

**NYC Department of Correction  
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 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. 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”) 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 (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.

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).

## 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 ultimate 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 inmate) and compare this reporting period data to last period’s data, as shown in Figure 1.

Figure 1

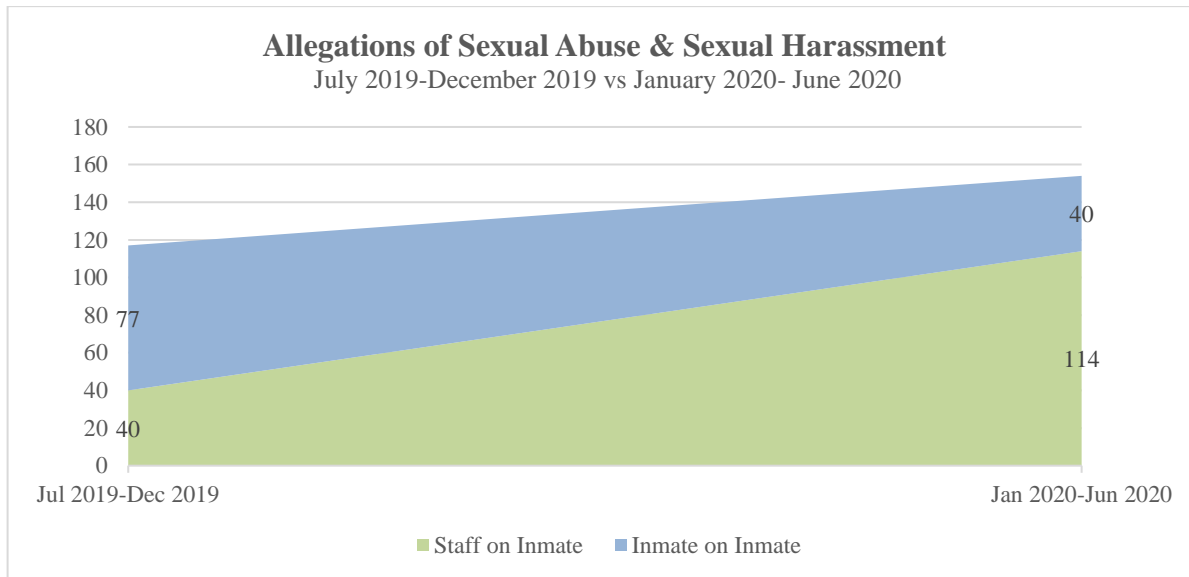


Figure 1 shows the Department is reporting an overall increase in staff-on-inmate allegations by 185% and an overall decrease in inmate-on-inmate allegations by 48% during this reporting period compared to last. Overall, the Department saw 114 allegations of staff-on-inmate sexual abuse and sexual harassment this period versus 40 allegations last period. This time last year (reporting period of Jan. 2019 – June 2019), the Department reported 107 staff-on-inmate allegations, only seven fewer than this year.

The consistent decrease in inmate-on-inmate allegations between reporting periods is an encouraging trend and is reflective of the dedicated work by the Department to protect inmates from sexual assault and harassment. The Department has identified two reasons for the increase in staff-on-inmate allegations this reporting period.

**NYC Department of Correction  
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

The main reason is a change in protocol mandated and implemented by the Board of Corrections this reporting period with respect to sexual harassment allegations. The Board of Corrections recently decided that “repeated” sexual harassment includes a comment made with sexual undertones by a person who has been accused of making a sexual comment in the past, to anyone, whether that previous allegation was substantiated or not. This change in definition inflated the number of sexual harassment allegations the Department was required report as a “PREA” allegation.<sup>1</sup> Thirty-eight (38) of the Department’s 114 staff-on-inmate allegations were claims of sexual harassment. Comparatively speaking, during the last reporting period, the Department only had four (4) such claims. But this time last year (during the reporting period that spanned Jan. 2019 – June 2019), the Department saw 30 such claims. The progress made to undercut harassment allegations should not be ignored; the recent change to the definition of “PREA-reportable sexual harassment” sets a new, higher standard.

Second, the Department continues, in a seemingly intensifying fashion, to grapple with a small number of inmates making a large number of unsubstantiated or unfounded complaints. During this reporting period, **just five inmates were responsible for reporting 39 (or, 34%) of the Department’s 114 staff-vs-inmate allegations; a total of ten inmates (the previously mentioned five plus another five inmates) were responsible for reporting 50 (or, 44%) of these 114 allegations.** Although not all of these cases have been formally closed yet, preliminary assessments suggest that they will all result in a finding of Unsubstantiated or Unfounded.

Of the 114 staff-on-inmate allegations in this reporting period, 76 were allegations of sexual abuse. The five above-mentioned inmates represent 30% (23 of 76) staff-on-inmate sexual abuse allegations. **Plainly, almost one-third of the Department’s staff-on-inmate sexual abuse allegations for this reporting period were made by the same five people.** Not one of those allegations has been supported by any credible evidence. **Those same five inmates also represent 42% (16 of 38) staff-on-inmate sexual harassment allegations.** Expand that list to include the ten previously-referenced inmates and the number reaches 50% (19 of 38). **Thus, the same 10 inmates represent half of the Department’s staff-on-inmate sexual harassment allegations.**

The Department has attempted, for years, to partner with three different District Attorney’s Offices in order to combat the rampant false reporting of PREA allegations; although some small progress has been made with one of those District Attorney’s Offices, these attempts have been largely unsuccessful.

Interestingly, this period also marked a significant *decrease* in inmate-on-inmate allegations. Specifically, the Department saw a decline from 77 allegations of sexual harassment and abuse in the last reporting period to 40 allegations, **a reduction of 48%.**

---

<sup>1</sup> It should be noted that all staff-on-inmate and inmate-on-inmate sexual harassment allegations, whether they are deemed “PREA-Reportable” or not, are investigated by the highly-trained, specialized “PREA investigators” within the Investigation Division.

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

**Facility Breakdown**

Table 1, below, gives a breakdown of PREA allegations by facility, comparing last reporting period (July 2019 – December 2019) to the current reporting period (January 2020 –June 2020).

**Table 1**

<i>Facility Breakdown Comparison</i>					
	Jul 2019-Dec 2019		Jan 2020-Jun 2020		
Facility	# of Allegations	%	# of Allegations	%	% Change
RMSC	17	14.53%	15	9.74%	11.76% ↓
AMKC	20	17.09%	35	23.18%	75.00% ↑
BKDC	11	9.40%	0	0.00%	100.00% ↓
GRVC	7	5.98%	40	26.49%	471.43% ↑
OBCC	26	22.22%	10	6.62%	61.54% ↓
EMTC	7	5.98%	1	0.66%	85.71% ↓
MDC	11	9.40%	19	12.58%	72.73% ↑
NIC	2	1.71%	12	7.95%	500.00% ↑
RNDC	1	0.85%	9	5.96%	800.00% ↑
WF	0	0.00%	2	1.32%	100.00% ↑
VCBC	6	5.13%	8	5.30%	33.33% ↑
BPHW	1	0.85%	1	0.66%	No Change
HOJC	5	4.27%	0	0.00%	100.00% ↓
OTHER UNITS	3	2.56%	2	1.32%	33.33% ↓

The Department has experienced an increase of PREA allegations in a several facilities. The overall increase in allegations is explained above; the *location* of the increased allegations can be traced to the decision to reduce the number of housing areas throughout the facilities, including in MDC, WF, NIC, RNDC and AMKC, thereby increasing the inmate population.

Additionally, the ten individuals that were identified (as listed above with Figure 1) as making repeated allegations are the same inmates that were housed in the facilities with increased numbers of allegations.

**Age of Alleged Victim**

Tables 2 (previous reporting period) and 3 (current reporting period) compare the ages of alleged victims. The data is further delineated by category of alleged perpetrator (staff or inmate). Of note, approximately 94% of all allegations were reported by inmates ages twenty-two (22) or older.

**Table 2**

<i>January 2020- June 2020</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	5	1	4
19-21	4	3	1
22≥	108	36	72

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

**Table 3**

<i>January 2020-June 2020</i>			
<i>Alleged Victim Age at Incident Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	2	1	1
19-21	6	6	0
22≥	146	107	39

**Age of Alleged Subject**

Tables 4 (prior reporting period) and 5 (current reporting period) compare the ages of alleged subjects. The data is further delineated by type of alleged victim (staff or inmate). Of note, in approximately 70% of all allegations reported, the alleged perpetrator was twenty-two (22) years old or older.

**Table 4**

<i>July 2019-December 2019</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	4	0	4
19-21	0	0	0
22 ≥	85	30	55
Unidentified Alleged Perpetrator	28		

**Table 5**

<i>January 2020-June 2020</i>			
<i>Alleged Subject Age at Report Date</i>	<i># of Allegations</i>	<i>Staff on Inmate</i>	<i>Inmate on Inmate</i>
18≤	1	0	1
19-21	0	0	0
22 ≥	113	91	22
Unidentified Alleged Perpetrator	40		

In the prior reporting period, there were 28 allegations where the alleged victim inmate was unable to identify the alleged perpetrator, accounting for 25% of all PREA-reportable incidents. In the current reporting period, there were 40 allegations where the alleged victim inmate was unable to identify the alleged perpetrator, accounting for 26% of all PREA-reportable incidents.

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

**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 of both staff-on-inmate and inmate-on-inmate incidents.

Table 6

<i>Reporting Breakdown</i>					
		July 2019-December 2019		January 2020-June 2020	
Staff-Inmate		# of Allegations	%	# of Allegations	%
	311	34	29.06%	90	58.44%
	DOI	0	0.00%	3	1.95%
	Facility	5	4.27%	13	8.44%
	ID	0	0.00%	3	1.95%
	PREA	0	0.00%	3	1.95%
	Other	1	0.85%	2	1.30%
<b>Total</b>		<b>40</b>	<b>34.19%</b>	<b>114</b>	<b>74.03%</b>
Inmate-Inmate					
	311	42	35.90%	17	11.04%
	DOI	1	0.85%	0	0.00%
	Facility	20	17.09%	15	9.74%
	ID	5	4.27%	0	0.00%
	PREA	4	3.42%	2	1.30%
	Legal Aid	2	1.71%	2	1.30%
	Other	3	2.56%	4	2.60%
<b>Total</b>		<b>77</b>	<b>65.81%</b>	<b>40</b>	<b>25.97%</b>

**Overall Trends of PREA Allegations**

Table 7 compares total reported incidents for the latter half of 2019 (last reporting period) versus the first half of 2020 (current reporting period). The total number of sexual abuse and sexual harassment allegations increased by 31.62% from the last reporting period to the current reporting period (117 versus 154 allegations, respectively). Overall, there was an increase of allegations in all staff-on-inmate categories of sexual harassment and sexual abuse. Inmate-on-inmate sexual allegations decreased by 37 (or, 48%) from seventy-seven (77) allegations in the latter half of 2019 to forty (40) allegations during the current reporting period.

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

Table 7

<i>Comparison of Allegations of Sexual Victimization, by type of Incidents</i>			
	Jul 2019-Dec 2019	Jan 2020-Jun 2020	% Increase/Decrease
<b>Total</b>	<b>117</b>	<b>154</b>	31.62% ↑
<b>Staff on Inmate</b>	<b>40</b>	<b>114</b>	185.00% ↑
Sexual Abuse	36	76	111.11% ↑
Sexual Harassment	4	38	850.00% ↑
<b>Inmate on Inmate</b>	<b>77</b>	<b>40</b>	48.05% ↓
Abusive Sexual Contact	41	26	36.59% ↓
Non-Consensual Sex Act	24	8	66.67% ↓
Sexual Harassment	12	6	50.00% ↓

**Staff Sexual Abuse**

Staff sexual abuse includes a wide-range of behaviors such as attempted or requested sexual acts, indecent exposure, invasion of privacy and staff voyeurism, as well as completed sexual acts and unwanted touching for sexual gratification. This category represents about 49% of all allegations. There were 76 staff sexual abuse allegations reported during the first half of 2020, a 111% increase from the 36 allegations made during the latter half of 2019 (see Table 7).

All staff-on-inmate sexual abuse allegations falls into three categories- Inappropriate Touch, Crimes under Penal Law 130 and Voyeurism. For the latter half of 2019, about 14% (5) of staff sexual abuse were alleged to have occurred during a use of force (1), strip search (1) and escort (3). For the first half of 2020, about 16% (12) of staff sexual abuse were alleged to have occurred during a use of force (1), strip search (7), escort (3) and pat-frisk (1) (see Table 8).

Table 8

<i>Staff-Inmate Sexual Abuse Jul 2019-Dec 2019</i>	
Category	# of Allegations
Inappropriate Touch	27
Crimes Under New York State Penal Law 130	5
Voyeurism	3
Other	1
Grand Total	36

UOF	1
STRIP SEARCH	1
ESCORT	3
14% encompasses above secondary incidents	
VERBAL	5
RECANT	2
OTHER	24
<b>TOTAL</b>	<b>36</b>

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

<i>Staff-Inmate Sexual Abuse Jan 2020-Jun 2020</i>	
Category	# of Allegations
Inappropriate Touch	53
Crimes Under New York State Penal Law 130	12
Voyeurism	7
Other	4
Grand Total	76

UOF	1
Strip Search	7
Escort	3
Pat frisk	1
16% encompasses above secondary	
Verbal	21
Recant	2
Other	41
Total	76

### Staff Sexual Harassment

PREA-reportable staff sexual harassment includes repeated verbal statements, and comments or gestures of a sexual nature to an inmate by a staff member. Total allegations of PREA-reportable staff sexual harassment increased by 34 (or, 850%) between the July 2019 - December 2019 reporting period (4 allegations) and the January 2020 – June 2020 reporting period (38 allegations). Notably, the only category of sexual harassment that saw a significant change in allegations was “inappropriate comments”. This data is corroborative of the stricter standard of PREA reporting put into place this reporting period (see [Table 9](#)).

**Table 9**

<i>Staff on Inmate Sexual Harassment</i>					
Sub-Category	# Allegations	%	# Allegations	%	% Increase/Decrease
	Jul 2019-Dec 2019		Jan 2020-Jun 2020		
Sexual Threat	3	75%	2	5%	33% ↓
Inappropriate Comments	1	25%	35	92%	3400% ↑
Homophobic Statement	0	0%	1	3%	100% ↑
Total	4	100.00%	38	100.00%	850% ↑

### Inmate Nonconsensual Acts

Nonconsensual acts include inmate-on-inmate sexual penetration without consent or of an inmate who is unable to either consent or refuse. This category represents 20.51% of all July 2019-December 2019 allegations, and 5.19% of all January 2020-June 2020 allegations. (See [Table 10](#)). During the last reporting period, all twenty-four (24) alleged nonconsensual sex acts fell into the category ‘Crimes under New York State Penal Law 130. During the current reporting period, five (5) of the eight (8) reported nonconsensual sex acts were deemed ‘Crimes under New York State Penal Law 130’ and three (3) were categorized as “Inappropriate Touch”.

The Department has continued its successful reduction of inmate-on-inmate criminal nonconsensual acts. With only five reported this period, the Department has shown consistent improvement from the twenty-four reported last period and thirty-one allegations the period before that. **From last reporting period to the current, the Department decreased its number of said allegations by 79%.**



**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

**Table 10**

<i>Non-Consensual Sex Act</i>	<i># of Allegations</i>	<i># of Allegations</i>
Period	July 2019-December 2019	January 2020-June 2020
Crimes Under NY State Penal Law 130	24	5
Inappropriate Touch	0	3

**Inmate Abusive Acts**

Inmate abusive acts are defined as unwanted intentional touching of an inmate without consent, or of an inmate who is unable to consent or refuse, by another inmate. Inmate abusive acts represented 35% of all allegations for the period of July 2019-December 2019 compared to 17% during January 2020-June 2020. **The total number of inmate abusive act allegations decreased by 37%** (41 allegations to 26), yet another promising statistic for this reporting period. Last period, the Department saw a decrease in this category by 18%; this sizeable decrease in allegations is an encouraging trend (Table 11).

**Table 11**

<i>Inmate Abusive Acts</i>	<i># of Allegations</i>	<i>%</i>	<i># of Allegations</i>	<i>%</i>	<i>% Change</i>
	July 2019-December 2019		January 2020-June 2020		
Inappropriate Touch	37	90%	18	69%	51% ↓
Crimes Under NY State Penal Law 130	2	5%	8	31%	300% ↑
Other	2	5%	0	0%	100% ↓
Total	41	100%	26	100%	37% ↓

**Inmate Sexual Harassment**

In 2013, the Bureau of Justice Statistics added *Inmate Sexual Harassment* to the definitions of sexual victimization. Inmate 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 inmate directed toward another. The number of such allegations decreased by 50% from twelve (12) allegations in the last reporting period to six (6) allegations in the current reporting period (see Table 12). Last reporting period saw a 25% deduction from the period before that. Thus, on all inmate-on-inmate categories, the Department has steadily reduced PREA allegations significantly.

**Table 12**

<i>Inmate Sexual Harassment</i>				
Jul 2019-Dec 2019		Jan 2020-Jun 2020		% Change
# Allegations		# Allegations		
12	10%	6	12%	50% ↓

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

**Overview of Rates and Trends**

The rate of reported allegations of sexual victimization increased from 7.57 per 1,000 inmates during the latter half of 2019 to 19.57 per 1,000 inmates during the first half of 2020. The rate of staff allegations increased from 2.59 per 1,000 inmates during July 2019- December 2019 to 14.49 per 1,000 inmates during January 2020-June 2020. The rate of inmate-on-inmate allegations also increased slightly from 4.98 per 1,000 inmates to 5.08 per 1,000 inmates (see [Table 13](#)).

**Table 13**

<i>Total Allegations of Sexual Victimization, by type of incident Jul 2019-Dec 2019 vs Jan 2020-Jun 2020; rate per 1000 inmate population</i>						
<b>Category Type</b>	<b>Jul 2019-Dec 2019</b>	<b>Jan 2020-Jun 2020</b>	<b>% (Jul 2019-Dec 2019)</b>	<b>% (Jan 2020-Jun 2020)</b>	<b>rate (Jul 2019-Dec 2019)</b>	<b>rate (Jan 2020-Jun 2020)</b>
<b>Total</b>	117	154	100%	100%	7.57	19.57
<b>Staff on Inmate</b>	40	114	34.19%	74.03%	2.59	14.49
Sexual Abuse	36	76	30.77%	49.35%	2.33	9.66
Sexual Harassment	4	38	3.42%	24.68%	0.26	4.83
<b>Inmate on Inmate</b>	77	40	65.81%	25.97%	4.98	5.08
Abusive Sexual Contact	41	26	35.04%	16.88%	2.65	3.30
Non-Consensual Sex Act	24	8	20.51%	5.19%	1.55	1.02
Sexual Harassment	12	6	10.26%	3.90%	0.78	0.76

## 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 those where the investigation produced insufficient evidence to prove that the event occurred. Unfounded allegations are those that, pursuant to investigation, are proven false.

This report is intended to be an accounting of allegations that were reported during the first half of 2020, along with a description of any work done by the Department, during that six-month time period, to investigate said allegations; Additionally, there is an expectation for this report to compare that work with the data from last reporting period, in order to analyze progress (or lack thereof) between the two reporting periods. The consequence of having such specific and narrow parameters is that the resultant report will present incomplete, partial data. What appears to outline all activity completed by the Department over the past six months is really just one chapter of a longer story. Thus, [Table 14](#)'s closure and substantiation rates are not indicative of all the work completed by the Department in the past six months; it does not address (1) any allegations made prior to or after the relevant reporting period, nor (2) any activity taken by Department investigators before or after the relevant reporting period.<sup>2</sup>

[Table 14](#) compares the case status of allegations that were *reported, investigated and closed* during the last reporting period versus the case status of allegations that were *reported, investigated and closed* during the current reporting period. Any allegation that came in before or after the reporting period in question and/or was closed before or after the relevant reporting period will **not** be reflected in [Table 14](#).

Importantly, the data in [Table 14](#) for the last reporting period (July 2019-December 2019) reflect the closure status *as of the time of the last report*, six months ago. At present time, additional cases from that reporting period have been closed. For an up-to-date account of resulting determinations that describes the Department's progress on investigating and closing cases, see Section Three.

[Table 14](#) notes that there are 65 pending cases; importantly, **none** of these cases are more than 90 days old, unless they are pending criminal prosecution or with other prosecutorial agencies. [Table 14](#) illustrates the enormous success the PREA Investigation Division has achieved over the course of the last few reporting periods. Compared to last reporting period, where the Department closed 27 cases within 6 months' time, the Department's PREA Investigation Division (ID) in this period opened and closed 89 cases in the same amount of time, for an increase of **230%**. Moreover, in this period, *none* of the cases that were opened stayed open longer than 90 days, unless the Department was required to pause its investigation due to an ongoing criminal investigation by another agency.

---

<sup>2</sup> For example, an allegation made in 2019 that was investigated and closed during the current reporting period is not counted in the tally of closed cases. Similarly, an allegation made during the current reporting period that was investigated and closed after June 2020 will not be accounted for in the closed case tally. If an allegation was reported in *last reporting period* and was closed one month later in the *current reporting period*, the case would not appear as closed in [Table 14](#).

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

**Table 14**

<i>Substantiated, Unsubstantiated, Unfounded and Pending Allegations of Sexual victimization Department-wide, January 2020-June 2020</i>		
	<i>Case Reporting Period</i>	
	<i>Jul 2019-Dec 2019</i>	<i>Jan 2020-Jun 2020</i>
<b>Total Allegations</b>	117	154
Substantiated	6	9
Unsubstantiated	5	28
Unfounded	16	52
<b>Total Closed</b>	<b>27</b>	<b>89</b>
Preliminary Findings-Substantiated	7	4
Preliminary Findings-Unsubstantiated	110	148
Preliminary Findings- Unfounded	0	2
Pending Final Disposition	90	65

Table 15 illustrates the continued success by the PREA Investigation Division in addressing allegations reported *prior* to January 2020 (allegations reported up and until December 31, 2019 but closed during the January 2020-June 2020 reporting period).<sup>3</sup> The reader will note there is no column for cases initiated in 2017; this is because as of last reporting period, the Department closed all of those cases. What’s more, in this reporting period, the Department closed its last 2016 case **and** its last four 2018 cases (although, it should be noted there are a handful of 2016, 2017 and 2018 cases open with other agencies that the Department will be allowed to close once those agencies complete their investigations). Although in the last reporting period the Department hit a new milestone with its expeditious work, fully clearing these older cases is yet another breakthrough by the Investigation Division, particularly in light of the fact that the ID had to open 185% more cases this period than last.

**Table 15**

<i>Initiated Investigation</i>				
	<i>2016</i>	<i>2018</i>	<i>2019</i>	<i>Total</i>
Substantiated	0	0	2	2
Unsubstantiated	0	2	103	105
Unfounded	1	2	68	71
<b>Total Closed</b>	<b>1</b>	<b>4</b>	<b>173</b>	<b>178</b>

<sup>3</sup> Additional cases were closed by the Department during the time period of Jan 2020 – Jun 2020, however, those cases related to allegations that were reported prior to Jan 2020. Table 15 provides one example of additional work completed by the Department during the current reporting period: data on allegations reported prior to Jan 2020 but closed during the current reporting period. Specifically, since the publishing of the last report six months ago, 12 (7.36%) of those 163 pending cases have been closed. 1 was deemed substantiated, 9 were deemed unsubstantiated, and 2 were determined to be unfounded.

**NYC Department of Correction  
 NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

There were a total of 267 PREA cases closed during the current reporting period (January 2020-June 2020) of which 178 were reported prior to January 1st, 2020. This chart provides an example of progress made by the Department outside of the reporting period data from [Table 14](#).

As [Table 15](#) demonstrates, the Department continues to close PREA cases efficiently. This period, the ID was able to close 173 cases from 2019 and 89 cases from the first six months of 2020.

**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 inmates in the Department’s custody between January and June 2020 of the calendar year. The inmate population includes both detainees and sentenced inmates. All inmate allegations of sexual abuse and sexual harassment are taken seriously and investigated thoroughly.

**Table 16**

<i>Substantiated, Unsubstantiated and Unfounded Allegations of Sexual Victimization, by facility, rate per 1,000 inmates (Jan 2020-Jun 2020)</i>							
Facility Name	Total	Substantiated		Unsubstantiated		Unfounded	
		Number	Rate	Number	Rate	Number	Rate
AMKC	35	2	0.25	11	1.40	15	1.91
EMTC	1	0	0	1	0.13	0	0.00
GRVC	40	1	0.13	5	0.64	16	2.03
MDC	19	4	0.51	3	0.38	4	0.51
OBCC	10	1	0.13	1	0.13	5	0.64
RMSC	15	0	0	1	0.13	0	0.00
RNDC	9	0	0	3	0.38	3	0.38
VCBC	8	1	0.13	3	0.38	0	0.00
WF	2	0	0	0	0.00	0	0.00
NIC	12	0	0	2	0.25	4	0.51

## Section Three

### RESULTING DETERMINATIONS

Resulting determinations from completed investigations are classified as Substantiated, Unsubstantiated, or Unfounded as defined by the PREA Standards. Resulting determinations are defined in Appendix B (p.21).

Of the 154 sexual abuse and sexual harassment allegations reported during January 2020-June 2020, fifty-two (52) (34%) were determined to be unfounded. In these cases, the Investigation Division determined that the event did not occur by the presence of compelling and credible evidence that materially contradicted the allegation. The PREA Investigation Division has made incredible strides over the course of the last year in its capacity to unfound false allegations. Over the last year, the ID went from unbounding 21 cases (or, 10% of its closed cases for the period) to last reporting period's 16 unfounded cases (14%) to the 52 cases (34%) in the instant reporting period.

Notably, the Department has substantiated nine (9) allegations during this period, compared to six (6) in the last period, representing a **50% increase in substantiation rate** for the respective reporting period. Additionally, during this reporting period, the Department substantiated an additional two (2) cases whose investigation had been initiated prior to this reporting period, for a total of eleven (11) cases substantiated during the first half of 2020. This statistic is linked to the Department's enhanced training of investigative staff, including training in trauma-informed interviewing.

Among completed investigations in 2020, the vast majority of determinations concluded that evidence was insufficient to prove, by a preponderance of evidence, that the event occurred. These cases are referred to as unsubstantiated.

### PENDING ALLEGATIONS

The New York City Department of Correction has taken 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 type of allegations through the creation of a dedicated hotline and posters placed in facilities listing the hotline number and detailing how to report an incident. The Department has also entered into a Memorandum of Understanding with Safe Horizons to provide victim services, access to assistance, and an additional avenue to report allegations of a sexual nature. Similarly, inmates 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.

**NYC Department of Correction  
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

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 2017.<sup>4</sup> During this reporting period, the Department was able to close all PREA-reportable cases that were initiated in 2018 and 2019.<sup>5</sup> Additionally, **all cases that were opened in 2020 were closed within 90 days**, aside from those pending with criminal investigative/prosecutorial agencies.

---

<sup>4</sup> 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.

<sup>5</sup> As above, 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.

## Section Four

### CORRECTIVE ACTION

In order to become compliant with PREA standards, extensive corrective action has been implemented. Staffing increases, timely case closure, retraining of ID investigators, and refining best practices were priorities during this reporting period, and the results have been remarkable. The steps taken in the last few reporting periods have proven to be worthwhile, sustainable changes to the investigative process; as the world faced a pandemic during this reporting period, the PREA ID team was able to maintain compliance with PREA standards and maintain integrity and efficiency.

#### *Staffing*

In May 2016, the Investigation Division established a dedicated team of investigators to address allegations of sexual abuse and sexual harassment. The ID PREA Unit consisted of one (1) Deputy Director, one (1) Supervising Investigator, and six (6) investigators. Pursuant to its Corrective Action Plan, the Department has increased the ID PREA Unit staffing levels to one (1) Director, one (1) Deputy Director, eight (8) Supervising Investigators, twenty-seven (27) Investigators, and one (1) Data Analysts to ensure thorough and timely investigations. Importantly, the members of this unit, as well as the Trials and Litigation attorneys assigned to prosecute the substantiated PREA cases, have extensive backgrounds in PREA and/or sex crimes investigations and prosecution.

The Department has civilian PREA Compliance Managers (PCM) at three (3) facilities. In 2017, the facilities assigned uniform staff as PREA Ambassadors to work with each PCM and to assist with PREA implementation. The Department also has uniform staff that function as PCMs in each facility that does not have a civilian equivalent. These staff members are responsible for the day-to-day PREA compliance matters within the facilities.

#### *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.<sup>6</sup>

---

<sup>6</sup> Except those cases being investigated or prosecuted criminally.



## NYC Department of Correction NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020

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."<sup>7</sup> 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.

### PRELIMINARY TREND OVERVIEW

During this reporting period, the Department experienced explainable increases in overall allegations of staff-on-inmate sexual abuse (repeat allegations by the same ten inmates) and staff-on-inmate sexual harassment (newly defined harassment criteria, as determined this period by the Board of Correction). There were 154 PREA reportable sexual abuse and sexual harassment allegations during this period compared to 117 PREA reportable allegations during the period of July 2019-January 2020, representing an increase of 32%. While the 154 allegations are still significantly lower than the 205 allegations the Department reported this time last year, the Department is striving to return to the downward trend it was seeing last period.

As described throughout this report, the Department experienced a substantial increase (111%) in allegations of staff-on-inmate sexual abuse during this reporting period as well as an 850% increase in staff-on-inmate sexual harassment allegations. The Department also saw a considerable decrease (48%) in all inmate-on-inmate PREA allegations.

The Department is aware that as long as a small number of inmates continue to make unsubstantiated/unfounded sex abuse and harassment allegations against staff, the Department will continue to see an undesirable increase in the numbers it reports. Thus, the Department is committed to combat this issue, by working with the inmates directly and by continuing to be persistent with District Attorneys Offices in the prosecution of false allegations.

---

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

**NYC Department of Correction  
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

Due to the recent change by the Board of Correction in its definition of “repeated” sexual harassment, staff harassment allegation numbers have risen. Under this new definition, if an inmate has ever complained that a certain staff member made an untoward or indecent comment – to any inmate – then the next time that staff member is alleged to have made a sexually-motivated comment, that complaint will be logged as “PREA-reportable”, *whether the initial harassment complaint was substantiated, unsubstantiated, or unfounded*. Under this rubric, it is not at all surprising that the Department has an increase in PREA-reportable staff-related harassment numbers.

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.

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 inmate grievance system to ensure that inmates have an effective outlet to communicate and resolve issues of concern through a streamlined process.

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 is transgender female, 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.

## CONCLUSION

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.

## 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).

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 inmate) 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.

**Inmate 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.

**Inmate 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.

**Inmate 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 inmate directed toward another.

**Staff Sexual Misconduct** – any act or behavior of a sexual nature directed toward an inmate by an employee, volunteer, contractor or official visitor or other agency representative. Sexual relationships of a romantic nature between staff and inmates 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

**NYC Department of Correction  
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – August 15, 2020**

- 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.

**Staff Sexual Harassment** – Repeated verbal statements, comments or gestures of a sexual nature to an inmate 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 states 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.