

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 2018, which ran from July 1, 2017 through June 30, 2018.¹ 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.*

Every Actual Use of Force incident is investigated by the Department. The Investigation Division (“ID”) conducts a Preliminary Review 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). The Preliminary Review functions as an initial investigation, requiring interviews of inmates, review of all relevant reports and documents including medical records, and review of video surveillance of the incident. Following the Preliminary Review, if further investigation is necessary, the incident will either be investigated by ID, or referred to the facility of occurrence for further investigation.

During FY2018, there were 5,175 reported Actual Use of Force incidents. Each received some level of investigation as explained above.

On July 1, 2017, there were 2,371 Use of Force investigations pending with ID. Throughout FY2018, ID opened 2,513 additional Use of Force investigations. As such, there were a total of 4,884 Use of Force investigations pending or open with ID during FY2018.

From December 13, 2017 through June 30, 2018 there were 842 facility-level Use of Force investigations.

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.*

ID closed 185 of the 4,884 investigations pending or opened with ID during FY2018 with a Memorandum of Complaint (“MOC”), i.e. recommendation of formal disciplinary charges. Of the 185, the Injury Class Type breakdown was as follows: 11 Class A; 84 Class B; 90 Class C.

¹ All data related to facility-level investigations is limited the period of December 13, 2017 through June 30, 2018. On December 13, 2017 the Department launched our new electronic Case Management System (“CMS”), which is now used for all Use of Force investigations. Prior to that time, records related to facility-level investigations were maintained in paper form only, preventing the Department from being able to provide accurate data.

Of the 185 investigations that resulted in an MOC, the Trials Division (“Trials”) closed 118 cases during FY2018 with the following breakdown of outcomes:

- **Deferred Prosecution – 2 cases**
- **Administratively Filed – 4 cases**
- **Negotiated Plea Agreement (“NPA”): Return to Command for Discipline – 43 cases**
- **NPA: Retirement – 2 cases**
- **NPA: 5 -10 days – 19 cases**
- **NPA: 11-20 days – 26 cases**
- **NPA: 21-30 days – 14 cases**
- **NPA: 31-40 days – 3 cases**
- **NPA: 41-50 days – 3 cases**
- **NPA: 51+ days – 2 cases**

The facilities closed zero of the 842 facility-level investigations opened between December 13, 2017 and June 30, 2018 with a MOC.

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.*

ID closed 1,160 of the 4,884 investigations pending or opened with ID during FY2018, with an average of 312 days to complete an investigation.

The facilities closed 397 of the 842 facility-level investigations opened with the facilities from December 13, 2017 through June 30, 2018, with an average of 52 days to complete an investigation.

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.*

The Department closed 5 disciplinary cases during FY2018 where the closing was due to a formal decision following trial by an administrative law judge at the City Office of Administrative Trials and Hearings (“OATH”). Of the 5, 4 resulted in guilty findings and 1 resulted in a not-guilty finding. Of the 4 that resulted in a guilty finding, the Commissioner accepted and imposed the recommended sanction in 3. In the remaining case the Commissioner rejected the recommended sanction and terminated the subject staff member.

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.*

ID referred 26 Use of Force incidents to the Department of Investigation and/or a District Attorney’s office during FY2018.