



## **Testimony for the New York City Council Committee on General Welfare Oversight - The Juvenile Justice System During COVID-19.**

February 19, 2021

Thank you, Chair Levin, and members and staff of the Council Committee on General Welfare for the opportunity to comment on the City's incarceration of youth during the pandemic.

Girls for Gender Equity (GGE) is an intergenerational advocacy and youth development organization that is committed to the physical, psychological, social, and economic development of girls and young women. GGE works to challenge structural forces, including racism, sexism, transphobia, homophobia, and economic inequality, which constrict the freedom, full expression, and rights of girls and gender-expansive youth of color.

### Overview

The pandemic has heightened the existing dangers of incarceration, particularly the risks of restricted freedoms and the inability of jails to provide access to wellness or wellness supports. New York City's youth incarceration system is rife with racial disparities and more so now works to extend the scope of health and healthcare disparities. Youth detention even under pre-pandemic operations all but ensured serious health and safety risks to young people, who experience administrative and physical violence and immediate and long-term health impacts of confinement.

In March of 2020, when pressed on efforts to reduce the population of incarcerated young people, the Mayor remarked, "Obviously, the focus has been on addressing the issues around adults in our jail system, particularly those who are older or had preexisting conditions. That's where our focus has honestly been."<sup>1</sup> This early inattention to incarcerated young people was unacceptable. Attention to the health and safety of young people must include attention to the health and safety of incarcerated young people, and we continue to call for the City to shift away from youth incarceration as a response to social, economic, and educational inequities.

During the May 2020 oversight hearing jointly held by the Committee on Criminal Justice and Committee on Justice System, "Oversight - COVID-19 in City Jails and Juvenile Detention Centers," ACS testified to a collaboration with MOCJ, the Law Department, District Attorneys, and Probation that has led to the release of "over one-third" of youth in detention. At that

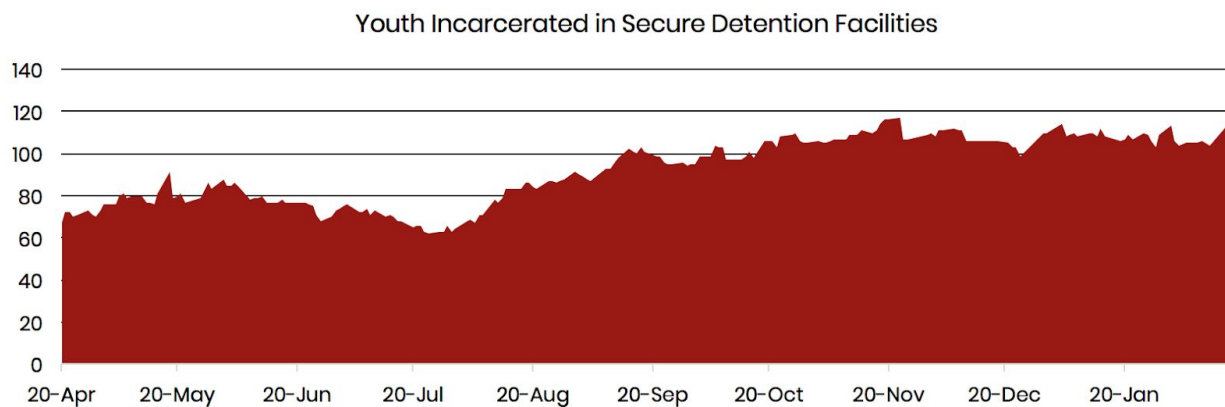
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<sup>1</sup> Transcript: Mayor de Blasio Holds Media Availability on COVID-19, March 26, 2020, Available at <https://www1.nyc.gov/office-of-the-mayor/news/193-20/transcript-mayor-de-blasio-holds-media-availability-covid-19>.

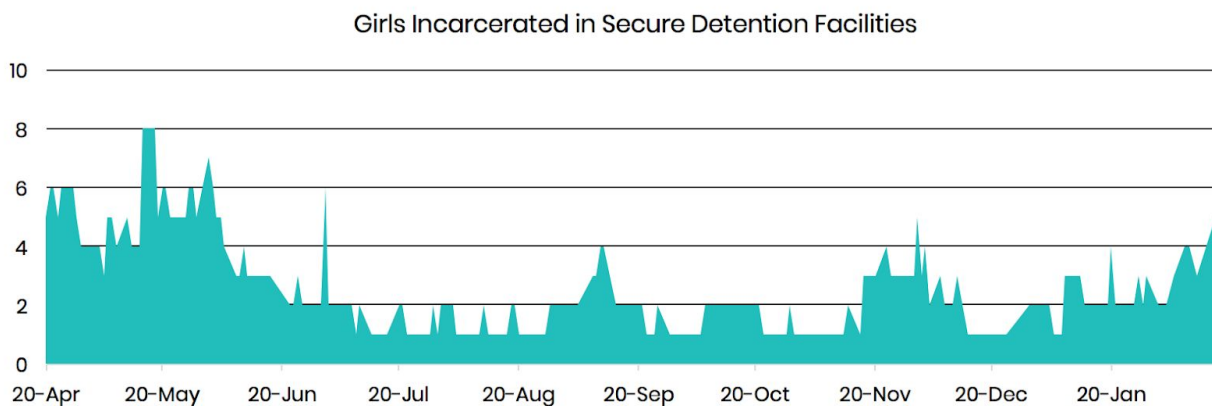
time, our detention population tracking did not reflect a trend where the rate of discharges surpassed the rate of new admissions. **Today, we have established a 70% expansion of youth incarceration in secure detention – reaching a peak of over 110 youth incarcerated. There remains significant work to be done.**

#### Tracking the Incarceration of Girls at Crossroads

The New York State Office of Children and Family Services' (OCFS) Bureau of Detention Services has been posting daily Secure and Specialized Secure Detention bed capacity,<sup>2</sup> and for the past forty-six weeks GGE has been tracking the changing population of youth incarcerated in ACS' Secure Detention Facilities (Crossroads and Horizon), as updated each and every weekday:



With the OCFS postings, we have also been tracking the changing population of girls incarcerated at Crossroads (with the exception of the week of November 23, 2020, where data indicated girls were transferred to Horizon and then back to Crossroads):



<sup>2</sup> Please see <https://ocfs.ny.gov/programs/youth/detention/census.php>.

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Early efforts to concurrently manage a pandemic and detention system led to the creation of medical isolation units at Horizon and the transfer of symptomatic youth from Crossroads. It has been established that spread is possible for people who are asymptomatic or presymptomatic, making this separation potentially more disruptive than it was effective. The May oversight hearing held by Council did not address how it might be determined that young people in custody could safely report symptoms without fear, especially considering reporting leads to an upheaval and placement in medical isolation. **This pandemic has made it much more urgent to invest in and respond to public health crises with public health responses, rather than relying on criminalizing agencies to facilitate best practices.**

Further, the administration's testimony alleging access to "ample hand sanitizer, soap, gloves, PPE" only addressed staff working with symptomatic youth – neglecting to mention young people's access to supplies. Absent a testing or contact tracing strategy, we question the reporting offered by the administration that only a total of seven youth had tested positive at that time, with five having recovered, and two youth recently diagnosed and in isolation at Horizon. Further, **there has been no public reporting of this information prior to Council convening oversight hearings, and we call on the Council to legislate public reporting similar to Introduction 1954-2020 passed in June requiring the department of correction and correctional health services to issue reports during public health emergencies.**

At the time we began tracking the population of girls incarcerated, the Daily News reported 27 people had tested positive for COVID-19 at Crossroads, according to a representative from Local 371.<sup>3</sup> It is not clear how many people enter and exit Crossroads, but given 61 young people incarcerated at Crossroads on April 20th and 246 staff at Crossroads listed in the FY21 Executive Budget Supporting Schedules, 27 of 307 people implies Crossroads was operating at an infection rate of 11% – even without transparency around the availability of youth testing.

We are extremely concerned about conflicting reports of mask distribution, quality of and youth engagement in remote learning – including access to electronic devices and live educators in lieu of packets – access to phones and tablets, and family video conferencing. In light of sustained press attention,<sup>4</sup> and as acknowledged in the Committee Report, ACS responded publicly to the concern that students in detention were unable to be seen or heard by their educators during class, relegated to a "text-messaging feature" during live instruction or phone after school hours, without a specific commitment to a timeline for the implementation of a voice communications system. ACS testified in May that they have not seen kids leaving as quickly during the pandemic as is typical, leading to a slowly increasing

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<sup>3</sup> Gartland, Michael. (2020, April 19). Worker and kids in Brooklyn juvenile detention center test positive for coronavirus at alarming rate. Retrieved from <https://www.nydailynews.com/coronavirus/ny-coronavirus-ac-s-outbreak-test-positive-20200419-a4ow2weqhbplawqzynpd57w2y-story.html>.

<sup>4</sup> See Grench, E. (2020, December 11). NYC moves to take students off mute in juvenile lockups, but due date elusive. THE CITY. Retrieved from <https://ny.chalkbeat.org/2020/12/11/22169561/nyc-juvenile-detention-remote-learning-coronavirus>.

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population. The Mayor's Preliminary Budget Management Report, released January 2021, now indicates that there was a 65% increase in length of stay from 23 to 38 days during the first four months of Fiscal Year 2021.<sup>5</sup> **Again, according to our tracking, the population of young people in detention has jumped from 60s in April 2020 to over 110 in February 2021 – a jump of 70%.**

The Department of Education (DOE) is experiencing tremendous resource and staffing challenges due to the blended learning model underway citywide, in which case we encourage the Council to again advocate that the City pursue decarceration as a solution to compromised access to education.

Lastly, as of September 30th, 2020, ACS surrendered SJD (specialized juvenile detention for pre-Raise the Age youth) certification, and Horizon is now certified as a SSD (or specialized secure detention) facility for "adolescent offenders" – marking the end of the Board of Correction's jurisdiction of Horizon.<sup>6</sup> As part of the Raise the Age Law (RTA), ACS and DOC were required to cooperatively manage the facility for pre-RTA youth. However, according to what was shared publicly by Commissioner Hansell during the October 2020 meeting of the Board of Correction, DOC will have continued presence for "some period of time" with continuing areas of responsibilities in "perimeter security" and "helping to staff the control room." The state regulations for SSD do require that DOC have a continuing role in co-administering an annual security review, even once they no longer have an on-site presence at Horizon. We would appreciate Council's oversight during this transition time as ACS adjusts staffing to replace DOC presence.

#### Budget Implications of Girls' Incarceration

Now that New York is facing sustained fiscal downturns because of the pandemic, the Council has another reason to reduce confinement of young people and provide better support for those who remain in their communities: the tremendous cost of youth incarceration. The most recent Mayor's Management Report (MMR) specifies the average daily cost per youth per day in detention at \$2,064 – up from \$1,651 in the prior fiscal year reported (amounting to a 25% growth). At that price, **we estimate that the total cost of incarcerating girls in secure detention during the pandemic has reached nearly two million dollars.**

Alarming, the MMR also proposes that ACS is working closely with the Department of Investigation to conduct canine searches in detention and "continues to work towards building its own internal capacity in this area." GGE is staunchly opposed to growing detention operations in this way.

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<sup>5</sup> Preliminary Mayor's Management Report: Administration for Children's Services (January 2021). Retrieved from <https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2021/acs.pdf>.

<sup>6</sup> Presentation of Commissioner Hansell before the Board of Correction, October 13, 2020, Available at [https://www.youtube.com/watch?v=L8f8itwZAgA&ab\\_channel=NYCBOARDOFCORRECTION](https://www.youtube.com/watch?v=L8f8itwZAgA&ab_channel=NYCBOARDOFCORRECTION). See 01:14:30.

As girls of color are persistently disproportionately represented in the population of incarcerated young women as compared to their representation in New York City, **the City is disproportionately placing young girls of color at risk by neglecting to expedite their release from the youth jail system.**

We thank the Council for their oversight and attention to these issues, and for the opportunity to testify. For more information, please contact: Charlotte Pope, Director of Policy, at [cpope@ggenyc.org](mailto:cpoppe@ggenyc.org).