

New York City Department of Correction
Semi-Annual Sexual Abuse & Harassment Report
Bi-Annual Comparison Report
January 1st, 2020 – June 30th, 2020

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.

Pursuant to Local Law 21 of 2019, codified by section 9-156 of the NYC Administrative Code, the Department is required to report on allegations of sexual abuse and sexual harassment for cases that lasted longer than 90 days within the preceding six-month period, and for cases that were closed within the preceding six months. The following report outlines the aggregate number and percentage of the data required by subdivisions b and c of the law. Data that cannot be aggregated has been provided to the Council and the Board of Correction, but has not been included in this report. Throughout both reporting periods, there were incidents involving less than six individuals; due to privacy concerns, the Department cannot publicly report any number less than six. This report, which evaluates sexual abuse and sexual harassment allegations made within the past six months (January 2020 through June 2020), 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.

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SECTION ONE: SUBDIVISION B

The data in this section is related to alleged incidents of sexual abuse and harassment that occurred during the preceding six-month period for which an investigation lasted longer than 90 days.

- 1. The date on which the incident occurred and whether the incident took place between the times 7:00 AM and 3:00 PM, 3:00 PM and 11:00 PM, and 11:00 PM and 7:00 AM.¹**

During the second half of 2019, the majority (34.83%) of alleged incidents occurred at an 0700 x 1500 hours tour. Reports of 0700 x 1500 time continued to be one of the highest reported categories in the first half of 2020. The time of an alleged incident is reported as unknown in instances in which the complainant did not report a time to the Investigation Division.

<i>Alleged Incidents by Time of Day</i>					
<i>Time of Alleged Incident</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
0700x 1500	31	34.83%	<6	.	.
1500x2300	14	15.73%	0	0.00%	-100%
2300x0700	18	20.22%	<6	.	.
Unknown Time	26	29.21%	<6	.	.
Total	89	100%	6	100%	

- 2. Whether the allegation is of sexual abuse or sexual harassment as defined in subdivision a of this section.**

For both reporting periods, the majority of incidents reported to the Investigation Division were alleged incidents of sexual abuse, with a 91.89% decrease (from 74 cases to six cases) of alleged incidents of sexual abuse between the two reporting periods, and a 100% decrease (from 15 cases to zero cases) of alleged incidents of sexual harassment.

¹ The date of the incident cannot be reported in the aggregate.

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<i>Total Number of Sexual Abuse and Sexual Harassment Allegations</i>					
<i>Type of Allegation</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Sexual Abuse	74	83.15%	6	100%	-91.89%
Sexual Harassment	15	16.85%	0	0.00%	-100%
Total	89	100%	6	100%	

3. The date the incident was reported and an investigation was opened.

This information cannot be reported in the aggregate.

4. The gender of the alleged victim.

In the second half of 2019, there were 89 incidents involving the following victim genders: females, transgender females, and transgender males. Due to privacy concerns, the Department cannot publicly report any number less than six. In both reporting periods, the majority of incidents reported involved male victims. The number of alleged victims who identified as transgender women decreased between the two reporting periods, from 16 to zero.

<i>Total Alleged Incidents by Gender of Alleged Victim</i>					
<i>Alleged Victim's Gender</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	61	68.53%	<6	.	.
Female	12	13.48%	<6	.	.
Transgender Male	0	0.00%	0	0.00%	.
Transgender Female	16	17.98%	0	0.00%	-100%
Total	89	100%	6	100%	

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5. Whether the alleged victim at the time of the incident was between the ages of 18-25, 26-35, 36-40, 41-60, over 60, or under 18 when such individuals are in department custody.

For the reporting period of July 2019 to December 2019, the majority of alleged victims were between the ages of 26 and 35 years old. The majority for the January 2020 to June 2020 were between 18 and 25.

<i>Total Alleged Incidents by Age of Alleged Victim</i>					
<i>Alleged Victim's Age Range</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
<18	<6	.	0	0.00%	.
18-25	13	14.61%	<6	.	.
26-35	39	43.82%	<6	.	.
36-40	17	19.10%	<6	.	.
41-60	16	17.98%	<6	.	.
>60	<6	.	0	0.00%	.
Total	89	100%	6	100%	

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6. The race and ethnic origin of the alleged victim. ²

The number of alleged incidents decreased dramatically between reporting periods amongst all races/ethnicities, as delineated in the chart below.

<i>Total Alleged Incidents by Race and Ethnic Origin of Alleged Victim</i>					
<i>Alleged Victim's Race/Ethnicity</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Asian	<6	.	0	0.00%	.
Black	60	67.42%	<6	.	.
Hispanic	6	6.74%	0	0.00%	-100%
Other	8	8.99%	0	0.00%	-100%
White	14	15.73%	<6	.	.
Total	89	100%	6	100%	

7. Whether the alleged victim had been in custody for more than 24 hours and who, during such confinement, received treatment for a mental illness, not including incarcerated individuals seen by mental health staff on no more than two occasions during their confinement and assessed on the latter of those occasions as having no need for further treatment in any city correctional facility.

<i>Time in Custody</i>	<i>Jul 2019 - Dec 2019</i>	<i>Jan 2020 - Jun 2020</i>
Alleged Victims in Custody less than 24 hours	0	0
Alleged Victims in Custody more than 24 hours	89	6
Total	89	6

Correctional Health Services is precluded from sharing the protected health information outlined in New York City LL21 §9-156(b)7 with the Department of Correction by New York State Public Health Law §§ 18 and 27-F, New York State Mental Hygiene Law § 33.13, and section 543 of the Public Health Service Act, 42 U.S.C. 290dd-2, and its implementing regulations, 42 CHR Part 2.

² Race and ethnicity are voluntarily reported to the Department by each individual in custody. The Department makes no representation as to the completeness or accuracy of this data. As of 12/31/19, 54.4% of incarcerated individuals were African-American, 33.2% were Hispanic, 7.3% were White, 1.5% were Asian, and 3.7% fell into the “Other” category.

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8. The gender of the alleged perpetrator.

Within both reporting periods, the majority of alleged incidents were committed by a male perpetrator.

<i>Total Alleged Incidents by Gender of Alleged Perpetrator</i>					
<i>Alleged Perpetrator's Gender</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	62	69.66%	<6	.	.
Female	16	17.98%	0	0.00%	-100%
Transgender Female	6	6.74%	0	0.00%	-100%
Unknown	5	5.62%	<6	.	.
Total	89	100%	6	100%	

9. Whether the alleged perpetrator was an incarcerated individual or staff.

In the first reporting period, the majority of alleged perpetrators (68.54%) were incarcerated individuals. In the second reporting period, the majority of alleged perpetrators were staff.

<i>Total Alleged Incidents by Alleged Perpetrator</i>					
<i>Alleged Perpetrator</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Staff	28	31.46%	<6	.	.
Incarcerated Individuals	61	68.54%	<6	.	.
Total	89	100%	6	100%	

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10. If the alleged perpetrator was staff, the number of previous allegations against such staff that were substantiated and the outcome of each investigation.

There were no previous substantiated allegations against identified staff members in both reporting periods.

11. If the alleged perpetrator was staff, the number of previous allegations against such staff that were unsubstantiated.

There was one previous unsubstantiated allegation against an identified staff member in the second reporting period.

12. If the alleged perpetrator was staff, the number of previous allegations against such staff which are still pending

Between the first and second reporting periods, there was a decrease (100%) in the number of allegations still pending against alleged staff perpetrators.

<i>Total Number of Pending Allegations Against Alleged Staff Perpetrator</i>					
<i>Status of Previous Staff Allegations</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Previous Staff Allegations</i>	<i>Number of Previous Staff Allegations</i>	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	
Substantiated	0	0.00%	0	0.00%	.
Unsubstantiated	0	0.00%	1	100%	100%
Still pending	2	100%	0	0.00%	-100%
Total	2	100%	1	100%	

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13. The facility in which the incident occurred

OBCC had the highest number of alleged incidents in the previous and current reporting period.

<i>Total Alleged Incidents by Facility</i>					
<i>Facility</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
AMKC	14	15.73%	0	0.00%	-100%
BHPW	<6	.	0	0.00%	.
BKDC	10	11.24%	0	0.00%	-100%
EMTC	7	7.87%	0	0.00%	-100%
GRVC	<6	.	<6	.	.
HOJC	<6	.	0	0.00%	.
MDC	8	8.99%	0	0.00%	-100%
NIC	<6	.	<6	.	.
OBCC	21	23.60%	<6	.	.
RMSC	11	12.36%	<6	.	.
RNDC	<6	.	<6	.	.
Transportation Division	<6	.	0	0.00%	.
VCBC	6	6.74%	0	0.00%	-100%
WF	0	0.00%	0	0.00%	.
Total	89	100%	6	100%	

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SECTION TWO: SUBDIVISION C

The data in this section is related to investigations of allegations of sexual abuse and sexual harassment that concluded during the preceding six-month period.

B1. The date on which the incident occurred and whether the incident took place between the times 7:00 AM and 3:00 PM, 3:00 PM and 11:00 PM, and 11:00 PM and 7:00 AM.³

The Investigation Division began tracking the specific time frames identified in the reporting requirements in the second half of 2019, therefore a majority (95.2%) of cases occurring before tracking began do not indicate a time. In the second half of 2019, there were significant percentage increases in each timeframe category, which was expected. Between July and December 2019, the majority (47.9%) of concluded cases occurred at an unknown time. This is due to the time not being reported to the Investigation Division. Within the most recent reporting period, the highest percentage of reported time (35.21%) continues to be alleged incidents which occurred between 7:00 AM and 3:00 PM.

<i>Total Alleged Incidents by Time of Day</i>					
<i>Time of Alleged Incident</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
0700x 1500	58	15.98%	94	35.21%	62.06%
1500x2300	48	13.22%	52	19.48%	8.33%
2300x0700	30	8.26%	34	12.73%	13.33%
Not Tracked	53	14.60%	0	0.00%	-100%
Unknown Time	174	47.93%	87	32.58%	-50%
Total	363	100%	267	100%	

³ The date on which the incident occurred cannot be reported in the aggregate.

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B2. Whether the allegation is of sexual abuse or sexual harassment as defined in subdivision a of this section.

For both reporting periods, the majority of incidents concluded by the Investigation Division were alleged incidents of sexual abuse.

<i>Total Number of Sexual Abuse and Sexual Harassment Allegations</i>					
<i>Type of Allegation</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Sexual Abuse	303	83.47%	213	79.78%	-29.70%
Sexual Harassment	60	16.53%	54	20.22%	-10%
Total	363	100%	267	100%	

B3. The date the incident was reported and an investigation was opened.

This information cannot be reported in the aggregate.

B4. The gender of the alleged victim.

Throughout both reporting periods, the percentage of alleged victims remained relatively stable, with the majority of alleged victims being male.

<i>Total Alleged Incidents by Gender of Alleged Victim</i>					
<i>Alleged Victim's Gender</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	263	72.45%	210	78.65%	20.53%
Female	49	13.50%	24	8.98%	48.97%
Transgender Male	<6	.	0	0.00%	.
Transgender Female	49	13.50%	33	12.36%	32.65%
Unknown	<6	.	0	0.00%	.
Total	363	100%	267	100%	

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B5. Whether the alleged victim at the time of the incident was between the ages of 18-25, 26-35, 36-40, 41-60, over 60, or under 18 when such individuals are in department custody.

Throughout both reporting periods, the majority of alleged victims were between 26 and 35 years old.

<i>Total Alleged Incidents by Age of Alleged Victim</i>					
<i>Alleged Victim's Age Range</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
<18	10	2.75%	<6	.	.
18-25	71	19.56%	63	23.6%	-11.26%
26-35	173	47.66%	128	47.94%	-26.01%
36-40	56	15.43%	34	12.73%	-39.28%
41-60	51	14.05%	37	13.86%	-27.45%
>60	<6	.	<6	.	.
Unknown	<6	.	0	0.00%	
Total	363	100%	267	100%	

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B6. The race and ethnic origin of the alleged victim.

Prior to 2019, the Investigation Division did not track the race/ethnicity of alleged victims, therefore 197 concluded cases within the first reporting period do not indicate a victims race/ethnicity. The race/ethnicity of majority of alleged victims for both reporting periods was Black.⁴

<i>Total Alleged Incidents by Race and Ethnic Origin of Alleged Victim</i>					
<i>Alleged Victim's Race/Ethnicity</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Asian	<6	.	<6	.	.
Black	247	68.04%	192	71.91%	-22.26%
Hispanic	60	16.53%	17	6.37%	-71.66%
Other	17	4.68%	37	13.86%	117.64%
White	34	9.37%	20	7.49%	-41.17%
Unknown	<6	.	0	0.00%	.
Not Tracked	0	0%	0	0.00%	.
Total	363	100%	267	100%	

B7. Whether the alleged victim had been in custody for more than 24 hours and who, during such confinement, received treatment for a mental illness, not including incarcerated individuals seen by mental health staff on no more than two occasions during their confinement and assessed on the latter of those occasions as having no need for further treatment in any city correctional facility.

<i>Time in Custody</i>	<i>Jul 2019 - Dec 2019</i>	<i>Jan 2020 - Jun 2020</i>
Alleged Victims in Custody less than 24 hours	0	0
Alleged Victims in Custody more than 24 hours	363	267
Total	363	267

⁴ Race and ethnicity are voluntarily reported to the Department by each individual in custody. The Department makes no representation as to the completeness or accuracy of this data. As of 6/29/20, 54.8% of incarcerated individuals were Black, 34.1% were Hispanic, 6.1% were White, 1.5% were Asian, and 3.0% fell into the "Other" category.

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B8. The gender of the alleged perpetrator.

Within both reporting periods, the majority of alleged incidents were alleged to have been committed by a male perpetrator.

<i>Total Alleged Incidents by Gender of Alleged Perpetrator</i>					
<i>Alleged Perpetrator's Gender</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	228	62.81%	177	66.29%	-22.36%
Female	59	16.25%	54	20.22%	-8.47%
Unknown	71	19.56%	29	10.86%	-59.15%
Transgender Female	<6	.	7	2.62%	.
Transgender Male	<6	.	0	0.00%	
Total	363	100%	267	100%	

B9. Whether the alleged perpetrator was an incarcerated individual or staff.

The majority of alleged perpetrators in each reporting period were staff members.

<i>Total Alleged Incidents by Alleged Perpetrator</i>					
<i>Alleged Perpetrator</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Staff	198	54.55%	147	55.06%	-25.75%
Incarcerated Individuals	165	45.45%	120	44.94%	-27.27%
Total	363	100%	267	100%	

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B10. If the alleged perpetrator was staff, the number of previous allegations against such staff that were substantiated and the outcome of each investigation.

Please see chart below number B12.

B11. If the alleged perpetrator was staff, the number of previous allegations against such staff that were unsubstantiated.

Please see chart below number B12.

B12. If the alleged perpetrator was staff, the number of previous allegations against such staff which are still pending.

Within both reporting periods, all alleged staff perpetrators did not have any previous substantiated cases against them. Between the two reporting periods, there was a decrease (50%) in cases where staff has previous unsubstantiated claims against them and a significant decrease (87.5%) in cases where staff has previous pending claims against them.

<i>Total Previous Allegations Against Alleged Staff Perpetrators</i>					
<i>Status of Previous Staff Allegations</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	
Substantiated	0	0.00%	0	0%	0%
Unsubstantiated	10	55.56%	5	83.33%	-50%
Still pending	8	44.44%	1	16.67%	-87.5%
Total	18	100%	6	100%	

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B13. The facility in which the incident occurred.

AMKC, which houses the highest number of individuals in custody, was among the facilities with the highest number of alleged incidents in both reporting periods.

<i>Total Alleged Incidents by Facility</i>					
<i>Facility</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
AMKC	68	18.73%	62	23.22%	-8.82%
BHPW	<6	.	<6	.	.
BKCTS	<6	.	<6	.	.
BKDC	51	14.05%	14	5.24%	-72.54%
EPHW	<6	.	0	0.00%	.
EMTC	19	5.23%	13	4.87%	-31.57%
GMDC	<6	.	0	.	.
GRVC	48	13.22%	47	17.6%	-2.08%
HOJC	10	2.75%	<6	.	..
MDC	28	7.71%	26	9.74%	-7.14%
MNCT	<6	.	0	.	.
NIC	12	3.31%	7	2.62%	-41.66%
OBCC	39	10.74%	35	13.11%	-10.25%
QDC	0	0.00%	0	.	.
QDCT	0	0.00%	<6	.	.
RMSC	46	12.67%	24	8.99%	-47.82%
RNDC	8	2.20%	13	4.87%	62.5%
SOD	<6	.	0	0.00%	.
Trans. Div.	<6	.	<6	.	.
VCBC	6	1.65%	11	4.12%	83.33%
WF	9	2.48%	<6	.	.
Total	363	100%	267	100%	

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SECTION THREE: SUBDIVISION C

The data in this section is related to investigations of allegations of sexual abuse and sexual harassment that concluded during the preceding six-month period.

C1. The date in which the investigation opened and closed.

This information cannot be provided in the aggregate.

C2. Whether the department determined that the incident was substantiated, unsubstantiated, or unfounded.

The majority of cases for both reporting periods were unsubstantiated. In 2018, the PREA Investigation Division experienced a large backlog of cases as a result of (1) increased reporting of allegations by inmates; (2) staffing deficits within the Investigation Division; and (3) the de-prioritizing of administrative functions (i.e., closing unsubstantiated cases) in order to maintain compliance with interviewing alleged victims within 72 hours of the allegation. The backlog was closed in the first half of 2019. Notably, the Department has substantiated nine allegations during this period, compared to six in the last period, representing a 50% increase in substantiation rate for this reporting period. Additionally, during this reporting period, the Department substantiated an additional two cases whose investigation had been initiated prior to this reporting period, for a total of 11 cases substantiated during the first half of 2020. This increase in quality can be credited to the Department's enhanced training of investigative staff, including training in trauma-informed interviewing.

<i>Total Alleged Incidents</i>					
<i>Case Conclusion</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Substantiated	13	3.58%	11	4.12%	-15.38%
Unsubstantiated	231	63.64%	133	49.81%	-42.42%
Unfounded	119	32.78%	123	46.07%	3.36%
Total	363	100%	267	100%	

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C3. Whether the allegation was referred to a district attorney’s office and whether that district attorney declined to prosecute, and whether the alleged perpetrator was convicted during the reporting period.

Within both reporting periods, the majority of cases were not referred to a DA’s office, which is due to the majority of cases being unsubstantiated or unfounded.

<i>Total Alleged Incidents Referred to DA’s Office</i>					
<i>Allegations Referred to DA's Office</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Yes	18	4.96%	9	3.37%	-50%
No	345	95.04%	258	96.63%	-25.21%
Total	363	100%	267	100%	

C4. Whether the investigation was conducted by the facility or by the investigation division.

Investigations into allegations of sexual abuse or sexual harassment are conducted by the Investigation Division, not the facility.

C5. Where an investigation was referred to the investigation division, the reason for such referral.

Investigations into allegations of sexual abuse or sexual harassment are conducted by the Investigation Division, not the facility.

C6. Whether the investigation was referred back from the investigative division to the department facility and the reason for such referral.

Investigations into allegations of sexual abuse or sexual harassment are conducted by the Investigation Division, not the facility.

C7. Whether the alleged victim was notified regarding the outcome of the investigation.

In November 2018, the Department began to notify individuals of the outcome of investigations opened thereafter. Investigations initiated prior to November 2018, which account for a number of investigations closed during the first reporting period, are not subject to notification. Since the implementation of this policy, the Department has since significantly increased the proportion of victims who were notified and will continue to work to improve this metric. In this reporting period, every single alleged victim was notified of the outcome of their investigation.

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<i>Total Alleged Incidents Referred to DA's Office</i>					
<i>Allegations Referred to DA's Office</i>	<i>Jul 2019 - Dec 2019</i>		<i>Jan 2020 - Jun 2020</i>		<i>Percent Change</i>
	<i>Number of Alleged Victims Notified of Investigation Outcome</i>	<i>Percent of Alleged Victims Notified of Investigation Outcome</i>	<i>Number of Alleged Victims Notified of Investigation Outcome</i>	<i>Percent of Alleged Victims Notified of Investigation Outcome</i>	
Notified	324	89.26%	267	100%	21.34%
Not Notified	39	10.74%	0	0.00%	-100%
N/A	0	0.00%	0	0.00%	
Total	363	100%	267	100%	

SECTION FOUR: ASSESSMENT

Preliminary Trend Overview

PREA Investigation Division substantiation rates have vastly improved since the last reporting period. In the second half of 2019, the Investigation Division substantiated 13 PREA cases, for a substantiation rate of 3.58%. During this reporting period, the Investigation Division substantiated 11 PREA cases, for a substantiation rate of 4.12%. 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 identified as at risk of potential sexual victimization (SV) through the Department's PREA Intake Questionnaire, which is utilized to assess an individual's potential for sexual victimization or abusiveness. These housing areas are restricted to potential sexual victims (SV) and those who do not have a Sexual Abuser (SA) designation. Anyone designated as a potential SA cannot be housed with an SV, unless it is a specialized housing unit. In these instances, the SV's and SA's beds or cells are not in close proximity and are closely monitored by staff. In addition, staff conducts thorough physical searches for blind-spots in isolated areas within housing and common areas. These blind-spot checks are unannounced and in addition to the standard tours conducted several times per day, audits are conducted to ensure that staff are conducting these unannounced rounds.

The Department continues to ensure staff are educated about PREA, which includes educating new recruits as well as newly on-boarded employees, contractors, and volunteers. Everyone receives training on recognizing the signs of sexual abuse and what steps to take when an allegation is made. The Department has also raised awareness of our zero tolerance policy, victim services, and how to submit a grievance by adding instructive and informative posters throughout each facility. We have also streamlined the incident reporting by strengthening the overall grievance system, which is one of multiple options for people in custody to report allegations of sexual harassment or abuse.

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The Department has implemented significant custody management changes, and currently houses consistent with a person's gender identity. The Transgender Housing Unit has been renamed the Special Consideration Unit, to make the housing unit more inclusive for our transgender, intersex, and gender non-binary population. The Department continues to operate a new admission house in RMSC for individuals who come into custody and identify, or have been identified, as transgender, intersex, and, now, gender non-binary. The Department also considers anyone who identifies as a transgender woman, and requests to be housed in the female facility, for housing placement in a general population housing unit. The Department evaluates each individual on a case-by-case basis, as warranted by the PREA Standards and Board of Correction Minimum Standards and placing them by their gender identity in a male or female facility, as long as the placement does not present management 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.

Pending Allegations

The New York City Department of Correction has 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 types of allegations through the creation of a dedicated hotline and placement of posters in facilities listing the hotline number and detailing how to report an incident. The Department has also entered into a Memorandum of Understanding (MOU) with Safe Horizons to provide victim services, access to assistance, and an additional avenue to report allegations of a sexual nature. Similarly, incarcerated individuals are informed that they may call 311 to report incidents of sexual abuse and harassment.

The Department takes every allegation of sexual misconduct and sexual harassment seriously and investigates each complaint thoroughly. The Department's Investigation Division handles all PREA-related allegations, initiating an investigation within the first 72 hours. Investigation Division (ID) staff interviews alleged victims, separates individuals from identified alleged perpetrators, collects relevant evidence, affords alleged victims mental health, ministerial and victim services, and conducts a preliminary investigation, all within the first 72 hours

In this reporting period alone, the PREA Investigation Division closed 267 cases (178 allegations that arose prior to January 2020, and 89 that arose between January through June 2020). The Department reached a milestone in the last reporting period, having closed all PREA-reportable cases from 2015, 2016 and 2017⁵ During this reporting period, the Department was able to close all PREA-reportable cases that were initiated in 2018 and 2019.⁵ Additionally, all cases that were opened in 2020 were closed within 90 days, aside from six cases, which are pending with criminal investigative/prosecutorial agencies.

SECTION FIVE: CORRECTIVE ACTION

⁵ Cases from this time period that are being investigated by external criminal investigative/prosecutorial agencies remain open; the Investigation Division is expected to stand down on such cases.

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Corrective Action Plan & Resultant Successes

In June 2018, the Department devised a Corrective Action Plan to address a 1,216 case backlog of PREA-reportable cases, which were defined as being over 90 days old. The Department published a targeted plan in June 2018, which included commitments to hire additional investigators and managers for the ID PREA team, timelines for case reviews and closure, and structural changes to fieldwork and home base rotations. This schedule gave investigators opportunity to 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 and has since, even during a worldwide pandemic, maintained a 90-day (or less) closure period for all PREA cases.⁶

In fact, the ID PREA Corrective Action Plan was so successful, that when the ID recently restructured its Use of Force investigative teams, the Department mirrored the PREA structure in creating a Use of Force Intake Squad to handle early, hands-on, swift investigations while other investigators managed long-term investigations and closure of older matters. Thus far, the structure has worked in that iteration as well.

The Department remains under a Federal Monitor, pursuant to the Nunez litigation, for all Use of Force cases. The Federal Monitor also oversees and assesses the Department's compliance with investigations of allegations of sexual assault of inmates under the age of 19. In its Ninth Report, which covers the exact same time frame as the reporting period herein, the Monitor evaluated the Department's compliance with PREA-reportable investigations (both sexual assault and sexual harassment). The Monitor applauded the significant, sustained improvements of the Investigation Division. As mentioned on page 186 of the Ninth Report, "The Monitoring Team found that investigators' findings . . . were reasonable based on evidence. Investigators had a timely response to the scene . . . asked relevant questions and followed leads as appropriate." Additionally, the Monitor commented that "[t]he ID Division has made significant strides in investigating PREA cases. . . and erased the backlog. . . [i]n the vast majority of cases reviewed during this Monitoring Period, the investigators' practices were sound, the findings were reasonable, and cases were closed in a reasonable time period."⁷ In conclusion, the Monitor gave PREA Investigations a rating of substantial compliance, which is the highest level of achievement possible, and quite difficult to attain.

Investigations of sexual harassment and abuse have continued, consistently, despite higher caseloads, to be completed efficiently and fairly. The ID PREA Division has found itself squarely in compliance; responding to allegations within 72 hours, completing investigations within 90 days, and evaluating cases reasonably, as the Federal Monitor has noted. During a time when a pandemic hit without warning, and remains without any promise of retreat, compliance is a remarkable achievement.

⁶ Except those cases being investigated externally or prosecuted criminally.

⁷ See, <https://www1.nyc.gov/assets/doc/downloads/pdf/9thMonitorsReport052920AsFiled.pdf>, pg. 186.

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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 the grievance system for people in custody to ensure that they have an effective outlet to communicate and resolve issues of concern through a streamlined process.