

**New York City Council, Committee on Fire and Criminal Justice Services
Hearing on Progress in Closing Rikers Island
December 4, 2017
The Bronx Defenders
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Introduction

My name is Alice Frontier. I am the Managing Director of the Criminal Defense Practice at The Bronx Defenders. Thank you for the opportunity to testify today.

New York City has committed itself to something that would have been unimaginable just a few years ago: permanently closing Rikers Island. The goal is as daunting as it is ambitious. We applaud the Mayor, the Council, and all those that wish to see the tragedy of Rikers Island come to an end.

Today, however, we wish to voice our deep concern that the Administration has pinned its hopes for closing Rikers on technocratic fixes. The desire to turn to data and hard numbers to solve a human problem seems attractive on its face, but is unlikely to be the silver bullet we all wish existed, and very well may exacerbate the inequalities that now exist.

We Must Reassess the Way We Treat People Charged with Violent Crimes

Recently, the Administration laid out a plan that relies heavily on a new risk assessment instrument (“RAI”) to reduce the average daily population of Rikers from approximately 9,400 to 7,000 in five years. For the reasons we’ve set forth in our written testimony, the Administration’s faith in an RAI to bring the Rikers population down is both misguided and dangerous.

Today we have heard the Administration give voice to the truth that we cannot close Rikers Island without addressing violent felony offenses. Although noting that it is possible to safely release the detainees, the Administration has presented *no* plan to address the population of people charged with violent felonies. We cannot wait until some future time to focus on this population. We must do it now.

Data released by the Mayor’s Office shows:

- In 2016, people charged with violent felonies accounted for 11,500 admissions to the city's jails. On average, they spent 111 days on Rikers.
- From 1996 to 2016, the percentage of people incarcerated on Rikers for violent offenses increased from 27% to 42%, and on any given day, there are on average over 3,400 people charged with violent crimes in Rikers facilities.

A decarceration strategy that ignores these facts is doomed to fail.

Selmin Feratovic's Story

If we are serious about decarceration, we need to make a real effort to understand the people we casually label as violent. One of those people was our client Selmin Feratovic.

Selmin was 27 years old when he was arrested for the last time. Selmin had been in a motorcycle accident when he was younger. As it tragically does for so many, a prescription for oxycodone after the accident had evolved into a heroin dependency.

Last March, after a series of misdemeanor arrests, but no convictions, he was accused of entering the laundry room of an apartment building and trying to pry quarters out of a machine. No coins were actually stolen, and no one was threatened or hurt. But because he was in a residential building he was charged with burglary in the second degree, a class "C" violent felony.

Selmin's struggle with addiction was plain for all to see. He needed services. He needed and wanted treatment. Instead, because he was charged with a violent felony, he was locked up on Rikers and not given any help. Instead of help, at Rikers Island, this struggling young man had access only to more drugs. On October 19, 2017, Selmin Feratovic was found dead in his cell. The cause of death: overdose by fentanyl.

Selmin is the perfect example of someone in need of an alternative to detention: prior to his addiction he had never encountered law enforcement. He was working and supporting his young children. Once he became addicted to opioids, he lost everything and was arrested several times. Selmin is also the person that no one wants to help: he was charged with a violent felony offense.

In an appropriate alternative to detention he could have received the treatment he needed, but Supervised Release, the Administration's flagship diversion program, categorically excludes all people charged with violent felonies. So, instead of receiving the treatment he needed, Selmin went to Rikers. Rote reliance on categorizations of offenses and reliance on cold data, instead of examining his personal needs resulted in his death.

At root, the Administration's fixation on risk assessment instruments obscures a central fact: that if we are going to close Rikers, we will need to radically rethink the way we treat people charged with violent crimes.

Conclusion

We urge the Administration and the Council to encourage, create, and support new alternatives to detention for people charged with violent crimes. We cannot continue to exclude people charged with violent crimes from these programs if we truly want to close Rikers. We must not allow another person to suffer the fate of Selmin Feratovic.