

**NYC Department of Correction  
NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report – February 2023**

## **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 (July 2022 through December 2022), 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**

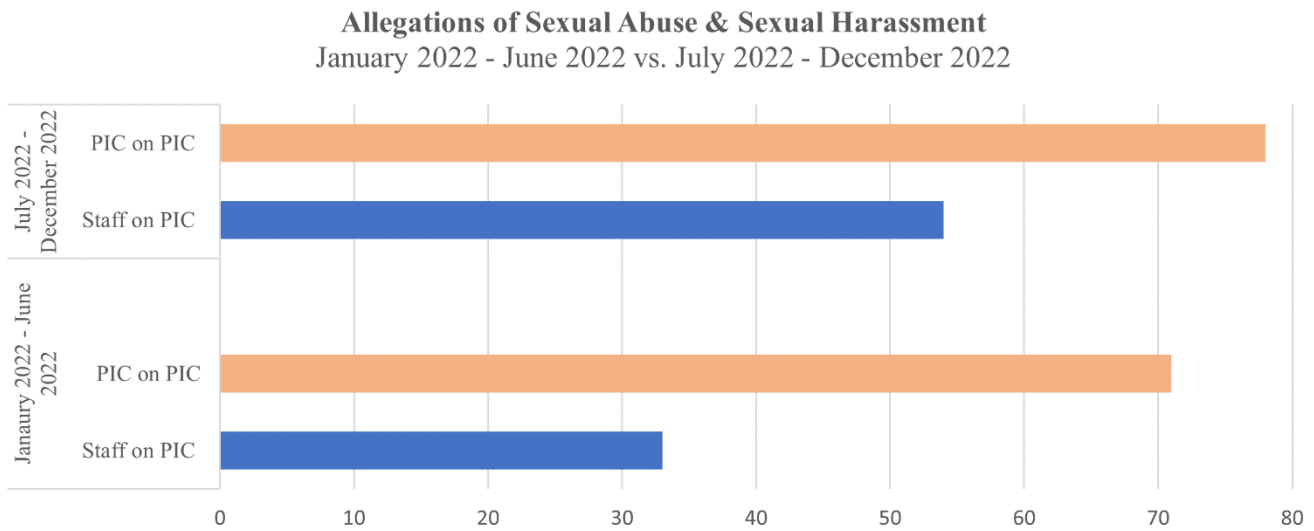
In accordance with the National PREA Standards, the Department reviews data pursuant to §115.87 in order to examine and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training with the ultimate goal of eliminating sexual abuse and sexual harassment within its facilities.

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**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 incarcerated individuals) 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-incarcerated individual allegations by 63.6% and incarcerated individual-on-incarcerated individual allegations rose by 9.85% during this reporting period compared to last. Overall, the Department saw 54 allegations of staff-on-incarcerated individual sexual abuse and sexual harassment this period versus 33 allegations last period.

**Facility Breakdown**

[Table 1](#), below, gives a breakdown of PREA Reportable allegations by facility, comparing last reporting period (January 2022 – June 2022) to the current reporting period (July 2022 – December 2022).

**Table 1**

| <b>Facility Breakdown Comparison</b> |                            |          |                            |          |                 |
|--------------------------------------|----------------------------|----------|----------------------------|----------|-----------------|
| <b>Facility</b>                      | <b>Jan 2022 – Jun 2022</b> |          | <b>Jul 2022 – Dec 2022</b> |          | <b>% Change</b> |
|                                      | <b># of Allegations</b>    | <b>%</b> | <b># of Allegations</b>    | <b>%</b> |                 |
| RMSC                                 | 28                         | 26.92%   | 34                         | 25.76%   | +21.4%          |
| AMKC                                 | 42                         | 40.38%   | 38                         | 28.79%   | -9.5%           |
| GRVC                                 | 8                          | 7.69%    | 9                          | 6.82%    | +12.5%          |

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**Table 1 (continued)**

|                   |    |        |    |        |        |
|-------------------|----|--------|----|--------|--------|
| OBCC <sup>1</sup> | 1  | .96%   | 0  | 0%     | -100%  |
| EMTC              | 11 | 10.58% | 13 | 9.85%  | +18.2% |
| NIC               | 2  | 1.92%  | 10 | 7.58%  | +400%  |
| RNDC              | 5  | 4.81%  | 16 | 12.12% | +220%  |
| WF                | 2  | 1.92%  | 2  | 1.52   | 0%     |
| VCBC              | 4  | 3.85%  | 7  | 5.3%   | +75%   |
| BHPW              | 0  | 0%     | 0  | 0%     | -      |
| Other Units       | 1  | 0.96%  | 3  | 2.27%  | +200%  |

The Department has experienced a decrease of PREA allegations in one facility. The largest decrease being in AMKC by 9.5%. The remaining facilities may have experienced an increase during the current reporting period due to the increase in population at the facility as a result of facility closures in previous reporting periods, as well as overall increases in population.

**Age of Alleged Victim**

Tables 2 compares the ages of alleged victims from the last reporting period (January 2022 – June 2022) to the current reporting period (July 2022 – December 2022). The data is further delineated by category of alleged perpetrator (staff or incarcerated individuals).

Of note, approximately 93% of all allegations were reported by incarcerated individuals ages 22 or older.

**Table 2**

| <i>January 2022 – June 2022</i>            |                         |   |                                       |
|--|-------------------------|---|---------------------------------------|
| <i>Alleged Victim Age at Incident Date</i> | <i># of Allegations</i> | <i>Staff on Incarcerated Individual</i> | <i>Among Incarcerated Individuals</i> |
| 18≤  | 0                       | 0                                       | 0                                     |
| 19-21                                      | 7                       | 4                                       | 3                                     |
| 22≥  | 97                      | 29                                      | 68                                    |
| <b>Total</b>                               | <b>104</b>              | <b>33</b>                               | <b>71</b>                             |

<sup>1</sup> During the reporting period, OBCC was not used to house incarcerated individuals.

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Table 3

| <i>July 2022 – December 2022</i>           |                         |   |                                       |
|--|-------------------------|---|---------------------------------------|
| <i>Alleged Victim Age at Incident Date</i> | <i># of Allegations</i> | <i>Staff on Incarcerated Individual</i> | <i>Among Incarcerated Individuals</i> |
| 18≤  | 0                       | 0                                       | 0                                     |
| 19-21                                      | 9                       | 5                                       | 4                                     |
| 22≥  | 123                     | 49                                      | 74                                    |
| <b>Total</b>                               | <b>132</b>              | <b>54</b>                               | <b>78</b>                             |

**Age of Alleged Subject**

Table 4 and Table 5 compares the ages of alleged subjects from the last reporting period (January 2022 – June 2022) to the current reporting period (July 2022 – December 2022). The data is further delineated by type of alleged victim (staff or incarcerated individuals). Of note, in approximately 72% of the allegations reported, the alleged identified perpetrator was twenty-two (22) years old or older.

Table 4

| <i>January 2022 – June 2022</i>           |                         |   |                                       |
|---|-------------------------|---|---------------------------------------|
| <i>Alleged Subject Age at Report Date</i> | <i># of Allegations</i> | <i>Staff on Incarcerated Individual</i> | <i>Among Incarcerated Individuals</i> |
| 18≤                                       | 0                       | 0                                       | 0                                     |
| 19-21                                     | 1                       | 0                                       | 1                                     |
| 22≥                                       | 69                      | 25                                      | 44                                    |
| Unidentified Alleged Subject              | 34                      | 0                                       | 0                                     |

Table 5

| <i>July 2022 – December 2022</i>          |                         |   |                                       |
|---|-------------------------|---|---------------------------------------|
| <i>Alleged Subject Age at Report Date</i> | <i># of Allegations</i> | <i>Staff on Incarcerated Individual</i> | <i>Among Incarcerated Individuals</i> |
| 18≤                                       | 0                       | 0                                       | 0                                     |
| 19-21                                     | 1                       | 0                                       | 1                                     |
| 22≥                                       | 95                      | 38                                      | 57                                    |
| Unidentified Alleged Subject              | 36                      | 0                                       | 0                                     |

In the prior reporting period, there were 34 allegations where the alleged victim incarcerated individual was unable to identify the alleged perpetrator. In the current reporting period, there were 36 allegations where the alleged victim incarcerated individual was unable to identify the alleged perpetrator. This

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reflects a 6% increase in incidents where incarcerated individuals were unable to identify the alleged perpetrator.

**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-incarcerated individual and incarcerated individual incidents.

**Table 6**

| <b>Reporting Breakdown</b>       |                         |                            |               |                            |               |
|----------------------------------|-------------------------|----------------------------|---------------|----------------------------|---------------|
| <b>Incident Type</b>             | <b>Reporting Method</b> | <b>Jan 2022 – Jun 2022</b> |               | <b>Jul 2022 – Dec 2022</b> |               |
|                                  |                         | <b># of Allegations</b>    | <b>%</b>      | <b># of Allegations</b>    | <b>%</b>      |
| Staff-on-Incarcerated Individual | 311                     | 22                         | 21.15%        | 38                         | 28.79%        |
|                                  | DOI                     | 0                          | 0%            | 0                          | 0%            |
|                                  | Facility                | 8                          | 7.69%         | 8                          | 6.06%         |
|                                  | ID                      | 0                          | 0%            | 2                          | 1.52%         |
|                                  | PREA                    | 2                          | 1.92%         | 5                          | 3.79%         |
|                                  | Other                   | 1                          | .96%          | 1                          | .76%          |
| <b>Total</b>                     |                         | <b>33</b>                  | <b>31.73%</b> | <b>54</b>                  | <b>40.91%</b> |
| Among Incarcerated Individuals   | 311                     | 35                         | 33.65%        | 30                         | 22.73%        |
|                                  | DOI                     | 0                          | 0%            | 0                          | 0%            |
|                                  | Facility                | 26                         | 25.0%         | 24                         | 18.18%        |
|                                  | ID                      | 2                          | 1.92%         | 8                          | 6.06%         |
|                                  | PREA                    | 4                          | 3.85%         | 8                          | 6.06%         |
|                                  | Legal Aid               | 0                          | 0%            | 1                          | .76%          |
|                                  | Other                   | 4                          | 3.85%         | 7                          | 5.3%          |
| <b>Total</b>                     |                         | <b>71</b>                  | <b>68.27%</b> | <b>78</b>                  | <b>59.09%</b> |

**Overall Trends of PREA Allegations**

Table 7 compares total reported incidents for the last reporting period of January 2022 – June 2022 versus the current reporting period of July 2022 – December 2022. The total number of sexual abuse and sexual harassment allegations increased by 26.9% (104 PREA Reportable versus 132 PREA Reportable allegations, respectively). Overall, there was an increase of allegations in all staff-on-incarcerated individual categories of sexual harassment and sexual abuse.

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Table 7

| <i>Comparison of Allegations of Sexual Victimization, by type of Incidents</i> |                            |                            |                 |
|--|----------------------------|----------------------------|-----------------|
| <i>Incident Type</i>   | <i>Jan 2022 – Jun 2022</i> | <i>Jul 2022 – Dec 2022</i> | <i>% Change</i> |
| <b>Staff on Incarcerated Individual</b>  | <b>104</b>                 | <b>132</b>                 | <b>+26.92</b>   |
| Sexual Abuse   | 33                         | 54                         | +63.63%         |
| Sexual Harassment  | 20                         | 26                         | +30%            |
| <b>Among Incarcerated Individuals</b>  | <b>13</b>                  | <b>28</b>                  | <b>+115.38%</b> |
| Abusive Sexual Contact   | 71                         | 78                         | +9.85%          |
| Non-Consensual Sex Act   | 24                         | 18                         | -25%            |
| Sexual Harassment  | 35                         | 34                         | -2.85%          |
| <b>Total</b>   | <b>12</b>                  | <b>26</b>                  | <b>+116.67%</b> |

**Staff Sexual Abuse**

All staff on incarcerated individual sexual abuse allegations are investigated as potential violations of NYS Penal Law §130 (i.e., attempted sexual acts, completed sexual acts and unwanted (forcible) touching for sexual gratification and indecent exposure) in addition to staff voyeurism. There were 33 staff on incarcerated individual allegations of sexual abuse and sexual harassment made during the first half of 2022, compared to the 54 made during the second half of 2022. This marks a 63.63% increase in staff on incarcerated individual allegations. (see [Table 7](#)).

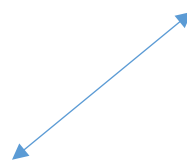
For the first half of 2022, the majority of sexual abuse allegations against staff involved allegations of inappropriate touching or actions defined as potential crimes under NY State Penal Law 130. The remaining 15.1% total of staff sexual abuse allegations fell outside of these two categories. The five allegations involved, strip searches (3) and pat frisks (2). This is in contrast to the second half of 2022 where there were no allegations of sexual abuse related to a category outside of inappropriate touching, voyeurism and crimes under NY State Penal Law 130 (see [Table 8](#)).

Table 8

**Staff – Incarcerated Individual Sexual Abuse  
 January 2022 – June 2022**

| <b>Category</b>                           | <b># of Allegations</b> |
|---|-------------------------|
| Inappropriate Touch                       | 9                       |
| Crimes Under New York State Penal Law 130 | 6                       |
| Voyeurism                                 | 0                       |
| Other                                     | 5                       |
| <b>Grand Total</b>                        | <b>20</b>               |

|                    |          |
|--------------------|----------|
| UOF                | 0        |
| Strip Search       | 3        |
| Escort             | 0        |
| Pat Frisk          | 2        |
| Verbal             | 0        |
| Recant             | 0        |
| <b>Other Total</b> | <b>5</b> |



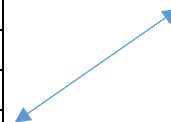
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**Table 8 (continued)**

**Staff – Incarcerated Individual Sexual Abuse  
July 2022 – December 2022**

| Category                                  | # of Allegations |
|---|------------------|
| Inappropriate Touch                       | 16               |
| Crimes Under New York State Penal Law 130 | 8                |
| Voyeurism                                 | 2                |
| Other                                     | 0                |
| <b>Grand Total</b>                        | <b>26</b>        |

|                    |          |
|--------------------|----------|
| UOF                | 0        |
| Strip Search       | 0        |
| Escort             | 0        |
| Pat Frisk          | 0        |
| Verbal             | 0        |
| Recant             | 0        |
| <b>Total Other</b> | <b>0</b> |



## Staff Sexual Harassment

PREA-reportable staff sexual harassment includes repeated verbal statements, comments or gestures of a sexual nature to an incarcerated individual by a staff member. Total allegations of PREA-reportable staff sexual harassment increased by 115.38% between July 2022 and December 2022 (See Table 9).

**Table 9**

| <i>Staff on Incarcerated Individual Sexual Harassment</i> |                            |                            |                 |
|---|----------------------------|----------------------------|-----------------|
| <i>Sub-Category</i>                                       | <i>Jan 2022 – Jun 2022</i> | <i>Jul 2022 – Dec 2022</i> | <i>% Change</i> |
|   | <i># Allegations</i>       | <i># Allegations</i>       |                 |
| Sexual Threat   | 0                          | 4                          | +100%           |
| Inappropriate Comments                                    | 13                         | 22                         | -69.23%         |
| Homophobic Statement                                      | 0                          | 2                          | +100%           |
| <b>Total</b>  | <b>13</b>                  | <b>28</b>                  | <b>+115.38%</b> |

## Incarcerated Individual Nonconsensual Acts

Nonconsensual acts include sexual penetration among incarcerated individuals without consent or of an incarcerated individual who is unable to either consent or refuses consent (See Table 10). During the last reporting period, 24 reported nonconsensual sex acts were deemed ‘Crimes under New York State Penal Law 130’ and 11 were categorized as “Inappropriate Touch”. During the current reporting period, 22 reported nonconsensual sex acts were deemed ‘Crimes under New York State Penal Law 130 and 12 were categorized as “Inappropriate Touch”.

**Table 10**

| <i>Non-Consensual Sex Act</i>       | <i>Jan 2022 – Jun 2022</i> | <i>Jul 2022 – Dec 2022</i> |
|-------------------------------------|----------------------------|----------------------------|
|                                     | <i># of Allegations</i>    | <i># of Allegations</i>    |
| Crimes Under NY State Penal Law 130 | 24                         | 22                         |
| Inappropriate Touch                 | 11                         | 12                         |

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**Incarcerated Individual Abusive Acts**

Incarcerated Individual abusive acts are defined as unwanted intentional touching of an incarcerated individual without consent, or of an incarcerated individual who is unable to consent or refuse, by another incarcerated individual. The total number of incarcerated individual abusive act allegations decreased by 25% (24 allegations to 18), (Table 11).

**Table 11**

| <i>Incarcerated Individual Abusive Acts</i> | <i>Jan 2022 – Jun 2022</i> |          | <i>Jul 2022 – Dec 2022</i> |          | <i>% Change</i> |
|---|----------------------------|----------|----------------------------|----------|-----------------|
|   | <i># of Allegations</i>    | <i>%</i> | <i># of Allegations</i>    | <i>%</i> |                 |
| Inappropriate Touch                         | 21                         | 87.5%    | 12                         | 66.67%   | -42.85%         |
| Crimes Under NY State Penal Law 130         | 3                          | 12.5%    | 5                          | 27.78%   | +66.67%         |
| Other                                       | 0                          | 0%       | 1                          | 5.56%    | +100%           |
| <b>Total</b>                                | <b>24</b>                  |          | <b>18</b>                  |          | <b>-25%</b>     |

**Incarcerated Individual Sexual Harassment**

In 2013, the Bureau of Justice Statistics added *Incarcerated Individual Sexual Harassment* to the definitions of sexual victimization. Incarcerated individual 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 incarcerated individual directed toward another. The number of such allegations increased from 12 allegations in the last reporting period to 26 allegations in the current reporting period (see Table 12).

**Table 12**

| <i>Incarcerated Individual Sexual Harassment</i> |          |                            |          |                 |
|--|----------|----------------------------|----------|-----------------|
| <i>Jan 2022 – Jun 2022</i>                       |          | <i>Jul 2022 – Dec 2022</i> |          | <i>% Change</i> |
| <i># Allegations</i>                             | <i>%</i> | <i># Allegations</i>       | <i>%</i> |                 |
| 12   | 16.9%    | 26                         | 33.3%    | +116.67%        |

**Overview of Rates and Trends**

The rate of reported allegations of sexual victimization increased from 18.9 per 1,000 incarcerated individuals during the first half of 2022 to 22.80 per 1,000 incarcerated individuals during the second half of 2022. The rate of staff allegations increased from 6 per 1,000 during January 2022 – June 2022 to 9.32 per 1,000 incarcerated individuals during July 2022 – December 2022. The rate of allegations among incarcerated individuals against other incarcerated individuals increased slightly from 12.9 per 1,000 incarcerated persons to 13.47 per 1,000 incarcerated persons (see Table 13).



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**Table 13**

| <i>Total Allegations of Sexual Victimization</i> |                            |               |                         |                            |               |                         |
|--|----------------------------|---------------|-------------------------|----------------------------|---------------|-------------------------|
| <i>Incident Type</i>                             | <i>Jan 2022 – Jun 2022</i> |               |                         | <i>Jul 2022 – Dec 2022</i> |               |                         |
|  | <i># of Allegations</i>    | <i>%</i>      | <i>Rate<sup>2</sup></i> | <i># of Allegations</i>    | <i>%</i>      | <i>Rate<sup>2</sup></i> |
| <b>Staff on II</b>                               | <b>33</b>                  | <b>31.73%</b> | <b>6</b>                | <b>54</b>                  | <b>40.91%</b> | <b>9.32</b>             |
| Sexual Abuse                                     | 20                         | 19.23%        | 3.63                    | 26                         | 19.7%         | 4.49                    |
| Sexual Harassment                                | 13                         | 12.5%         | 2.36                    | 28                         | 21.21%        | 13.47                   |
| <b>Among Incarcerated Individuals</b>            | <b>71</b>                  | <b>68.27%</b> | <b>12.9</b>             | <b>78</b>                  | <b>59.09%</b> | <b>13.47</b>            |
| Abusive Sexual Contact                           | 49                         | 47.12%        | 8.9                     | 18                         | 13.64%        | 3.10                    |
| Non-Consensual Sex Act                           | 10                         | 9.62%         | 1.82                    | 34                         | 25.76%        | 5.87                    |
| Sexual Harassment                                | 12                         | 11.54%        | 2.18                    | 26                         | 19.7%         | 4.49                    |
| <b>Total</b>                                     | <b>104</b>                 | <b>100%</b>   | <b>18.9</b>             | <b>132</b>                 | <b>100%</b>   | <b>22.80</b>            |

**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.

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 (January 2022 – June 2022) reflects the status as of the time of the last report, six months ago. Further, additional cases from other reporting

<sup>2</sup> Rate per 1,000 incarcerated individuals.

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periods have been closed. The Department’s progress on investigating and closing cases is discussed in Section Three.

Table 14 During the current reporting period (July 2022 – December 2022), the Department’s PREA Investigation Division (ID) opened 233 cases of which 132 were PREA Reportable cases. Of the 132, 44 cases exceeded the 90-day closing requirement, and 51 cases are still within compliance of the required deadline. 124 PREA Reportable cases were closed during the reporting period, those cases originating from this and previous reporting periods.<sup>3</sup>

**Table 14**

| <i>Substantiated, Unsubstantiated, Unfounded and Pending Allegations of Sexual Victimization Department-wide</i> |                              |                            |
|--|------------------------------|----------------------------|
| <i>Case Status</i>   | <i>Case Reporting Period</i> |                            |
|  | <i>Jan 2022 – Jun 2022</i>   | <i>Jul 2022 – Dec 2022</i> |
| <b>Total Allegations</b>   | <b>89</b>                    | <b>104</b>                 |
| <b>Total Closed During Reporting Period<sup>4</sup></b>  | <b>97</b>                    | <b>77</b>                  |
| Substantiated  | 3                            | 3                          |
| Unsubstantiated  | 47                           | 32                         |
| Unfounded  | 47                           | 42                         |
| <b>Total Open Still in 90 Day Compliance</b>   | <b>34</b>                    | <b>54</b>                  |
| Preliminary Findings – Substantiated   | 4                            | 0                          |
| Preliminary Findings – Unsubstantiated   | 30                           | 54                         |
| Preliminary Findings – Unfounded   | 0                            | 0                          |
| Pending Final Disposition  | 34                           | 54                         |

Table 15 illustrates the cases closed by the PREA Investigation Division regarding allegations reported prior to July 2022 (allegations reported up and until June 30, 2022, but closed during the July 2022 to December 2022) reporting period.

**Table 15**

| <i>Initiated Investigation</i>  |             |             |             |              |
|---------------------------------|-------------|-------------|-------------|--------------|
| <i>Case Disposition</i>         | <i>2020</i> | <i>2021</i> | <i>2022</i> | <i>Total</i> |
| Substantiated                   | 0           | 0           | 1           | 1            |
| Unsubstantiated                 | 2           | 1           | 85          | 88           |
| Unfounded                       | 0           | 0           | 35          | 35           |
| <b>Total Closed<sup>5</sup></b> | <b>2</b>    | <b>1</b>    | <b>121</b>  | <b>124</b>   |

<sup>3</sup> Of the 44 cases that were reported as an allegation during this reporting period and exceeded the 90-day due date, 34 have been closed at the time of this report being submitted.

<sup>4</sup> The cases represent cases closed during the reporting period; these could have come from other reporting periods.

<sup>5</sup> Total includes cases closed from previous reporting periods.

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**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 incarcerated individuals in the Department’s custody between July 2022 and December 2022 of the calendar year. The incarcerated population includes both detainees and sentenced individuals. All allegations of sexual abuse and sexual harassment made by incarcerated individuals are taken seriously and investigated thoroughly.

**Table 16**

| <i>Substantiated, Unsubstantiated and Unfounded Allegations of Sexual Victimization<sup>2</sup></i> |              |                      |             |                        |             |                  |             |
|---|--------------|----------------------|-------------|------------------------|-------------|------------------|-------------|
| <i>Facility Name</i>  | <i>Total</i> | <i>Substantiated</i> |             | <i>Unsubstantiated</i> |             | <i>Unfounded</i> |             |
|   |              | <i>#</i>             | <i>Rate</i> | <i>#</i>               | <i>Rate</i> | <i>#</i>         | <i>Rate</i> |
| AMKC  | 46           | 0                    | 0           | 28                     | 4.83        | 18               | 3.10        |
| BHPW  | 0            | 0                    | 0           | 0                      | 0           | 0                | 0           |
| GRVC  | 9            | 0                    | 0           | 7                      | 1.20        | 2                | .34         |
| MDC   | 1            | 0                    | 0           | 1                      | .17         | 0                | 0           |
| OBCC  | 1            | 0                    | 0           | 0                      | 0           | 1                | .17         |
| RMSC  | 29           | 0                    | 0           | 22                     | 3.80        | 7                | 1.20        |
| RNDC  | 11           | 1                    | .17         | 8                      | 1.38        | 2                | .34         |
| VCBC  | 2            | 0                    | 0           | 2                      | .34         | 0                | 0           |
| WF/NIC  | 12           | 0                    | 0           | 9                      | 1.55        | 3                | .51         |
| EMTC  | 10           | 0                    | 0           | 9                      | 1.55        | 1                | .17         |
| Other Units   | 3            | 0                    | 0           | 2                      | .35         | 1                | .17         |

**Section Three**

**RESULTING DETERMINATIONS**

Resulting determinations from completed investigations are classified as Substantiated, Unsubstantiated, or Unfounded as defined by the PREA Standards (defined in Appendix B, p.17).

Of the 124 PREA Reportable sexual abuse and sexual harassment allegations closed during the July 2022 to December 2022 reporting period, 35 were determined to be unfounded. In these cases, the PREA

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Investigation Division determined that the event did not occur. Of the remaining allegations, two were determined to be substantiated and 88 were unsubstantiated.

The Department continues to engage in efforts to address the number of allegations received and concerns of the incarcerated population. The Department ensures that all incarcerated individuals are aware of the zero-tolerance policy related to sexual abuse and harassment. This information is disseminated on posters and through discussion with staff from the PREA Standards and Compliance Unit. The Department began stenciling this information including the telephone numbers for reporting complaints in the jail and court cells, housing areas, and corridors. The Department also provides specialized housing opportunities for particularly vulnerable populations, including transgender, gender non-binary, and intersex individuals (TGNBI), who are at heightened risk of sexual victimization. The PREA Standards and Compliance Unit and the LGBTQ+ Affairs Unit provide support and work closely with the TGNBI population to address concerns related to sexual abuse and harassment. Additionally, the PREA Standards and Compliance Unit conducts weekly retaliation monitoring of those who have submitted sexual abuse and harassment complaints.

## **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 allegations, using a dedicated hotline and posters placed in facilities listing the hotline number and detailing how to report an incident. The Department continues to stencil the zero-tolerance policy with telephone numbers for reporting allegations in the jail and court cells, housing areas, and in the corridors. Incarcerated individuals are also informed that they may call 311 to report incidents of sexual abuse and harassment. The Department conducts in-person orientation with new admissions related to the zero-tolerance policy. This allows individuals to ask the PREA Standards and Compliance Unit staff questions during the orientation or privately at its conclusion. The PREA Standards and Compliance Unit, the PREA ID Unit, and LGBTQ+ Affairs staff work closely together to provide support to all incarcerated individuals, especially those that are most vulnerable to 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. PREA Investigators interview alleged victims, separate individuals from identified alleged perpetrators, collect relevant evidence, afford alleged victims mental health, ministerial, and victim services, and conduct a preliminary investigation.

## **Section Four**

### **CORRECTIVE ACTION**

While the Investigation Division has taken steps to become compliant with PREA Standards, review and refinement of the investigative process are ongoing. For example, investigators have increased usage of body-worn cameras for interviews, implemented more stringent requirements for the preservation of video evidence, identified areas of improvement in the interview process and has increased the level of detail contained in the preliminary reports. In acknowledgement of the deficiencies uncovered in this report, to address the increase in case volume and to address the 90-day overdue cases, we have added seven new investigators to the ID PREA Unit. We have also hired three PREA Compliance Managers to help interview and identify individuals who are vulnerable in our correctional setting. Additionally, a new Assistant Commissioner and Director of PREA were appointed during this reporting period. These appointments are some of the many changes being made to improve the level of management and accountability within the PREA Unit. Enhanced management and improved efficiency will allow the ID PREA Unit to continue its work towards compliance with all PREA standards.

### **STAFFING**

As of the time of this report being published, the ID PREA Unit consists of one Assistant Commissioner, one Director, one Deputy Director, nine Supervising Investigators and 28 Investigators.

### **PRELIMINARY TREND OVERVIEW**

During this reporting period, the Department experienced an overall increase in total PREA allegations (sexual abuse and sexual harassment): there were 132 allegations compared to the last reporting period's 104 allegations. This represents a 27% increase in overall allegations.

Under the Department's new leadership, increased efforts have been made to help address the issues giving rise to these types of allegations. The merger of ID PREA and PREA Compliance, which used to operate separately, has been a vital part of the effort to make reporting and awareness of sexual assault and harassment a more integrated process. ID PREA has been diligent in generating separation orders to better assist immediately separating potential abusers from shared living quarters with vulnerable individuals. The PREA Standards and Compliance Unit Ambassadors routinely interact with the incarcerated population encouraging the reporting of sexual abuse and harassment complaints while stressing the negative role false allegations have on the populations. Additionally, the PREA Ambassadors proactively address other service-related issues.

The PREA ID Unit saw an increase in the number of allegations among incarcerated individuals, with 71 in the last reporting period and 78 in the current reporting period. There were 36 allegations in the current reporting period where the victim was unable to identify the alleged perpetrator, compared to 34 in the prior reporting period. This reflects a 6% increase in incidents where the incarcerated individual

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was unable to identify the alleged perpetrator. The Department experienced an 64% increase in staff-on-incarcerated individual allegations during the current period.

It is the Department's goal to achieve full compliance with all PREA standards and provide a safe and humane environment for staff and persons in custody. All efforts are made to properly record, evaluate, and fully investigate all allegations made by incarcerated individuals. These efforts to ensure that all allegations are properly recorded and addressed may account for some of the increase in overall allegations noted during this reporting period. The ID PREA Unit is taking proactive steps to ensure that investigations of sexual harassment and abuse continue to be completed efficiently and fairly. The ID PREA Unit continues to respond to allegations within 72 hours and to evaluate cases reasonably.

The Department continues to ensure staff receive PREA training during recruit training and orientation, and that all contractors and volunteers with contact with incarcerated individuals are trained. 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 grievance system for incarcerated individuals to ensure that individuals have an effective outlet to communicate and resolve issues of concern through a streamlined process.

## **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 Person In Custody) 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.

**Incarcerated Individual Nonconsensual Act** – sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; and

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- 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.

**Incarcerated Individual 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.

**Incarcerated Individual 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 Incarcerated Individual directed toward another.

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