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The New York City Board of Correction
1 Centre Street
Room 2213
New York, N.Y. 10007

Dear Members of the Board of Correction:

I write to present testimony concerning lack of accurate data being disseminated/shared by the DOC to the NYPD regarding PREA complaints of rape, sexual assault and sexual harassment on Rikers and in our City jails. I have been following the reporting and data for the better part of a decade and searching for evidence of compliance to the Board's PREA rule voted on in November of 2016 and supposedly implemented beginning in January of 2017 on a rolling basis. At every point when asked directly about PREA compliance the DOC has obfuscated, lied, covered-up and/or presented misleading information regarding implementation of

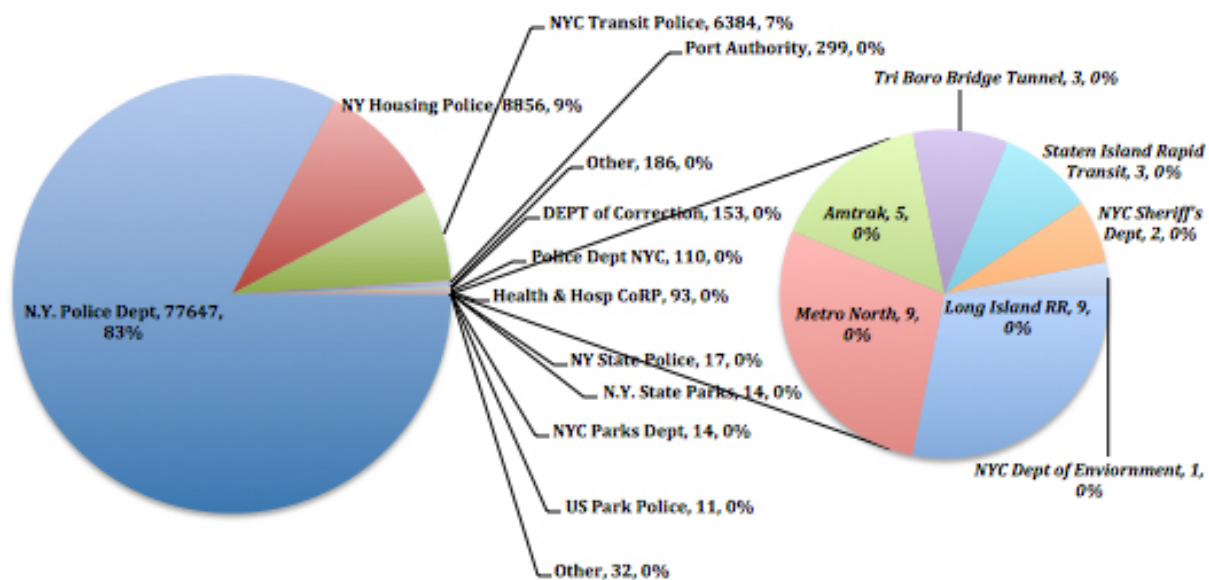
PREA. I have discovered glaring inconsistencies again regarding the data reported to the NYPD by the DOC.

On May 16, 2019, the day before the Memorial Day Holiday Weekend, the NYPD released a deluge of data regarding rape, sex abuse and sexual harassment complaints the agency has gathered/taken since 2006.¹

The data shared by the NYPD includes a column titled “Jurisdiction Code” that denotes which agency is/was responsible for investigating the allegation of sexual abuse, sexual assault, rape or sexual harassment and then reporting to the NYPD. **According to the data released by the NYPD the NYC Department of Correction has only reported 153 complaints of rape, sexual abuse, sexual assault and or sexual harassment from 2006 to May 2019:**

¹ NYC OPEN DATA: Rape Data: “This dataset includes all valid felony, misdemeanor, and

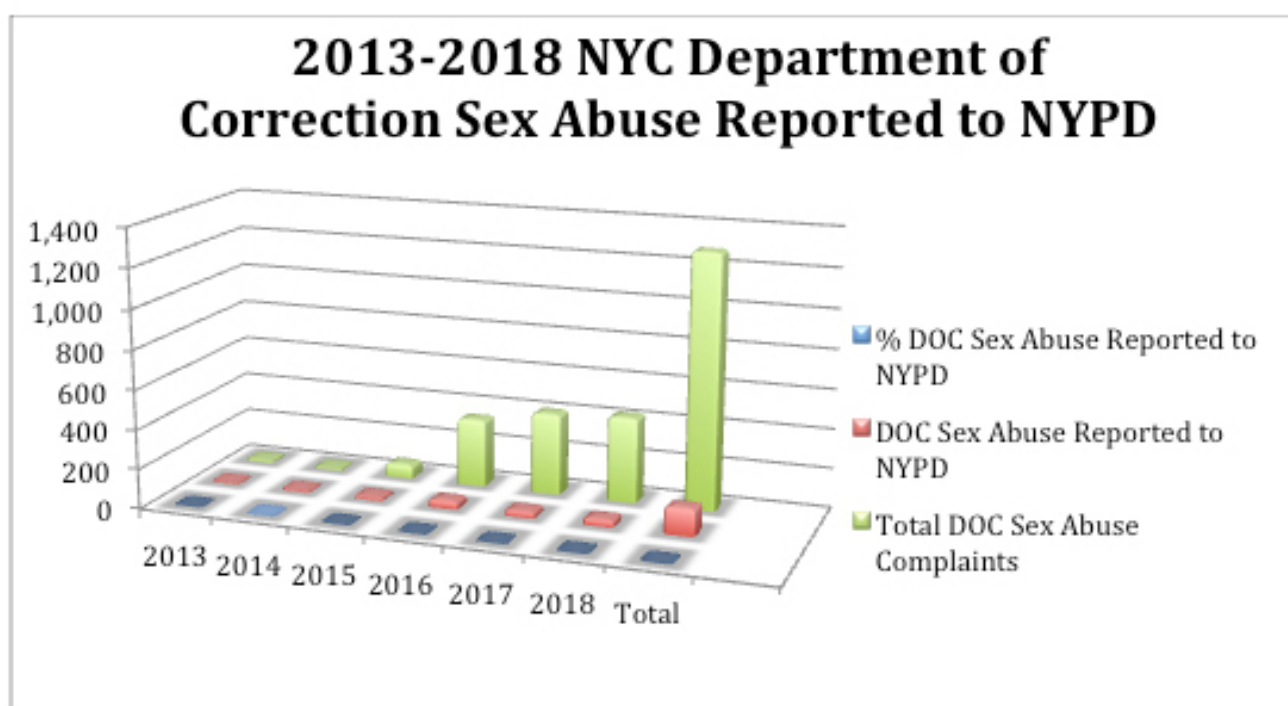
Total Sex Abuse Crimes Reported to NYPD by City Agency



NYC AGENCY	Total Reported to NYPD
N.Y. Police Dept.	77647
NY Housing Police	8856
NYC Transit Police	6384

Port Authority	299
Other	186
DEPT of Correction	153
Police Dept. NYC	110
Health & Hosp CoRP	93
NY State Police	17
N.Y. State Parks	14
NYC Parks Dept.	14
US Park Police	11
Long Island RR	9
Metro North	9
Amtrak	5
Tri Boro Bridge Tunnel	3
Staten Island Rapid Transit	3
NYC Sheriff's Dept.	2
NYC Dept. of Environment	1
TOTAL	93816

According to the NYC Board of Correction AND the Department of Correction's OWN reporting the data provided to the NYPD by the DOC is inaccurate and represents only 11% of all complaints made to the DOC of rape, sexual assault, sexual harassment or sexual abuse since 2006:



	% DOC Sex Abuse Reported to NYPD	DOC Sex Abuse Reported to NYPD	Total DOC Sex Abuse Complaints
2013	38%	5	13
2014	89%	8	9
2015	23%	16	70
2016	12%	41	347
2017	8%	32	415
2018	8%	36	434
Total	11%	138	1288

On September 6, 2018, the NYC Council held a tri-committee hearing shared by the Justice Systems, Women's' Issues and Criminal Justice Committees on PREA implementation in our City Jails. During that hearing Deputy Commissioner Serena Townsend was asked several times by CM Lancman and by CW Rosenthal about reporting to the NYPD:

COMMITTEES ON CRIMINAL JUSTICE, JUSTICE SYSTEMS & WOMEN 76

CHAIRPERSON LANCMAN: And my colleague, Council Member Rosenthal, asked about referrals to the Police Department. At what point-- well, you can't be responsible for what the Department of Investigation does, I guess, but at what point does the Department of Corrections, if the allegation is being investigated by the Investigations Division, notify the NYPD that there's an allegation of what in all circumstances would amount to some crime?

DEPUTY COMMISSIONER TOWNSEND: If we do uncover criminality, our liaison is to the Department of Investigation, and sometimes if there's a situation, if it requires a crime team, for example, we will work in conjunction with NYPD. If there's evidence collected, for example, we will establish chain of custody and provide that to the NYPD so that it can then be subsequently vouchered and sent to the Office of the Chief Medical Examiner for their analysis. So in that way we will liaise with the NYPD.

CHAIRPERSON LANCMAN: So, let's drill down on that a little bit. So, give me the Circumstances when the Department will or will not let the NYPD know that an allegation has been made? I mean, does it have to be substantiated first, or--

DEPUTY COMMISSIONER TOWNSEND: [interposing] It does not have to be substantiated.

COMMITTEES ON CRIMINAL JUSTICE, JUSTICE SYSTEMS & WOMEN 77 CHAIRPERSON LANCMAN: Wait, just let me

finish.

DEPUTY COMMISSIONER TOWNSEND: Sure.

CHAIRPERSON LANCMAN: Does it have to meet some quantum of evidence that something really did happen or is it defined by the nature of the allegation, like not every allegation of sexual abuse or sexual assault involves forensic evidence or a crime scene, as you put it.

DEPUTY COMMISSIONER TOWNSEND: So, a complaint or a 61 will be prepared for an inmate on inmate allegation of sexual abuse, which is referred obviously to the NYPD. The Department of Investigation, however, is--

CHAIRPERSON LANCMAN: [interposing] Sorry, let me just stop you there.

DEPUTY COMMISSIONER TOWNSEND: Yeah,
sure.

CHAIRPERSON LANCMAN: Is there any kind of sexual abuse defined by PREA that does not trigger this form 61, like it has to be some certain level within the-- or some certain level of seriousness?

DEPUTY COMMISSIONER TOWNSEND: Sexual abuse is a crime. So, if it's an inmate on inmate COMMITTEES ON CRIMINAL JUSTICE, JUSTICE SYSTEMS & WOMEN 78 sexual abuse, then there's a 61 generated. Harassment is not a crime.

CHAIRPERSON LANCMAN: Okay. Well, certain kinds of harassment could be.

DEPUTY COMMISSIONER TOWNSEND: Aggravated harassment could be a crime, but verbal harassment is a violation under penal law, not a misdemeanor.

CHAIRPERSON LANCMAN: So, those kinds of verbal harassment would not generate this form 61? DEPUTY COMMISSIONER TOWNSEND: Correct.

CHAIRPERSON LANCMAN: Okay, so let's keep going. There's a 61 that's been generated.

DEPUTY COMMISSIONER TOWNSEND: Right. And so those situations would, you know, we would involve the NYPD. Now, if there's a crime team, like I said, that needed to be--

CHAIRPERSON LANCMAN: [interposing] Well, wait, let me just stop you. When you say involve, is it the case that every time there is a form 61 which by definition indicates that there's an allegation that a crime was committed--

DEPUTY COMMISSIONER TOWNSEND: [interposing] Yes.

COMMITTEES ON CRIMINAL JUSTICE, JUSTICE SYSTEMS & WOMEN 79 CHAIRPERSON LANCMAN: that the NYPD is

notified.

DEPUTY COMMISSIONER TOWNSEND: Yes.

CHAIRPERSON LANCMAN: Every case? DEPUTY COMMISSIONER TOWNSEND: I will make sure before speaking out of turn, because I want to make, you know,--

CHAIRPERSON LANCMAN: [interposing] At least it's the policy that-- okay, keep going.

DEPUTY COMMISSIONER TOWNSEND: So, are we talking about inmate on inmate sexual abuse cases.

CHAIRPERSON LANCMAN: The cases where the 61 is generated.

DEPUTY COMMISSIONER TOWNSEND: Yes, so those are the cases that we would involve the Police Department.

CHAIRPERSON LANCMAN: Well, those are the cases you would notify the police.

DEPUTY COMMISSIONER TOWNSEND: Correct.

CHAIRPERSON LANCMAN: Right. So, let's talk now about involve, which is a different world.

In fact the information that Dep Commission Townsend shared during the hearing UNDER OATH in response to CM Lancman's inquiry was not only misleading but an outright lie: DOC reports are NOT being on-passed onto the NYPD and when they it is only at a rate of 11% annually. **What this means is DOC complaints are not making it to BJS so literally our voices are being choked by the DOC--our rapes and sexual assaults aren't even being counted in the Nat'l yearly statistics which**

are mandated to be fed to the Bureau of Justice

Statistics. The Federal Laws mandating crime data that Bureau of Justice

Statistics documents fall under:

A. The Justice Systems Improvement Act of 1979,

B. Public Law 96-157 (the 1979 Amendment to the Omnibus Crime Control and Safe Streets Act of 1968),

C. Public Law 90-351

Following, NYC IS IN VIOLATION OF THESE Federal Mandates/ LAWS as the DOC has not been accurately providing data to the NYPD to report to BJS.

It appears that the numbers being reported are only complaints counted as “PREA” complaints—and that those being demarcated as “not-PREA” are not being included in the numbers. It also appears that only complaints of detainee on detainee or incarcerate on incarcerate sexual violence/harassment are being reported to the NYPD and those of staff/correctional officer/consultant on people detained/incarcerated in our City jails are not being reported to the NYPD. I encourage the BOC to investigate and immediately remediate this failure by submitting correct data and alerting the NYPD and BJS of its previous errors in annual reporting.

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