

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 2024 from July 1, 2023, through June 30, 2024. 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 every 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, document collection, reviewing all relevant reports, in addition to reviewing all video surveillance of the incident. This process has proven to successfully accelerate case processing times, as explained below.

During FY24, there were 7,234 reported Use of Force incidents, comprised of 7,045 Actual Uses of Force and 189 Alleged Uses of Force (by comparison, in FY23, there were 7,003 Actual Uses of Force and 194 Alleged Uses of Force). Of the 7,234 Uses of Force, 6,920 cases were deemed a Class “C” Use of Force - meaning no one involved in the Use of Force sustained any injury.¹

¹ “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.

In FY24, of the 7,234 reported Uses of Force, a total of 533 cases (7.4%) have been referred for further investigation - meaning the investigation met the Nunez criteria for a Full ID upgrade, or that the investigation could not be resolved within 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.

At the close of FY24, there were 1,017 Intake cases still pending. 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 FY24, the Trials & Litigations Division closed 821 Use of Force cases with formal discipline. All cases disposed in FY24 were as follows:

- Administrative Filed/Deferred Prosecution: 129 cases
- Negotiated Plea Agreements (NPA): 688 cases, see chart below
- Resulted in a guilty verdict at trial before the Office of Administrative Trials and Hearings (OATH): 3
- Resulted in a not guilty verdict at trial before the Office of Administrative Trials and Hearings (OATH): 1

NPA Breakdowns:

	Number of Cases	Percentage out of 688 cases
NPA: Return to Command for Discipline with days \leq 10	177	26.0%
NPA: Retirement/Resignation	6	0.9%
NPA: 1-5 Days	125	18.4%
NPA: 6-10 DAYS	162	23.6%
NPA: 11-20 DAYS	104	14.7%
NPA: 21-30 DAYS	50	7.1%

NPA: 31-40 DAYS	20	2.7%
NPA: 41-50 DAYS	9	1.3%
NPA: ≥51 DAYS	35	5.2%
TOTAL:	688	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. If a case requires additional investigative steps or meets the Nunez upgrade criteria, it is referred for Full ID Investigation.

In FY24, 5,680 UOF Intake Investigations were closed by ID within 30 business days.

During FY24, an additional 260 UOF cases were closed by ID after further investigative work. All cases were referred from the Intake Squad for Full ID investigation and closed within an average of 192 days. While the average closing timeframe for Full ID investigations has improved, additional steps are being taken to achieve compliance with the 120-business day closing timeframe mandated by the current consent decree.

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 FY24, the Trials Division brought 4 members of service to trial before OATH for cases involving UOF. 3 of the 4 members of service were found guilty. Of the 3 guilty individuals: 1 was recommended for termination and 2 were recommended for suspension (5-day suspension and 30-day suspension respectively). All OATH recommendations were accepted by the Commissioner.

5. *The number of investigations into incidents that were referred to a District*

Attorney's office, the Department of Investigation, or any similar law enforcement entity.

Up until March 2024, the Department of Investigation (DOI) reviewed all Class A UOF incidents prior to clearing DOC ID to proceed with the administrative investigation. As of March 2024, DOI no longer reviews all Class A UOF incidents as a matter of routine; rather, DOI reviews UOFs on a case-by-case basis and/or when referrals are received (from DOC ID or from other avenues). In FY24, DOI reviewed 39 UOF A incidents and cleared DOC ID to proceed with the administrative investigation. DOC ID has referred 9 UOF cases to DOI for criminal investigation.