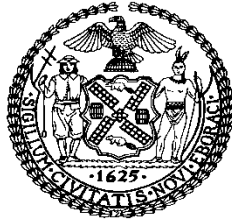


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**THE COUNCIL OF THE CITY OF NEW YORK**

**Briefing Paper of the Governmental Affairs Division**  
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**COMMITTEE ON CRIMINAL JUSTICE**  
**Hon. Keith Powers, Chair**

**April 23, 2018**

**OVERSIGHT: Safety and Security in DOC Facilities**

**I. INTRODUCTION**

On April 23, 2018, the Committee on Criminal Justice, chaired by Keith Powers, will hold an oversight hearing to examine safety and security in New York City Jails. The related topic of jail violence is an issue this Committee routinely monitors. Last legislative session, the Committee held several hearings on the topic, including on October 25, 2017, May 6, 2015, and June 12, 2014. The Committee also reviews the levels of jail violence in each of the Council's two budgetary hearings every year. Those invited to testify at this hearing include representatives

from the Department of Correction (“DOC” or “Department”), unions, community-based organizations, and other interested parties.

## **II. DOC BACKGROUND**

The DOC provides for the care, custody and control of inmates who are remanded or cannot afford to post bail for open criminal cases, or are sentenced to a term of one year or less, as well as other inmates in a variety of less common circumstances.<sup>1</sup> During Fiscal Year 2017, DOC had 58,226 admissions with an average daily inmate population (“ADP”) of 9,500.<sup>2</sup> The average length of stay of inmates in New York City jails was 60.0 days.<sup>3</sup> The Department’s facilities include ten jails on Rikers Island as well as jails in the Bronx, Brooklyn, Manhattan and Queens.<sup>4</sup>

## **III. VIOLENCE TRENDS AND RECENT INCIDENTS AT RIKERS ISLAND**

### **A. Jail Violence Trends**

In May of 2015, at a Council hearing examining violence in New York City jails, then-DOC Commissioner Joseph Ponte testified that use of force incidents “dropped significantly” at the Robert N. Davoren Complex (RNDC) and the George R. Vierno Center (GRVC) facilities between December 2014 and May 2015.<sup>5</sup> At that time, Commissioner Ponte also stated that the Department was taking a “holistic approach” to “address the violence that has plagued the [City]

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<sup>1</sup> New York State Correction Law § 500-a.

<sup>2</sup> Mayor’s Management Report 2017, p.85 at <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2017/doc.pdf>. Last visited 4/17/18.

<sup>3</sup> Mayor’s Management Report 2017, p.84 at <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2017/doc.pdf>. Last visited 4/17/18.

<sup>4</sup> Id. at 83.

<sup>5</sup> See testimony, DOC Commissioner Joseph Ponte, New York City Council FCJS hearing, May 6, 2015.

jail.”<sup>6</sup> Additionally, in May of 2017, Commissioner Ponte testified before the Council that “the agency has implemented a comprehensive anti-violence reduction initiative that targets our most violent population”<sup>7</sup> and that serious violence indicators had significantly decreased between Fiscal Years 2015 and 2016, including assaults on staff resulting in serious injury.<sup>8</sup> However, certain violence indicators have increased over the past three fiscal years. When comparing numbers from Fiscal Year 2014 to Fiscal Year 2017 there has been an increase in the following critical indicators:<sup>9</sup> (i) fight/assault infractions have increased from 8,827 to 12,650 (a 43% increase); violent inmate-on-inmate incidents (monthly rate per 1,000 ADP) have increased from 32.9 to 55.2 (a 68% increase); (iii) serious injuries to inmates as a result of violent inmate-on-inmate incidents (monthly rate per 1,000 ADP) increased from 1.8 to 2.7 (a 50% increase); and (iv) inmate assaults on staff (monthly rate per 1,000 ADP) increased from 5.9 to 8.4 (a 42% increase).<sup>10</sup> To capture additional statistics related to violence, the Council passed Local Law 33 of 2016, which requires the DOC to post monthly security reports to its website. These reports include key indicators such as fight infractions, stabbings and slashings, serious injuries to inmates and staff, and uses of force on a monthly basis. The reports show more detailed information on a quarterly basis.<sup>11</sup>

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<sup>6</sup> See testimony, DOC Commissioner Joseph Ponte, New York City Council FCJS hearing, May 6, 2015.

<sup>7</sup> See testimony, DOC Commissioner Joseph Ponte, New York City Council Fiscal Year 2018 Executive Budget, May 8, 2017.

<sup>8</sup> See testimony, DOC Commissioner Joseph Ponte, New York City Council Fiscal Year 2018 Executive Budget, May 8, 2017.

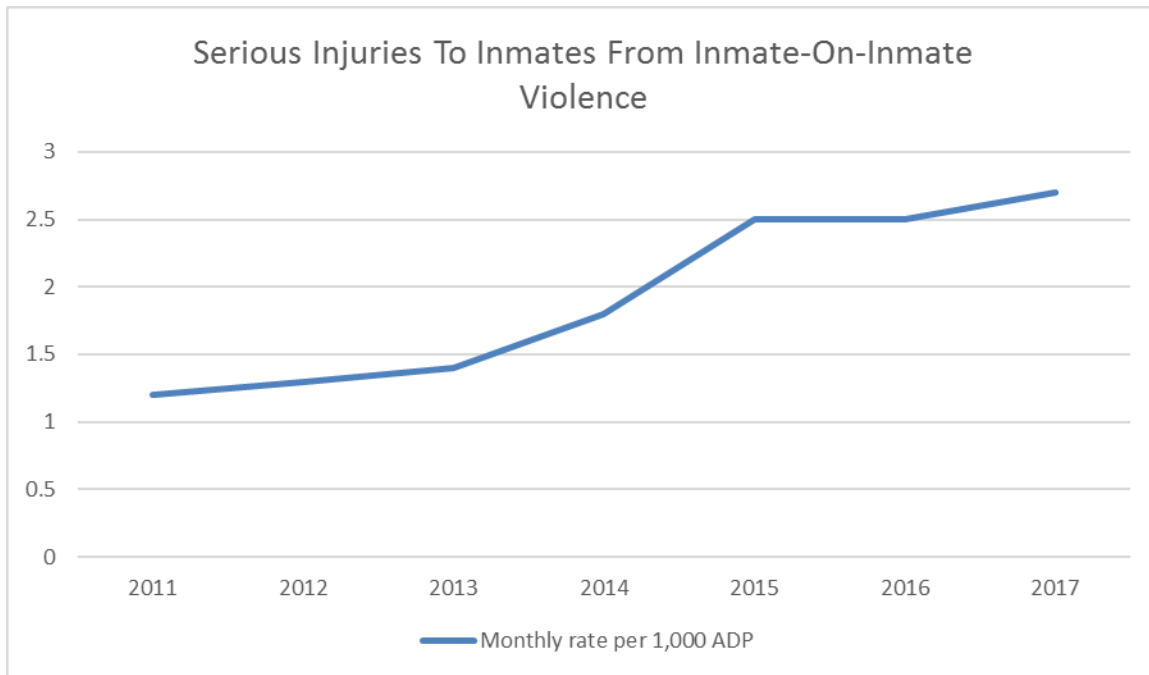
<sup>9</sup> The Department defines what it considers “critical indicators” in its yearly Mayor’s Management Report.

<sup>10</sup> Mayor’s Management Report 2017, p.85 at

<http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2017/doc.pdf>. Last visited 4/17/18.

<sup>11</sup> See Appendix for full data reported from FY17 and FY18.

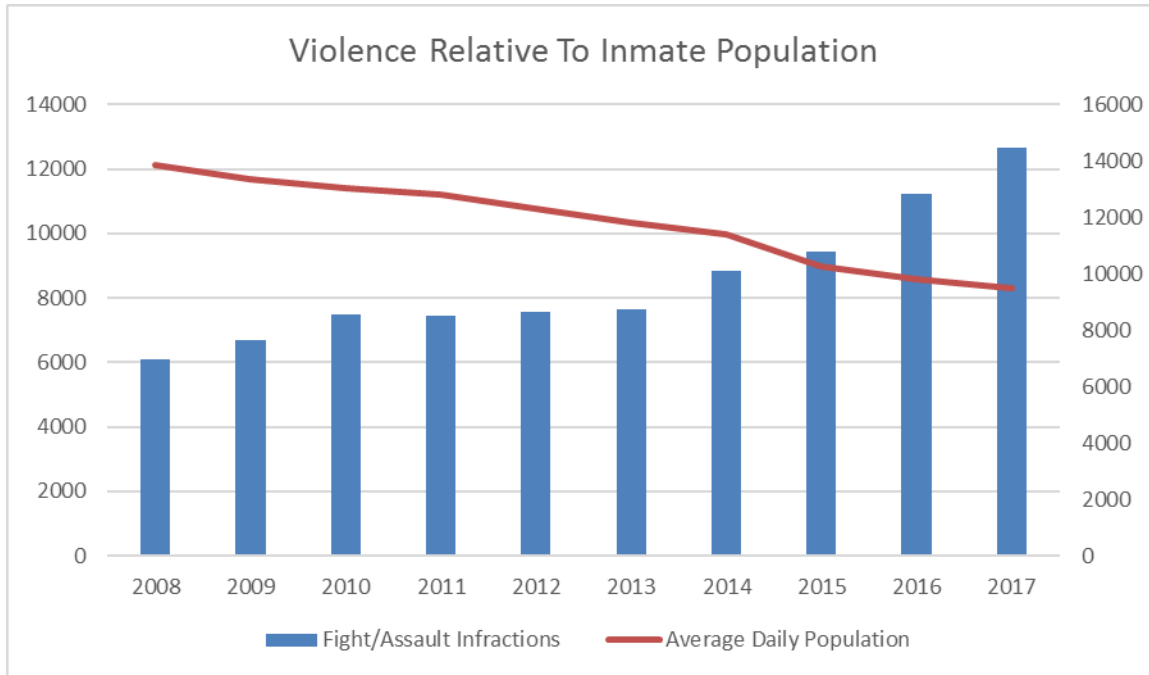
To illustrate trends in time on key violence indicators, the following chart shows the rate of serious injuries to inmates as a result of inmate-on-inmate violence from Fiscal Year 2011 to Fiscal Year 2017.<sup>12</sup>



Though the rate of such injuries has somewhat stabilized during the past three years, it has nonetheless risen each year that this information has been made available in the Mayor’s Management Report.

<sup>12</sup> Mayor’s Management Report For Fiscal Year 2017, at p. 85; Mayor’s Management Report For Fiscal Year 2012, at p. 18

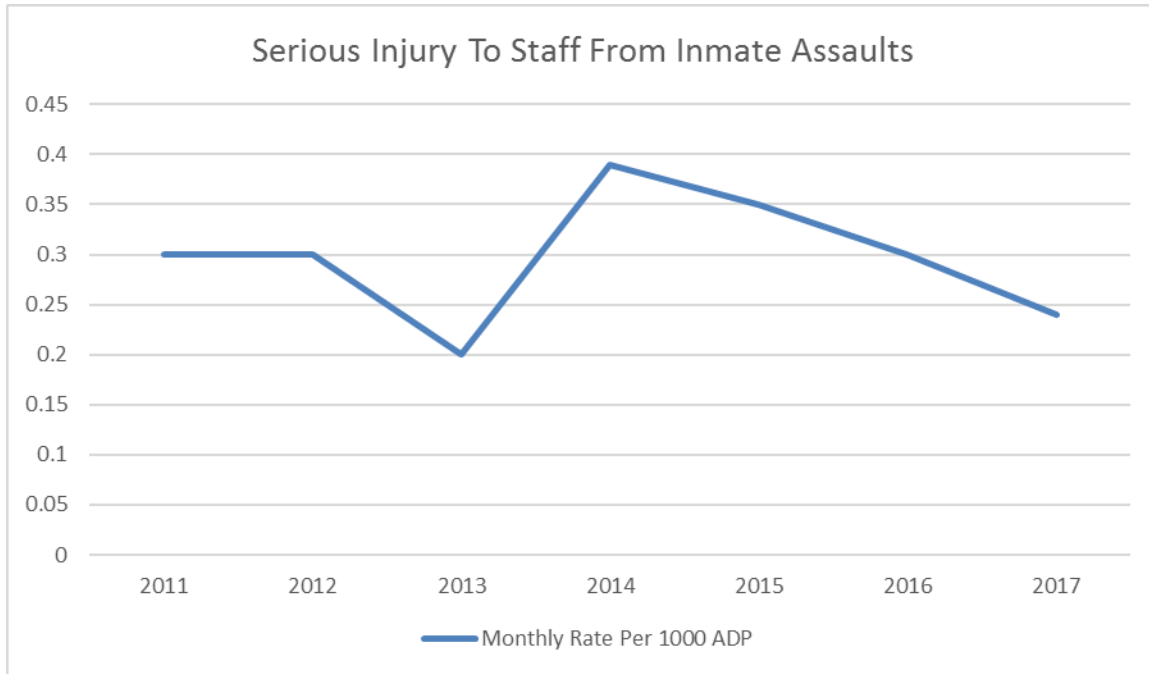
Similarly, overall rates of inmate-on-inmate violence have risen almost every year since this information has been made available, even as the jail population has declined. The following chart shows the numbers of fight or assault infractions relative to the average daily population for Fiscal Years 2008 through 2017.



The Department has noted that the percentage of inmates who are in a “Security Risk Group,” often indicating a gang affiliation, has increased in recent years.<sup>13</sup> The percentage of inmates with a mental health diagnosis has also risen from 27% of the population in the 2009 Fiscal Year to 42% in the 2017 Fiscal Year. These changes in the inmate population might partially explain why the rates of violence per inmate has risen, but there are myriad factors that influence violence rates.

<sup>13</sup> Mayor’s Management Report for Fiscal Year 2017, at p. 84

As violence between inmates has generally risen in recent years, violence between inmates and staff that cause serious injuries has been relatively stable. The following chart shows the rate of serious injury to staff as a result of inmate assaults on staff from Fiscal Years 2008 through 2017.



Much of the violence in DOC facilities is driven by a small number of inmates. Reports from the federal monitor from the Nunez settlement have indicated that during the first six months of 2017, just 41 inmates accounted for 292 uses of force, which is 13% of the total of 2,243 uses of force during this time period.<sup>14</sup> This report also noted progress in addressing these particularly problematic inmates.

The Nunez monitor has focused on the use of force by staff on inmates, and has taken issue with the DOC’s practice of “re-classifying” certain incidents of the use of force by staff on

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<sup>14</sup> Exiger, Fourth Report of the Nunez Independent Monitor, at p. 30.

inmates. The monitor analyzed 10 incidents where uses of force were initially reported but later “downgraded” and no longer reported as a use of force.<sup>15</sup> In seven of these ten cases, the monitor disagreed with this “downgrade.”<sup>16</sup> The New York Daily News has also reported incidents of “downgrading,” noting numerous cases where apparently violent incidents were not reported as such.<sup>17</sup>

## B. Specific Incidents of Violence

The trends in violence illustrated above are evident in recent publicized incidents that involve both inmates and correction officers at Rikers Island. In October of 2016, a group of six inmates allegedly attacked another inmate, resulting in the victim needing more than 100 sutures on his face, arms and hands.<sup>18</sup> During the same month, two correctional officers, Christopher Huggins and Michael Dorsainvil, were found guilty in the March 2013 beating of inmate Carl Williams inside a holding cell at Rikers Island.<sup>19</sup>

In March of 2017, an inmate was allegedly slashed on the right side of his face by another inmate who has a history of violence at Rikers Island.<sup>20</sup> In June of 2017, inmate Joel Cruz was reportedly slashed in the neck after he pleaded with Rikers staff to be placed in protective custody due to his brother’s alleged gang ties.<sup>21</sup> Mr. Cruz’s laceration required 80 stitches.<sup>22</sup>

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<sup>15</sup> Id. at 48

<sup>16</sup> Id.

<sup>17</sup> Stephen Rex Brown and Reuven Blau, EXCLUSIVE: Rikers Island correction bosses routinely ‘purge’ unfavorable violence stats to create illusion of reform, review shows, August 28, 2016, available at <http://www.nydailynews.com/new-york/exclusive-rikers-island-bosses-cover-violence-stats-article-1.2768232>

<sup>18</sup> <http://www.nydailynews.com/new-york/manhattan/30-rikers-inmates-face-jail-time-assaults-article-1.3437845>

<sup>19</sup> NY Daily News <http://www.nydailynews.com/new-york/nyc-crime/ex-rikers-guards-sentenced-covering-assault-inmate-article-1.2945066>.

<sup>20</sup> NY Daily News <http://www.nydailynews.com/new-york/rikers-inmate-slashed-face-plans-sue-city-20m-article-1.3003297>.

<sup>21</sup> Blau, Reuven. “*Rikers Inmate to Sue After Knife Attack as Correction Dept. Faces Spike in Lawsuits.*” The New York Daily News at <http://www.nydailynews.com/new-york/correction-dept-face-suit-latest-rikers-attack-article-1.3239243>. Last visited 4/17/18.

<sup>22</sup> Id.

In March of 2017, a Rikers correction officer was arrested for allegedly beating a handcuffed inmate and faces federal charges of violating the inmate's civil rights.<sup>23</sup> In September of 2017, Brian Coll, a former Rikers Island guard, was sentenced to 30 years in prison for his role in a fatal beating of an inmate.<sup>24</sup>

In February of 2018, correction officer Jean Souffrant was assaulted by a group of five inmates, leaving Souffrant hospitalized with a broken neck.<sup>25</sup>

#### **IV. THE CITY'S EFFORTS TO IMPROVE SAFETY ON RIKERS ISLAND**

In order to stem the violence in DOC jails, the City has made several efforts to improve the safety of inmates and correction officers.

##### **A. The 14-Point Anti-Violence Plan**

On March 12, 2015, Mayor Bill de Blasio and then-DOC Commissioner Joseph Ponte announced a 14-point plan to aggressively combat violence and promote safety on Rikers Island.<sup>26</sup> The plan focused on five major initiatives to reduce inmate-on-inmate violence, which include: (i) developing crisis intervention teams to respond more quickly to inmate-on-inmate violence; (ii) designing effective inmate education opportunities and services to reduce idle time; (iii) providing comprehensive security camera coverage; (iv) creating an integrated classification

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<sup>23</sup> Ax, Joseph. "A Guard at Rikers Island is Charged with Beating Handcuffed Inmate." *The Business Insider* at <http://www.businessinsider.com/rikers-island-beating-inmate-guard-charged-2017-3>. Last visited 10/20/17.

<sup>24</sup> Weiser, Benjamin. "Ex-Rikers Guard is Sentenced to 30 Years in Fatal Beating of Inmate." *The New York Times* at <https://www.nytimes.com/2017/09/13/nyregion/rikers-brian-coll-ronald-spear-sentencing-brutality.html> Last visited 4/17/18.

<sup>25</sup> NY Daily News <http://www.nydailynews.com/new-york/nyc-crime/rikers-guard-suffers-spinal-injury-planned-attack-6-inmates-article-1.3813359>.

<sup>26</sup> Mayor de Blasio, Commissioner Ponte Announce 14-Point Rikers Anti-Violence Agenda at <http://www1.nyc.gov/office-of-the-mayor/news/166-15/mayor-de-blasio-commissioner-ponte-14-point-rikers-anti-violence-agenda#/0>



and housing strategy to more safely house inmates; and (v) keeping weapons, drugs and contraband out of Rikers.<sup>27</sup>

#### B. Rikers Island Prosecution Bureau

In an effort to reduce rates of violence and prosecute those individuals that have allegedly committed a crime on Rikers Island, Bronx District Attorney Darcel D. Clark promised to overhaul DOC prosecutions, and soon upon taking office she tripled the number of assistant district attorneys assigned to Rikers cases full time.<sup>28</sup> In September of 2016, District Attorney Clark opened The Rikers Island Prosecution Bureau (“Bureau”).<sup>29</sup> The goal of the Bureau is to make Riker’s Island safer by ensuring faster prosecution of crimes committed by inmates and visitors to the jail complex, but the Bureau will not prosecute crimes allegedly committed by Correction Officers. Additionally, the Bureau seeks to work to: (i) dismantle criminal networks operating on Riker’s Island; (ii) prosecute criminal offenses included, but not limited to, promoting contraband, arson, serious assaults, sex offenses, murder, and attempted murder and; (iii) collaborate with the Gang/Major Case, Special Investigations and Public Integrity Bureaus of the District Attorney’s Office.<sup>30</sup> Since District Attorney Clark took office in 2016, arrests of inmates has increased by 41%, the number of inmates charged with assaulting correction officers has nearly doubled and the number of correction staff seriously injured by inmates has decreased by nearly two-thirds.<sup>31</sup>

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<sup>27</sup> Mayor de Blasio, Commissioner Ponte Announce 14-Point Rikers Anti-Violence Agenda at <http://www1.nyc.gov/office-of-the-mayor/news/166-15/mayor-de-blasio-commissioner-ponte-14-point-rikers-anti-violence-agenda#/0>

<sup>28</sup> Winnie Hu, Rikers Island Cases Are Focus for New Bronx District Attorney, The New York Times, March 4, 2016

<sup>29</sup> Office of the Bronx District Attorney – Rikers Island Prosecution Bureau at <http://bronxda.nyc.gov/html/units/units.shtml>. Last visited 10.20.17.

<sup>30</sup> Office of the Bronx District Attorney – Rikers Island Prosecution Bureau at <http://bronxda.nyc.gov/html/units/units.shtml>. Last visited 10.20.17.

<sup>31</sup> New York Times, available at <https://www.nytimes.com/2018/01/24/nyregion/rikers-bronx-prosecutor-violence.html>.

### C. Body Scanners and Contraband Detection

In an effort to drastically decrease contraband from entering City jails and to further reduce violence on Rikers, the DOC purchased five U.S. Transportation Safety Administration ionizing radiation body scanners during 2012 and 2013 at a cost of \$1 million.<sup>32</sup> Besides ceramic blades, the body scanners can detect weapons made of titanium and plastic, which are not easily found in frisks and undetectable by magnetometers. However, in 2014, the DOC was forced to discontinue the use of these scanners because those specific scanners are prohibited by the New York State Public Health Law.<sup>33</sup> DOC subsequently stopped using body scanners in 2014 and rates of stabbings/slashings increased significantly.<sup>34</sup>

The Department has significantly increased its efforts to discover weapons in its facilities. Between Fiscal Years 2008 and 2017, the number of weapons recovered by the DOC more than doubled from 1,439 to 3,976.<sup>35</sup> Despite these efforts, the rate of stabbings and slashings has increased in recent years, increasing by 20.6% between Fiscal Years 2016 and 2017<sup>36</sup> and 21.3% between Fiscal Years 2015 and 2016.<sup>37</sup>

### D. Accelerated Program Unit

In 2015, the Department began to roll out its Accelerated Programming Units or APUs. The purpose of the APU is to assist in reducing jail violence by employing best correctional

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<sup>32</sup>Blau, Reuven and Brown, Stephen Rex. Rikers Inmates Smuggle Shivs. The New York Daily News 2.5.17 at <http://www.nydailynews.com/new-york/nyc-crime/rikers-inmates-hide-shivs-rectums-body-scanners-sit-idle-article-1.2964456> Last visited 10.23.17.

<sup>33</sup> New York State Public Health Law, article 35 § 3502.

<sup>34</sup> Durkin, Erin. The New York Daily News March 9, 2017 at <http://www.nydailynews.com/new-york/nyc-crime/correction-department-reports-18-spike-nyc-jail-stabbings-article-1.2993547>. Last visited 4/17/18.

<sup>35</sup> Mayor's Management Report For Fiscal Year 2017, at p. 85; Mayor's Management Report For Fiscal Year 2012, at p. 18

<sup>36</sup> Mayor's Management Report 2017, p. 84

<sup>37</sup> Mayor's Management Report 2016, p 80

practices and creating more stable housing units.<sup>38</sup> In these units, inmates are offered five hours of daily programming. Staff are trained in unit management and inmates are given an incentive based behavior management system, which encourages positive behavior and program participation. GRVC became the first model facility in September 2015.<sup>39</sup> In 2016, the Anna M. Kross Center (AMKC) became the second upgraded facility. The Otis Bantum correctional Center (OBCC) and Manhattan Detention Complex (MDC) underwent their model facility transformations during 2017. GMDC, which houses the bulk of the young adult population, also restarted its housing units.<sup>40</sup>

## **V. COBA PROPOSALS TO REDUCE JAIL VIOLENCE**

The Correction Officers' Benevolent Association (COBA) has advocated for changes to City law and policy aimed at reducing jail violence. According to COBA, the following measures are necessary to reduce jail violence: (i) expand disciplinary sanctions on inmate privileges to include suspension of visits, telephone usage, commissary, recreation time, and law library access; (ii) reversal of a 2016 prohibition on the use of punitive segregation for inmates under 21-years-old; (iii) reduction in idle time for inmates; and (iv) increase the use of other disciplinary sanctions such as being locked in a cell for extended periods of time or receiving non-contact visits.

## **VI. ISSUES AND CONCERNS**

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<sup>38</sup> Mayor's Management Report 2016, p.61 at <http://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2016/doc.pdf>. Last visited 4/17/18.

<sup>39</sup> Mayor's Management Report 2016, p.61 at <http://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2016/doc.pdf>. Last visited 10/19/17.

<sup>40</sup> Mayor's Management Report 2016, p.61 at <http://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2016/doc.pdf>. Last visited 10/19/17.

The Committee has been and remains concerned with the level of violence in city correctional facilities, and the severity of the injuries sustained by inmates and correction officers. The Committee will explore whether every effort is made to ensure that: (i) systems are in place to quickly identify any increases in violence in various facilities; (ii) all allegations of violence are thoroughly investigated and those found to perpetrate these acts of violence are punished accordingly; (iii) all correction officers are appropriately screened, trained, supervised, and held to the highest standard of conduct and recognized and rewarded for their good work; (iv) genuine incidents of violence are being properly reported; and (v) all appropriate measures to reduce violence are undertaken. The Committee recognizes that the DOC has taken several measures to attempt to address the problem of jail violence but remains concerned that more should be done to address this historical problem.



# APPENDIX

## Reporting Pursuant to Local Law 33 of 2016

(Quarterly Total, and Rates per 100 inmates)

	FY17- Q1	FY17- 1Q	FY17- Q2	FY17- Q2	FY17- Q3	FY17- Q3	FY17- Q4	FY17- Q4	FY18-Q1	FY18- Q1	FY18- Q2	FY18- Q2
1) fight infractions written against inmates	3361	34.51	3280	34.06	3050	32.45	2956	32.02	3015	32.84	2972	32.72
2) assaults on inmates by inmates in which an inmate suffered a serious injury, excluding assaults involving stabbings, shootings or slashings	35	0.36	43	0.45	34	0.36	26	0.28	36	0.39	25	0.28
3) assaults on inmates by inmates involving stabbings;	4	0.04	6	0.06	6	0.06	1	0.01	6	0.07	2	0.02
4) assaults on inmates by inmates involving shootings;	0	0	0	0	0	0	0	0	0	0	0	0
5) assaults on inmates by inmates involving slashings;	45	0.46	34	0.35	38	0.4	31	0.34	24	0.26	23	0.25
6) total number of assaults on inmates by inmates involving stabbings, shootings or slashings; Stabbings, slashings, shootings total	49	0.5	40	0.42	44	0.47	32	0.35	30	0.33	25	0.28
7) total number of assaults on inmates by inmates involving stabbings, shootings or slashings in which an inmate suffered a serious injury;	49	0.5	40	0.42	44	0.47	32	0.35	30	0.33	25	0.28
8) assaults on inmates by inmates in which an inmate was admitted to a hospital as a result;	0	0	0	0	0	0	1	0.01	2	0.02	0	0
9) homicides of inmates by inmates;	0	0	0	0	0	0	0	0	0	0	0	0
10) attempted suicides by inmates;	1	0.01	0	0	1	0.01	1	0.01	0	0	1	0.01
11) suicides by inmates;	0	0	0	0	0	0	0	0	0	0	0	0
12) assaults on staff by inmates;	232	2.38	215	2.23	194	2.06	208	2.25	234	2.55	225	2.48
13) assaults on staff by inmates in which staff suffered serious injury;	11	0.11	9	0.09	2	0.02	5	0.05	15	0.16	16	0.18
14) assaults on staff by inmates in which the staff was transported to a hospital as a result;	8	0.08	6	0.06	1	0.01	5	0.05	8	0.09	9	0.1
15) incidents in which an inmate splashed staff;	153	1.57	186	1.93	169	1.8	138	1.49	167	1.82	209	2.3
16) allegations of use of force A;	2	0.02	1	0.01	3	0.03	1	0.01	0	0	3	0.03
17) actual incidents of use of force A	20	0.21	15	0.16	17	0.18	20	0.22	41	0.45	55	0.61
18) inmate hospitalization as a result of use of force A;	0	0	2	0.02	0	0	0	0	0	0	0	0
19) allegations of use of force B ;	34	0.35	26	0.27	25	0.27	23	0.25	29	0.32	33	0.36
20) actual incidents of use of force B	431	4.43	399	4.14	392	4.17	431	4.67	461	5.02	462	5.09
21) allegations of use of force C ;	65	0.67	67	0.7	85	0.9	65	0.7	82	0.89	86	0.95
22) actual incidents of use of force C	772	7.93	792	8.23	680	7.24	701	7.59	726	7.91	792	8.72
23) incidents of use of force C in which chemical agents were used.	569	5.84	523	5.43	442	4.7	393	4.26	394	4.29	347	3.82