

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. In addition to establishing mandatory standards for prevention, detection and response to prison sexual abuse and sexual harassment, the PREA Standards require all correctional facilities to conduct sexual abuse incident reviews and collect uniform data using standardized definitions. Agencies must ensure that data collection includes allegations of sexual abuse and sexual harassment at facilities under its direct control. This incident-based sexual abuse information must 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 (January 2019 through June 2019), 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) and compare last reporting period (July 2018 – December 2018) data to this reporting period (January 2019 – June 2019) data. See [Figure 1](#).

Figure 1

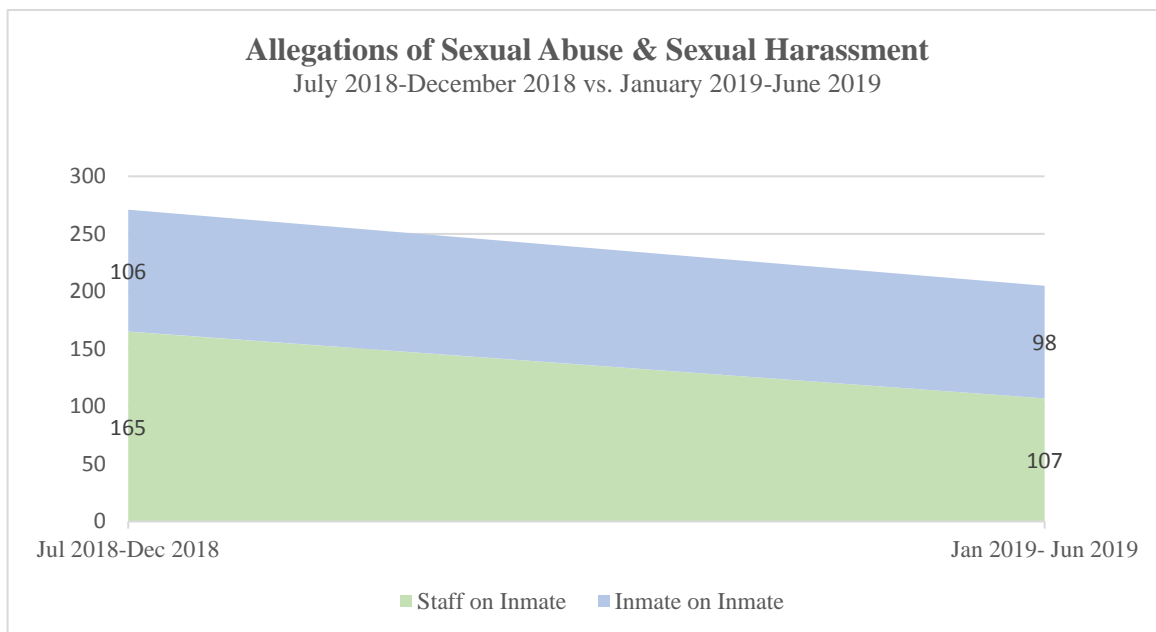


Figure 1 (above) shows an encouraging trend: both inmate-on-inmate and staff-on-inmate PREA allegations have declined dramatically this reporting period compared to the last reporting period. During the last period, the Department received 271 allegations; allegations in this reporting period totaled 205. This represents a 24% decrease in overall allegations. This reduction in allegations is a testament to the consistent messaging and application of PREA standards within the Department.

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Facility Breakdown

Table 1, below, analyzes PREA allegations by facility, comparing side-by-side last reporting period to the current reporting period.

Notably, there was a decline in allegations from the Rose M. Singer Center (RMSC) facility during this reporting period by over 40% (from 39 in the last period to 22 in this period). 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 inmate education. The staff has demonstrated increased buy-in and accountability, which, in turn, encouraged a culture of more accurate reporting. In addition, the Department has made strong efforts 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.

There were a couple of facilities experiencing an upward trend, despite the above-mentioned efforts. In particular, GRVC and HOJC showed increases by approximately 30%. It is relevant to note here that the Department’s PREA Investigation Team has recognized that there are some inmates who make a disproportionately high number of unfounded or unsubstantiated PREA complaints; many of the inmates making those complaints are housed at GRVC and HOJC.¹

Table 1

<i>Facility Breakdown Comparison</i>				
	Jul 2018-Dec 2018		Jan 2019-Jun 2019	
	# of Allegations	%	# of Allegations	%
RMSC	39	14.39%	22	10.73%
AMKC	53	19.56%	32	15.61%
BKDC	35	12.92%	15	7.32%
GRVC	30	11.07%	45	21.95%
OBCC	21	7.75%	13	6.34%
EMTC	13	4.80%	10	4.88%
MDC	23	8.49%	10	4.88%
NIC	14	5.17%	2	0.98%
RNDC	5	1.85%	11	5.37%
WF	7	2.58%	14	6.83%
VCBC	7	2.58%	3	1.46%
BPHW	4	1.48%	2	0.98%
HOJC	14	5.17%	20	9.76%
OTHER UNITS	6	1.85%	6	2.93%

¹ The Nunez Federal Monitor noted in his Seventh Report earlier this year that “[i]n the Monitoring Team’s experience, an increased rate of allegations is typical in Facilities with high levels of disorder and that undergo significant transitions, such as the move from RNDC to HOJC. Furthermore, upon investigation, several allegations from HOJC were found to have been false reports, called in by a single youth in an effort to have other youth removed from his housing unit.”

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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 category of alleged perpetrator (staff or inmate). Of note, approximately 87% of all allegations were reported by inmates ages twenty-two or older.

Table 2

<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

Table 3

<i>January 2019-June 2019</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	21	3	18
19-21	6	1	5
22≥	178	103	75

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). In approximately 50% of all allegations reported, the alleged perpetrator was twenty-two years old or older.

Table 4

<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 ²		128	

² “Unidentified Alleged Perpetrator” (Tables 4 & 5) means the perpetrator was not identified during an investigation.

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Table 5

<i>January 2019-June 2019</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	18	0	18
19-21	3	0	3
22≥	108	65	43
Unidentified Alleged Perpetrator	76		

In the prior reporting period, 128 alleged victim inmates were unable to identify the alleged perpetrator inmate, accounting for 47% of all inmate-on-inmate PREA incidents in the previous reporting period. In the current reporting period, 76 alleged victim inmates were unable to identify the alleged inmate perpetrator, accounting for 37% of all inmate-on-inmate PREA 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 mode of reporting for alleged victims of both staff-on-inmate and inmate-on-inmate incidents.

Table 6

<i>Reporting Breakdown</i>					
		<i>July 2018-December 2018</i>		<i>January 2019-June 2019</i>	
		<i># of Allegations</i>	<i>%</i>	<i># of Allegations</i>	<i>%</i>
Staff-Inmate					
	311	139	51.29%	81	39.51%
	DOI	3	1.11%	2	0.98%
	Facility	12	4.43%	16	7.80%
	ID	3	1.11%	3	1.46%
	PREA	1	0.37%	2	0.98%
	Other	7	2.58%	3	1.46%
Total		165	60.89%	107	52.20%
Inmate-Inmate					
	311	86	31.73%	48	23.90%
	DOI	2	0.74%	0	0.00%
	Facility	12	4.43%	30	14.63%
	ID	0	0.00%	0	0.00%
	PREA	2	0.74%	3	1.46%
	Legal Aid	0	0.00%	3	1.46%
	Other	4	1.48%	14	6.83%
Total		106	39.11%	98	48.29%

Overall Trends of PREA Allegations

Table 7 compares total reported incidents for the latter half of 2018 (last reporting period) to the first half of 2019 (current reporting period). The total number of sexual abuse and sexual harassment allegations **decreased by 24.35%** from the last reporting period to the current reporting period (271 versus 205 allegations, respectively). Overall, there was a decrease of allegations in all categories of sexual harassment and sexual abuse except inmate-on-inmate non-consensual sex act allegations (which saw an increase of 3 allegations) and staff-on-inmate sexual harassment allegations (which saw an increase of 7 allegations).

Table 7

<i>Comparison of Allegations of Sexual Victimization, by type of Incidents</i>			
	Jul 2018-Dec 2018	Jan 2019-Jun 2019	% Increase/Decrease
Total	271	205	24.35% ↓
Staff on Inmate	165	107	35.15% ↓
Sexual Abuse	142	77	45.77% ↓
Sexual Harassment	23	30	30.43% ↑
Inmate on Inmate	106	98	7.55% ↓
Abusive Sexual Contact	53	50	5.66% ↓
Non-Consensual Sex Act	29	32	10.34% ↑
Sexual Harassment	24	16	33.33% ↓

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 40% of all allegations. There were 77 staff sexual abuse allegations reported during the first half of 2019, a **46% decrease** from the 142 allegations made during the latter half of 2018 (see Table 8 for details).

Staff-on-inmate sexual abuse allegations can fall under three categories: Inappropriate Touch, Crimes Under Penal Law 130, and Voyeurism. Within those categories exist allegations that arose from a separate (presumably/potentially legitimate) staff act, such as a strip search.

In the last reporting period, about **60%** (84) of alleged staff sexual abuse were as a result of the above-described situation. 25 were alleged to have occurred during a use of force (“UOF”), 23 during a strip search, 7 during a pat-frisk, 6 during contraband retrieval and 23 during an escort. By contrast, in the current reporting period, about **35%** (27) of staff sexual abuse were alleged to have occurred under these circumstances: 7 during a use of force, 9 during a strip search, 3 during a pat-frisk, 3 during a contraband

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retrieval and 5 during an escort. This marked reduction in complaints of this nature inspires confidence that staff are acting appropriately in carrying out duties that require them to physically engage inmates.

Table 8

<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	25
STRIP SEARCH	23
PAT FRISK	7
CONTRABAND	6
ESCORT	23
60% encompasses above secondary incidents	
NON COOP	13
RECANT	4
GRIEVANCE	2
VERBAL	6
OTHER	33
TOTAL	142

<i>Staff-Inmate Sexual Abuse Jan 2019-Jun 2019</i>	
Category	# of Allegations
Inappropriate Touch	40
Crimes Under New York State Penal Law 130	24
Voyeurism	13
Grand Total	77

UOF	7
STRIP SEARCH	9
PAT FRISK	3
CONTRABAND	3
ESCORT	5
35% encompasses above secondary incidents	
NON COOP	8
VERBAL	6
RECANT	1
UNDUE	2
OTHER	33
TOTAL	77

Staff Sexual Harassment

PREA-reportable staff sexual harassment includes repeated verbal statements and comments or gestures of a sexual nature made by staff to an inmate. Staff sexual harassment allegations represent 11.56% of all allegations reported. Total allegations of PREA-reportable staff sexual harassment increased by seven (or, 30.43%) between the prior and current reporting periods, from 23 to 30 allegations (see Table 9).

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Table 9

<i>Staff on Inmate Sexual Harrasment</i>					
Sub-Category	# Allegations	%	# Allegations	%	% Increase/Decrease
	Jul 2018-Dec 2018		Jan 2019-Jun 2019		
SEXUAL THREAT	11	47.83%	16	53.33%	45.45% ↑
INAPPROPRIATE COMMENTS	2	8.70%	6	20.00%	200.00% ↑
BODY PART VIEW	6	26.09%	2	6.67%	66.67% ↓
HOMOPHOBIC STATEMENT	0	0.00%	1	3.33%	100.00% ↑
RETALIATION	1	4.35%	3	10.00%	200.00% ↑
OTHER	3	13.04%	2	6.67%	33.33% ↓
TOTAL	23	100.00%	30	100.00%	30.43% ↑

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 10.70% of all July 2018 – December 2018 allegations, and 15.61% of all January 2019-June 2019 allegations; from the last reporting period to the current period, there was an increase of three (3) such allegations, from 29 to 32. During the last reporting period, every alleged non-consensual sex act (29 total) fell into the category, “Crimes under New York State Penal Law 130.” During the current reporting period, 31 out of the 32 allegations (97%) fell into the same category (see [Table 10](#)).

Table 10

<i>Non Consensual Sex Act</i>	<i># of Allegations</i>	<i># of Allegations</i>
Period	July 2018-December 2018	January 2019-June 2019
Crimes Under NY State Penal Law 130	29	31

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 19.56% of all allegations for the period of July 2018-December 2018 compared to 24.39% during January 2019-June 2019. However, the total number of inmate abusive act allegations decreased by 5.66% (53 allegations to 50) ([Table 11](#)).

Table 11

Inmate Abusive Acts	# of Allegations	%	# of Allegations	%	% Change
	July 2018-December 2018		January 2019-June 2019		
Inappropriate Touch	38	71.70%	44	88.00%	15.79% ↑
Crimes Under NY State Penal Law 130	15	28.30%	6	12.00%	60.00% ↓
Total	53	100.00%	50	100.00%	5.66% ↓

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 decreased by 33.33% from twenty-four (24) allegations during July 2018-December 2018 to sixteen (16) allegations for the January 2019 – June 2019 time period (see [Table 12](#)).

Table 12

<i>Inmate Sexual Harassment</i>				
July 2018-December 2018		January 2019-June 2019		% Change
# Allegations	%	# Allegations	%	
24	8.86%	16	7.80%	33.33% ↓

Overview of Rates and Trends

The rate of reported allegations of sexual victimization decreased from 13.36 per 1,000 inmates during the latter half of 2018 to 10.71 per 1,000 inmates during the first half of 2019. The rate of staff allegations decreased from 8.13 per 1,000 inmates during July 2018- December 2018 to 5.59 per 1,000 inmates during January 2019-June 2019. The rate of inmate-on-inmate allegations also decreased slightly from 5.23 per 1,000 inmates to 5.12 per 1,000 inmates (see [Table 13](#)).

Table 13

<i>Total Allegations of Sexual Victimization, by type of incident</i>						
<i>Jul 2018-Dec 2018 vs Jan 2019-Jun 2019; rate per 1000 inmate population</i>						
Category Type	Jul 2018- Dec 2018	Jan 2019- Jun 2019	%(Jul 2018- Dec 2018)	%(Jan 2019- Jun 2019)	rate (Jul 2018- Dec 2018)	rate (Jan 2019- Jun 2019)
Total	271	205	100.00%	100.00%	13.36	10.71
Staff on Inmate	165	107	60.89%	52.20%	8.13	5.59
Sexual Abuse	142	77	52.40%	37.56%	7.00	4.02
Sexual Harassment	23	30	8.49%	14.63%	1.13	1.57
Inmate on Inmate	106	98	39.11%	47.80%	5.23	5.12
Abusive Sexual Contact	53	50	19.56%	24.39%	2.61	2.61
Non-Consensual Sex Act	29	32	10.70%	15.61%	1.43	1.67
Sexual Harassment	24	16	8.86%	7.80%	1.18	0.84

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 allegations are those where 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 first half of 2019, along with a description of 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 between the two reporting periods. The consequence of having such specific and narrow parameters is that the resultant report will present incomplete, partial data, only representative of some of the work that has been done in the relevant time periods. For example, [Table 14](#)'s closure and substantiation rates are not indicative of all the work completed by the Department in the past six months because 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.³

[Table 14](#) 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 14](#).⁴

Importantly, the data in [Table 14](#) for the last reporting period (July 2018 – December 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 closed⁵. For an up-to-date account of resulting determinations that describes the Department's progress on investigating and closing cases, see Section Three.

³ For example, an allegation made in early 2018 (outside this and the prior reporting periods) that was investigated and closed during the current reporting period (January-June 2019) would not be 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 July 2019) will not be accounted for in the closed case tally. If an allegation was reported in December 2018 (*last reporting period*) and was closed one month later in January 2019 (*current reporting period*), the case would not appear as closed in [Table 14](#).

⁴ Additional cases were closed by the Department during the time period of January 2019 – June 2019, however, those cases related to allegations that were reported prior to January 2019. [Table 15](#) provides one example of additional work completed by the Department during the current reporting period: data on allegations reported prior to January 2019 but closed during the current reporting period.

⁵ Specifically, since the publishing of the last report six months ago, **22 (9%) of those 252 pending cases have been closed**. 12 were deemed unsubstantiated, and 10 were determined to be unfounded.

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Table 14

<i>Substantiated, Unsubstantiated, Unfounded and Pending PREA Allegations July 2018 – June 2019</i>		
	<i>Case Reporting Period</i>	
	<i>Jul 2018-Dec 2018</i>	<i>Jan 2019-Jun 2019</i>
Total Allegations	271	205
Substantiated	1	1
Unsubstantiated	1	20
Unfounded	17	21
Total Closed	19	42
Preliminary Findings-Substantiated	2	1
Preliminary Findings-Unsubstantiated	254	194
Preliminary Findings- Unfounded	15	10
Pending Final Disposition	252	163

Table 14 demonstrates the success of the Department’s Investigation Division in closing PREA investigations more expeditiously than ever before. This table in particular, because it focuses **only** on allegations made, investigated, and closed within a short time span, measures the entire life of an investigation, from allegation to closing. **During the last period, investigators were able to close 19 cases (7%) of the 271 that were reported during those six months. This period, investigators have closed 42 (21%) of the 205 reported incidents, a noteworthy and promising improvement.**

Table 15 indicates allegations reported prior to January 2019 (allegations reported from 2015 up and until December 31, 2018) but closed during the January 2019-June 2019 reporting period.

Table 15

<i>Allegations that reached Final Disposition during January 2019-June 2019</i>						
	<i>Initiated Investigation⁶</i>					<i>Total</i>
	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019⁷</i>	
Substantiated	0	5	3	2	1	11
Unsubstantiated	11	154	260	49	20	494
Unfounded	2	11	53	29	21	116
Total Closed	13	170	316	80	42	621

There were a total of **621 PREA cases closed** during the current reporting period (January 2019-June 2019) that were reported prior to July 1, 2019.⁸ This represents just one example of the unprecedented progress made by the Department outside of the data reported in Table 14.

⁶ Allegations were made in the year indicated but closed during this reporting period.

⁷ January 2019 - June 2019 only.

⁸ 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.

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As Table 15 demonstrates, the Department is closing PREA cases earlier than it ever has before, having closed 80 cases already from the year 2018, and 42 from 2019. Those 42 cases have all been closed in less than 90 days’ time. Although we are not yet closing every single PREA investigation within 90 days, the progress is undeniable. For 2019 incidents, only 42% of investigations surpassed 90 days whereas before the Department instituted its Corrective Action Plan in 2018, almost all PREA investigations remained open longer than 90 days.

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 June 2019 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 16

<i>Substantiated, Unsubstantiated and Unfounded Allegations of Sexual Victimization, by facility, rate per 1,000 inmates</i>							
		Substantiated		Unsubstantiated		Unfounded	
Facility Name	Total	Number	Rate	Number	Rate	Number	Rate
AMKC	32	0	0.00	3	0.16	2	0.10
BKDC	15	1	0.05	1	0.05	1	0.05
EMTC	10	0	0.00	3	0.16	0	0.00
GRVC	45	0	0.00	0	0.00	3	0.16
MDC	10	0	0.00	2	0.10	0	0.00
HOJC	20	0	0.00	3	0.16	11	0.57
OBCC	13	0	0.00	2	0.10	1	0.05
RMSC	22	0	0.00	3	0.16	1	0.05
RNDC	11	0	0.00	1	0.05	2	0.10
VCBC	3	0	0.00	0	0.00	0	0.00
WF	14	0	0.00	1	0.05	0	0.00
NIC	2	0	0.00	0	0.00	0	0.00

Section Three

RESULTING DETERMINATIONS

Resulting determinations from completed investigations are deemed substantiated, unsubstantiated, or unfounded as outlined by the PREA Standards. See Appendix B (pg.19) for each term’s definition.

Of the 205 sexual abuse and sexual harassment allegations reported during January 2019 – June 2019, twenty-one (21) (10.24 %) were determined to be unfounded. In these cases, the Department’s Investigation Division determined that the event did not occur by the presence of compelling and credible evidence that materially contradicted the allegation. Notably, the Department has unfounded 63.32% more allegations during this reporting period compared to last. The ability to unfound cases at this dramatically higher rate is directly correlated to the Department’s enhanced training of investigative staff since adhering to its commitments in last year’s Corrective Action Plan.

The vast majority of completed investigations have concluded that the 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 last period to the current one.

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 PREA 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.

The Department takes every allegation of sexual misconduct seriously, and investigates each complaint thoroughly. To that end, the Department’s Investigation Division (“ID”) handles all PREA-related allegations, responding to each one within 72 hours. Within those first 72 hours, ID staff interviews alleged victims, separates said individuals from identified alleged perpetrators, collects evidence, affords alleged victims mental health, ministerial and victim services, and conducts an investigation. Because of the high number of allegations, and the Department’s commitment to extensively investigating every allegation, ID developed a backlog⁹ of about 1,200 PREA cases. Through strategic hiring and restructuring, ID was able to eliminate this backlog during the last reporting period.

Currently, ID is on track to have all cases over 90 days old closed well in advance of the next 5-40 report. The vast majority of pending allegations are within the acceptable 90-day investigative window. For the first time since the Department has submitted 5-40 reports, ID has no open 2015, 2016 or 2017 incidents, aside from those pending with external criminal investigative/prosecutorial agencies. Most importantly, PREA investigators now have a structure that supports quality, unbiased, and efficient investigations.

⁹ “Backlog” was defined as any case open for over 90 days.

Section Four

PRELIMINARY TREND OVERVIEW

The overall trends from last reporting period to current are overwhelmingly positive.

During the period of January 2019 through June 2019, the Department experienced a decrease in total PREA allegations (sexual abuse and sexual harassment): 205 allegations compared to 271 in the previous reporting period of July 2018 through December 2018. This represents a marked **decrease of 24.35%**.

The Rose M. Singer Center (RMSC) facility saw a considerable decline in PREA allegations from the last reporting period to this reporting period: a **43.6% reduction**, from 39 allegations in the last period to 22 allegations in the current period.

With respect to inmate-on-inmate allegations, there are much fewer instances of unidentified alleged perpetrators in the current period (76) than in the last period (128), which allows investigators additional means of evidence collection, including interviewing the alleged perpetrator. This, in turn, yields a higher-quality investigation and more reliable investigative findings. Allegations of inmate Abusive Acts are down by 5.66%; notably, abusive acts categorized as “Crime under Penal Law 130” are down **60.00%**.

The Department experienced a **45.77% decrease** in staff-on-inmate sexual abuse allegations during the current reporting period, an encouraging and substantial change, particularly in such a short period of time.

The Department experienced a 30.43% increase in PREA reportable staff-on-inmate sexual harassment allegations during the period of January 2019-June 2019 compared to PREA reportable allegations of staff-on-inmate sexual harassment during the period of July 2018-December 2018. The increase in staff sexual harassment claims likely stems from a revised reporting system put into place during this reporting period. The Department consulted with members of the Moss Group and together determined that the Department would include, as PREA-reportable sexual harassment, any case where a member of service made a sexually suggestive comment to more than one inmate (previously, the Department had defined “repeated” comments as comments made to more than once to the same inmate). This broadened the category, resulting in an increase of allegations determined to be PREA-reportable. While this statistic ultimately represents an uptick of only seven additional allegations of staff sexual harassment than last period, the Department recognizes its responsibility to address any upward trend in staff-on-inmate allegations.

The only other category that saw an increase in allegations was inmate-on-inmate non-consensual sex act. The upward trend is minimal (10.34%, or 3 additional allegations). The Department is committed to investigating the veracity of all of these allegations and will provide the Board, as it always does, with investigative results.

Investigations are improving in their efficiency and, therefore, compliance with Board Minimum Standards, in triple speed. Only 19 cases opened in the last reporting period (representing 7% of total opened cases in that 6-month period) were able to be fully investigated and closed in that same reporting

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period, whereas in this reporting period, investigators managed to open, investigate, and close 42 cases (representing 21% of total allegations for this 6-month period). The ability of investigators to accomplish this feat is directly related to the fact that their caseloads have become more manageable after having closed well over 1,500 cases in the last year. **In this reporting period alone, investigators were able to close 621 PREA cases.** That is over 100 cases a month. The PREA investigations are trending in the right direction. In fact, in previous 5-40 Reports, the Department had discussed its Corrective Action Plan to close over 1,000 cases by February 2019, which was accomplished. The Department continues to work with the Board to set and successfully meet case closure deadlines.

Substantiation rates have remained relatively consistent¹⁰ and, due to improved training by Department supervisors and external entities, more PREA investigations have been unfounded in this reporting period than ever before. Specifically, 116 out of 621 closed cases this period were deemed “unfounded” (18.68%). This means that evidence was uncovered by investigators in almost 20% of cases to actually prove the allegations false, lending another layer of veracity and integrity to the investigative process.

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), cannot 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. The policy to guide these practices is in the final drafting stage.

In the interim, the department will continue to carefully evaluate each individual on a case by case basis for placement in housing that most closely aligns with their gender identity, as warranted by the PREA

¹⁰ Note: until all cases are closed from this period, it is premature to calculate substantiation rates for the year. Because there are still some 2018 cases open, for example, it would be inaccurate to have a final substantiation rate for 2018 allegations. Clearly, then, it is also premature to finalize 2019 substantiation rates.

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Standards, Board of Correction Minimum Standards, and the Mayor’s Executive Order 16 of 2016 as long as the placement does not present management, safety, or security problems.

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:

- 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

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- 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.