

INTRODUCTION

Prison Rape Elimination Act & BOC Minimum Standards

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” or “BOC”) 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 the Board with a semiannual report. This report, which evaluates sexual abuse and sexual harassment allegations made within the past six months (July 2024 through December 2024), 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 reflect 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).

Zero Tolerance Policy

The New York City Department of Correction has a zero-tolerance policy regarding sexual abuse and sexual harassment. The Department continues to stencil the Zero Tolerance Policy with telephone numbers for reporting allegations in jail housing areas, court holding pens, and in corridors. There are various measures in place for victims to report allegations of sexual abuse and harassment, including but not limited to a confidential PREA reporting hotline, access to 311, and PREA posters strategically placed near the phone banks listing points of contact to make reports and detailing how

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to report an incident. In addition, all Department staff are responsible for taking measures to prevent sexual assault and harassment and for reporting incidents. The Department conducts in-person orientation with new admissions. This allows individuals to ask the PREA Facility Compliance Unit staff questions during the orientation or privately at its conclusion. The PREA Facility Compliance Unit, the PREA Special Investigation Unit (SIU), and the LGBTQ+ Affairs Unit work closely together to provide support to all PIC, especially those that are most vulnerable.

The Department takes every allegation of sexual misconduct and sexual harassment seriously and investigates each complaint thoroughly. All efforts are made to properly record, evaluate, and fully investigate all allegations made by people in custody. The Department's Special Investigations Unit (SIU) handles all PREA-related allegations, initiating an investigation within the first 72 hours. PREA SIU Investigators interview alleged victims, separate individuals from identified alleged perpetrators, collect relevant evidence, afford alleged victims mental health, ministerial and victim services, and conduct a preliminary investigation.

The Department continues to engage in efforts to address the number of allegations received and concerns of the incarcerated population. These include the identification of appropriate housing for individuals in custody, especially those who may be vulnerable to victimization. The Department houses individuals by gender identity: transgender, gender non-binary, and intersex individuals. These individuals are afforded a specialized housing process and housing options that take into account heightened levels of vulnerability for this population. The PREA Facility Compliance Unit and the LGBTQ+ Affairs Unit provide support throughout all facilities and work closely with populations identified as particularly vulnerable. The PREA Facility Compliance Unit conducts monthly Retaliation Monitoring for those who have submitted sexual abuse complaints. It is the Department's goal to achieve full compliance with all PREA standards, as well as provide a safe environment for all staff and persons in custody.

PREA Training

The Department provides PREA training for Department staff during recruit training at the Academy and orientation on-boarding; contractors and volunteers who will have contact with individuals in custody are trained prior to entering the facilities. Refresher training is mandated every two years. PREA training includes instruction on recognizing the signs of sexual abuse and what steps to take when an allegation is made, as well as effectively communicating the importance of PREA compliance. PREA SIU investigative staff have received additional in-service training, including cross-training with the NYPD Evidence Collection Unit, as well as other law enforcement entities and subject matter experts that offer training in human trafficking and enhanced interviewing skills.

Section One

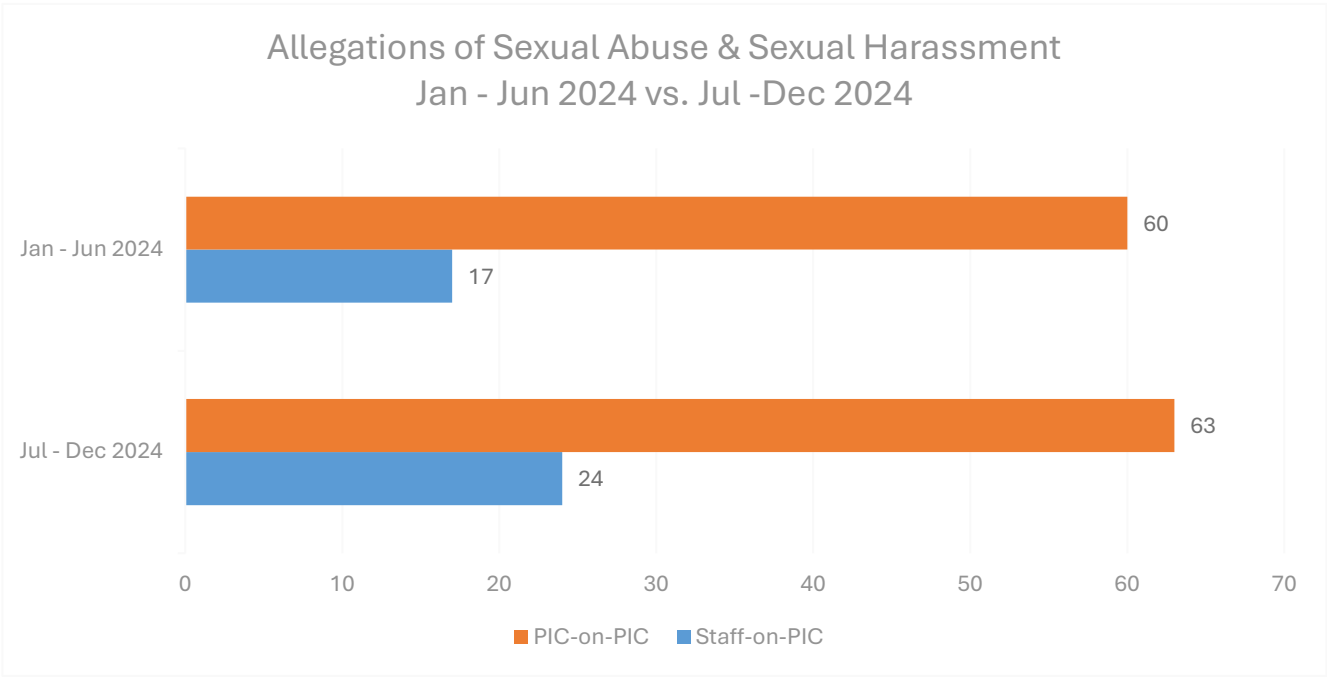
ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT

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 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 person in custody (PIC) – and compare this reporting period data to last period’s data, as shown in [Figure 1](#).

Figure 1



[Figure 1](#) shows the Department is reporting an increase in staff-on-PIC allegations by 41% (17 to 24) and PIC-on-PIC allegations increased by 5% (60 to 63) during this reporting period compared to last.

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Facility Breakdown

Table 1, below, gives a breakdown of PREA-reportable allegations by facility, comparing the last reporting period (January 2024 - June 2024) to the current reporting period (July 2024 - December 2024).

Table 1

Facility Breakdown Comparison					
Facility	January 2024 - June 2024		July 2024 - December 2024		% Change
	# of Allegations	%	# of Allegations	%	
RMSC	20	25.97%	13	14.94%	-35%
AMKC	0	0%	1	1.15%	100%
GRVC	13	16.88%	18	20.69%	38.46%
OBCC	23	29.87%	20	22.99%	-13.04%
EMTC	9	11.69%	11	12.64%	22.22%
NIC	0	0%	7	8.05%	100%
RNDC	7	9.09%	10	11.49%	43%
WF	1	1.3%	3	3.45%	200%
VCBC	1	1.3%	0	0%	-100%
BHPW	1	1.3%	1	1.15%	0%
Other	0	0%	1	1.15%	100%
RESH	2	2.6%	2	2.30%	0%
Total	77	100%	87	100%	12.99%

During the current reporting period, one incident was alleged to have occurred at a facility that is no longer used to housed incarcerated individuals while the facility was still operational.

Age of Alleged Victim

Table 2 compares the ages of alleged victims from the previous reporting period (January 2024 - June 2024) to the current reporting period (July 2024 - December 2024). The data is further disaggregated by category of alleged perpetrator (Staff or PIC). Approximately 98.85% of all allegations in the current reporting period were reported by individuals in custody age 22 or older; individuals aged 22 or older comprise the vast majority of the population in custody.

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Table 2

<i>January 2024 – June 2024</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤ ¹	1	0	1
19-21	1	0	1
22≥	75	17	58
Total	77	17	60

Table 3

<i>July 2024 – December 2024</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤ ¹	0	0	0
19-21	1	0	1
22≥	86	24	62
Total	87	24	63

Age of Alleged Subject

Table 4 and Table 5 compare the ages of alleged subjects from the last reporting period (January 2024 - June 2024) to the current reporting period (July 2024 - December 2024). The data is further disaggregated by type of alleged victim (staff or PIC). In approximately 80% of the allegations reported, the alleged identified subject was age 22 or older. Incidents in which the alleged victim was unable to identify the alleged subject decreased by 20% between reporting periods.

Table 4

<i>January 2024 – June 2024</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤ ¹	0	0	0
19-21	1	0	1
22≥	55	6	49
Unidentified Alleged Subject	21	10	11
Total	77	16	61

¹ The Department does not maintain custody of individuals younger than 18-years-old.

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Table 5

<i>July 2024 – December 2024</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤ ¹	0	0	0
19-21	0	0	0
22≥	70	24	46
Unidentified Alleged Subject	17	0	17
Total	87	24	63

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 for Staff-on-PIC allegations; PIC-on-PIC allegations were reported more frequently at the facility level.

Table 6

<i>Reporting Breakdown</i>					
<i>Incident Type</i>	<i>Reporting Method</i>	<i>January 2024 – June 2024</i>		<i>July 2024 – December 2024</i>	
		<i># of Allegations</i>	<i>%</i>	<i># of Allegations</i>	<i>%</i>
Staff-PIC	311	9	11.69%	11	12.64%
	DOI	0	0%	0	0%
	Facility	5	6.49%	10	11.49%
	ID	1	1.3%	1	1.15%
	PREA	2	2.6%	2	2.30%
	Other	0	0%	0	0%
Total		17	22.08%	24	27.59%
PIC-PIC	311	9	11.69%	17	19.54%
	DOI	0	0%	0	0%
	Facility	33	42.86%	41	47.13%
	ID	6	7.79%	1	1.15%
	PREA	6	7.79%	3	3.45%
	Legal Aid	0	0%	0	0%
	Other	6	7.79%	1	1.15%
Total		60	77.92%	63	72.41%

Overall Trends of PREA Allegations

Table 7 compares total reported incidents for the last reporting period of January 2024 - June 2024 versus the current reporting period of July 2024 - December 2024. The total number of sexual abuse and sexual harassment allegations increased by 13% (77 versus 87 PREA-reportable allegations, respectively). Complaints addressed that were not classified as PREA-reportable and were not upgraded to a full investigation were referred to the appropriate party for follow-up and response (e.g., Grievance, H+H/Correctional Health Services, LGBTQ+ Affairs).

Table 7

<i>Comparison of Allegations of Sexual Victimization, by type of Incidents</i>			
<i>Incident Type</i>	<i>Jan 2024 – Jun 2024</i>	<i>Jul 2024 – Dec 2024</i>	<i>% Change</i>
Staff on PIC	17	24	+41%
Sexual Abuse	17	21	+24%
Sexual Harassment	0	3	+300%
Among PIC	60	63	+5%
Abusive Sexual Contact	28	23	-18%
Non-Consensual Sex Act	24	32	+33%
Sexual Harassment	8	8	0%
Total	77	87	+13%

Staff Sexual Abuse

All Staff-on-PIC sexual abuse allegations are investigated as potential violations of NYS Penal Law §130. Effective September 1, 2024, three Criminal Sex Act sections in Article 130 were repealed and included in three Rape sections. In addition, as per federal guidelines, staff voyeurism is investigated as abuse although no physical contact is alleged. There were 24 staff-on-PIC allegations of sexual abuse and sexual harassment made during the second half of calendar year 2024. This marks a 41% increase in staff-on-PIC allegations, from 17 made during the first half of calendar year 2024 (see Table 7).

For the second half of 2024, actions defined as potential crimes under NY State Penal Law 130 represented the highest category of sexual abuse allegations against staff. During the second half of 2024, allegations of sexual abuse against staff were spread across various categories, including inappropriate touching, crimes under NY State Penal Law 130, deriving from strip searches and uses of force. (see Table 8).

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Table 8

Staff-on-PIC Sexual Abuse
January 2024 - June 2024

Category	# of Allegations
Inappropriate Touch	4
Crimes Under New York State Penal Law 130	5
Voyeurism	0
Other	8
Grand Total	17

UOF	0
Strip Search	0
Escort	0
Pat Frisk	0
Verbal	0
Recant	0
Total Other	0

Staff-on-PIC Sexual Abuse
July 2024 - December 2024

Category	# of Allegations
Inappropriate Touch	7
Crimes Under New York State Penal Law 130	14
Voyeurism	0
Other	0
Grand Total	21

UOF	6
Strip Search	10
Escort	0
Pat Frisk	
Verbal	2
Recant	
Total Other	18

Staff Sexual Harassment

PREA-reportable staff sexual harassment includes repeated verbal statements, comments, or gestures of a sexual nature to a PIC by a staff member. Total allegations of PREA-reportable staff sexual harassment increased marginally between reporting periods (see [Table 9](#)).

Table 9

Staff-on-PIC Sexual Harassment			
Sub-Category	January 2024 – June 2024	July 2024 – December 2024	% Change
	# Allegations	# Allegations	
Sexual Threat	0	1	100%
Inappropriate Comments	0	1	100%
Homophobic Statement	0	1	100%
Total	0	3	300%

Person in Custody Non-Consensual Acts

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Non-consensual acts include sexual penetration among PIC without consent or of a PIC who is unable to either consent or refuses consent (see [Table 10](#)). During the last reporting period, 24 reported non-consensual sex acts were deemed crimes under New York State Penal Law §130 and one was categorized as inappropriate touching. During the current reporting period, 32 reported non-consensual sex acts were deemed crimes under New York State Penal Law §130 and one was categorized as inappropriate touching.

Table 10

Non-Consensual Sex Act	January 2024 – June 2024	July 2024 – December 2024
	# of Allegations	# of Allegations
Crimes Under NY State Penal Law 130	23	31
Inappropriate Touch	1	1
Total	24	32

Person in Custody Abusive Acts

PIC abusive acts are defined as unwanted intentional touching of a PIC without consent, or of a PIC who is unable to consent or refuse, by another PIC. The total number of PIC abusive act allegations increased by 33% (24 allegations to 32) (see [Table 11](#)).

Table 11

PIC Abusive Acts	January 2024 – June 2024		July 2024 – December 2024		% Change
	# of Allegations	%	# of Allegations	%	
Inappropriate Touch	24	7.94%	20	22.99%	189%
Crimes Under NY State Penal Law 130	0	0	0	0%	0%
Other	4	5.19%	4	4.60%	-11%
Total	28	36.36%	24	27.59%	-24%

Person in Custody Sexual Harassment

PIC 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 PIC directed toward another. Although the number of such allegations remained the same number of 8 allegations in both reporting periods the percentage decreased. (see [Table 12](#)).

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Table 12

<i>Person In Custody Sexual Harassment</i>				
<i>January 2024 – June 2024</i>		<i>July 2024 – December 2024</i>		<i>% Change</i>
<i># Allegations</i>	<i>%</i>	<i># Allegations</i>	<i>%</i>	
8	10.39%	8	9.19%	-12%

Overview of Rates and Trends

The rate of reported allegations of sexual victimization increased marginally from 6.27 per 1,000 PIC during the first half of 2024 to 6.52 per 1,000 PIC during the second half of 2024. The rate of allegations against staff increased from 17 persons in custody (2.71 per 1,000) during the January 2024 to June 2024 reporting period to 24 (3.67 per 1,000) during the July 2024 to December 2024 reporting period. The rate of allegations among PIC against other PIC increased marginally from 60 (9.56 per 1,000) incarcerated persons to 63 (9.65 per 1,000) incarcerated persons (see [Table 13](#)).

Table 13

<i>Total Allegations of Sexual Victimization</i>						
<i>Incident Type</i>	<i>January 2024 – June 2024</i>			<i>July 2024 – December 2024</i>		
	<i># of Allegations</i>	<i>%</i>	<i>Rate</i>	<i># of Allegations</i>	<i>%</i>	<i>Rate</i>
Staff on PIC	17	22.08%	2.71	24	27.59	3.67
Sexual Abuse	17	22.08%	2.71	21	24.14	3.21
Sexual Harassment	0	0%	0	3	3.45	0.45
PIC on PIC	60	77.92%	9.56	63	72.41	9.65
Abusive Sexual Contact	28	36.36%	4.46	23	26.44	3.52
Non-Consensual Sex Act	24	31.17%	3.82	32	36.78	4.90
Sexual Harassment	8	10.39%	1.27	8	9.19	1.22
Total	77	100%	12.28	87	100%	13.33

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 an investigation, are proven false.

Table 14 compares the total number of allegations that were reported during the reporting period, as well as the case status of all allegations investigated and closed during the reporting period at the time of publication, regardless of when an allegation was reported. The data in Table 14 for the previous reporting period (January 2024 - June 2024) reflects the status as of the time of the publication of the last report. Further, additional cases from other reporting periods may have been closed. The

Department's progress on investigating and closing cases is discussed in Section Three. During the current reporting period (July 2024 - December 2024), the Department's PREA Special Investigations Unit (SIU) opened 105 cases of which 87 were determined to be PREA-reportable cases. Of the 87 cases opened, 49 cases (56.32%) closed during the reporting period, four of which exceeded the requirement to make a final determination within 90 days, and 38 cases are pending and still within compliance. An overall total of 90 PREA-reportable cases were closed during the reporting period, including cases originating from this and previous reporting periods, of which an overall total of 16 exceeded the 90-day closing requirement.

Table 14

<i>Substantiated, Unsubstantiated, Unfounded and Pending Allegations of Sexual victimization Department-wide</i>		
<i>Case Status</i>	<i>Case Reporting Period</i>	
	<i>January 2024 – June 2024</i>	<i>July 2024 – December 2024</i>
Total Allegations	77	87
Total Closed During Reporting Period²	61	90
Substantiated	2	5
Unsubstantiated	36	53
Unfounded	23	32
Total Open Still in 90-Day Compliance	38	41
Preliminary Findings-Substantiated	0	0
Preliminary Findings-Unsubstantiated	38	38
Preliminary Findings- Unfounded	0	0
Pending Final Disposition	41	50

² The cases represent cases closed during the reporting period; these could have come from other reporting periods.

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Table 15 illustrates the cases closed by the PREA Investigation Division regarding allegations reported prior to December 2024 (allegations reported up and until December 31st, 2024) but closed during the July 2024 to December 2024 reporting period. There was a total of 90 PREA-reportable cases closed during the current reporting period (July 2024 - December 2024), of which 41 cases were reported prior to July 1st, 2024.

Table 15

<i>Initiated Investigation</i>					
<i>Case Disposition</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>	<i>2024</i>	<i>Total</i>
Substantiated	1	0	0	3	5
Unsubstantiated	0	0	0	52	53
Unfounded	0	0	0	32	32
Total Closed³	1	0	0	87	90

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 PIC in the Department’s custody between July 2024 to December 2024 of the calendar year. The incarcerated population includes both detainees and sentenced individuals. All allegations of sexual abuse and sexual harassment made by people in custody are taken seriously and investigated thoroughly.

Table 16

<i>Substantiated, Unsubstantiated, and Unfounded Allegations of Sexual Victimization</i>							
<i>Facility Name</i>	<i>Substantiated</i>		<i>Unsubstantiated</i>		<i>Unfounded</i>		<i>Total</i>
	<i>#</i>	<i>Rate</i>	<i>#</i>	<i>Rate</i>	<i>#</i>	<i>Rate</i>	
AMKC	0	0	1	0.15	0	0	1
GRVC	2	0.30	9	1.37	11	1.68	22
OBCC	1	0.15	13	1.99	7	1.07	21
RMSC	2	0.30	15	2.29	4	0.61	21
RNDC	0	0	3	0.45	3	0.45	6
NIC	0	0	3	0.45	1	0.15	4
EMTC	0	0	6	0.91	5	0.76	11
WF	0	0	2	0.30	1	0.15	3
RESH	0	0	1	0.15	0	0	1

Section Three

³ Total includes cases closed from previous reporting periods.

PRELIMINARY TREND OVERVIEW

During this reporting period, there was an overall increase in PREA-reportable incidents (sexual abuse and sexual harassment): there were 87 PREA-reportable investigations compared to 77 in the previous reporting period. This represents an increase of 13% in overall PREA-reportable full investigations following a continued increase in the average daily, and some changes to the way allegations are classified during the preliminary review stage. There was an increase in the number and percentage of investigations attributed to incidents between people in custody, with 60 recorded in the last reporting period and 63 in the current reporting period. Similarly, the percentage of staff-on-PIC allegations increased from 17 investigations in the previous reporting period to 24 investigations of alleged staff sexual misconduct in the current reporting period.

The trend in total PREA-reportable allegations may be attributed, at least in part, to a continued increase in the population. In addition, PREA SIU now automatically classifies allegations that warrant review by external entities as PREA-reportable incidents, regardless of preliminary findings. For example, an allegation wherein a PIC alleges that they were sexually assaulted and were referred by medical to the hospital for a sexual assault kit, but no incident was observed upon review of the video monitoring systems, would not have been classified as PREA-reportable during the previous reporting period. However, because of the referral to an external entity, these incidents are now automatically classified as PREA-reportable and receive a full investigation and will not be closed out until the results of evidence testing have been finalized, despite that there is evidence that the incident did not occur based on the preliminary review.

Determinations resulting from completed full investigations are classified as substantiated, unsubstantiated, or unfounded as defined by the Federal PREA Standards (defined in Appendix B). Of the 90 PREA-reportable sexual abuse and sexual harassment investigations closed from July 2024 to December 2024, 32 cases (36%) were determined to be unfounded. Of the remaining allegations closed in the current reporting period, 5 cases (6%) were determined to be substantiated and 54 cases (60%) were determined to be unsubstantiated, as compared to the previous reporting period where 2 cases (3%) were determined to be substantiated and 36 cases (59%) were unsubstantiated. During this reporting period, 74 of the 90 (82%) closed cases reached a final determination within the 90-day mandate. Of the remaining 16 cases (18%) that exceeded the 90-day period for issuing a final determination, 12 of the investigations were initiated in previous reporting periods with the remaining four cases initiated and concluded during the July 2024 - December 2024 reporting period. Of those cases closed beyond the mandate, 13 investigations (14%) had extenuating circumstances (e.g., sexual assault kit processing, or referral for external investigation such as the District Attorney's office or the Department of Investigation) that required them to remain open beyond the 90-day period pending a final determination for those external entities. The remaining three cases (3%) that were closed beyond the mandate were minimally delayed due to administrative processes, such as needing a final signature, as opposed to investigative processes.

CORRECTIVE ACTION

PREA Investigations

SIU PREA continues to focus its resources within the preliminary stages of a complaint review to ensure assessments are completed within 72 hours of a complaint's submission. SIU PREA maintains its practice of review of these complaints at multiple levels, from receipt of complaint to completion of the preliminary review. During the current reporting period, SIU PREA assigned supervisory staff to the sole duty of daily PREA Tour Commander, with additional supervisory staff on a daily rotating basis, including weekly overnight responsibilities for late incoming complaints, to ensure all complaints are reviewed and managed appropriately.

Electronic Case Management System

During the reporting period, an electronic case management system was implemented and a supervisor was tasked with performing secondary review of addressed complaints entered into the system on a daily basis. In addition to streamlining the data collection and tracking process, the electronic case management system also allows due dates to be programmed to support timely closing of cases. In preparation for transition to the electronic case management system, a backlog of sexual misconduct investigations involving cases that were not PREA-reportable – i.e., that did not violate the federal standards or rise to criminality – dating back to calendar years 2020, 2021 and 2022, were identified and prioritized for closing. This encompassed a total of 949 such investigations, the majority of which were one-time harassments that necessitated internal tracking to ensure that repeated harassment could appropriately be classified as PREA-reportable. These cases required no further investigation or other action to make a final determination but had not been administratively closed. During the reporting period, 700 of the backlog cases were closed, and the remaining 249 cases will be closed with the next reporting period.

Training

SIU PREA Investigation continues to explore cross-training opportunities in various topics to strengthen investigative skill sets including interviewing, evidence analysis and processes for data collection.

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 person in custody) 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.

Person in Custody 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.

Person in Custody 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.

Person in Custody 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 person in custody directed toward another.

Staff Sexual Misconduct – any act or behavior of a sexual nature directed toward a person in custody by an employee, volunteer, contractor or official visitor or other agency representative. Sexual relationships of a romantic nature between staff and person in custody 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 a person in custody 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 state 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.