

**New York City Department of Correction**  
**Annual Use of Force Investigations Report**

The New York City Department of Correction (“DOC” or “Department”) respectfully submits this report pursuant to Section 1 Chapter 1 Section 9-152 of the New York City Administrative Code, which requires the Department to submit regular reports regarding investigations of Use of Force incidents. This report covers Fiscal Year 2021 from July 1, 2020 through June 30, 2021. The Department’s report with respect to each paragraph of Section 9-152 is set forth below:

*1. The number and rate in which the department investigated incidents.*

The Department remains committed to investigating every Use of Force (“UOF”) that occurs. Upon the report of an actual or alleged UOF, the Department’s Investigation Division (“ID”), conducts an “Intake Investigation” of the incident pursuant to Section VII, paragraph 7 of the Consent Judgment in Nunez v. City of New York, 11 Civ. 5845 (LTS)(JCF), followed by further investigation where warranted. Intake investigations, which are mandated to conclude within 25-business days of the event itself, involve a fairly extensive investigation, requiring interviews, a review of all relevant reports, and review of video surveillance of the incident. It should be noted that under the same mandate, intake cases that require additional investigation past 25 business days get referred for a full investigation.

During FY21, there were 7,757 reported Use of Force incidents, comprised of 7,461 Actual Uses of Force and 249 Alleged Uses of Force (by comparison, in FY20, there were 7,047 Actual Uses of Force and 241 Alleged Uses of Force). Of the 7,757 Uses of Force, 6,348 cases were deemed a Class “C” Use of Force meaning no one involved in the Use of Force sustained any injury.<sup>1</sup>

In FY21, of the 7,757 reported Uses of Force, a total of 1,233 cases (15.9%) have been referred for further investigation, which means that the case could not be resolved after 25 business days, either because the incident required compelled interviews of staff, or because the case simply needed additional time and investigation to reach a final conclusion.

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<sup>1</sup> “Class A” is a classification used to describe Use of Force incidents that require medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including those resulting in one or more of the following treatments/injuries: multiple abrasions and/or contusions, chipped or cracked tooth, loss of tooth, laceration, puncture, fracture, loss of consciousness, concussion, suture, internal injuries (e.g., ruptured spleen, perforated eardrum, etc.), or admission to a hospital.

“Class B” is a classification used to describe Use of Force incidents that do not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid (e.g., superficial bruise, scrape, scratch, or minor swelling); or involve the forcible use of mechanical restraints in a confrontational situation that results in minor injury.

“Class C” is a classification used to describe Use of Force incidents that result in no injury to anyone involved. This includes incidents where the use of chemical agents results in no injury beyond irritation that can be addressed through decontamination.

At the close of FY21 there were 895 case still pending, all of which were less than 25 business days old. A determination for these cases will be made at the conclusion of the Intake Investigation.

2. *The number and rate of incidents for which the Department determined that staff violated a departmental rule or was otherwise subject to discipline, the type of incident that occurred, and the type of discipline recommended and actually imposed for such incidents.*

In FY21, ID closed 430 Use of Force cases with a recommendation for formal disciplinary charges. Of the 430 cases, 176 cases (40.9%) resulted in formal charges for excessive use of force, 8 cases (1.8%) resulted in charges for impermissible use of force, 54 cases (12.5%) resulted in charges for violation of the Chemical Agents Directive, 7 cases (1.6%) resulted in charges for false statements, 196 (45.6%) resulted in charges for inaccurate reporting, and 167 cases (38.8%) resulted in charges for various other violations of departmental policies and rules and regulations.

In FY21, the Trials Division closed 401 cases. Of these, 91 cases (22.7%) were received and resolved in the same year. 310 cases (77.3%) were from previous years, but were resolved during this reporting period. These cases were disposed of as follows:

- Administrative Filed/Deferred Prosecution: 36 cases
- Negotiated Plea Agreements (NPA): 360 cases, see chart below
- Resulted in a guilty verdict at trial before the Office of Administrative Trials and Hearings (OATH): 5

**NPA Breakdowns:**

|  | <b>Number of Cases</b> | <b>Percentage out of 360 cases</b> |
|--|------------------------|------------------------------------|
| <b>NPA: Return to Command for Discipline with days ≤ 5</b> | 59                     | 16.4%                              |
| <b>NPA: Retirement/Resignation</b>                         | 17                     | 4.7%                               |
| <b>NPA: &lt;5 Days</b>                                     | 4                      | 1.1%                               |
| <b>NPA: 6-10 DAYS</b>                                      | 67                     | 18.6%                              |
| <b>NPA: 11-20 DAYS</b>                                     | 61                     | 16.9%                              |
| <b>NPA: 21-30 DAYS</b>                                     | 46                     | 12.8%                              |

|                                      |     |       |
|--------------------------------------|-----|-------|
| <b>NPA: 31-40 DAYS</b>               | 35  | 9.7%  |
| <b>NPA: 41-50 DAYS</b>               | 36  | 10.0% |
| <b>NPA: <math>\geq</math>51 DAYS</b> | 35  | 9.7%  |
| <b>TOTAL:</b>                        | 360 | 100%  |

3. *To the extent applicable, information regarding the entities within the Department that are responsible for conducting investigations into incidents, including the number, rate, and speed at which such entities conduct and complete investigations.*

Investigations into all Use of Force (UOF) incidents are the sole responsibility of the Investigation Division (ID). These investigations are handled in a two-step approach. ID's Intake Squad conducts an initial Intake Investigation of all UOF incidents. The majority of UOF cases are disposed of during this Intake process within 25 business days. If a case requires additional investigative steps, it is referred for Full ID Investigation.

In FY21, 5,629 UOF Intake Investigation cases were closed by ID within the 25 business day deadline.

An additional 901 UOF cases were closed by ID after further investigative work. 511 cases were referred from the Intake Squad for Full ID investigation and closed within an average of 261 days. The remaining 390 cases were cases pending from FY20 and were closed within an average of 508 days.

4. *To the extent applicable, the number of formal proceedings that occurred, and the outcomes of such proceedings. In any case in which the outcome of a formal proceeding was a recommendation to the Commissioner for a certain type of sanction, the report shall include whether the recommended sanction was accepted, rejected or modified.*

In FY21, the Trials Division brought 26 UOF cases to trial before OATH. Of these, 5 cases resulted in guilty verdicts which were accepted by the Commissioner. The Department is currently awaiting decisions from the administrative law judges on 21 cases.

5. *The number of investigations into incidents that were referred to a District Attorney's office, the Department of Investigations, or any similar law enforcement entity.*

The Department of Investigations (DOI) reviews all Class "A" UOF incidents prior to clearing DOC's ID to proceed with their investigation. In FY21, there were 340 Class "A" UOF incidents which were reviewed and cleared for administrative investigation by DOI. ID has referred 2 cases DOI for criminal investigation.