

# DOWNSTATE COALITION FOR CRIME VICTIMS

December 14, 2018  
The New York City Board of Correction  
1 Centre Street  
Room 2213  
New York, N.Y. 10007

Dear Members of the Board of Correction:

The Downstate Coalition for Crime Victims is a collective of service providers, victims' advocates, survivors, community based programs, law enforcement, government agencies and elected officials. The Coalition and its member organizations recognize that a person can be a victim of a crime even while incarcerated in our State's prisons and jails. In fact, several of our programs work directly with incarcerated individuals, including those who have been sexually assaulted in prison. We urge the Board of Correction ("the Board") to hold the New York City Department of Correction ("the Department" or "DOC") accountable for continuing violations of the Board's Standards for the Elimination of Sexual Abuse and Sexual Harassment in Correctional Facilities ("the Standards").

We ask that the Board issue Notices of Violation of Standards §§ 5-30 and 5-40 for Investigations and Data Collection and Review, respectively. We ask further that the Board hold an immediate public hearing about the Department's failure to comply with the Board's Standards.

This is a pivotal moment: as the Board knows, the Department is overwhelmingly out of compliance with the Standards for investigating and reporting data about sexual assault and harassment. The Board's careful analysis issued in September 2018 of DOC PREA Closing Reports revealed unconscionable failures in the way the Department conducted investigations into allegations of sexual abuse and harassment. As the Board's Report detailed, an alarming percentage of closing reports did not contain indications that all evidence had been reviewed, that all witnesses (including the alleged perpetrator) had been interviewed, that video was obtained and watched, that credibility assessments were properly made, how or why claims were unsubstantiated, or whether supervisors were even substantively reviewing the work of investigation staff as required. Investigations were not timely completed, and certainly not completed within the time periods required by BOC Standards, delays which can compromise the integrity of the investigation. Also this lack of closure can exacerbate the symptoms of PTSD experienced by victims of sexual abuse or harassment.



The investigations themselves appeared to be deficient from the outset. As our Coalition raised in its testimony before the Board in the October BOC meeting, we remain deeply concerned about the lack of trauma-informed interview and investigation practices. When the Department does not provide, at minimum, confidential interview spaces and then uses a victim's inability to provide sufficient detail in an initial interview as a justification for further failures to interview perpetrators or witnesses or to collect physical evidence or video, DOC is failing victims. Without the use of trauma-informed interviewing practices, very few victims will be able to narrate their experiences fully or reliably. Given all of these factors, the outrageously low rate of substantiation becomes even more troubling. Victims are harmed when there is such little indication that perpetrators are being held accountable.

Considering the severity of the Department's noncompliance with the Standards for investigations and reporting, DOC's response has been woefully insufficient. The Department's one-page "Corrective Action Plan"<sup>1</sup> and the limited response<sup>2</sup> to the Board's PREA Closing Report Audit did not constitute an adequate plan to address the serious lack of compliance with Standards §§ 5-30 and 5-40. When the Board demanded a more comprehensive Corrective Action Plan by November 8, 2018 via a Resolution promulgated during the October BOC meeting, the Department had yet another opportunity to demonstrate an ability to take these issues seriously.<sup>3</sup> We were even more deeply concerned, therefore, when Chairman Cephas confirmed during the November BOC meeting that the Department had not responded.

This lack of action from the Department is unacceptable, and the victims of sexual abuse and harassment while in custody deserve better. If there is to be accountability and an end to the too-frequent violence and abuse of persons confined in DOC custody, then accountability must begin with Department leadership. The Board is in a unique position to demand that accountability.

We therefore urge the Board to issue Notices of Violation of Standards §§ 5-30 and 5-40 and hold a public hearing about the Department's failure to comply with the Board's Standards, including scheduling an emergency meeting in December 2018.

We welcome the opportunity to discuss these matters further.

Sincerely yours,

Mary Haviland, Co-Chair  
Executive Director  
New York City Alliance Against Sexual Assault

Michael Polenberg, Co-Chair  
Vice President, Government Affairs  
Safe Horizon

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<sup>1</sup> Available at [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/PREA\\_ClosingReports\\_FINAL\\_09.24.18\\_update.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/PREA_ClosingReports_FINAL_09.24.18_update.pdf).

<sup>2</sup> Available at <https://www1.nyc.gov/site/boc/meetings/oct-9-2018.page> (relevant testimony beginning at 2:51:53). Available at <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/June-12-2018/PREA%20Public%20Corrective%20Action%20Plan.pdf>.

<sup>3</sup> Available at <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/NYC%20Department%20of%20Correction%20-%20Response%20to%20BOC%20Audit%20of%20PREA%20Investigations%20%209.12.18.pdf>.

<sup>4</sup> Available at [https://www1.nyc.gov/assets/boc/downloads/pdf/october\\_2018\\_resolution\\_investigations\\_10\\_8\\_18.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/october_2018_resolution_investigations_10_8_18.pdf).