

STILL NOT SAFE



INCARCERATED CLIENT SURVEY RESULTS & THE ESCALATION OF A PUBLIC HEALTH CRISIS IN NEW YORK CITY JAILS

NEW YORK COUNTY
DEFENDER SERVICES

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EXECUTIVE SUMMARY

New York County Defender Services (NYCDS) created a questionnaire and surveyed willing incarcerated clients on their experiences in custody during the pandemic. We are aware of no other survey in the U.S. that sought to collect data about the experiences of incarcerated people regarding coronavirus. The survey received 47 responses by the end of the questionnaire administration period. NYCDS tabulated the responses and presented them along with quotes that exemplify client experiences. Survey analysis revealed that clients perceived that hygiene procedures were lacking, that they felt unsafe, and that jail staff did not address their concerns. These results clash with safety assurances made by the Department of Correction.

INTRODUCTION

New York County Defender Services is a public defense office in Manhattan that represents thousands of indigent people accused of crimes every year. Our Corrections Specialist Unit works directly with our clients incarcerated on Rikers Island and other city detention facilities. Prior to the emergence of COVID-19, our specialists were in the jails weekly to provide support for our clients and to monitor conditions.

When coronavirus first appeared in New York City in early 2020, we feared for the safety of our clients and immediately began advocating for mass release. News reports and stories from our clients quickly suggested that Rikers Island was a coronavirus hotspot. The *Wall Street Journal* called the Rikers Island Jail complex “among the most infected workplaces in the U.S.”[1] Despite relatively limited coronavirus testing for incarcerated people in city jails, more than 500 have tested positive and 3 have died. Thousands more were never tested but classified as likely exposed.[2] Conditions on Rikers are endangering our incarcerated clients, with alarming implications for community spread, as thousands of people cycle in and out of city jails on a daily basis.

In May 2020, our Corrections Specialists and Data Scientist designed a survey about daily life in New York City jails during the COVID-19 pandemic. The results of the NYCDS Coronavirus Survey demonstrate the stark and unsafe realities of pandemic conditions inside New York City jails. Over 80 percent of survey participants reported feeling unsafe. The specific anecdotes they provided are also deeply concerning. This report outlines the methods and results of the survey. We also offer policy recommendations to mitigate dangerous conditions in the jails and to protect incarcerated people from serious illness and death.

METHODS

Survey Design

The NYCDS Coronavirus Survey was designed to offer an account of life inside New York City jails during the 2020 coronavirus pandemic period, from the perspective of people imprisoned there. The appendix includes a list of the survey questions. Survey design and analysis were overseen by our Corrections Specialist and Data Research units.

We took measures to ensure that our survey results were not complicated by policy changes in the jails. To our knowledge, DOC made no changes to their coronavirus mitigation policy while the survey was active.

Survey Administration

The survey was conducted by NYCDS staff from May 12, 2020 through June 25, 2020 and administered via phone or video conferencing. The survey generally took 5-10 minutes to complete and responses were captured using Google Forms.

Data Analysis

Once the survey was closed, data was compiled through a comprehensive process of qualitative coding. We grouped similar responses together to form response categories. This enabled us to draw quantitative insights out of participants' qualitative responses. The prevalence of response categories was calculated based on the frequency of response categories out of the number of non-missing data entries for a specific question and is presented in tables below. Prevalence of demographic characteristics was computed similarly and is presented in its own table.

RESULTS

Demographic Information

We surveyed 47 incarcerated people during the survey administration period. People who chose to participate in the survey were imprisoned in 9 of the city's 11 jails.

Race, ethnicity, gender and age information were obtained from RAP sheets and DOC's Inmate Lookup Service website.

A majority of respondents' races were listed as Black (51.11%), followed by white (42.22%), with other and Latinx accounting for the final 6.66%. Additionally, most respondents' ethnicities were categorized as Hispanic (55%). A majority (63.83%) of respondents were below 40 years of age, while a large proportion (23.40%) were over the age of 50.

The demographic breakdown of survey participants was consistent with the general demographic breakdown of people in DOC custody.[3]

Table 1 – Demographic Characteristics of Survey Respondents

Demographic Characteristic	Number and Percent
Total	47
Race¹	
Black	23 (51.11%)
Latinx	2 (4.44%)
White	19 (42.22%)
Other	1 (2.22%)
Ethnicity²	
Hispanic	22 (55%)
Non-Hispanic	18 (45%)
Gender	
Male	45 (95.74%)
Female	2 (4.26%)
Age	
18-29	20 (42.55%)
30-39	10 (21.28%)
40-49	6 (12.77%)
50-59	10 (21.28%)
60+	1 (2.13%)
DOC Facility	
Anna M. Kross Center	13 (27.66%)
George R. Vierno Center	4 (8.51%)
Manhattan Detention Center	6 (12.77%)
North Infirmary Command	3 (6.38%)
Otis Bantum Correctional Center	3 (6.38%)
Rose M. Singer Center	2 (4.26%)
Robert N. Davoren Center	7 (14.89%)
Vernon C. Bain Center	8 (17.02%)
West Facility	1 (2.13%)

¹ Race information was available for 45 respondents.

² Ethnicity information was reported for 40 respondents.

Perceptions of DOC's Health and Safety Precautions

The survey asked respondents about their perceptions of health and safety precautions taken by the NYC Department of Correction during the pandemic. See Table 2 on the next page for details on responses.

Actions by DOC Staff

- 15 respondents (31.91%) reported that DOC staff were not consistently wearing masks.
- 12 respondents (26.09%) said that DOC staff were conducting cleanliness inspections multiple times per day.

Social Distancing

- While 42 respondents (89.36%) stated that they were in situations that required social distancing daily, only 10 (22.22%) respondents affirmed that they could observe social distancing guidelines when needed.
- A majority of respondents (35 or 77.78%) said that day rooms had at times more than 10 people, and 21 respondents (44.68%) stated that there were sometimes more than 4 people in bathroom or shower facilities.

PPE & Cleaning Supplies

- Only 19 respondents (40.43%) had received a new, clean mask in the past week.
- Additionally, 20 respondents (42.55%) pointed out that their masks were visibly dirty.
- 60.87% had access to cleaning supplies when needed, and 68.09% had soap readily and freely available.
- Some clients reported inconsistent access to PPE and cleaning supplies, having to share soap, or needing to pay for their own soap.

Official DOC Complaint Process

- 30 of 46 clients (65.22%) reported making at least one complaint to DOC staff. Of this group:
 - 21 respondents (70%) stated that staff never addressed their complaints;
 - 5 respondents (16.67%) stated that DOC staff sometimes addressed their complaints; and
 - 4 respondents (13.33%) felt that their complaints were fully addressed.

Overall Safety

- Most survey respondents (37 or 82.22%) indicated that they did not feel adequately protected from transmission of the coronavirus in city jails.
- Only 7 of 45 respondents (15.56%) stated that they felt safe and one person (2.22%) indicated that they felt "somewhat" safe.

Table 2 - Client Perceptions of DOC's Health and Safety Precautions

Survey Question	Number and Percent
Mask Use by Staff	
At all times	32 (68.09%)
Not at all times	15 (31.91%)
DOC Hygiene Practices	
Multiple Daily Cleanliness Inspections ¹	12 (26.09%)
Mask Hygiene	
Client Mask Visibly Dirty	20 (42.55%)
Client Mask Clean	27 (57.45%)
Time Since Last New Mask Received	
Past Week	19 (40.43%)
One to Four Weeks	19 (40.43%)
One Month or More	6 (12.77%)
Do Not Recall	3 (6.38%)
Ability to Social Distance When Needed²	
Yes	10 (22.22%)
No	35 (77.78%)
Overcrowding	
More than 10 in Day Room	35 (74.47%)
More than 4 in Bathroom/Shower	21 (44.68%)
Availability of Cleaning Supplies³	
Yes, When Needed	28 (60.87%)
Limited	3 (6.52%)
No	15 (32.61%)
Availability of Soap	
Soap readily and freely available	32 (68.09%)

¹ Based on 46 responses.

² Based on 45 responses.

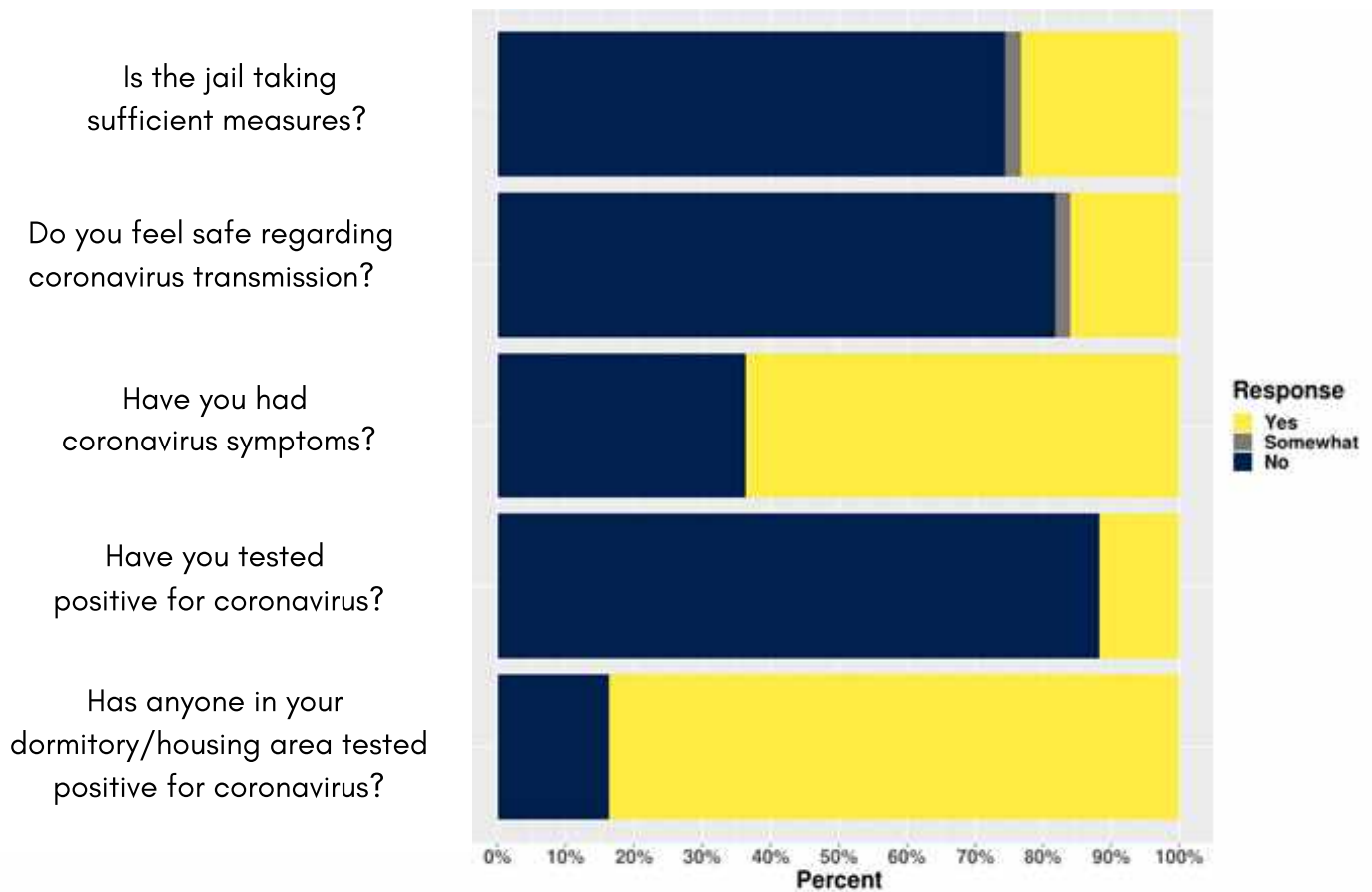
³ Based on 46 responses.



Client Health Outcomes and Safety Concerns

Over the course of survey administration, a majority of respondents, 28 of 45 clients (62.22%), reported experiencing coronavirus symptoms while incarcerated. Five of 45 clients (11.11%) tested positive for coronavirus. Thirty-four of 45 clients (75.56%) reported that other people in their housing areas tested positive.

Figure 1 - Client Health Outcomes and Safety Concerns



Qualitative Responses - Client Experiences

While participating in these surveys, NYCDS clients reported concerning and egregious conditions that paint a fuller picture of what they face and how they attempt to keep themselves safe while incarcerated during a pandemic.

Limited PPE

- Mr. V reported receiving two masks at once. He hid one of his masks in toilet paper to keep it clean and safe, out of fear that it would be taken or soiled.

Social Distancing

- Mr. T sleeps in a 50-person dorm housing 40 people, far over the recommended capacity to allow for social distancing. He explained that the limit was supposed to be 25 to keep incarcerated people from occupying adjacent beds.
- Mr. C reports being shackled to another person while being transported. Though they were both wearing masks, they were physically touching for a sustained period of time while seated side-by-side.
- Mr. G explained that he showers at night, even though nighttime showering is against the rules in his facility, because the bathroom and showers are crowded during the day.
- Mr. C regularly reports unsafe conditions to officers and captains, telling them that there are no cleaning supplies such as rags. Over the course of several months, his concerns have never been addressed.

Official Complaints

- Mr. W made repeated reports to correction officers about coronavirus safety conditions. He was told to call 311, the city help line, an action that rarely yields productive outcomes for incarcerated people. In his case, it did not.

Clients report:

- Limited PPE
- Crowded dorms & showers
- People shackled together
- Complaint system yields no improvements

"I would only feel safe at home." - Mr. R

DISCUSSION

In the NYCDS Coronavirus Survey, our clients reported that they routinely face unsafe and unhygienic conditions with alarming implications for disease transmission. These lived experiences paint a picture of NYC jail conditions starkly different from DOC's public statements about its policies and practices. Though the scope of our survey is limited, the anecdotes that it sheds light on should be taken seriously by DOC staff and policymakers alike. We have yet to see any other formalized study of the perspectives of incarcerated people during the COVID-19 pandemic. Honest and uncensored opinions of people directly impacted by correctional policies are crucial to understanding and mitigating coronavirus spread in jails.

The survey underscores alarming discrepancies between DOC's public communications and observed conditions in the jails. The public necessarily relies on DOC for information on jail protocols. During the height of the pandemic, judges and prosecutors relied on DOC's public statements to deny release to incarcerated people from city jails. They relied on information, for example, that incarcerated people were receiving adequate PPE. In testimony before the New York City Board of Correction (BOC), DOC Commissioner Cynthia Brann stated that "No staff member and no person in custody is being required to reuse masks."^[4] Yet a plurality of our surveyed clients report that they are forced to reuse their masks regularly, for days or weeks at a time.

Similarly, judges and prosecutors often denied writs for release on the basis of claims by DOC that the Department was enforcing social distancing policies. DOC Deputy Commissioner Patricia Feeney asserted in a court affidavit that "DOC has implemented . . . social distancing strategies."^[5] However, the vast majority of our clients reported being unable to adhere to social distancing guidelines.

Relatedly, in mid-April, DOC officials announced a new mandate restricting capacities of day rooms to ten people, and of bathroom and shower areas to four people, to ensure social distancing.[6] Over three-fourths of survey respondents said day rooms were at least sometimes occupied by more than ten people, and nearly half of respondents stated that there were at times more than four people in bathroom or shower facilities. Our clients' experiences stand in stark contrast to the public statements of DOC officials. People incarcerated in city jails are not receiving the protections that have been allegedly enacted to protect them from sickness and death, and most live in constant fear of contracting the virus.

DOC has a duty to keep incarcerated people safe during this pandemic. Their failure to implement their own COVID-19 procedures could have long-term consequences for the health and safety of incarcerated people. The intersection of the known traumas of incarceration and the unprecedented stresses of surviving a pandemic in a correctional setting have potential to cause an equally unprecedented mental health crisis among currently incarcerated people. The extremely high proportion (82.22%) of incarcerated NYCDS clients who reported feeling unsafe regarding coronavirus transmission demonstrates that the pandemic is a grave and constant additional stressor.

Coronavirus is taking a toll on mental health conditions of the general public, and we can reasonably expect such harms to be magnified for incarcerated people. We must prepare to support people living and working in jails as we emerge from this crisis.

RECOMMENDATIONS

1. New York City must immediately and significantly reduce its jail population. The City must create an action plan to protect public health by pursuing alternatives to incarceration. Early research examining people released from NYC jails early in the pandemic shows that the vast majority of people released were not re-arrested.[7] There are also many tools available to courts to ensure that people who are released receive the support they need to attend future court dates. Many of the safe and effective alternatives to incarceration, such as electronic monitoring, are severely underutilized. Since they were unveiled in January 2020, only ten electronic monitoring devices have been granted for use in the entire city. In recent weeks, new admissions to New York City jails have risen sharply, and serious measures to reduce the jail population must be taken in anticipation of a second wave of coronavirus.

2. People with low-level charges and parole violations should be efficiently released to their communities. Many people detained on Rikers Island are serving sentences of less than one year, or are being held in on technical parole violations. People with these charge types were released in large numbers toward the beginning of the pandemic, but releases have since tapered off, even though the virus continues to rage on throughout the U.S.

3. City and State officials should pass legislation facilitating widespread releases for a larger purview of charges. Many other jurisdictions, including such states as New Jersey [8] and California [9], have led by example and enacted legislation to release thousands of incarcerated people charged with a wide range of offenses, including violent charges. Officials in New York must consider similar measures to prevent continued cycles of avoidable illness and death in our correctional facilities. Every person in custody deserves consideration for release, not just people accused or convicted of non-violent offenses.

4. Require DOC to release all written pandemic-related protocols to the public. As of the writing of this report, DOC has not publicly released its full coronavirus policies and procedures. We have made multiple requests asking for this information, with no clear answers. NYCDS worked with other city defenders to formally request all such protocols.[10]

5. Enforce accountability from DOC in properly enforcing its own pandemic-related measures. DOC's internal compliance must be reported and monitored to ensure the safety of incarcerated people and staff. The Board of Correction and city leaders must increase their auditing efforts to discourage negligence and ensure stringent adherence by DOC to its own rules.

CONCLUSION

The NYCDS Coronavirus Survey revealed dangerous conditions that threaten our clients' physical and mental health and accelerate the spread of COVID-19 -- not only in the jails, but also back into our communities.[11] We refuse to accept the seemingly inevitable, and likely imminent, illness and death that will be wrought by the next outbreak in DOC facilities. Incarcerated people are not dispensable -- it is this very mentality that has caused such catastrophic outcomes in our jails thus far. By reducing the jail population and adopting transparent communication strategies, New York City and its Department of Correction have the opportunity to act now and save lives.

END NOTES

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- [3] "A More Just New York City: Closing the Chapter on Rikers," page 11, available at: [https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/5da60eb59dac4376675bfe93/1571163845478/AMJNYC+-+Closing+the+Chapter+on+Rikers+\(Oct.+2019\).pdf](https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/5da60eb59dac4376675bfe93/1571163845478/AMJNYC+-+Closing+the+Chapter+on+Rikers+(Oct.+2019).pdf).
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- [5] *Affidavit of Patricia Feeney*, page 7, available at <https://www.clearinghouse.net/chDocs/public/JC-NY-0077-0002.pdf>.
- [6] *DOC Update: COVID-19 Preparedness & Response*, page 14, available at https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/May/May_2020_COVID-19_Preparedness_and_Response_5.12.20.pdf.
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- [9] California Department of Corrections and Rehabilitation, *Additional Actions to Reduce Population and Maximize Space*, available at <https://www.cdcr.ca.gov/covid19/frequently-asked-questions-expedited-releases>.
- [10] Joint letter from New York City public defenders to DOC and CHS leaders, *DOC and CHS COVID-19 Pandemic Procedures*, Sept. 11, 2020, available at: <https://nycds.org/wp-content/uploads/2020/09/Joint-Defender-BOC-letter-Sept-2020.pdf>.
- [11] Sandhya Kajepta et al, County Jail Incarceration Rates and County Mortality Rates in the United States, 1987-2016, *American Journal of Public Health*, (Jan. 2020), available at <https://ajph.aphapublications.org/doi/10.2105/AJPH.2019.305413>.

NYCDS Incarcerated Client Survey Questions

Pre-survey questions completed by NYCDS staff

- Today's date is:
- Client's name & B&C is:
- Client is housed in the following jail:

Questions Posed to Clients

- What housing area/cell block are you in?
- Do all staff in the facility where you are housed wear masks at all times?
- Has the Department of Corrections provided you with a mask to wear while you are around other people?
- When, approximately, was the last time you were given a new, clean mask?
- Is your mask visibly dirty?
- How often are you in situations with other people that require social distancing?
- Are you able to observe social distancing guidelines when you need to?
- Are there ever more than 10 people in the day room at the same time?
- Are there ever more than 4 people in the shower and bathroom area at the same time?
- Is soap available to you every time you wash your hands at a sink?
- How often are you able to use soap when you wash your hands?
- Are essential cleaning chemicals available to you to clean when you need them?
- When was the last time you were able to clean your cell?
- Have you observed DOC officers doing inspections of cleanliness and conditions every 8 hours?
- Have you personally made any complaints to an officer about cleanliness or safety conditions related to coronavirus?
 - If yes: Did the officer attempt to address your complaint?
- Do you feel that the jail where you are housed is taking sufficient measures to help prevent the spread of coronavirus?
- Do you feel safe in terms of avoiding transmission of coronavirus?
- At any time while in jail have you had coronavirus symptoms (fever, chills, shortness of breath, headache, etc.)?
 - If yes: When did you have these symptoms?
 - If yes: Did you make a sick call?
- At any time, have you tested positive for coronavirus?
 - If yes: When did you test positive for coronavirus?
- At any time, has anyone in your dormitory/housing area tested positive for the coronavirus?
 - If yes: What happened to the person who tested positive?