry Committee

Kevin E. Jason, Co-Chair
Kathleen Rubenstein, Co-Chair
Civil Rights Committee

¹³ *Id.* (“And more than half of those 91 are not accused of any wrongdoing, with the department describing 25 as ‘victims’ and another 24 as ‘witnesses’ — on the grounds that the mere presence of criminal justice reform beneficiaries is leading to shootings”).

¹⁴ *See* “How Many People with Open Criminal Cases Are Re-Arrested?” Mayor’s Office of Criminal Justice, Dec. 2021, at 22, <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2021/12/Pretrial-Docketed-Rearrest-Contextual-Overview-December-2021-Update.pdf> (“Of the about 45,000 people who were awaiting resolution of their case in the community in June 2021, 96% were not rearrested at all during the month, and over 99% were not rearrested on a VFO”).

¹⁵ *See e.g.*, Leon Digard and Elizabeth Swavola, “Justice Denied: The Harmful and Lasting Effects of Pretrial Detention,” Vera Institute of Justice, April 2019, <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>.

Cc:

Philip Banks, Deputy Mayor for Public Safety

Lorraine Grillo, First Deputy Mayor

Deanna Logan, General Counsel and Deputy Director for Crime Strategies, Mayor's Office of Criminal Justice

Amanda Masters, Acting Executive Director, Board of Corrections

Brendan McGuire, Counsel

Roberto Perez, Director, Mayor's Office of Intergovernmental Affairs

Georgia Pestana, Corporation Counsel

Sherif Soliman, Director Mayor's Office of Policy and Planning

Contact

Mary Margulis-Ohnuma, Policy Counsel | 212.382.6767 | mmargulis-ohnuma@nycbar.org

Elizabeth Kocienda, Director of Advocacy | 212.382.4788 | ekocienda@nycbar.org