

**NYC Department of Correction
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum
Standards 5-40 Assessment Report – February 15, 2019**

INTRODUCTION

The Prison Rape Elimination Act of 2003 (PREA Public Law 108-79) established federal mandates to identify and prevent prison rape in correctional facilities within the jurisdictions of federal, state, local, and native territories across the United States. Public Law 108-79 was signed into law on September 4, 2003.

The United States Department of Justice adopted the National Standards to Prevent, Detect, and Respond to Prison Rape (the PREA Standards) effective August 20, 2012. The goals of the National Standards are not only to prevent, detect and respond to prison sexual abuse and sexual harassment, but to conduct sexual abuse incident reviews, collect uniform data using standardized definitions and capture data that includes allegations of sexual abuse and sexual harassment at facilities under its direct control. This incident-based sexual abuse information is expected to be aggregated and made readily available to the public at least annually.

In 2016, the New York City Board of Correction (“the Board”) implemented Sexual Abuse and Sexual Harassment Minimum Standards that are equivalent to the PREA Standards. Pursuant to the Board’s Minimum Standards §5-40 “Data Collection and Review”, the New York City Department of Correction (“the Department”) shall provide to the Board with a semiannual report. This report, which evaluates sexual abuse and sexual harassment allegations made within the past six months (July 2018 through December 2018), analyzes emerging trends and assesses the corrective action contemplated and/or initiated at the facility level and department-wide. It is important to note that allegations of sexual abuse and sexual harassment are preliminary and subject to change as these cases develop. Data discussed in allegation categories are not final, as they are ongoing or pending resolution. Data used in this report reflects the most current information available at the time of publication.

Allegations of sexual abuse and sexual harassment are based on the definitions provided by the Department of Justice and reporting requirements as specified in the National Standards to Prevent, Detect, and Respond to Prison Rape, under 28 CFR part 115 under the Prison Rape Elimination Act of 2003. (see Appendix A).

Section One

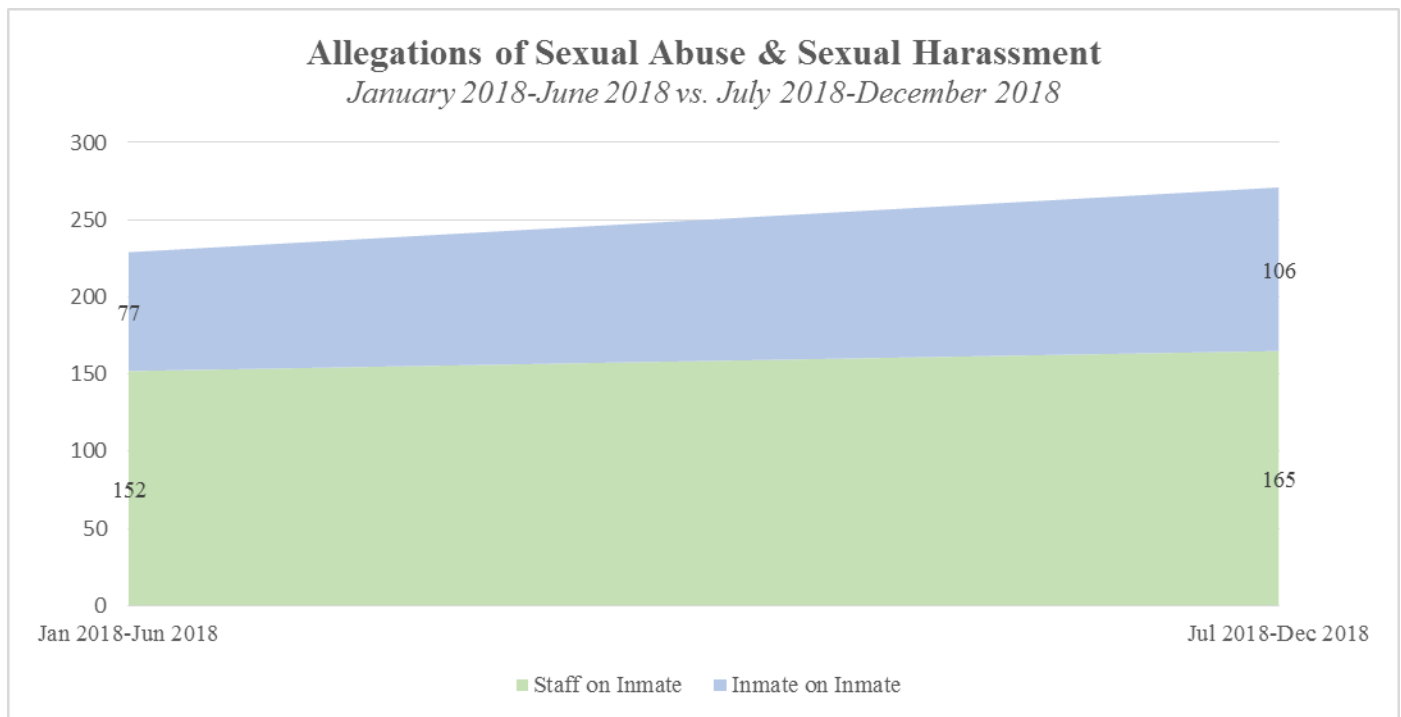
ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT

In accordance with the National PREA Standards, the Department reviews data pursuant to §115.87 in order to examine and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training with the ultimate goal of eliminating sexual abuse and sexual harassment within its facilities.

Type of Allegation

Allegations of sexual abuse and sexual harassment are categorized in accordance with the definitions provided by the Prison Rape Elimination Act of 2003. These categories separate allegations by perpetrator type (staff or inmate) as shown in [Figure 1](#).

Figure 1



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Facility Breakdown

Table 1, below, gives a breakdown of PREA allegations by facility, comparing side-by-side last reporting period (January 2018-June 2018) to the current reporting period (July 2018 – December 2018). Horizon Juvenile Center (HOJC), for residents ages 16-17, opened in October 2018; the 14 allegations made at Horizon during this reporting period demonstrates that residents are educated in the methods of reporting PREA allegations, and have successfully utilized these reporting mechanisms.

Notably, there was a decline in allegations from the Rose M. Singer Center (RMSC) facility during this reporting period by over 15%. RMSC is the facility that houses female inmates. The significant decrease in allegations made at RMSC during this reporting period was not a chance occurrence. Rather, it is the result of hard work in several key areas at this particular facility, including staff training and buy-in, and inmate education. By 2018, the staff at RMSC were fully trained and knowledgeable of their obligations under PREA. The staff has demonstrated increased buy-in and accountability. This increase has led to and influenced a culture of more accurate reporting. In addition, strong efforts were made and continue to be made with educating the inmate population about the importance of PREA. Education about how false allegations negatively impact PREA reporting mechanisms has led to a decrease in allegations made at the female facility. Also, additional staff on the Department’s PREA Team allowed for more visibility throughout the facility.

Table 1

<i>Facility Breakdown Comparison</i>				
	Jan 2018-Jun 2018		Jul 2018-Dec 2018	
	# of Allegations	%	# of Allegations	%
RMSC	46	20.09%	39	14.39%
AMKC	35	15.28%	53	19.56%
BKDC	30	13.10%	35	12.92%
GRVC	33	14.41%	30	11.07%
OBCC	22	9.61%	21	7.75%
EMTC	13	5.68%	13	4.80%
MDC	12	5.24%	23	8.49%
NIC	9	3.93%	14	5.17%
RNDC	11	4.80%	5	1.85%
WF	6	2.62%	7	2.58%
VCBC	3	1.31%	7	2.58%
GMDC	2	0.87%	0	0.00%
BPHW	1	0.44%	4	1.48%
HOJC	0	0.00%	14	5.17%
OTHER UNITS	6	2.39%	6	1.85%

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Age of Alleged Victim

Tables 2 (previous reporting period) and 3 (current reporting period) compare the ages of alleged victims. The data is further delineated by type of alleged perpetrator (staff or inmate). Of note, approximately 90% of all allegations were reported by inmates ages twenty-two (22) or older.

Table 2

<i>January 2018-June 2018</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	1	1	0
19-21	15	13	2
22≥	213	138	75

Table 3

<i>July 2018-December 2018</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	16	4	12
19-21	14	12	2
22≥	241	149	92

Age of Alleged Subject

Tables 4 (previous reporting period) and 5 (current reporting period) compare the ages of alleged subjects. The data is further delineated by type of alleged victim (staff or inmate). Of note, in approximately 90% of all allegations reported, the alleged perpetrator was twenty-two (22) years old or older.

Table 4

<i>January 2018-June 2018</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	0	0	0
19-21	2	0	2
22≥	209	152	57
Unidentified Alleged Perpetrator	18 (Perpetrator was not identified in the preliminary investigation)		

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Table 5

<i>July 2018-December 2018</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	9	0	9
19-21	4	0	4
22 ≥	130	84	46
Unidentified Alleged Perpetrator	128 (Perpetrator was not identified in the preliminary investigation)		

In the January 2018 - June 2018 reporting period, there were 18 inmate on inmate allegations where the alleged victim inmate was unable to identify the alleged perpetrator inmate, accounting for 7.86% of all inmate on inmate PREA-reportable incidents in the last reporting period. In the July 2018 - December 2018 reporting period, there were 128 inmate on inmate allegations where the alleged victim inmate was unable to identify the alleged perpetrator inmate, accounting for 47% of all inmate on inmate PREA-reportable incidents in the current reporting period.

Methods of Reporting

Table 6 assesses the methods used by alleged victims to report PREA allegations. 311 continues to be the most used method of reporting for alleged victims of both staff-on-inmate and inmate-on-inmate incidents.

Table 6

<i>Reporting Breakdown</i>					
		January 2018-June 2018		July 2018-December 2018	
Staff-Inmate		# of Allegations	%	# of Allegations	%
	311	129	56.33%	139	51.29%
	DOI	8	3.49%	3	1.11%
	Facility	2	0.87%	12	4.43%
	ID	8	3.49%	3	1.11%
	PREA	1	0.44%	1	0.37%
	OTHER	3	1.31%	7	2.58%
Total		151	66.38%	165	60.89%
Inmate-Inmate					
	311	63	27.51%	86	31.73%
	DOI	1	0.44%	2	0.74%
	Facility	8	3.49%	12	4.43%
	ID	3	1.31%	0	0.00%
	PREA	1	0.44%	2	0.74%
	OTHER	1	0.44%	4	1.48%
Total		77	33.62%	106	39.11%

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Overall Trends of PREA Allegations

Table 7 compares total reported incidents for the first half of 2018 (last reporting period) versus the latter half of 2018 (current reporting period). The total number of sexual abuse and sexual harassment allegations increased by 18.34% from the last reporting period to the current reporting period (229 versus 271 allegations, respectively). Overall, there was an increase of allegations in all categories of sexual harassment and sexual abuse. Inmate-on inmate non-consensual sex act allegations increased by more than 100% from twelve (12) allegations in the first half of 2018 to twenty-nine (29) allegations during the current reporting period.

Table 7

<i>Comparison of Allegations of Sexual Victimization, by type of Incidents</i>			
	Jan 2018-Jun 2018	Jul 2018-Dec 2018	% Increase/Decrease
Total	229	271	18.34% ↑
STAFF ON INMATE	152	165	8.55% ↑
Sexual Abuse	135	142	5.19% ↑
Sexual Harassment	17	23	35.29% ↑
INMATE ON INMATE	77	106	37.66% ↑
Abusive Sexual Contact	48	53	10.42% ↑
Non-Consensual Sex Act	12	29	141.67% ↑
Sexual Harassment	17	24	41.18% ↑

Staff Sexual Abuse

Staff sexual abuse includes a wide-range of behaviors such as attempted or requested sexual acts, indecent exposure, invasion of privacy and staff voyeurism, as well as completed sexual acts and unwanted touching for sexual gratification. This category represents about 50% of all allegations. There were 142 staff sexual abuse allegations reported during the latter half of 2018, a 5.19% increase from the 135 allegations made during the first half of 2018 (see Table 8).

Out of all staff-on-inmate sexual abuse allegations, approximately 85% fall into the categories of Inappropriate Touch, Crimes under Penal Law 130 and Voyeurism. For the first half of 2018, more than 50% (63) of the abuse were alleged to have occurred during a use of force (“UOF”) (38), strip search (10), pat-frisk (9), contraband retrieval (5) or escort (1). For the latter half of 2018, about

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60% (84) of staff sexual abuse was alleged to have occurred during a use of force (25), strip search (23), pat-frisk (7), contraband retrieval (6) and escort (23).

Table 8

<i>Staff-Inmate Sexual Abuse Jan 2018-Jun 2018</i>	
Category	# of Allegations
Inappropriate Touch	79
Crimes Under New York State Penal Law 130	21
Voyeurism	17
Other	18
Total	135

<i>Staff-Inmate Sexual Abuse Jul 2018-Dec 2018</i>	
Category	# of Allegations
Inappropriate Touch	71
Crimes Under New York State Penal Law 130	36
Voyeurism	35
Total	142

UOF	38
STRIP SEARCH	10
PAT FRISK	9
CONTRABAND	5
ESCORT	1
NON COOP	5
VERBAL	9
RETALIATION	1
GRIEVANCE	2
OTHER	37

UOF	25
STRIP SEARCH	23
PAT FRISK	7
CONTRABAND	6
ESCORT	23
NON COOP	13
RECANT	4
GRIEVANCE	2
VERBAL	6
OTHER	33

Staff Sexual Harassment

PREA-reportable staff sexual harassment includes repeated verbal statements, and comments or gestures of a sexual nature to an inmate by a staff member. Staff sexual harassment allegations represent 8.5% of all allegations reported. Total allegations of PREA-reportable staff sexual harassment increased by 35.29% between the January 2018 - June 2018 reporting period (17 allegations) and the July 2018 - December 2018 reporting period (23 allegations) (see [Table 9](#)).

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Table 9

<i>Staff on Inmate Sexual Harassment</i>						
Sub-Category	# Allegations		%		% Increase/Decrease	
	Jan 2018-Jun 2018	Jul 2018-Dec 2018				
SEXUAL THREAT	2	11.76%	11	47.83%	450.00%	↑
SMD/P	7	41.18%	0	0.00%	100.00%	↓
INAPPROPRIATE COMMENTS	3	17.65%	2	8.70%	33.33%	↓
BODY PART VIEW	3	17.65%	6	26.09%	100.00%	↑
HOMOPHOBIC STATEMENT	1	5.88%	0	0.00%	100.00%	↓
RETALIATION	0	0.00%	1	4.35%	100.00%	↑
OTHER	1	5.88%	3	13.04%	200.00%	↑
TOTAL	17	100.00%	23	100.00%	35.29%	↑

Inmate Nonconsensual Acts

Nonconsensual acts include inmate-on-inmate sexual penetration without consent or of an inmate who is unable to either consent or refuse. This category represents 5.24% of all January 2018 – June 2018 allegations, and 10.7% of all July 2018 – December 2018 allegations. (See [Table 10](#)). During the last reporting period, out of twelve (12) alleged non-consensual sex acts, 11 (91.67%) fell into the category ‘Crimes under New York State Penal Law 130’. Of the 12, two (2) were related to contraband. During the current reporting period, every alleged non-consensual sex act (29) fell into the category ‘Crimes under New York State Penal Law 130’.

Table 10

<i>Non Consensual Sex Act</i>	# of Allegations	
	January 2018-June 2018	July 2018-December 2018
Crimes Under New York State Penal Law	11	29

Inmate Abusive Acts

Inmate abusive acts are defined as unwanted intentional touching of an inmate without consent, or of an inmate who is unable to consent or refuse, by another inmate. Inmate abusive acts represented 20.96% of all allegations for the period of January-June 2018 compared to 19.55% during July-December 2018. However, the total number of inmate abusive act allegations increased by 10.42% (48 allegations to 53) ([Table 11](#)).

Table 11

<i>Inmate Abusive Acts</i>	# of Allegations		%		% Change
	January 2018-June 2018	July 2018-December 2018			
Inappropriate Touch	23	47.92%	38	71.70%	65.22% ↑
Crimes Under New York State Penal Law 130	13	27.08%	15	28.30%	15.38% ↑
Voyeurism	1	2.08%	0	0.00%	100.00% ↓
Other	11	22.92%	0	0.00%	100.00% ↓
Total	48	100%	53	100%	10.42% ↑

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Inmate Sexual Harassment

In 2013, the Bureau of Justice Statistics added *Inmate Sexual Harassment* to the definitions of sexual victimization. Inmate sexual harassment is defined as repeated and unwanted sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another. The number of such allegations has increased by 41.18% from seventeen (17) allegations during January-June 2018 to twenty-four (24) for the July-December 2018 time period. (see [Table 12](#)).

The rate of reported allegations of sexual victimization increased from 9.91 per 1,000 inmates during the first half of 2018 to 13.36 per 1,000 inmates during the latter half of 2018. The rate of staff allegations increased from 6.58 per 1,000 inmates during January- June 2018 to 8.13 per 1,000 inmates during July-December 2018. The rate of inmate-on-inmate allegations also increased from 3.33 per 1,000 inmates to 5.23 per 1,000 inmates (see [Table 12](#)).

Table 12

<i>Total allegations of sexual victimization, by type of incident, Jan 2018-Jun 2018 vs Jul 2018-Dec 2018; rate per 1,000 inmate population</i>						
Category Type	Jan 2018-Jun 2018	Jul 2018-Dec 2018	%(Jan 2018-Jun 2018)	%(Jul 2018-Dec 2018)	rate (Jan 2018-Jun 2018)	rate (Jul 2018-Dec 2018)
Total	229	271	100.00%	100.00%	9.91	13.36
STAFF ON INMATE	152	165	66.38%	60.89%	6.58	8.13
Sexual Abuse	135	142	58.95%	52.40%	5.84	7.00
Sexual Harassment	17	23	7.42%	8.49%	0.74	1.13
INMATE ON INMATE	77	106	33.62%	39.11%	3.33	5.23
Abusive Sexual Contact	48	53	20.96%	19.56%	2.08	2.61
Non-Consensual Sex Act	12	29	5.24%	10.70%	0.52	1.43
Sexual Harassment	17	24	7.42%	8.86%	0.74	1.18

Section Two

SUBSTANTIATED, UNSUBSTANTIATED & UNFOUNDED ALLEGATIONS

Allegations of sexual abuse or sexual harassment are substantiated after an event is investigated and determined to have occurred based on a preponderance of evidence. Unsubstantiated allegation means the investigation produced insufficient evidence to prove that the event occurred. Unfounded allegations are those that, pursuant to investigation, are proven false.

This report is intended to be an accounting of allegations that were reported during the latter half of 2018, along with a description of any work done by the Department, during that six-month time period, to investigate said allegations; Additionally, there is an expectation for this report to compare that work with the data from last reporting period, in order to analyze progress (or lack thereof) between the two reporting periods. The consequence of having such specific and narrow parameters is that the resultant report will present incomplete, partial data. What appears to outline all activity completed by the Department over the past six months is, in reality, just one chapter of a longer story. Thus, [Table 13](#)'s closure and substantiation rates are not indicative of all the work completed by the Department in the past six months; it does not address (1) any allegations made prior to or after the relevant reporting period, nor (2) any activity taken by Department investigators before or after the relevant reporting period.¹

[Table 13](#) compares the case status of allegations that were *reported, investigated and closed* during the last reporting period versus the case status of allegations that were *reported, investigated and closed* during the current reporting period. Any allegation that came in before or after the reporting period in question and/or was closed before or after the relevant reporting period will **not** be reflected in [Table 13](#).²

Importantly, the data in [Table 13](#) for the last reporting period (January-June 2018) reflect the closure status *as of the time of the last report*, six months ago. At present time, additional cases from that reporting period have been closed.³ For an up-to-date account of resulting determinations that describes the Department's progress on investigating and closing cases, see Section Three.

¹ For example, an allegation made in 2017 that was investigated and closed during the current reporting period (June-December 2018) is not counted in the tally of closed cases. Similarly, an allegation made during the current reporting period that was investigated and closed after the reporting period (for example, in January 2019) will not be accounted for in the closed case tally. If an allegation was reported in June 2018 (*last reporting period*) and was closed one month later in July 2018 (*current reporting period*), the case would not appear as closed in [Table 13](#).

² Additional cases were closed by the Department during the time period of January 2018 – December 2018, however, those cases related to allegations that were reported prior to January 2018. [Table 14](#) provides one example of additional work completed by the Department during the current reporting period: data on allegations reported prior to July 2018 but closed during the current reporting period.

³ Specifically, since the publishing of the last report six months ago, 46 (21%) of those 222 pending cases have been closed. 18 were deemed unsubstantiated, and 28 were determined to be unfounded.

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Table 13

<i>Substantiated, Unsubstantiated, Unfounded, and Pending allegations of sexual victimization Department-wide, January 2018-December 2018</i>		
	<i>Cases Reporting Period</i>	
	<i>Jan 2018-Jun 2018</i>	<i>Jul 2018-Dec 2018</i>
Total Allegations	229	271
Substantiated	0	1
Unsubstantiated	7	1
Unfounded	0	17
Total Closed	7	19
Preliminary Findings-Substantiated	3	2
Preliminary Findings-Unsubstantiated	224	254
Preliminary Findings-Unfounded	2	15
Pending Final Disposition	222	252

Table 14 indicates allegations reported prior to July 2018 (allegations reported from 2015 up and until June 30, 2018) but closed during the July 2018-December 2018 reporting period.

Table 14

<i>Additional Allegations that reached Final Disposition during July 2018 -December 2018</i>					
<i>Initiated Investigation</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>Jan 2018-Jun 2018</i>	<i>Total</i>
Substantiated	0	3	3	0	6
Unsubstantiated	9	136	145	18	308
Unfounded	1	19	41	28	89
Total Closed	10	158	189	46	403

There were a total of 403 PREA cases closed during the current reporting period (July 2018 - December 2018) that were reported prior to July 1, 2018.⁴ This chart provides an example of progress made by the Department outside of the reporting period data from Table 13.

As Table 14 demonstrates, the Department is closing PREA cases earlier than it ever has before, having closed 46 cases already from the year 2018.

⁴ This data, again, reflects only the efforts made in the current reporting period and does not present a full picture of the Department’s progress in closing open allegations. For example, in just the six weeks spanning January 2019 through the first half of February 2019, the Department closed 278 PREA cases.

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Rate of Sexual Victimization, By Facility

The rate of sexual victimization is the ratio of the number of incidents compared to the average number of inmates in the Department’s custody between January and December of the calendar year. The inmate population includes both detainees and sentenced inmates. All inmate allegations of sexual abuse and sexual harassment are taken seriously and investigated thoroughly.

Table 15

Substantiated, Unsubstantiated and Unfounded allegations of sexual victimization, by facility, rate per 1,000 inmates

Facility Name	Total	Substantiated		Unsubstantiated		Unfounded	
		Number	Rate	Number	Rate	Number	Rate
AMKC	93	0	0.00	2	0.09	6	0.28
BKDC	69	0	0.00	5	0.23	3	0.14
EMTC	26	0	0.00	3	0.14	2	0.09
GMDC	3	0	0.00	1	0.05	1	0.05
GRVC	64	0	0.00	4	0.18	10	0.46
MDC	36	0	0.00	1	0.05	3	0.14
NIC	26	0	0.00	2	0.09	3	0.14
OBCC	45	0	0.00	1	0.05	2	0.09
RMSC	87	3	0.14	9	0.41	7	0.32
RNDC	16	0	0.00	2	0.09	2	0.09
VCBC	12	1	0.00	1	0.05	1	0.05
WF	14	0	0.00	0	0.00	0	0.00
HOJC	14	0	0.00	0	0.00	8	0.37

Section Three

RESULTING DETERMINATIONS

Resulting determinations from completed investigations are classified as Substantiated, Unsubstantiated, or Unfounded as defined by the PREA Standards. Resulting determinations are fully defined in Appendix B (page 18).

Of the 271 sexual abuse and sexual harassment allegations reported during July 2018-December 2018, seventeen (17) (6.27 %) were determined to be unfounded. In these cases, the Investigation Division determined that the event did not occur by, for example, the presence of compelling and credible evidence that materially contradicted the allegation. Notably, the Department has unfounded 650% more allegations in the second half of the year than the first. This statistic is directly correlated to the Department’s enhanced training of investigative staff post-June 2018.

Among completed investigations in 2018, the vast majority of resulting determinations concluded that evidence was insufficient to prove, by a preponderance of evidence, that the event occurred. These cases are referred to as unsubstantiated. Substantiation rates remained consistent from the first half of 2018 to the second half.

PENDING ALLEGATIONS

The New York City Department of Correction has taken a zero tolerance policy with regard to sexual abuse and sexual harassment, and has advanced measures to improve the ability for victims to report these type of allegations through the creation of a dedicated hotline and posters placed in facilities listing the hotline number and detailing how to report an incident. The Department has also entered into a Memorandum of Understanding with Safe Horizons to provide victim services, access to assistance, and an additional avenue to report allegations of a sexual nature. Similarly, inmates are informed that they may call 311 to report incidents of sexual abuse and harassment. Improvements in reporting has led to an increase in allegations.

The Department takes every allegation of sexual misconduct and sexual harassment seriously, and investigates each complaint thoroughly. To that end, the Department’s Investigation Division handles all PREA-related allegations, responding to each one within 72 hours. Within those first 72 hours, Investigation Division (“ID”) staff interviews alleged victims, separates said individuals from identified alleged perpetrators, collects relevant evidence, affords alleged victims mental health, ministerial and victim services, and conducts a preliminary investigation. Because of the high number of allegations, and the Department’s commitment to extensively investigating every allegation, the Investigation Division developed a backlog⁵ of 1,216 PREA cases.

In April 2018, the Department determined that the primary strategy to eliminate the backlog was to hire additional investigators. Moreover, a strategic plan to utilize investigative staff (described in Section 4, below), was a success. At the time of this report, the Investigation Division PREA Unit

⁵ “Backlog” was defined as any case open for over 90 days.

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has closed over 1,000 cases since April 2018, while still responding to and investigating new allegations within 72 hours, and is on track towards compliance with timely investigations.

Section Four

CORRECTIVE ACTION

Since the last reporting period in August 2018, the Department has implemented extensive corrective action. Staffing increases, timely case closure, retraining of ID investigators, and refining best practices were priorities during this reporting period, and the results have been remarkable.

Staffing

In May 2016, the Investigation Division established a dedicated team of investigators to address allegations of sexual abuse and sexual harassment. The ID PREA Unit consisted of one (1) Deputy Director, one (1) Supervising Investigator, and six (6) investigators. Pursuant to its Corrective Action Plan, the Department has increased the ID PREA Unit staffing levels to one (1) Director, one (1) Deputy Director, six (6) Supervising Investigators, thirty (30) Investigators, and two (2) Data Analysts to ensure thorough and timely investigations. Importantly, the newly hired members of the supervisory staff (two Supervising Investigators and one Deputy Director) all have extensive backgrounds in PREA and/or sex crimes investigations. Moreover, the PREA Unit now has a dedicated team of Department of Correction Trials & Litigation attorneys prosecuting substantiated sexual misconduct and sexual harassment cases.

The Department has PREA Compliance Managers (PCM) at six (6) facilities. In 2017, the facilities assigned uniform staff as PREA Ambassadors to work with each PCM and to assist with PREA implementation. PREA Ambassadors are also in each facility that does not have its own PCM. These staff members are responsible for PREA compliance matters within those facilities.

Corrective Action Plan

In June 2018, the Department composed a Corrective Action Plan to address the backlog of PREA-reportable cases, which were defined as being over 90 days old. The Department acknowledged that although the Investigation Division had already conducted an investigation into all 1,216 backlogged cases, the cases were still lingering without final reviews or dispositions. A targeted plan, published in June 2018, committed to the closure of these cases by February 2019.

In order to reach that goal, the Department has hired additional investigators and managers for the ID PREA team, as mentioned above. Investigators were given timelines for case review and closure, and rotated, strategically, in and out of the field. This schedule gave investigators opportunity to

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respond to new allegations, but also time to address the cases that had been awaiting closure. The Investigation Division also developed a more streamlined closing memorandum for case closures. This administrative change allowed investigators to close cases more quickly without compromising the integrity of the investigation. The strategy worked; the Department met its goals under the Corrective Action Plan.

Additional Steps Taken Towards Compliance

In January 2019, the Department composed a second Corrective Action Plan in response to a Board of Correction (“Board”) audit of ID’s closing memoranda. The Department has met the primary goals of that Plan, having retrained investigative staff, instituted new policy to make certain alleged victims are interviewed in confidential locations, improved its notification process for complainants who are no longer incarcerated, and mandated earlier supervisory review of open investigations. The Department also intends, as part of this Plan, to implement a computerized case management system for PREA cases by the end of 2020. In the meanwhile, the Department has committed to continue to manually collect, track, and publish its data on PREA allegations and investigations.

PRELIMINARY TREND OVERVIEW

During CY 2018, the Department experienced an increase in allegations of sexual abuse and sexual harassment that were PREA reportable. There were 271 PREA reportable sexual abuse and sexual harassment allegations during the period of July 2018-December 2018 compared to 228 PREA reportable allegations during the period of January 2018-June 2018, representing an increase of 18.86%.

The Department experienced a slight increase (5.19%) in PREA reportable allegations of staff on inmate sexual abuse during the period of July 2018-December 2018 compared to PREA reportable allegations of staff on inmate sexual abuse during the period of January 2018-June 2018. The majority of the allegations are the result of allegations of inappropriate touching, crimes falling under the New York State Penal Law Code Section 130, and voyeurism. During the period of July 2018 - December 2018, these three (3) categories accounted for 142 allegations. These 142 staff on inmate sexual abuse allegations are the result of the following types of incidents: Use of Force – 25, Strip Search – 23, Pat Frisk - 7, Escort - 23, and Contraband – 6.

During the period of January 2018 - June 2018, the same three (3) categories accounted for 63 allegations of staff on inmate sexual abuse of the total 135 staff on inmate sexual abuse allegations. These 135 staff on inmate sexual abuse allegations are the result of the following types of incidents: Use of Force – 38, Strip Search – 10, Pat Frisk 9, Escort -1, and Contraband – 5.

The Department experienced a 35.29% increase in PREA reportable allegations of staff on inmate sexual harassment during the period of July 2018-December 2018 compared to PREA reportable allegations of staff on inmate sexual harassment during the period of January 2018-June 2018.

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The Department is continuously working to prevent sexual victimization. In an attempt to reduce the number of incidents of sexual victimization, the Department continues to designate specific housing areas for individuals who are potential sexual victims (SV). These housing areas are restricted to SVs and those who do not have a sexual designation. Anyone designated as a potential Sexual Abuser (SA), can not be housed with a SV, unless it is a specialized housing unit. In these instances, the SVs and SAs beds or cells are not in close proximity and are closely watched by staff. In addition, staff conducts thorough physical searches for blind-spots in isolated areas within inmate housing and common areas. These blind-spot checks are in addition to the standard tours conducted several times a day.

The Department continues to ensure staff are educated about PREA, starting at the academy level with each new recruit class and also inclusive of contractors and volunteers. Everyone receives training on recognizing the signs of sexual abuse and what steps to take when an allegation is made. In addition to posters in the facility detailing how to report an incident, the Department has strengthened our inmate grievance system to ensure that inmates have an effective outlet to communicate and resolve issues of concern through a streamlined process.

The Department has implemented significant custody management changes, and currently houses consistent with a person's gender identity. In addition to relocating the Transgender Housing Unit to Rose M. Singer Center (RMSC), we have opened up a new admission house in RMSC for individuals who come into custody and identify, or have been identified, as transgender female or intersex. The Department also considers anyone who is transgender female, and requests to be housed in the female facility, for housing placement in a general population housing unit. We are evaluating each individual on a case-by-case basis, as warranted by the PREA Standards and Board of Correction Minimum Standards, and placing them consistent with their gender identity in a male or female facility, subject to security or management concerns.

CONCLUSION

The Department remains committed to progressive culture change and continues to implement the requirements of the PREA Standards and make adjustments on an ongoing basis.

APPENDIX A

DEFINITIONS OF SEXUAL VICTIMIZATION

The New York City Department of Correction (DOC) utilizes uniform definitions as provided by 28 C.F.R. §115.6 in the National Standards to Prevent, Detect, and Respond to Prison Rape (under the Prison Rape Elimination Act of 2003).

These definitions are used to categorize allegations of sexual abuse within New York State correctional facilities and to separate allegations by perpetrator type (staff or inmate) and type of abuse.

Similar to the Survey on Sexual Victimization (SSV), the following categories of sexual abuse have been disaggregated into five categories as indicated below.

Inmate Nonconsensual Act - sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; and

- Contact between the penis and the vulva or the penis and the anus including penetration, however slight; or
- Contact between the mouth and the penis, vulva or anus; or
- Penetration of the anal or genital opening of another person, however slight by a hand, finger, object, or other instrument.

Inmate Abusive Act - sexual contact with any person without his or her consent, or of a person who is unable to consent or refuse; and

- Intentional touching either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

Inmate Sexual Harassment – Repeated and unwanted sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another.

Staff Sexual Misconduct – any act or behavior of a sexual nature directed toward an inmate by an employee, volunteer, contractor or official visitor or other agency representative. Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual and nonconsensual acts include:

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- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse or gratify sexual desire; or
- Completed, attempted, threatened, or requested sexual acts; or
- Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.

Staff Sexual Harassment – Repeated verbal statements, comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative, including:

- Demeaning references to gender; or sexually suggestive or derogatory comments about body or clothing;
- Repeated profane or obscene language or gestures.

APPENDIX B

GENERAL DEFINITIONS

Resulting determinations from completed investigations are classified as outlined in the Code of Federal Regulations Title 28, Chapter 1, subpart A, section 115.5, *General Definitions* (28 C.F.R. § 115.5) as Substantiated, Unsubstantiated, or Unfounded. This standard states that agencies shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Substantiated – An allegation was investigated and determined to have occurred based on a preponderance of the evidence.

Unsubstantiated – An allegation was investigated and the investigation produced insufficient evidence to prove the event occurred.

Unfounded – An allegation was investigated and determined not to have occurred.