



The City of New York
Department of Investigation

JOCELYN E. STRAUBER
COMMISSIONER

180 MAIDEN LANE
NEW YORK, NY 10038
212-825-5900

Release #40-2024
nyc.gov/doi

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 24, 2024

CONTACT: DIANE STRUZZI
(212) 825-5931

DOI REPORT: THE IMPACT OF RAISE THE AGE AND BAIL REFORM ON THE CITY'S JUVENILE DETENTION FACILITIES

Jocelyn E. Strauber, Commissioner of the New York City Department of Investigation ("DOI"), issued a Report today that examines the impact of Raise the Age ("RTA") legislation and Bail Reform on the City Administration for Children's Services' ("ACS") two juvenile detention centers: Horizon Juvenile Center in the Bronx and Crossroads Juvenile Center in Brooklyn, operated by ACS's Division of Youth and Family Justice ("DYFJ"). The Report explains that these legislative changes pose significant challenges for these juvenile facilities, including managing an older population facing more serious and violent charges; and describes some of the specific incidents that have occurred at Horizon and Crossroads that demonstrate the safety risks to both residents and staff.

The Report also explores key issues that include a troubling pattern of resident misconduct, criminal activity and lack of staff control over the facilities since the implementation of RTA and Bail Reform, as well as deficiencies in the behavior management systems ACS uses. DOI issued 15 recommendations to ACS in key areas including behavior management and disciplinary systems in the facilities, and staff training. ACS has accepted seven of these recommendations, two have been already implemented; five are either partially accepted or partially implemented; and three recommendations were declined. ACS's responses are included in the Report, a copy of which is attached to this release and can be found [by clicking here](#).

DOI Commissioner Jocelyn E. Strauber said, "DOI's Report exposes the significant impact that Raise the Age and Bail Reform legislation have had on ACS's two juvenile detention facilities, which now house an older population facing more serious and violent criminal charges. These challenging circumstances call for ACS to strengthen its behavioral management tools to better track and respond to violent and criminal conduct by residents in order to protect both residents and staff. Our investigation also establishes that these facilities need additional staff, and better protections and training for them. I thank ACS for its assistance and cooperation in this inquiry, and its commitment to improving conditions at these juvenile detention centers."

In 2017, New York State enacted RTA, which was implemented in two phases in 2018 and 2019, and raised the age of criminal responsibility to 18 years-old and allowed residents to remain in juvenile facilities until they turn 21. During RTA implementation, New York State also approved bail reforms, which took effect in January 2020 and eliminated the option to set bail or detain defendants pre-trial in most cases other than those involving designated violent felonies. As a result of RTA and Bail Reform legislation, Horizon and Crossroads now house an older population facing more serious and violent charges.

The following numbers illustrate the dramatic rise between April 2018, six months prior to the implementation of RTA, to May 2023, both for the age and the number of residents at the juvenile detention centers facing serious charges such as murder.

more

- In April 2018, Horizon housed 28 residents, 10 who were 16 or older and four who had a top charge of murder. As of May 2023, those numbers increased to 115 residents, 98 who were 16 or older and 66 who had a top charge of murder.
- In April 2018, Crossroads housed 24 residents, 16 who were 16 or older and three who had a top charge of murder. As of May 2023, those numbers increased to 122 total residents, 87 who were 16 or older and 68 who had a top charge of murder.

DOI's decades-long oversight of these facilities, including investigations of matters ranging from policy and procedural violations to violent felonies, and its receipt of confidential complaints and intelligence from various sources, provide the basis for the facts and findings in this Report, which is intended to provide public transparency into the specific consequences of RTA and Bail Reform on ACS's juvenile detention facilities.

Over the course of several years, DOI has conducted numerous investigations involving Horizon and Crossroads; DOI investigators have spoken with more than one hundred DYFJ employees (current and former) at all levels and have reviewed thousands of pages of incident reports. DOI has also spoken with District 37 Social Service Employees Union Local 371 Leadership and observed the debriefing of a cohort of 23 Youth Development Specialists ("YDS") following their on-the-job learning, which occurred after the cohort spent two weeks working in the facilities. YDS are part of the direct-care staff at the facilities.

The Report examines three main areas of concern:

- 1: **STRIVE – A Behavioral Management Tool Used by ACS**
STRIVE, which stands for Safety, Teamwork, Respect, Integrity, Values, and Engagement, is a tool used to manage and document resident behavior and maintain a safe environment. DOI determined that STRIVE is inadequate to deter behaviors such as youth-on-staff assaults, security breaches, and contraband possession. DOI also found flaws in the daily management of STRIVE documentation.
- 2: **Safe Crisis Management**
When violence or misconduct occurs within the facilities, ACS seeks to restore order and maintain the safety of youth and staff in detention using the least intrusive and least restrictive intervention necessary. In response to an incident, staff employ Safe Crisis Management ("SCM"), a comprehensive crisis intervention behavior management system that promotes non-physical intervention. Based on DOI's SCM training observations, as well as the incidents and discussions with staff described in the Report, DOI concludes SCM is insufficient to maintain order in the facility.
- 3: **Staffing Challenges**
With the increase in the number of residents in juvenile detention facilities, ACS has worked to increase the number of YDS who are part of a team of direct care staff at the facilities. Despite this effort, staffing issues continue. DOI's investigation indicated an urgent need for additional hires and better working conditions at both facilities, as under-staffing poses a significant challenge to order, morale, and safety. Staffing challenges are also due in part to the relatively high number of YDS who are unable to work as a result of an injury sustained on the job, resulting in a Workers' Compensation claim. During this investigation, DOI also heard concerns from staff about a lack of control over resident behavior and a lack of support from DYFJ management.

Nearly every staff member with whom DOI spoke consistently stated, in substance, that ACS was ill-prepared for the new demographics of the RTA population, particularly the residents' age, physical size, and violent criminal history. Staff members have asserted that now, some five years later, ACS remains unable to properly assess and handle the RTA population. Staff consistently cited a lack of physical safety for staff and residents, facilities controlled by residents rather than by staff, a lack of consequences for violent behavior and a lack of support from facility and DYFJ management.

DOI's investigation found that RTA and Bail Reform have fundamentally altered the juvenile detention population, rendering the existing disciplinary measures and institutional responses insufficient to deter misconduct, including acts of violence. This ineffectiveness is demonstrated by the high levels of youth-on-youth and youth-on-staff violence, security breaches, and recovery of contraband including weapons and cell phones. ACS staff are not properly trained or prepared to respond to the incidents that regularly occur within the facilities. In light of those findings, DOI has made 15 recommendations that include modifications to STRIVE, using legal and other means to address misconduct at the detention facilities, and improving guidance and training for staff.

DOI Commissioner Strauber thanks ACS Commissioner Jess Dannhauser and ACS staff for their cooperation in this investigation.

This investigation was conducted by Deputy Inspector General Harlyn Griffenberg, assisted by Deputy Inspector General Gladys Cambi, Director of Intergovernmental Affairs/Special Counsel Rebecca Chasan, and Data Analyst Chantel Peters, and was supervised by Senior Inspector General Laura Millendorf, Deputy Commissioner of Strategic Initiatives Christopher Ryan and Deputy Commissioner/Chief of Investigations Dominick Zarrella.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

**DOI's press releases can also be found at twitter.com/NYC_DOI
Know something rotten in City government? Help DOI Get the Worms Out of the Big Apple.
Call: 212-3-NYC-DOI or email: Corruption@DOI.nyc.gov**

New York City
Department of Investigation



The Impact of Raise the Age & Bail Reform: Safety, Disciplinary, & Staffing Challenges at the City's Juvenile Detention Facilities

Jocelyn E. Strauber
Commissioner

Laura Millendorf
Inspector General for the City Administration for Children's Services

October 2024

Table of Contents

Contents

- I. Executive Summary 1
- II. Introduction 2
- III. Background 13
- IV. Changes in Resident Population 17
 - A. Raise the Age Legislation 17
 - B. Bail Reform Legislation 19
 - C. Relevant Data 20
- V. Behavior Management 26
 - A. STRIVE 26
 - B. Other Behavioral Management Tools 40
- VI. Safe Crisis Management 42
- VII. Staffing Challenges 44
 - A. Overtime 44
 - B. Workers’ Compensation 47
- VIII. Feedback from Staff 49
 - A. Lack of Physical Safety for Staff 50
 - B. Lack of Control Over Resident Behavior 53
 - C. Lack of Support from DYFJ Management 55
- IX. Sample of Concerning Incidents in Detention Facilities 56
- X. Conclusions and Recommendations 64

I. Executive Summary

The New York City Department of Investigation (“DOI”)’s oversight of the New York City Administration for Children’s Services (“ACS”) includes ACS’ two juvenile detention centers: Horizon Juvenile Center (“Horizon”) in the Bronx, and Crossroads Juvenile Center (“Crossroads”) in Brooklyn.

In 2017, New York State enacted the Raise the Age (“RTA”) legislation, which was implemented in two phases, in 2018 and 2019. RTA raised the age of criminal responsibility to 18-years-old and allowed residents remain in juvenile facilities until they turn 21-years-old. During RTA implementation, New York State also approved bail reforms, eliminating the option to set bail in most cases other than designated violent felonies; this law took effect in January of 2020. As a result of RTA and bail reform legislation, Horizon and Crossroads now house an older population facing more serious and violent charges.

This report describes the significant challenges that these changes pose. DOI’s decades-long oversight of these facilities, including investigations of matters ranging from policy and procedural violations to violent felonies, and its receipt of confidential complaints and intelligence from numerous sources provide the basis for the observations and recommendations set out in this report. DOI’s analysis is generally consistent with, but goes beyond, the assessment provided by the federal Monitor (“the Horizon Monitor”) appointed in 2018 by the Court to report on safety issues relating to Adolescent Offenders at Horizon.

Among other key issues explored in this report, DOI has observed a troubling pattern of resident misconduct, criminal activity, and lack of staff control over the facilities since the implementation of RTA and Bail Reform. Resident misconduct and criminal activity jeopardize the safety of other residents as well as the safety of staff, and staff lack sufficient training and preparation to address these safety threats; this negatively impacts their morale and leads to higher rates of attrition in already understaffed facilities.

Currently, ACS utilizes a behavior management system known as STRIVE (which stands for Safety, Teamwork, Respect, Integrity, Values, and Engagement) to manage this population. However, based on DOI’s assessment, and as set out in this report, STRIVE appears insufficient to manage violence and contraband smuggling by the current resident population, in part because STRIVE is not intended as a deterrent to violence or criminal conduct, but rather as a rehabilitative approach to resident behavior management. While STRIVE may have been well-suited to a younger resident population, it does not seem capable of maintaining order and control in the facilities with the current resident population.

This report is intended to provide public transparency into the specific consequences of RTA and Bail reform in juvenile detention settings. These historic pieces of legislation have been widely discussed, but not the impact of these changes on the staff and resident populations. In light of these impacts, DOI is making a series of policy and procedure recommendations to ACS in areas including behavior management and disciplinary systems in the facilities, as well as staff training and equipment. These recommendations are intended to improve the safety of staff and residents and thus meet the goals and mandates of RTA - recognizing and serving the unique needs of incarcerated youth.

II. Introduction

ACS' Division of Youth and Family Justice ("DYFJ") operates two secure and specialized secure detention centers for youth: Horizon in the Bronx and Crossroads in Brooklyn. These facilities have been open since 1998 and are primarily staffed by Youth Development Specialists ("YDS"), who provide direct supervision to the residents. Generally, YDS escort residents around the facility, mentor and counsel them, enforce disciplinary rules, lead activities, and conduct contraband searches of residents and residence halls. These facilities house youth who have either been sentenced to a term in ACS custody, or who are detained while their criminal cases are pending in Family Court or the Criminal Court Youth Part. During the period of DOI's review, each facility had a certified capacity of 112, or 224 residents in total. As of November 1, 2023, Horizon's certified capacity was 125 and Crossroads' certified capacity was 130, totaling 255 beds for residents remanded to ACS custody.

In April 2017, New York State enacted the RTA legislation; it was implemented in two phases, on October 2018 and October 2019. The legislation raised the age of criminal responsibility to 18 years old and created a new structure for the handling of criminal cases against persons under 18. Among other significant changes, RTA prohibits 16- and 17-year-olds from being held in adult detention facilities and allows residents to remain in juvenile facilities until they turn 21-years-old.¹ Even residents over 18 years of age who commit crimes while in juvenile facilities and are prosecuted can remain in these facilities until age 21.² As a result, the current juvenile detention population includes individuals aged 13³ through 20.

¹ [Raise the Age NY \(July 2020\)](https://raisetheagency.org/updated-rta-bill-summary-july-2020/), <https://raisetheagency.org/updated-rta-bill-summary-july-2020/>

² If a resident is charged with a new crime after turning 18, but the new offense is not a bail-eligible offense, the resident will be returned to the juvenile detention facility after said arrest, e.g. Promoting Prison Contraband in the First Degree, N.Y. Penal Law § 205.25(1).

³ A Juvenile Offender ("JO") can be as young as 13-years-old. See *Guide to the Youth Part Operations Under Raise the Age*, New York State Unified Court System Office for Justice Initiatives (April 21, 2021), <https://nys-fjc.ca2.uscourts.gov/programs/4-21-21%20Raise%20The%20Age.pdf>

In April 2019, during RTA implementation, New York State also approved bail reform measures. Bail reform eliminated the option to set bail or detain defendants pre-trial in most cases involving nonviolent offenses and in some cases involving violent offenses, while preserving the bail/detention option for designated violent felonies.⁴ This law took effect on January 1, 2020.⁵

DOI is responsible for oversight of ACS-run facilities. In that capacity, DOI regularly visits these facilities and has conducted numerous investigations involving Horizon and Crossroads, both before and after RTA implementation. With that background, and in light of the observations made in the course of those investigations, DOI has reviewed and analyzed the impact of RTA and bail reform on the residents and staff of the juvenile detention facilities, including the safety of the facilities.

As that review indicates, RTA and bail reform have fundamentally altered the juvenile detention population in New York City. Among other notable changes, the number of residents housed at both Horizon and Crossroads has dramatically increased, they are older and physically more developed, and they are facing more serious charges and longer sentences for more violent offenses, than in the past.⁶ Between April 2018 and May 2023, there was a 311% increase in the number of residents at Horizon and a 408% increase in the number at Crossroads. The top three charges⁷ for which residents were remanded to detention during this period were murder, robbery, and criminal possession of a weapon; the number of residents with a top charge of murder increased by 1,550% at Horizon and 2,167% at Crossroads. During this period, there was also an 880% increase in residents aged 16-21 at Horizon and a 444% increase in residents aged 16-21 at Crossroads.

The facilities currently utilize a behavior management system called STRIVE (which stands for Safety, Teamwork, Respect, Integrity, Values, and Engagement) to manage and document resident behavior and to maintain a safe environment in the secure detention facilities. Based on this review, as well as DOI's numerous investigations related to these facilities, it is DOI's determination that in light of the changes in the resident population due to RTA and bail reform, STRIVE is insufficient in its present form to manage resident behavior and to maintain a safe environment for residents and staff.

⁴ N.Y. Crim. Pro. § 150.10(1); N.Y. Crim. Pro. § 530.40(1).

⁵ Since the original legislation, bail reforms have been amended in various ways three times, in April 2020, 2022, and 2023.

⁶ Bail reform restricts the charges for which defendants can be detained pre-trial and generally limits detention to individuals charged with serious violent crimes. As a result, the vast majority of the population detained in ACS custody is now largely, if not exclusively, a population facing serious violent charges for lengthy terms.

⁷ A resident's top charge is the most serious criminal offense with which they are charged that warrants detention.

STRIVE utilizes three levels of discipline based on a point system: Bronze, Silver, and Gold. Residents can gain or lose points, which allows them to move up or down in “levels” or status. As residents move up levels, they are granted rewards, privileges, or levels of independence within the facility. If residents engage in infractions, which STRIVE scales from “minor” to Tiers 1-3 and 3A (most serious), they experience consequences ranging from re-direction, warnings, calling a parent/legal guardian, engagement in a restorative activity, or removal from the STRIVE program and placement on restorative status. Tier 3A behaviors include youth-on-youth assaults, youth-on-staff assaults, inappropriate sexual behavior, fire,⁸ security breaches, escapes, attempted escapes, and weapons recoveries. If a resident violates the law, residents may be arrested and charged with a crime.

During the course of DOI's investigation, DOI sought to determine whether STRIVE infractions were issued to residents consistently for various types of misconduct. However, DOI learned that while ACS tracks patterns of misconduct within Horizon and Crossroads, they do not track the consequences imposed on individual juvenile residents for that misconduct. While ACS tracks trends in misconduct such as the rate of assaults on staff via incident tracking systems called Group Oriented Analysis of Leadership Strategies (“GOALS”) and Juvenile Detention Automation System (“JDAS”), ACS does not track the infractions issued as a result of this misconduct to individuals pursuant to STRIVE. In DOI's discussions with ACS about this issue, ACS stated that as a behavioral management system, STRIVE was not designed for systemwide tracking of infractions and should be solely used to incentivize good conduct and respond to negative behavior. Furthermore, ACS contends that tracking STRIVE infractions is not necessary to achieve those goals and maintain safety within the facilities. In DOI's view, the absence of such tracking makes it impossible to assess the effectiveness of disciplinary consequences, or to determine whether the use of STRIVE deters misconduct in the detention facilities. Currently, all incidents of misconduct are required to be reported to the Movement Control and Communications Unit (“MCCU”). Therefore, DOI recommends reporting the issuance of STRIVE infractions to MCCU as an efficient way to begin tracking infractions without significantly altering STRIVE or creating a new tracking system.

Between March 2022 and April 2023, there were approximately 733 incidents that involved the most serious behaviors within the STRIVE system (termed “Tier 3A”) at Horizon: 268 youth-on-youth altercations and assaults, 164 youth-on-staff assaults, and 281 security breaches.⁹ Based on reports provided to DOI, there were 173 weapons recovered, including 38 surgical or ceramic blades, or other forms of scalpels and 94 razor blades or sharp objects. ACS also notified DOI of approximately

⁸ ACS considers “Fire” to be an event type. Arson would fall under this category.

⁹ The remaining 20 Tier 3A behaviors included inappropriate sexual behavior, fire, and attempted escape. These types of misconduct occurred infrequently during the review period and therefore is not included in DOI's analysis.

26 contraband cell phone recoveries from Horizon during this period. There were 29 re-arrests: 22 for assault, 3 for robbery, 2 for conspiracy, 1 for possession of contraband, and 1 for attempted murder.

During the same period, there were approximately 635 incidents with Tier 3A behavior at Crossroads: 282 youth-on-youth altercations and assaults, 150 youth-on-staff assaults, and 193 security breaches.¹⁰ There were 139 weapons recoveries reported to DOI. These included 36 surgical or ceramic blades or other forms of scalpels and 120 razor blades or other sharp objects. ACS also notified DOI of approximately 51 contraband cell phone recoveries from Crossroads during this period. There were 13 re-arrests; 11 for assault, 1 for arson and 1 for criminal possession of a controlled substance.

Between March 2022 and February 2024, ACS has notified DOI of approximately 38 contraband cell phone recoveries from Horizon and 72 contraband cell phone recoveries from Crossroads. Between March 2022 and March 2024, based on reports provided to DOI, there have been approximately 351 weapons recovered, including 145 surgical or ceramic blades or other forms of scalpels and 207 razor blades or sharp objects from Horizon and approximately 410 weapons recovered, including 229 surgical or ceramic blades or other forms of scalpels and 198 razor blades or other sharp objects from Crossroads.

In addition to DOI's determination that STRIVE is inadequate to deter the above-referenced behaviors, DOI also has concluded that the small number of re-arrests and prosecutions relative to the number of incidents involving Tier 3A behaviors that constitute criminal conduct, negatively affects the safety of both residents and staff, as well as staff morale and retention.¹¹

DOI also found flaws in the daily management of STRIVE documentation. For example, staff regularly reported that STRIVE points are awarded to residents even after they engage in misconduct, contrary to STRIVE's mandate. It is unclear why such points are awarded, but staff has reported that STRIVE documentation is not consistently preserved or securely stored and that residents can access their own STRIVE documents, complete their own point assessments, and forge staff names and/or signatures. ACS created a specialized YDS position referred to as Behavior Improvement Coordinators to specifically support STRIVE implementation and is in the process of developing an electronic application to improve this process, but since this will take time, DOI recommends interim measures be implemented to protect

¹⁰ The remaining 12 Tier 3A behaviors included: inappropriate sexual behavior, fire, and attempted escapes. These types of misconduct occurred infrequently during the review period and therefore is not included in DOI's analysis.

¹¹ This was reported to DOI by DYFJ staff. See Section VIII: Feedback from Staff.

the integrity of STRIVE documentation, to modernize storage, and to prevent misuse of the STRIVE system. ACS has agreed to implement those measures pending the development and launch of the application.

Beyond STRIVE's interventions, ACS has several limited options to address violent or disruptive youth which are rarely utilized. ACS can request approval from the New York State Office of Children and Family Services ("OCFS"), in consultation with State Commission of Correction ("SCOC"), to move persistently disruptive or violent youth residing in Horizon or Crossroads to an alternate residential location.¹² ACS has not requested an alternative placement outside of DYFJ for any youth under the age of 18 in Horizon or Crossroads in recent years. If a resident over the age of 18 is re-arrested while in ACS custody on a bail-eligible offense and bail is set, a judge can remand them to an adult facility. Notably, misdemeanor assaults on staff or residents and felony introduction of dangerous contraband in the facilities are not bail-eligible.¹³ Between March 2022 and April 2023, only four residents (three 18-year-olds and one 20-year-old) were remanded to New York City Department of Correction ("DOC") custody after re-arrests.

ACS also can pursue a court hearing to vacate the youth's current securing order.¹⁴ To vacate an order and move a resident aged 18-21 to an adult facility,¹⁵ the "court must determine that permitting the youth to be held in an adult facility is in the interest of justice (34 U.S.C. § 11133[a][11][B])." Between March 2022 and July 2023, ACS filed only 4 petitions, for two 18-year-old residents and two 20-year-old residents, to vacate a resident's securing order. All four of the petitions were granted, and the residents were transferred to DOC custody. For one of these 20-year-old residents, the petition was filed only after the resident had been detained for over 1,000 days and had engaged in more than 40 incidents involving physical assault, damage to facility property, coercion of staff, and introduction of dangerous contraband. For the other 20-year-old resident, the petition was filed only after the resident had been detained for over 950 days and had engaged in more than 50 incidents involving physical assaults, damage to facility property, and the possession of dangerous contraband.

¹² New York State Office of Children and Family Services, Administrative Directive on Juvenile Justice-Related Chapters of the Laws of 2021 (June 23, 2022) (on file with author); Memorandum from Sheila Poole, OCFS Commissioner, to Detention Administering Agencies (June 29, 2022) (on file with author).

¹³ N.Y. Crim. Proc. § 150.10(1).

¹⁴ A securing order, as relevant here, is an order of the court that commits a youth to a juvenile detention facility. *See* N.Y. Crim. Pro. § 500.10(5).

¹⁵ Memorandum from Sheila Poole, OCFS Commissioner, to Detention Administering Agencies (June 29, 2022) (on file with author).

The serious, repetitive, and escalating nature of these incidents over two-and-a-half years demonstrates not only that STRIVE is insufficient but that ACS should take legal action more promptly to address violent and criminal behavior in the facilities.

In addition to STRIVE's significant limitations in light of the nature of the resident population, ACS' method for maintaining order and safety in response to incidents of violence or misconduct is also inadequate. ACS uses Safe Crisis Management ("SCM"),¹⁶ a crisis intervention behavior management system that promotes non-physical intervention and seeks to restore order and maintain safety using the least intrusive and least restrictive intervention necessary. Physical intervention, termed Emergency Safety Physical Interventions ("ESPIs"), are used only after less intrusive alternatives have been unsuccessfully attempted or deemed inappropriate.¹⁷

While ACS staff are trained in SCM, at hiring and annually, SCM training has limited application to the realities of Horizon and Crossroads. Training does not include instruction on incidents with multiple residents, residents who resist holds or other measures of restraint, or residents who possess weapons, circumstances that arise with increasing frequency. Based on DOI's interviews with staff, SCM in its current iteration is also insufficient to maintain order and safety in the facility.

Our investigation revealed an urgent need for additional hires and better working conditions at both facilities. Under-staffing poses a significant challenge to order and safety. With the increased number of residents remanded to detention, ACS has worked to increase the number of YDS, but both facilities struggle to remain sufficiently staffed. The detention centers must be staffed 24-hours a day and are required to maintain a 1:6 staff to resident ratio.¹⁸ Consequently, Horizon and Crossroads regularly require YDS to remain on duty beyond their standard tours and to work extensive overtime¹⁹ to ensure that the facility is operational. Staff reported that they work overtime up to 4 or 5 times a week, resulting in regular, if not daily, 16-hour shifts,²⁰ a practice that leads to over-extended staff working in high-stress

¹⁶ City of New York Administration for Children's Services, Safe Intervention Policy for Secure and Non-Secure Detention, Policy 2014/10 (2014) (on file with author). All Safe Crisis Management ("SCM")-related descriptions contained in the section are derived from this policy.

¹⁷ ESPIs are any authorized means of physically holding/moving a youth against their will to interrupt and control acute physical behaviors. ESPIs range from least restrictive to most restrictive. Staff are prohibited to use ESPIs as punishment. Staff are required to use the least restrictive option to manage acute physical behavior.

¹⁸ N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.11(b)(1).

¹⁹ YDS are supposed to work 5 eight-hour tours per week, totaling forty hours per week. Any hours beyond that are considered overtime and trigger overtime pay.

²⁰ Monitor's Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 471, <https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Third-Report->

positions. At Horizon, between September 2022 and May 2023, an average of approximately 30.7% of YDS on the facility roster worked at least one 60 to 80-hour work week; that is, 20 to 40 hours of overtime in a week. At Crossroads, during the same time period, an average of approximately 32.7% of YDS on the facility roster worked at least one 60 to 80-hour work week; that is, 20 to 40 hours of overtime in a week.

Staffing challenges are aggravated by unsafe conditions in the facilities and hazards faced on the job due to violent encounters with residents. A relatively high number of YDS are unable to work as a result of an injury sustained on the job, resulting in a Workers' Compensation ("WC") claim.²¹ On average, between September 2022 and May 2023, 34% of Horizon YDS and 23% of Crossroads YDS were out on WC each month.²² Resident assaults on staff are frequently cited reasons for seeking WC and being unable to report to work; these assaults peaked at 44% of Horizon WC claims in December 2022, and 67% of Crossroads WC claims in November 2022. As long as resident violence against staff remains prevalent, hiring and retention will continue to be challenging.

As part of our analysis, DOI investigators have spoken with more than one hundred DYFJ employees (current and former) at all levels and have reviewed thousands of pages of incident reports. DOI has also spoken with District 37 Social Service Employees Union ("SSEU") Local 371 Leadership and observed the debriefing of a cohort of 23 YDS following two weeks of working in the facilities for their on-the-job learning ("OJL").²³ Nearly every staff member with whom we spoke consistently stated, in substance, that ACS was unprepared for the new demographics of the post-RTA population, particularly the residents' age, increased physical size, and violent criminal history. Staff members have asserted that now, some five years later, STRIVE and SCM are still unable to properly manage the post-RTA population.

[with-Appendix-Final.pdf](#). In November 2020, ACS entered into a voluntary agreement for monitoring of the conditions of confinement for 16- and 17-year old Adolescent Offenders. The Horizon Monitor issues reports approximately every 6 months.

²¹ There are different types of Workers' Compensation injuries: Assaults and Accidents. An Assault Grant leave is a paid leave of absence not to exceed 18 months for employees who are physically disabled due to an assault that occurred in the performance of their job. An Accident Grant is a paid leave of absence that extends pay up to approximately 3 months. Employees may only receive the Accident Grant after exhausting their leave balances.

²² To determine these percentages, DOI reviewed ACS Human Resources and Workers' Compensation ("WC") records. DOI does not have detailed data concerning the rate of WC prior to RTA for comparison purposes.

²³ OJL occurs approximately three weeks into the seven-week JSA training. For a two-week period, YDS work at one or both of the juvenile facilities as a preview of their job. YDS are assigned tours and halls and work directly with the residents. During their debriefing, YDS returning from OJL are instructed to discuss their experiences openly and are encouraged to share both positive and negative experiences.

Among other complaints, staff cited misleading job postings, a lack of physical safety for staff and residents, facilities apparently controlled by residents rather than staff, a lack of meaningful consequences for violent behavior, and a perceived lack of support from facility and DYFJ management. Staff regularly described their frustration with the lack of relevant information provided to them about the residents they are managing, including information about pending criminal charges, gang affiliations, specialized medical needs, and patterns of violence towards staff. In spite of a well-documented prevalence of residents possessing or using razor blades, scalpels, and other sharp metal objects in assaults within the facilities, staff repeatedly stated that they have not been provided with protective vests.²⁴

In this report, DOI detailed a number of incidents in Horizon and Crossroads that are illustrative of the safety issues in these facilities. These incidents include situations where residents effectively took control of the facility and staff were unable to regain control until the New York Police Department (“NYPD”) responded, SCM proved inadequate to control incidents or prevent escalation, frequent contraband recoveries including cell phones and weapons, security breaches, youth-on-youth assaults, and youth-on-staff assaults. Facility staff utilized STRIVE to address these incidents, resulting in a wide range of consequences ranging from no discipline to “restorative status” and re-arrests. These incidents further demonstrate that STRIVE is ineffective to prevent or deter such behavior, and that staff accurately perceive that they are not properly equipped to respond to such incidents.

Finally, beginning in 2018, a court-appointed Monitor (“the *Nunez* Monitor”) mandated by the Consent Judgment in *Nunez v. City of New York et. al.*, addressed some of the safety challenges at Horizon. While the Monitor’s review was limited to Horizon and Adolescent Offenders, DOI concludes that the Monitor’s observations also apply to Crossroads and to other categories of residents at both facilities. In November 2020, the *Nunez* Monitor and ACS entered into the Horizon Monitor. To date, the Horizon Monitor has issued five reports, most recently in October 2023.²⁵ In each report, the Horizon Monitor expressed concern about the levels of youth violence,

²⁴ See Section VIII: Feedback from Staff.

²⁵ See Monitor’s First Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center (HOJC), ECF 409, <https://tillidgroup.com/wp-content/uploads/2021/10/HOJC-First-Report-Final.pdf>; Monitor’s Second Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center (HOJC), ECF No. 452, <https://tillidgroup.com/wp-content/uploads/2022/04/HOJC-Second-Report-Final.pdf>; Monitor’s Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 471, <https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Third-Report-with-Appendix-Final.pdf>; Monitor’s Fourth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 525, <https://tillidgroup.com/wp-content/uploads/2023/04/HOJC-Fourth-Report-Final.pdf>; Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

the ability of staff to manage that violence, youth access to contraband including weapons and drugs, and the inadequate staffing levels. In its most recent report for the period of January 1, 2023 through June 30, 2023, the Horizon Monitor stated that it “remains very concerned about staffing levels, the incidence of very serious violence and youth’s access to contraband weapons and drugs.”²⁶ In the Horizon Monitor’s assessment, some of these problems have been aggravated by unrealistic and overly aggressive RTA deadlines, that were so “aggressive...that even under the best of circumstances [the deadlines] would have been challenging to meet” which impacted the extent of the City’s preparation to implement the RTA and the quality of that preparation.²⁷ The Horizon Monitor has recently acknowledged ACS’ progress in addressing some of these areas of concern; however, the Horizon Monitor’s reports have been largely consistent with DOI’s opinions and recommendations in this area.

In light of the above findings, DOI is issuing fifteen (15) Policy and Procedure recommendations intended to strengthen ACS’ handling of its current juvenile detention population. They include:

A. Modifications to STRIVE

1. ACS should convene a group of experts to identify and implement new behavioral management systems or modify the existing behavioral management system for youth held in the City’s juvenile detention facilities. This group should include law enforcement personnel like the NYPD, DOI, and state and federal prosecutors familiar with RTA, with an emphasis on successfully disincentivizing misconduct and crime within the juvenile detention facilities, such as possession and distribution of contraband, weapons possession, assault and other behavior that renders those facilities unsafe for staff and residents. This group should tailor modifications to address the post-RTA and bail reform facility population and the resulting changes.
2. With the input of experts (see recommendation 1, above) ACS should modify the existing behavior management program as applied to older individuals, aged 18 to 20, or design a behavioral management system specific to this age group. These modifications should consider the different developmental needs of this older population, with consequences and incentives distinct from those applied to the younger population. These changes should also consider the

²⁶ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 6, ECF No. 587, <https://tilidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

²⁷ Sixth Report of the Nunez Independent Monitor, at 152-53, ECF No. 317, https://www.nyc.gov/assets/doc/downloads/pdf/6th_Monitor_%20Report-10-17-18%20.pdf

potential for this population to be charged as adults if they engage in criminal misconduct within the juvenile detention facilities.

3. In developing the STRIVE-related app, ACS should ensure the integrity of the information within STRIVE by creating safeguards to prevent residents from tampering with entries in the system, intimidating staff making entries, or otherwise gaining access to the app. This may include password protections, permitting access through fingerprints, storing smart devices with the app in locations separate from the residence halls, and training staff only to input entries into the app outside the presence of juveniles.
4. Until the STRIVE-related app is developed and implemented, ACS should ensure that staff can complete the STRIVE documentation without interruption, interference, or intimidation by residents. ACS should consider storing STRIVE documentation away from residence halls or in a locked area only accessible to staff for this purpose.
5. ACS should amend STRIVE to include the possession of dangerous contraband (e.g.: weapons and cell phones) as a Tier 3A infraction and forgery or attempted forgery as a Tier 3 infraction.
6. ACS should track STRIVE assessments, including the issuance of infractions, by creating a tracking mechanism or amending GOALS to include a STRIVE section for each resident (similar to how GOALS reports currently list “category” and “attribute” next to each incident participant). Tracking this information will assist with overall facility control, allow the facility to better assess the effectiveness of resident discipline, and will allow for more efficient and effective oversight. To ensure that assessments are completed and tracked:
 - A. ACS should require Behavior Improvement Coordinators to provide STRIVE assessments to Movement Control and Communications Unit (“MCCU”) on at least a weekly basis.
 - B. MCCU staff should be required to check and document whether each resident was actually assessed via STRIVE, note the action taken (e.g.: restorative status, loss of points, level change, no change) and document which infraction, if any, the resident received.

B. Other Means to Address Misconduct

7. ACS should more frequently file petitions to vacate securing orders for residents over the age of 18 when the resident engages in an ongoing and

consistent pattern of Tier 3A infractions, or other disruptive or violent misconduct. This tool should not be used only as a last resort after a resident has engaged in a pattern of serious misconduct over the course of several years.

8. ACS should revise and re-issue the 2008 Arrest Procedures policy so that it includes a presumption of re-arrest when residents assault staff or other residents and serious harm results, subject to extenuating or mitigating circumstances.
9. ACS should confer with state and federal prosecutors to encourage appropriate prosecution when residents are re-arrested within the facilities for offenses including, but not limited to, Tier 3A infractions. Specifically, ACS should pursue and encourage prosecutions of felony and bail-eligible offenses when appropriate for residents aged 18 or older, e.g. assaults and possession of dangerous contraband such as weapons and cell phones.

C. Improved Guidance and Training for Staff

10. ACS should amend the YDS job posting to more accurately describe the risks, responsibilities, and hazards of the YDS position.
11. ACS should train staff in a way that more accurately and transparently reflects the environment and population with whom they are working (e.g. weapons-defense training and self-defense training when dealing with multiple residents at once or residents physically larger than staff). Additionally, SCM trainings should be amended to address the increased age and size of residents and group assaults.
12. ACS should share more charge-related and background information with staff about residents in their assigned halls so staff can appropriately prepare for interactions with residents, and ACS should train staff on the best ways to incorporate that knowledge and information into their interactions with residents.
13. ACS should provide more detail and reasoning for special assignments to staff so staff can prepare appropriately for those assignments, and ACS should train staff on the best ways to incorporate that knowledge and information into their interactions with residents (i.e. suicide-watch, mental health status, patterns of violence towards staff, etc.).

14. ACS should create policy concerning when facility staff should contact the NYPD to request assistance with respect to facility control. For example, incidents involving group assaults, large scale incidents, or incidents in which there is a risk of loss of facility control. In drafting this policy, ACS should be mindful not to discourage their staff from contacting the NYPD or collaborating with the NYPD.
15. ACS should measure all YDS for protective vests prior to their graduation from the YDS academy and should submit these measurements to the contracted vendor within fourteen (14) days of graduation. Upon separation of employment, a YDS' protective vest should be retained and stored by ACS and given to YDS awaiting their protective vests, when appropriate.

III. Background

Until RTA legislation was signed into law by Governor Andrew M. Cuomo in April 2017, New York was one of only two states in the country that automatically prosecuted 16- and 17-year-olds as adults.²⁸ Prior to RTA, youth under the age of 18 who were prosecuted as adults in New York City, if detained, were housed with adults at Rikers Island or other detention facilities. In 1998, Horizon and Crossroads opened to house youth not adjudicated as adults.²⁹

Juvenile justice reform has been a subject of discussion and debate in New York State since the early 19th century.³⁰ Since that time, the State's approach to the criminal prosecution, rehabilitation, and incarceration of children has fluctuated between a more lenient, progressive approach and a "get tough" approach.³¹ In 1884, New York State set the age of criminal responsibility at 16-years-old, and by 1909, children under the age of 16 who engaged in what would otherwise have been criminal conduct were treated as juvenile delinquents.³² In 1962, the State passed the Family Court Act ("FCA"), which transferred exclusive jurisdiction of cases against youth between 7 and 16 years of age to the newly created Family Courts that

²⁸ New York State, <https://www.ny.gov/programs/raise-age-0> (last visited May 2, 2024).

²⁹ NYC Children, <https://www.nyc.gov/site/acs/justice/secure-detention.page> (last visited May 2, 2024); Sarina Roffee, *NYC Department of Juvenile Justice – Making a Difference for 20 Years: 1979-1999*, Correction History <https://www.correctionhistory.org/html/chronic/djj/djj20yrs2.htm>

³⁰ Merril Sobie, *Pity the Child: The Age of Delinquency in New York*, 30 Pace L. Rev. 1061, 1066 (2010).

³¹ Sarah V. Gomes, *New York's Raise the Age Law: Restoring the Juvenile Justice System Leaves Courts Legislating from the Bench*, 40 Pace L. Rev. 456, 458-461 (2020).

³² *Pity the Child: The Age of Delinquency in New York*, 30 Pace L. Rev. 1061, 1068-69.

are still in place today.³³ The FCA established the rehabilitative foundation for New York’s juvenile justice system, but left in place the 16-year-old age threshold for criminal responsibility, though the subject was fiercely debated at the time. In the late 1970’s, amidst fear of rising juvenile violence and a perception that the Family Courts were too lenient, legislation passed in 1976 and 1978 imposed tougher sentences and, in some cases, mandatory incarceration, on juveniles. New York State also lowered the age of criminal responsibility for certain crimes to 13- and 14-years old.³⁴ In the early 2000s, the State legislature shifted to a more progressive approach, treating persons between ages 16 and 18 differently than adults.³⁵ This approach to juvenile justice culminated in the passage of RTA in New York State.

In preparation for the full implementation of RTA, ACS completed renovations to its juvenile detention facilities, and added extensive programming, educational, and vocational options for older youth.³⁶ The agency also created a new job title, YDS, to work at Horizon and Crossroads. Horizon was certified as a specialized juvenile detention center and was intended to house 16- and 17-year-olds previously detained in the jail facilities on Rikers Island; Crossroads was used for newly detained youth. As required by the law, the ACS detention facilities initially were operated jointly between ACS and Department of Correction (“DOC”) staff, but ultimately operation of the facilities was transferred to full ACS control.³⁷

Supporters praised RTA for protecting young defendants in New York, as these detention centers offer a more “nurturing environment” than jails.”³⁸ In an October 1, 2018 press release, the then-ACS Commissioner David Hansell stated, “We have developed a unified set of standards and practices to ensure the law and spirit of Raise the Age is implemented with youth development as the focus, all while preserving the safety and security of youth and staff and protecting public safety.”³⁹

However well-intentioned, New York City’s implementation of RTA as it relates to the safety and security of the ACS-operated juvenile detention facilities has

³³ Sarah V. Gomes, *New York’s Raise the Age Law: Restoring the Juvenile Justice System Leaves Courts Legislating from the Bench*, 40 Pace L. Rev. 456, 460 (2020).

³⁴ *Id.* at 461-63.

³⁵ For example, according to the Raise the Age NY Coalition, an advocacy group that promoted the passage of RTA, RTA was critical because of research into brain development showing that adolescent brains are different than adult brains. *Id.*

³⁶ *ACS Testimony to New York City Council Committee on Justice System and Committee on Criminal Justices*, (Dec. 3, 2019), at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4226666&GUID=4DF7E488-FB18-4CAF-83C9-5816A7532D15&Options=&Search>

³⁷ *Id.*

³⁸ Jan Ransom, *7 Key Questions as New York Moves Teenagers Out of Rikers*, *The New York Times* (Sept 28, 2018), at <https://www.nytimes.com/2018/09/28/nyregion/nyc-teenagers-rikers-island.html>

³⁹ *Mayor de Blasio Announces Sea Change in Juvenile Justice as the Age of Criminal Responsibility is Raised to 18 Years Old*, NYC.gov (Oct. 1, 2018), <https://www.nyc.gov/office-of-the-mayor/news/495-18/mayor-de-blasio-sea-change-juvenile-justice-the-age-criminal-responsibility-is>

fallen short of these stated goals. Beginning in 2018, the *Nunez Monitor* addressed some of the safety challenges at Horizon. In the *Nunez Monitor*'s assessment, the deadlines imposed by RTA were so "aggressive...that even under the best of circumstances [the deadlines] would have been challenging to meet" which impacted the extent of the City's preparation to implement the RTA and the quality of that preparation.⁴⁰ The *Nunez Monitor* noted that even in the initial phases of RTA implementation, while DOC staff were still working with ACS staff to transition youth from Rikers Island to Horizon, there were "struggles to contain violence and disorder within the facility." The *Nunez Monitor* concluded that as of June 30, 2018, "the current situation is serious, dangerous, and unsafe for both youth and Staff."⁴¹ The *Nunez Monitor* further noted that the number of residents within the units at Horizon, resulting from the facility's physical layout, as compared to the Robert N. Davenport Center ("RNDC") on Rikers Island, where these youth were previously held, "makes it difficult to contain incidents and to limit the number of youth who may become involved, particularly on those units housing youth with a greater propensity for violence."⁴²

From 2018 through 2019, the *Nunez Monitor* repeatedly reported to the court that staff struggled to properly control the adolescent population with the tools and training available to them.⁴³ The *Nunez Monitor* also reported that ACS was receptive to the extensive technical assistance provided by the monitoring team to develop STRIVE, a behavior management program, and that ACS and DOC were conducting multidisciplinary team meetings to develop individualized intensive intervention plans for youth who frequently engage in violent behavior.⁴⁴ Nevertheless, persistent violence continued at Horizon, and in November 2020, the *Nunez Monitor* and ACS entered into a voluntary agreement for monitoring of the conditions of confinement for 16- and 17-year-old Adolescent Offenders there ("the Horizon Monitor").⁴⁵ In September 2022, ACS and the Horizon Monitor voluntarily extended the agreement through June 2023, and in October 2023 extended it again through June 2024.⁴⁶

⁴⁰ Sixth Report of the Nunez Independent Monitor, at 152-53, ECF No. 317, https://www.nyc.gov/assets/doc/downloads/pdf/6th_Monitor_%20Report-10-17-18%20.pdf

⁴¹ *Id.* at 154-55.

⁴² *Id.* at 161.

⁴³ Monitor Status Report, ECF No. 319, <https://tillidgroup.com/wp-content/uploads/2018/11/Status-Report-on-Horizon-Operations-Memo-Endorsement-11.2.2018.pdf>; Monitor Status Report, ECF No. 320, <https://tillidgroup.com/wp-content/uploads/2018/12/2018-12-04-Letter-to-Court.pdf>; Monitor Status Report, ECF No. 325, <https://tillidgroup.com/wp-content/uploads/2019/04/2019-02-19-Letter-to-Court.pdf>

⁴⁴ *Id.*

⁴⁵ Agreement with Monitoring Team Panel, ECF No. 364, https://tillidgroup.com/wp-content/uploads/2020/11/HOJC_Agreement-So-Ordered.pdf

⁴⁶ [Second Agreement with Monitoring Team Panel, ECF No. 502, https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Second-Agreement-FINAL.pdf](https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Second-Agreement-FINAL.pdf)

To date, the Horizon Monitor has issued five reports, most recently in October 2023.⁴⁷ In each report, the Horizon Monitor expressed concern about the levels of youth violence, the ability of staff to respond to and manage that violence, the youth's access to contraband, including weapons and drugs, and the inadequate staffing levels. The Horizon Monitor attributed some of these issues to delays in the implementation of the new behavior management system and to staffing shortages that impacted the ability for youth to engage in structured activities.⁴⁸ By 2022, approximately four years after RTA implementation, the Horizon Monitor began to express optimism in the "robust set of strategies and plans to address all facets of the problem" put forward by ACS' new leadership.⁴⁹ In April 2023, the Horizon Monitor noted "ACS has made important strides in reducing the rate of violence at Horizon," but also recognized that there was still work to be done and that the full implementation of ACS' strategies had still not been realized.⁵⁰ Staffing inadequacies remained a primary challenge to ACS' ability to carry out its plans, as "facility safety and staffing levels are mutually reinforcing."⁵¹

In its most recent report for the period of January 1, 2023 through June 30, 2023, the Horizon Monitor stated that it "remains very concerned about staffing levels, the incidence of very serious violence and youth's access to contraband weapons and drugs."⁵² The Horizon Monitor noted that while ACS is "making substantial efforts" to improve staffing, the inadequate staffing levels undercut violence reduction and the progress of the training of staff in the behavior management program.⁵³ The Horizon Monitor also found that while the frequency of

⁴⁷ See Monitor's First Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center (HOJC), ECF 409, <https://tillidgroup.com/wp-content/uploads/2021/10/HOJC-First-Report-Final.pdf>; Monitor's Second Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center (HOJC), ECF No. 452, <https://tillidgroup.com/wp-content/uploads/2022/04/HOJC-Second-Report-Final.pdf>; Monitor's Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 471, <https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Third-Report-with-Appendix-Final.pdf>; Monitor's Fourth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 525, <https://tillidgroup.com/wp-content/uploads/2023/04/HOJC-Fourth-Report-Final.pdf>; Monitor's Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

⁴⁸ *Id.*

⁴⁹ Monitor's Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 3, ECF No. 471, <https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Third-Report-with-Appendix-Final.pdf>

⁵⁰ Monitor's Fourth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 525, <https://tillidgroup.com/wp-content/uploads/2023/04/HOJC-Fourth-Report-Final.pdf>

⁵¹ *Id.* at 8.

⁵² Monitor's Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 6, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

⁵³ *Id.* at 8.

violent incidents during this time period decreased, the severity of violence increased.⁵⁴ Noting the relationship between staffing and facility safety, the Horizon Monitor opined that improving facility safety and staff morale would likely boost hiring and retention.⁵⁵ While the Monitor’s review was limited to Horizon and Adolescent Offenders, DOI concludes that the Monitor’s observations also apply to Crossroads and to other categories of residents at both facilities.

The Monitor reports and DOI’s investigation both highlight that RTA and bail reform have fundamentally altered the juvenile detention population in New York City. From the start, the City was ill-prepared for the speedy timeline with which RTA was required to be implemented and, once implemented, to meet the needs of an evolving juvenile population. This set off a years-long struggle that continues to date, to quell excessive youth violence, reverse staffing shortages, limit contraband, and to implement a successful behavior management system.

IV. Changes in Resident Population

A. Raise the Age Legislation

As a result of RTA, 16- and 17-year-olds charged with violent felony offenses, who previously were housed in adult facilities, now are housed in Crossroads or Horizon. The law took effect for 16-year-olds on October 1, 2018, and for 17-year-olds on October 1, 2019. Under RTA, there are three types of offender categories: Adolescent Offenders (“AO”), Juvenile Offenders (“JO”), and Juvenile Delinquents (“JD”).

An AO is an offender who is 16 or 17-years-old at the time of an alleged felony offense. If detained pre-trial, an AO is remanded to an ACS specialized secure detention facility. AOs are sentenced as adults, but courts must take an AO’s age into consideration when sentencing. An AO sentenced to a definite term of incarceration of less than one year will serve that sentence in a specialized secure detention facility, that is, Crossroads or Horizon. An AO sentenced to a term of more than one year of incarceration must be committed to the New York State Department of Corrections and Community Supervision (“DOCCS”), where adult detainees are housed.⁵⁶

⁵⁴ *Id.* at 13-18.

⁵⁵ *Id.* at 12.

⁵⁶ See *Guide to the Youth Part Operations Under Raise the Age*, New York State Unified Court System Office for Justice Initiatives (April 21, 2021), <https://nys-fjc.ca2.uscourts.gov/programs/4-21-21%20Raise%20The%20Age.pdf>

A JO is an offender who is 13-to-15 years-old at the time of an alleged serious felony offense, including but not limited to, murder, kidnapping, arson, assault, manslaughter, rape, criminal sex act, aggravated sexual abuse, burglary, robbery, and weapons possession (so-called “JO offenses”). If detained pre-trial, a JO is remanded to a secure detention facility and will serve any sentence of incarceration in such a facility.⁵⁷

A JD is an offender who is under 16-years-old at the time of an alleged non-JO felony or misdemeanor offense, as described above, a 16- or 17-year old at the time of an alleged misdemeanor offense, or a 16- or 17-year old at the time of a non-violent or violent felony offense that was removed to Family Court by the Youth Part. If detained pre-trial, a JD is remanded to a secure or non-secure detention facility and will serve any sentence of incarceration in that same type of facility.⁵⁸

Pursuant to RTA legislation, offenders in these three categories cannot be housed in adult facilities or jails, with the exception of AOs sentenced to more than one year of incarceration. These three categories of offenders must be placed in specialized juvenile detention facilities⁵⁹ operated by ACS. ACS houses offenders according to their respective offender category, in facilities certified by OCFS⁶⁰ in conjunction with the SCOC.⁶¹ If a resident is re-arrested for conduct occurring in the facility while in ACS custody, the RTA offender categories still apply.⁶²

As a result of this change, youth who, prior to the enactment of the RTA, would have been housed in an adult facility, now must be housed in a juvenile detention facility. This change has significantly increased the number of residents housed at juvenile detention facilities. As a result of RTA, youth may remain at Horizon or Crossroads until their 21st birthday, even after committing crimes while in ACS custody.⁶³

During the period that DOI reviewed, Horizon and Crossroads each had a certified capacity of 112 beds, with a total capacity of 224. As of November 1, 2023,

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Crossroads and Horizon are both certified specialized secure detention facilities. *See* N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.3.

⁶⁰ Among other things, the New York State Office of Children and Family Services (“OCFS”) is responsible for all elements of New York State’s juvenile justice programs, including the administration and management of juvenile residential facilities.

⁶¹ The State Commission of Correction’s (“SCOC”) mission is to provide a safe, stable, and humane correctional system in New York State. Among other things, the SCOC disseminates minimum standards for the management of correctional facilities and evaluates, investigates, and oversees local and state correctional facilities.

⁶² *See* note 56, *supra*.

⁶³ N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-1, N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3, and N.Y. Comp. Codes R. & Regs. Tit. 9, § 7300-7360.

Horizon's certified capacity was 125 and Crossroads' certified capacity was 130, totaling 255 beds for remanded residents. Horizon and Crossroads are staffed with two different types of employees: direct care staff and security staff. Direct care staff include YDS, Associate Youth Development Specialists ("AYDS"), Tour Commanders ("TC"), and Operations Managers ("OM"), all of whom provide supervision and care directly to residents. The security staff includes ACS Police, who ensure the safety and security of residents by manning all facility entrances, conducting security searches of staff, visitors, and residents, and responding to incidents. Each facility also employs Case Managers, who counsel residents and assist in their adjustment to the facility as well as their access to medical and mental health personnel. Residents, depending on their age and education level, also attend the Department of Education's ("DOE") District 79 Passages Academy, a full-time educational program.

AOs must be assigned separate housing units from JDs and JOs. When together in shared common space, the co-mingling of AO and JD/JO populations is prohibited. Co-mingling may be allowed for the limited purposes of education, infirmary, fire drills, and transportation, or as otherwise approved by OCFS and SCOC.⁶⁴ On March 25, 2020, in an effort to protect residents from the spread of COVID-19, ACS requested and OCFS granted a waiver permitting co-housing and co-mingling of 13 and 14-year-old residents with residents up to age 20 (AO, JO and JD). This waiver has remained in place to date, due to the ongoing risk of COVID-19.⁶⁵ ACS' current waiver is valid through November 8, 2024.

B. Bail Reform Legislation

On April 1, 2019, New York State passed restrictions limiting the use of cash bail and pre-trial detention, widely referred to as "bail reform." This reform eliminated the use of cash bail for nearly all misdemeanor and nonviolent felony charges.⁶⁶ These reforms established a presumption of release for all cases, reserving cash bail and pre-trial detention for violent felony cases where a judge finds bail to be "the kind and degree and control necessary to reasonably assure the principal's return to court."⁶⁷ Bail reform legislation went into effect on January 1, 2020 and was

⁶⁴ N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.3(c)(1)(i-ii).

⁶⁵ New York State's emergency declaration for the COVID-19 pandemic ended on September 19, 2022. See Jon Campbell, *NY Gov. Kathy Hochul Will Let COVID Emergency Powers Expire*, THE GOTHAMIST (Sept 12, 2022), <https://gothamist.com/news/ny-gov-kathy-hochul-will-let-covid-emergency-powers-expire>. The federal Public Health emergency declaration for COVID-19 ended on May 11, 2023. See NYC Department of Health, *As the Federal COVID-19 Emergency Ends, New York City Ensures COVID-19 Care and Services Remain Available* (May 11, 2023), <https://www.nyc.gov/site/doh/about/press/pr2023/nyc-ensures-covid-19-care-and-services-remain-available.page#:~:text=May%2011%2C%202023%20%E2%80%94%20Today%20marks.the%20city's%20historic%20pandemic%20response>

⁶⁶ Center for Court Innovation, *New York's Bail Reform Law: Summary of Major Components* (2019),

https://www.innovatingjustice.org/sites/default/files/media/document/2019/Bail_Reform_NY_Summary.pdf

⁶⁷ N.Y. Crim. Proc. § 150.10(1).

amended on July 2020, April 2022, and June 2023. In April 2022, certain misdemeanors and nonviolent felonies were added to the list of bail-eligible charges.⁶⁸

Bail reform has limited the type of charges for which pre-trial detention is an option, reserving detention for individuals charged with serious violent crimes. This means that the population detained in ACS custody is now largely, if not exclusively, a population facing charges involving significant acts of violence or that pose a risk of violence.

C. Relevant Data

DOI compiled monthly data from April 2018 through May 2023 regarding the number of residents housed in each facility, their corresponding top charge,⁶⁹ and the number of re-arrests in each facility for conduct occurring within the facility. DOI also reviewed data regarding some of the most serious categories of infractions, including youth-on-youth assaults, youth-on-staff assaults, as well as weapons recoveries from March 2022 through and including April 2023. Among other notable changes reflected by this data, the number of residents housed at both Horizon and Crossroads has dramatically increased, they are an older population, and they are facing more serious charges and longer sentences for more violent offenses, than in the past.

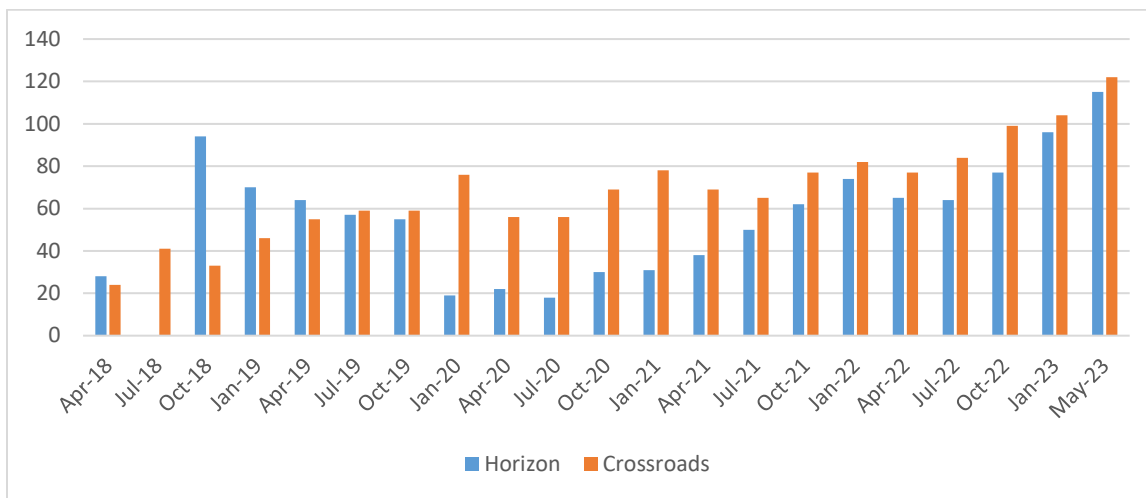
i. Increase in Resident Population

In April 2018, six months prior to the implementation of RTA, Horizon housed 28 residents and Crossroads housed 24 residents. In May 2023, Horizon housed 115 residents and Crossroads housed 122 residents, both exceeding their maximum capacity of 112. This represents a 311% increase in Horizon residents and a 408% increase in Crossroads residents since early 2018. This dramatic population increase is significant and affects all aspects of ACS' ability to effectively and safely operate the facilities.

⁶⁸ Michael Rempel and Krystal Rodriguez, *Bail Reform Revisited: The Impact of New York's Amended Bail Law on Pretrial Detention* (May 2020), https://www.courtinnovation.org/sites/default/files/media/document/2020/Bail_Reform_Revisited_050720.pdf

⁶⁹ A resident's top charge is the most serious criminal offense with which they are charged that warrants detention.

**Chart 1: Resident Population – Horizon and Crossroads
Trimonthly, April 2018 to May 2023⁷⁰**



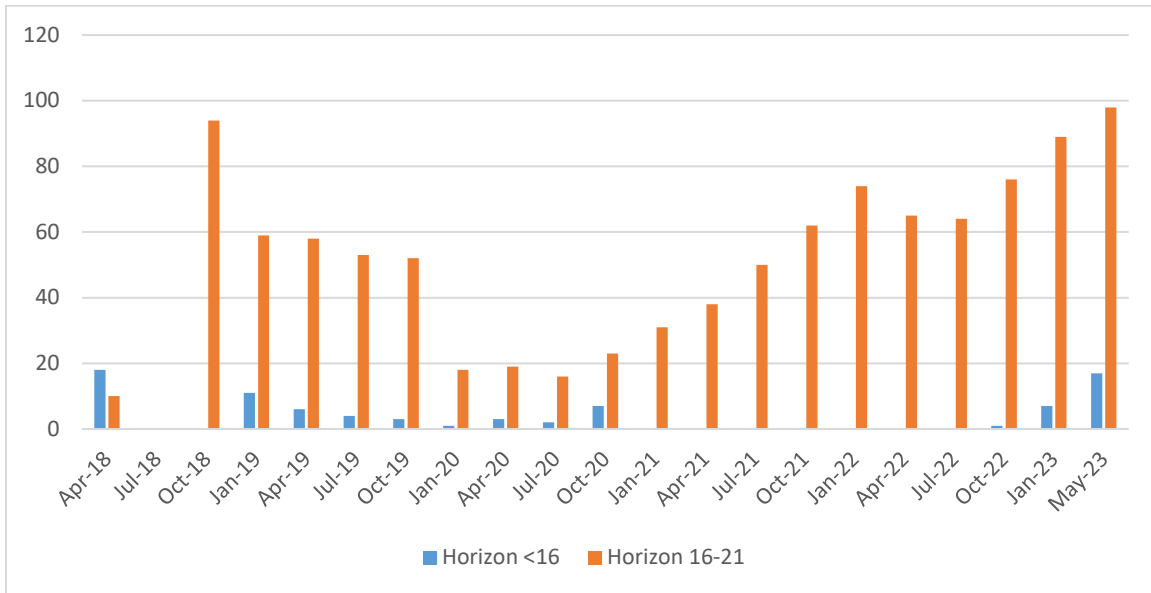
ii. Increase in Age of Residents

In April 2018, six months prior to the implementation of RTA, 18 of Horizon’s 28 residents were under the age of 16 and 10 were 16-years-old or older. Similarly, 8 of Crossroads’ 24 residents were under the age of 16 and 16 were 16-years-old or older. In May 2023, Horizon housed 115 residents, 17 of whom were under the age of 16 and 98 of whom were aged 16 or older. Similarly, Crossroads housed 122 residents, 35 of whom were under the age of 16 and 87 of whom were aged 16 or older.⁷¹ This represents an 880% increase in residents aged 16-21 at Horizon and a 444% increase in residents aged 16-21 at Crossroads.

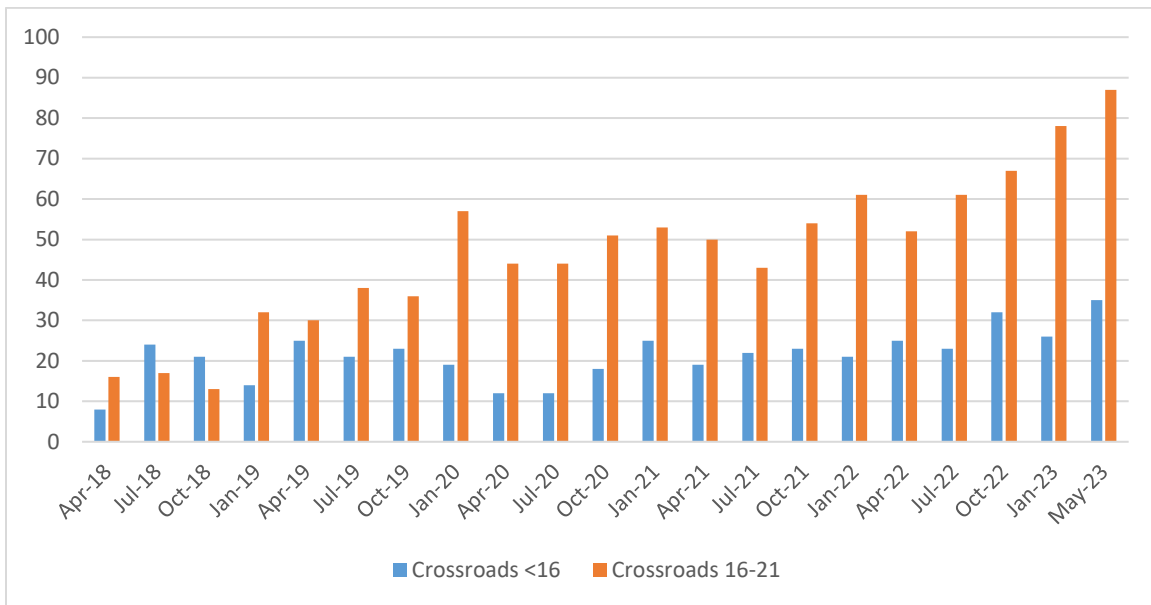
⁷⁰ Between July 1, 2018 and September 30, 2018, Horizon did not house any residents. As part of ACS’ implementation of the Raise the Age legislation, all residents in ACS custody were housed at Crossroads during this time period.

⁷¹ Per N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-1, N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3, and N.Y. Comp. Codes R. & Regs. Tit. 9, § 7300-7360, youth can remain in Horizon or Crossroads up to age 21 when appropriate legal conditions are met.

**Chart 2: Resident Population by Age – Horizon
Trimonthly, April 2018 to May 2023⁷²**



**Chart 3: Resident Population by Age – Crossroads
Trimonthly, April 2018 to May 2023**



⁷² See note 70, *supra*.

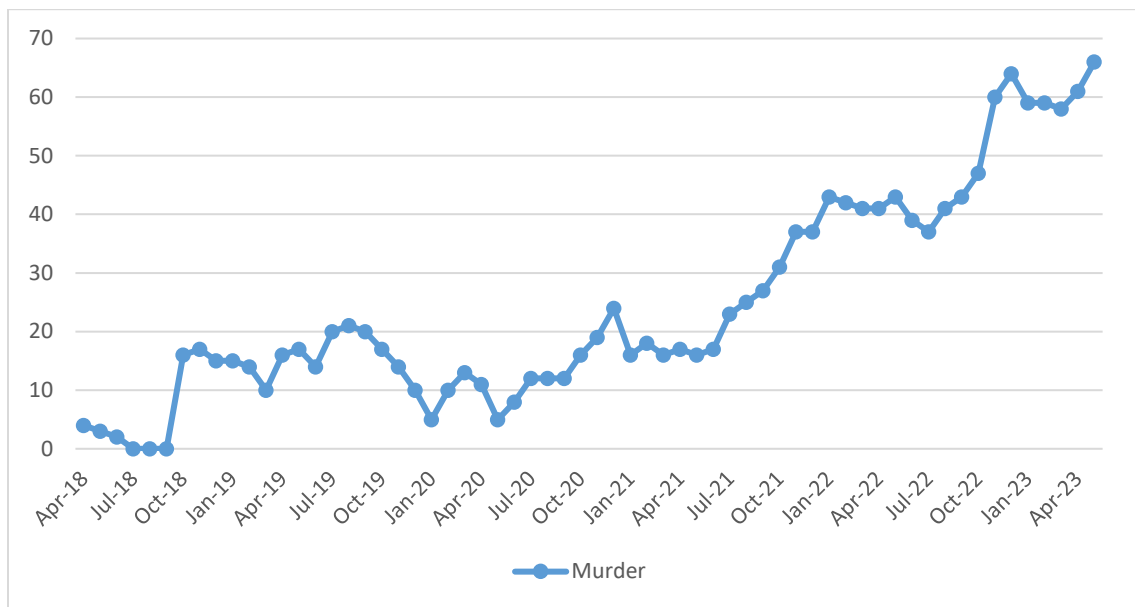
iii. Increase in Seriousness of Resident Top Charges

In addition to the increase in resident population, there has also been an increase in the seriousness of residents’ top charges.⁷³ For the time period reviewed, the top three charges for which residents have been remanded to detention have consistently been murder, robbery, and criminal possession of a weapon (“CPW”).⁷⁴

1. Horizon

In April 2018, six months prior to the implementation of RTA, Horizon housed 4 residents with a top charge of murder, 8 residents with a top charge of robbery, and 1 resident with a top charge of CPW. Respectively, this accounted for 14.3%, 28.6%, and 3.6%, or 47% cumulatively, of the resident population. In May 2023, Horizon housed 66 residents with a top charge of murder, 16 residents with a top charge of robbery, and 17 residents with a top charge of CPW. Respectively, this accounted for 57.4%, 14%, and 14.8%, or 86.2% cumulatively, of the resident population. Between April 2018 and May 2023, the number of residents with a top charge of murder has increased by 1,550% at Horizon.

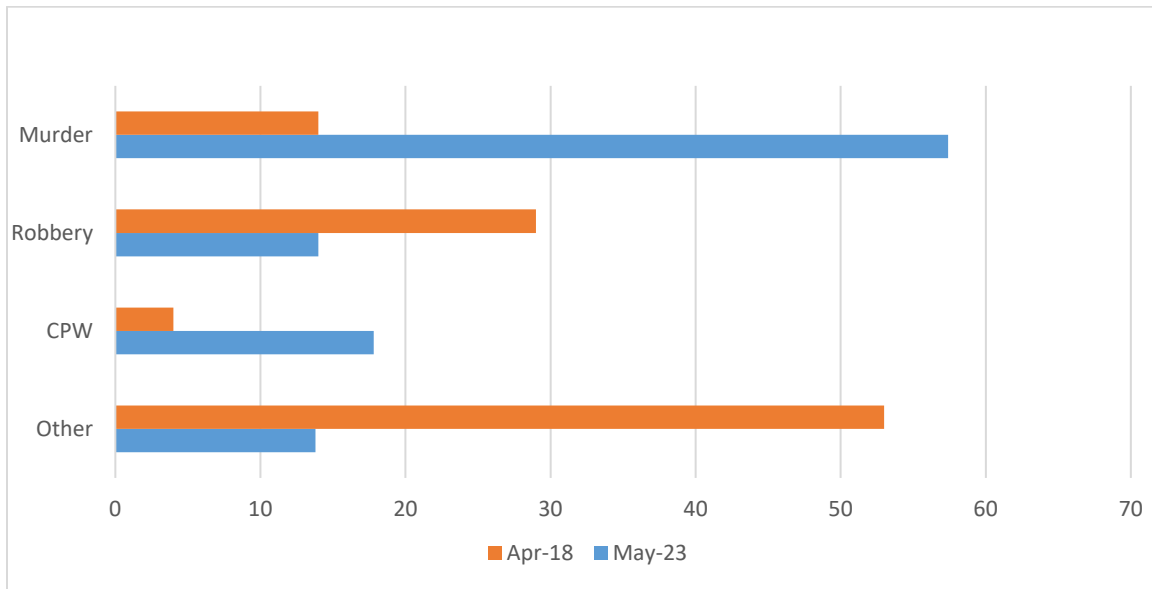
**Chart 4: Top Charge of Murder – Horizon
Monthly, April 2018 to May 2023**



⁷³ See note 69, *supra*.

⁷⁴ ACS does not differentiate between degrees or attempted crimes when tracking top charge data.

**Chart 5: Top Charges by Percentage – Horizon
April 2018 v. May 2023**



While Chart 5 shows a decrease in the percentage of Horizon residents with a top charge of robbery between April 2018 and May 2023, the actual number of residents with this top charge increased.

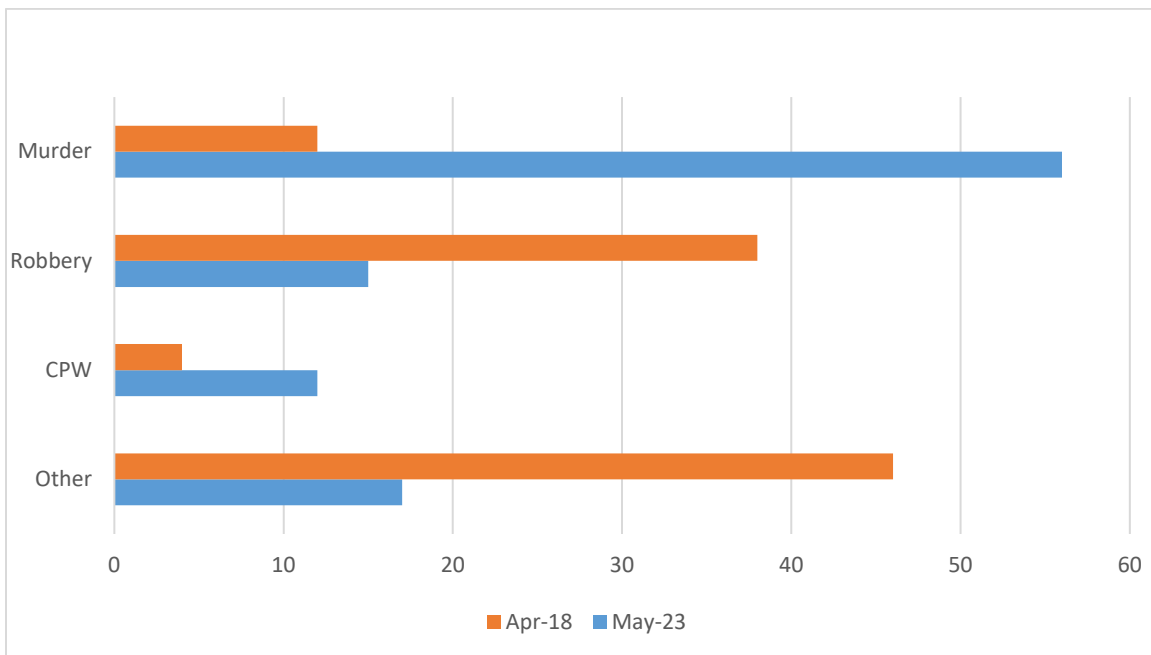
2. Crossroads

In April 2018, six months prior to the implementation of RTA, Crossroads housed 3 residents with a top charge of murder, 9 residents with a top charge of robbery, and 1 resident with a top charge of CPW. Respectively, this accounted for 12.5%, 37.5%, and 4.2%, or 54.2% cumulatively, of the resident population. In May 2023, Crossroads housed 68 residents with a top charge of murder, 18 residents with a top charge of robbery, and 15 residents with a top charge of CPW. Respectively, this accounted for 55.7%, 14.8%, and 12.3%, or 82.8% cumulatively, of the resident population. Between April 2018 and May 2023, the number of residents with a top charge of murder has increased 2,167% at Crossroads.

**Chart 6: Top Charge of Murder – Crossroads
Monthly, April 2018 to May 2023**



**Chart 7: Charges by Percentage – Crossroads
April 2018 v. May 2023**



While Chart 7 shows a decrease in the percentage of Crossroads residents with a top charge of robbery between April 2018 and May 2023, the actual number of residents with this top charge increased.

V. Behavior Management

A. STRIVE

Based on our review of the above-described data, as well as DOI's investigations related to these facilities, DOI concludes that in light of the changes in the resident population, ACS' current system for managing youth behavior, STRIVE, is insufficient to maintain a safe and orderly environment for the current resident population. While STRIVE adheres to the statutory requirements, as detailed below, it does not allow ACS to effectively respond to violent incidents and other misconduct that regularly occur within the facilities. As currently implemented, ACS does not track STRIVE assessments, including discipline or negative consequences imposed on residents. Without tracking, it is difficult, if not impossible, for ACS or external oversight agencies to analyze the effectiveness of individual disciplinary consequences, or STRIVE as a whole, and to assess whether STRIVE deters misconduct within the detention facilities.

Specialized secure detention facilities like Horizon and Crossroads are required to have OCFS-approved policies and procedures for managing youth behavior.⁷⁵ At a minimum, these policies and procedures are required to: (1) be based in principles of youth intellectual development, (2) support positive youth development and social learning; (3) take into account individual developmental needs and trauma; (4) set clear expectations for youth behavior; and (5) set clear expectations for fair and proportionate responses by staff.⁷⁶ ACS is responsible for creating and implementing policies and procedures within these parameters.

Behavior Management is an integrated process designed to encourage positive behavior and to promote "long-lasting behavioral change in youth."⁷⁷ Prior to 2021, DYFJ's Behavior Management System ("BMS") intended to encourage positive relationships between youth and staff, promote long-lasting behavioral change in youth, and utilized a range of strategies and interventions to support the goal of a

⁷⁵ N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.12.

⁷⁶ *Id.*

⁷⁷ City of New York Administration for Children's Services, Behavior Management in Secure and Specialized Secure Detention Policy, Policy 2018/09, at 2 (2018). (on file with author).

structured, therapeutic, and violence-free environment.⁷⁸ BMS utilized a system that incentivized desired behavior by following that type of behavior with a reward — such as a material item, privilege or activity.⁷⁹ ⁸⁰ Non-compliant or egregious youth behavior⁸¹ resulted in a consequence⁸² proportionate to the youth’s conduct and/or the temporary removal of a previously earned reward.

In 2021, with assistance from the National Partnership for Juvenile Services (“NPJS”)⁸³ and the Horizon Monitor, ACS expanded, standardized, and formalized the existing BMS by creating STRIVE. STRIVE seeks to maintain a safe and secure environment and to improve the behavior of youth in the detention facilities by encouraging positive behaviors, discouraging inappropriate behaviors, and teaching new social skills.⁸⁴ As of December 2022, STRIVE’s point and level system has been fully implemented in both facilities. ACS reports that they are continually assessing, further developing, and refining STRIVE.

STRIVE utilizes three levels of discipline based on a point system: Bronze, Silver, and Gold. Residents can gain or lose points, which allow them to move up or down “levels” associated with increased rewards, privileges, or independence within the facility. STRIVE also utilizes Pre-Independent Status and Independent Status, which provide increased rewards, privileges, or independence beyond the three aforementioned levels.

STRIVE point/level assessments are generally completed by YDSs assigned to the residence halls with input from other facility staff. STRIVE documentation is maintained on the residence halls and is collected daily for review and tallying. Residents are regularly informed about their points and level status.

Each resident can earn up to a specified number of points each day based on how well and consistently they follow the STRIVE behavior expectations. Residents are awarded points for the following core behaviors: respect, integrity, safety, and

⁷⁸ City of New York Administration for Children’s Services, Behavior Management in Secure and Specialized Secure Detention Policy, Policy 2018/09. (on file with author).

⁷⁹ Incentives included material items, privileges or activities, and social or public recognition that make youth feel valued. *Id* at 4.

⁸⁰ DOI did not evaluate whether the DYFJ’s BMS prior to 2021 worked as intended.

⁸¹ Egregious behavior included but was not limited to promoting, introducing, or possessing a dangerous weapon and staff or youth assault. See City of New York Administration for Children’s Services, Behavior Management in Secure and Specialized Secure Detention Policy, Policy 2018/09, at 4 (2018).

⁸² Consequences were defined by the resident’s strengths and motivations and included restorative levels (non-point earning levels) in response to significant non-compliant, maladaptive, or egregious behaviors. *Id* at 7.

⁸³ The National Partnership for Juvenile Services (“NPJS”) provides professional development, technical assistance, and promote best practices and standards in the juvenile justice field.

⁸⁴ All STRIVE-related descriptions contained in the section are derived from this manual. See City of New York Administration for Children’s Services, STRIVE Staff Manual, (April 2022) (on file with author).

engagement. STRIVE defines Respect as showing regard or consideration for people, property, and the expectations staff have for youth; Integrity as the ability to act in ways that are consistent with one’s values, beliefs, and moral principles; Safety as following rules intended to protect against danger, risk, or injury; and Engagement as displaying a willingness to participate and a genuine interest, attention to, and interaction with programming, community, and personal growth activities.

Chart 8: STRIVE Levels⁸⁵

STRIVE Rewards by Level					
Level Points Req. & Tier Intervention	Phone Calls	Commissary	Other Privileges		
Restorative Status No Tier 2, 3, or 3A Interventions	1 phone call/10 minutes/week	NO COMMISSARY	Basic Activities – Only the constitutionally required activities – i.e., school, 1-hour large muscle exercise/day, access to counsel		
Bronze (0-599 Points) No Tier 2, 3, or 3A Interventions	2 phone calls/10 minutes/20 minutes/week	2 food items (Bronze list)	Basic Activities	Nice Paper	
Silver (600-1499 Points) No Tier 2, 3, or 3A Interventions	3 phone calls/10 minutes each/30 minutes/week	3 food or hygiene items (Silver list)	Basic Activities	Nice Paper	Playing Cards AM/FM Radio/Batteries
Gold (1500-2199 Points) No Tier 2, 3 or 3A Interventions	5 phone calls/50 minutes each/50 minutes/week	4 food or hygiene items (Gold list)	Basic Activities Menu	Nice Paper	Playing Cards AM/FM Radio/Batteries McDonald's Gold
Independent Status					
Youths can earn Independent Status after first reaching the top level of Gold points and then maintaining those points for five days with no Tier 2, 3, or 3A Interventions					
Pre-Independent Status (5 days of 2200 points) AND NO Tier 2, 3, or 3A Interventions Youth remains at Gold level rewards during Pre-Independent Status Independent Status No points calculated or point card if the youth does not earn a Tier violation	7 phone calls/10 minutes each/70 minutes/week	5 food or hygiene items (Independent Status list)	Basic Activities	Nice Paper	Playing Cards AM/FM Radio Batteries 3 McDonald's Ind. Status Menu
			Special Events Ind. Status Min.	Headphones	Bake Cookies Make your Meal Phone Call

STRIVE also identifies five levels of youth behaviors that lead to negative consequences. These levels of behaviors, from minor to more serious infractions, are: Minor Infractions, Tier 1, Tier 2, Tier 3, and Tier 3A infractions. Generally, to decrease inappropriate behavior, the following strategies are used: non-verbal

⁸⁵ City of New York Administration for Children’s Services, STRIVE Staff Manual, at 50-51 (April 2022) (on file with author).

responses or positioning, warnings, chill time,⁸⁶ failure to earn points, failure to earn or maintain level restorative activities,⁸⁷ strategic modified programming (“SMP”),⁸⁸ and re-arrests.⁸⁹ Staff are directed to utilize the least intrusive, least intensive, least restrictive response necessary and available to maintain safety and to successfully redirect problematic behavior. When residents engage in these behaviors, they are assessed using the STRIVE point/level system.

A Minor Infraction is a non-disruptive behavior that does not impact the activity of others on the hall/area. Examples of Minor Infractions include: failure to follow routines, failure to adhere to dress code, possession of unauthorized or excessive hygiene items, and failure to clean one’s room or hall. According to STRIVE, staff responses or interventions for a Minor Infraction should include ignoring the behavior, rewarding other people for positive behaviors, nonverbal responses, group correction, and giving warnings.

A Tier 1 behavior is a disruptive behavior which impacts the ability of staff and youth to continue their activities on the hall/in the area, or Minor Infractions

⁸⁶ The STRIVE manual describes Chill Time as an “extinction” strategy used to discourage inappropriate behavior. During Chill Time, youth are removed from the people, things, or the environment in which that behavior has occurred. There are three types of Chill Time: Chill Time 5 (5 minutes of chill time), Chill Time 15-5 (15-minutes in a non-reinforcing unlocked room and then 5-minutes of chill time in the environment where the behavior occurred), and Chill Time 10-30-5 (10 minutes of time spent in the youth’s room with the door locked or until the point the youth has calmed down, followed by 30 minutes of time spent completing and processing a Rational Self-Analysis Assessment tool regarding the major behavior and 5 minutes of chill time in the place where the original behavior occurred). It is unclear how Chill Time is being implemented in the facility, as there is no designated physical space for it, as indicated in the STRIVE policy. Feedback from staff is that Chill Time is used on the residence halls when necessary and feasible.

⁸⁷ Restorative Activities include but are not limited to written or verbal apologies, a written exercise, assisting with cleanup, or assisting teachers or program staff with daily tasks.

⁸⁸ The STRIVE manual describes SMP as a time-limited intervention whose goal is to increase the skill level of the youth for maintaining appropriate behavioral control so that the youth can act consistently with the standard behavior program. There are three types of program modifications: short term, short term – release imminent, and longer term. The short term SMP targets the underlying cause of the behavior that earned the youth SMP and focuses on building the necessary skills for the youth to maintain themselves in regular programming as quickly and intensely as possible. The short term – release imminent SMP occurs when the youth scheduled for release within 24-48 hours of the situation that prompted the SMP, expresses little or no motivation to change their behavior or manage their behavior more effectively, and is not able to articulate their willingness to cooperate in a problem solving process or has made statements indicating that they will definitely engage in behaviors that will seriously compromise the safety and security of other youths until their release. In this scenario, the youth stays on SMP until their release. Longer term SMP occurs when youth present with significant behavior issues or mental health issues, which may not permit the youth’s behavioral problems to be resolved within a few days of intensive work. In this case, the goal is the stabilization of the youth and getting the youth to fully participate in the programming as soon as possible. As of January 2024, both facilities are implementing SMP in different forms.

⁸⁹ If a resident over 18 is re-arrested on a bail-eligible crime and bail is set, they can be remanded to an adult facility. However, if under 18 or arrested for a crime that is bail-ineligible, the resident will be remanded back to ACS custody on their underlying charge, even in cases of promoting dangerous prison contraband such as weapons. *See* Promoting Prison Contraband in the First Degree, N.Y. Penal Law § 205.25(1).

that continue despite staff direction to correct. Examples of Tier 1 behaviors include: teasing, taunting, mocking, name-calling, or other inappropriate comments or gestures, and the first-time refusal to participate in a required activity or to move to the next activity. According to STRIVE, staff responses or interventions for a Tier 1 behavior should include: giving a warning or chill time.

A Tier 2 behavior is a serious behavior involving verbal or non-verbal threats; Tier 1 or Minor Infractions that, without staff response, could escalate; property offenses that can be fixed; established patterns of inappropriate behaviors; or Tier 1 behaviors that continue after the imposition of Tier 1 consequences. Examples of Tier 2 behaviors include: leaving a hall or area without permission, horseplay or roughhousing, verbal threats, nonverbal threats or intimidation, writing on/damaging facility property or equipment, theft, drawing graffiti on the building or furniture, forgery or attempted forgery, encouraging disruption that requires an emergency supervisor or security response, an established pattern of refusing school or movement, or refusal to respond to Tier 1 consequences after at least 2 opportunities to correct behavior. The staff responses or interventions for a Tier 2 behavior include: chill time, a restorative activity, calling a parent/legal guardian, or referral for mental health services. As a result of a Tier 2 behavior, a resident can be put on restorative status (taken out of the STRIVE program).

A Tier 3 behavior is a “property and non-person violation.”⁹⁰ These are behaviors that qualify as property offenses that cannot be fixed, non-assaultive offenses, or serious behaviors that continue despite Tier 2 consequences. Examples of a Tier 3 behavior include: destruction of facility property (requiring replacement or reconstruction) tagging or gang signs; possession of contraband (weapons, cigarettes, narcotics, money, cell phones, pornographic materials, and/or matches or lighter); inappropriate sexual behavior (flashing or exposure); extortion; or refusal to respond to Tier 2 consequences after at least two opportunities. According to STRIVE, staff responses or interventions for a Tier 3 behavior should include: chill time, a restorative activity, calling a parent/legal guardian, a Tier 3 response review⁹¹ and red flag conference,⁹² a possible SMP, or referral for mental health services. As a result of a Tier 3 behavior, a resident can be put on restorative status or required to complete a SMP.

⁹⁰ City of New York Administration for Children’s Services, STRIVE Staff Manual, at 18 (April 2022) (on file with author).

⁹¹ In a Tier 3 and 3A Response Review, staff and leadership review video, discuss strengths and weaknesses of the response, and provide guidance to the staff for future situations.

⁹² A red flag conference is triggered when there is an area of concern (i.e.: safety issue or mental health crisis). All parties that play a significant role in the youth’s care participate in this conference, which is intended to be solution/strength-based and provide support.

A Tier 3A behavior is considered an assault or security violation. These behaviors are the most serious behaviors and are considered assaultive and/or a threat to the safety and security of individuals and the facility, potentially resulting in additional legal action. These behaviors include conduct that could be criminally charged. Examples of a Tier 3A behavior include: fighting (any youth-on-youth); assault (group assault, assault involving a weapon or sexual assault, youth-on-youth or youth-on-staff); inappropriate sexual behavior involving touching; any attempt (successful or unsuccessful) to use/throw bodily or unidentified fluids or solids; arson; being in an unauthorized area without permission; security breaches; attempts to abscond; or attempts to take staff keys or radios. The staff responses or interventions for a Tier 3A behavior include: calling a parent/legal guardian, a Tier 3A response review and red flag conference, SMP, or referral for mental health services. As a result of a Tier 3A behavior, a resident can be put on restorative status, taken out of the STRIVE program, and/or required to do SMP.

Chart 9: STRIVE – Behaviors and Interventions^{93 94}

Behavior Level	Staff Response/Intervention	Status/Level	Restored to
Orientation and Transfer to Living Hall	Teaching, encouragement, Learning Groups	Bronze 300	N/A
	If, after reasonable time and staff encouragement/intervention, the youth refuses to participate in program, to earn STRIVE points or to attend groups	Restorative Status, Out of Program (OOP)	Bronze 0
Minor Infractions	Ignore, reward others, nonverbal responses, group correction, individual warning	No Level Change	N/A
Tier 1	Warning Chill Time 5 min., Chill Time 15-5 min., Tier 1	No Level Change	N/A
Tier 2	Chill Time 10-30-5, complete RSA, call to parent/legal guardian, referral for services	Restorative Status, Out of Program (OOP)	Restore to base level points of current level after complete Restorative Status NOTE: Pre-IS. Restores to Gold base, IS. to Pre-IS Day 1.
Tier 3	Chill Time 10-30-5, complete RSA, call to parent/legal guardian and lawyer, Tier 3 Response Review, possible SMP, referral for services	Restorative Status, Out of Program (OOP), possible SMP	Restore to Bronze 300 if complete all requirements of Restorative Status & SMP
Tier 3A	Call to parent/legal guardian and lawyer, Tier 3A Response Review, and red flag conference, SMP, referral for services	Restorative Status, Out of Program (OOP), SMP	Restore to Bronze 300 if complete all requirements of Restorative Status & SMP

In an effort to continue the development and implementation of STRIVE, ACS has created an Assistant Commissioner of Behavioral Management position.⁹⁵ This individual will be responsible for “coordinating a multi-disciplinary response to youth who engage in serious misconduct to ensure a holistic approach.”⁹⁶ As of October 25, 2023, ACS has identified a candidate for this position, who has received an offer and who is currently being vetted by City Hall.⁹⁷ It is unclear to DOI if the person in this position will be responsible for both detention facilities or just Horizon.

ACS has also recently created a specialized YDS position referred to as Behavior Improvement Coordinators (“BIC”). The role of the BIC is to support STRIVE implementation by ensuring YDS can complete STRIVE documentation

⁹³ City of New York Administration for Children’s Services, STRIVE Staff Manual, at 53 (April 2022) (on file with author).

⁹⁴ In the Tier 2 “Restored to” cell, Pre-IS means Pre-Independent Status and IS means Independent Status.

⁹⁵ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 7, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

⁹⁶ *Id.*

⁹⁷ *Id.* As of October 15, 2024, the Assistant Commissioner of Behavioral Management position remains vacant.

without interruption, interference, or intimidation by residents, to provide hall coverage, support, and coaching to staff, and redirection of youth.

According to the current ACS Arrest Procedures policy drafted in 2008,⁹⁸ when a resident violates the law and endangers, injures, or creates a risk of danger to staff, other residents, or themselves, the resident may be arrested and charged with a crime, at the discretion of specified ACS staff.⁹⁹ ACS' policy indicates that the Assistant Commissioner for Operations and Detention determines, for residents under 16 that are not presently charged as JOs, whether the resident should be re-arrested. The Deputy Commissioner for Operations and Detention makes that determination when a resident is 16 years of age or older or is being charged as a JO. While this policy details the procedural steps for re-arrest, it does not provide any guidance with respect to when and for what types of offenses re-arrests may be appropriate.

ACS leadership has informed DOI that they approach incidents that could lead to re-arrest on a case-by-case basis, and make individual determinations about whether re-arrest of a resident is warranted. Leadership stated that they make arrests when necessary but are mindful that they do “not want the residents pushed deeper into the system.” In making these determinations, ACS seeks to balance the value of a re-arrest with respect to accountability and deterrence, against the likelihood that a low-level offense will ultimately not be prosecuted. ACS is also mindful that residents who are arrested but not prosecuted, or those who are arrested on bail-ineligible offenses and therefore remanded back to DYFJ again by the Court, will return to the facility where they were just re-arrested. In those circumstances, they may pose a heightened risk of disruption and violence in light of the arrest.

In spite of the possibility that prosecutors may not pursue all of the cases that result from re-arrests and that the resident will likely return to the facility, many Horizon and Crossroads staff members stated to DOI that re-arrests should occur more often, particularly when residents assault staff. Staff expressed to DOI the view that whether or not a prosecution proceeds (a decision outside of ACS' control), staff needs to know that ACS will act in response to serious (and sometimes criminal) resident misconduct. According to staff, ACS' failure to re-arrest or otherwise effectively address resident-on-staff assaults, leads to low staff morale.

In response to ACS' approach to re-arrests, and staff feedback regarding re-arrests, DOI believes that ACS would benefit from creating and maintaining

⁹⁸ New York City Department of Juvenile Justice, Agency Arrest Procedures, Policy 09/08 (2008). (on file with author). ACS has informed DOI that they are in the planning stages of updating this policy.

⁹⁹ ACS Police, who also staff the detention facilities, are legally authorized to effectuate arrests.

relationships with local and regional prosecutors for the purpose of reviewing re-arrest cases and advocating for potential prosecutions immediately after incidents. This would encourage prosecutions when juveniles are re-arrested within the facilities for offenses including, but not limited to, Tier 3A infractions. Specifically, this would allow ACS to pursue and encourage prosecutions of felony crimes and bail-eligible offenses, like possession of dangerous contraband such as weapons or cell phones, for juveniles aged 18 or older.¹⁰⁰ DOI believes that increasing these prosecutions where legally possible is an appropriate response and necessary deterrent, and would have a positive impact on staff morale and resident safety.

i. Tier 3A Conduct

As Tier 3A infractions are given for the most serious behaviors within the STRIVE framework, DOI reviewed monthly data from March 2022 through April 2023 to determine the prevalence of these behaviors. Specifically, DOI reviewed data relating to youth-on-youth assaults, youth-on-staff assaults, inappropriate sexual behavior, fire,¹⁰¹ security breaches, escapes, attempted escapes, and weapons recoveries, all of which constitute Tier 3A behaviors.

ACS' incident tracking systems, GOALS¹⁰² and JDAS¹⁰³ capture incidents¹⁰⁴ of misconduct by tracking the conduct that leads to an infraction. However, STRIVE infractions are not tracked in GOALS or JDAS. ACS reported to DOI that they do not track STRIVE infractions on an individual or systemwide basis, as "STRIVE is a behavior management program, not an incident tracking or data management system. The conduct that constitutes [Tier] 3A infractions is maintained, tracked, and analyzed through the systems intended for these purposes, while STRIVE serves as a mechanism to assess the behavior and delineate a behavioral consequence".¹⁰⁵ ACS stated to DOI that STRIVE was not designed to track infractions and should be used solely to incentivize positive conduct and respond to negative behavior - ACS contends that tracking STRIVE infractions is not necessary to achieve those goals and maintain safety.

In DOI's view, the absence of such tracking makes it impossible to fully assess the effectiveness of disciplinary consequences or determine whether STRIVE deters

¹⁰⁰ N.Y. Crim. Proc. § 150.10(1).

¹⁰¹ ACS considers "fire" to be an event type. Arson falls under this category.

¹⁰² GOALS is an internal ACS application designed primarily for tracking incidents involving JDs, JOs, and AOs, with additional functions in reporting and housing assignment tracking.

¹⁰³ JDAS is operated by New York State and is utilized to manage youth admissions and release. JDAS also tracks incidents involving AOs.

¹⁰⁴ All incidents involving DYFJ residents, staff, or facilities require immediate reporting by staff to the Movement Control and Communications Unit ("MCCU").

¹⁰⁵ E-mail from Jennifer Fiellman, Assistant. Comm'r., New York City Administration for Children's Services (June 25, 2024, 11:55 EST) (on file with author).

misconduct in the detention facilities. Tracking of STRIVE assessments, particularly Tier 3A infractions, would be a useful tool to ensure that appropriate assessments are being made and to evaluate the effectiveness of disciplinary measures - the resulting data would also assist in oversight of these systems. For example, as part of this review, DOI requested Tier 3A infraction data. ACS stated they would have to manually collect such data to provide it to DOI because it is not tracked.¹⁰⁶ Instead, ACS provided data pulled from GOALS that represented the underlying conduct that generally constitutes Tier 3A infractions, but with no data on whether or which infractions were actually issued. ACS was also unable to provide further information detailing whether a particular group of residents repeatedly received Tier 3A infractions, or if the infractions were evenly distributed among residents. ACS also could not provide the percentage of total incidents that led to Tier 3A infractions in the given period.

As illustrated below, DOI's review of Tier 3A data revealed an absence of adequate disciplinary responses within STRIVE (short of arrests) to deter this behavior. The small number of re-arrests relative to the number of incidents containing Tier 3A behaviors directly affects the safety of both residents and staff.

1. Horizon

At Horizon, between March 2022 and April 2023, there were approximately 733 incidents that involved Tier 3A behaviors. There were 268 youth-on-youth altercations and assaults, 164 youth-on-staff assaults, and 281 security breaches.¹⁰⁷ Based on reports provided to DOI, there were 173 weapons recovered, 38 surgical or ceramic blades, or other forms of scalpels and 94 razor blades or sharp objects.¹⁰⁸ Between March 2022 and April 2023, ACS notified DOI of approximately 26 contraband cell phone recoveries from Horizon.¹⁰⁹ During the same time period, there were 29 re-arrests: 22 for assault, 3 for robbery, 2 for conspiracy, 1 for possession of contraband, and 1 for attempted murder.

Based on the number of incidents and potential involvement of hundreds of residents, DOI did not request ACS provide the disciplinary outcomes related to each incident as the request would be too burdensome for ACS to complete in a timely manner.

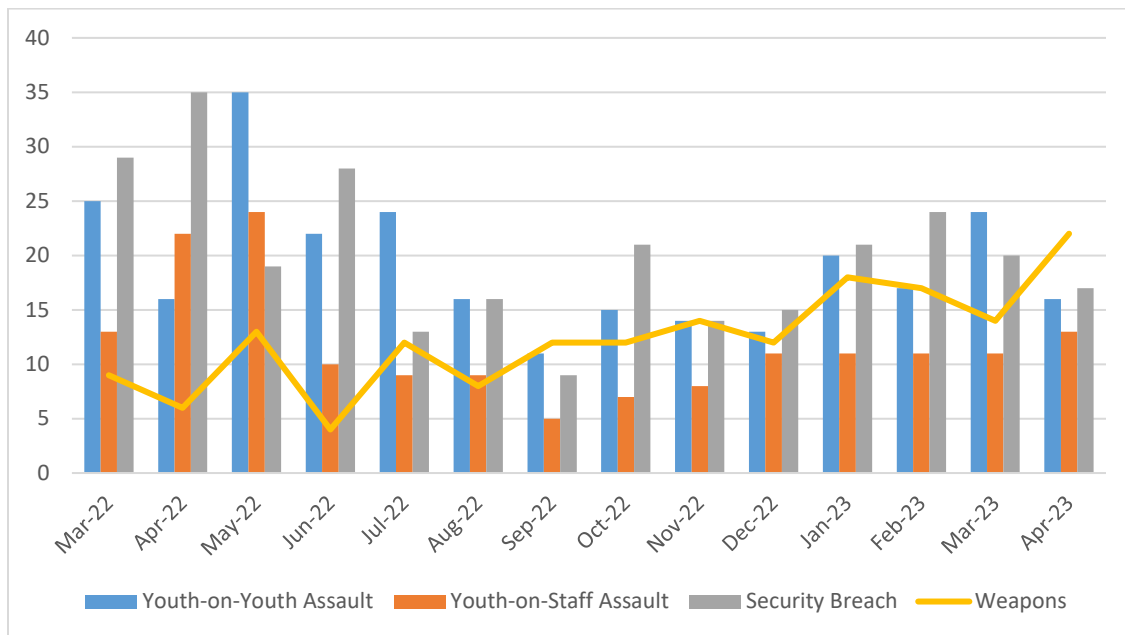
¹⁰⁶ STRIVE documents are physical documents maintained by residence hall. As this would be a time consuming and burdensome request, DOI did not request ACS provide the documents.

¹⁰⁷ The remaining 20 Tier 3A behaviors included inappropriate sexual behavior, fire, and attempted escape. These types of misconduct occurred infrequently during the review period and therefore is not included in DOI's analysis.

¹⁰⁸ As of March 1, 2024, based on reports provided to DOI, there have been approximately 351 weapons recovered from Horizon, including 145 surgical or ceramic blades or other forms of scalpels and 207 razor blades or sharp objects.

¹⁰⁹ As of February 26, 2024, ACS has notified DOI of approximately 38 contraband cell phone recoveries from Horizon.

Chart 10: Horizon Tier 3A Conduct Monthly, March 2022 to April 2023

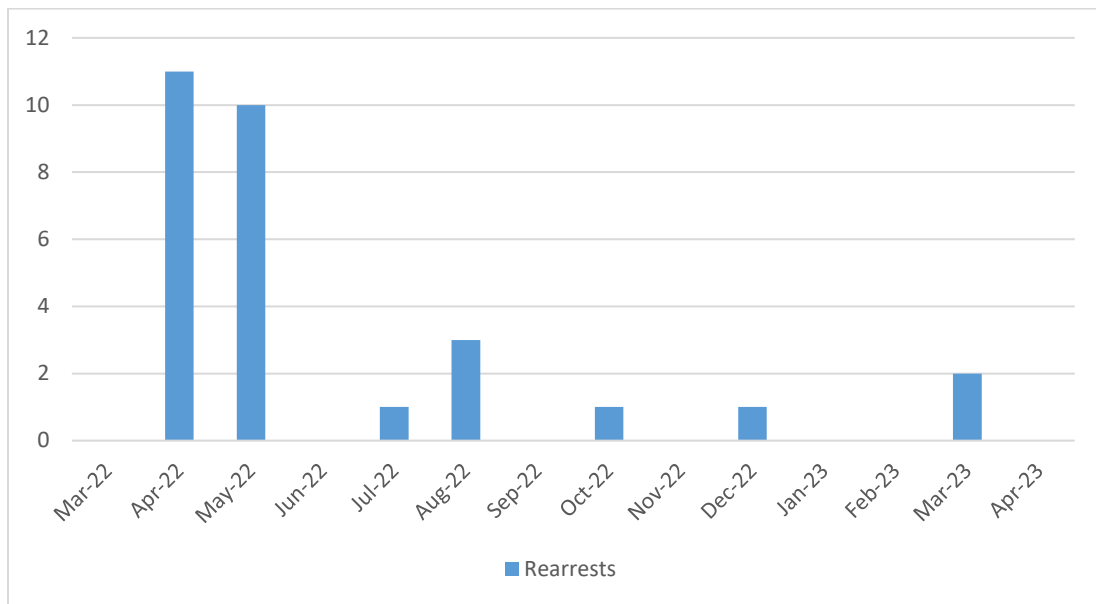


While DOI does not have data concerning the rate of similar infractions prior to RTA for comparison purposes, the frequency of youth-on-youth assaults, youth-on-staff assaults, security breaches, and weapons recovery undoubtedly reflect a significant safety risk to residents and staff at Horizon.

Moreover, during its fourth and fifth monitoring periods, which span the time period of DOI’s focus, the Horizon Monitor remained concerned about the regularity of serious violence in the facility, youth access to and incidents involving dangerous weapons, as well as assaults on staff.¹¹⁰

¹¹⁰ Monitor’s Fourth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 525, <https://tillidgroup.com/wp-content/uploads/2023/04/HOJC-Fourth-Report-Final.pdf>; Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

**Chart 11: Horizon Re-arrests
Monthly, March 2022 to April 2023**



The absence of adequate disciplinary responses within STRIVE (short of arrests) to deter this behavior at Horizon, as well as the small number of re-arrests relative to the number of Tier 3A incidents, directly affects the safety of both, residents and staff, and negatively impacts staff morale.¹¹¹

2. Crossroads

At Crossroads, between March 2022 and April 2023, there were approximately 635 incidents that involved Tier 3A behaviors. There were 282 youth-on-youth altercations and assaults, 150 youth-on-staff assaults, and 193 security breaches.¹¹² There were 139 weapons recoveries reported to DOI. These included 36 surgical or ceramic blades, or other forms of scalpels and 120 razor blades or other sharp objects.¹¹³ Between April 2022 and May 2023, ACS also notified DOI of approximately

¹¹¹ This was reported to DOI by DYFJ staff.

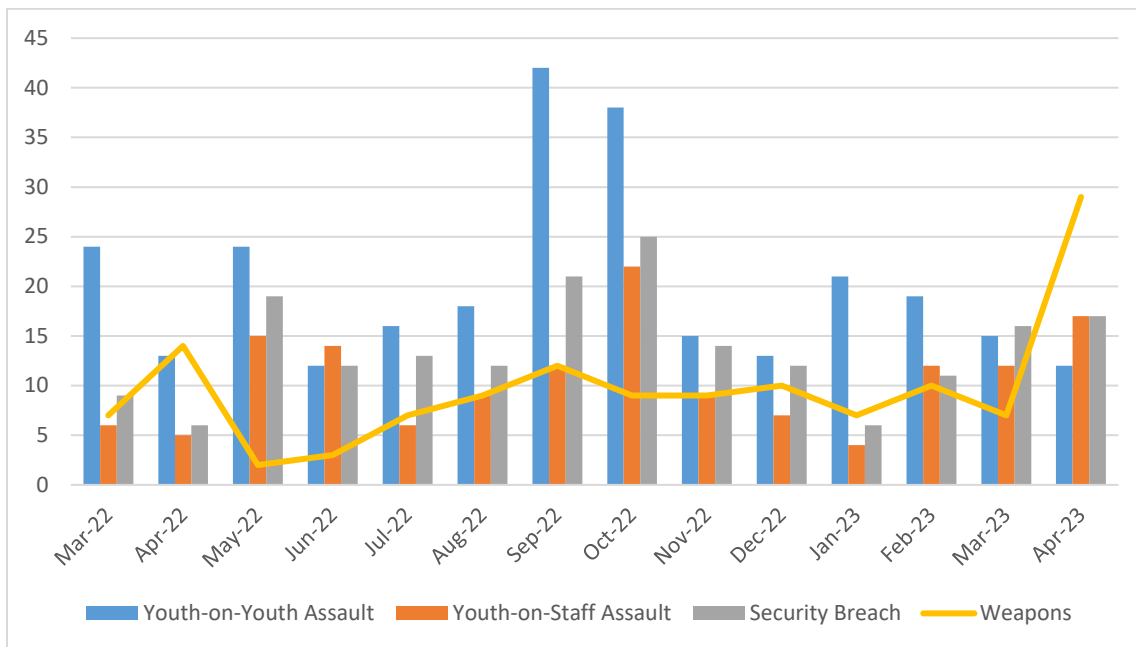
¹¹² The remaining 12 Tier 3A behaviors included: inappropriate sexual behavior, fire, and attempted escapes. These types of misconduct occurred infrequently during the review period and therefore is not included in DOI’s analysis.

¹¹³ As of March 1, 2024, based on reports provided to DOI, there have been approximately 410 weapons recovered from Crossroads, including 229 surgical or ceramic blades or other forms of scalpels and 198 razor blades or other sharp objects.

51 contraband cell phones that had been recovered from Crossroads.¹¹⁴ ¹¹⁵ During this same time period, there were 13 re-arrests; 11 for assault, 1 for arson and 1 for criminal possession of a controlled substance.

Based on the number of incidents and potential involvement of hundreds of residents, DOI did not request ACS provide the disciplinary outcomes related to each incident as the request would be too burdensome for ACS to complete in a timely manner.

**Chart 12: Crossroads Tier 3A Conduct
Monthly, March 2022 to April 2023**

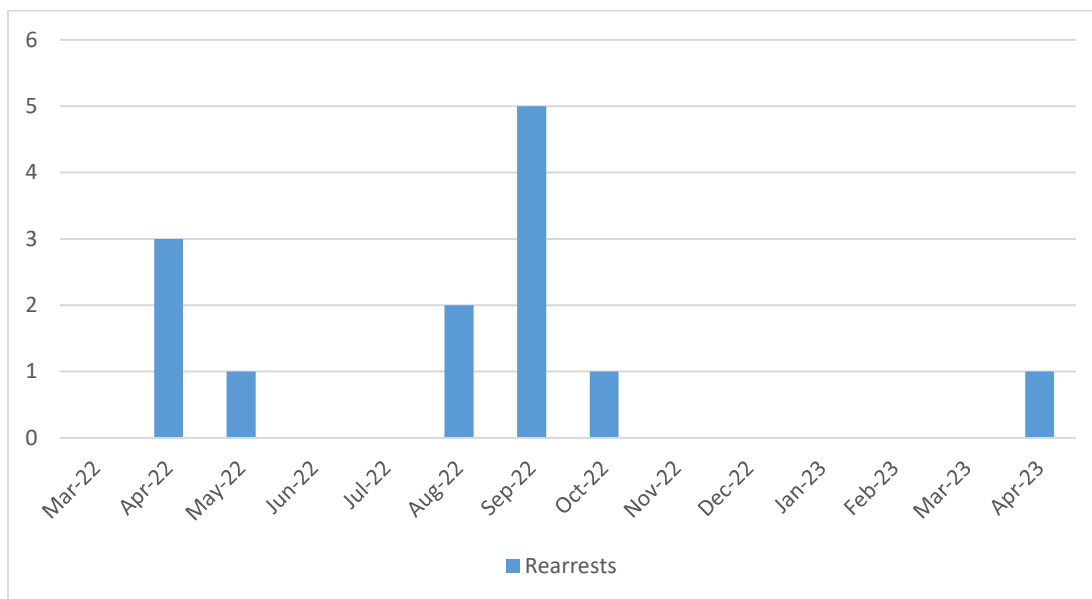


While DOI does not have data concerning the rate of similar infractions prior to RTA for comparison purposes, the frequency of youth-on-youth assaults, youth-on-staff assaults, security breaches, and weapons recovery undoubtedly reflect a significant safety risk to residents and staff at Crossroads.

¹¹⁴ As of February 26, 2024, ACS has notified DOI of approximately 72 contraband cell phone recoveries from Crossroads.

¹¹⁵ The recovery of weapons and cell phones at Crossroads resulted in the June 2024 arrests of four active and one former YDS. See Press Release, Breon Peace, United States Attorney, Eastern District of New York, Peace Statement on Five Employees of Juvenile Detention Center Charged With Smuggling Contraband in Exchange for Bribes (June 26, 2024), <https://www.justice.gov/usao-edny/pr/five-employees-juvenile-detention-center-charged-smuggling-contraband-exchange-bribes>

**Chart 13: Crossroads Re-arrests
Monthly, March 2022 to April 2023**



Consistent with our assessment of Horizon, the absence of adequate disciplinary responses within STRIVE (short of arrests) that sufficiently deter this behavior at Crossroads, as well as the small number of arrests relative to the number of Tier 3A incidents, directly affects the safety of both, residents and staff, and negatively impacts staff morale.¹¹⁶

B. Other Behavioral Management Tools

Outside of the interventions outlined by STRIVE, there are rare circumstances in which ACS can request approval from OCFS, in consultation with SCOC, to move persistently disruptive or violent youth residing in Horizon or Crossroads to an alternate residential location.¹¹⁷ Youth under the age of 18 are entitled to a court hearing to determine if the alternate placement is in the interest of justice. In making this determination, the court must consider: age, physical and mental maturity, present mental state, the nature and circumstances of the alleged offense, any prior delinquent acts, the ability of ACS and adult facilities to meet the youth’s needs and protect public safety, and any other factor that may be relevant.¹¹⁸ While this

¹¹⁶ This was reported to DOI by DYFJ staff.

¹¹⁷ New York State Office of Children and Family Services, Administrative Directive on Juvenile Justice-Related Chapters of the Laws of 2021 (June 23, 2022) (on file with author); Memorandum from Sheila Poole, OCFS Commissioner, to Detention Administering Agencies (June 29, 2022) (on file with author).

¹¹⁸ New York State Office of Children and Family Services, Administrative Directive on Juvenile Justice-Related Chapters of the Laws of 2021 (June 23, 2022) (on file with author).

approach may effectively address persistent problems of violence or disruptiveness involving specific youth, ACS has not requested an alternative placement outside of DYFJ for any youth under the age of 18 in Horizon or Crossroads in recent years.

One resident's incident history is an example of a situation where ACS could have appropriately sought an alternative placement outside of DYFJ for a youth under the age of 18. In the 18 months this resident spent in ACS custody, he was involved in eighty-eight incidents. These incidents consisted of 41 youth-on-staff assaults, 30 security breaches, 17 youth-on-youth assaults, 11 contraband recoveries, including marijuana, weapons, and cell phones, and 4 incidents in which the resident spit at staff. In 2022, this resident was re-arrested for assaulting staff. The resident was 17-years-old at the time of this re-arrest, so he remained in ACS custody. For all other incidents, the resident was assessed according to STRIVE. The resident continued to engage in serious misconduct until his transfer from ACS to DOCCS custody, after he was sentenced to a term of 15 years' incarceration.

Youth reside in Horizon and Crossroads pursuant to a court securing order which specifies that they be held in a juvenile detention facility. In addition to seeking an alternative placement for such a youth, ACS also has the option to request a court hearing to vacate the youth's current securing order, at which the "court must determine that permitting the youth to be held in an adult facility is in the interest of justice (34 U.S.C. § 11133[a][11][B])," so that a resident who is aged 18-21 can be moved to an adult facility.¹¹⁹

Between March 2022 and April 2023, ACS filed two petitions to vacate a resident's securing order, both of which were granted. The residents were 18, and were transferred to DOC custody.

In the months preceding this report, ACS successfully vacated a securing order for two other residents: (1) a 20-year-old detained for over 1,000 days who had engaged in more than 40 incidents involving threats, physical aggression, physical assault, damage to facility property, intimidation or coercion of staff to introduce contraband into the facility and the possession of dangerous contraband; and (2) a 20-year-old detained for over 950 days who had engaged in more than 50 incidents involving threats, physical aggression, physical assaults, forcefully taking keys from staff, damage to facility property, and the possession of dangerous contraband. The extreme nature of these incidents and the fact that ACS only made these requests after forty and fifty incidents respectively, creates concern that this serious behavior is allowed to continue for a prolonged amount of time before ACS takes legal action.

¹¹⁹ Memorandum from Sheila Poole, OCFS Commissioner, to Detention Administering Agencies (June 29, 2022) (on file with author).

DYFJ leadership has informed DOI that they believe relocating youths should be reserved for the most extreme and intractable cases. ACS leadership has also stated that they are committed to using all available tools to maintain the safety of the facilities and that they will utilize these mechanisms when they are confident that a resident is not benefitting from ACS custody and the youth cannot be safely secured there. In the examples cited above, the serious, repetitive, and escalating nature of these incidents over two-and-a-half years demonstrates not only that STRIVE is insufficient to eliminate these behaviors, but that ACS should take legal action such as relocating youths earlier to address recurrent violent and criminal behavior in the facilities.

Notably, if a resident over the age of 18 is re-arrested while in ACS custody on a bail-eligible offense and bail is set, a judge can remand them to an adult facility.¹²⁰ For example, after one incident at Horizon in which a resident slashed another resident with a scalpel, the offending 18-year-old resident was re-arrested for felony assault. A judge then set bail and remanded him to DOC custody at Rikers Island. Between March 2022 and April 2023, four residents (three 18-year-olds and one 20-year-old) were remanded to DOC custody after re-arrests.

VI. Safe Crisis Management

When violence or misconduct occurs within the facilities, ACS seeks to restore order and maintain the safety of youth and staff in detention using the least intrusive and least restrictive intervention necessary. In response to an incident, staff employ SCM¹²¹ a comprehensive crisis intervention behavior management system that promotes non-physical intervention. Based on DOI's SCM training observations, as well as the incidents and discussions with staff described below, DOI concludes SCM is insufficient to maintain order in the facility.

After less intrusive alternatives have been attempted and failed, or have been deemed inappropriate, ESPIs are used.¹²² Strategies to manage disruptive or otherwise problematic resident behavior are divided into four categories: primary strategies, intervention assessment, secondary strategies, and physical intervention or ESPIs.

¹²⁰ N.Y. Crim. Proc. § 150.10.

¹²¹ City of New York Administration for Children's Services, Safe Intervention Policy for Secure and Non-Secure Detention, Policy 2014/10 (2014) (on file with author). All Safe Crisis Management ("SCM")-related descriptions contained in the section are derived from this policy.

¹²² ESPIs are any authorized means of physically holding/moving a youth against their will to interrupt and control acute physical behaviors. ESPIs range from least restrictive to most restrictive. Staff are prohibited to use ESPIs as punishment. Staff are required to use the least restrictive option to manage acute physical behavior.

Primary strategies are principally intended to avoid and prevent violence or misconduct in the first instance. They include ensuring staff are trained with respect to ACS policies; providing a safe, secure, and orderly environment; using a standardized behavior management system for residents; building positive and professional relationships among staff, residents, and their families; and interacting with residents in a positive manner. These techniques include but are not limited to: being friendly, maintaining a positive demeanor, celebrating achievements, teaching acceptable behavior, and using appropriate humor.

When a youth displays a behavior of concern, staff are directed to assess the resident, their behavior, the environment, and the staff's ability to handle the situation to determine the strategy to be used.

Secondary strategies include non-physical interventions used to de-escalate a youth's acting-out behavior. Non-physical interventions include but are not limited to: non-verbal communication, para-verbal communication,¹²³ active listening, and verbal intervention.

ESPIs are authorized to be used when there is an imminent threat and/or danger to self or others.¹²⁴ ESPI's are to be used without purposely inflicting pain or harm and only when other forms of intervention are either inappropriate, have been ineffective, or are likely to be ineffective. When used, staff shall use only the minimum amount of physical intervention necessary to stabilize the youth or situation and must end when a resident's behavior indicates that there is no longer a danger to themselves or others. ESPI categories include standing assists,¹²⁵ seated/kneeling assists,¹²⁶ floor assists,¹²⁷ and escorts/transport.¹²⁸ Mechanical restraints¹²⁹ may be used when ESPI techniques are unsuccessful in controlling acute physical behavior and when staff have determined that such intervention is in the best interests of the youth involved. ESPIs can be utilized to control a resident by one or two staff members, depending on the intervention.

¹²³ Para-verbal communication refers to the messages that are transmitted through tone, pitch, and pacing of voices.

¹²⁴ During SCM training, YDS are instructed to use ESPIs when a resident/s is causing harm to themselves or others, attempting to abscond from the facility, impeding facility operations, or destroying facility property with the intent to use that property as a weapon.

¹²⁵ Standing assists are restrictions with an individual in an upright position. See Mullen, J, et. al., SAFE CRISIS MANAGEMENT PARTICIPANT'S WORKBOOK, at 45 (2019) (on file with author).

¹²⁶ Seated/kneeling assists are restrictions with an individual in a seated position. *Id.*

¹²⁷ Floor assists are restrictions while an individual is lying face up, on their hip and shoulder, or lying face down. *Id.*

¹²⁸ Escorts/transport as movement of an individual from one location to another. *Id.*

¹²⁹ Mechanical restraints consist solely of foot cuffs, handcuffs, and belts through which handcuff chains are threaded. N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.16.

The ACS James Satterwhite Academy (“JSA”) provides newly hired facility staff with a required pre-service training course in SCM for those responsible for the care and custody of youth, including Facility Managers, TCs, AYDS, and YDS. SCM is taught over a period of four days. The first day is spent learning the theory behind the system and the other three days are spent learning different ESPIs or holds — that is, the means to physically restrain residents. While learning and practicing the holds, consistent with similar trainings, staff are instructed to use a “force level of 5%,”¹³⁰ and staff role-playing as residents do not resist. Staff are required to take a yearly in-service training course in SCM.

Notably, SCM training does not include instruction on incidents involving multiple residents at once, residents who resist holds or other types of restraint, or residents who possess weapons. Based on both the incidents and discussions with staff we review below, DOI concludes that SCM has limited application to the current realities of Horizon and Crossroads, and is therefore insufficient to maintain order in the facility.

VII. Staffing Challenges

A. Overtime

ACS facilities are primarily staffed by YDS. With the increase in the number of residents being remanded to detention, ACS has also worked to increase the amount of YDS. Nonetheless, staffing issues continue. DOI’s investigation indicates an urgent need for additional hires and better working conditions at both facilities, as under-staffing poses a significant challenge to order, morale, and safety.

As the detention centers must be staffed 24-hours a day, and N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.11(b)(1) requires a 1:6 staff to resident ratio, Horizon and Crossroads regularly hold over or require YDS to remain on duty beyond their standard tours, to ensure this requirement is met and the facility is operational. YDS are supposed to work 5 eight-hour tours per week, totaling forty-hours per week. Any hours worked beyond that are considered overtime. As indicated by the data below, ACS appears to be relying significantly on staff overtime to ensure the facilities are staffed sufficiently and the mandated staff to resident ratio is consistently met.

With fewer staff reporting to or available to work, for reasons including but not limited to Workers’ Compensation leaves, YDS are required to remain on duty to work additional tours and/or longer hours, which can lead to exhaustion, burn out, and higher levels of turnover.¹³¹ The impact of exhaustion on work performance is well

¹³⁰ James Satterwhite Academy, SCM module.

¹³¹ This was also reported to DOI by DYFJ staff.

documented, and if staff is working excessive overtime, that could affect their safety and the safety of the residents.

i. Horizon

At Horizon, during the morning and afternoon tours, there are approximately 32 posts or assignments that must be filled or are mandatory.¹³² During the night tour, there are approximately 30 posts or assignments that must be filled or are mandatory. These posts include the residence halls, special housing units, and the corridors. Beyond the mandatory posts, there are approximately 15 posts during the morning tour, 13 posts during the afternoon tour, and 4 posts during the night tour that require staffing. These posts include school liaisons, onsite medical runners, staff for one-to-one assignments, offsite medical escorts, floaters, and meal relief. In total, this amounts to approximately 47 YDS for the morning tour, 45 YDS for the afternoon tour, and 34 YDS for the evening tour.

The Horizon Monitor reported that between January 2023 and June 2023, about 15-20% of scheduled YDSs called out for their shifts.¹³³ As discussed above, when YDS call out, other YDS are often required to work overtime to cover the callouts, a circumstance that negatively impacts staff morale. Additionally, during this reporting period, although ACS estimated it needed 337 YDS to staff Horizon at full capacity, the average number of active YDS during the reporting period was only 157.2.¹³⁴

Between September 2022¹³⁵ and May 2023, an average of approximately 30.7% of YDS on the facility roster worked at least one 60 to 80-hour work week, that is, 20 to 40 hours of overtime in a week. During this same 8-month period, an average of approximately 44.2% of YDS on the facility roster worked at least one 40 to 60-hour work week, that is, up to 20 hours of overtime in a week. In practice, this means that these YDS might have worked an additional 4 to 8 hours during each tour, resulting in five consecutive 12-hour or 16-hour tours in one week. The Horizon Monitor noted this practice during their fifth reporting period – their interviews revealed that staff “continue to work overtime up to 4 or 5 times per week” and “work a 16-hour shift” essentially “every time they reported to work.”¹³⁶

¹³² The mandatory minimum posts for Horizon and Crossroads were provided by ACS.

¹³³ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 10, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

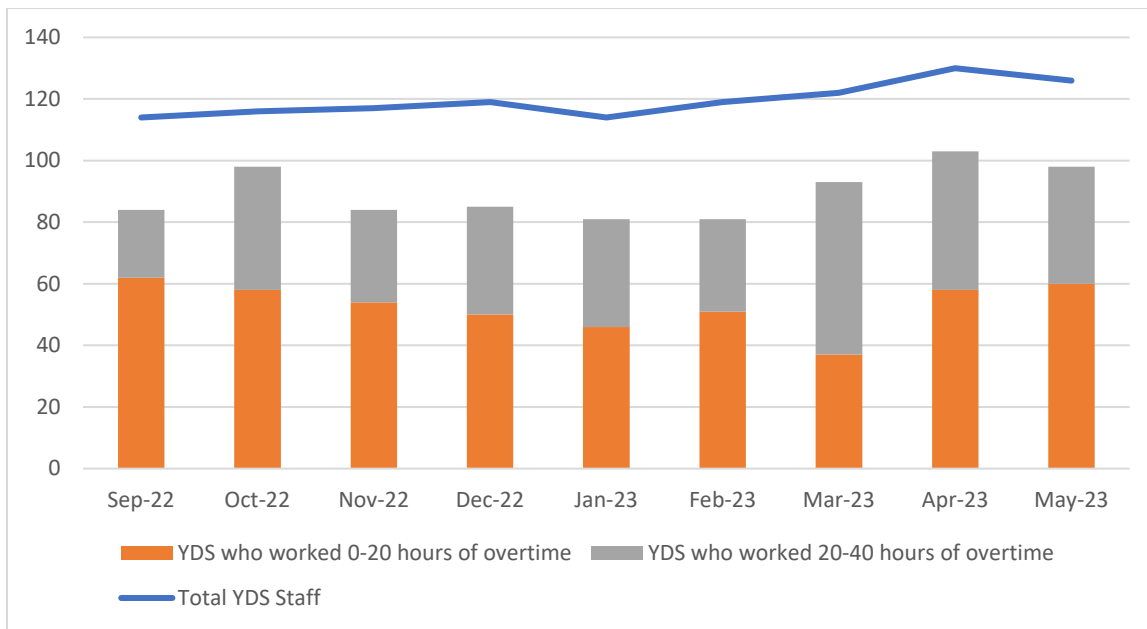
¹³⁴ *Id.* at 9.

¹³⁵ DOJ’s review of this data began in September 2022, as ACS transitioned to a three-tour schedule from a two-tour schedule. During the pandemic, the facilities were operating with a two-tour schedule.

¹³⁶ Monitor’s Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 9, ECF No. 471, <https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Third-Report-with-Appendix-Final.pdf>

While this data represents a weekly snapshot, based on DOI’s extensive investigations, knowledge of these facilities, and feedback received by staff, DOI believes these weekly snapshots to be representative of the overtime consistently worked at Horizon.

**Chart 14: YDS Weekly Staff Overtime – Horizon
Monthly, September 2022 to May 2023**



ii. Crossroads

At Crossroads, during the morning and afternoon tours there are approximately 35 mandatory posts or assignments.¹³⁷ During the night tour, there are approximately 33 mandatory posts or assignments. These include the residence halls, special housing units, and the corridors. Beyond the mandatory posts, there are approximately 15 posts during the morning tour, 13 posts during the afternoon tour, and 4 posts during the night tour that require staffing. These posts include school liaisons, onsite medical runners, staff for one-to-one assignments, offsite medical escorts, floaters, and meal relief. In total, this amounts to approximately 50 YDS for the morning tour, 48 YDS for the afternoon tour, and 37 YDS for the evening tour.

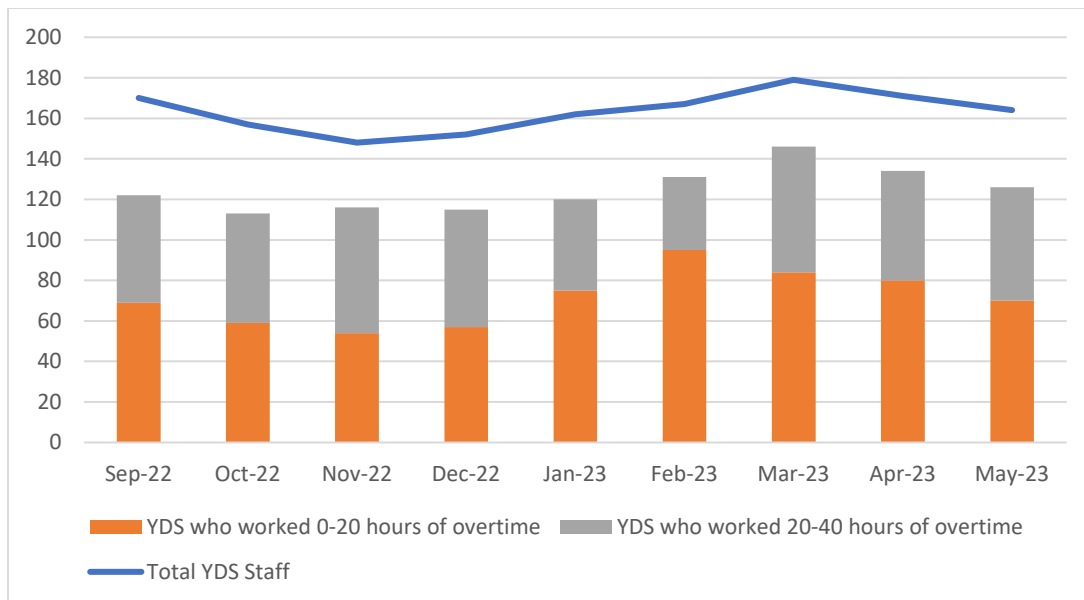
Between September 2022¹³⁸ and May 2023, an average of approximately 32.7% of YDS on the facility roster worked at least one 60 to 80-hour work week, that is 20 to 40 hours of overtime in a week. During this same time period, an average of

¹³⁷ See note 132 *supra*.

¹³⁸ See note 135, *supra*.

approximately 43.7% of YDS on the facility roster worked at least one 40 to 60-hour work week, that is 0 to 20 hours of overtime in a week. In practice, this means that these YDS might have worked an additional 4 to 12 hours during each tour, resulting in five consecutive 12-hour or 20-hour tours in one week.

**Chart 15: YDS Weekly Staff Overtime – Crossroads
Monthly, September 2022 to May 2023**



While this data represents a weekly snapshot, based on DOI’s extensive investigations, knowledge of these facilities, and feedback received by staff, DOI believes these weekly snapshots to be representative of the overtime consistently worked at Crossroads.

B. Workers’ Compensation

Staffing challenges are due in part to the relatively high number of YDS who are unable to work as a result of an injury sustained on the job, resulting in a WC claim.¹³⁹ On average, between September 2022 and May 2023, 34% of Horizon YDS staff and 23% of Crossroads YDS staff were out on WC each month.¹⁴⁰ Of these WC

¹³⁹ There are different types of Workers’ Compensation injuries: Assaults and Accidents. An Assault Grant leave is a paid leave of absence not to exceed 18 months for employees who are physically disabled due to an assault that occurred in the performance of their job. An Accident Grant is a paid leave of absence that extends pay up to approximately 3 months. Employees may only receive the Accident Grant after exhausting their leave balances.

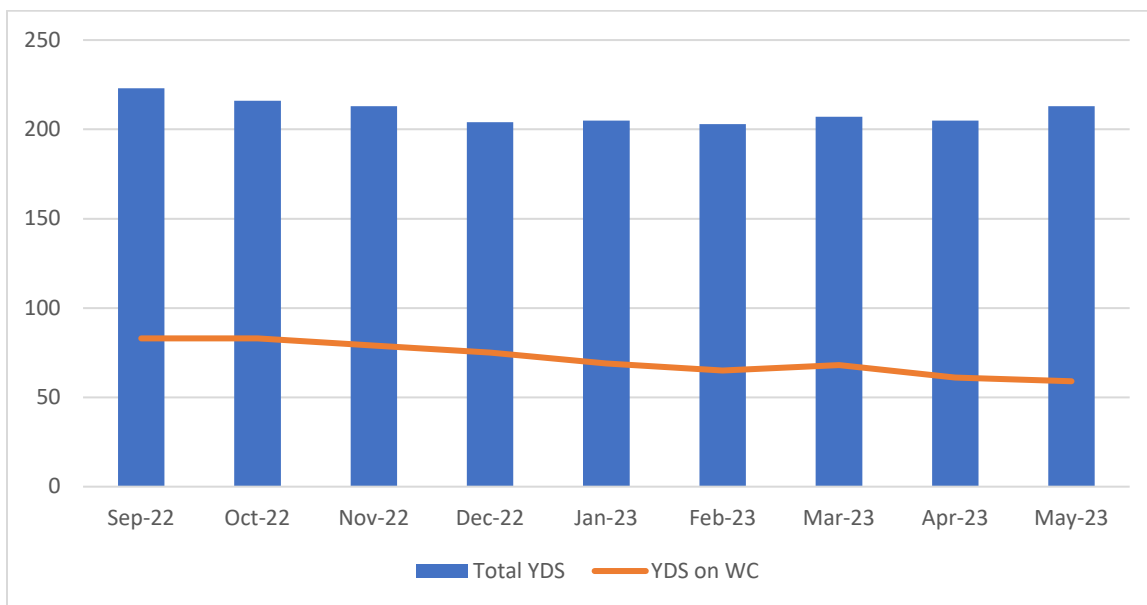
¹⁴⁰ To determine these percentages, DOI reviewed ACS Human Resources and Workers’ Compensation (“WC”) records. DOI does not have detailed data concerning the rate of WC prior to RTA for comparison purposes.

claims, between 28% and 29% were for injuries from an assault at Horizon and Crossroads, respectively.¹⁴¹ DOI has reviewed a number of WC claims stemming from an accident¹⁴² and has concluded that many of these accidents are alleged to have occurred while YDSs were acting within their duties to respond to a violent incident.¹⁴³

i. Horizon

Between September 2022 and May 2023, there were between approximately 22.1% and 47.3% of YDS out on WC per month. During this same time period, the range of YDS WC assault claims varied, peaking at 44% of the WC claims in December 2022. As noted above, with respect to the remaining accident claims in the above referenced time period, DOI’s investigations have revealed that at least some of these accidents are alleged to have resulted from YDSs acting within their duties to respond to a violent incident.¹⁴⁴ This data indicates that violence against staff occurs regularly at Horizon, but it omits violent incidents that do not result in any injuries.

**Chart 16: Total YDS v. YDS on WC – Horizon
Monthly, September 2022 to May 2023**



¹⁴¹ For purposes of WC, an assault occurs when a resident intentionally causes the physical injury of an ACS employee. An assault injury is an injury where an employee has been physically disabled because of an assault arising out of and in the course of employment.

¹⁴² For purposes of WC, an accident is an unfortunate incident resulting in an injury that happened unexpectedly and unintentionally, at no fault of the ACS employee.

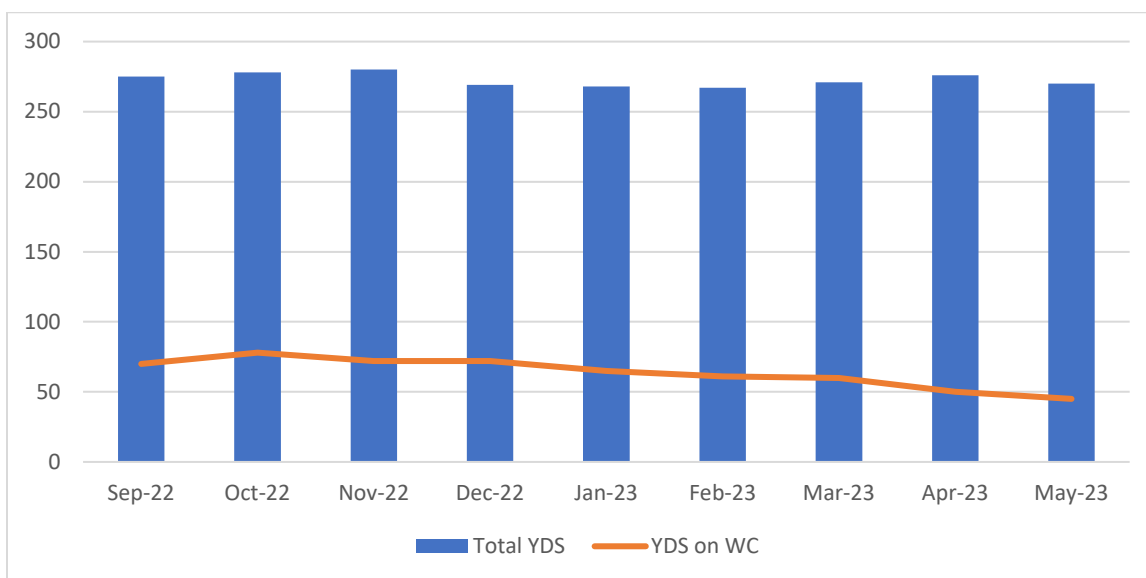
¹⁴³ DOI did not obtain the specific details for all WC claims.

¹⁴⁴ See footnote 143, *supra*.

ii. Crossroads

Between September 2022 and May 2023, each month there were between approximately 16.7% and 28.1% of YDS staff out on WC. During this same time period, the range of YDS WC assault claims varied, peaking in November 2022, when 67% of the WC claims were assault claims. With respect to the remaining accident claims, DOI’s investigations have concluded that some of the accidents occurred when YDSs were acting within their duties to respond to a violent incident.¹⁴⁵ As noted above, this data indicates that violence is a regular occurrence at Crossroads, but it omits violent incidents that do not result in any injuries.

**Chart 17: Total YDS v. YDS on WC – Crossroads
Monthly, September 2022 to May 2023**



VIII. Feedback from Staff

Over the course of several years, DOI has conducted numerous investigations involving Horizon and Crossroads. DOI investigators have spoken with more than one hundred DYFJ employees (current and former) at all levels and have reviewed thousands of pages of incident reports. DOI has also spoken with SSEU Local 371 Leadership and observed the debriefing of a cohort of 23 YDS following their OJL.¹⁴⁶

¹⁴⁵ See footnote 143, *supra*.

¹⁴⁶ OJL occurs approximately three weeks into the seven-week JSA training. For a two-week period, YDS work at one or both of the juvenile facilities as a preview of what their job entails. YDS are assigned tours and halls and work directly with the residents. During their debriefing, YDS returning from OJL are instructed to discuss their experiences openly and are encouraged to share both positive and negative experiences.

The OJL de-briefing occurred after the cohort spent two weeks working in the facilities.

In the course of DOI's investigations and interactions with DYFJ staff, nearly every staff member with whom we spoke consistently stated, in substance, that ACS was ill-prepared for the new demographics of the RTA population, particularly the residents' age, physical size, and violent criminal history. Staff members have asserted that now, some five years later, ACS remains unable to properly assess and handle the RTA population. Time and time again, staff cited a lack of physical safety for staff and residents, facilities controlled by residents rather than by staff, a lack of consequences for violent behavior and a lack of support from facility and DYFJ management. Notably, the below-described cohort of staff observed by DOI described these same issues after only two weeks in the facilities.

DOI has not independently corroborated all incidents described or claims made by staff. However, based on DOI's extensive investigations in, and knowledge of these facilities, DOI credits the general, consistent concerning themes reflected in the staff members' statements and believes it is important to keep these sentiments in mind as ACS further refines STRIVE.

A. Lack of Physical Safety for Staff

DOI has observed that ACS staff members fear for their physical safety on a daily basis within the Horizon and Crossroads facilities. Staff report routinely wearing "4 shirts to avoid being slashed," and "wear stab [resistant] vests"¹⁴⁷ that they have purchased themselves. Other staff members report wearing multiple layers of clothing to reduce physical injuries from slashings by residents. It has also been reported to DOI that staff do not feel equipped to handle incidents involving residents in possession of weapons or who engage in group assaults on staff. Every individual with whom we spoke said that while they receive a considerable amount of training from ACS, the training is inadequate for the realities of their job because it does not address or adequately prepare staff for the level of violence in the facilities, and therefore does not equip staff with the resources and tools needed to respond to that level of violence. Union leadership has echoed their members' concerns, noting that staff have insufficient training and safety equipment, such as radios and stab resistant vests.

According to DYFJ leadership, in 2021, ACS began to provide stab resistant vests to YDS. Since then, when new YDS are hired, they are fitted for the vests, which are delivered as they become available, contingent on supply chain issues and material availability. According to DYFJ, it takes approximately two months for YDS

¹⁴⁷ Stab vests are protective vests that are stab and knife resistant.

to receive vests after getting fitted. When asked if all YDS have at least been fitted for the vests, ACS responded by saying they “are continuously working on getting all staff, including YDS cohorts and those returning from leave, fitted for vests.” To date, ACS has not provided information regarding the number of YDS who have not yet been fitted for vests or who have been fitting for vests and have not yet received them.

Staff have complained to DOI that SCM is ineffective to manage resident behavior due to the maturity and physical size of the current resident population. When applied to a post-RTA population inclusive of 18, 19 and 20-year olds, SCM techniques, even when used properly, are ineffective. As such, both staff members and union leadership reported that SCM needs to be modified, replaced, or adapted to reflect today’s post-RTA existing population, which is older and more challenging. Union leadership further supported this sentiment, reporting that SCM is not the “proper tool for this [older and more violent] population.” Union leadership also stated that even if SCM were the proper tool, they do not believe staff are being trained sufficiently or re-trained as appropriate to apply that tool to the current resident population. The Horizon Monitor report also noted that there were incidents in which staff’s use of physical restraints were inadequate to control youth, particularly during larger group incidents.¹⁴⁸

Staff have also stated that the residents feel it is “ok to put hands on staff.” During the OJL debriefing, two YDS reported being assaulted by residents during their two weeks at the facility. One stated that he was surrounded by residents who cut and ripped his jacket. The incident was reported to facility administration but the employee was never given an incident report to complete, from which DOI infers that there were no consequences for the residents involved. The other YDS, who has since resigned from ACS, described being “beaten” by residents. This employee reported that he was not asked if he wanted to report this assault to the appropriate authorities or press charges against the residents, although he believed that the residents were disciplined by being put on restorative status.

Further, staff and union leadership have reported that contraband is brought into the facility by all staff at all levels. YDS consistently reported that they were approached by residents and asked to bring in contraband and that they witnessed staff and residents discussing contraband. One YDS reported that while on OJL, they were approached by a resident and told they could make between \$5,000 and \$6,000 per week bringing in contraband. Staff reported that they are threatened with physical violence by residents when they refuse to bring in contraband or when they confiscate it. Fear of violent retaliation reportedly has significantly limited staff’s willingness to fulfill their duties and responsibilities. Specifically, numerous staff

¹⁴⁸ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 26, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

reported to DOI that staff do not want to “be responsible for recovering contraband,” due to fear or violent retaliation from juveniles who possess that contraband. Therefore, there is reportedly a culture of either not conducting searches at all, or conducting them ineffectively, allowing contraband to flow freely throughout the facilities.¹⁴⁹

Staff noted they are not informed of the charges for which residents have been remanded, information that staff believes is necessary so that they can take appropriate steps to prepare themselves for their day-to-day interactions with residents. They are not told which residents are co-defendants, information that also could be relevant to their responsibilities. Many staff have reported to DOI that they do not receive sufficient information about the residents to prepare for what they may face on the job. One female staff member, who worked as a medical runner¹⁵⁰ during the night tour, was required to bring a male resident to and from the medical unit every night, alone. She later learned that this resident was awaiting trial on a sexual misconduct charge. At no time had she been made aware of this risk so that she could take appropriate steps to protect and prepare herself, or so she could have asked to be accompanied another staff member during these medical runs.

DYFJ leadership informed DOI that when a resident enters the facility, the intake process includes a review of several relevant issues including their charges, any co-defendants, their neighborhood of origin, and any gang/set affiliation. DYFJ has represented that YDS staff are provided the information that leadership believes is necessary to safely house the resident and that leadership decides on a case-by-case basis what information should be shared. Nonetheless, staff report feeling ill-equipped for their day-to-day interactions with residents.

¹⁴⁹ Each resident bedroom shall be subject to a housing unit searches (a search of the youth living unit, with or without youth present) during both the AM and PM tours and staff assigned to the housing unit are responsible for conducting a housing unit search at the beginning of each tour. Additionally, bathrooms, closets, patios, all dayroom furniture, and fixtures on each housing unit are to be thoroughly searched on all three tours. With respect to residents, pat frisk searches (a search of a youth’s person and his/her clothing while the youth is clothed) may occur when entering or leaving a housing unit, when leaving the dining area, when entering or leaving the school floor, when leaving a program area, when leaving medical, mental health or case management services within the facility, or when there is reasonable suspicion that a youth possesses contraband. *See* City of New York Administration for Children’s Services, Disposition of Contraband in Secure and Specialized Secure Detention, Policy 2019/33 (2019) (on file with author).

¹⁵⁰ A medical runner is responsible for bringing residents to and from the facility’s medical unit, when necessary.

Finally, staff reported that they are not given specific information when assigned to supervise certain types of high-risk residents.¹⁵¹ DYFJ informed DOI that the assigned staff are told the underlying reason for the assignment.¹⁵²

While DOI understands the need to evaluate the disclosure of charge, co-defendants, and gang/set information on a case-by-case basis, it is concerning that staff report feeling unprepared with relevant information to adequately supervise residents. In light of the increase in facility violence, contraband, and safety concerns described in this report, and the fact that most residents are remanded for significantly violent charges, this staff complaint is reasonable. In light of our investigation and interviews, DOI concludes that increased transparency with staff about the residents with whom they interact is critical for the safety of all parties involved.

B. Lack of Control Over Resident Behavior

The vast majority of staff and union leadership with whom DOI spoke conveyed that the “residents run the facility,” rather than ACS staff. DOI credits this specific concern, as it is consistent with DOI’s investigative findings over the course of numerous individual investigations since the implementation of RTA. Staff observations include:

- While on OJL, YDS reported that other YDS and supervisors told them that marijuana “keeps [the residents] calm, so just let them have it.”
- While on OJL, YDS reported being told that staff should “keep [residents] high so [staff] don’t have to deal.”
- While on OJL, YDS reported being told by staff to give “residents what they want if you don’t want issues.”
- After an incident where a resident slashed an employee, staff reported hearing the resident say, “cutting season on staff has just begun, and we are 17 so nothing will happen.”
- A resident was upset for not receiving STRIVE points and punched a staff member in the face, chest, and abdomen causing them to go out on WC.

¹⁵¹ For example, YDS can be assigned to supervise a specific resident on special assignment due to a heightened security risk, suicide-watch, mental health disturbance such as an “EDP” or “emotionally disturbed person” designation, or due to a known pattern of violence towards staff.

¹⁵² ACS’ Supervision of Youth in Secure and Specialized Detention, dated 5/13/19 requires that assigned staff are provided written guidance that include the reason for additional supervision, the number of staff required, the duration of the additional supervision, the particulars of the additional supervision to be provided, and the name and title of the individual ordering the additional supervision.

- While on OJL, a YDS saw that STRIVE sheets were being thrown in the garbage. Even though the residents were not going to school and were smoking on the hall, they all remained on Independent Status.
- Staff reported that they were assaulted by residents because they did not “want to compromise their integrity” by facilitating the flow of contraband or otherwise acquiescing to the residents’ demands. Staff further explained that residents have told them that they need “to pay to have a good day.”

Staff have reported that the facilities regularly smell of marijuana, an observation that DOI investigators and the Horizon Monitor have made as well.¹⁵³ Further, staff have reported to DOI that facility staff, including facility management, fail to intervene when they see residents smoking. Staff have also reported that weapons can be seen by other staff in plain view, but staff fail to confiscate the weapons.

During the course of numerous investigations, as well as policy-oriented discussions with staff and union leadership, there has been a consistent and negative response to STRIVE. Staff have described STRIVE as “not effective,” “a joke,” and something that “residents do not care about.”¹⁵⁴ Further, union leadership describe STRIVE as a program designed for “15-year-olds and is not relevant to the 18-year-old to 21-year-old population.” It has also been reported that residents have access to their STRIVE documents and often complete their own point assessments and forge staff names and/or signatures.¹⁵⁵ This is corroborated through staff and resident interviews with the Horizon Monitor; staff and residents both admitted residents have at times completed their own STRIVE point cards when they are left unsecured.¹⁵⁶ In response to these issues, ACS is developing an app that “will automate many of the tasks commonly completed manually by staff.”¹⁵⁷

Lastly, staff have reported that even when residents are re-arrested, they still only get “a slap on the wrist” due to RTA. Depending on the top charge of the re-arrest and the age of resident at the time of re-arrest, the case typically ends up being

¹⁵³ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 20, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

¹⁵⁴ This feedback is supported by the aforementioned Tier 3A data and the sample incidents listed below.

¹⁵⁵ Forgery or attempted forgery, including on any facility forms is considered a Tier 2 Infraction within the STRIVE framework.

¹⁵⁶ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 45, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

¹⁵⁷ *Id.* at page 43.

handled by Family Court and the resident returns back to the facility back at the facility to be “glorified by their peers.”

C. Lack of Support from DYFJ Management

Staff of all levels within DYFJ, both present and former, have reported to DOI that they do not feel supported by facility management or the DYFJ administration. Specifically, they claim that the culture in the facility is “a revolving door” of “every man for themselves.” For example, during the past two years, there have been four different Associate Commissioners leading Crossroads and two Associate Commissioners leading Horizon.¹⁵⁸ In response to concerns of corruption among supervisory facility staff and in an effort to open the lines of communication, DYFJ leadership have informed facility staff to report concerns directly to the head of the facility or DYFJ leadership. In the first half of 2023, ACS created an internal hotline for staff to make anonymous reports of misconduct.¹⁵⁹ As of June 2024, ACS discontinued the use of this hotline, as no reports were made since its creation.

While the YDS position was created in response to RTA, YDS in particular do not feel adequately trained or supported to handle the resulting resident population, nor do they feel that they have the disciplinary tools necessary to do so effectively. The Horizon Monitor also reported that this concern, noting that YDS “are surprised by the youth’s level of aggression and reportedly feel ill-equipped to manage the interpersonal dynamics at play.”¹⁶⁰ YDS staff also have repeatedly reported to DOI that the YDS job posting and training do not accurately describe what the job actually involves. YDS indicate that the job posting describes the position as one of a “mentor or “advocate,” when in reality YDSs serve as correction officers. Staff have also reported that many new hires quickly resign from employment, citing the striking difference between the job description and training compared to the reality of work at the facilities. For example, out of the cohort of 23 YDS referred to in this report, 9 YDS, or 39.1% of the cohort, resigned within the seven-month period after their JSA graduation. Of this group, only 5 YDS or 21.7%, remained actively employed one year after they completed JSA.

As discussed further below, staff consistently reported to DOI that they are “overworked” and “burnt out,” because they regularly work several doubles a week (that is, two consecutive shifts of eight hours each) and do not get their mandated

¹⁵⁸ In 2022, ACS upgraded the head of each facility to an Associate Commissioner (“AC”) title. The current AC of Crossroads was appointed in 2023 and the current AC of Horizon was appointed in January 2024.

¹⁵⁹ Monitor’s Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, at 20, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

¹⁶⁰ *Id.* at 11.

breaks.¹⁶¹ Further, while on OJL, two new staff members reported that during one tour, they were the only staff assigned to a hall, with no support from more experienced staff. Regardless of staffing challenges, DYFJ leaves its residents and staff open to safety and integrity failures when halls are staffed solely by employees who have not yet completed their required training or have only recently started their employment.

Further, approximately five YDS reported that supervisory staff undermine the authority of YDS on the residence halls by coming to the halls only to “rile up” the residents or by sharing the identities of staff members who have confiscated contraband or identified them in incident reports. The perception that supervisory staff don’t support the YDS staff further dissuades them from confiscating contraband and documenting contraband discoveries accurately, for fear of retaliation by both residents and staff. For example, staff have reported that they were assigned to residence halls known for violence after bringing issues or complaints to supervisors’ attention.

DYFJ leadership and on-the-ground facility leadership appear to have conflicting views about the appropriate and effective response to residents who commit criminal acts. DOI has spoken to current and former facility leadership, who have reported that restorative status (that is, the response available within the STRIVE framework to address behavioral issues) is insufficient to address assaults on staff. They have stated that re-arrests could have a valuable deterrent impact and improve staff morale. However, facility and DYFJ leadership have reported being hesitant to re-arrest residents, as they will likely just return to the facility as a result of RTA legislative challenges to prosecuting juveniles.

IX. Sample of Concerning Incidents in Detention Facilities

Since the implementation of RTA and bail reform, a number of incidents have occurred within Horizon and Crossroads that highlight the safety issues facing DYFJ residents and staff in these facilities. These incidents include situations where residents effectively took control of the facility, and staff were unable to regain control until the NYPD responded to assist, SCM proved inadequate to control incidents or prevent them from escalating, the recovery of contraband, including cell phones and dangerous weapons, security breaches, youth-on-youth assaults, and youth-on-staff assaults. Facility staff used the STRIVE system to address these incidents, resulting in a wide range of consequences, from no discipline to measures including restorative status and re-arrests. The incidents described below are only a representative sample

¹⁶¹ This feedback is supported by the aforementioned overtime data. See Section VII: Staffing Challenges.

of documented and reported incidents¹⁶² that have occurred within the facilities in a 3-year period.¹⁶³ These representative incidents established that the current disciplinary measures in place are ineffective to prevent or deter such behavior and that staff are not properly equipped to respond to such incidents.

Incident A: Crossroads Riot

On April 12, 2020, E-Hall residents at Crossroads tampered with the fire sprinklers, causing them to emit water and oil, and refused to secure themselves in their rooms for the night. As a result, the eight residents on the hall were removed and brought into the multi-purpose room¹⁶⁴ by a single employee. While in the multi-purpose room, the E-Hall residents saw D-Hall residents in the corridor,¹⁶⁵ which led the E-Hall residents to rush the door, in an effort to exit the multi-purpose room and to engage with the D-Hall residents.¹⁶⁶ E-Hall residents pushed and pulled the ACS employee supervising them in the multi-purpose room, took possession of the staff member's radio, and threw it against the wall, causing it to shatter.

During this incident, ACS staff called a code yellow¹⁶⁷ but only two or three staff responded. This small group of ACS staff sought unsuccessfully to gain control of the residents for approximately three hours through counseling and de-escalation. Throughout this time, staff involved in the incident described residents as “going bonkers;” running around the multi-purpose room, banging on the walls, and pushing, kicking, and pulling staff. After staff were unable to gain control of the residents, staff directed the control room¹⁶⁸ to call the NYPD.¹⁶⁹ When the NYPD entered the facility, the residents immediately followed instructions, were restrained,

¹⁶² In DOI's experience, many incidents are not reported to DOI or are not thoroughly, accurately, and consistently documented.

¹⁶³ Additional examples of representative incidents can be found on page 17 and 18 of The Horizon Monitor's Fifth Report. See Monitor's Fifth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, ECF No. 587, <https://tillidgroup.com/wp-content/uploads/2023/10/HOJC-Fifth-Report-Final.pdf>

¹⁶⁴ The multi-purpose room is located on the second floor of the facility, between E-Hall and D-Hall and is used for activities.

¹⁶⁵ Corridors are the hallways that connect the different areas of the facility (e.g.: Residence Halls, cafeteria, Medical Unit, etc.).

¹⁶⁶ For a variety of reasons, including safety, residents are generally prohibited from interacting with residents on other halls.

¹⁶⁷ A code yellow is a safety and security emergency involving one or more youth that creates an immediate, significant threat of injury to youth or staff, or a significant threat to the security of the facility. When a code yellow is called, ACS policy directs all available staff to respond and assist.

¹⁶⁸ The control room is responsible for the movement around the facility, for the live review of surveillance footage, and for the issuing, logging, and collection of facility keys and radios.

¹⁶⁹ Parker Quinlan, *Riot at NY Juvenile Facility Stemmed from Coronavirus-related Move*, JUVENILE JUSTICE INFORMATION EXCHANGE (Apr. 15, 2020), <https://jjiie.org/2020/04/15/riot-at-ny-juvenile-facility-stemmed-from-coronavirus-related-move-sources-say/>

and were secured back on E-Hall.¹⁷⁰ As a result of this incident, six residents were assessed by the Crossroads medical staff for minor injuries. Additionally, four staff members suffered bruising and one was transported from the facility by the New York City Fire Department's Emergency Medical Services for medical attention.

The residents involved in this incident were assessed via BMS,¹⁷¹ and five residents were placed on Room Confinement for approximately nine hours for assaulting staff, participating in a melee, and creating a security breach. Additionally, 11 residents were put on Room Confinement for approximately six hours for participating in a melee.

Staff involved in this incident stated that the facility was short-staffed on this date. Further, only one employee was in the multi-purpose room with the E-Hall residents, in violation of the mandated New York State ratio of staff to residents of 1:6, because no other staff were available.

Notably, ACS rarely seeks NYPD assistance at the facilities. Staff involved in this incident indicated that they felt compelled to call the NYPD due to their heightened concern for the safety of residents and staff and their inability to control the situation without assistance. Several facility employees have informed DOI that calling the NYPD is seen as a last resort for ACS.

As of the date of this report, there is no established policy addressing when it is appropriate for facility staff to contact the NYPD to assist staff in maintaining control of the facility. Currently, the acting Assistant Commissioner of the facility is required to obtain permission from DYFJ's Deputy Commissioner to contact the NYPD.

Incident B: Crossroads Youth-on-Youth Assault and Weapons Recovery

On July 4, 2021, six J-Hall residents attacked two other J-Hall residents. As a result of this altercation, a code yellow was called and six staff responded to the hall. Residents either returned to their rooms voluntarily or were physically escorted to their rooms by staff using an ESPI. As a result of this incident, two of the residents were brought to the emergency room for injuries sustained during the attack, one of which required four stitches.

¹⁷⁰ Based on the numerous investigations DOI has conducted regarding the facilities, the efficiency and quickness with which the NYPD was able to control the situation and secure the residents back on their halls is noteworthy.

¹⁷¹ See footnote 78, *supra*. STRIVE was not created until 2021.

In response to this incident, staff conducted a search of J-Hall and recovered the following contraband items: five e-cigarettes, a glass bottle of air freshener, a lighter, a broken piece of sharp plastic, and a makeshift weapon -- a sock containing a broken piece of metal tied with a piece of wire. The responding staff believed that the sharp plastic and/or makeshift weapon were used in the assault.

As a result of this incident, six residents were re-arrested and charged with gang assault and conspiracy to commit gang assault causing injury. Additionally, these six residents received Tier 3A infractions and were put on restorative status. All residents returned to the facility upon re-arrest.¹⁷² In the days following this incident, one resident was transferred to Horizon and several residents were transferred to Crossroads' F-Hall.

Incident C: Horizon Riot

On January 24, 2022, G-Hall residents became upset after learning that they would not be permitted to leave the hall. All eight G-Hall residents participated in threatening staff, blocking access to the hall, and in damaging property. One resident threw the lid of a hard-plastic water cooler at the hall door causing the glass on the door to shatter; other G-Hall residents threw the lid against the door, began banging on the door, and began kicking the area of the door which had already shattered. One resident smeared lotion on four of the hall cameras in order to disable recording of the incident. One resident threw an unidentified liquid and the water cooler at three staff on the hall, and one resident spat in the faces of two staff members. That same resident then furnished a sharp object from his waist, which he moved in front of the two staff in a threatening manner. Facility staff attempted to secure the residents in their rooms, but the residents did not comply and threatened the staff with bodily harm.

In total, approximately 16 staff responded to this incident, including supervisory staff and facility administrative staff. In accordance with SCM, staff attempted to verbally counsel residents and secure them in their rooms.

Approximately four hours after the onset of this incident, staff called the NYPD, which responded to the facility and arrested the eight G-Hall residents.¹⁷³

¹⁷² When a resident is arrested, charged, and returned to the facility with no other immediate consequence, the arrest lacks deterrent value. In fact, the residents come to understand that violent and even criminal behavior can occur in the facility without repercussions. While RTA legislation, not ACS policy, causes residents to be returned to the facility in many cases, this practice creates further challenges to deterring improper behavior in Horizon and Crossroads.

¹⁷³ Noah Goldberg, *Teens in Bronx Juvenile Holding Facility Take Three Staffers Hostage*, NY DAILY NEWS (Jan. 26, 2022), <https://www.nydailynews.com/new-york/nyc-crime/nv-teens-melee-bronx-juvenile-center-nypd-20220126-v2ge6rsqzbfetbioi4xpvv5cqe-story.html>.

The residents involved in this incident were charged with attempted assault, attempted promotion of contraband, promoting contraband, menacing, criminal possession of a weapon, criminal possession of stolen property, grand larceny, petit larceny, criminal mischief, and riot. The residents received Tier 3 infractions¹⁷⁴ and were placed on restorative status.

Incident D: Horizon Security Breach and Escape

On June 4, 2022, G-Hall residents were moved to the facility's gymnasium after a resident pulled a fire alarm, causing sprinklers to go off. While in the gymnasium, residents threw basketballs at the gymnasium window above the exit doors, causing a window to break. The two staff in the gymnasium with the residents were unable to control the residents. Four residents attempted to climb out of the broken window. One of them successfully escaped into the main yard and scaled the razor ribbon fencing to reach the facility's sally port.¹⁷⁵ Approximately eight ACS staff entered the yard to search for the resident. The resident was found in the sally port, in the men's staff locker room trailers. When found, the resident was wearing non-agency issued sneakers he had taken from the staff locker room.

At some point while in the gymnasium, the YDS in possession of the radio assigned to hall returned to the hall, leaving the remaining YDS in the gymnasium with the residents without a radio. As such, the YDS in the gymnasium was unable to radio for assistance. Further, the corridor post¹⁷⁶ outside of the gymnasium, a mandatory post, was not staffed, which caused a delay in response to the incident.

As a result of this incident, the resident who attempted to escape received a Tier 3 infraction, was placed on restorative status for the security breach, and was moved to another hall. Two of the other involved residents were also put on restorative status.

Horizon's administrative staff requested that the resident who attempted to escape the facility be re-arrested, but DYFJ leadership declined the request explaining that the resident likely would have been charged with a misdemeanor and

¹⁷⁴ It is not clear why the residents received Tier 3 and not Tier 3A infractions.

¹⁷⁵ The sally port is a secure and controlled enclosure or protected point of entry situated in the perimeter of the facility.

¹⁷⁶ Corridor Posts are responsible for a Security Zone and staff stationed at corridor posts control youth and staff movement within that zone. Corridor Posts are designed and staffed in order to reduce unauthorized youth movement in the facility. Staff assigned to Corridor Posts should be outfitted with a working radio and set of keys specific to their assigned post. See City of New York Administration for Children's Services, Operational Procedure for Corridor Post Operations in Secure and Specialized Secure Detention, Operations Order 2021/02 (2021) (on file with author).

returned to the facility.¹⁷⁷ ACS executive staff also denied the request that the resident be transferred to Crossroads. The following day, the resident was involved in another incident and was subsequently transferred to Crossroads.

Incident E: Crossroads Weapons Recovery

On June 24, 2022, DOI investigators and DOI's K-9 Unit conducted a random K-9 search of E-Hall. Upon entry into the hall, there was a strong smell of marijuana.¹⁷⁸ The DOI K-9 alerted to a resident's room and the following contraband was recovered in the same room: multiple CDs, a rock, a broken computer hand rest with a metal bar, and two makeshift clubs. In other residents' rooms, the following contraband was recovered: metal screws, a metal outlet cover, rolling papers, a sock that contained a makeshift shank, a lighter, a container that exhibited a strong odor of marijuana when opened, and a ziploc bag that contained a brown and green leafy substance presumed to be marijuana.

Prior to being moved out of the hall for the search, residents were observed passing items to each other and adjusting what appeared to be contraband in their pants. A resident was also observed entering the hall's janitor closet, which is off limits to residents and should have been locked, and then adjusting his pants upon exiting. Another resident was observed in possession of a staff radio, which is prohibited.

Before returning to E-Hall after the conclusion of DOI's K-9 search, the ten assigned residents were strip searched¹⁷⁹ by ACS staff. While the strip searches were being conducted in a private area, the residents were held in the corridor by the facility's admissions unit. While in the corridor, DOI observed the following prohibited behavior in plain view and pointed it out to facility leadership, who otherwise appeared unaware at the time: residents removing articles of clothing concealing presumable contraband from their persons, placing the clothing on a bench before their search, and then returning to the bench to collect the clothing after they were searched (so that the clothing would not be searched); staff allowing residents to congregate together and observe each other getting searched; and staff allowing residents to pass contraband to each other without confiscating said contraband. In these ways, residents undermined and evaded proper searches for contraband and staff did not stop or appear to observe these behaviors.

¹⁷⁷ N.Y. Crim. Proc. § 150.10(1); N.Y. Crim. Proc. § 530.40(1).

¹⁷⁸ While marijuana has been legalized for public use, it is still impermissible contraband within the Horizon and Crossroads facilities.

¹⁷⁹ N.Y. Comp. Codes R. & Regs. Tit. 9, § 180-3.18(a)(6) defines a strip search as a visual inspection of the youth's clothing and unclothed body.

As a result of these observations made by DOI, DOI suggested multiple times that the residents be strip searched again. Facility leadership agreed and notified staff. The second strip search resulted in the recovery of a makeshift sword made out of metal with the words “EVERY OPP¹⁸⁰ DEAD! FREE ME!” written on it and a makeshift weapon that resembled a handheld saw with the words “O-DOTTY” written on it.

The weapons recovered could easily cause serious physical injury or death to another resident or staff member if used in an assault. The residents who were found with the above-described contraband on their persons or in their rooms were not issued any infractions or otherwise disciplined.



Photo of recovered weapons, taken on June 24, 2022

Incident F: Crossroads Security Breach and Youth-on-Staff Assault

On September 8, 2022, F-Hall residents were able to get facility keys¹⁸¹ from one of the three YDS assigned to the hall by surrounding the YDS and pulling on his jacket pocket. Using the YDS’ keys, all eight residents on the hall were able to gain access to the facility’s multi-purpose room, and a code yellow was called. Approximately 13 staff responded to the code yellow, where the staff were assaulted by the residents. Ultimately, the staff were able to subdue and control the residents.

As a result of this incident, six employees were injured, four of whom were escorted to the hospital. The staff escorted to the hospital had been punched, tackled, choked, knocked to the floor, and had various bodily injuries. The two other injured employees sustained injuries to their wrist, arm, and shoulder and head, face, and

¹⁸⁰ Based on DOI’s investigative experience with street language used in detention facility settings, an “Opp” is anyone perceived as an enemy. Urban Dictionary defines “Opp” as “anyone in competition or against you.” <https://www.urbandictionary.com/define.php?term=opp>

¹⁸¹ Detention centers are locked facilities and require keys to enter or exit all areas of the facility. At no time should residents be in possession of facility keys.

leg, respectively. Additionally, a resident was able to gain possession of a staff radio and throw it at the hall's door, causing it to shatter.

Prior to this incident, a resident had warned a specific DYFJ employee not to come to F-Hall because other residents were angry with the staff member for being “responsible” for the confiscation of the residents’ contraband cell phones¹⁸² and claimed that he would harm the employee. When that employee appeared on the hall, a resident ran towards them. Another employee tried to intercede and was punched in the head and face.

As a result of this incident, two F-Hall residents were re-arrested and charged with assault. STRIVE point sheets were not completed for the date of this incident, so it is unclear if the residents were in fact assessed via STRIVE.

Incident G: Crossroads Youth-on-Staff Assault

On November 8, 2022, two AYDS were escorting five residents back to H-Hall from the medical unit. While approaching the hall, two residents attempted to walk towards other halls and were blocked by staff. As a result, one resident spat in the face of one of the AYDS. Upon arriving on H-Hall, the residents were instructed to go into their rooms, but the resident who had previously spat at staff refused. When the AYDS attempted to secure that resident in his room, the resident slapped the AYDS in the face. A code yellow was called and the same resident, along with other residents, grabbed the AYDS’ upper body and legs, repeatedly punched him in his head and put their arms around his neck.

Other staff utilized ESPIs to secure or attempt to secure the residents. Eventually, the residents were successfully escorted to their rooms. The injured AYDS was treated for a small cut on the back of his head and was allowed to leave the facility.

All residents refused medical attention and were assessed via STRIVE. Documentation indicates that at the time of this incident, three of the involved residents were already on restorative status, so it is unclear how they were assessed after this incident.

¹⁸² Cell phones are considered dangerous contraband, according to both ACS policy and the New York Penal Code. See *People v. Green*, 119 A.D.3d 23; N.Y. Penal Law § 205.25. Residents are prohibited from possessing them; nevertheless, both DYFJ facilities regularly seize contraband cell phones.

Incident H: Crossroads Youth-on-Staff Assault

On April 21, 2023, a strip search¹⁸³ of A-Hall residents was authorized by facility administration and 15 staff entered A-Hall to secure the residents to their rooms. The residents became physically aggressive pushing one AYDS. A YDS attempted an ESPI hold, but the resident kicked the YDS, who fell to the floor. A YDS and an AYDS attempted to place a youth in an ESPI hold, but it was unsuccessful due to the resident kicking and pulling away from staff. Eventually, the use of handcuffs and shackles were authorized and placed on the residents.

ACS failed to provide DOI with the STRIVE documentation for the involved residents. As such, DOI believes that the residents were not disciplined for assaulting staff.

Incident I: Horizon Youth-on-Youth and Weapons Recovery

On April 24, 2023, two YDS were escorting three residents to A-Hall from the gymnasium. While waiting for supervision to open the door to the corridor, two of the residents attacked the third resident with a razor blade. The third resident sustained lacerations of seven centimeters each to his right forearm, the right side of his neck, and his lower back, as well as a four to five-centimeter laceration to his scalp. The resident was transported to the hospital where he received staples/sutures. Additionally, a responding YDS was cut in the middle of the left palm and another YDS received an injury to the right hand.

During this incident, a code yellow was called and two staff responded. Eight staff were involved in total. One of the two residents involved in the attack was told to surrender an item in his right hand, which turned out to be a broken razor blade wrapped in clear tape and red paper.

Two of the residents involved in this incident were assessed via STRIVE. One resident was on restorative status at the time of this incident and remained on it. It is unclear how this resident was further assessed. ACS documentation shows that the other resident was either on restorative status or bronze level at the time of the incident. As such, it is unclear if the resident was placed on restorative status as a result of this incident or remained on restorative status a result of this incident. It is also unclear if this resident was further assessed.

X. Conclusions and Recommendations

DOI's investigation found that RTA and bail reform have fundamentally altered the juvenile detention population, rendering the existing disciplinary

¹⁸³ See note 179, *supra*.

measures and institutional responses insufficient to deter misconduct, including acts of violence. Furthermore, ACS staff are not properly trained or prepared to respond to the incidents that regularly occur within the facilities. In light of the above findings, DOI makes the following Policy and Procedure recommendations to ACS:

A. Modifications to STRIVE

1. ACS should convene a group of experts to identify and implement new behavioral management systems or modify the existing behavioral management system for youth held in the City's juvenile detention facilities. This group should include law enforcement personnel like the NYPD, DOI, and state and federal prosecutors familiar with RTA, with an emphasis on successfully disincentivizing misconduct and crime within the juvenile detention facilities, such as possession and distribution of contraband, weapons possession, assault and other behavior that renders those facilities unsafe for staff and residents. This group should tailor modifications to address the post-RTA and bail reform facility population and the resulting changes.

***ACS Response: DECLINED.** ACS' behavioral management system was developed and has been assessed by a group of experts with decades of experience in juvenile justice, correctional facility operations, and adolescent behavior management. These experts collaborated with ACS on the design and implementation of STRIVE. These experts continue to work with and advise ACS on an ongoing basis regarding the effectiveness of STRIVE, its implementation, and potential modifications responsive to the dynamics of the facilities.*

2. With the input of experts (see recommendation 1, above) ACS should modify the existing behavior management program as applied to older individuals, aged 18 to 20, or design a behavioral management system specific to this age group. These modifications should consider the different developmental needs of this older population, with consequences and incentives distinct from those applied to the younger population. These changes should also consider the potential for this population to be charged as adults if they engage in criminal misconduct within the juvenile detention facilities.

***ACS Response: DECLINED IN PART, IN PROGRESS IN PART.** STRIVE has been and continues to be modified as needed based upon the input of experts. ACS declines the recommendation to design an entirely new behavioral management system specific to this age group as such an age-based distinction runs counter to best practices and research regarding adolescent development and correctional management. The existing behavioral management system has been and continues to be modified as needed based upon the input of experts.*

ACS' current practice is to consider the arrest and prosecution of older youth if they engage in misconduct within the juvenile detention facilities, so no change to the behavioral management system is required to accomplish this.

3. In developing the STRIVE-related app, ACS should ensure the integrity of the information within STRIVE by creating safeguards to prevent residents from tampering with entries in the system, intimidating staff making entries, or otherwise gaining access to the app. This may include password protections, permitting access through fingerprints, storing smart devices with the app in locations separate from the residence halls, and training staff only to input entries into the app outside the presence of juveniles.

ACS Response: ACCEPTED. *ACS intends to implement measures to ensure the integrity of information in the STRIVE application under development.*

4. Until the STRIVE-related app is developed and implemented, ACS should ensure that staff can complete the STRIVE documentation without interruption, interference, or intimidation by residents. ACS should consider storing STRIVE documentation away from residence halls or in a locked area only accessible to staff for this purpose.

ACS Response: ACCEPTED. *ACS will continue to develop and implement practices to ensure the accurate completion of STRIVE point cards by staff.*

5. ACS should amend STRIVE to include the possession of dangerous contraband (e.g.: weapons and cell phones) as a Tier 3A infraction and forgery or attempted forgery as a Tier 3 infraction.

ACS Response: ACCEPTED IN PART, DECLINED IN PART. *ACS will amend STRIVE in order to make the possession of dangerous contraband a Tier 3A infraction. ACS declines the recommendation to categorize forgery or attempted forgery as a Tier 3 infraction. ACS believes that the other mechanisms being implemented to improve the integrity of the point cards and their contents, in conjunction with points assessments already issued, are appropriate to address the behavior of youth who alter or attempt to alter point cards.*

6. ACS should track STRIVE assessments, including the issuance of infractions, by creating a tracking mechanism or amending GOALS to include a STRIVE section for each resident (similar to how GOALS reports currently list “category” and “attribute” next to each incident participant). Tracking this information will assist with overall facility control, allow the facility to better

assess the effectiveness of resident discipline, and will allow for more efficient and effective oversight. To ensure that assessments are completed and tracked:

- A. ACS should require Behavior Improvement Coordinators to provide STRIVE assessments to Movement Control and Communications Unit (“MCCU”) on at least a weekly basis.
- B. MCCU staff should be required to check and document whether each resident was actually assessed via STRIVE, note the action taken (e.g.: restorative status, loss of points, level change, no change) and document which infraction, if any, the resident received.

ACS Response: DECLINED. STRIVE is not designed or utilized as a tracking mechanism, but a behavioral program. Other incident tracking and data analysis systems are in place, which are designed and utilized for this purpose. MCCU is intended to ensure incident reporting and tracking, not support behavior management in the facilities and lacks the capacity to serve that entirely separate function. GOALS will soon be replaced by a new incident reporting system and, as such, is not eligible for further changes.

B. Other Means to Address Misconduct

7. ACS should more frequently file petitions to vacate securing orders for residents over the age of 18 when the resident engages in an ongoing and consistent pattern of Tier 3A infractions, or other disruptive or violent misconduct. This tool should not be used only as a last resort after a resident has engaged in a pattern of serious misconduct over the course of several years.

ACS Response: DECLINED IN PART, IMPLEMENTED IN PART. More frequently filing petitions to vacate securing orders for residents over the age of 18 runs counter to the research and recommendations issued by experts in the field. Nonetheless, the number of petitions rose in the past year, as the new leadership developed a more attuned ability to assess whether best efforts had been made to provide youth with opportunities to succeed and the level of engagement with available services. It is critical for the staff most familiar with the young people and the reasons underlying their behaviors to evaluate all available tools to address behavior.

8. ACS should revise and re-issue the 2008 Arrest Procedures policy so that it includes a presumption of re-arrest when residents assault staff or other residents and serious harm results, subject to extenuating or mitigating circumstances.

ACS Response: DECLINED IN PART, IMPLEMENTED IN PART. It is currently ACS’ practice to consider re-arrest anytime a resident assaults staff

or other residents and causes serious harm. In that analysis, safety of the harmed resident or staff, other residents and staff, and the precipitants that contributed to the incident are all considered. To that end, ACS engages in a nuanced and individualized evaluation of how best to advance the safety of all involved. Moreover, re-arrest for offenses that are not bail eligible or are likely to result in the return to the facility after the arraignment can undermine accountability within the facilities. Whenever arrest is the appropriate or necessary means to advance safety, it is pursued.

9. ACS should confer with state and federal prosecutors to encourage appropriate prosecution when residents are re-arrested within the facilities for offenses including, but not limited to, Tier 3A infractions. Specifically, ACS should pursue and encourage prosecutions of felony and bail-eligible offenses when appropriate for residents aged 18 or older, e.g. assaults and possession of dangerous contraband such as weapons and cell phones.

ACS Response: ALREADY IMPLEMENTED. *It is ACS' current practice to confer with law enforcement and prosecutors to support prosecution when appropriate. Each time a youth is arrested, outreach is made to the appropriate district attorney to discuss the facts of the case and available evidence and witnesses.*

C. Improved Guidance and Training for Staff

10. ACS should amend the YDS job posting to more accurately describe the risks, responsibilities, and hazards of the YDS position.

ACS Response: ACCEPTED. *ACS is in the process of revising the YDS job description.*

11. ACS should train staff in a way that more accurately and transparently reflects the environment and population with whom they are working (e.g. weapons-defense training and self-defense training when dealing with multiple residents at once or residents physically larger than staff). Additionally, SCM trainings should be amended to address the increased age and size of residents and group assaults.

ACS Response: ACCEPTED. *ACS is collaborating with the James Satterwhite Academy ("JSA") to train staff in a way that more accurately and transparently prepares trainees for the environment of the facilities.*

12. ACS should share more charge-related and background information with staff about residents in their assigned halls so staff can appropriately prepare for

interactions with residents, and ACS should train staff on the best ways to incorporate that knowledge and information into their interactions with residents.

ACS Response: DECLINED. ACS shares charge and background information about residents with staff when appropriate and consistent with applicable law and safety considerations, recognizing that certain regulations restrict the sharing of sensitive information about residents and that disclosure of information can jeopardize youth safety. ACS will continue to share this information with staff when relevant, appropriate, and beneficial to do so.

13. ACS should provide more detail and reasoning for special assignments to staff so staff can prepare appropriately for those assignments, and ACS should train staff on the best ways to incorporate that knowledge and information into their interactions with residents (e.g. suicide-watch, mental health status, patterns of violence towards staff).

ACS Response: ALREADY IMPLEMENTED. ACS's current practice to share information with staff about the reasoning for special assignments and the needs of youth being supervised. Training is likewise already delivered and continuously expanded to assist staff in their interactions with residents who may require special supervision.

14. ACS should create policy concerning when facility staff should contact the NYPD to request assistance with respect to facility control. For example, incidents involving group assaults, large scale incidents, or incidents in which there is a risk of loss of facility control. In drafting this policy, ACS should be mindful not to discourage their staff from contacting the NYPD or collaborating with the NYPD.

ACS Response: ACCEPTED IN PART. ACS staff are not discouraged from contacting or collaborating with the NYPD and have close working relationship with the precincts in which the facilities are located. ACS does not currently consider the creation of additional policy in this regard necessary, as ACS Police Special Officers are on site and available to immediately respond to incidents involving group assaults, large incidents, or where facility control may be undermined.

15. ACS should measure all YDS for protective vests prior to their graduation from the YDS academy and should submit these measurements to the contracted vendor within fourteen (14) days of graduation. Upon separation of employment, a YDS' protective vest should be retained and stored by ACS and given to YDS awaiting their protective vests, when appropriate.

***ACS Response: ACCEPTED.** ACS will measure all YDS for protective vests prior to their graduation from the James Satterwhite Academy and submit those measurements promptly upon graduation. ACS is coordinating with its vendor to identify opportunities to reassign vests where applicable, such as if employees separate before receiving their protective vest.*