Statement before the
New York City Council

Committee on Fire and Criminal Justice Services
Elizabeth Crowley, Chairperson

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Good afternoon, Speaker Mark-Viverito, Chair Crowley and members of the Fire and Criminal Justice Services committee. I am Timothy Farrell, Deputy Commissioner of Custody Management at the New York City Department of Correction. I am here today to speak about the proposed Intro. 1262, which would prohibit the Department from producing inmates to court appearances in departmental uniforms in all cases.

The Department not only recognizes the right of all defendants to a fair trial, it appreciates defendant's concern that appearing in a jail uniform may negatively influence the outcome of a criminal jury trial. We are also cognizant of the concern that inmates released directly from court wearing a correctional uniform can be stigmatizing. For all jury appearances, including appearances before grand juries, trial appearances, and sentencings, inmates are provided with the personal clothing from their property.

Recently, the Department implemented an institutional uniform plan. As part of that plan we accounted for situations that necessitated an inmate's access to personal clothing. To that end, the Department operationalized procedures for the retrieval of an inmate's clothing in the facility prior to court production. We began establishing clothing boxes within each court facility to enable inmates in uniforms being released directly from court to change into street clothing. Currently, we are making changes to better supply the necessary clothing for this purpose. An inmate may also elect to simply leave in the uniform. It is important to note, that in selecting the uniform design, the Department contemplated that an inmate may leave our custody in the uniform and chose a generic hospital scrub style garb free of any correctional identifiers.

The Department's decision to transition to an institutional uniform plan was directly aligned with our overall 14-point anti-violence agenda. More specifically it was based on a fundamental understanding that there was a correlation between an inmate's attire and the entry and concealment of contraband in our facilities. Contraband, particularly weapon contraband, is an ongoing threat to the safety of staff, inmates, volunteers, and visitors alike. Utilization of uniforms has proven successful in reducing violence and promoting safety.

Now, upon entering DOC custody all individuals are provided with uniforms for the duration of their incarceration. As I previously stated, uniforms resemble medical scrubs and contain no departmental identifiers. These uniforms facilitate search procedures as officers are familiar with the design and better able to assess the limited locations where an item could be concealed. In contrast, civilian attire may have multiple pockets or hidden compartments that may be used to hide contraband. The adoption of uniforms also eliminated the need for inmates to receive clothing which served to further limit the introduction of contraband, as contraband has the ability to be smuggled in clothing sent to correctional facilities.

The use of uniforms is not merely a means of limiting the entry of contraband, it is also a tool in its discovery. In 2016, in comparison to last year, there has been a 63 percent increase in contraband finds. A number of factors have contributed to this increase; uniforms are one of those factors. The establishment of a uniform system further enhances facility safety and security by providing immediate visual distinctions for identification purposes. Officers are able to instantly determine who is an inmate verses other individuals in the area.

As I stated earlier, coupled with the adoption of the uniform plan the Department instituted procedures for the provision of civilian clothing for applicable court appearances. The Department has a system for retrieving personal clothing. Every evening, in preparation for the following day's court production, custody management provides each facility with a list of all inmates who must be produced to court the next day, with a notation for inmates who must be offered personal clothing. The inmates' personal clothing is kept in their sealed property bags in the property storage units. Uniform staff must pull the bags for each inmate who will be offered personal clothing. When the inmates are being produced for court in the morning, they are asked if they would like their personal clothing. For inmates who wish to wear personal clothing, uniform staff open the sealed property bag, review the contents with the inmate to ensure that the contents match the bag's inventory receipt, allow the inmate to remove the needed clothing, re-

inventory the bag with a new receipt, and reseal it. The process is repeated when the inmate returns at the end of the day and the clothing is returned to the bag.

Currently, on average, 70 to 100 inmates are offered the opportunity to wear civilian clothing at a court appearance on any given day. The clothing retrieval protocols I just described are conducted for each of these inmates and in its totality is a time consuming but essential practice. To provide further context, on an average day, approximately 1000 inmates are transported to court for a range of court appearances. Jury appearances represent a small percentage, about 3 to 5 percent of the average daily court production. DOC current operational practices distinguishes between routine court appearances, such as scheduled motions, that don't involve appearing before a jury verses those that may; including appearances before grand juries, trial appearances, and sentencings. Enactment of this legislation, as currently drafted, would require the Department to complete this process on a daily basis for an estimated additional 900-1000 inmates who will not be appearing before a jury.

We share the Council's interests in ensuring that all inmates receive a fair trial and have actively instituted necessary safeguards. The Department must also balance safety and security needs while optimizing available resources. As currently drafted, this legislation would be unduly burdensome and potentially detrimental to the court production process. We welcome the opportunity to continue our dialogue with the Council towards addressing the stated concerns within an operationally feasible construct.

Thank you for the opportunity to testify today. I am happy to answer any questions that you may have.