

New Proposed Rules Regarding Sexual Abuse and Sexual Harassment

June 14, 2016

Board of Correction

Public Meeting

WHAT ARE WE PROPOSING?

The Board of Correction (the Board) is proposing rules designed to detect, prevent and respond to sexual abuse and sexual harassment of persons incarcerated in jails and other facilities operated by the Department of Correction (DOC)

DEVELOPMENT OF PROPOSED RULES

In April 2015, NYC Public Advocate Letitia James petitioned the Board to adopt rules consistent with national standards that the Department of Justice had promulgated pursuant to the Prison Rape Elimination Act of 2003 (“PREA”)

Board accepted the petition at its June 9, 2015 meeting

Several months of fact-finding by the Board’s *ad hoc* PREA Committee

The rules before the Board today incorporate in whole or in part many elements of the national PREA standards

The PREA standards are codified in 28 C.F.R. Part 115 and are available here:
<http://www.prearesourcecenter.org/sites/default/files/content/prisonsandjailsfinalstandards.pdf>

DEVELOPMENT OF PROPOSED RULES

The PREA Standards afford discretion and flexibility to agencies in combating sexual violence

Consistent with this approach, the proposed rules require action that is specifically tailored to detecting, preventing and responding to sexual abuse and sexual harassment in the New York City jails, including specific provisions proposed by the Public Advocate and other stakeholders

Additionally, the proposed rules do not incorporate certain sections of the PREA Standards which we concluded were not applicable to the Department or not appropriate in NYC jails

COMPREHENSIVE APPROACH

Prevention planning

Responsive planning

Training and education

Screening for victimization and abusiveness

Reporting

Investigations

Discipline

Medical and mental health care

Data collection, management reviews, and auditing

HIGHLIGHTS

Video surveillance

Monitoring rounds

Limits to cross-gender viewing and searches

Hiring and promotion decisions

New rape crisis intervention and counseling services

Does not incorporate the PREA Standard § 115.42(g), which places limits on the establishment of a dedicated transgender or similar housing unit

HIGHLIGHTS - INVESTIGATIONS

Three business days after receipt of an allegation, conduct initial evaluation as to whether involved staff member should be suspended, placed on modified duty, etc. pending investigation

Completion of all investigations of sexual abuse/harassment allegations no later than 90 days from the Referral Date

Inmates subject to alleged sexual abuse/harassment must be interviewed within 72 hours of the Referral Date

Requests for statements or interviews of inmates must be made off the living unit and interviews must be conducted in a private and confidential setting

Closing memorandum must summarize the findings of the investigation

HIGHLIGHTS – DATA AND REVIEWS

Obtain incident specific and aggregate data about sexual abuse/harassment allegations and the outcomes of investigations

- Sexual abuse incident reviews**
- Data collection and review**

EVALUATING PROGRESS AND COMPLIANCE

Regular reports on facility staffing plans and adjustments

DOC and H+H quarterly reports on training

DOC quarterly reports on involuntary placement of at-risk inmates in segregated housing

DOC closing memorandum summarizing the findings of each investigation of alleged sexual abuse and sexual harassment

DOC sexual abuse incident reviews on a quarterly basis

EVALUATING PROGRESS AND COMPLIANCE

Semiannual aggregate data reports on allegations, investigations, and outcomes

PREA audit reports, responses to audit reports, and audit correction action plans

Development of written directives/policies regarding:

- Monitoring Rounds
- Consideration of Camera Installation in Incident Locations
- Searches
- Protective Custody and Segregated Housing
- Reporting of Allegations
- Protection against Retaliation
- Investigations

HOW DO YOU COMMENT ON THE PROPOSED RULES?

- **Website.** You can submit comments to the Board of Correction through the NYC Rules Website at <http://rules.cityofnewyork.us>
- **Email.** You can email comments to the Board of Correction at BOC@BOC.nyc.gov
- **Mail.** You can mail comments to the Board of Correction, Attn: Bennett Stein, 1 Centre Street, Room 2213, New York, NY 10007
- **Fax.** You can fax comments to the Board of Correction at 212-669-7980
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-669-7900. You can also sign up in the hearing room before the session begins at 1:00 p.m. on July 26, 2016
- **Deadline to submit comments:** close of business on July 26, 2016

WHEN AND WHERE IS THE HEARING?

The Board of Correction will hold a public hearing on the proposed rules at 1:00 p.m. on July 26, 2016

The hearing will be held at 125 Worth Street, Second Floor Auditorium, New York, New York, 10013