**Opening Remarks --- Fixing New York City's Jails: A Federal Receiver?**

**MAY 24, 2022**

Thank you for coming, my name is Vinny Schiraldi, Senior Research Scientist for the Columbia School of Social Work and Senior Fellow at the Columbia Justice Lab.  I’d like to welcome you to today’s forum on behalf of the Lab, the School of Social Work and co-sponsors – the Columbia Law School, CUNY – Institute for State and Local Governance, & Vital City.

Before I go any further, I’d like to observe a moment of silence on behalf of Correctional Officer Edward Roman, who died by suicide last weekend and five incarcerated people who have died in custody this year Tarz Youngblood, George Pagan, Herman Diaz, DaShawn Carter, and, most recently, Mary Yahudah who died just yesterday.

Thank you.

RIKER’S BACKGROUND - During the final seven months of Mayor de Blasio’s Administration in 2021, I was Commissioner of NYC’s Department of Correction. There has been, appropriately, an enormous amount of media coverage of the violence and chaos at Rikers before, during, and since that time. What many of you heard about the awful conditions there from union members, staff, incarcerated people, advocates, Board of Corrections, monitor, and the media is, by and large, true.

The City is under a federal consent decree in *Nunez v. the City of New York* filed to address the unconstitutional “culture of violence” in city jails. But even with a strong and experienced monitoring team led by Steve Martin since 2015, things have steadily – and then rapidly after the advent of the pandemic – deteriorated since then. As recently as March, the Monitor wrote that the City’s jails are “trapped in a state of persistent dysfunctionality” with “*imminent* risk of harm to incarcerated individuals and staff.”

Or maybe not so imminent, maybe already realized…

For example, in 2020, there were 121 stabbings/slashings, something the Monitor described as a high number compared to national rates of violence. Then, last year, there were 420 slashings and stabbings, more than three times as many as 2020. So far through April this year, there have been 190 slashings and stabbings which, if it annualizes at this rate, means there would be 570 slashings and stabbings this year – nearly five times the extraordinary 2020 number and four times the 2020 rate.

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I’ll say a few words about why this chaos and violence is growing so much. Whether deeper federal intervention – like a receivership – could help resolve this crisis will occupy the rest of the forum.

When I got to Rikers, I was astonished by how many staff we had - around 8,000 uniformed staff, compared to around 5,500 incarcerated people – a ratio many times higher than other correctional systems. And yet, every weekend and many weekdays, we had dozens of staff working triple shifts and dozens of unstaffed posts - meaning, there were either exhausted floor officers or *no* floor officers on dozens of living units. When I toured those unstaffed units, incarcerated people were often armed with homemade shanks fashioned from pieces of metal and plexiglass too readily available in the city’s decrepit jails. When I spoke to incarcerated people about this, they told me they were armed to protect themselves because there was no floor officer to do so. That means that every unintentional bump on the way to the bathroom has the potential to turn into a knife-fight.

Over the past year and a half, 21 people have died in Rikers, many as a direct or indirect result of not having a floor officer or having an exhausted officer who is not up to the difficult job she has to do. Two of the four incarcerated people who died this year – Herman Diaz and George Pagan – died in units with no floor officer. Mr. Diaz died from choking on an orange with no floor officer to provide first aid. In his case, his fellow incarcerated people took him to the medical clinic after insisting that the officer in the control room allow them out of their living unit to do so.

This isn’t an isolated case of neglect: For example, Rikers COs had failed to take Mr. Pagan to 9 medical appointments before he died with no floor officer present despite the fact that he was hallucinating, vomiting on himself, and barely able to walk. In a different lawsuit that the city is entangled in, in which the judge found them in contempt, the city’s lawyers “freely acknowledged deficiencies in its ability to escort individuals in custody to clinic appointments” due to insufficient staff presence.

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There are a maze of reasons why, with the richest staffing ratios and highest cost of any jail system in the country, our city doesn’t have enough people available to staff its jails adequately. That’s because, over the past several decades, an overlapping raft of laws, regulations, contracts, and practices that have the force of precedent, have accumulated that make it nearly impossible for the city to conventionally manage its way out of this dilemma. These include unlimited sick leave, the inability to hire qualified supervisory staff outside of the city’s corrections department, excessively long disciplinary proceedings, restrictions on redeploying correctional staff as needed, and the inability to terminate staff who AWOL – that is those who don’t come to work and don’t call in which happened 5,000 times last July and August. All of this stems from the undue influence of correctional officers’ unions *and* the willingness of elected officials to hand out excessively generous benefits that render the department a nightmare to run and reform. These amount to an internecine web of laws and rules and stultifying red tape that, in my opinion, makes it impossible to resolve the chaos and violence of Rikers in time to save today’s incarcerated people from harm or, even worse, death.

That is NOT because today’s Mayor or Commissioner have failed - they’ve barely gotten started. This was my position when *I* was Commissioner and I advocated for it with city hall even if it meant that that receiver would have replaced me. This forum’s co-organizer -Liz Glazer – who was director of the Mayor’s Office of Criminal Justice under Mayor DeBlasio reluctantly came to believe that the problem is a structural one that can only be solved with a different kind of power. Both of us, along with Mayor Giuliani’s Correction Commissioner Mike Jacobson — who is on the second panel—continue to urge the current occupants of city hall to do so now.

Receivers can cut through much of that stultifying red tape because the requirement to run a constitutional jail can trump a contract or state or local law. Receivers don’t abrogate contracts or laws willy-nilly, but if those regulations, laws or contractual obligations hamper the running of a safe and constitutional jail, as they have for the duration of the *Nunez* consent decree, then a judicious receiver may, under certain circumstances abrogate them or request that the court do so.

If my son or daughter worked on Rikers, or was incarcerated there – because make no mistake about it, staff *and* incarcerated people alike are suffering there – I’d want the City to work with the federal court, the monitor, and the plaintiffs to agree to a brand of receivership— details to be negotiated by the lawyers— like they were able to do in Chicago. The tragedy of daily violence and failure to provide a safe and decent jail require nothing less.

I thank our colleagues from Chicago for generously giving of their valuable time today to discuss how their negotiated “Transitional Administrator” may serve as an example for our city’s leaders to follow at this critical juncture. I also thank our speaker, moderators, and esteemed panel of knowledgeable New York leaders for their willingness to participate in today’s event.

*- Vincent Schiraldi, Senior Research Scientist for the Columbia School of Social Work and Senior Fellow at the Columbia Justice Lab*