



NEW YORK CITY  
BOARD OF CORRECTION

Statement before the New York City Council  
Reducing Violence Among Young Adults in City Jails

Committee on Criminal Justice  
Carlina Rivera, Chair

March 28, 2022

By Amanda Masters, Executive Director  
New York City Board of Correction

Good morning, Chair Rivera and Members of the Committee on Criminal Justice. I am Amanda Masters, Executive Director of the New York City Board of Correction, the independent oversight agency for the City's jails.

The topic for this oversight hearing is preventing violence among young adults in our jails. At this time, young adults (but not exclusively young adults) are held at the Robert N. Davoren Complex (RNDC), George R. Vierno Center (GRVC) and the North Infirmery Command (NIC). Young adults are also being held at Rose M. Singer Center (RMSC), West Facility (WF), Eric M. Taylor Center (EMTC), Anna M. Kross Center (AMKC), and the Bellevue Hospital ward. Furthermore, pursuant to a continuing Mayoral Emergency Executive Order (EEO), based on the Department of Correction (DOC) staffing crisis, young adults are now also

commingled in housing areas with adults, which is forbidden under the Board's Minimum Standards. For this reason, I will speak more broadly today about preventing violence in our jail system. I also draw your attention to statistics and graphs that are attached as an appendix to our written testimony, and our staff are available to answer any questions you may have after review of that data.

### **The Board of Correction Mandate**

The Board of Correction mandate under the New York City Charter is broad. We are to conduct "evaluation of departmental performance" as well as promulgate regulations governing the "care, custody, correction, treatment, supervision, and discipline" of all people held in our city jails. The Board also has unfettered access to inspect and visit all facilities, and inspect "all books, records, documents, and papers of the department". The Board's regulations cover the original Minimum Standards as well as access to healthcare, mental health care, prevention of sexual violence to people in custody, reporting, and the use of punitive segregation and other restrictive housing models.

Despite this huge mandate, we are a very small agency with an inadequate budget of just over three million dollars, a drop in the bucket compared to the massive Department of Correction with a 2.6 billion dollar and growing budget, that we oversee. Our staff on the Island are charged with touring the DOC facilities daily, speaking directly to people about conditions of custody. When we can be there, field staff observe problems and solve them on the spot, helping many people who live or work in the jails. They are key to enforcement of our regulations. Historically, we have never had enough staff to provide coverage throughout facilities. I want to illustrate how exceptional our small staff is, and how much they sacrifice to do their jobs.

Last week, one of our staff was touring a housing area and speaking to an officer inside the closed control vestibule between housing areas. A person in custody was able to walk out of his housing area and approach the door to a vestibule and barricade the staff inside. He threatened to hurt them and used obscenities and racial slurs. This went on for some time until the person in custody walked away to return to his housing area. After the man walked away, on his own accord, our staff quickly exited to safety. Later that day, the inmate used a weapon to slash another person in the housing area. When the jails are not safe, our staff are not safe either. Thankfully, our staff is OK. Their work is critical to overseeing the jails and preventing bad outcomes by enforcing our Minimum Standards. The Board needs more funding for field staff and we would be happy to brief you on our needs at another time.

### **DOC Staffing Crisis and Unstaffed Posts**

On February 1, 2022, the Board requested staffing data from DOC—that would identify how many staff were supposed to be at each post in each facility, and how the posts are prioritized in the face of this crisis—because the staffing crisis has affected compliance with our Minimum Standards across the board, and because we need data to evaluate when the staffing crisis is over.

Until that data request is fulfilled, we can speak to our observations about staffing problems, and the relationship between staffing and violence prevention.

For background, on a typical housing unit with cells, the A-post officer is stationed in a closed vestibule area to oversee the housing units. The B-post officer is assigned to the corridor of cells and can have contact with people in custody. BOC staff observe that during the staffing crisis, B officers have been reduced and are

sometimes unstaffed posts. On January 19, 2022, DOC reported that 38 posts were not staffed.

The January DOC-CHS joint injury report notes that 88% of all serious injuries and 83% of all injuries in January 2022 occurred in housing areas. This is a fairly consistent figure month-to-month. Housing areas are overwhelmingly the most dangerous place in the jails today and must be staffed appropriately.

Long-standing management difficulties, particularly around staff assignment, organization, training, and culture within DOC have been heavily documented by the *Nunez* Court Monitor and were a subject of note in last week's budget hearing. BOC strongly supports efforts by DOC to develop management structures and practices to utilize staff correctly to provide adequate oversight of both Correction Officers and people in custody. In the meantime, as these processes are improved, it is necessary for DOC to be transparent with oversight regarding the current staffing crisis.

### **Violence: Statistics and Examples**

This past calendar year saw a significant increase in all primary violence data metrics (Serious Injury, Slashings & Stabbings, Use of Force and Fights). From January 2019 to December 2021, the monthly rate of slashings and stabbings per 1,000 people in custody increased 731%, from 1.3 to 10.8. In 2019, there were 119 slashings and stabbings. In 2020, there were 121 slashings and stabbings. In 2021, there were 418 slashings and stabbings. The annual rate of slashings & stabbings in 1990 (the highest annual rate Board staff could confirm in the records) was 76.8 per 1,000 people in custody. In 2021, the annual rate of slashings & stabbings was 74.8.



From January 2019 to December 2021, the monthly rate of Use of Force per 1,000 people in custody increased 47%, from 85 to 125. Use of Force numbers are declining so far in 2022. In 2019, there were 7169 uses of force. In 2020, there were 6197 uses of force. In 2021, there were 8283 uses of force.

Turning to young adults in particular, the data demonstrates that young adults are disproportionately at risk of being victimized by serious acts of violence in New York City jails. Young adults are also significantly more at risk of being seriously injured while in custody than the entire population as a whole:

- In 2020, young adults in NYC jails experienced 141 serious injuries. In 2021, this number rose to 287, an increase of 104%.
- Over the course of 2020 and 2021, young adults experienced 14.1% of all serious injuries, despite making up an average of 8.5% of the census during that period.
- RNDC, the facility with the highest percentage of young adults, had the third highest rate of serious injury of all facilities in January 2022, behind OBCC and EMTC.
- RNDC recorded a total of 137 slashings & stabbings in 2021.
- RNDC had the highest annual average rate (per 1,000 people in custody) of slashings & stabbings of all facilities operated by the Department at 167.5.
  - RNDC accounted for 14.7% of the annual Departmental census in 2021, and yet 32.7% of all slashings & stabbings occurred at RNDC.

## **Examples of Violence**

Lack of programming, educational opportunities, and outdoor recreation contribute to idleness and agitation. But today we are focusing on the way housing units are staffed, because staffing is at the root of all access to programming and also has a direct connection to opportunity for violence.

The Board offers three recent examples of how a violent incident transpires, to illustrate the link between staffing and violence.

- The Board staff are concerned about the increase in violence and low staffing levels at one jail, from the Deputy Warden level to the officer level. On March 18, 2022, a fight involving multiple people in custody occurred and during the fight an individual was slashed. During our investigation, BOC staff observed people in custody locked out smoking and sitting at the B post officer stations. People were also observed going in and out of the housing area. It did not appear that a B post officer was on the floor during staff's observation. During the fight, people in custody were observed to take possession of staff chemical agents. People in custody threw broom sticks, a food wagon, mop buckets and water containers toward staff. A probe team deployed chemical agent towards all involved and a taser was used on an individual who refused to comply.
- On March 8, 2022, a young adult housing area in another jail was without a B officer. A young adult positioned himself behind another young adult and quickly slashed him on the face. The slashing happened directly in

front of the A-post. The A-post officer then unlocked the gate and allowed the victim to enter the safety of the vestibule.

- On March 20, 2022, a young adult in this same jail attacked another young adult in his housing area without warning. The provoker knocked down the victim and slashed him, repeatedly. After the assault ended, the victim walked alone to the A-post officer to seek assistance. The young adult sustained lacerations to the right side of his face and left arm.

In conclusion, the Board supports the development of a comprehensive plan for oversight of staff assignment processes and staff utilization throughout shifts and facilities. Proper staff assignments are key to providing safety, and the programming, education, services, access to care, and recreation that young adults need. We also support the use of developmentally appropriate housing and programming for young adults. We look forward to working with the Commissioner as a partner in building out a management methodology that works for staff supervision as well as for transparency and reporting.

Thank you for the opportunity to address you today.

Encl.

# New York City Board of Correction Violent Incidents August 2021 – January 2022

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The table below presents counts of violent incidents that occurred between August 2021 and January 2022 according to incident reporting by DOC's Central Operations Desk.<sup>1</sup>

### Violent Incidents by Category, August 2021 – January 2022

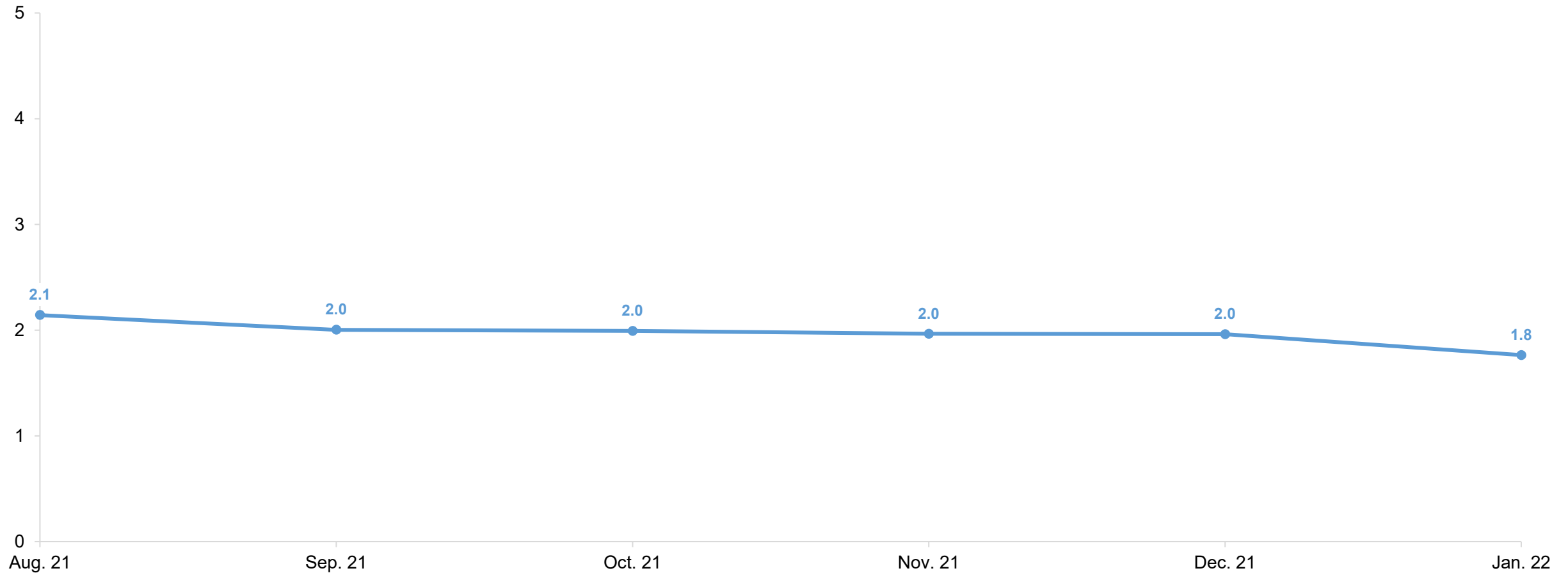
	Aug. 21	Sep. 21	Oct. 21	Nov. 21	Dec. 21	Jan. 22	Grand Total
<b>Assault on Staff</b>	<b>138</b>	<b>132</b>	<b>108</b>	<b>78</b>	<b>86</b>	<b>73</b>	<b>615</b>
Assault On Staff W/O Serious Injury or UOF	138	132	108	78	86	73	615
<b>Death or Near Death</b>	<b>4</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>20</b>
Attempted Suicide	0	1	0	1	0	0	2
Death of Inmate	1	3	1	0	2	0	7
Unconscious / Unresponsive Inmate	3	0	1	2	3	2	11
<b>Serious Injury</b>	<b>129</b>	<b>121</b>	<b>111</b>	<b>107</b>	<b>106</b>	<b>97</b>	<b>671</b>
Serious Injury to Inmate	128	119	111	107	106	97	668
Serious Injury to Inmate (Alleged)	0	1	0	0	0	0	1
Serious Injury to Staff	1	1	0	0	0	0	2
<b>Sexual Assault or Harrassment</b>	<b>25</b>	<b>44</b>	<b>21</b>	<b>21</b>	<b>17</b>	<b>20</b>	<b>148</b>
Sexual Abuse	2	6	1	1	3	2	15
Sexual Abuse (Alleged)	23	38	20	20	14	18	133
<b>Slashing or Stabbing</b>	<b>40</b>	<b>50</b>	<b>38</b>	<b>36</b>	<b>44</b>	<b>48</b>	<b>256</b>
Slashing	25	31	22	25	24	34	161
Stabbing	15	19	16	11	20	14	95
<b>Use of Force</b>	<b>721</b>	<b>744</b>	<b>630</b>	<b>587</b>	<b>517</b>	<b>429</b>	<b>3628</b>
Use of Force	708	730	612	571	509	411	3541
Use of Force (Alleged)	13	14	18	16	8	18	87
<b>Grand Total</b>	<b>1057</b>	<b>1095</b>	<b>910</b>	<b>832</b>	<b>775</b>	<b>669</b>	<b>5338</b>

Due to the nature of incident reporting by DOC's Central Operations Desk (COD), this data does not necessarily reflect any medical or incident updates beyond the initial report unless there was a re-classification to an incident. For example, the underlying data may not reflect whether the person in custody received further treatment or was sent to the hospital after the COD report was submitted. Further, correctional officers enter a manual description of the incident which may include medical evaluation determination, treatment and whether the individual was transferred to EMS. Since there is no automated field for this information, it depends on each officer's accuracy and completeness. The completion of any additional reports related to the incident are also not reflected. Given the aforementioned data limitations, this report is meant to provide an initial overview of violence indicators based on data currently available to the Board but does not necessarily represent DOC's full accounting of incidents.

<sup>1</sup> February 2022 incident data is omitted. During February, a technical issue prevented BOC from receiving Central Operations Desk incident reports for a couple of days in mid-February.  
SOURCE: DOC Central Operations Desk Incident Reports

From August 2021 to January 2022, the rate of serious injuries sustained by people in custody hovered around 2 serious injuries per 100 people in custody.

**Rate Serious Injuries per 100 People in DOC Custody<sup>1</sup>  
August 2021 – January 2022**

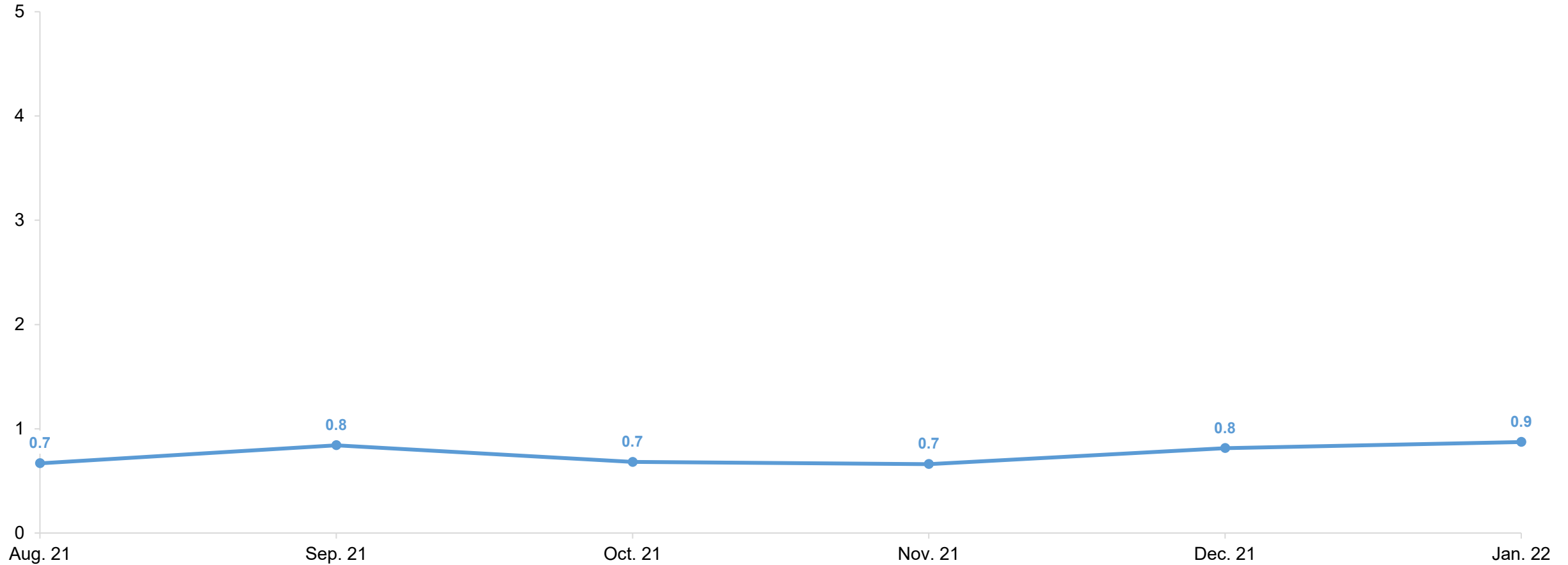


<sup>1</sup> This graph excludes counts of alleged serious injuries.

SOURCE: DOC Central Operations Desk Incident Reports; BOC calculation of average monthly census from DOC's Inmates in Custody File, which reflects an automated daily pull from the DOC Inmate Information System (IIS) at 11:00am

From August 2021 to January 2022, the rate of slashings or stabbings hovered around 1 slashing or stabbing per 100 people in custody.

**Rate of Use of Slashings or Stabbings per 100 People in DOC Custody<sup>1</sup>  
August 2021 – January 2022**

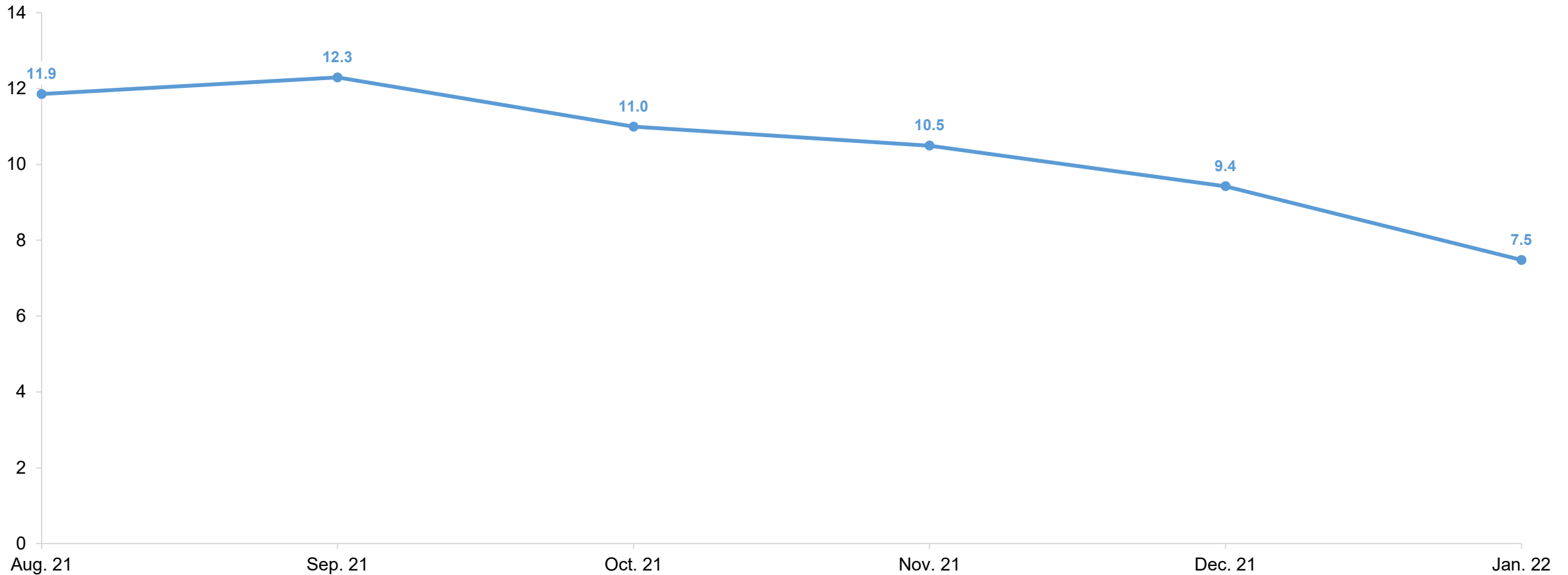


SOURCE: DOC Central Operations Desk Incident Reports; BOC calculation of average monthly census from DOC's Inmates in Custody File, which reflects an automated daily pull from the DOC Inmate Information System (IIS) at 11:00am



From August 2021 to January 2022, the rate of use of force decreased by 36.9 percent, from 11.9 to 7.5 uses of force per 100 people in DOC custody.

**Rate of Use of Force per 100 People in DOC Custody  
August 2021 – January 2022**



<sup>1</sup> This graph excludes counts of alleged uses of force.

SOURCE: DOC Central Operations Desk Incident Reports; BOC calculation of average monthly census from DOC's Inmates in Custody File, which reflects an automated daily pull from the DOC Inmate Information System (IIS) at 11:00am

## Jail Capacity as of 3/25/2022

Facility	Total Facility Bed At Stand	Total Facility Beds Closed	Actual Operating Beds
AMKC	2355	113	2242
BKDC	759	759	
EMTC	1523	668	855
GRVC	1057	286	771
MDC	896	896	
NIC	405	43	362
OBCC	1244	622	622
RMSC	1527	959	568
RNDC	1204	206	998
VCBC	800	50	750
WF	140	42	98
<b>Total:</b>	<b>11910</b>	<b>4644</b>	<b>7266</b>

Jail Census at of 3/25/2022

<b>Jail</b>	<b>Census</b>
<b>AMKC</b>	<b>1986</b>
<b>EMTC</b>	<b>490</b>
<b>GMDC</b>	<b>0</b>
<b>GRVC</b>	<b>597</b>
<b>NIC</b>	<b>181</b>
<b>NIC Inf</b>	<b>97</b>
<b>OBCC</b>	<b>447</b>
<b>RMSC</b>	<b>273</b>
<b>RNDC</b>	<b>687</b>
<b>VCBC</b>	<b>672</b>
<b>West-CDU</b>	<b>69</b>
<b>BHPW</b>	<b>40</b>
<b>BKHD</b>	<b>0</b>
<b>MDC</b>	<b>0</b>

**Testimony before the  
New York City Council  
Committee on Criminal Justice  
Chair Carlina Rivera**

**By  
Louis A. Molina, Commissioner  
NYC Department of Correction**

**March 28, 2022**

Good morning Chair Rivera, and members of the Committee on Criminal Justice. I am Louis Molina, Commissioner of the Department of Correction (DOC). I am joined today by Chief of Department Kenneth Stukes, Assistant Chief of Administration Sherrie Rembert, Chief of Staff Kat Thomson, Deputy Commissioner for Programs and Community Partnerships Francis Torres, Deputy Commissioner for Legal Matters Asim Rehman, and Executive Director of Counseling and Social Services Nell McCarty. I thank you all for this opportunity to discuss the plans that are underway to support our emergent adult population and the staff who work with them.

***Young Adults as a Distinct Population***

Young adults in our custody often present us with both our greatest challenges and our greatest opportunities. It's widely known that violence rates at the Robert N. Davoren Center (RNDC), where a majority of our young people are housed, are consistently the highest in the Department. Rates of assault on staff among young adults are over two times higher than those Department-wide, use of force rates are nearly three times higher, and rates of slashings and stabbings among young adults are over three times higher than those Department-wide. This is not a trend that is unique to our system. Young adults, who are classified in the Board of Correction Minimum Standards as being ages 18 through 21, have age-specific developmental considerations, risks,

and needs; they must be treated as a unique population both in how we manage their responses to conflict and potential for violence, and in how we approach programs and services. Research has shown that the developmental differences and needs of young adults can result in: poor reasoning skills, impulsiveness, sensation-seeking behavior, disregard for long-term consequences, and higher risk-taking propensities. Research also tells us that education, workforce development, mentorship opportunities, and therapeutic programs targeted at behavioral modification carry a weighted impact for incarcerated young adults. We also know that staff who are trained in cognitive behavioral interventions, and have competency in young adult culture, can positively influence young adult rehabilitation.

We cannot and will not tolerate these levels of violence among our young adults and should not normalize people being assaulted for simply doing their job. As I stated in my previous testimony before members of the Council, under my leadership, the policies and operational-decision making of this Department will be guided by data and research. And the research is clear: young adults are a distinct population that must be approached with heightened violence prevention measures, supported by targeted programming and specially trained staff.

With these principles in mind, I have implemented a strategic plan to reduce violence at RNDC, which I'd like to detail for you today.

### ***RNDC Plan***

At the end of February, a violence reduction plan went into effect for RNDC that will address the heightened levels of violence in this facility. Because we know that many of the issues at this facility and others are longstanding and complex, the plan is multipronged, and uniform and non-uniform staff are working together at all levels in lock-step to present a unified vanguard of reform. This plan outlines changes to housing policies, improvements to staff supervision, and enhanced programming and services to provide critical opportunities for behavioral change and growth for emergent adults. The Monitor himself noted in his most recent report that the plan includes "steps in the right direction to improve the level of safety at RNDC."

The RNDC plan includes a rebalancing of housing areas to ensure that no gang has an advantage over our staff or any other incarcerated individuals. We anticipate an uptick in violent and disruptive behaviors as the young adults are being rehoused to test our commitment to this new housing strategy, but we will be holding firm. Resistance is a natural part of change and we have put measures in place to provide enhanced support for both our staff and young people as they go through this transition. We've stepped up our search operations to reduce contraband in these housing areas and throughout the facility that may lead to serious violent incidents and injuries. Prior to any housing movement, sweeps were conducted to ensure that any ailing infrastructure items were removed so that weapons cannot be created. Searches of non-school housing areas have been conducted to recover contraband prior to housing transfers to limit the potential for violence in the new housing areas during this critical time of transition and adjustment. The plan also includes increases to the staffing levels in these units to limit potential for violence and respond quickly and appropriately if violence does occur. That staff will be closely supervised by facility leadership. Failures of duty will not be tolerated; staff have been provided with clear expectations that will be upheld through guidance from facility leadership and, when necessary, corrective or disciplinary intervention.

I believe that this shift towards best correctional practices in housing policy and improved supervision bring us a long way but I recognize that, in order for behavioral change to be sustainable, we cannot just close the door on unwanted behaviors; we also have to open the door to new, more positively adaptive ones. One of the first things I did when I came into this role was evaluate policies related to program providers to remove barriers that were preventing people with lived experience from coming into our facilities and engaging with our young people. This has increased our ability to utilize passionate staff who look like the people we have in our custody, come from their communities, and have many shared experiences and wisdom to offer. Before the RNDC plan was issued, we increased the number of credible messengers and staff who are trained to meaningfully work with this population to disrupt existing patterns of violence. We've also expanded our partnership with faith-based organizations to help young

people foster a deeper connection to their faith and their values. These providers, coupled with DOC Program Counselors who have received training in restorative justice, behavioral therapy, relationship building, and more, will champion our young adults as they unlearn violent responses to conflict and stabilize in this new housing model.

I stated previously that I am a huge proponent of increased educational access within our jails. Education is a gift to our entire society, because it is the single factor that is proven to significantly reduce recidivism and improve outcomes. In addition to our rebalancing efforts, we have opened several school housing areas for cohorts of young adults who are interested in attending school so that they can live with like-minded peers who are focused on academic achievement. Individuals living in these housing areas are expected to attend school daily and are provided with school uniforms and specialized incentives to create a sense of normalcy and maintain peer-supported motivation for success. We are working on the computerization of the GED exam at our school sites so that students can take the exam online and receive their score in minutes. Enrolled students will be issued with laptops to access specific sites that will aid in their educational endeavors.

I have also stated that making decisions based on data and research is paramount to me. I will highlight again, as I did last week, that we are creating a dedicated team whose full-time job will be to develop systems to track and evaluate programs and operations to ensure our decisions are data-driven and that our results can be shared transparently with our stakeholders. This incoming Management, Analysis, and Planning team will evaluate our progress with data and make adjustments where needed.

Even before this plan went into effect, we saw violence rates both Department-wide and among our young adult population trending down between calendar year '21 and calendar year '22. Total rates of use of force have decreased by 19% calendar year to date, fights are down 44%, and total assaults on staff on down 39%. These numbers are promising and we hope to see them continue in this direction after we get through any anticipated upticks as a result of rehousing to

balance out gang affiliations. I recognize that these downward trends are occurring in the context of violence that has grown year-over-year, so a decrease is certainly not bringing us to the baseline we want to achieve. But progress is progress; improvement is good and we cannot dismiss that.

***Closing***

I know that it is hard to hear that change is coming when it already feels too late, when it feels like change was due years ago, when promises have been made and left unfulfilled over and over again. I share your frustration. It is the very reason why I took this job. The plans that we have put in place at RNDC to support our staff and our young people involved deep assessment and reflection, not just by me, but by this agency as a whole. That reflection has led to renewed hope and thoughtful action. It is a step in the right direction but we are not going to undue years of decay overnight. I look forward to working together with this Council and the rest of our stakeholders over the coming weeks, months, and years to enter a new era and build a jail system that is safe, fair, and humane.

My colleagues, and I are available to answer any questions that you may have.





PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

# Jumaane D. Williams

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**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS  
TO THE NEW YORK CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE -  
OVERSIGHT HEARING  
MARCH 28, 2022**

Good morning,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I thank Chair Carlina Rivera for holding today's important oversight hearing on reducing violence in our jails.

There is a severe crisis happening in our jails. When I toured Rikers Island last September, I was shocked. I was shocked at the inhumane conditions. I was shocked when listening to the stories of people not receiving life-saving medication. I was shocked at seeing people standing near feces, urine, and rotten food. I was shocked at the lack of correctional officers, causing more stress for those already there. I was shocked that this was happening. I was shocked that this City failed everyone who was there, and that this was a human rights crisis.

That is why I am glad we are holding this hearing today to hear from the administration and advocates on what can be done. Today's topic cannot be separated from the conditions that house those incarcerated. Those who are locked up in our jails are in a traumatic, dehumanizing, and stressful setting. That only adds to the rise in violence seen in the past few years.

There are many issues that I anticipate the administration will address. The administration explained earlier this month at a Committee on Finance hearing that DOC's budgetary increase is because of labor shortages. The 13th Nunez Monitor report found that as of January 26, 2022, about 19.31 percent of the total number of uniform staff were on sick leave. This means, at DOC facilities, staff members are forced to work double, triple, or quadruple shifts because of the shortage of correctional officers. This also impacts those who are detained with medical appointments skipped or forgotten. Ongoing medical issues are neglected or required medication ignored.

At the same time, City jails can be a death sentence for those already there. In 2021 alone, 16 people died at Rikers Island. That is the highest number of deaths in a single year since 2013. This year, there were three deaths so far, including two that happened within a 24-hour period. Pre-trial detention should not mean death. When a person is sent to jail, they should not think they might die at that facility. Worst of all, there is not an appropriate level of urgency for what is happening. This is not public safety.

The administration should also share what resources are available for people, including young people, at Rikers. I am concerned that there is not enough being done. According to the New York City Comptroller's Office, the annual cost of incarceration was \$556,539 per person in fiscal year 2021. That's astounding. The administration should explain what is being done to ensure we are spending on restorative justice instead of punitive actions.

Once a young person is jailed, they enter into a cycle that is difficult to leave. They should be given resources and programming when needed. The administration should double the number of supportive housing units and prioritize placement for those who are chronically homeless. It should increase funding for Justice-Involvement Supportive Housing contracts as well. There must be systems and structures in place that ensure a young adult does not have to return to jail. We need to restore and protect the health and safety of incarcerated people and staff alike. That should be a priority of the administration, and we, as the City Council, should ensure that the DOC and the rest of the administration are committed to that.

While there is violence happening in the jails, there is also self-harm as well. Since the beginning of COVID-19 in our City, the number of self-harm incidents in jails have skyrocketed. By the end of March 2020, there were 52 self-harm incidents per 1,000 people in jails. By March 2021, this rose to 88. We know the names and the stories of those who committed suicide while jailed. We know the families of loved ones who have said the City failed them. The administration needs to explain why it rose so fast and quickly. We cannot continue to see more families grieving over loved ones taking their life.

Before I end, I ask the Mayor and the Governor to both visit Rikers Island and see for themselves what is happening. What is happening there is a disgrace, and our City can do better for those on the island. I look forward to what DOC will say and its plans to help reduce violence. I thank the chair for letting me speak, and I anticipate the administration's testimony today.



**THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BRAD LANDER**

Testimony of New York City Comptroller Brad Lander on  
Department of Corrections Budget  
Before the New York City Council Committee on Criminal Justice

March 23, 2022

Good morning, and thank you Chair Rivera, Members of the Committee on Criminal Justice, Council Members and staff for the opportunity to testify today.

We are here at a critical moment for the Department of Correction, for those working and detained at Rikers Island, and for our city. Last September, in response to high levels of violence, staff absenteeism, and immediate risks to the safe management of jail facilities, the City declared a state of emergency for the Department of Correction. Last week, the independent federal monitoring team in the *Nunez* case released a special report, offering the latest grim window into the dysfunction and violence within our City jails. In just the last few days, George Pagan and Herman Diaz became the second and third individuals in DOC custody to die this year after 16 people died in their custody last year, the most in many years.

I am here today, as the City's Chief Financial and Accountability Officer, to make clear that the ongoing crisis in our jail system continues *in spite of* outsized resources, and will not be solved by increased funds – or by the addition of more uniformed officers to DOC's already outsized headcount. As annual reports from the Comptroller's office have shown, spending per person continues to grow and now totals more than half a million dollars per person in custody per year. Yet violence continues to climb. The problem isn't a lack of resources, it's how those resources are being managed.

The Department of Correction has been on the Comptroller's Watch List for years, and this morning, we released our most recent update. The Watch List spotlights agencies that raise serious budgetary and operational concerns. Here is some of what we found:

- Chart 1 in our analysis shows that for the first time in four years, the DOC budget is forecast to increase in FY 2022. At the time of adoption, the budget was projected to fall by 6%, but revisions since adoption have resulted in a projected 7% increase over FY 2021.
- While DOC overtime had generally been declining over the past few years, as shown in Chart 6, for the first seven months of FY 2022, uniformed overtime was 71% higher when compared to the same period two years ago. My office projects that overtime costs will exceed the City's current assumptions by \$67 million in FY 2022 and \$49 million in FY 2023. A significant part of that overtime, we believe, are DOC staff forced to work double and triple shifts because their colleagues are unavailable to work.
- Chart 7 shows that prior to FY 2020, the annual paid absence rate for uniformed staff at DOC averaged between 5% and 7% - close to the rates at the Fire Department (FDNY) and the Department of Sanitation (DSNY). However, while absences have grown at all uniformed agencies since the start of the pandemic, in the first four months of FY 2022 (July-October 2021), DOC's uniformed absentee rate skyrocketed to 27%, far surpassing the 10% rate at FDNY and the 11% rate at DSNY.
- Rates of violence have increased, as shown in Charts 9, 10, 11 and 12. The number of slashings and stabbings has more than tripled in the current fiscal year, and use of force

incidents and allegations have also reached record highs in recent months. In the final quarter of FY 2021, the rate of use of force, adjusted for the jail population, was 81% higher than the same quarter in FY 2019 and triple the rate in FY 2017.

- The provision of services to people in custody has deteriorated. Chart 15 shows that as the share of uniformed officers newly calling out sick last summer increased, the number of incarcerated individuals not produced for medical appointments rose to over 15,000 in July 2021, up from around 2,000 in June 2020.

Given this harrowing reality, reform is urgent. Simply adding new uniformed officers to the rolls, while a quarter of Correction Officers don't report to work will not reduce violence, save lives, or restore safe functioning to the system. DOC leadership must adopt new staffing policies that address the absentee crisis. To start, the Department should immediately comply with the federal monitoring team's latest recommendations, including and especially the appointment of an external staffing manager with the authority to address and change the dysfunctional staffing practices.

Like Chair Rivera, my office has requested and been promised information on staffing from DOC. I appreciate the Department's assistance with this request and look forward to reviewing the information DOC has committed to provide.

## **Bail reform**

Given the recent the current debate in Albany about rolling back bail reform, yesterday my office released a report charting trends in bail made and set in the city since 2019. The conversation on bail reform has become divorced from the data. In order to invest wisely in strategies that will keep our communities safe, it is critical to follow facts, rather than fear.

While rising crime rates and several high-profile violent cases in recent months have understandably alarmed New Yorkers, the evidence on bail reform is clear: the numbers show essentially no change in pretrial arrest rates. Before bail reform, in January 2019, about 5% of the 57,000 people awaiting trial in the community were rearrested on a new charge that month. After the reforms took effect, in December 2021, about 4% of the 41,000 people awaiting trial in the community were rearrested. As Chart 10 of our bail report shows, over the past three years, before and after bail reform, regardless of bail or other pretrial conditions, each month fewer than 5% of people who were awaiting trial in the community were rearrested on a new charge – and fewer than 1% of people were rearrested on violent felony charges.

Instead, we found that while the number of people subject to bail has substantially declined, bail continues to drive pretrial incarceration and syphon money from low-income communities of color. Defendants and their friends and family still posted \$268 million in bail in 2021, up from \$186 million in 2020. Despite new requirements to consider a defendant's ability to pay, average bail amounts have doubled from \$19,162 in 2019 to \$38,866 in 2021. Commercial bonds, which

require nonrefundable fees, continue to be widely used, despite the fact that judges are required to set three forms of bail, including less onerous partially secured and unsecured bonds.

Over 2020 and 2021, only roughly half of defendants who had bail set were able to eventually make bail, and even most of those who did were incarcerated for at least some amount of time before doing so – at great cost to themselves, their families, and the city.

What does the evidence point toward? To start, we must reject rollbacks to bail reform. Making additional charges eligible for bail and further rolling back the hard-won reforms is not a real solution for violence but rather a means for syphoning money from vulnerable communities and jailing those too poor to make bail, as our analysis showed.

Instead, I urge the New York State Office of Court Administration (OCA) to provide guidance, training, and instructions to judges on the mandates to assess a defendant’s ability to pay and use the least restrictive condition in setting bail.

Crime rates have risen in New York City, as they have in cities across the country where no changes in bail policy were adopted. We do need a thoughtful debate and real action to address it, including investments in community-based violence interruption programs, evidence-based mental health services, supportive housing, and programs that get guns of the street. But since bail reform is not the cause of the increase, rolling it back will not advance public safety; it will only decrease justice.

### **Are We Still on the Path to Closing Rikers?**

Finally, I want to turn to a critical long-term question facing this Council: Are we still on the path to close Rikers?

In 2019, after years of advocacy and debate, this Council took action in 2019 to put NYC on a path to close Rikers Island. As you know, that plan is to replace Rikers Island facilities with four new jails with combined capacity of 3,300 by the end of 2027. As a member of this body who marched alongside advocates highlighting the deplorable conditions on the Island, I voted for that plan, and I continue to believe it is the best path forward towards a smaller, safer, and more just system.

It is not currently clear whether the City is on track to achieve that goal.

The average daily jail population declined steadily from 2007 to 2020. Following the implementation of bail reform and a concerted effort to reduce the jail population at the start of the pandemic, the jail population dropped below 4,000 in April 2020. But since then, following rollbacks in bail reform and rising crime rates, the average daily jail population was around 5,700. It will require a more than 40% reduction in the average jail population to meet the capacity limits of the new jails, if and when they are built.

Without a clearer commitment from the City and action now, I fear we will reach 2027 with crumbling facilities on Rikers still open, and more people incarcerated than new facilities can hold.

If we are to make good on the plan to close Rikers, and reduce incidences of violence in the jails in the immediate term, we must take steps now to limit the number of people in custody. That's one more reason while rolling back bail reform is bad public policy. It will lead to more people being detained awaiting trial, and make it harder to reach that goal.

We must also prioritize far speedier disposition of criminal cases. Data released by the Mayor's Office of Criminal Justice show a dramatic decrease in court productions, leaving individuals to languish on Rikers for longer periods of time before their cases are resolved. Effective deployment of available DOC staff is critical to achieving this.

Detention should be used as a last resort and not as a substitute for appropriate mental health care, substance use treatment, or safe housing. That means expanding access to alternatives to detention and incarceration, especially for felony cases, for individuals who can remain safely in their communities. And it requires far deeper investments than those we have traditionally made – investments in supportive housing, year-round youth employment opportunities, peer-led crisis response and community-based mental health services. I urge the Department and the Council to look back to the recommendations of the Lippmann Commission, the Commission on Community Reinvestment and the Closure of Rikers Island, and the new work of Vital City. And I urge you to support your counterparts at the State level to enact smart harm reduction policies like the Treatment Not Jail Act, which would increase access to care and ensure the Department of Correction does not remain the largest de facto mental health services provider in the city.

Advancing the vision of a smaller, safer and fairer jail system remains one of the City's most pressing challenges and will necessitate collective action on the part of all criminal legal system stakeholders. It will take everything, from community investments that prevent crime, to ending the torture that is solitary confinement, to better compliance with our bail laws to consider defendants' ability to pay, to reduce the jail population, close Rikers Island, and curb the violence in our jails.

Thank you for the opportunity to testify, and for your work to address this humanitarian crisis.



NEW YORK CITY COMPTROLLER  
**BRAD LANDER**

**FY 2023**

# Agency Watch List

Department of Correction  
(DOC)

**Bureau of Budget**

**March 2022**





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# Introduction

The New York City Department of Correction (DOC) is responsible for the custody and care of individuals detained in city jail facilities – primarily people awaiting trial or serving short sentences.

For 14 consecutive fiscal years, the average daily jail population fell, reaching 4,961 in FY 2021. For most of this period, crime rates also declined steadily. As the population shrank, spending per incarcerated person, as measured by personnel and expenditures, skyrocketed. As of FY 2021, New York City spent more than half a million dollars to incarcerate one person for one year, nearly four times the amount spent 10 years ago.<sup>1</sup>

In spite of these resources, conditions and violence worsened. City jails have been in crisis over the last year. Staff absenteeism has grown, leading to the declaration of a state of emergency in September 2021. At least 19 people have died in custody since the start of 2021, including three people in 2022. Across the board, indicators of violence against both staff and people in custody are up, while the department’s ability to provide crucial health and social services to people in custody has deteriorated.

Since 2015, the department has operated under the supervision of a court-appointed federal monitor, who continues to release increasingly grim and exasperated reports on the status of remedial efforts. In the most recent report, released in March 2022, the monitor expressed that “The first few months of 2022 have revealed the jails remain unstable and unsafe for both inmates and staff.” “The level of dysfunction within the Department’s staffing framework is unmatched by any jurisdiction with which the Monitoring Team has had experience,” the monitor observed. “High rates of use of force and violence...have become normalized and have seemingly lost their power to instill a sense of urgency among those with the power to make change.”<sup>2</sup>

Meanwhile, the jail population – which had fallen steadily for 14 years and dropped below 4,000 at the beginning of the pandemic – has risen again and now sits near 5,700. A reversal of this trend would be required to reach the target of 3,300, the capacity of the four borough-based jails that the City adopted plans to build as part of its plan to close Rikers Island by 2027.

Advancing the vision of a smaller, safer and fairer jail system remains one of the City’s most pressing challenges and will necessitate collective action on the part of all criminal legal system stakeholders. Achieving those goals requires both immediate reform to address conditions that contribute to the crisis of violence in the City jails, and policy change to further reduce the jail population, in particular the significant share of people in custody being detained pretrial, at least to the level needed to close Rikers.

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<sup>1</sup> The full annual cost of incarcerating one person, including costs at DOC and other agencies, grew 286% from \$144,176 in FY 2011 to \$556,539 in FY 2021. In comparison, inflation in the New York City metro area totaled about 18% over the same period. New York City Comptroller, “Department of Correction,” <https://comptroller.nyc.gov/reports/nyc-department-of-correction/>.

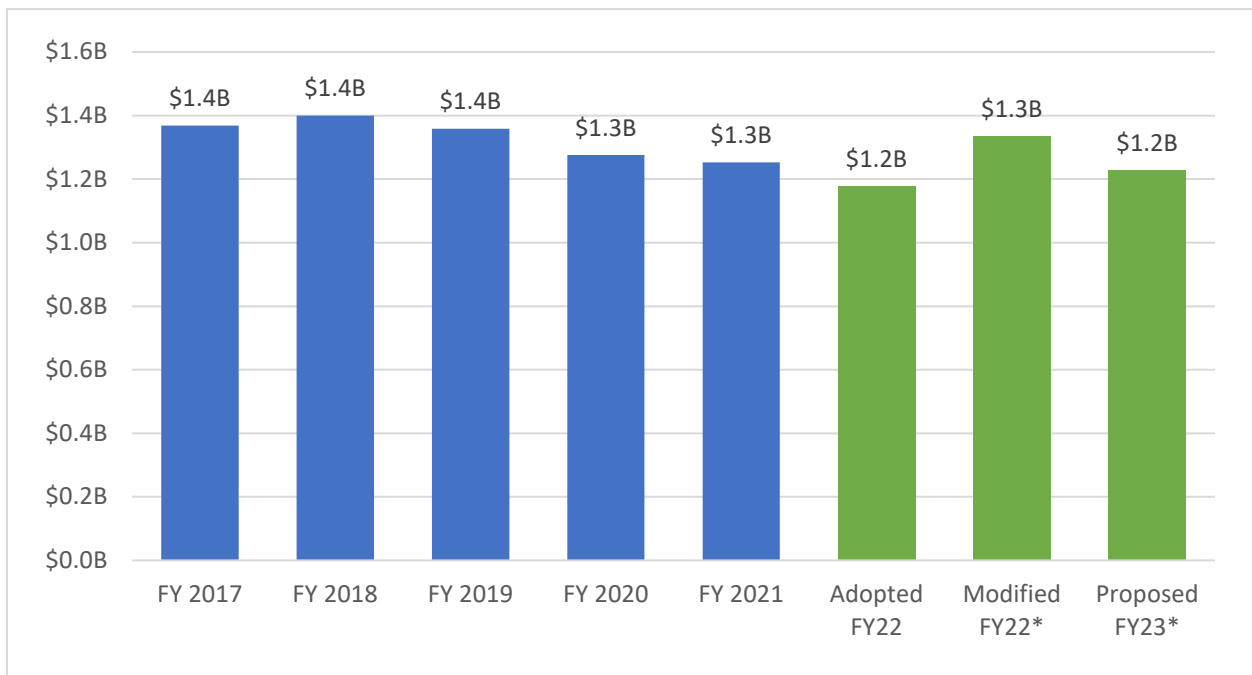
<sup>2</sup> *Special Report of the Nunez Independent Monitor* (March 16, 2022), <https://storage.courtlistener.com/recap/gov.uscourts.nysd.383754/gov.uscourts.nysd.383754.438.0.pdf>.

# Spending

## Projected spending growth in FY 2022

- Since FY 2018, DOC’s total spending steadily declined, falling 11% from \$1.40 billion in FY 2018 to \$1.25 billion in FY 2021, even as per-person spending increased dramatically due to a much more rapidly falling population (Chart 1).
- The City adopted a 6% reduction in DOC’s budget for FY 2022 last June, but revisions since adoption have pushed the forecast for the current year up to \$1.34 billion, or 7% higher than FY 2021. Revisions include \$44 million in emergency relief for Rikers Island facilities, including funding for cleaning and cell door upgrades, \$15 million for evaluating staff who call out sick, and \$52 million in upward adjustments to personnel costs.
- The City’s Preliminary Budget for FY 2023 proposes a total budget of \$1.23 billion for the next fiscal year, about the same level as FY 2021. However, based on spending over the last five fiscal years, the Comptroller’s Office projects that overtime will exceed projections and lead to a higher level of spending.

**Chart 1. Total Department of Correction Actual and Forecasted Spending (dollars in billions)**



SOURCE: NYC Comptroller’s Office analysis of the City’s *Annual Comprehensive Financial Reports* and Office of Management and Budget, *FY 2023 Preliminary Budget* (February 2022).

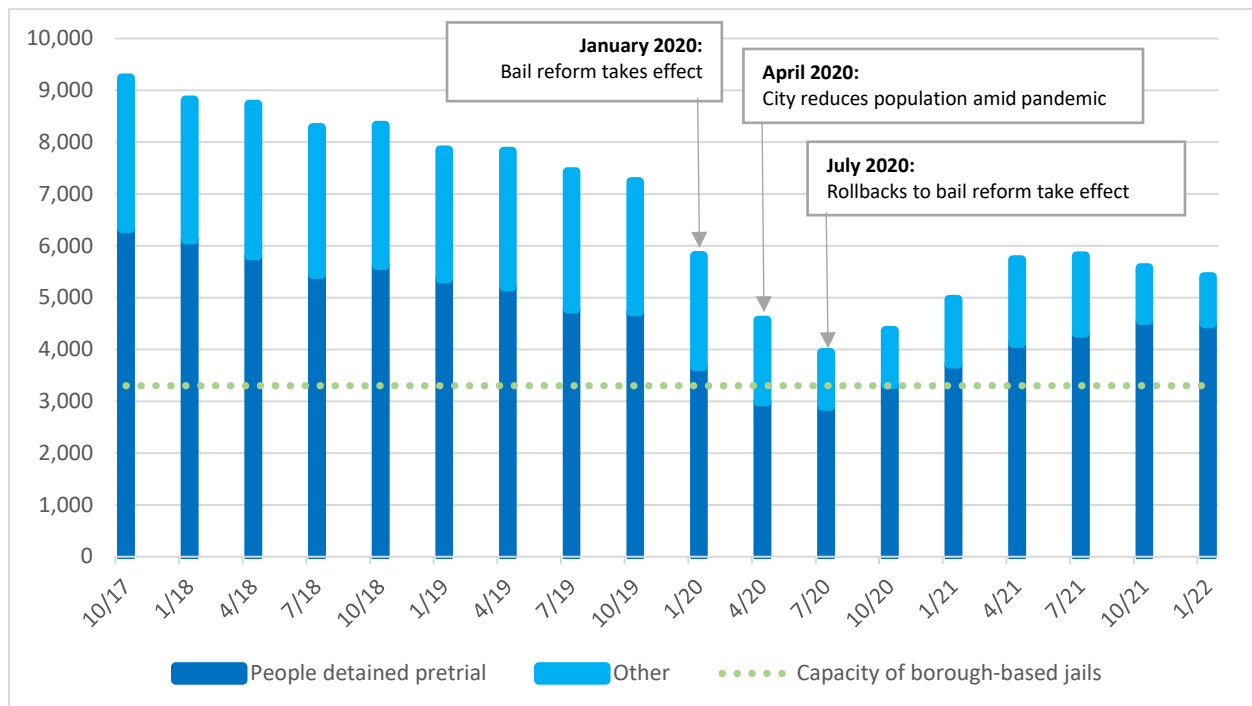
NOTES: Uniformed employees assigned to the Horizon Juvenile Detention Center and related costs in FY 2019 to 2023 have been excluded. \*Budgeted, as of February 2022 Financial Plan.

# Persons in Custody

## Jail population increased in the beginning of FY 2021

- Since FY 2007, the City’s jail population has steadily fallen. In the lead-up to the January 1, 2020 bail law changes, which limited the number of charges subject to bail, these declines accelerated, causing the population to drop below 6,000 (Chart 2). Soon after, the pandemic hit the city and the jail population temporarily fell below 4,000, the lowest population since 1946, as city and state officials worked to reduce the number of people in custody in the interest of public health.
- However, since then a number of factors, including increased gun arrests, delays in court proceedings, and bail reform rollbacks, caused the jail population to rise back to pre-pandemic levels.
- As of mid-March 2022, the average daily jail population was around 5,700.

**Chart 2. Jail Population Trends**

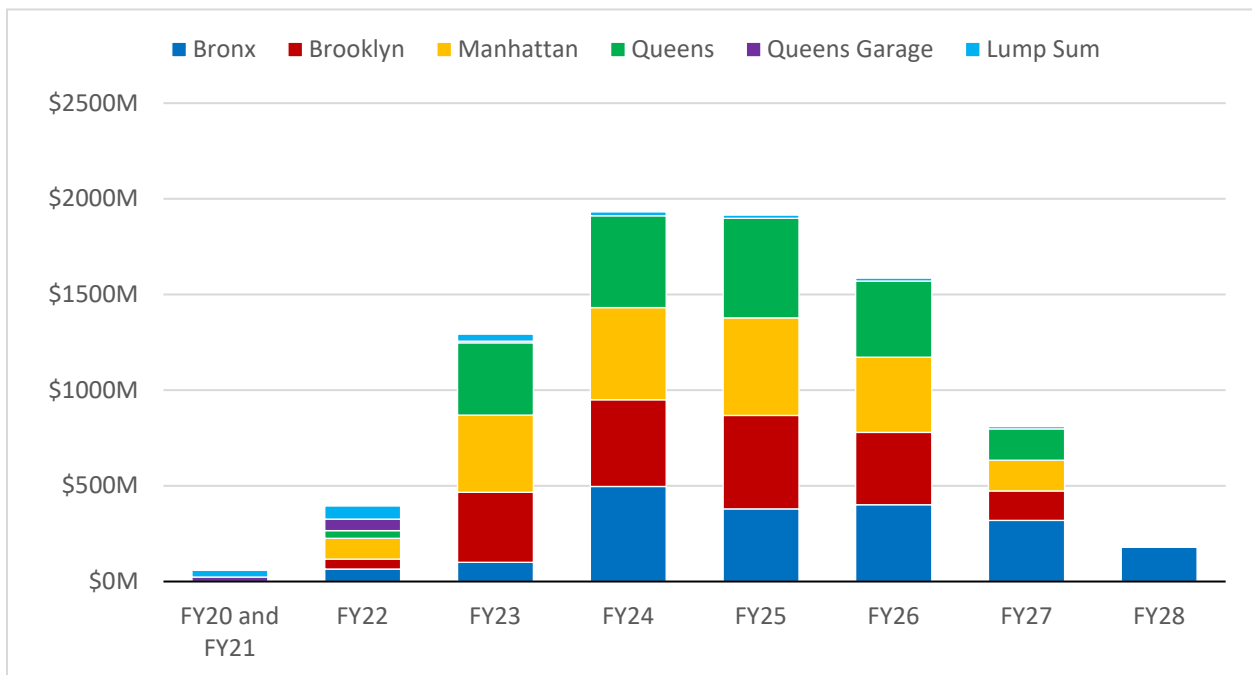


SOURCE: NYC Comptroller’s Office analysis of data published by Vera Institute of Justice, Jail Viz 2.0. Monthly jail population data represent the population in custody in City jails on the first day of the month for which data are available.

## Closing Rikers Island requires further reductions to the jail population

- In 2019, the New York City Council approved a plan to build four new jails – in every borough except Staten Island – to facilitate the closure of jail facilities on Rikers Island by 2027.
- As of the FY 2023 Capital Plan, the City expects to spend a total of \$8.1 billion through FY 2028 on these new facilities (Chart 3). Each facility would cost roughly \$2 billion. The City has also allocated an additional \$67 million to a new parking garage in Queens and \$168 million in a lump sum allocation.
- To date, the City has committed about \$438 million, including close to \$380 million in the current fiscal year. Major construction activities began on the Queens site in June 2021.<sup>3</sup>
- The four new jail facilities will have a combined capacity of 3,300 – roughly 2,400 less than the current daily population.

**Chart 3. Borough-Based Jails Capital Commitment Plan (dollars in millions)**



SOURCE: NYC Comptroller’s analysis of the *FY 2023 Preliminary Capital Plan* (February 2022).

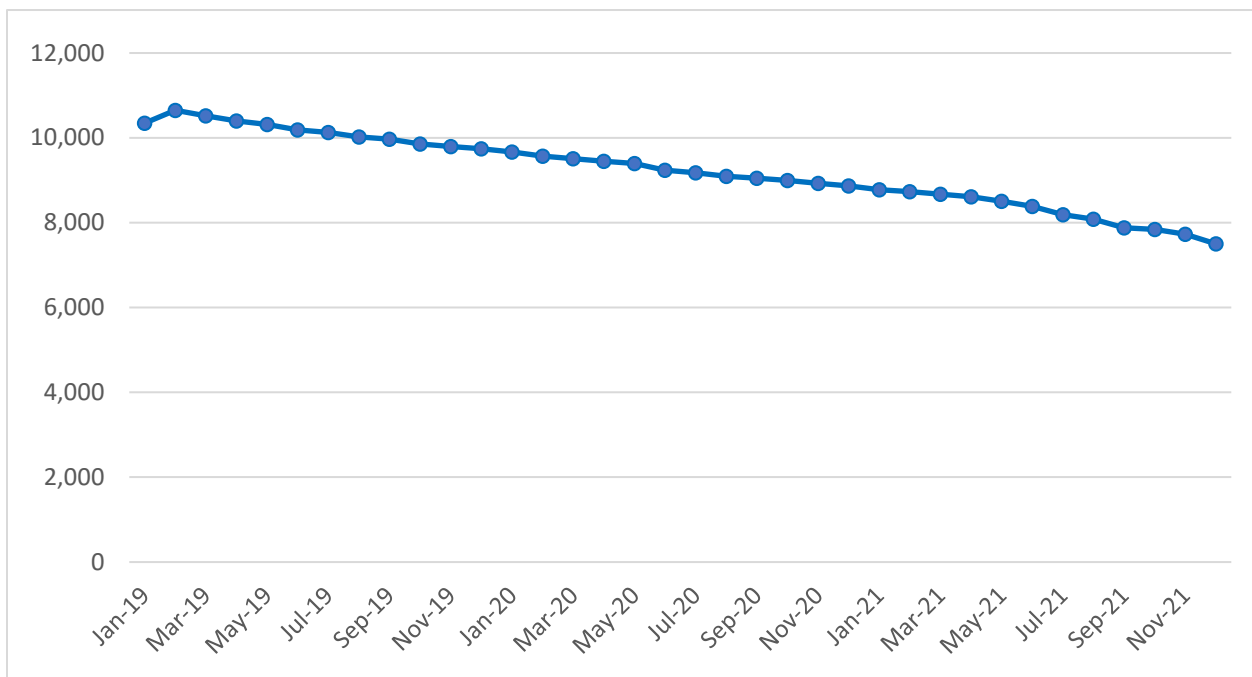
<sup>3</sup> <https://www1.nyc.gov/office-of-the-mayor/news/466-21/mayor-de-blasio-beginning-major-construction-activities-borough-based-jails-program>

# Staffing

## The number of correction officers has fallen

- As of December 2021, DOC employed 7,501 correction officers, a reduction of 27% since January 2019, and close to the City’s FY 2022 year-end projection of 7,460 (Chart 4).
- DOC initially had more aggressive plans to reduce headcount. When the City adopted its budget in June 2020, the City forecast that the number of correction officers would drop to 7,060 by the end of FY 2022. However, the City backtracked in April 2021, adding funding to hire 400 new recruits.

**Chart 4. NYC Department of Correction Full-time Uniformed Staffing (as of end of month)**

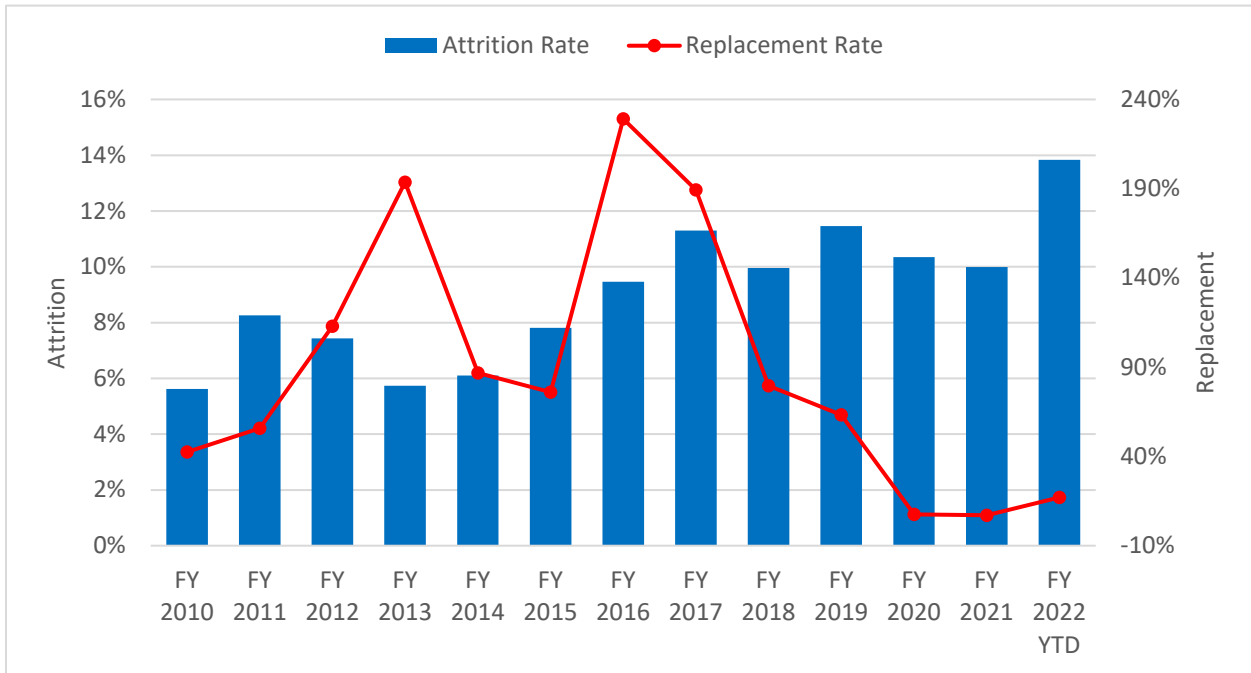


SOURCE: New York City Office of Management and Budget.

- For the first eight months of FY 2022, a total of 1,156 DOC uniformed staff separated from the agency – including resignations, retirements, transfers and layoffs – pushing the attrition rate to 14%, up from an annual rate of roughly 10%-11.5% in the last five fiscal years (Chart 5).
- Uniformed staff hiring has increased in FY 2022, bringing the replacement rate, i.e., the share of separations that are replaced by new hires, from 7% in FY 2021 to 17% in the first eight months of FY 2022.
- Multiple factors likely drove the attrition rate higher in the current fiscal year, including pandemic-related impacts, violent conditions in the jails, staff being required to work double- and triple-shifts to cover for other staff who were not showing up to work, and the City’s vaccine mandate.

- In October 2021, the City mandated that all municipal workers receive the COVID-19 vaccine, setting a December 1, 2021 deadline for the first dose for correction officers. Shortly after the deadline, about 500 correction officers were placed on unpaid leave for refusing to comply; another 9% of uniformed staff applied for medical or religious exemptions.<sup>4</sup> In mid-February, the City reported that 75 DOC staff, including uniformed and civilian, were fired for refusing the vaccine.<sup>5</sup>

**Chart 5. Attrition and Replacement Rate for Uniformed Department of Correction Staff**



SOURCE: NYC Comptroller analysis of City Human Resource Management System (CHRMS).

Note: Data for FY 2022 goes through the end of February 2022. “Attrition rate” equals the total number of separations divided by the total number of staff at the beginning of the period. “Replacement rate” equals the total number of new hires divided by the number of separations.

## Overtime has exceeded pre-pandemic levels

- After peaking in FY 2016, DOC uniformed staff overtime steadily fell, dropping from \$254 million in FY 2016 to \$127 million in FY 2020, before increasing slightly to \$135 million in FY 2021 (Chart 6).
- However, in just the first seven months of FY 2022 (July-January), uniformed overtime at DOC totaled \$132 million, 71% higher than pre-pandemic levels in FY 2020.

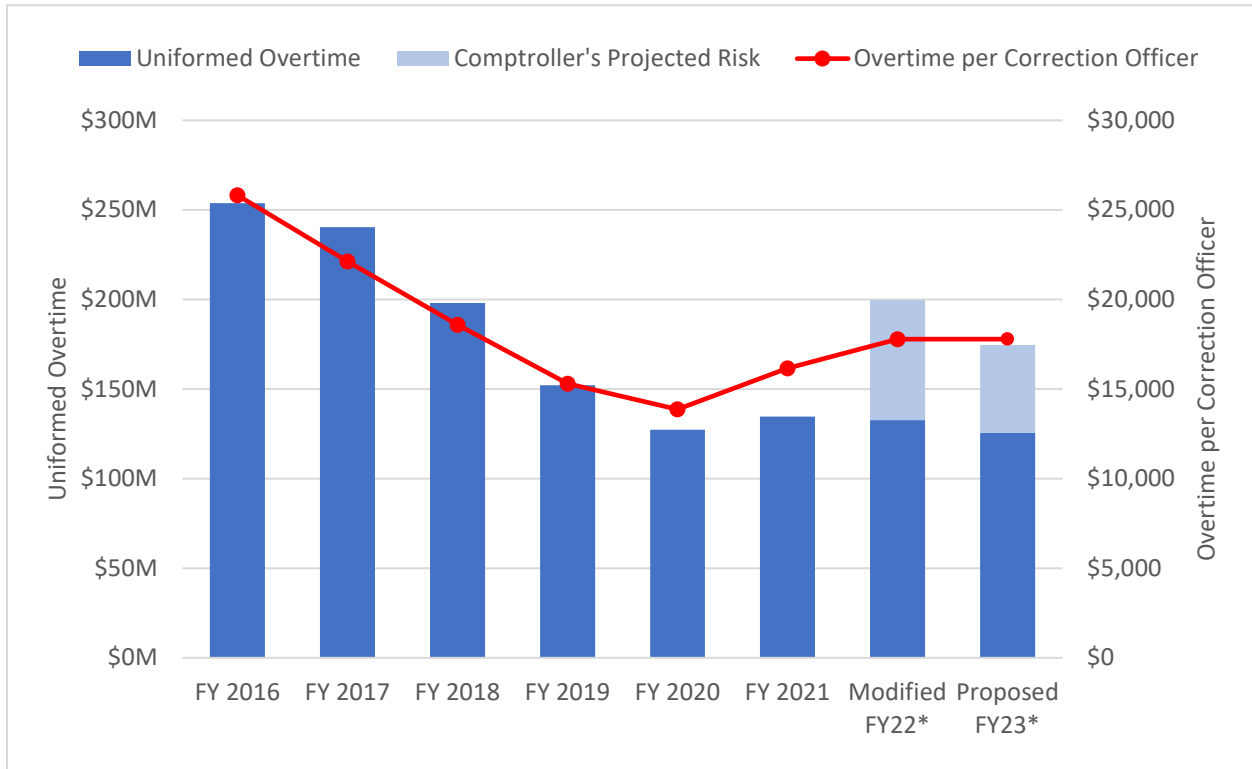
<sup>4</sup> Priscilla DeGregory and Kenneth Garger, “NYC Correction Officers Union Sues City Over Vaccine Mandate” *New York Post* (December 8, 2021), <https://nypost.com/2021/12/08/nyc-correction-officers-union-sues-city-over-vaccine-mandate/>.

<sup>5</sup> Amanda Eisenberg, “New York City Fires 1,430 Municipal Workers Over Vaccine Mandate” *Politico* (February 15, 2022), <https://www.politico.com/news/2022/02/15/nyc-fires-municipal-workers-vaccine-mandate-00008645>.



- The Comptroller’s Office projects that uniformed overtime costs at DOC will exceed the City’s current assumptions by \$67 million in FY 2022 and \$49 million in FY 2023.<sup>6</sup>

**Chart 6. Department of Correction Uniformed Overtime and Overtime per Correction Officer by Fiscal Year**



SOURCE: NYC Comptroller’s Office analysis of the NYC Financial Management System and the *Preliminary FY 2023 Budget* (February 2022).

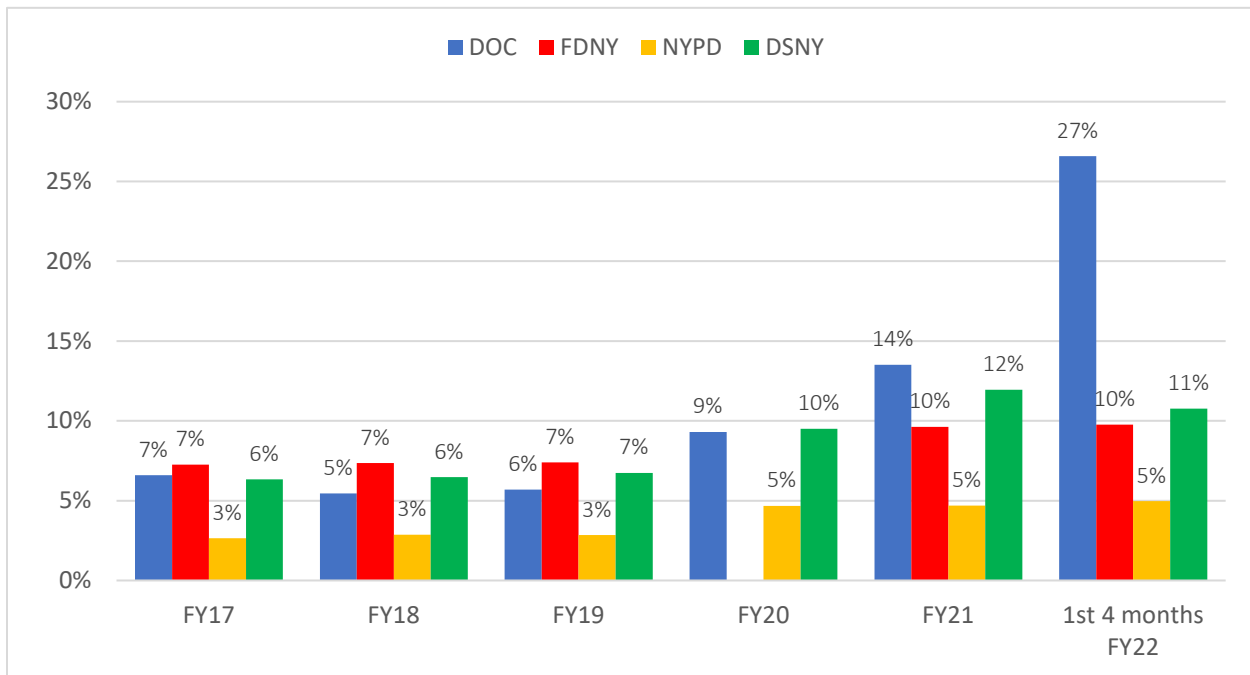
Note: Excludes overtime expenses for staff assigned to the Horizon Juvenile Detention Center.

## Uniformed staff absences have soared

- Before FY 2020, the annual paid absence rate for uniformed staff at DOC averaged between 5% and 7% and was close to the rates at the Fire Department (FDNY) and the Department of Sanitation (DSNY) (Chart 7). The absence rate includes sick leave and line-of-duty injury absences.
- Since the start of the pandemic, absences have grown at all uniformed agencies. However, in the first four months of FY 2022 (July-October 2021), DOC’s uniformed absentee rate skyrocketed to 27%, far surpassing the 10% rate at FDNY and the 11% rate at DSNY.

<sup>6</sup> Office of the New York City Comptroller, *Comments on New York City’s Preliminary Budget for Fiscal Year 2023 and Financial Plan for Fiscal Years 2022-2026* (March 2022), <https://comptroller.nyc.gov/reports/comments-on-new-york-citys-preliminary-budget-for-fiscal-year-2023-and-financial-plan-for-fiscal-years-2022-2026/>.

**Chart 7. Total Paid Absence Rate for Uniformed Workers by Agency**

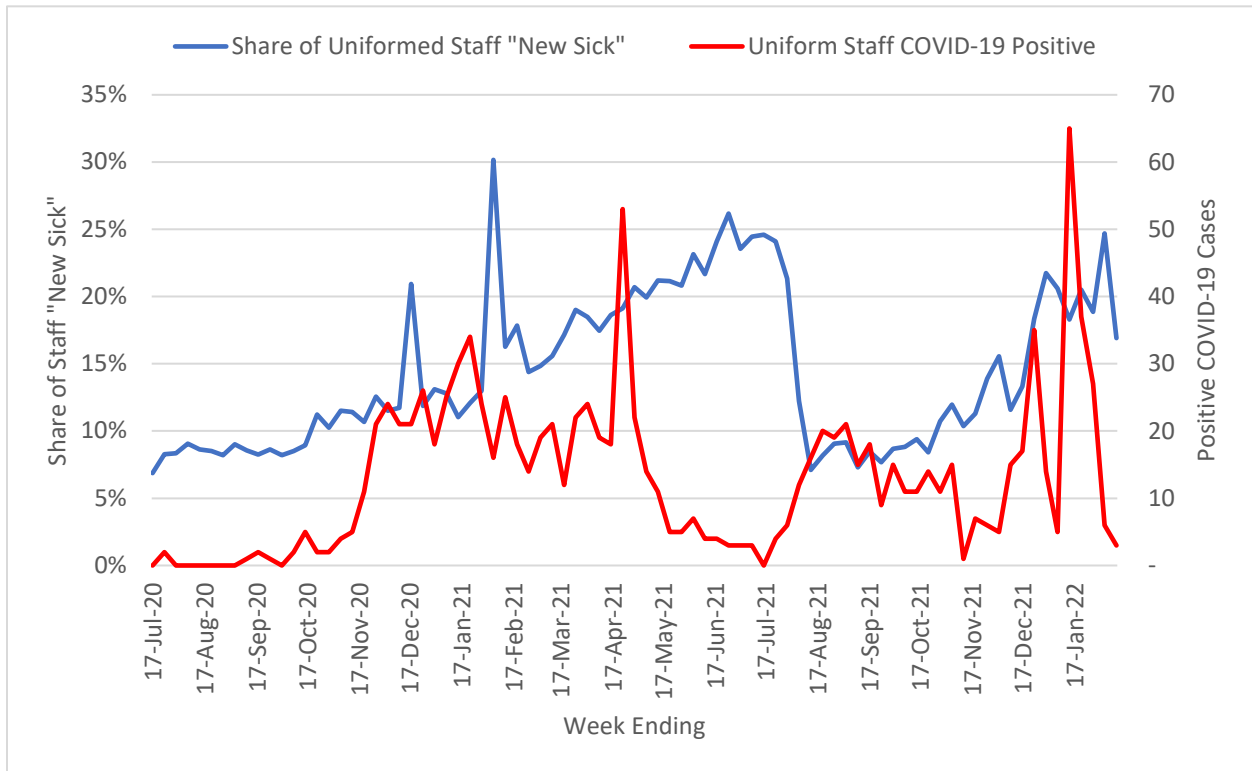


SOURCE: New York City Mayor’s Office of Operations, *Mayor’s Management Reports*.

Note: The Absence Rate is calculated by dividing the sum of paid sick leave and Line-of-Duty Injury absence for uniformed employees, by paid scheduled hours. Data is not available for FDNY in FY 2020.

- Since July 2020, the City’s Correctional Health Services – the provider of health care to incarcerated persons and DOC staff – has been required to publish weekly reports on the number of staff out sick, including positive cases of COVID-19.
- During FY 2021, the share of uniformed staff calling out “newly sick” progressively climbed from 7% during the week ending July 17, 2020 to more than 20% per week through May, June and July of 2021 (Chart 8). Newly sick refers to staff who call out sick for the first time.
- After falling in August 2021, the share of staff calling out newly sick each week rose through the fall and winter, reaching a recent peak of 25% for the week ending February 4, 2022, even as COVID-19 cases declined.

**Chart 8. Share of Department of Correction Uniformed Staff Newly Out Sick per Week**



SOURCE: NYC Comptroller’s Office analysis of Correctional Health Services, *Local Law 59 Reports*, <https://www.nychealthandhospitals.org/correctionalhealthservices/publications-reports/>.

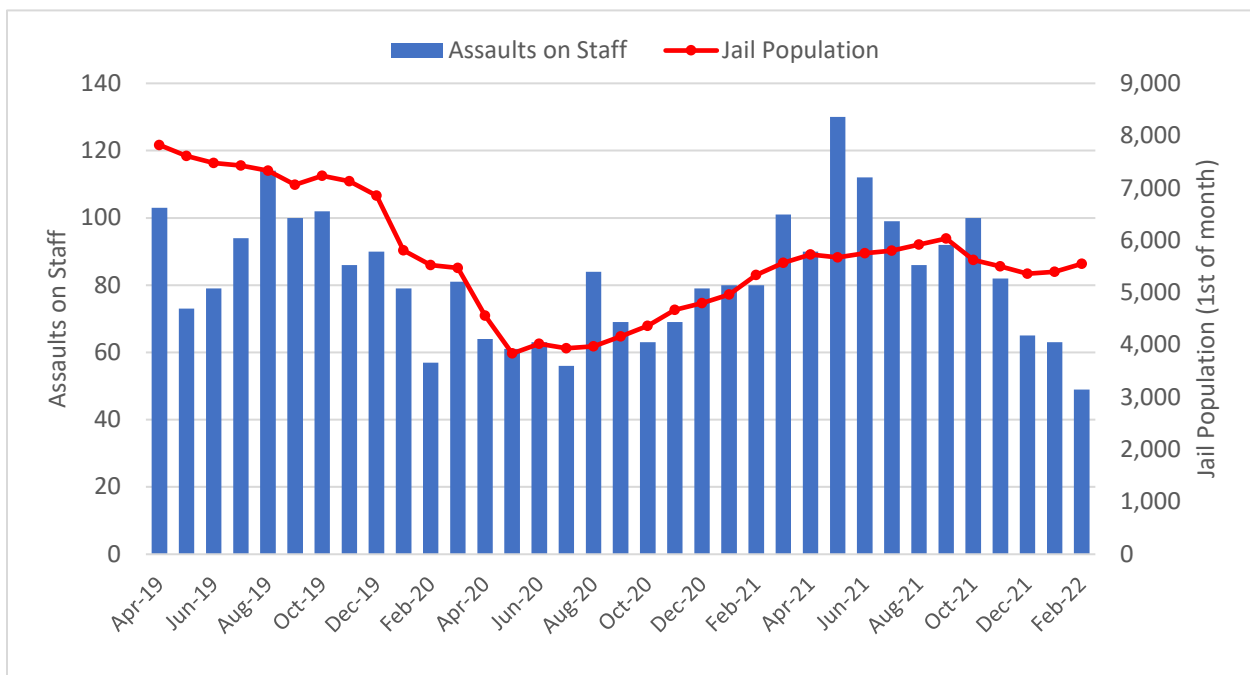
Note: "New Sick" refers to the number of uniform staff who call out sick for the first time. Some staff return to work the next day, while others are out for multiple days. According to the data reports, data “represents a snapshot in time and therefore is subject to change based on updated information subsequently reported by staff members to the Department.”

# Safety and Violence

## Indicators of jail violence rose over the last year

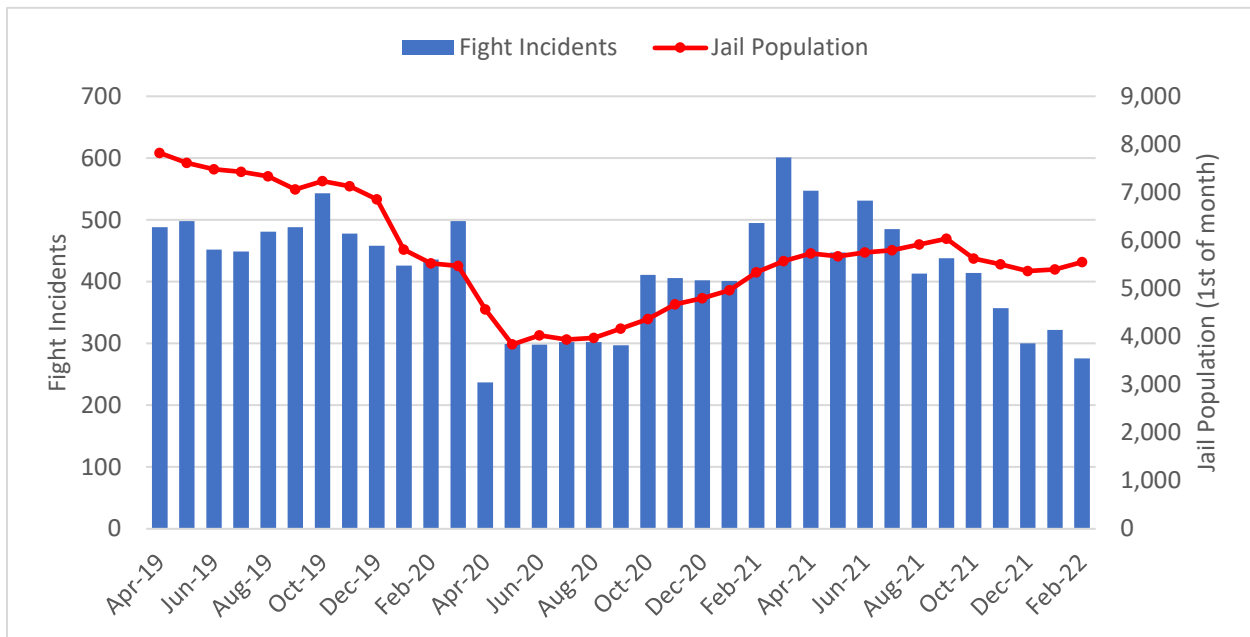
- For the first eight months of FY 2022 (July 2021-February 2022), the monthly number of assaults on staff has generally trended down, after peaking in May 2021, but the year-to-date total was still 10% higher than the same period in the prior year (Chart 9).
- The number of violent fights among persons in custody also peaked in the spring of 2021 and has since declined (Chart 10). For the first eight months of FY 2022, the total number of fights was roughly the same as the prior year.
- However, the number of slashings and stabbings has more than tripled for FY 2022 to-date, rising to 317 in the first eight months of FY 2022, up from 97 in the same period last fiscal year (Chart 11).
- Use of force incidents and allegations have also reached record highs in recent months, after falling at the outset of the pandemic (Chart 12). In the final quarter of FY 2021 (April-June 2021), DOC recorded 2,375 incidents and allegations, 37% higher than the number recorded in the fourth quarter of FY 2019. Adjusted for the jail population, the rate of use of force was nearly 42 per 100 in the fourth quarter of FY 2021, up 81% from the same quarter in FY 2019 and triple the rate in FY 2017.

**Chart 9. Number of Assaults on Staff by Incarcerated Individuals**



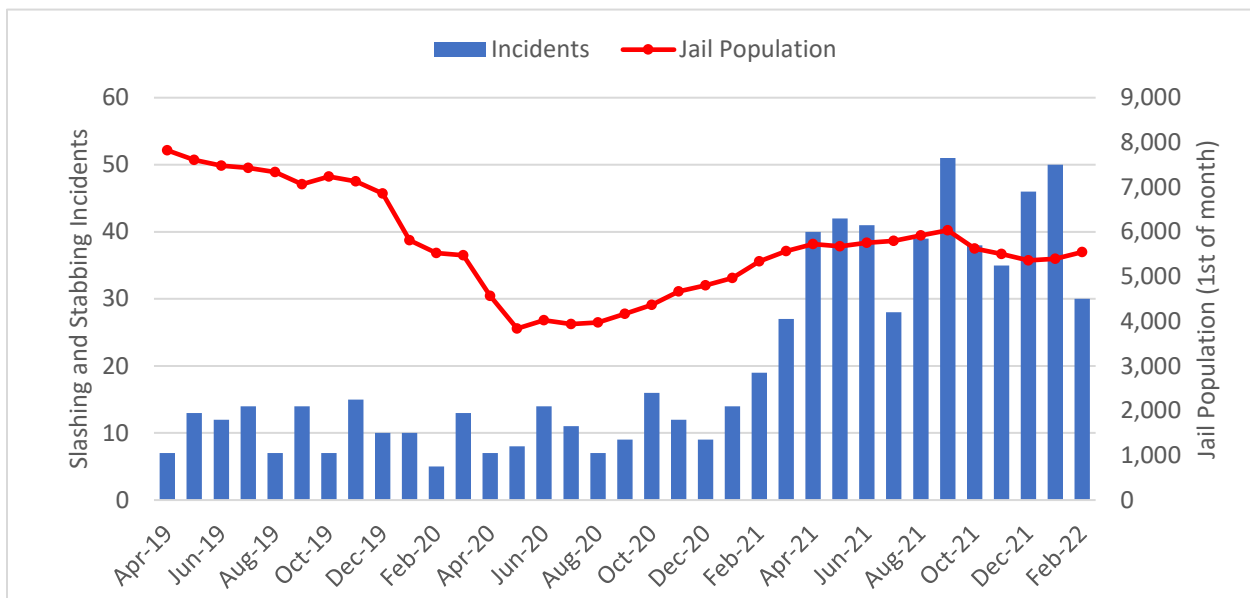
SOURCE: NYC Comptroller analysis of Department of Correction data available on NYC Open Data, <https://data.cityofnewyork.us/Public-Safety/Inmate-Assault-on-Staff/erra-pzy8>; and Vera Institute of Justice, Jail Viz 2.0.

**Chart 10. Violent Fights Among Persons in Custody per Month**



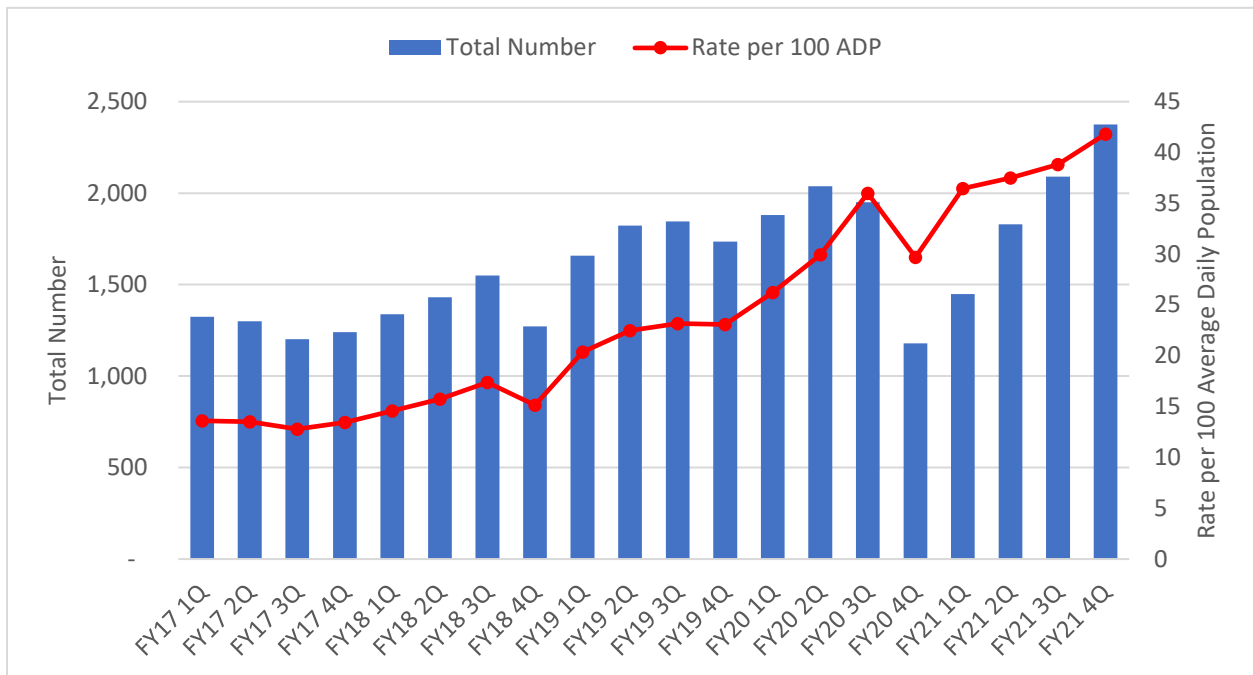
SOURCE: NYC Comptroller analysis of Department of Correction data available on NYC Open Data, <https://data.cityofnewyork.us/Public-Safety/Inmate-Incidents-Inmate-Fights/k548-32d3>; and Vera Institute of Justice, Jail Viz 2.0.

**Chart 11. Slashing and Stabbing Incidents Among Persons in Custody**



SOURCE: NYC Comptroller analysis of Department of Correction data available on NYC Open Data, <https://data.cityofnewyork.us/Public-Safety/Inmate-Incidents-Slashing-and-Stabbing/gakf-suij>; and Vera Institute of Justice, Jail Viz 2.0.

**Chart 12. Incidents and Allegations of Use of Force by Fiscal Year Quarter**



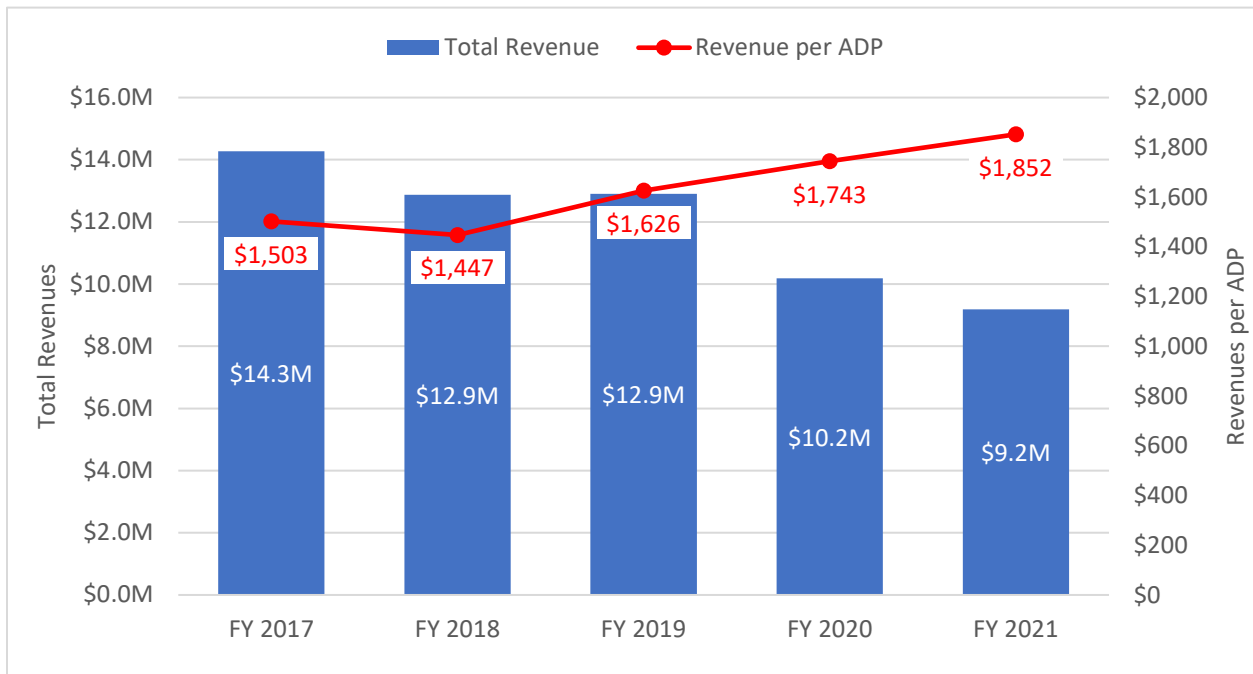
SOURCE: NYC Comptroller analysis of Department of Correction, *Security Indicators Reports*, <https://www1.nyc.gov/site/doc/about/security-indicators%20page>.

# Services to the Incarcerated Population

## Commissary revenue per incarcerated person has increased

- While incarcerated, individuals typically have access to jail commissaries, which provide a range of goods, including food, beverages, and personal hygiene products. Purchases appear as revenue to the City and are funded by outside deposits from friends and family or wages from job assignments.
- Over the last three fiscal years, purchases from DOC commissaries have grown 28% from an average of \$1,447 per incarcerated person each year in FY 2018 to \$1,852 in FY 2021 (Chart 13).

**Chart 13. Department of Correction Total Commissary Revenue and Revenue per Average Daily Population (ADP)**

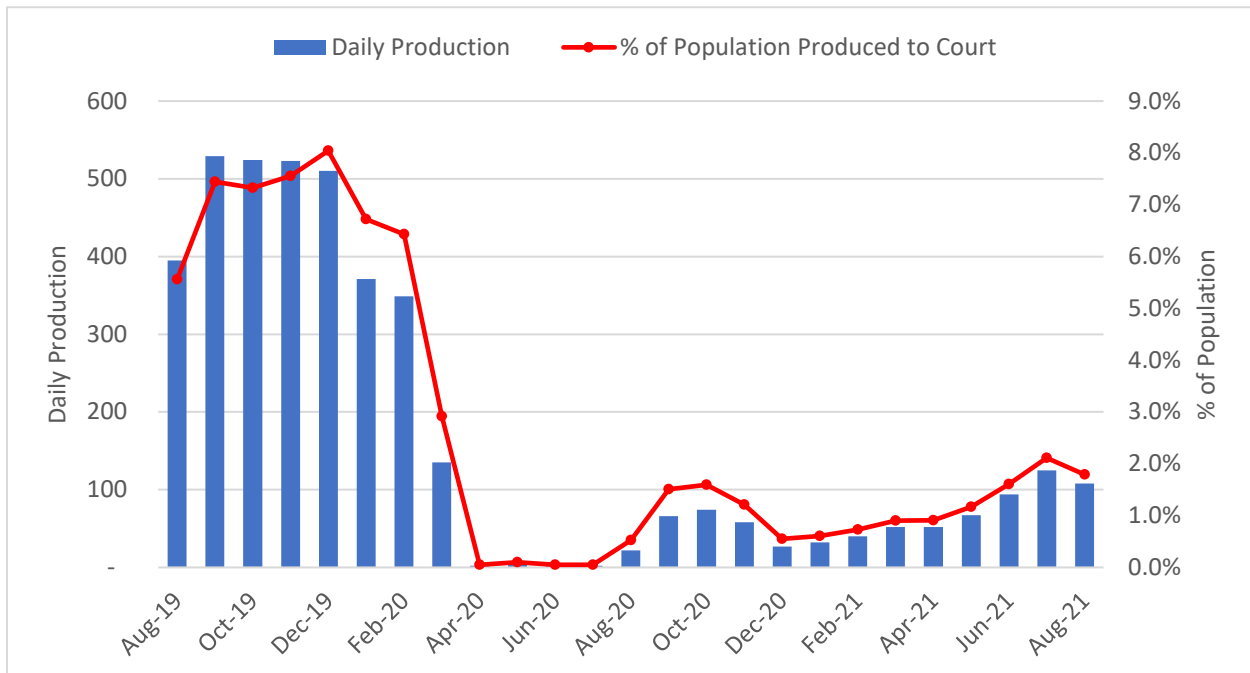


SOURCE: NYC Comptroller's analysis of the City's *Annual Comprehensive Financial Reports* and New York City Mayor's Office of Operations, *Mayor's Management Reports*.

## Productions to court hearings fell dramatically

- At the onset of the pandemic, grand jury hearings were suspended from mid-March to August 10, 2020, delaying the judicial process for incarcerated individuals awaiting court hearings. Hearings were again suspended on November 16, 2020. The courts resumed civil and criminal jury trials on March 22, 2021.
- However, the share of the jail population produced to court remained significantly below pre-pandemic levels through the summer of 2021. In August 2021, less than 2% of the jail population was produced in court, compared to 5.6% in August 2019 (Chart 14).

**Chart 14. Department of Correction Daily Production to Court**



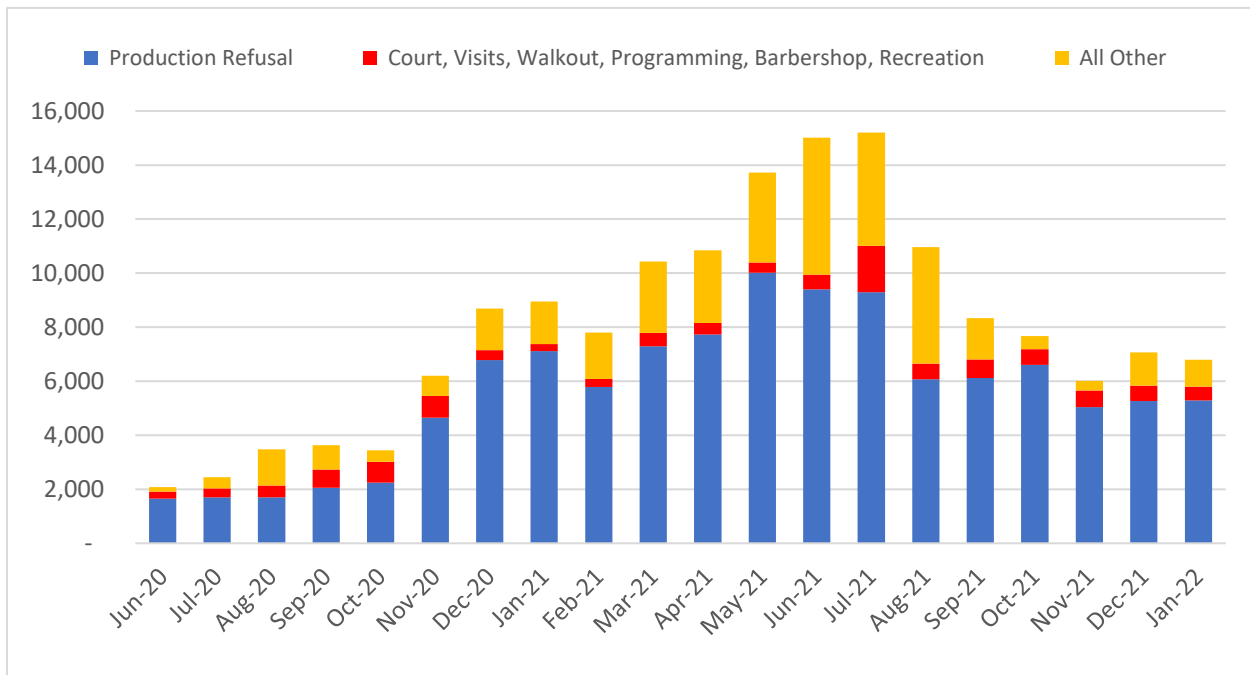
SOURCE: New York City Mayor’s Office of Criminal Justice, *What’s the Justice System’s Role in Driving the Jail Population* (October 2021), <https://criminaljustice.cityofnewyork.us/wp-content/uploads/2021/10/Whats-the-justice-systems-role-in-driving-the-jail-population-up.pdf>.



## Non-production for medical appointments spiked in 2021

- Pursuant to Local Law 132 of 2019, DOC is required to report on the non-production of individuals to scheduled medical appointments. Monthly reports show that the number of people who were not produced rose from 2,083 in June 2020 to a peak of 15,201 in July 2021 (Chart 15). This peak corresponds with the period during which a progressively higher share of uniformed officers were reported as “new sick.”

**Chart 15. Department of Correction Medical Appointment Non-production by Reason**



SOURCE: New York City Department of Correction, *Monthly Medical Non-Production Reports*, <https://www1.nyc.gov/site/doc/about/monthly-medical-reports.page>.

Note: According to DOC, “all other” includes but is not limited to instances where an incarcerated individual chooses to instead attend a work assignment, law library, school, religious services, or commissary, when an escort is not available, or when movement is limited due to a lockdown, search, or alarm.





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**New York City Council Committee on Criminal Justice**

**Submission on behalf of  
the Center for Alternative Sentencing & Employment Services (CASES)**

Good morning. I'd like to thank Chair Rivera and the members of the Committee on Criminal Justice for holding this hearing today and providing the opportunity to testify.

My name is Tysen White, and I work as a Program Director at the Center for Alternative Sentencing & Employment Services, also known as CASES. CASES is a nonprofit that provides services for people involved in the criminal legal system, including alternatives to incarceration; youth programs that emphasize education, employment, and family services; and mental health programs. CASES' programs serve more than 7,000 people annually across the five boroughs. These programs include the Nathaniel Clinic, an outpatient mental health clinic in Central Harlem. Our clinic provides counseling, psychiatry, group services, crisis intervention, primary care, and intensive outpatient programs, serving adults and adolescents through walk-in services and referrals from the courts, hospitals, social service providers, and members of the community.

In addition to clinic treatment programs, CASES operates mobile programs that offer treatment and services throughout the city to clients in their preferred community settings. Our mobile treatment teams include Assertive Community Treatment, also known as ACT; Forensic Assertive Community Treatment or FACT; and Intensive Mobile Treatment (IMT). These programs meet clients with serious mental illness wherever they are in the community and provide services—including clinical treatment, peer support, crisis intervention, or just making sure they get a meal and have someone to talk with—while also helping clients to connect to additional resources such as housing. CASES' FACT teams are specifically focused on providing these services to people living with serious mental illnesses who have current or recent involvement in the criminal legal system. CASES' FACT teams help clients to engage in treatment, achieve rehabilitative goals including those related to housing and employment, and avoid further involvement in the criminal legal system. In recent years, the City has supported expanded capacity for programs like FACT, ACT, and IMT, but the need for greater capacity continues to be urgent.

Across CASES' programs, we have seen a rapidly escalating need for services in the past two years since the pandemic began. Researchers have found that many New Yorkers report higher rates of anxiety and depression and are navigating increased wait times for limited treatment options. We have seen this at our Nathaniel Clinic in Central Harlem:

- Clients attended more than 19,000 Nathaniel Clinic appointments in 2021, an increase of 70% compared to 020
- Comparing the first quarter of this current fiscal year, 2022, to fiscal year 2020 prior to the pandemic, the Clinic has seen a 122% increase in average monthly clients and a 61% increase in average weekly services
- In addition to the significant growth in clients served and services delivered, the City's escalating mental health needs are reflected in the 47% increase in the rate of our clinic client census experiencing a crisis

I lead two programs that are co-located with the Nathaniel Clinic in CASES' Harlem office, a Health Home Care Management program and our Forensic Homeless Intensive Case Management program. Both of my programs provide mobile services in the community to support peo-



ple living with serious mental illnesses who have past criminal legal system involvement, including some making the transition from State prison back to the community. In addition to their mental health treatment needs, my clients have needs related to physical health and substance use. They also often do not have positive support from family and friends and have limited access to healthy food, clothing, hygiene products, and adequate housing. The goal of my teams' work at CASES is to help our program clients to connect to appropriate services in the community, achieve recovery and healing, and create a mentally and physically healthy life.

I'd like to share the story of one client in my Health Home Care Management program, who I will call Joseph. Joseph is in his 50s and is a lifelong resident of the Bronx. He and his wife have been married for over 30 years, and they have a tight-knit family including several children and grandchildren. Throughout his life, Joseph has struggled with severe depression, addiction, and physical health issues, and he has been incarcerated multiple times. Incarceration did not include treatment for his challenges, and in fact made his struggles more severe. Upon release from a prison term in early 2021, Joseph was referred to CASES as part of his parole, and as a client in my programs he has been engaging in behavioral health and case management services.

Joseph is highly motivated by his family and committed to doing everything he can to remain out of prison. He enjoys a close relationship with his case manager and therapist, and together with the CASES team he has been managing his physical and behavioral health needs as well as steadily working through the process of earning a commercial driver's license. Joseph wants to help others in his community who have similar struggles, and he has already started doing so by sharing resources that have helped him with me and with his case manager to be passed on to our other clients. Joseph describes himself as a family man. His determination, coupled with CASES' supportive services, is helping him to break a long cycle of poor health, underemployment, and incarceration.

Not all of CASES' clients are fortunate enough to have the family resources that Joseph has, but many of them share similar needs. Joseph's story is a testament to what can be possible if we provide needed support and treatment. Success like Joseph's is possible, even if a person has previous serious involvement with the criminal legal system. This brings me to the thrust of my testimony this morning. For decades, New York City government has invested in alternatives to incarceration like those provided by CASES since 1967. These alternatives—including those supported by City Council's Alternatives to Incarceration Initiative funding—have consistently proven to reduce recidivism compared to jail and prison while being much less expensive.

Alternatives to incarceration—ATIs as we call them at CASES—center on close work by expert staff with people involved in the criminal legal system, including youth and young adults and people like the clients in my programs who are living with serious mental illnesses. ATIs have made our city safer for all people, reducing recidivism while helping clients to address challenges, build skills, and achieve goals—all while remaining in the community and thus avoiding the harm of incarceration and its well-documented, devastating consequences for individuals and communities.

Speaking on behalf of CASES, we appreciate the time, attention, and funding that the City Council has directed for many, many years toward expanding alternatives to incarceration and to supporting the City's commitment to closing Rikers Island. We must not back away from these commitments, especially as the City now works to heal and recover from an unprecedented-



ed pandemic and its disparate impacts on the same Black and Brown communities that are also disparately impacted by the criminal legal system and by intersecting health inequities. Given my work in CASES' behavioral health services and specifically with people living with serious mental illnesses, I want to share two key investments that can support a truly equitable recovery from the pandemic that reaches some of our city's most vulnerable residents:

First, expand treatment options for people with serious mental illness who have involvement in the criminal legal system. Along with additional treatment slots in hospitals and inpatient treatment for people whose needs rise to that highest level of care, CASES recommends increased investment to support outpatient treatment, like at a planned new Bronx location of the CASES Nathaniel Clinic and through the expansion of the city's FACT teams:

- CASES' Bronx Satellite of our Nathaniel Clinic—to be located in Mott Haven—will feature a suite of integrated health and support services, including mental health treatment, integrated services for co-occurring substance use and primary health conditions, family and peer services, care coordination, and 24/7 crisis intervention along with specialist youth and young adult services. Consistent with CASES' expertise at the intersection of unmet mental health needs and criminal legal system involvement, services at the new, additional Nathaniel Clinic location in the South Bronx will be specifically tailored to address the often complex, interrelated needs and goals of people with mental illness who are involved in the criminal legal system.
- CASES also recommends the expansion of the city's Forensic ACT teams. FACT implements the evidence-based Assertive Community Treatment or ACT model, featuring a multidisciplinary treatment team that delivers intensive mobile services to people living with serious mental illness who have not been effectively served in less intensive, more traditional programs. A major achievement of the FACT model is successfully engaging people who other providers have struggled to maintain in services and for whom previous incarceration has only worsened their challenges as opposed to promoting some notion of rehabilitation. FACT services are tailored to the needs and goals of each client and include comprehensive clinical assessment and treatment planning, assistance connecting to resources for immediate needs such as food and housing, 24/7 crisis intervention, and—critically—close coordination with criminal legal system stakeholders.

Providing resources for programs like CASES' planned Bronx clinic and the city's FACT teams that work at community-based locations, and in the community via mobile services, supports the achievement of justice and community safety in New York City.

CASES, as well as other alternative to incarceration and mental health providers in New York City, has services that are proven to work for the people we serve, but our clients need housing to achieve lasting success, and many of them are unhoused. For example, in CASES' FACT programs, more than half of clients are homeless at program intake. At our Nathaniel Clinic, about a quarter of the nearly 1,500 clients served last year had experienced homelessness in the past 90 days. Available space in long-term housing, such as dual occupancy apartments is very limited, and many people are forced to spend far too long in shelters, a setting that for most people does not promote healing or recovery and can contribute to adverse outcomes. I see every day in my programs that providing adequate housing to those in need, even temporary housing, is critical in setting them up for a more stable and healthy lifestyle. Housing is a critical



criminal justice issue, and this is a second key area where I would recommend increased investment.

Thank you again for the City Council's long support of ATIs. CASES' ATIs have been proven to significantly reduce recidivism compared to jail and prison while helping vulnerable New Yorkers like Joseph, who I mentioned previously, to achieve positive life improvements. CASES is one of 11 nonprofit members of the ATI/Reentry Coalition. The Coalition has requested a \$1.1M increase for FY23 funding—increasing the ATI Initiative funding from \$14.487M to \$15.587M—an increase that would be divided equally among the 11 Coalition member organizations. This additional funding would enable the Coalition to be increasingly responsive to the City's evolving criminal justice landscape and priorities by augmenting its presence in and support of communities across the Boroughs, including by continuing to expand mental health treatment and housing services like those I'm recommending in this testimony.

We must remain committed to a criminal justice approach that centers healing and recovery for all New Yorkers. CASES is ready to support this effort, and I look forward to seeing how the Committee will invest in and lead this work. Thank you for this opportunity to testify.



PROTECTING KIDS. PROVIDING HOPE.

## **Testimony before the New York City Council Committee on Criminal Justice Reducing Violence Among Young Adults in New York City Jails, March 28, 2022**

My name is Daniele Gerard and I am a senior staff attorney at Children’s Rights – a national advocate for youth in state systems. We are also a member of the New York City Jails Action Coalition and the reconstituted Young Adult Task Force. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us in contact with young adult and youth corrections policy, as our clients are disproportionately represented in young adult and juvenile correction facilities. We advocate for young adults incarcerated on Rikers Island.

Death and violence continue apace on Rikers Island. Violence is seven to eight times higher than in other corrections systems,<sup>1</sup> and youth are disproportionately affected by the egregious conditions that show no improvement. Among the many people who have died in custody in the last year, one was 24 and one was 25 years old.

Today, among other issues, we bring to your attention alarming findings of the recent *Nunez* monitoring reports:

1. In the March 16, 2022 Special Report, the Independent Monitoring Team announced that jail conditions remain “unstable and unsafe.”<sup>2</sup> The Team further expressed “grave concern”<sup>3</sup> over the high rate of violence at RNDC – the facility where a majority of young adults are living on Rikers. The report describes multiple incidents where youth were left unattended and staff were off-post, inciting chaos and disorder at the facility. One young adult was discovered bloodied and with multiple face lacerations after staff came to the housing unit on three separate occasions without noticing him. Another victim was found with multiple abrasions on his neck and hand 25 minutes after an assault occurred.<sup>4</sup>
2. The Twelfth Monitoring Period Report underscored once again that young people are highly susceptible to the stressors of confinement and exhibit challenging behaviors while in custody.<sup>5</sup> Staff who supervise young adults must therefore have specific skills to effectively prevent violence and other types of disorder. We and other advocates have requested this kind of training for years, well before and during both the pandemic and correction officers’ irresponsible and unconscionable no-shows that continue with impunity.
3. Finally, both monitor reports highlight that the rates of use of force for young adults are at or near all-time highs.<sup>6</sup> The Special Report notes that use of force and violence are “inextricably linked to the Department’s mismanagement of staffing and its significant security failures.”<sup>7</sup> The Department of Correction has requested a seven percent raise in the City budget. If the Department prioritized adequate training for its staff, and if correction officers showed up for

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<sup>1</sup> Special Report of the *Nunez* Independent Monitor (March 16, 2022) at 15.

<https://storage.courtlistener.com/recap/gov.uscourts.nysd.383754/gov.uscourts.nysd.383754.438.0.pdf>

<sup>2</sup> *Id* at 1.

<sup>3</sup> *Id* at 17.

<sup>4</sup> *Id* at 17-19.

<sup>5</sup> Twelfth Report of the *Nunez* Independent Monitor (Dec. 6, 2021) at 8.

<http://tillidgroup.com/wp-content/uploads/2021/12/12th-Monitors-Report-12-06-21-As-Filed.pdf>

<sup>6</sup> *Id* at 123-4.

<sup>7</sup> Special Report at 7.



work the way the rest of us do, overtime expenses would decrease drastically. There is no need to further pad a bloated budget that far outstrips other cities' corrections budgets.

According to a recent report by the NYC Comptroller, New York City spends over *half a million dollars per year to incarcerate someone on Rikers*,<sup>8</sup> while it costs approximately \$40,000 a year to provide someone with affordable housing. This is a colossal waste of taxpayer resources at great harm to young adults and their families. Imagine if we spent that money both humanely and effectively. For example, we could pay multiple social workers a decent wage to use their skills to help at-risk individuals stay out of jail.

Reducing violence among young adults on Rikers involves keeping them out of Rikers in the first place. This is only a matter of political will. Our elected officials have a responsibility to spend taxpayer money wisely, instead of on propping up a penal colony, the majority of whose residents suffer with mental illness and nearly all of whom are people of color who have not even been tried. As the Comptroller has noted, to significantly curtail the use of pretrial detention, New York should advance tried and true strategies that prevent crime and involvement in the criminal legal system by investing in programs that promote stability and safety and create economic opportunity, such as mental health care, substance use prevention and treatment, affordable housing, youth programming, and quality education.

While incarcerated, every young adult deserves 14 hours out-of-cell time each and every day. Not a single one of them deserves to be shackled to a desk when out of cell. Every single one of them deserves programming, including outdoor recreation, education, and enough nutritious food so they are not hungry when they go to bed. Rikers must close as forecast, and not a moment too soon. Meaningful planning based on expert opinion from the field should already be underway to provide these children everything they need to get out and stay out.

We call on you to find the political will to address the crisis for young adults on Rikers and to ensure it never happens again. Legislation should prioritize decarceration, increase mental health diversion, eliminate bail payments, and otherwise get as many people out of jail as possible. It is long past time for a complete, thorough, and effective overhaul of the carceral system in New York City.

Thank you for the opportunity to testify today.

Sincerely,



Daniele Gerard  
Senior Staff Attorney  
dgerard@childrensrights.org

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<sup>8</sup> New York City Comptroller's Office (Budget Bureau), "NYC Department of Correction FYS 2011-21 OPERATING EXPENDITURES, JAIL POPULATION, COST PER INCARCERATED PERSON, STAFFING RATIOS, PERFORMANCE MEASURE OUTCOMES, AND OVERTIME," December 2021, [https://comptroller.nyc.gov/wp-content/uploads/documents/DOC\\_Presentation\\_FY\\_2021.pdf](https://comptroller.nyc.gov/wp-content/uploads/documents/DOC_Presentation_FY_2021.pdf) ; see also <https://www.bloomberg.com/news/articles/2021-03-10/nyc-spent-half-a-million-dollars-per-inmate-in-2020-report-says>



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March 27, 2022

via Email: NYC Council Criminal Justice Committee:

To: Councilmember Carlina Rivera, Committee Chair

cc: Council Committee Members; NYC Council staff

**Ref: NYC Criminal Justice Committee Department of Correction Budget and Oversight hearings March 23 & 27, 2022**

Dear Chair Rivera and members of the Committee:

Councilmember Rivera it is always an honor to to speak before you. You listen with great care and go out of your way to be encouraging, to recognize unique and individual thinking, and to extend help. I appreciate you at the helm of the new of this committee and have great hope as a fourth generation Manhattanite: descendent from a man who came here on a ship from Barranquilla, Columbia in 1898. When I see you stewarding this oversight body committee of the DOC (which is also now led by Commissioner Molina, another Latinx person) I am encouraged that after years of inaction we may be able to finally make progress towards meaningful Rikers reform. I don't think in the history of NYC Corrections have we had such a pairing of Latinx leadership.

Close Rosies welcomes the chance to offer weitten testimony about two specific items although we support other advocates and council members in a general call to freeze DOC CO hiring and to parse out spending “grifts” as Mary Lynn Werlwas from Legal Aide Society so succinctly phrased it. Especially regarding the eleven million budget line to build a new facility for the turtles on Rikers. Heck no. Our hope, aside from reminding the Chair and other committee member about the dozens of times we have already offered testimony regarding the current unconstitutional, ill -intended plan to stuff all women and girls in Queens while men will be housed in their “home borough” when caged by the DOC (which is also a Title IX violation) we wish to emphasize the following considerations for this budget cycle:

**I. The necessity for the NYC Board of Correction’s Budget to have parity to the DOC’s and;**

**II. Revenue Lines in the DOC Budget.**

**I The necessity for the NYC Board of Correction’s Budget to have parity to the DOC’s.**

I am thankful that newly-appointed, although not new to the BOC, Director of the Board Of Correction Amanda Masters appeared and shared testimony on Monday March 27, 2022. I support her budget requests and urge the council to expand on them. We still haven’t BOC employees to do the work of rule audits and technology oversight etc that we started years ago but were abandoned due to staff attrition.

As a very keen observer of the Board and its staff I note that often the long-term obligations of the agency are shelved in lieu of a need to respond to an urgent crisis. Reports are left un-analyzed, audits are shelved, oversight is left blown to the wind like leaves in the fall as a result. I ask the Council to consider adding funding to the BOC to add an additional unit or squad to board staff that would solely respond to emergencies and special projects.

Additionally: the board staff is overburdened: for years the policy director was

also the Comms Director and the Tech Director at the BOC! I hope with Amanda back at the helm staffing issues will be made solvent but please don't be parsimonious with her budget. We can't have enough DOC oversight.

## II Revenue Lines in the DOC Budget.

**NYC Correction revenues still need to be explained and addressed.**

072 DEPARTMENT OF CORRECTION AGENCY REVENUE BUDGET SUMMARY					
REVENUE CATEGORIES	ADOPTED BUDGET FOR FY 2022	CURRENT MODIFIED BUDGET FOR FY 2022	CHANGE FROM ADOPTED (+/-)	PRELIMINARY BUDGET FOR FY 2023	CHANGE FROM MODIFIED (+/-)
LICENS. PERM. PRIV. FRANCHISES	\$ 660,000	\$ 660,000	\$	\$ 660,000	\$
CHARGES FOR SERVICES	13,000,000	13,000,000		13,000,000	
FINES AND FOREITURES	25,000	25,000		25,000	
MISCELLANEOUS	1,809,000	1,809,000		1,809,000	
Federal Grants and Contracts-Categorical	8,285,617	8,285,617		8,285,617	
State Grants and Contracts-Categorical	1,109,000	1,109,000		1,109,000	
Non-Governmental Grants		976,759	976,759+		976,759-
TRANSFERS FROM OTHER FUNDS	1,034,095	1,034,095		1,034,275	180+
INTRA-CITY REVENUE	107,920	651,234	543,314+	107,920	543,314-
GROSS AGENCY REVENUE BUDGET	\$ 26,030,632	\$ 27,550,705	\$ 1,520,073+	\$ 26,030,812	\$ 1,519,893-
LESS: INTRA-CITY REVENUE	\$ 107,920	\$ 651,234	\$ 543,314+	\$ 107,920	\$ 543,314-
NET AGENCY REVENUE BUDGET	\$ 25,922,712	\$ 26,899,471	\$ 976,759+	\$ 25,922,892	\$ 976,579-

095 PENSION CONTRIBUTIONS AGENCY REVENUE BUDGET SUMMARY					
ADOPTED	CURRENT MODIFIED	CHANGE FROM	PRELIMINARY	CHANGE FROM	

Last time can find DOC misc revenue streams were publicly broken- down was in '18 fiscal year NYC Council budget report:

## Miscellaneous Revenue

The Department of Correction collects revenue from jail commissary operations, vending machines and surcharges on inmate telephone calls. Commissary funds are generated by the sale of commissary goods. The revenue is recognized in the Miscellaneous Budget (Agency 098) and is not included in the “funding” section of DOC’s Financial Plan Summary on page 3.

The chart below provides actual revenue for Fiscal 2016 and 2017, and projected revenue for Fiscal 2018 and 2019. DOC plans to collect approximately \$20.5 million in miscellaneous revenue in Fiscal 2018 and \$21.4 million in Fiscal 2019. Of the approximately \$7.7 million in “other” miscellaneous revenue projected for Fiscal 2019, \$5 million, or 65 percent, is expected to be collected from inmate telephone fees. The Department collected \$22.6 million in Fiscal 2017, a 0.8 percent increase when compared to Fiscal 2016.

DOC Miscellaneous Revenue Budget Overview						
<i>Dollars in Thousands</i>						
Revenue Sources	2016	2017	2018	Preliminary Plan		*Difference
	Actual	Actual	Adopted	2018	2019	2018 - 2019
Vending Machine	\$361	\$437	\$660	\$660	\$660	\$0
Commissary Funds	13,591	14,275	13,000	13,000	13,000	0
Other	8,493	7,901	6,874	6,874	7,725	851
<b>TOTAL</b>	<b>\$22,446</b>	<b>\$22,612</b>	<b>\$20,534</b>	<b>\$20,534</b>	<b>\$21,385</b>	<b>\$851</b>

*\*The difference of Fiscal 2018 Adopted Budget compared to Fiscal 2019 Preliminary Budget.*

## Facilities Overview

In 2017 several of us undertook an effort to remove a 20 million dollar profit line from the DOC budget for telephone services. We persevered and managed to get the Council to pass legislation preventing the DOC from charging people for phone calls with their loved ones while chef on Rikers. We asked for accounting of all DOC revenue streams and the NYC Comptroller embarked on an audit.

The audit revealed that the DOC commissary system had had a few questionable workflows and practices. Instead of heeding the Comptroller’s recommendations DoC outsourced the commissary function. The result is a flat 13 million in revenue reported by DOC annually from this outsourced contract. We don’t know how much the vendor is actually profiting off of the commissary now. I will FOIL but maybe this committee can get a more accurate breakdown of all current DOC revenue lines included in this year’s budget?

<https://comptroller.nyc.gov/reports/audit-report-on-the-department-of-corrections-controls-over-commissary-operations/>

**A similar audit was undertaken in 2004:**

<https://comptroller.nyc.gov/reports/audit-report-on-the-internal-controls-over-commissary-operations-by-the-department-of-correction/>

*Both audits reveal a startling pattern of graft in the DOC commissary operations budget that instead of being accounted for has been swept under the rug into an outsourced contract as families of loved ones caged on Rikers continue to pay outrageous fees to commissary accounts so those inside can be overcharged for necessities like soap which can mean life or death on Rikers during the pandemic.*

Additionally what are the “grants” in the revenue lines? Are these actually vendor payments disguised as grants? If they are grants from NGOs this seems like a very small amount. What are the DOC’s current development efforts? Can we get a breakdown of current and past DOC grants please? Also is it possible to get a list of grants DOC has applied for and been denied?

Thank you for considering my testimony carefully. It’s outrageous the BOC is being asked to curb its budget and staff. It should be expanding to respond to the needs of oversight over the DOC and at least have parity.

Kelly [Grace] Price

Ft. George, Manhattan

March 27, 2022

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**TESTIMONY OF  
THE FORTUNE SOCIETY**

**THE COMMITTEE ON CRIMINAL JUSTICE  
NEW YORK CITY COUNCIL**

City Hall,  
New York, NY

Monday, March 28, 2022

**SUBJECT:** Testimony for Hearing on Reducing Violence Among Young Adults in City Jails.

**PURPOSE:** To discuss the reduction of violence among young adults in city jails and the need for change within city jails.

Presented by

**Andre Ward**

Associate Vice President,  
David Rothenberg Center for Public Policy

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My name is Andre Ward and I am the Associate Vice President of The David Rothenberg Center for Public Policy at the Fortune Society. The Fortune Society is a 54 year-old organization that supports successful reentry from incarceration and promotes alternatives to incarceration, thus strengthening the fabric of our communities. We do this by believing in the power of people to change; building lives through service programs shaped by the experiences of our participants; and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative correctional system.

I am a formerly incarcerated Black man who spent three and a half years on Rikers Island, from 1988 to 1992, as both an adolescent and adult. During this period, I experienced and witnessed countless episodes of abuse and neglect, including frequent medical and mental health neglect, and the inadequacy of programming which properly prepares those detained for community reentry.

Now I sit here, 30 years later, and conditions for young adults on Rikers are even worse, as the practice of leaving posts unstaffed has spread like an unchecked disease. The topic of this hearing is reducing violence among young adults in city jails. But we must start with the adults who are responsible for their custody, safety, and well-being, because it is the behavior of the adults in charge that set the stage for this ongoing crisis. DOC is leaving posts unstaffed, setting the stage for dysfunction, disorder, and danger to the people who work there and the people held in custody there. Young adults were of particular concern in the federal lawsuit that was finally settled in 2015, and I want to quote from the original Nunez consent decree: “Young Inmates shall be supervised at all times in a manner that protects them from an unreasonable risk of harm. Staff shall intervene in a timely manner to prevent inmate-on-inmate fights and assaults, and to de-escalate inmate-on-inmate confrontations, as soon as it is practicable and reasonably safe to do so.”<sup>1</sup> DOC has yet to live up to this.

CM Rivera, thank you for asking the Commissioner to provide you with information about staffing at last week’s budget hearing. We urge the City Council, and we urge the Board of Correction, to continue to demand accountability, because lives are at stake. We have to remember this: lives are at stake.

I want to highlight four key issues about the dangerous conditions faced by young adults, based on the special report issued by the Nunez monitor on March 16, and information that was revealed at the Board of Corrections public hearing on March 8.

First, the Nunez report notes that almost half of staff assigned to RNDC are not available to be assigned to a post engaging with people in custody, for a host of reasons, many of which speak to complete mismanagement. Of that remaining allegedly available half, people still call

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<sup>1</sup> *Nunez and United States v. City of New York*, 1:11-cv-05845-LTS-THK ( S.D.N.Y. ), Consent Judgement filed Oct. 21, 2015, Retrieved March 23, 2022, <http://tillidgroup.com/wp-content/uploads/2018/02/Consent-Judgment-10-21-15.pdf>.



out sick, attend training, and go on scheduled vacations.<sup>2</sup> How do we have a jail facility where over half of the staff cannot be assigned to work with the people detained in that facility? Particularly when the needs of the people in Rikers have become more acute, with over half of the jail population being diagnosed with a mental illness.<sup>3</sup> That insults our common sense and it does not explain the over half-million-dollar cost of detaining a single human being at Rikers, a cost that quadrupled over ten years as the average daily population fell by 61 percent.<sup>4</sup> During that same time period, violence also skyrocketed at alarming rates, against staff and against people in custody, with use of force incidents rising a shocking 779 percent.<sup>5</sup>

Second, the *Nunez* Monitor Special Report describes multiple sickening incidents of violence in RNDC for the single month of January 2022. Many of these incidents occurred when staff were not at their assigned posts – either off post or the posts were not filled. As the Monitor points out, this also means that we do not actually know how many incidents of violence there were – because staff were not there to report them. At least one of the reported incidents involved multiple detained young people sustaining Class A injuries, one of whom faced a 16-hour delay in receiving medical care. As the report noted about this mayhem, “while commonplace in New York City jails, these incidents would be considered *major events* in any other jail system.” (emphasis in original).<sup>6</sup>

Third, at the BOC hearing, we heard that DOC is continuing the unacceptable practice of co-mingling young people with adults.<sup>7</sup> This is a dangerous step backwards and it is not best practice. DOC was asked to provide data on this issue. I urge this Committee to ask DOC to provide information about the numbers of young people being housed with adults and for information about alternative means employed before DOC resorted to this contraindicated practice.

Finally, there is a lack of transparency and accountability by DOC to the bodies that are lawfully empowered to provide oversight and review data. We heard at the BOC hearing that DOC had stopped providing information on staffing in January. We read in the special *Nunez* report that DOC had stopped providing that information to the Monitor.<sup>8</sup> And we heard at the budget hearing before this committee last week that Chair Rivera has also been requesting this information. We hope that this Committee will continue to exercise its authority and be vigilant

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<sup>2</sup> The Nunez Monitoring team (2022, March 16). *Special Report of the Nunez Independent Monitor*. Retrieved March 22, 2022, from <https://legalaidnyc.org/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>.

<sup>3</sup> New York City Comptroller’s Office (2021, December 6). *NYC Department of Correction FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, and Overtime*. Retrieved March 25, 2022, from [https://comptroller.nyc.gov/wp-content/uploads/documents/DOC\\_Presentation\\_FY\\_2021.pdf](https://comptroller.nyc.gov/wp-content/uploads/documents/DOC_Presentation_FY_2021.pdf).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Special report of the Nunez Independent Monitor*, supra.

<sup>7</sup> Question by Board of Correction Member Felipe Franco, Answered by unknown DOC staff and DOC Commissioner Molina.

<sup>8</sup> *Special report of the Nunez Independent Monitor*, supra.

in demanding information about the numbers of unstaffed posts, at RNDC and across all city jail facilities. The core failure to properly staff posts is at the root of the escalated, current violence that threatens DOC staff and people in custody.

RNDC, and Rikers, are a blight on the great city of New York. We must continue to demand answers from the adults in charge, to protect the adults who do show up to work and the young people under their watch



***"Drama class got a lot of stuff off my mind. Classes like this make more happy than down @ night".***  
*Drama Club student—RNDC, Rikers Island*

Thank you, Chair Carlina Rivera and the members of the Committee of Criminal Justice for the opportunity to share about the work that Drama Club is doing with young adults on Rikers Island. Through this lens, I hope to shed some light on the value of programming on this population of young people, who are attempting to navigate a very difficult environment while also dealing with their own complex trauma.

Drama Club provides improvisational theater classes and mentorship to young people who are incarcerated, court-involved, and/or from neighborhoods disproportionately impacted by mass incarceration. We have been a consistent presence on Rikers Island since 2014, offering year-round weekly classes, and, when possible, performances. We were paused from March 2020-December 2021 because of COVID 19 but are relieved to be back with both the young men and young women, ages 18-21.

We directly serve approximately one hundred youth per year at each secure detention center and approximately fifty youth at Rikers.

Throughout our years of working on Rikers Island, we have met many young people, have witnessed changes in laws and attitudes towards young people in the criminal legal system, and seen leadership at the Department of Correction come and go. What has not changed however is the culture of violence in the jails. It is a complex problem that does not have a simple answer. What I have witnessed over the years, is that programs work. They give an outlet to young people navigating stress, fear, and complex trauma. They can have positive learning outcomes, provide a safe space to experience vulnerability, and sometimes result in employment opportunities for young people when they return to their communities. And despite the many incidences of violence that occur daily on Rikers Island, we have never experienced a violent incident in any of our classes in 8 years.

Drama Club's mission is to consistently care for youth--especially those who are incarcerated or court-involved--by creating space for them to thrive, using improv as their guide. We practice core values of love, respect, consistency, equity, and the philosophy of "yes and..." through programs that promote positive youth development. Theater has a unique advantage as a social-emotional learning tool because it utilizes activities such as play, storytelling, and role-playing, that naturally develop social bonds and allow supported exploration of difficult choices, executive functioning, and social-emotional creativity. Most importantly, it's fun and gives young people who feel silenced, confined, and controlled, an outlet to collaborate and express their imaginations freely, on their own terms.

#TheRightToPlay

[josie@dramaclub.org](mailto:josie@dramaclub.org)

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Jackson Heights, NY 11372

**Yes, And:** Drama Club's first rule of improv, saying "yes, and" to whatever is presented in a scene, ensures that a player accepts their scene partner's challenge. This means that if one actor calls the other his Grandmother, the other actor has to accept that that is the truth of this scene. This not only creates the flow of a scene and takes the actors to an unexpected place, but it also creates a sense of safety by limiting the uncertainty of a response.

In an article published in *Psychology Today*, it is stated: "Improv's rule of Yes, and is the access point to the brain as it creates the safety, attunement, and flexibility needed to achieve neurobiological changes. Whether one's trauma has created a state of hyperarousal or hypoarousal, the conditions created by Yes, and drives the nervous system to self-organize towards integration and balance, thus shifting the individual from the mental state they are in to one better able to function cognitively, physically, behaviorally, and psychologically."

**Conflict Resolution:** The core of any good improvised scene is conflict, challenging students to examine what a conflict is, what causes conflict, and most importantly, alternative ways to resolve conflict. Because physical violence in scene work is prohibited in Drama Club, youth are encouraged to find nonviolent and creative solutions to conflict, providing a safe way of practicing conflict resolution. For example, instead of reaching for an imaginary gun, students need to find a way to resolve their conflicts with words. Drama Club's rules of improv include "no violence" (this is boring in improv). The restriction on the use of violence is the only censorship we place on improvisations.

***"This drama program taught me to put issues aside and work with peers I really don't like. Also it makes me forget about where I am and makes me think about where I can be"***

**Harnessing Emotion:** The process of creating a character takes a student outside of him/herself into a different persona. Despite how they are feeling, acting allows a student to take control of their feelings and harness their emotions into powerful, positive change. They can practice how they react to different situations, and gain power over their circumstances as a result. Drama Club provides a safe space to explore a possibility of one's self, different from the circumstances one has found oneself in; a scared youth can become brave, a youth afraid to express their emotions can find their voice. Drama Club takes students out of their past, present and future circumstance and gives them a vision of a new way of life. Students have the opportunity to process and express their inner feelings and find ways to channel their emotions into positive outlets, while building trust with others and gaining confidence in abilities they may have not previously known they possessed.

***"Something I learn was you can turn a bad day to a Good day in Drama."***

## **Evidence-Based Programming**

In retrospective surveys completed by Drama Club participants, we saw the following shifts:

*I can express myself without getting angry or stressed out. Before Drama Club: 31% After Drama Club: 81%*

*I enjoy learning. Before Drama Club: 37% After Drama Club: 84%*

*I feel I can set and succeed at my goals. Before Drama Club: 50% After Drama Club: 93%*

In conclusion, it is our firm belief that programs such as Drama Club are profoundly important for the wellbeing and safety of young people on Rikers Island. They should not be considered a privilege for young people, that can be used as a carrot for good behavior, but easily accessible and widely available. If we are to truly focus on rehabilitation, programs need to be a service considered as important as education or healthcare. Normalizing programs and making them easily accessible is essential in helping shift the culture of violence at Rikers Island to one of rehabilitation.

Thank you very much for this opportunity,

Josie Whittlesey  
Executive Director, Drama Club

**Testimony to the City Council Criminal Justice Committee  
On Reducing Violence Among Young Adults on Rikers Island**

**March 28, 2022**

**On behalf of the Institute for Transformative Mentoring at The New School**

Good Afternoon,

My name is William M. Evans and I'm the co-director at the Institute for Transformative Mentoring at The New School. Thank you for the opportunity to speak with you today on violence at Rikers Island. I worked on Rikers Island, I trained people to be facilitators, counseled those in need, developed programs and strengthened personalities, but for some reason I could not relieve myself of the memories of my experiences as a detainee on Rikers Island. I can never forget my experiences there and what I have witnessed. As a result I resigned from that position and worked on myself and what I could bring to empower the community.

The New School's Institute for Transformative Mentoring (ITM) is a dynamic training program focused on the support and professional development of credible messengers, formerly incarcerated men and women who use their lived experience to mentor young people. Credible messengers reduce crime, violence, and the incarceration of young adults and are a vital community resource.

Since its founding of ITM in 2017, and with support from the City Council, ITM has served over 300 participants from over 75 organizations across New York City. ITM offers intensive training and support for credible messengers and court-involved young adults in the form of semester-long courses at The New School. These classes and related workshops are intended to help credible messengers heal from prior traumas and enhance their practical skills so they are healthier, more knowledgeable, and better able to help others.

Credible messengers also operate in Rikers -- officially through organizations like Exodus -- and informally through peer networks of support, mentorship, conflict resolution, and survival. I am a credible messenger and have done this work inside and in the community.

This committee knows well the inhumane conditions on Rikers. These conditions have festered for decades and have grown worse in recent years. The recent report from the Federal monitor cited an increase in violence, abuse, and mismanagement. It spoke about the normalization of violence and a lack of transparency and urgency from those in charge. Young people are not the problem. They struggle (and fight) to stay safe in Rikers' hellscape. The real solution to reducing violence among young adults in city jails is to close Rikers and invest in communities. **MY WRITTEN TESTIMONY SHARES**

## **MY IN-DEPTH EXPERIENCE on RIKERS AS A DETAINEE AND EMPLOYED BY AN ORGANIZATION**

### **My Stay on Rikers:**

**1993:** arrest after a supermarket delivery

- Witnessing another young man beaten for walking into a correction officer (women) and joined by other officers, many are huge in weight.
- Such trauma and fear is when we had to turn our heads to the wall with special unit walks thru the hall. One wrong turn or sound you are immediately beaten.
- Such things as a life Alert would be helpful, correction officers hold similar instruments to life alerts.

**2009:** arrest while in college hanging out in Harlem

- Having to make a choice between the yard or the law library (a place to help fight for my freedom)
- Making a complaint about officers' wrongdoing and being shipped to another dorm or facility (when moved we are stripped of everything, food, clothing, magazines, etc. This also includes our access to whatever friends built - cooking team, exercise team).
- Grievances are destroyed because too many people are complaining too much or hold no weight. I was moved by that as well.

IT IS IMPORTANT TO UNDERSTAND we are working with children and adult humans. Children should have the hopes of feeling safe around their peers and especially adult officers. Training is very important for everyone, but who would think DOC lacked in this area when working with children.

**Working on Rikers 2016/2017:** I was the interim supervisor for discharge planners (18 ppl) working at 9 facilities. I witnessed the work and disrespect at all facilities from Rosie's to RNDC.

- The disrespect from staff when you are facilitating a class or circle
- The removal of a team member when a DOC staff dislike you or your facilitation style
- The amount of time it takes you to get to your facility
- The lack of support from DOC to organizations and people working as credible messengers and discharge planners

There is no way I should still feel the way I felt on Rikers Island back in 1993, 2009/2010 and 2016/2017

I am here to represent the impact of community-based anti-violence and restorative justice programs that are the solution. And until this brighter day -- credible messengers are in the jails supporting the humanity of our young brothers and sisters.

I was wrongfully arrested and placed on Rikers two times in my life and another time as a credible messenger. I should've felt supported and young people should definitely feel supported and safe. We are investing in officers and not investing in the needs of young people. Although I was acquitted of charges on each case, the nightmares and feeling of incarceration never left my soul.

Solutions such as the increasing number of credible messengers, counselors and discharge planners are important. Credible Messengers that come through ITM training are better prepared to mentor and provide others with a clear understanding for identifying triggers, trauma and the healing process. Counselors help to document the struggles and connect resources for mental health and educational needs with support of credible messengers. Discharge planners assist with making the outside connections such as family, friends and employment.

Such places like the law-library, a library (access to reading) and better exercise spaces and dining areas and access to food are also equally important to the development of the brain for both young people and adults.

Being restorative must represent a new way of thinking.

\_\_\_\_ Thank you.



**Testimony to the City Council Criminal Justice Committee  
On Reducing Violence Among Young Adults on Rikers Island**

**March 28, 2022**

**On behalf of the Institute for Transformative Mentoring at The New School**

Good morning. I'm William M. Evans and I'm the co-director at the Institute for Transformative Mentoring at The New School. Thank you for the opportunity to speak with you today on violence at Rikers Island. I worked on Rikers Island, I trained people to be facilitators, counseled those in need, developed programs and strengthened personalities, but for some reason I could not relieve myself of the memories of my experiences as a detainee on Rikers Island. I can never forget my experiences there and what I have witnessed. As a result I resigned from that position and worked on myself and what I could bring to empower the community.

The New School's Institute for Transformative Mentoring (ITM) is a dynamic training program focused on the support and professional development of credible messengers, formerly incarcerated men and women who use their lived experience to mentor young people. Credible messengers reduce crime, violence, and the incarceration of young adults and are a vital community resource.

Credible messengers also operate in Rikers -- officially through organizations like Exodus -- and informally through peer networks of support, mentorship, conflict resolution, and survival. I am a credible messenger and have done this work inside and in the community.

I represent the Institute for Transformative Mentoring. Since its founding in 2017, and with support from the City Council, ITM has served over 300 participants from over 75 organizations across New York City. ITM offers intensive training and support for credible messengers and court-involved young adults in the form of semester-long courses at The New School. These classes and related workshops are intended to help credible messengers heal from prior traumas and enhance their practical skills so they are healthier, more knowledgeable, and better able to help others.

This committee knows well the inhumane conditions on Rikers. These conditions have festered for decades and have grown worse in recent years. The recent report from the Federal monitor cited an increase in violence, abuse, and mismanagement. It spoke about the normalization of violence and a lack of transparency and urgency from those in charge. Young people are not the problem. They struggle (and fight) to stay safe in Rikers' hellscape. The real solution to reducing violence among young adults in city jails is to close Rikers and invest in communities.

I was wrongfully arrested and placed on Rikers two times in my life. Although I was acquitted of charges on each case, the nightmares and feeling of incarceration never left my soul.

I take you back to the 1993 case where I was arrested as I am leaving a neighborhood building from making a supermarket delivery. During these days gang colors were highly acknowledged and serious... and I happen to have on a pair of faded navy blue sweat pants and a St. Louis red baseball cap. When I was arrested and charged with drug possession and loitering... I was taken to Rikers and left to survive. I had no idea so

many young people would be housed in such a space without parents, guidance and/or proper support... but there I was. As a 15 year old I had to quickly learn to look up and toughen up. All the adults around me saw me as prey and always seemed to look at me with a look of death. I heard of so many deaths and beatens [beatings] that took place on Rikers Island... so I was never a fool or blind to the type of reputation Rikers Island had... I just never knew everyone was left to defend themselves... even the young people like 15 year old William. I remember being sent to the yard with a metal fence surrounding the people inside. On that fence were spike-like wires. The only freedom was the seagulls and sun looking upon me and others. Inside of this yard were a few basketball courts, men with authoritative uniforms (DOC) and a few steel bars for people to workout (pull up bars and dip bars). So many people in the yard and me of all people... I knew NO ONE.

I was approached by another young guy and he said "What that red be like"... and he continued with "Let me hold on to that hat"". I had no idea of the language... but I was immediately informed of my hat and the logo (St. Louis image) meant something in the gang culture. I was also informed my sweatpants also represented something. I felt so lost. I removed my hat and held it close ready to defend what's mine. I wasn't going to remove my pants to hide the colors... and I walked about my business throughout my time in the yard. There is so much more I learned throughout my experience before the case was dropped/dismitted. I could never forget how cold the setting was, how cold the DOC was. I could never wrap my mind around how an adult could beat a young boy up with her hands and other grown big men would join... all because he was looking back, talking on line and did not know the line stopped as he continued to walk. He only

walked into the Officier by accident. Even after saying he made a mistake... he was beaten by her and others.

I could never forget the long walks in the hallways and having to feel intimidated by huge, in shape grown men looking like they're on steroids (special unit). Whenever they came down a hallway... we all had to take our nose and place it on the wall (looking away from them). One turn of the head got you smacked, kicked, punched, slammed, choked, and thrown around. See, many of these stories you may not hear about... especially not as much as the young men fighting one another. What people fail to realize is this... who wants to be embarrassed and clowned the rest of their time on Rikers Island all because they were jumped and beaten on by adults. Any form of a beating and other violations left you to be clowned on (made fun of).

I remember the strip searches and the way they used to dump our food on the ground and/or take our clothing and leave us with much of nothing to wear. It was just weird how we could receive it on a visit and it was approved, but once a shakedown is initiated... all of what the family brought over would be taken away. And it's not just about the deprivation of these items and food, it was the manner in how it would be taken away and never replaced. Any questions or fussing would get you thrown into the box or beaten on. All forms of embarrassment. Many of the young people around me had no idea of how we were developing. All we knew was we had someone to clown for the next few days and it would happen all over again to someone else.

So I know first hand, young people are faced with so much and deal with so much, and yet created to be the monsters that are making Rikers Island what it is today. This is not

true, this is no place for young people, not even a place for an adult. How do I know this is a place that needs to be closed? That is because nothing changed in all of these years. As an adult, I was again placed on Rikers Island for 11 months and 4 days after another wrongful arrest. Although I was acquitted and released... each day felt like my younger years on Rikers Island, triggers, retraumatized and helpless.

During September 2009 I was taken to Rikers Island. I was stripped, searched, disrespected, deprived of things and refused freedom and people access to literature and education. I thought it would all be different. I thought I would not be here once again, but I understood (or felt I understood how the system worked) and just wanted it all to be over. At times I thought I was experiencing a dream... then I realized that was my current reality.

During my stay I watched beatens after beatens provided by DOC staff. I witnessed food being tampered with. I watched the various forms of disrespect from DOC to detainees. I watched people be deprived of recreation and leisure time. I watched shower time be stripped away and phone privileges be stripped away. I watched the same tactics used on the younger me that made many young people act out and become frustrated. I realized... it was all a game of how can DOC rattle this box of people and let them loose on each other. I realized, this was not a place of safety or rehabilitation. What made this a reality for me and nailed it... I sat and watched a civilian working as the lead for the grievance office destroy grievances all "because it was baseless or too many written...". At that point... I knew there was no one to be heard outside of their walls.

A few years later I returned there to work as an Interim Supervisor for Discharge Planners and decided to resign. Much of my work was focused on helping people prepare for their return to the community. I supervised a team of 18 working at 9 facilities. So much so that it reminded me of my stay on Rikers Island. I got to meet so many great people, many detained at all 9 buildings. I discovered, there are more helpful people awaiting trial and sentence than DOC staff. During this time (2017) there seemed to be many more people like myself (good heart and wanting to make a difference) supporting those sentenced and awaiting trial or their day in court. I felt the difference and the hope for those inside because of so many people (credible messengers and counselors) working hard to make a difference, but DOC staff just has a culture that seems so unbreakable. As a person working on Rikers, it was even hard to facilitate circles and discussions with those that joined the group because DOC staff would just walk through or interrupt sessions and felt nothing. Even walking into a classroom I would know to be quiet and/or politely excuse myself. There just seemed not to be any of that there. This is no environment for peace, love, fairness or safety.

I am here to represent the impact of community-based anti-violence and restorative justice programs that are the solution. And until this brighter day -- credible messengers are in the jails supporting the humanity of our young brothers and sisters.

Thank you.

# KATAL

**CENTER FOR EQUITY, HEALTH, & JUSTICE**

**Testimony of Kenyatta Muzzanni**  
Director of Organizing at the Katal Center for Equity,  
Health, and Justice

**Hearing on Reducing Violence Among Young  
Adults in City Jails**

**Submitted to the New York City Council  
Committee on Criminal Justice –  
Council Member Carlina Rivera, Chair**

**March 30th, 2022**

Contact: Kenyatta Muzzanni, Director of Organizing, [kenyatta@katalcenter.org](mailto:kenyatta@katalcenter.org).

Good morning Councilmember Rivera, and members of the Criminal Justice Committee. My name is Kenyatta Muzzanni, and I'm the Director of Organizing with the Katal Center for Equity, Health, and Justice. Katal works across New York City to develop the leadership and organizing capacity of neighborhood residents, organizers, advocates, and community groups to end mass incarceration and the war on drugs. Thank you for the opportunity to submit testimony regarding ways to reduce violence among young adults in NYC jails.

The most important step to address violence among young adults in NYC jails is to reduce the number of young people who are incarcerated in city jails and close the Rikers Island Jail complex which has a long-documented history of violence and abuse. Instead, the city must make investments to support young people in their community and not in cages. Many [studies](#) show that to provide a better foundation for young people to survive, we need more investment in our communities, particularly in housing, health care, education, and jobs. Incarcerating young people does not effectively improve public safety, and in fact it does the opposite and moves us farther away from supporting young people and their communities.

From my own experiences in a neighborhood that was heavily surveilled by the police, I know the impact that criminalizing (and ultimately incarcerating) communities of color has. I grew up in Brownsville. As a young adult during the height of the NYPD's "stop and frisk" policies, I was frequently and unnecessarily stopped by law enforcement for walking home from school at night, traveling alone in the early morning, and even carrying too many bags on the train. I know the impact criminalizing young people has on their development. I also grew up near a juvenile detention center. Though I have never gone behind its walls, the orange and white concrete slabs of Crossroads Juvenile Detention Center still haunt me. These experiences remain with me to this day, and unfortunately, are far too common.

The constant push to criminalize and incarcerate young people reflects and exacerbates ugly forms of racism in NYC and throughout the country; these practices do not offer a legitimate way to improve public safety. Stark racial disparities still exist within the system, as [Black and Latinx young people](#) still make up a disproportionate majority of the young people incarcerated in NYC. All of these factors point to the need to look beyond incarceration as a solution to reduce violence in city jails. New York state has made strides—presently, there are [nearly half as many](#) young people who are incarcerated as there were 10 years ago— and this has shown that we can effectively reduce the number of young people caught in the legal system while simultaneously improving public safety.

The most effective way to reduce violence in NYC jails is to invest in communities and not in the systems that perpetuate that violence. For too long, people of color in New York City—especially in Black and Latinx communities—have been ravaged by systemic racism, mass criminalization, and mass incarceration. The city spends millions every year to arrest and lock up youth and adults while failing to meet the basic needs of its residents. To tackle the systemic problems that harm people, the city council must



continue to decarcerate, close Rikers Island, and invest in real safety: housing, health care, education, and jobs.

To legitimately reduce violence among young people in city jails, we must invest in our young people, and not perpetually criminalize and incarcerate them. That is the only way to get to the root of violence, and reduce it to improve safety for all New Yorkers.

Thank you,

Kenyatta Muzzanni, MSW



New York City Council Committee on Criminal Justice

March 28, 2022  
10:00 a.m.

**Oversight: Reducing Violence Among Young Adults in New York City Jails**

Testimony of  
The Legal Aid Society  
Criminal Defense Practice

Presented by:

Kayla Simpson  
Staff Attorney  
Prisoners' Rights Project  
The Legal Aid Society  
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212-577-3530

Thank you for the opportunity to testify about the perilous conditions threatening the lives of young adults in the New York City jails. The reality is unavoidable: the way the New York City Department of Correction (“the Department” or “DOC”) manages young people in City custody has put them in serious and persistent danger.

The shocking dysfunction described for years by the court-appointed federal monitor in *Nuñez*,<sup>1</sup> in which we represent the plaintiff class, is not limited to young adults. But young adults in DOC custody face particular risks of harm and violence, and present developmentally specific needs and challenges. Those challenges do not justify DOC’s reflexive response to so often resort to force as the primary mechanism of control.<sup>2</sup> As the Monitor notes:

“The jails’ unsafe environments create extraordinary challenges for anyone to manage successfully and as discussed above, trigger a vicious cycle of fear, stress, trauma and violence. Due to their immaturity and impulsiveness, uneven pace of brain development, and lack of experience coping with the many pressures of being incarcerated, younger people are even more susceptible to the stressors of the confinement setting and tend to exhibit more challenging behaviors while in custody than their older counterparts. Staff who supervise younger populations must therefore be equipped with specific skills for managing their complex needs in order to effectively prevent violence and other types of disorder.”<sup>3</sup>

### **“A crisis on top of a crisis”**

The danger facing young adults in DOC custody today is the manifestation of “a depth of dysfunction, created over decades of mismanagement, that permeates the entire system,” according to the *Nuñez* Monitor.<sup>4</sup> While the pandemic-related stress that our City experienced created new management challenges in DOC, just as it did in all other institutions, the roots of the problems we see today lie in gross mismanagement of basic agency functions and a xenophobic culture that cannot or will not implement sound basic correctional practices.

For example, the impact of the ongoing work action by DOC uniformed staff has been particularly acute at RNDC, where most young adults are confined. A recent audit of the

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<sup>1</sup> *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY) (a federal class action brought by The Legal Aid Society, seeking to redress excessive force and brutality in New York City jails, now in an enforcement phase after a Consent Judgment and successive Remedial Orders have been entered).

<sup>2</sup> Twelfth Report of the *Nuñez* Independent Monitor (“Twelfth Report”) in *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY), filed December 6, 2021, p. 22 (“[T]he fact that people in jail have challenging behaviors is not a unique circumstance—indeed, it is the hallmark of a confinement setting, and one that Staff must be equipped to approach with solid de-escalation skills and non-physical means of resolving conflict. Having a population that may be more difficult to manage only heightens the need for better practice and does not excuse the rate at which the Department’s Staff use force”).

<sup>3</sup> *Id.*

<sup>4</sup> Special Report of the *Nuñez* Independent Monitor (“March 16, 2022 Special Report”) in *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY), filed March 16, 2022, p. 2.

approximately 929 officers assigned to RNDC showed that half were “unavailable” due to “indefinite sick leave,” temporary reassignment, or another form of leave—and that of the half remaining, yet *more* are unavailable on any given tour due to calling out sick, attending a training, or taking vacation.<sup>5</sup> As a result, there has been a total collapse in the ordinary functioning of the jail, with housing areas left insufficiently supervised and young adults left to fend for themselves in the absence of jail services and care. No progress can be made on any approach to reduce violence without sufficient staff in the facilities. Every effort, from security to programming, requires the Department to ensure employees return to work and then sensibly deploy its ample staffing resources.

But the Department does not even have the ability—even if it had the will—to get staff back to work and reasonably staff the jail. This is because, as the Monitor reports, the Department’s nonsensical and wasteful management has produced a system in which DOC leadership lack basic roster management;<sup>6</sup> have uniform officers performing administrative roles<sup>7</sup> while housing areas have unmanned posts<sup>8</sup> and people are denied access to basic services like medical care;<sup>9</sup> do not have information at any given time about who is eligible to work, where they are assigned, and whether they are in those assigned posts;<sup>10</sup> do not have a list of priority posts that must be staffed or risk imminent harm;<sup>11</sup> and do not know whether those on light duty with medical restrictions have that status legitimately.<sup>12</sup>

As a result, the pandemic merely exacerbated the shocking dysfunction that already existed in DOC to create “a crisis on top of a crisis.”<sup>13</sup> Conditions have plummeted far below the level of what is humane.

### Impermissibly Dangerous Conditions at RNDC

The *Nuñez* Monitor discusses at length in his most recent reports the “dangerous situation” in RNDC.<sup>14</sup> The Monitor expresses “grave concern [that] has only increased as, time after time, strategies to quell violence, increase programming and incentives, properly manage young adults’ behavior, and improve staff practice have failed or been abandoned.”<sup>15</sup>

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<sup>5</sup> March 16, 2022 Special Report at 20.

<sup>6</sup> *Id.* at 32-33.

<sup>7</sup> *Id.* at 36.

<sup>8</sup> *Id.* at 18.

<sup>9</sup> See New York City Department of Correction Monthly Report on Medical Appointment Non-Production January 2022, New York City Department of Correction, *available at* [https://www1.nyc.gov/assets/doc/downloads/pdf/Medical\\_Non\\_Production\\_Report%20January%202022.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/Medical_Non_Production_Report%20January%202022.pdf).

<sup>10</sup> March 16, 2022 Special Report at 32-33.

<sup>11</sup> *Id.* at 33-34.

<sup>12</sup> *Id.* at 34-35.

<sup>13</sup> *Id.* at 7.

<sup>14</sup> Twelfth Report at 24.

<sup>15</sup> March 16, 2022 Special Report at 17.

The impact of these factors on young people in the jails has been nothing short of horrific. To offer just a few recent examples:

- A young adult relayed to us that he was stabbed in his housing unit in March 2022. He reported that “no one feels safe,” and reported persistent failures to meet other basic needs—he said that every service depends on which staff are in the unit on any given day. He told us he’s trying to get his GED but has had ongoing problems getting access to school, and that he goes to the programs that are offered but so often they don’t come or are cut short. He described missing meals because certain officers “don’t want to feed us,” and says he hasn’t been taken outside or to the gym for recreation for nearly a month. He described repeated occurrences of getting locked in his cell for over 24 hours, and instances in which people in the unit are sprayed with chemical agents but not taken for medical attention.
- In January 2022, officers used chemical agent spray, chemical agent grenades, and physical force to secure a large group of young adults who entered a corridor unauthorized. Following the incident, a Captain said that cell doors “could not” be secured. The young adults were seriously injured, with one requiring sutures, but a “16-hour delay” in receiving medical attention prevented the sutures from being applied at all. The Monitor reported that an incarcerated person was kneeling, facing a wall with his hands cuffed behind his back, when an officer “gratuitously” hit the person in the head with enough force to knock him to the floor.<sup>16</sup>
- Officers failed to be on post on the floor of a housing unit for at least an hour and a half before a young adult was slashed in the face. He was not discovered for hours.<sup>17</sup>
- Another young adult reported multiple 24-hour lock-ins, described vermin infestations, and told us his unit is consistently denied both indoor and outdoor recreation. He also relayed difficulty accessing medical attention.
- A fight broke out in an unmanned housing unit, and a young adult was pushed into a cell and slashed in his face, in his shoulder, and in his bicep. Staff didn’t arrive to the unit for over 25 minutes, and during that time people took the young adult’s commissary items. Staff failed to follow basic security protocols even after they arrived, and no officer or supervisor was ever disciplined.<sup>18</sup>

The scope of the problem is likewise evident in the staggering statistics about staff violence and brutality towards the young adult population. The young adult population is targeted by DOC staff more frequently use force on young people when compared to the broader population. In his most recent biannual report, the Monitor noted that while young adults comprised 8% of the population, they were involved in 22% of uses of force.<sup>19</sup>

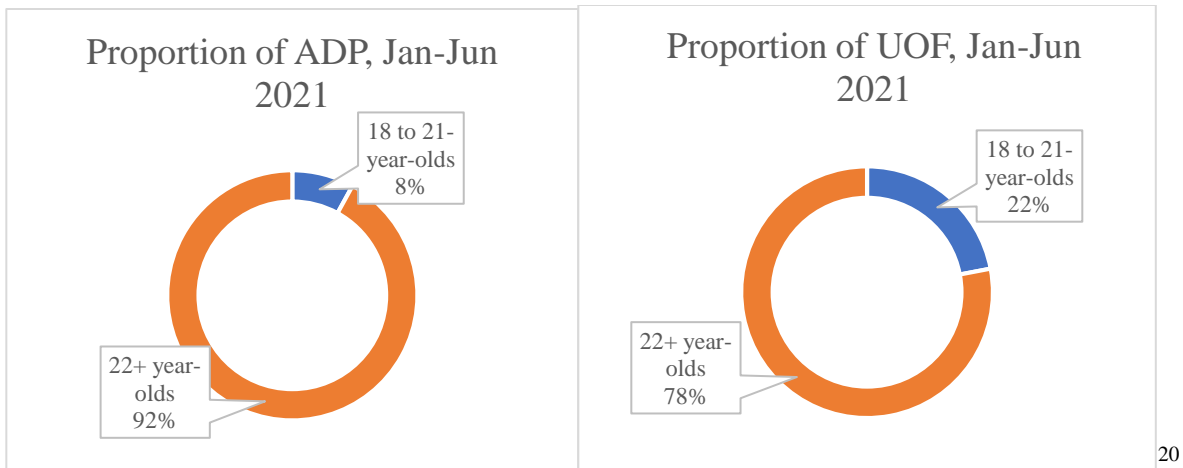
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<sup>16</sup> *Id.* at 16.

<sup>17</sup> *Id.* at 19, 52.

<sup>18</sup> *Id.* at 19.

<sup>19</sup> Twelfth Report at 22.



Our office has received myriad other recent reports from people held at RNDC about DOC’s failures to provide access to medical care, recreation, and other basic services; failures to provide mattresses or clean clothing; and reports too numerous to list from panicked clients, family members, or colleagues about serious safety concerns.

In this setting of complete collapse of ordinary jail operations, the number and rate of stabbings and slashings among young adults increased exponentially in 2021. The 2021 rate of such events (5.56 per 100 people in custody) was more than double the rate in 2020 (2.66).<sup>21</sup> Further, the number of stabbing/slashing events in the first 10 months of 2021 (n=353) was higher than the previous three years *combined* (2018 n=96, 2019 n=121, 2020 n=121, total n=338).<sup>22</sup> From January to October 2021, RNDC accounted for 31% of those slashings and stabbings.<sup>23</sup>

To echo the *Nuñez Monitor* in sounding the alarm, “**these high rates are not typical, they are not expected, they are not normal.**”<sup>24</sup> The City cannot tolerate this level of harm to people it has a duty to protect.

### **Proven Correctional Practices to Manage Young Adults**

The measures that will reduce violence within the incarcerated young adult population are not simple or easy—but they are also not mysterious. We must first ensure the basic needs of young adults are met, including physical safety, food security, reliable access to medical care, contact with caring adults and the ability to step outside. But moving beyond these basic human needs, as a society, we know that young brains function differently. We know what leads to violence in this age group, and also what disrupts it. But the City has failed to invest in and effectuate

<sup>20</sup> *Id.* at 23.

<sup>21</sup> *Id.* at 28.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 28-29.

<sup>24</sup> March 16, 2022 Special Report at 14 (emphasis in original).

proven, age-appropriate approaches, giving lip service to programs that it completely fails to implement with fidelity.

To quote the *Nuñez* Monitor’s assessment from December 2021:

“RNDC’s unstable leadership, sparse disciplinary options, lack of consistency in Staff assignments to housing units, inadequate supervision of Staff and excess of unstructured free time have resulted in high rates of violence and have driven the Monitoring Team’s concerns for several years. These problems continued to worsen during the current Monitoring Period as the facility found little traction to implement its Unit Management structure, structured programming, universal incentives and consequences for misconduct. **In fact, much of the work to implement these interventions designed to improve safety went completely dormant.**”<sup>25</sup>

We describe below several programs or interventions that DOC began, but never implemented with sufficient integrity or professionalism to yield success. These are basic foundational practices that *will* work—if the Department has the capacity and will to do them correctly.

### Young Adult Plan

In 2016, DOC announced a comprehensive “Young Adult Plan” to address the problems of violence and disorder in the population of young people in custody. The plan featured promises of better programming, expanded educational offerings, staff training, and separate housing of young people rather than comingling them with adults to allow for age-targeted approaches.<sup>26</sup> While DOC implemented parts of the plan, such as creating young adult housing areas that facilitated high school access and meeting with stakeholders such as program providers to refine approaches, the progress stalled. In the years since, DOC has abandoned that plan, seeking years of variances for comingling<sup>27</sup> and failing to follow through on nearly every other initiative involved in age-appropriate management, as further explained in the sections below.

### The Unit Management and Steady Staffing Models

Unit Management and Direct Supervision are foundational correctional models to violence reduction. Unit Management is a strategy of managing housing units—where many incidents are likely to occur—by dividing facilities into smaller groups. The strategy, endorsed by many subject matter experts including the *Nuñez* monitoring team, seeks to improve basic service

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<sup>25</sup> Twelfth Report at 124 (emphasis supplied).

<sup>26</sup> Young Adult Plan Update, New York City Department of Correction (2018), available at <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/October-9-2018/Young%20Adult%20Plan%20Update.pdf>.

<sup>27</sup> Variances: Minimum Standard 1-02(c)(1), New York City Board of Correction, available at <https://www1.nyc.gov/site/boc/jail-regulations/variances.page>.

delivery and reduce violence by assigning a consistent group of staff and people in custody to the same spaces, thereby seeking to foster relationships.<sup>28</sup> Unit Management includes “the hallmarks” of Direct Supervision, and the *Nuñez* Consent Judgment and Remedial Orders require DOC to train staff in and implement these concepts in RNDC.<sup>29</sup>

The Department has utterly failed to do so. The Monitor summarizes the abject lack of progress:

“The facility has not established a staffing structure to support the model (e.g., long delays to appoint Unit Managers and then turnover among those who had been selected; Staff assignments to housing units that changed constantly and thus the team concept could not be achieved). Such a significant period of time passed since Staff were originally trained that the information imparted has likely gone stale, regular reinforcement of key concepts does not occur and thus, few Staff are likely to be prepared to implement the core practices. Previous challenges to Staff assignments, dependable daily unit schedules, programming and universal incentives/consequences (all core components of the Unit Management strategy) were only magnified during the current Monitoring Period. The absence of unit teams and the failure to properly implementation the key program elements mean that the Department has made little, if any, progress in this area.”<sup>30</sup>

The Department has likewise failed to implement steady staffing—consistent assignment of individual staff to the same housing units—“which is a core component of Direct Supervision and is particularly important in units with youth who are difficult to manage and those who struggle with mental illness.”<sup>31</sup> In the most recent biannual Monitor’s Report, RNDC’s steady staffing performance “degraded even further below the levels observed in the previous Monitoring Period,” with “only 27% of [general population] housing unit posts...worked by the assigned Staff person and only 15% of housing unit posts in specialized units (i.e., MO and TRU)...worked by the assigned Staff person.” At the end of the Monitoring Period, “the MO/TRU units’ performance was below 10%.”<sup>32</sup>

The Department also fails to consistently assign Captains and Assistant Deputy Wardens (“ADWs”), key actors in these efforts because of their role in building relationships and improving staff practice, as required by the *Nuñez* orders. During the most recent Monitoring Period, Captains had steady assignments only 30% of the time. Of the 15 ADWs assigned to RNDC, 6 were not available to work due to various leaves or alternative assignments. Of the remaining 9 ADWs, only 3 were assigned as Unit Managers, one of whom supervised two buildings. This left two zones unassigned.<sup>33</sup>

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<sup>28</sup> Ninth Report of the *Nuñez* Independent Monitor (“Ninth Report”) in *Nuñez v. City of New York et. al.*, 11-cv-5845 (LTS) (SDNY), filed May 29, 2020, p.301, 305-306.

<sup>29</sup> Twelfth Report at 128.

<sup>30</sup> *Id.* at 128-129.

<sup>31</sup> Twelfth Report at 129.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 129-130.



The failure to achieve steady staffing has serious consequences to the safety of the facility. As the Monitor wrote:

“This is a critical problem to solve as most of the other strategies to address facility violence and disorder rely on individual housing unit Staff to work the same post day-to-day so that they are familiar with the unit schedules, individual people assigned to the unit and the dynamics among them. Furthermore, highly skilled Supervisors who are assigned to the same zone day-to-day are needed for both accountability purposes and to elevate the skill level of housing unit officers.”<sup>34</sup>

Providing consistent staffing in housing units impacts nearly every other young adult strategy the Department must employ, and must be a priority for moving forward.

### Reliable System of Consequences and Incentives

Another critical component in safely housing young adults is a meaningful system of consequences and incentives that extends beyond reflexively pushing them into isolated confinement. But the response to serious misconduct begins with a real mechanisms for addressing mid- and low-level violations of jail rules. And of equal importance, experts are clear that DOC needs an effective system to incentivize and reward positive behavior in young adults.<sup>35</sup> The Department has failed on all counts for years, despite being under federal court order to develop and implement those measures.<sup>36</sup>

In what is now a familiar narrative, the *Nuñez* Monitor reports that DOC “designed a strong conceptual approach in early 2020” and even trained most of RNDC staff, but never implemented the system **even in the pilot units**, to the point that staff would be unlikely to recall the training at all.<sup>37</sup> The Monitor’s description of how implementation failed is instructive:

“First, except for commissary, the planned universal incentives were not routinely delivered...which was not only frustrating to people in custody who were not receiving the activities and other privileges that had been advertised, but also completely undercut the consequence side of the equation [because then] no consequences were available (i.e., restricting someone from an activity that was rarely provided anyway does not work as a disincentive for misconduct). Second, whether because they realized that the tool could not be effective or they had not been trained or the practice was not reinforced by supervisors, Staff all but gave up on responding to misconduct with the intended action (i.e., “Informal Resolutions”)...Furthermore, the facility’s legacy system of commissary restrictions for fights/non-compliance with lock-in was not utilized at all, leaving only the ineffective infraction process and the occasional transfer to Secure/TRU

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<sup>34</sup> *Id.* at 131.

<sup>35</sup> See March 16, 2022 Special Report at 51.

<sup>36</sup> *Id.*

<sup>37</sup> Twelfth Report at 133 (emphasis supplied).

as the only accountability measures. Routine data on the number of uses of force, fights and lock-in non-compliance at RNDC show a significant number of all types of events, and these behaviors are exactly what the Informal Resolutions were designed to address. Staff’s failure to properly implement this component of the system means that they did not effectively hold people accountable for their negative behavior, a key part of the overall plan to reduce violence and disorder at RNDC.”<sup>38</sup>

Human beings of all ages respond better to processes that they consider fair and appropriate. Without being able to proportionately respond to less serious rule violations and consistently provide promised incentives, DOC will continue to fail its young adult population.

### Consistent and Robust Programming

A critical piece of any young adult strategy<sup>39</sup>—and to the general wellbeing of that population—is providing reliable, good programming. Unfortunately, and again in contravention of the federal court orders in *Nuñez*, the Department simply fails to do so. This noncompliance “has created...an excess of idle time, minimal civilian presence, a lack of services, and an abundance of boredom and stress that manifests as frustration, desperation, and violence.”<sup>40</sup>

The *Nuñez* Monitor offers examples of failures to provide adequate programming:

- “Woefully insufficient” program counselor levels: typically one counselor services two housing units, but during a recent Monitoring Period, only 6 counselors were available to provide group-based programming to the entire RNDC population (40 housing units). Group programs were therefore shorter and offered less often.<sup>41</sup>
- Unreliable tablet access: though not a substitute for in-person programming, tablets are an improvement over a complete lack of programming. But despite being initially distributed, “subsequent access became unreliable.”<sup>42</sup>
- Programming contracts for community agencies had been drafted but not signed in mid-2021, and as DOC staffing levels degraded, so too did programming availability.<sup>43</sup>
- A March 2021 audit of a single unit revealed “an excess of unstructured free time and significant failures to provide basic services and programming.” For example, “recreation was provided only once during the 5- day period, Program Counselors did not provide

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<sup>38</sup> *Id.* at 133-134.

<sup>39</sup> *See* Twelfth Report at 23 (“If properly implemented, a robust array of engaging programs that minimize idle time is an important tool for facilitating safety in a confinement setting”).

<sup>40</sup> *Id.* at 24.

<sup>41</sup> *Id.* at 126.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

any group programming, a recreation counselor simply observed youth playing video games rather than leading a structured activity and tablets did not appear to be in use.”<sup>44</sup>

Time and again, DOC programming structures fail at the implementation stage. A lack of programming in a custodial environment is harmful for young people, and it also creates a vacuum of structure that increases the likelihood of violence and brutality.

### **The Department’s Historical Reliance on Ineffective Methods**

There is a very clear record in New York City jails to guide future policy about what methods have proven *ineffective* to ensuring the safety and wellbeing of the young adult population. For decades, the Department has relied on the tools of isolation, restriction, and physical force to manage these challenges. Experience has shown that these programs do not work, and cannot serve as a template for future policy.

For years, the Department had relied upon Punitive Segregation—prolonged, extreme isolation in a cell 20 to 23 hours a day—in response to even low-level misconduct. The harms of this practice, particularly on young people, are well-documented.<sup>45</sup> In 2016, DOC ceased placing young adults in Punitive Segregation, after years of advocacy by impacted communities led the New York City Board of Correction (“BOC” or “the Board”) to adopt new standards protecting young adults from this practice.<sup>46</sup> In banning this harsh treatment, the Board recognized the “serious and unacceptable threat to the physical and mental health” that Punitive Segregation poses to young adults. Moreover, Punitive Segregation simply did not work: it had failed to curb the “dramatic increase in serious [incarcerated person] violence” noted at the time.<sup>47</sup>

DOC’s next approach was to develop alternative types of isolation and restrictive housing for young adults whose conduct, in DOC’s views, warranted intervention. But experience showed that DOC fundamentally lacked the ability to implement and support new approaches, due to both an engrained punitive culture and management incompetence.

The Monitor describes these failures in detail, criticizing DOC’s approach of concentrating people whose conduct is troubling in units that “appear to be poorly equipped to manage them safely,” citing “disrupted programming...a variety of implementation problems since their inception...lack of adherence to Staff training requirements, no consistency in Staff assignments and poor security protocols. The result has been catastrophic in terms of safety.”<sup>48</sup>

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<sup>44</sup> *Id.*

<sup>45</sup> The research is clear: Solitary confinement causes long-lasting harm, Prison Policy Initiative (2020), available at [https://www.prisonpolicy.org/blog/2020/12/08/solitary\\_symposium/](https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/).

<sup>46</sup> Restrictive Housing Rulemaking 2015: Statement of Basis and Purpose, New York City Board of Correction (January 13, 2015), available at [https://www1.nyc.gov/assets/boc/downloads/pdf/boc\\_rules\\_governing\\_correctional\\_facilities\\_fr.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/boc_rules_governing_correctional_facilities_fr.pdf) (p.2)

<sup>47</sup> *Id.* at 1-2.

<sup>48</sup> Twelfth Report at 132.

This lack of safety was the predictable result of the Department’s failure to follow its own protocols. These restrictive units did not implement the interventions they claimed were necessary: “adherence to program design,” “transparency in release criteria,” in “effectiveness in reducing violence,” and in “administering the behavior management and support components.”<sup>49</sup> The Department fundamentally fails to provide a safe environment for people in those units.<sup>50</sup>

These same failures had been identified by the Board of Correction in its evaluation of Enhanced Supervision Housing<sup>51</sup> (“ESH”) and Young Adult ESH<sup>52</sup> not long after they opened. Board staff reported many troubling findings:

- **Lack of clarity to people in custody.** People in custody were confused about why they had been placed in ESH and what they must do to leave.<sup>53</sup>
- **Serious disruptions to medical and mental health access.** The Board found that in YA ESH, “the Department did not produce 30% (n=14) of scheduled health encounters, and 23% (n=31) of scheduled mental health encounters.”<sup>54</sup> The problem was prevalent for adults in ESH, too: “nearly a quarter (24%, n=239) of all health encounters and 28% (n=1,016) of all mental health encounters for ESH patients were not seen due to either DOC non-production or CHS cancellations.”<sup>55</sup>
- **Unacceptably long lengths of stay in the units.** For adults, average length of stay was 4.8 months, which one person having been in ESH for 636 days.<sup>56</sup> We have heard numerous reports from people housed in ESH who do not know what actions they need to take to graduate to the next level.
- **Lack of progression between levels and to general population.** Only 13% of Young Adults and 14% of adults with an ESH exit date were transferred to general population—the rest were transferred to another restrictive unit, sent upstate, or discharged from DOC custody.<sup>57</sup>
- **Failure to provide out-of-cell time.** Due to facility-wide and ESH area lockdowns, individuals in YA ESH had 39% fewer potential hours of out-of-cell time than the

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<sup>49</sup> *Id.* at 133.

<sup>50</sup> *Id.*

<sup>51</sup> [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-BOC-ESH\\_Assessment-Adults-2017.04.26.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-BOC-ESH_Assessment-Adults-2017.04.26.pdf) (“Assessment of ESH”).

<sup>52</sup> <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2017.07.24%20-%20FINAL%20YA%20ESH%20Report%207.24.2017.pdf> (“Assessment of YA ESH”).

<sup>53</sup> Assessment of ESH, p. vii.

<sup>54</sup> Assessment of Young Adult ESH, p. x.

<sup>55</sup> Assessment of ESH, p. viii.

<sup>56</sup> Assessment of ESH, p. vii.

<sup>57</sup> Assessment of Young Adult ESH, p. viii; Assessment of ESH, p. vii.

minimum hours required under ESH Minimum Standards.<sup>58</sup> Adults had 12% fewer hours than the hours to which the Standards entitle them.<sup>59</sup>

- **Failures to provide recreation.** “Recreation is consistently understaffed, causing the recreation staff to have difficulty providing timely-daily recreation to each house.... [p]articipation in daily recreation is very low, with an average of only 20% of young adults participating.”<sup>60</sup>

In sum, experience shows that the Department’s approach to addressing youth misconduct—concentrating youth in restrictive environments and denying them necessary interventions—simply fails. These failures of implementation are not unique to the current moment and its attendant staffing crisis, but rather stretch back to the inception of restrictive units. The failure to learn from these experiences in crafting future policy will merely perpetuate the cycles of violence that persist today.

## **Recommendations**

The City and State must take immediate steps to prevent further suffering and protect young adults in DOC custody.

### **1. Decarcerate Immediately.**

Everyone in the city jails, including young adults, are affected by the extraordinary system strain in the agency. New York City must reduce that strain by reducing the jail population it cannot safely manage. There are approximately 5,600 people currently incarcerated in city jails, a sharp increase from approximately 3,900 in April of 2020, and a direct consequence of bail reform rollbacks.<sup>61</sup>

Approximately 4,600 people detained in city jails are held pre-trial, including nearly 1,000 people charged with non-violent felonies as the top charge, and more than 257 people charged with misdemeanors as the top charge.<sup>62</sup> We urge prosecutors and judges to use their discretion to reduce the number of people sent to jail by releasing people currently held pre-trial. Prosecutors and judges’ willingness to decarcerate saved lives at the height of the pandemic and a similar will is necessary in the present crisis. We also urge Commissioner Molina to brief the chief administrative judges and five New York City District Attorneys as to the inhumane conditions in city jails and urge increased scrutiny around bail requests/bail setting and any other prosecutorial/judicial action that increases the current DOC population.

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<sup>58</sup> Assessment of Young Adult ESH, p. x.

<sup>59</sup> Assessment of ESH, p. ix.

<sup>60</sup> Assessment of Young Adult ESH, p. x.

<sup>61</sup> People in Jail in New York City, Daily Snapshot: Comparing April 30, 2020 with March 21, 2022, THE VERA INSTITUTE, <https://greaterjusticenyc.vera.org/nycjail/>.

<sup>62</sup> *Id.* at chart 2.

There are approximately 272 people currently serving a sentence in the city jails.<sup>63</sup> We urge the Mayor to exercise the power conferred by Correction Law Article 6-A to grant work release to this group. The previous Mayor's similar intervention during the pandemic resulted in a meaningful reduction in the jail population, removing people from congregate settings as infections spiked.

**2. Demand that DOC implement Unit Management and the requisite steady staffing.**

The City must implement the Unit Management model, including the steady staffing regimen that model requires. The Council must demand the City does so, and then consistently provide accountability going forward to ensure that these practices are not abandoned as so many pilot projects have been.

**3. Ensure the workforce comes to work and discipline those who flout the duty to do so.**

The City cannot continue to tolerate staffing deficiencies that so significantly contribute to the basic operational failures in the jails and pose serious risk to everyone detained and working there, including young adults. The City must, at minimum, take two actions to address this persistent absenteeism.

First, the City must immediately hold accountable officers who are AWOL, abuse indefinite sick leave, and misuse medical restrictions.

Second, the City must consider how these workforce actions should impact the contract with COBA, which is in the midst of a bargaining period. The City should not permit contractual arrangements that are rampantly abused by city employees to the point of peril, both for their colleagues and the incarcerated people they are obligated to protect. If there are sick leave or other personnel management policies that imperil people in the city jails, those policies cannot continue.

**4. Conduct regular, unannounced tours of RNDC and report observations.**

Council Members are permitted to tour DOC facilities on unannounced tours, and several have availed themselves of this opportunity over the past year and subsequently reported what they saw.

These tours perform several functions. First, they help inform Members of the gravity and urgency of DOC conditions and offer the opportunity to speak directly with people in custody and city employees about the serious issues they are experiencing. Second, visits from elected officials are of tremendous value to our clients, who often feel lost and powerless behind jail walls. And finally, public accounts of Members following their visits are critical, lending the

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<sup>63</sup> *Id.* at chart 1.

weight of elected voices to join our clients—who are so often dismissed by City decisionmakers.

**5. Mandate reporting about agency-wide staffing numbers and availability.**

The lack of regular, publicly available information about the extent of the staffing crisis in the city jails is unacceptable. At stake is not only good governance and budgetary excess, but the physical safety of New Yorkers including young adults. The City cannot be trusted to regularly provide that information of its own volition. Indeed, the *Nuñez Monitor* described immense difficulty in getting that data—information that was previously provided routinely—from the new administration, to the point that “the Monitoring Team is incredibly disappointed to report that it has lost confidence that it has access to all of the relevant and reliable information necessary to perform its duties.”<sup>64</sup>

There is no end in sight to the excessive staff absenteeism that plagues the agency. The Council can mandate regular, public reporting about how many staff are unavailable, for what reasons, and several metrics about the impact those absences have on facilities. That reporting should include information about compliance with steady staffing models, which impact young adults.

**6. Expand involvement of community program providers and proven violence interruption techniques.**

At a time when DOC struggles to provide adequate programming staff, the Council should work to expand the reach of community program providers. The Council should meet with those providers to hear about what barriers exist to reliably delivering programming in the jails. Members should then legislate solutions to those problems where they exist, and extensively follow up with DOC leadership to solve problems that are simply implementation and management issues.

Part of the expansion of community program providers should include meaningful involvement from providers offering proven violence interruption techniques.

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<sup>64</sup> March 16, 2022 Special Report at 29.





## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

New York City Council

Committee on Criminal Justice

### Oversight Hearing on Reducing Violence Among Young Adults in City Jails

March 28, 2022

#### Written Testimony of the Neighborhood Defender Service of Harlem by Ariana Brill, Education Attorney

Board Chair  
Matthew Mazur

Board Members  
Jonathan Abady  
Damaris Hernández  
Miriam Gohara  
Melody Rollins-Downes  
David Sanford  
Elinor Tatum

Executive Director  
Rick Jones

Managing Director  
Alice Fontier

The Neighborhood Defender Service of Harlem represents low-income residents of Northern Manhattan—including East, Central, and West Harlem, Washington Heights, and Inwood—who have been charged with a crime, or are subject to an eviction, child removal, or other civil matter. We also provide education advocacy and representation to our clients, some of whom are incarcerated at Rikers Island.

#### **Young people at Rikers have a right to attend school**

The pandemic exacerbated existing problems with education at Rikers, and since March 2020, our incarcerated clients have been regularly denied access to school. Generally, individuals have a right to attend school until the end of the school year in which they turn 21 or receive a high school diploma.<sup>1</sup> In addition, students with disabilities are entitled to receive special education services under the Individuals with Disabilities Education Act (IDEA). Young people do not lose the right to educational services simply because they are incarcerated.

The City's failure to provide education services harms students who have already faced significant challenges. The majority of students at East River Academy, the school on Rikers Island, have disabilities and qualify for special

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<sup>1</sup> New York Education Law § 3202. However, the DOE announced that “[s]tudents who turned 21 years old in the 2020-21 school year can stay enrolled or re-enroll in high school for 2021-22 to continue working toward their diploma.” Learn About Other Ways to Graduate, New York City Department of Education, <https://www.schools.nyc.gov/enrollment/other-ways-to-graduate/learn-about-other-ways-to-graduate>



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

education services.<sup>2</sup> Our clients are often behind in school, and have experienced exclusionary school discipline, discrimination, and school pushout prior to incarceration. Since New York City criminalizes and incarcerates Black and Latinx youth at disproportionately high rates, the lack of education at Rikers primarily affects students of color.

### **The City has failed to provide education services to young people incarcerated at Rikers**

While students in the community have access to daily, in-person instruction and academic recovery services, young people at Rikers struggle to get access to basic schooling. In order to attend school, an individual must submit a request to enroll at ERA. However, our clients report that they are not always informed of their right to attend school. When they do request to enroll in school, they may not receive a response for months—or at all. Because certain housing units lack any access to school services, our clients are told to request a housing transfer before they can enroll in school. If clients do not wish to transfer units due to safety concerns, they lose the opportunity to attend school.

Even if young people manage to overcome these initial barriers, they have reported that DOC often fails to transport them to school. Instead of in-person instruction, they may only be provided with paper packets or tablets, which are unacceptable substitutes for in-person academic instruction—or are not provided with *any* instruction. Additionally, the City has failed to provide adequate special education services to all eligible students. Students with Individualized Education Programs (IEPs) do not always receive the mandated supports and services that they need to make progress in school.

Some of our clients who were previously eager to earn their diplomas have been dissuaded from even attempting to engage because they realize that there is no meaningful access to school.

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<sup>2</sup> During the 2020-21, 64% of enrolled students had Individualized Education Programs (IEPs). *Rikers Island Education Report: Educational Programming for Adolescents and Young Adults at Rikers Island – Local Law 168 of 2017* (Nov. 10, 2021), <https://infohub.nyced.org/docs/default-source/default-document-library/local-law-168-d79-sy20-21.pdf>.



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

### **The DOC and DOE’s persistent failure to provide education services directly contributes to the violence at Rikers**

The City’s failure to provide access to basic and legally mandated services—including school—causes devastating violence at Rikers. If you lock someone in cage, subject them to dehumanizing conditions, and give them zero opportunities to work toward their future goals, it should not be surprising that violence increases. This is borne out in studies, which have indicated that education in carceral settings can lead to a reduction in infractions and violence.<sup>3</sup> It is unconscionable that the City funnels disproportionately Black and Latinx students with disabilities to Rikers through the school-to-prison pipeline. The City compounds this harm when it fails to educate young people who are incarcerated.

### **Recommendations**

#### ***Decarcerate Rikers***

We ask that City Council put pressure on judges and district attorneys to take immediate steps to decarcerate Rikers. If the City wishes to ensure that young people receive an education, it should reduce the number of people in jail. For the past two years, educational services at Rikers have been extremely limited. There is no indication that this will change. Every day that our clients spend in Rikers is a day that they will very likely spend without access to school, in addition to living in unsafe and inhumane conditions.

#### ***Provide daily in-person educational and special education services***

It is clear that the DOE and DOC will not remedy these issues and provide adequate education without being held accountable. Since both DOE and DOC are required to facilitate education, any action taken to improve educational services must involve the cooperation of both agencies. City Council must demand that full-time, in-person instruction be made available to every eligible student at Rikers regardless of their housing unit. The DOE cannot distribute tablets and paper packets to meet this obligation. The DOE should also provide

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<sup>3</sup> *Education From the Inside, Out: The Multiple Benefits of College Programs in Prison*, The Correctional Association of New York (2009)  
[https://www.prisonlegalnews.org/media/publications/education\\_from\\_the\\_inside\\_out\\_the\\_multiple\\_benefits\\_of\\_college\\_programs\\_in\\_prison\\_corr\\_assoc\\_of\\_ny\\_2009.pdf](https://www.prisonlegalnews.org/media/publications/education_from_the_inside_out_the_multiple_benefits_of_college_programs_in_prison_corr_assoc_of_ny_2009.pdf); *Benefits of Prison Education*, Northwestern Prison Education Program,  
<https://sites.northwestern.edu/npep/benefits-of-prison-education>.



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

data on school-age young people in Rikers—including attendance rates, graduation rates, and access to in-person instruction.

In addition, the DOE must provide mandated special education services to all eligible students at Rikers. City council should request data on which services have been provided to students and how many students have failed to receive services outlined in their Special Education Plans. The DOE announced that all students with IEPs should receive Special Education Recovery Services,<sup>4</sup> and it should provide these services to ERA students.

### *Provide compensatory services and extend eligibility*

Young people who have been eligible to attend school while at Rikers since March 2020 should be provided with compensatory services to make up for the DOE's failure to provide educational services. In addition, young people who have been incarcerated at Rikers and who would otherwise age out of school should be given additional time to graduate high school.

We thank the Committee on Criminal Justice for holding this critical oversight hearing. Should you have any questions, feel free to contact Ariana Brill, Education Attorney at [abrill@ndsny.org](mailto:abrill@ndsny.org).

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<sup>4</sup> Special Education Family Resources, New York City Department of Education, <https://www.schools.nyc.gov/learning/special-education/family-resources>



Testimony of

Natalie Fiorenza  
Rachel Sznajderman  
Corrections Specialists

New York County Defender Services

Before the  
Committee on Criminal Justice

Oversight Hearing on Reducing Violence Among Young Adults in City Jails

March 28, 2022

We are Natalie Fiorenza and Rachel Sznajderman, Corrections Specialists at New York County Defender Services (NYCDS), a public defense office that represents thousands of New Yorkers in criminal cases in Manhattan’s Criminal Court, Supreme Court, and Family Court every year. We submit this testimony to report that reducing violence *among* young adults in the City’s jails begins with reducing violence *against* young adults in the City’s jails. Thank you, Chair Rivera, for holding this hearing to shed light on the unchecked and senseless violence proliferating in the young adult facilities of Rikers Island.

## **1. Background**

As Corrections Specialists at NYCDS, we provide a direct channel of communication with and advocacy for our incarcerated clients. When these clients express concerns relating to their health or living conditions in the jails, we intervene and advocate on their behalf to address underlying issues and unmet needs.

NYCDS currently represents roughly three-hundred individuals detained at Rikers Island. Of those, twenty-one are young adults aged 18-22. These individuals routinely report chilling levels of violence in their facilities. In advance of this hearing, we interviewed many of these clients to hear their perspectives on the vast, shocking culture of violence that they are subject to on a daily

basis. We found that much of the violence experienced by our clients is directly linked to 1) the blatant disregard for legally-mandated [Minimum Standards](#), especially in the Transitional Restorative Unit, and 2) abuse and outright cruelty at the hands of correctional staff.

## 2. Violation of Policies and Procedures in the Transitional Restorative Unit (TRU)

The Transitional Restorative Unit (TRU) was established following the December 2014 decision to end solitary confinement for 16-17 year-olds and subsequent decision to eliminate the use of solitary confinement for detainees aged 18-21.<sup>1</sup> Its stated purpose is to house and provide services to young adults exhibiting behavioral issues, with the ultimate goal of rehabilitation.<sup>2</sup> However, in practice, this unit is widely used a tool to threaten and abuse our young adult clients, and essentially functions as solitary confinement for young detainees.

The Department of Correction’s (“DOC”) directive on TRU requires that “[t]he Department ... provide group and individualized support for young adults in TRU to decrease the risk of subsequent aggressive behavior and ensure each individual's successful reintegration to GP.”<sup>3</sup> This “group and individualized support” must entail the assignment and engagement of “Support Teams”, which are composed of correctional staff and counselors.<sup>4</sup> DOC guidelines further require that those housed in TRU be permitted no less than 14 hours out of cell time, as well as “access to services delineated in the New York City Board of Correction Minimum Standards,” such as regular meals, showers, daily recreation time, religious services, educational services, mail, commissary and the law library.<sup>5</sup>

Our clients resoundingly report that these regulations and minimum standards are blatantly violated, and that they have never heard of anything resembling a “Support Team” while in TRU:

**D<sup>6</sup>:** “I’m in TRU (Transitional Restorative Unit). I never get breakfast, they only give us two meals every day. I’m not allowed to contact my family. For five days we were locked in, and I had no shower that whole time. I went days without a mattress, just sleeping on the floor. They try to make people suffer. For the past 2-3 months, there’s been no rec. We’re supposed to get rec every day and that’s not happening at all. I asked a guard if I could get rec and she looked at me and said, ‘I don’t even like you.’ We don’t have access to anything, we just stay in the same spot all day.

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<sup>1</sup> Board of Correction, [NOTICE OF RULEMAKING CONCERNING RESTRICTIVE HOUSING IN CORRECTIONAL FACILITIES](#), March 5, 2021. Pg. 3.

<sup>2</sup> *Id.*

<sup>3</sup> The City of New York Dep’t of Correction Directive, Classification #4494R-A, Transitional Restorative Unit (TRU), eff. 1/22/21.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Full names have been omitted for the safety and anonymity of the clients who spoke with us.

I was put in TRU because I came down to my unit, and saw that a bunch of guards were spraying. As soon as I saw that I turned right back around because I didn't want to get sprayed. Then they chased after me, sprayed me, and I was sent to TRU. I have asthma and they just threw me in a cell, I never saw a doctor, I was left there for hours.”

**J:** “When I was in TRU, there was no commissary. Food would only come once a day.”

Many other young adult clients report clear violations of the DOC rules and regulations surrounding TRU. Our clients consistently complain of meals that are delivered sporadically and sometimes, not at all. Out of cell and recreation time are nonexistent. Our clients are frequently cut off from their critical support networks, including their own parents and their legal teams. They are not given advance notice of their transfers, and instead are often abruptly removed from their cells without warning and forced into new housing.

To be clear, the environment in TRU in no way facilitates “rehabilitation,” or works to prevent future instances of violence, as it proclaims. Rather, our many conversations with those subject to this housing unit reveal that TRU serves as a mechanism through which violence can be perpetuated by DOC staff against young adult detainees by stripping them of their human rights. Make no mistake, the abuse and extreme neglect experienced by our young clients *is* violence.

### 3. DOC Staff Abuse of Power and Violence Against Young Adults

Addressing violence *among* young adults requires a robust examination of the conditions that lead to violent situations in the first place. In examining the root causes, our clients unanimously point to the role of DOC guards in encouraging and even manufacturing violent encounters.

**J:** “The guards want to test us. They put us together to see if we fight. This happened to me. I got into an argument with a guard, so I was moved to another housing area. As soon as I got to the new unit, I was jumped by everyone in there. The guards told them to do it. My nose was bleeding, my mouth was busted, I had two black eyes, two bruises on my forehead. It took me a whole month to heal.”

**D:** “ESU<sup>7</sup> comes all the time. They do a search, take whatever they want to take, then leave. They took everything I have. Books, clothes, photographs. Sometimes the captains will put

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<sup>7</sup> ESU stands for “Emergency Services Unit.” It was originally designed to act as an elite tactical team that could quickly be dispatched to defuse emergency situations within the jail facilities. NYC Dept. of Corr. Emergency Services Unit, <https://www1.nyc.gov/site/jointheboldest/overview/emergency-service-unit.page>. However, as noted in recent federal monitor reporting, ESU has devolved into an alarmingly undisciplined and excessively violent presence at Rikers Island. See, e.g. Steven J. Martin, et al., 11th Federal Monitor’s Report, May 11, 2021, p. 48, available at <http://tillidgroup.com/wp-content/uploads/2021/05/11th-Monitors-Report-05-11-21-As-Filed.pdf> (“ESU’s pattern of unnecessary and excessive uses of force stand in obvious violation of the Use of Force Directive and the requirements of the Consent Judgment and the Remedial Order. A concerning number of ESU Staff 39 have exhibited problematic



people who they know have issues together so they fight each other. They do this on purpose, all the time. I'm not gonna lie, I'm nervous all the time, I never know what they'll do."

**S:** "ESU comes like three or four times a month. They call us dumb, bums, say they'll f--- our moms, stuff like that. There are no cameras in the cells so they take advantage of that. I'll have my hands up and they'll say things like, "oh, you're gonna punch me?" make it sound like they're in danger for the audio on their body cam to hear, so they can attack and spray us unprompted. Then they take our property, step all over our legal work. They threw pictures of my family in the toilet.

The other day we had a new inmate in here straight from intake. They locked him in his cell when he got here, which is normal, but when the CO was doing his tours to check in on us, he didn't check in on him. You can't see through that cell door at all - there isn't even a food slot. I told him, 'hey you need to go check on him. He could be suicidal, he could be hungry, we have no idea, he's new,' and the CO's response was 'I don't care. If he die, he die.'"

To claim that the issue of violence stems from the inherent nature of the people being held against their will in one of the most notoriously inhumane jails in the world is not only misguided, but racist and ignorant. The clients we spoke to are not violent people. They are children forced to navigate an exceptionally corrupt and abusive system, and forced to endure daily degradations and violations of their basic human rights. In addition to the deplorable conditions in which they are forced to live, which naturally exacerbates feelings of anger and frustration, DOC staff goes out of their way to be unnecessarily cruel and antagonize our clients. No human being, let alone a child, should ever have to bear the abuse that our young adult clients experience on a daily basis at Rikers.

#### **4. Messages From NYCDS Clients to New York City Council**

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behavior that should have either prevented their appointment to ESU in the first place or triggered their removal from the ESU Team ... ESU Teams do not appear to approach each situation with any type of tactical plan and often their approach simply leads to chaos and, subsequently, to serious security breaches (e.g., unsecured doors, failure to utilize cuffing ports, etc.) that create further disorder and often generate additional reasons to utilize force. ESU Teams are far too frequently hyper-confrontational and unprofessional. They almost always fail to first attempt de-escalation when they arrive on the scene and appear to presume force will be required no matter the circumstance. When force is employed, ESU Staff often utilize improper head-strikes, violent body slams and take downs, violent wall slams, painful and unsafe escort holds, unnecessary use of OC spray, and prohibited holds. Further, ESU Staff's default response is often exceedingly disproportionate to the level of threat, including the use of high impact strikes, OC grenades and/or batons. ... Moreover, ESU Staff are not transparent about their activities, as they all too often file incomplete or false reports and fail to properly utilize handheld cameras, especially during in-cell applications of force. Together, these aggressive tactics and the misapplication of the Department's Use of Force Directive produce an unacceptable number of unnecessary, excessive, and/or avoidable uses of force, many of which also result in serious injury. As a result, ESU's involvement has a cascading negative impact that only elevates the level of chaos and disruption in both the housing units and the Facilities, far beyond the incidents themselves.")

Upon being told about this hearing, several of our clients expressed a wish to convey messages to the City Council. Their statements are as follows:

**Q:** “We’re supposed to get mandatory rec, it’s being denied by guards. We’re not getting our packages. The phones get cut off randomly, with no explanation. They threaten to spray us all the time. Our rights are being denied with no explanation, this is going to cause people to be upset.”

**D:** “I just don’t like the fact that we’ve been violated, that we have no rights.”

**S:** “The only thing COs respect here is violence”

## 5. Conclusion

Nobody can deny that the level of violence and chaos in the young adult facility is an emergency, an absolute crisis that needs immediate intervention. However, what is also clear from the direct accounts of those living in RNDC is that the violence that does occur is manufactured and perpetuated by Department of Corrections staff.

First, it is common practice for correction officers to intentionally place people who have known poor relationships with each other in close proximity, and then failing to intervene when fights inevitable occur. We also hear widespread reports of DOC staff explicitly ordering detainees to physically assault someone who is causing them trouble. Furthermore, as widely documented by the federal monitor, the Department’s gross mismanagement, incompetence, and shocking unprofessionalism has created extremely unsafe conditions that precipitate violence and chaos.<sup>8</sup> Chief among the basic security practices which routinely go ignored is the failure to simply secure cell doors, allowing detainees to wander from one unit to another and creating an opportunity for known enemies to wind up in violent encounters. Finally, the Department of Correction promotes the violence that exists in RNDC through the systematic denial of basic services and human rights: the right to go outside, to eat, to shower, to get a haircut, the right to possess a spare pair of socks and underwear or a photograph of your family, the right to speak with your attorney, and the right to speak to your parents. All of these measures serve to agitate, traumatize and de-stabilize these vulnerable young people.

We thank the City Council for holding this hearing to investigate the unchecked violence among young adults at Rikers Island, and we urge this Committee to specifically scrutinize the role that the Department of Correction plays in perpetrating the unconscionable levels of abuse these vulnerable individuals experience.

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<sup>8</sup> Steven J. Martin et al., Special Report of the Nunez Independent Monitor, March 16, 2022, p. 15., available at <https://storage.courtlistener.com/recap/gov.uscourts.nysd.383754/gov.uscourts.nysd.383754.438.0.pdf>.



For any questions about this testimony please email us at [nfiorenzo@nycds.org](mailto:nfiorenzo@nycds.org) and [rsznajderman@nycds.org](mailto:rsznajderman@nycds.org).

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**New York City Council Committee on Criminal Justice  
Hearing On Reducing Violence Among Young People in New York City Jails  
Testimony of Jared M. Trujillo, Esq., Policy Counsel**

**March 28, 2022**

Good afternoon. My name is Jared Trujillo, and I serve as Policy Counsel at the New York Civil Liberties Union. Thank you Chair Rivera and members of the Criminal Justice Committee for holding this hearing, and for the opportunity to testify. This hearing is both timely and crucial, as the Department of Corrections continues to violate the constitutional rights of incarcerated New Yorkers by allowing Rikers to maintain unprecedented levels of staff abuse, medical neglect, and violence. Young people in carceral facilities are particularly vulnerable to these abuses. At Rikers, youth people are housed at the Robert N. Davoren Complex (“RNDC”), which has been particularly vulnerable to incidences of violence, abuse



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According to the Thirteenth Report of the Nunez Federal Monitor issued March 16, 2022, the rate of violence at Rikers is seven to eight times higher than it is at jails in other jurisdictions. Concerningly, there is no sign that conditions at Rikers are improving. The Monitor notes that “the Department [of Corrections] poor practices regarding the use of force and its level of violence caused concern for the Monitoring Team at the inception of the Consent Judgment, and the Monitoring Team’s level of alarm has only increased over time as these rates continued to climb.” The report notes that many instances of use of force were “completely preventable,” the use of force has increased each year, with the use of force was the highest it has ever been in 2021. Young people are housed at the Robert N. Davoren Complex (“RNDC”), which the report notes has been plagued by particularly high levels of violence and staff abuse.

Rampant absenteeism and neglect from corrections officers and other staff perpetuates violence among incarcerated people. According to the Federal Monitor’s report, approximately one-third of corrections officers refuse to work. Young incarcerated people frequently tell their public defenders that they are not provided meals due to a lack of staff, and the Federal Monitor’s report notes that medical appointments for incarcerated people are either delayed or missed completely. The people incarcerated at Rikers were so desperate to be treated humanely that several went on a hunger-strike earlier this year. This desperation, inadequate treatment, and neglect from corrections officers that refuse to work all contribute to a culture of violence at Rikers, which includes violence among incarcerated people. The Federal Monitor’s report notes that “these high rates [of violence] are not typical, they are not expected, they are not normal.”

Rikers is not only violent, but it is deadly. 16 people died at Rikers last year, which was the deadliest year at the jail since 2013, despite the daily census at Rikers being significantly lower in 2021. Thus far, 3 people have died at Rikers in 2022.

The most effective way to reduce violence for young people at Rikers is to reduce the number of young people at Rikers. In spite of federal oversight for more than half of a

decade, conditions at Rikers have only declined. The city must meaningfully invest in evidence-based solutions that curb violence, and heal traumatized survivors of violence so that they do not become perpetrators of violence. Violence interrupters and credible messengers, such as those in the Save Our Streets program in Crown Heights, work with young people to prevent retaliation for violent incidents, thereby stopping cycles of violence. Investing in violence interrupters, services for survivors, adequate education, housing, and youth employment would do far more to prevent youth violence than the cramming more young people into one of the most dangerous jails in the United States.

For those youth at Rikers, it is imperative to remediate the deplorable conditions at the jail. There must be accountability for abusive corrections officers. According to the Federal Monitor's report, only two staff members were suspended for use of force related misconduct in the first two months of 2022, despite rampant use of force among staff, especially against young people. The Department of Corrections must immediately ensure young people have access to education, medical care, and programming. Additionally, DOC must provide restorative justice programming to resolve conflicts, and to prevent future conflicts from occurring. New York should adopt models like San Francisco's Resolve to Stop the Violence Project (R.S.V.P.), which are proven to reduce jail violence and recidivism.

Notably, jail violence can spill out into the community. Reducing youth violence at Rikers through decarceration and improving conditions at Rikers is a public safety imperative.



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**New York City Council  
Committee on Criminal Justice  
Oversight - Reducing Violence among Young Adults in City Jails  
Written Comments of Kate Rubin, Director of Policy, Youth Represent  
March 28, 2022**

Youth Represent is dedicated to improving the lives and futures of young people affected by the criminal legal system. When the justice system creates barriers to success for youth, we use the law to help them leave the stigma of a criminal record behind. We provide criminal and civil reentry legal representation to young people age 16-26, assisting them with everything from rap sheet review to school suspensions to employment discrimination and any other legal needs they identify. We also engage in policy advocacy and youth leadership development through our City Dreamers Advocacy Camp. Our interdisciplinary approach allows us to understand our clients' legal and practical challenges so we can effectively represent them from courtroom to community.

Thank you to Chair Rivera, Committee members, and staff for the opportunity to provide testimony on this very urgent topic.

### **Decarcerate, Divest, and Close Rikers**

While the focus of this hearing is on young adults, I must start by emphasizing that no one of any age is safe in DOC jails, especially on Rikers Island, and it must be closed. Many others have said it, but it bears repeating that 16 people died in custody last year, and 3 have already died in custody this year – and we are not yet at the end of March.

In order to close Rikers, and because the Department of Correction cannot meet the basic obligation to keep people safe, we must stay focused on decarceration – reducing the number of people, especially young people – in DOC custody. I understand that decarceration is outside the purview of the DOC specifically, but it is something that the Council as a body and individual members can promote through your oversight of other agencies; through your legislative power; by supporting state legislation aimed at decriminalization and sentence reduction; by defending Raise the Age, bail reform and other long overdue criminal legal system reforms that have recently come under attack; and most importantly through the budget process.

Each year, tens of thousands of young people age 18-25 are arrested and prosecuted in adult court and exposed to lifelong criminal records. **As of this week, there were over 1,200 young people age 18-25 incarcerated in New York City jails, nearly all of them Black and Latinx. Of those, over 500 are age 21 and under.** The annualized cost to incarcerate one person in DOC custody is over \$556,539<sup>1</sup> -- many times the cost of even the most expensive college. And despite this extreme and excessive spending, we cannot even guarantee basic safety.

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<sup>1</sup> For FY2021, from NYC Comptroller, December 2021. FY2022 and FY2023 data is not yet available.

We owe it to everyone at Rikers – especially the youngest people being held there – to address the crisis of conditions of confinement, but that work must not eclipse the focus on closing Rikers, divesting from DOC, and investing in New Yorkers to bring about real safety.

**There are so many better ways to spend a half a million dollars per year.** The city must divest from systems that surveil, police, arrest, and incarcerate young people. Instead, we must make sustained investments in the things that are the foundation of genuine safety: housing, education, green spaces, healthcare, and living wage employment opportunities. We must expand programs that take a public health approach to gun violence, including violence intervention programs. We must also invest in health, mental health, and well-being for youth and families and in education and economic mobility. These investments are detailed in the [Raise the Age campaign’s 2022 Youth Justice Platform for NY](#).<sup>2</sup> Within this ecosystem of services and supports, legal services play a key role – helping young people overcome barriers to employment and education and maintain stable housing and family connections.

### **Immediately Address the Current Crisis for Young Adults**

While the long-term focus must remain on reducing detention, incarceration, and closing Rikers, immediate changes must also be made to address conditions of confinement for young people. In its [March 16, 2022 Special Report, the Nunez Independent Monitor](#) described RNDC, which houses the majority of young people age 18-21 as the place “where a large portion of violence, disorder, poor practice, and avoidable uses of force continues to occur. The condition of this facility has been of grave concern since the inception of the Consent Judgment and has only increased as, time after time, strategies to quell violence, increase programming and incentives, properly manage young adults’ behavior, and improve staff practice have failed or been abandoned with the revolving door of agency and facility leaders.”<sup>3</sup>

The Monitor’s Special Report documents that at the inception of the *Nunez* Consent Judgment in 2016, the DOC Use of Force rate was 4.02 – already a cause for serious concern. A decrease in Use of Force over time was expected as reforms under the Consent Judgment were implemented. Instead, use of force has *increased* every year since 2016, reaching 12.23 in 2021. Perhaps most alarmingly, the Special Report states that high Use of Force rates have now become normalized, “and have seemingly lost their power to instill a sense of urgency among those with the power to make change.”<sup>4</sup>

The Special Report also documents that of the 929 officers assigned to RNDC, half (454, or 49%) were unavailable to be assigned to a post there, and on any given day that number was further reduced by people out sick, on vacation, attending training, etc. A [budget analysis last week by Comptroller Brad Lander](#) found that, “DOC’s paid, uniformed absentee rate due to illness or line of duty injuries skyrocketed to 27% in the beginning of FY 2022, far surpassing the pre-pandemic absence rates at DOC (5 to 7%) and more than double current absence rates at other uniformed agencies (10% at FDNY, 11% at DSNY). As of early February 2022, approximately a quarter of staff

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<sup>2</sup> <https://raisetheageny.org/22-youth-justice-ny-platform/>.

<sup>3</sup> <http://tillidgroup.com/wp-content/uploads/2022/03/Special-Report-03-16-22-As-Filed.pdf>, p. 17.

<sup>4</sup> Id., p. 14.

were calling out sick each week.”<sup>5</sup> Lack of staffing directly contributes to tensions and Use of Force. It also means delayed medical attention and reduced access to programs. But this is not lack of staffing due to underspending; it is lack of staffing directly caused by absenteeism. It is costing taxpayers millions of dollars and it is costing some Rikers detainees their lives.

DOC leadership must immediately take the following steps to address the crisis for young adults in their custody:

- **Ensure adequate staffing in all buildings**, but especially in RNDC and any other buildings where young adults are held, *without increasing the DOC budget*.
- **Implement systems at every level of the department to identify, document, and directly hold staff accountable for Use of Force**, including suspension without pay and firing officers for repeat offenses.
  - DOC must provide consistent, detailed, aggregate reports on staff discipline, including the reasons for disciplinary actions and the outcomes of proceedings.
- **Ensure access to a broad range of age-appropriate programming for all young adults aged 18-25**, including school and other educational programs, arts, recreation, mentorship and other programs offering positive youth development as well as violence interruption and restorative justice, especially those employing credible messengers.
  - This means fully funding a broad range of community-based programs, ensuring that program staff have access to all DOC facilities, *and* ensuring that young people can consistently access and attend programs.
  - While the geography of Rikers creates barriers to programs, all necessary resources and coordination should be employed to overcome those barriers until Rikers is closed.
- **Ensure consistent, timely access to high quality health and mental health care.**
- **Increase Board of Correction headcount** in proportion to DOC headcount to promote accountability; this type of linked budget exists for other oversight agencies [like the CCRB](#).

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<sup>5</sup> <https://comptroller.nyc.gov/newsroom/nyc-comptroller-despite-bloated-budget-department-of-correction-remains-in-crisis-as-services-and-safety-have-deteriorated/>.