

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 to the Board with a semiannual report. This report, which evaluates sexual abuse and sexual harassment allegations made within the past six months (July 2023 through December 2023), 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).

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, 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 and 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.

Section One

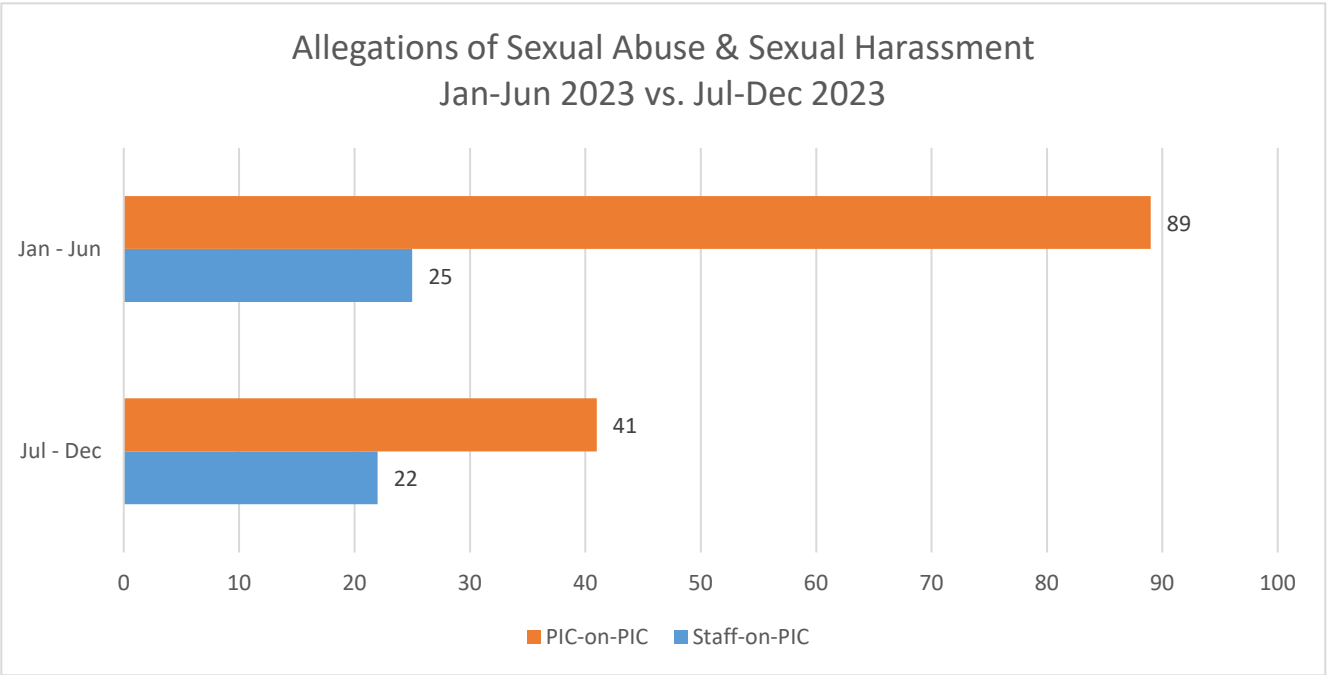
ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT

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 a decrease in staff-on-PIC allegations by 12% (25 to 22) and PIC-on-PIC allegations decreased by 54% (89 to 41) 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 last reporting period (January 2023 - June 2023) to the current reporting period (July 2023 - December 2023).

Table 1

Facility Breakdown Comparison					
Facility	January 2023 – June 2023		July 2023 - December 2023		% Change
	# of Allegations	%	# of Allegations	%	
RMSC	27	23.98%	13	20.63%	-51.8%
AMKC	41	35.96%	5	7.93%	-87.8%
GRVC	6	5.26%	7	11.11%	16.6%
OBCC	0	0%	3	4.76%	100%
EMTC	12	10.53%	13	20.63%	8.33%
NIC	7	6.14%	7	11.11%	0%
RNDC	5	4.39%	2	3.17%	-60%
WF	2	1.75%	5	7.93%	150%
VCBC	12	10.53%	4	6.34%	-66.66%
BHPW	1	.88%	0	-	-100%
Other	1	.88%	2	3.17%	100%
RESH ¹	-	-	2	3.17%	-
Total	114	100%	63	100%	-44.7%

During the reporting period, the Department consolidated operations by closing outdated facilities and reopening or relocating facilities following renovation: Enhanced Supervision Housing was relocated from GRVC to a standalone facility referred to as RESH in June 2023; AMKC was depopulated and no longer used to house individuals in custody in August 2023, though certain essential support operations continue at the facility; OBCC resumed operations and began housing individuals in custody in August 2023; VCBC was depopulated and was no longer used to house individuals in custody in October 2023. These operational changes and subsequent rehousing of the population likely account, at least in part, for the substantial fluctuations in reporting seen across all facilities during the reporting period.

Age of Alleged Victim

Table 2 compares the ages of alleged victims from the previous reporting period (January 2023 - June 2023) to the current reporting period (July 2023 - December 2023). The data is further disaggregated by category of alleged perpetrator (staff or PIC). Approximately 94% of all allegations in the current

¹ RESH is a new facility and was not operational during the previous reporting period, and therefore has no historical data.

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reporting period were reported by a PIC age 22 or older, which is roughly proportionate to the percentage of the overall population this age group represents.

Table 2

<i>January 2023 – June 2023</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤ ²	0	0	0
19-21	3	0	3
22≥	111	25	86
Total	114	25	89

Table 3

<i>July 2023 – December 2023</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	4	0	4
22≥	59	22	37
Total	63	22	41

Age of Alleged Subject

Table 4 and Table 5 compare the ages of alleged subjects from the last reporting period (January 2023 - June 2023) to the current reporting period (July 2023 - December 2023). The data is further disaggregated by type of alleged victim (staff or PIC). In approximately 69% 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 59% between reporting periods.

Table 4

<i>January 2023 – June 2023</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤	0	0	0
19-21	2	0	2
22≥	69	13	56
Unidentified Alleged Subject	43	12	31
Total	114	25	89

² The Department does not maintain custody of individuals younger than 18-years-old.

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Table 5

<i>July 2023 – December 2023</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on PIC</i>	<i>PIC on PIC</i>
18≤	0	0	0
19-21	2	0	2
22≥	42	17	25
Unidentified Alleged Subject	19	5	14
Total	63	22	41

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; however, PIC-on-PIC incidents were reported more frequently at the facility level during the current reporting period.

Table 6

<i>Reporting Breakdown</i>					
<i>Incident Type</i>	<i>Reporting Method</i>	<i>January 2023 – June 2023</i>		<i>July 2023 – December 2023</i>	
		<i># of Allegations</i>	<i>%</i>	<i># of Allegations</i>	<i>%</i>
Staff-PIC	311	12	10.53%	9	14.28%
	DOI	0	0%	1	1.58%
	Facility	6	5.26%	3	4.76%
	ID	2	1.75%	1	1.58%
	PREA	0	0%	1	1.58%
	Other	5	4.39%	7	11.11%
Total		25	21.93%	22	34.92%
PIC-PIC	311	38	33.33%	13	20.63%
	DOI	0	0%	0	0%
	Facility	28	24.56%	14	22.22%
	ID	1	.88%	0	-
	PREA	7	6.14%	4	6.34%
	Legal Aid	0	0%	0	0%
	Other	15	13.16%	10	15.87%
Total		89	78.07%	41	65%

Overall Trends of PREA Allegations

Table 7 compares total reported incidents for the last reporting period of January 2023 - June 2023 versus the current reporting period of July 2023 - December 2023. The total number of sexual abuse

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and sexual harassment allegations decreased by 44.7% (114 versus 63 PREA-reportable allegations, respectively). Allegations that were reported and were not a PREA-reportable case 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 2023 – Jun 2023</i>	<i>Jul 2023 – Dec 2023</i>	<i>% Change</i>
Staff on PIC	25	22	-12%
Sexual Abuse	19	8	-57.8%
Sexual Harassment	6	14	-133%
Among PIC	89	41	-53.9%
Abusive Sexual Contact	31	13	-58%
Non-Consensual Sex Act	36	19	-47.2%
Sexual Harassment	22	9	-59%
Total	114	63	-44.7%

Staff Sexual Abuse

All staff-on-PIC sexual abuse allegations are investigated as potential violations of NYS Penal Law §130 (i.e., attempted sexual acts, completed sexual acts and unwanted/forcible touching for sexual gratification, and indecent exposure) in addition to staff voyeurism. There were 22 staff-on-PIC allegations of sexual abuse and sexual harassment made during the second half of calendar year 2023. This marks a 12% decrease in staff-on-PIC allegations, from 25 made during the first half of calendar year 2023 (see [Table 7](#)).

For the first half of 2023, 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 2023, allegations of sexual abuse against staff were spread across various categories, including inappropriate touching, crimes under NY State Penal Law 130, and other (see [Table 8](#)).

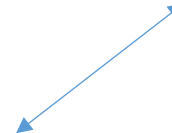
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Table 8

Staff-on-PIC Sexual Abuse
January 2023 – June 2023

Category	# of Allegations
Inappropriate Touch	8
Crimes Under New York State Penal Law 130	11
Voyeurism	0
Other	0
Grand Total	19

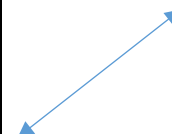
UOF	0
Strip Search	0
Escort	0
Pat Frisk	0
Verbal	0
Recant	0
Total Other	0



Staff-on-PIC Sexual Abuse
July 2023 - Dec 2023

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

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



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 by 133.3% between reporting periods (see [Table 9](#)).

Table 9

Staff-on-PIC Sexual Harassment			
Sub-Category	January 2023 – June 2023	July 2023 – December 2023	% Change
	# Allegations	# Allegations	
Sexual Threat	0	3	100%
Inappropriate Comments	6	11	83.3%
Homophobic Statement	0	0	0%
Total	6	14	133.33%

Person in Custody Nonconsensual Acts

Nonconsensual 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, 33 reported nonconsensual sex acts were deemed crimes under New York State Penal Law §130 and three were categorized as inappropriate touching. During the current reporting period, 19 reported nonconsensual sex acts were deemed crimes under New York State Penal Law §130 and one was categorized as inappropriate touching.

Table 10

<i>Non-Consensual Sex Act</i>	<i>January 2023 – June 2023</i>	<i>July 2023 – December 2023</i>
	<i># of Allegations</i>	<i># of Allegations</i>
Crimes Under NY State Penal Law 130	33	18
Inappropriate Touch	3	1
Total	36	19

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 decreased by 58% (31 allegations to 13) (see [Table 11](#)).

Table 11

<i>PIC Abusive Acts</i>	<i>January 2023 – June 2023</i>		<i>July 2023 – December 2023</i>		<i>% Change</i>
	<i># of Allegations</i>	<i>%</i>	<i># of Allegations</i>	<i>%</i>	
Inappropriate Touch	21	18.42%	5	7.63%	-79.15%
Crimes Under NY State Penal Law 130	9	7.89%	6	9.52%	-33.33%
Other	1	.88%	2	3.17%	100%
Total	31	27.19%	13	20.63%	-58%

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. The number of such allegations decreased from 22 allegations in the last reporting period to 9 allegations in the current reporting period (see [Table 12](#)).

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Table 12

<i>Person In Custody Sexual Harassment</i>				
<i>January 2023 – June 2023</i>		<i>July 2023 – December 2023</i>		<i>% Change</i>
<i># Allegations</i>	<i>%</i>	<i># Allegations</i>	<i>%</i>	
22	19.3%	9	14.28%	-59%

Overview of Rates and Trends

The rate of reported allegations of sexual victimization decreased from 19.13 per 1,000 PIC during the first half of 2023 to 8.78 per 1,000 PIC during the second half of 2023. The rate of staff allegations decreased from 25 (4.19 per 1,000) during January 2023 - June 2023 to 22 persons in custody (3.57 per 1,000) during July 2023 - December 2023. The rate of allegations among PIC against other PIC decreased substantially from 89 (14.94 per 1,000) incarcerated persons to 35 (5.69 per 1,000) incarcerated persons (see [Table 13](#)).

Table 13

<i>Total Allegations of Sexual Victimization</i>						
<i>Incident Type</i>	<i>January 2023 – June 2023</i>			<i>July 2023 – December 2023</i>		
	<i># of Allegations</i>	<i>%</i>	<i>Rate³</i>	<i># of Allegations</i>	<i>%</i>	<i>Rate³</i>
Staff on PIC	25	21.92%	4.19	22	34.9%	3.57
Sexual Abuse	19	16.66%	3.18	8	12.69%	1.30
Sexual Harassment	6	5.26%	1.00	14	22.22%	2.27
PIC on PIC	89	78.07%	14.94	41	65%	6.66
Abusive Sexual Contact	31	27.19%	5.20	13	20.63%	2.11
Non-Consensual Sex Act	36	31.57%	6.04	19	30.15%	3.08
Sexual Harassment	22	19.29%	3.69	9	14.28%	1.46
Total	114	100%	19.13	63	100%	10.24

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

³ Rate per 1,000 incarcerated individuals.

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those where the investigation produced insufficient evidence to prove that the event occurred. Unfounded allegations are those that, pursuant to 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 last reporting period (January 2023 - June 2023) 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 2023 - December 2023), the Department's PREA Special Investigations Unit (SIU) opened 96 cases of which 63 were determined to be PREA-reportable cases. Of the 63, 27 cases exceeded the requirement to make a final determination within 90 days, and 18 cases are still within compliance of the 90-day period. A total of 94 PREA-reportable cases were closed during the reporting period, including cases originating from this and previous reporting periods, of which 52 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 2023 – June 2023</i>	<i>July 2023 – December 2023</i>
Total Allegations	114	63
Total Closed During Reporting Period⁴	143	94
Substantiated	2	4
Unsubstantiated	103	66
Unfounded	38	24
Total Open Still in 90 Day Compliance	41	18
Preliminary Findings-Substantiated	0	0
Preliminary Findings-Unsubstantiated	41	18
Preliminary Findings- Unfounded	0	0
Pending Final Disposition	41	18

Table 15 illustrates the cases closed by the PREA Investigation Division regarding allegations reported prior to January 2024 (allegations reported up and until December 31, 2023) but closed during the July 2023 to December 2023 reporting period. There was a total of 94 PREA-reportable cases closed during the current reporting period (July 2023 - December 2023) of which 59 cases were reported prior to July 1, 2023.

⁴ The cases represent cases closed during the reporting period; these could have come from other reporting periods.

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Table 15

<i>Initiated Investigation</i>					
<i>Case Disposition</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>	<i>Total</i>
Substantiated	0	0	0	4	4
Unsubstantiated	0	0	4	62	66
Unfounded	0	0	1	23	24
Total Closed⁵	0	0	5	89	94

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 2023 to December 2023 of the calendar year. The incarcerated population includes both detainees and sentenced individuals. All allegations of sexual abuse and sexual harassment made by PIC 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	-	12	1.95	6	0.97	18
BHPW	0	-	0	-	0	-	0
GRVC	0	-	4	0.65	1	0.16	5
MHTC	0	-	0	-	1	0.16	1
OBCC	1	0.16	1	0.16	0	-	2
RMSC	2	0.32	18	2.92	6	0.97	26
RNDC	1	0.16	4	0.65	0	-	5
VCBC	0	-	8	1.3	1	0.16	9
NIC	0	-	9	1.46	2	0.32	11
EMTC	0	-	9	1.46	6	0.97	15
WF	0	-	1	0.16	1	0.16	2

⁵ Total includes cases closed from previous reporting periods.

Section Three

PRELIMINARY TREND OVERVIEW

During this reporting period, there was an overall decrease in PREA-reportable allegations (sexual abuse and sexual harassment): there were 63 PREA-reportable allegations compared to 114 allegations in the previous reporting period. This represents a marked decrease of 44.7% in overall PREA-reportable full investigations despite an increase in the average daily population. PREA SIU saw a decrease in the number and percentage of allegations attributed to incidents between PIC, with 89 (78%) recorded in the last reporting period and 41 (65%) in the current reporting period, where as the percentage staff-on-PIC allegations increased from 22% (25 incidents) in the previous reporting period to 35% (22 incidents) in the current reporting period. The downward trend in total PREA-reportable allegations may be attributed, at least in part, to newly instituted processes during the preliminary review of the complaint by the initial responding investigators. Information gathered during the preliminary review of a complaint of sexual assault or sexual harassment informs whether a complaint will be designated as a PREA-reportable allegation and subsequently receive a full investigation by SIU PREA. While all complaints of sexual misconduct are taken seriously and addressed, not all complaints of sexual assault or sexual harassment are PREA-reportable; whether a is PREA-reportable is determined by criteria set forth in the PREA standards.

During the preliminary review of the complaint, PREA Tour commanders, who are supervisors assigned to the SIU PREA unit and are not within facility-based command structures, are tasked with ensuring: substantial statements are recorded in detail and analyzed against recorded telephone statements, available video recordings are reviewed, institutional behavior (e.g., use of force incidents, infractions, etc.) is analyzed, and that all findings are documented and preserved appropriately. These preliminary reviews are now conducted more intensively, so that more information is gathered and documented. In addition, PREA Investigators have increased usage of body cameras for interviews, implemented more stringent requirements for the preservation of video evidence, identified areas of improvement in the interview process and has increased the level of detail contained in the preliminary reports. By conducting a fuller assessment in the preliminary stages for all allegations regardless of alleged persons involved, PREA SIU was able to make better use of limited staffing resources to assign cases more efficiently and appropriately as PREA-reportable and then proceed to full investigations.

Resulting determinations from completed full investigations are classified as substantiated, unsubstantiated, or unfounded as defined by the Federal PREA Standards (defined in Appendix B). Of the 94 PREA-reportable sexual abuse and sexual harassment allegations closed from July 2023 to December 2023, 24 allegations (26%) were determined to be unfounded; in these cases, the PREA SIU determined that the event did not occur. In the previous reporting period, 38 (27%) of the 143 PREA-reportable sexual abuse and sexual harassment allegations closed from January 2023 to June 2023 were determined to be unfounded. Of the remaining allegations closed in the current reporting period, four (4%) were determined to be substantiated and 66 (70%) were determined to be unsubstantiated, as compared to the previous reporting period where two (1%) of the remaining cases were determined

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to be substantiated and 103 (72%) were unsubstantiated. During this reporting period, of the 94 closed cases, 52 were reported as an allegation during the current or previous reporting period and exceeded the 90-day period for issuing a final determination, as compared to 53 cases during the previous reporting period. Of those 52 cases, 12 cases have extenuating circumstances (e.g., sexual assault kit processing, or referral for external investigation such as the District Attorney Department of Investigation) that required them to remain open beyond the 90-day period without a final determination.

CORRECTIVE ACTION

PREA Investigations

Upon noting the substantial decrease in PREA-reportable allegations designated during the current reporting period, PREA SIU conducted an audit of all sexual assault and harassment complaints received via 311 calls from July 2023 to December 2023; calls to 311 represent the most utilized method of making a complaint of sexual misconduct. Through the review, it was found that 14 complaints did not receive a preliminary review. Because these complaints did not receive a preliminary review, they were not designated as either not PREA-Reportable or PREA-reportable allegations, and subsequently were not reported to the Central Operations Desk ("COD").⁶ A preliminary review of all 14 cases was subsequently conducted; as a result of that review, six allegations of the 14 allegations were found to be PREA-reportable and will receive a full investigation. An additional re-review of complaints made during the reporting period was also done, to ensure cases that did receive a preliminary review were classified correctly; as a result, three cases that were previously classified as not being PREA-reportable cases were reclassified as PREA-reportable cases. These three cases had already been treated as PREA-reportable and received a full investigation but remained labeled as not PREA-reportable as an oversight. All nine PREA-reportable allegations identified through the audit and re-review processes are included in this report. Allegations that were found to meet the threshold of a PREA-reportable case were subsequently assigned a COD number. Because six allegations were delayed in being identified and investigated as PREA-reportable, it is expected that those investigations will be closed past the 90-day compliance period for case closure. All identified victims and subjects in the cases that are still in Departmental custody will be interviewed and all documentation will be collected so that a full investigation can proceed, and any necessary separation orders have been executed to protect the victims. The end of tour report is prepared at the end of each tour by the SIU PREA Tour Commander.

To ensure that all future complaints are appropriately reviewed, investigated, and reported, all staff in the PREA unit will be sent for refresher training. The Department has also added additional layers of review to the preliminary investigative process. All complaints are to receive a review and preliminary designation as either PREA-reportable or not PREA-reportable by the SIU PREA Tour Commander by the end of tour and documented on the End of Tour Report. The End of Tour report will be reviewed

⁶ A previous version of the report noted that reporting complaint to COD was the means by which SIU PREA is notified of 311 complaints. This is not accurate; all 311 complaints deemed to be sexual in nature are forwarded to SIU PREA and, subsequent to a preliminary review, are categorized as PREA-reportable or not PREA-reportable and assigned a COD number if applicable. The report has been revised to reflect procedures accurately.

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by the Deputy Director of PREA Investigation on a daily basis, and the PREA Tour Commander will receive ongoing instruction and supervision from the Deputy Director of PREA Investigation on cases preliminarily designated as PREA-reportable to ensure the preliminary investigation proceeds according to policy and best-practices.

Cases that are not designated as PREA-reportable on the End of Tour Report will be re-reviewed by the Director of SIU PREA Investigations to ensure that a proper preliminary review was conducted, that complaints are not misclassified and/or missing. The Director will also review 311 complaints that are routed to SIU PREA Investigations on a daily basis. The review of complaints received through 311 calls will be compared to the End of Tour report to again ensure complaints are not misclassified and/or missing.

This newly implemented process of review will be incorporated into regular investigative protocols, and used for training purposes to ensure PREA Tour Commanders remain educated on allegations warranting full investigations. Additionally, the Department is developing an electronic case management system to enable PREA SIU to better collect, track, and analyze case data. While there is a tracking system currently in place, the manner in which data is collected and stored provides limited ability to analyze allegation and case outcome trends. The new system will support the PREA SIU in better managing case investigations and deadlines. The electronic case management system is expected to go live for SIU PREA Investigations in the summer of 2024. This case management system will also allow for continued auditing of complaints, as needed.

PREA Training

The Department continues to ensure staff receive PREA training during new recruit training at the Academy and orientation on-boarding, and that all contractors and volunteers with contact with PIC 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. The Department has recently made changes to the staff training so that training is more targeted and effective in 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.

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).

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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:

- 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.

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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.