Written Testimony to the New York City Council
September 21, 2020 Oversight Hearing (Criminal Justice & Health and Hospitals Committees)
By Sarita Daftary, member, Jails Action Coalition

Attn: Committee Chairs Council Member Powers and Council Member Rivera, and committee members

Good afternoon, I'm testifying today as a member of the Jails Action Coalition, and the Justice 4 Women Task Force.

First, I want to thank the Chairs and the Council for holding this hearing and for your work, in partnership with the formerly incarcerated leaders and allies, to advocate for reducing the use of incarceration in New York City overall, and in response to Covid-19. The urgency of decarcerating, closing Rikers, and addressing unsafe conditions in all City jails is more clear than ever.

The last few months have magnified both the completely unacceptable physical environment in the jails, and also, the disregard and disorganization with which the Department of Corrections and its staff operate.

Again, we continue to hear a great discrepancy between what DOC says is being done, and what people in the jails are reporting to us and their family members. Recently, loved ones of people currently in DOC custody reported the following:

- One mother described that her son, and others in his housing unit at RNDC, have not had access to a barber since March. She said he looks neglected and sad in her weekly video calls with him. She said COs are not consistently wearing masks.

- A woman described that her partner, who is being held at the Boat, has watched DOC put up signs saying that they will be giving masks and gloves, but haven’t. He said COs are not wearing masks and gloves themselves.

- A mother, reporting back from her son, who is also held on the Boat, said that DOC gives only small hotel size soap bars, and only “when they have them.” He said they also give masks only when they have them, and when people in custody ask. Often they must reuse masks repeatedly, and he also noted that the COs are not wearing masks regularly at all. People in custody are expected to clean their own housing areas, but they are not provided with disinfectant regularly. He described a particularly dehumanizing incident last week, when a person in his cell block who was not mentally well overflowed his toilet. The people in custody were forced to clean feces and urine the best they could, without proper supplies.

While the behavior of DOC indicates that they feel no urgency to enforce the Covid-19 regulations among their staff, they continue with provisions that are convenient for them - prohibiting visiting and programming. The reason is pretty transparent - DOC has always viewed
visiting and programming as a nuisance, and is using this opportunity to deny those rights to people in custody.

There is a clear discrepancy between what DOC says they are doing, and what people in custody report. But that is not new. It is the City’s duty and responsibility to keep people in custody safe. But people in DOC’s custody were not safe before Covid, and they aren’t safe now. It has been well-documented, by the Federal Independent Monitor and others, that this is a department that is consistently violating minimum standards for responsible treatment of people in their custody, and consistently fails to hold its staff accountable for following rules established to protect the human rights of people in their custody. Yet the Mayor has subjected the Board of Corrections to budget cuts that will reduce their staff, who provide crucial oversight, by 31%, without planning any similar cuts to the DOC, which employs two officers for every person in custody but still can’t manage to consistently distribute masks? This Council simply cannot let that happen.

Given what we know about DOC, and their demonstrated disinterest or inability in treating people in their custody as humans, it is so important that this Council take every possible measure to keep people out of their custody. The average daily jail population has increased over 13% since April, from just about 3,800 people to now over 4,300 people, with more people being admitted daily. The number that has risen the most is the number of people being detained pre-trial, in response to a fear campaign from the NYPD suggesting that the courts were somehow not working and not enough people were being detained. It is imperative to remember that over 90% of people on Rikers Island are awaiting trial, and this Council must consider what you need to do to make the presumption of innocence apply to everyone, including withholding funding from DAs and looking at systems for reviewing judges’ records.

In today’s hearing, the Department of Corrections also noted that they are using a risk assessment tool to assess City Sentenced individuals for possible release under the 6A program. I want to strongly urge the Council to demand that the Department provide a detailed description of the factors considered by this risk assessment. These assessments almost always rely on information drawn from racially-biased policing practices (like age of first arrest) and class-biased measures of community ties (such that people experiencing homelessness are penalized). The Council should do everything in its power to move swiftly to establish the conditional release commission discussed in the hearing, so that these decisions do not lie solely in the hands of DOC.

Thank you,

Sarita Daftary
NYC Jails Action Coalition