

**New York City Department of Correction
Semi-Annual Sexual Abuse & Harassment Report
Bi-Annual Comparison Report
January 1, 2021 – June 30, 2021**

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.

Pursuant to Local Law 21 of 2019, codified by section 9-156 of the NYC Administrative Code, the Department is required to report on allegations of sexual abuse and sexual harassment for cases that lasted longer than 90 days within the preceding six month period, and for cases that were closed within the preceding six months. The following report outlines the aggregate number and percentage of the data required by subdivisions b and c of the law. Data that cannot be aggregated has been provided to the Council and the Board of Correction but has not been included in this report. Throughout both reporting periods, there were incidents involving less than 6 individuals; due to privacy concerns, the Department cannot publicly report any number less than six. This report, which evaluates sexual abuse and sexual harassment allegations made within the past six months (January 2021 to June 2021), 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.

SECTION ONE: SUBDIVISION B

The data in this section is related to alleged incidents of sexual abuse and harassment that occurred during the preceding six-month period for which an investigation lasted longer than 90 days.

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1. The date on which the incident occurred and whether the incident took place between the times 7:00 AM and 3:00 PM, 3:00 PM and 11:00 PM, and 11:00 PM and 7:00 AM.¹

During the first half of 2021, the majority (55.56%) of alleged incidents occurred at an 0700 x 1500 hours tour. Reports of 0700 x 1500 time continue to be one of the highest reported categories in the last half of 2020. The time of an alleged incident is reported as unknown in instances in which the complainant did not report a time to the Investigation Division.

<i>Alleged Incidents by Time of Day</i>					
<i>Time of Alleged Incident</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
0700x 1500	14	63.64%	<6	-	-
1500x2300	<6	-	<6	-	-
2300x0700	<6	-	<6	-	-
Unknown Time	0	0	0	0	-
Total	22	100%	-²	100%	

2. Whether the allegation is of sexual abuse or sexual harassment as defined in subdivision a of this section.

In this reporting period, the Investigation Division witnessed a decrease in cases of alleged incidents of sexual harassment from 13 cases to zero cases that were not closed within 90 days. The number of open cases of sexual abuse allegations remained the same from last period to current.

¹ The date of the incident cannot be reported in the aggregate.

² As stated in the introduction, due to privacy concerns, the Department cannot publicly report any number less than six. Likewise, various totals throughout this report cannot be reported if they would risk identifying specific individuals.

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<i>Total Number of Sexual Abuse and Sexual Harassment Allegations</i>					
<i>Type of Allegation</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Sexual Abuse	9	40.91%	9	100%	0%
Sexual Harassment	13	59.09%	0	0%	-100%
Total	22	100%	9	100%	

3. The date the incident was reported, and an investigation was opened.

This information cannot be reported in the aggregate.

4. The gender of the alleged victim.

In the last half of 2020, there were 22 incidents involving the following victim genders for which an investigation lasted longer than 90 days: females, transgender women, and transgender men. During the first half of 2021 the number of cases dropped, compared to previous reporting period, by 59%. The number of alleged victims who identified as transgender women decreased between the two reporting periods by 57%.

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<i>Total Alleged Incidents by Gender of Alleged Victim</i>					
<i>Alleged Victim's Gender</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	15	68.18%	<6	-	-80%
Female	0	0%	<6	-	-
Transgender Man	0	0%	0	0%	0%
Transgender Woman	7	31.82%	<6	-	-57.14%
Total	22	100%	-	100%	

5. Whether the alleged victim at the time of the incident was between the ages of 18-25, 26-35, 36-40, 41-60, over 60, or under 18 when such individuals are in department custody.

For the reporting period of January 2021 to June 2021, the majority of alleged victims were between the ages of 26 and 35 years old. The majority for the July 2020 to December 2020 were in the same age range.

<i>Total Alleged Incidents by Age of Alleged Victim</i>					
<i>Alleged Victim's Age Range</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
<18	0	0%	0	0%	0%
18-25	<6	-	<6	-	0%
26-35	13	59.09%	<6	-	-
36-40	6	27.27%	<6	-	-
41-60	<6	-	<6	-	0%
>60	0	0%	0	0%	0%
Total	22	100%	-	100%	

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6. The race and ethnic origin of the alleged victim.³

The number of alleged incidents between reporting periods amongst all races/ethnicities, is delineated in the chart below.

<i>Total Alleged Incidents by Race and Ethnic Origin of Alleged Victim</i>					
<i>Alleged Victim's Race/Ethnicity</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Asian	0	0%	0	0%	0%
Black	16	72.73%	6	66.67%	-62.5%
Hispanic	<6	-	0	0%	-100%
Other	<6	-	<6	-	-
White	<6	-	<6	-	-
Total	22	100%	9	100%	

7. Whether the alleged victim had been in custody for more than 24 hours and who, during such confinement, received treatment for a mental illness, not including incarcerated individuals seen by mental health staff on no more than two occasions during their confinement and assessed on the latter of those occasions as having no need for further treatment in any city correctional facility.⁴

<i>Time in Custody</i>	<i>Jul 2020 – Dec 2020</i>	<i>Jan 2021 – Jun 2021</i>
Alleged Victims in Custody less than 24 hours	0	0
Alleged Victims in Custody more than 24 hours	22	9
Total	22	9

³ Race and ethnicity are voluntarily reported to the Department by each individual in custody. The Department makes no representation as to the completeness or accuracy of this data.

⁴ Correctional Health Services is precluded from sharing the protected health information outlined in New York City LL21 §9-156(b)7 with the Department of Correction by New York State Public Health Law §§ 18 and 27-F, New York State Mental Hygiene Law § 33.13, and section 543 of the Public Health Service Act, 42 U.S.C. 290dd-2, and its implementing regulations, 42 CFR Part 2.

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8. The gender of the alleged perpetrator.

Within both reporting periods, the majority of alleged perpetrators were male.

<i>Total Alleged Incidents by Gender of Alleged Perpetrator</i>					
<i>Alleged Perpetrator's Gender</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	16	72.73%	<6	-	-
Female	<6	-	<6	-	-
Transgender Woman	<6	-	<6	-	-
Unknown	<6	-	0	0%	-100%
Total	22%	100%	9	100%	

9. Whether the alleged perpetrator was an incarcerated individual or staff.

In this reporting period, the majority of alleged perpetrators (88.89%) were incarcerated individuals.

<i>Total Alleged Incidents by Alleged Perpetrator</i>					
<i>Alleged Perpetrator</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Staff	20	-	<6	-	-
Incarcerated Individuals	<6	-	8	-	-
Total	-	100%	-	100%	

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- 10. If the alleged perpetrator was staff, the number of previous allegations against such staff that were substantiated and the outcome of each investigation.**

There were no previous substantiated allegations against identified staff members in both reporting periods.

- 11. If the alleged perpetrator was staff, the number of previous allegations against such staff that were unsubstantiated.**

There was one previous unsubstantiated allegation against an identified staff member in the second reporting period.

- 12. If the alleged perpetrator was staff, the number of previous allegations against such staff which are still pending**

Between the reporting periods, the number of allegations still pending against alleged staff perpetrators dropped to zero.

<i>Total Number of Pending Allegations Against Alleged Staff Perpetrator</i>					
<i>Status of Previous Staff Allegations</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	
Substantiated	0	0%	0	0%	0%
Unsubstantiated	10	83.33%	0	0%	-100%
Still pending	2	16.61%	0	0%	-100%
Total	12	100%	0	100%	

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13. The facility in which the incident occurred

RMSC had the highest number of alleged incidents in the current reporting period.

<i>Total Alleged Incidents by Facility⁵</i>					
<i>Facility</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
AMKC	6	27.27%	<6	-	-
BHPW	0	0%	0	0%	0%
EMTC	0	0%	0	0%	0%
GRVC	<6	-	0	0%	-100%
MDC	9	40.91%	<6	-	-
NIC	<6	-	0	0%	-100%
OBCC	<6	-	0	0%	-100%
RMSC	<6	-	<6	-	-
RNDC	0	0%	0	0%	0%
Transportation Div.	0	0%	0	0%	0%
VCBC	<6	-	<6	-	-
WF	0	0%	0	0%	0%
Total	22	100%	9	100%	

14. Whether the incident occurred in a service area or housing area:

One incident occurred in a court holding pen, the remaining 8 Incidents occurred in housing areas.

15. If the incident occurred in a housing area, which type:

Three incidents were in Protective Custody, three in General Population, one in New Admission and one incident in SCU.

⁵ BKDC and HOJC were not open during this reporting period and are therefore not included in this table.

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16. Whether video camera surveillance recorded the incident:

In two instances there was no video surveillance, in seven there was video obtained.

17. The type of sexual abuse or harassment as defined in subdivision A of this section:

All nine investigations were of sexual abuse.

18. Whether the alleged victim is known to identify as transgender or intersex:

Three victims identified as Transgender Female, three as male, three as female.

19. Whether the alleged victim is known to identify as non-binary or intersex:

No victims self identified as non-binary or intersex.

20. Whether the alleged victim is known to identify as lesbian, gay or bisexual:

Three victims self identified as gay.

21. Whether DNA or any other physical evidence was obtained:

In three instances DNA was obtained.

22. Whether a rape kit was administered, declined or no applicable:

In seven instances, a Forensic Examination Kit was administered.

23. If a rape kit was deemed not applicable, whether that determination was the result of a delay in reporting, due to the time of abuse alleged to have occurred, or any other reason:

One instance has delay in reporting, the second instance was an investigation that did not involve DNA or a Forensic Examination Kit.

24. Whether a sexual assault nurse examiner or sexual assault response team was present during the administration of a rape kit:

Please refer to H&H for their records.

25. Whether the case was referred to the Department of Investigation, the date of such referral, and whether the Department of Investigation referred it back to the Department of Correction to investigate:

Does not apply to any of these investigations.

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SECTION TWO: SUBDIVISION C

The data in this section is related to investigations of allegations of sexual abuse and sexual harassment that concluded during the preceding six-month period.

B1. The date on which the incident occurred and whether the incident took place between the times 7:00 AM and 3:00 PM, 3:00 PM and 11:00 PM, and 11:00 PM and 7:00 AM.⁶

In the second half of 2020, there were significant percentage decreases in each timeframe category. Between January and June 2021, the majority (63.98%) of concluded cases were alleged to have occurred between 0700 to 1500 hours. The Investigation Division improved its methods, applying additional scrutiny to review of Genetec footage and exploring additional investigatory avenues, which resulted in an increase in cases where the time was identified. Thus, zero cases in this reporting period had an unknown time.

<i>Total Alleged Incidents by Time of Day</i>					
<i>Time of Alleged Incident</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
0700x 1500	45	28.13%	121	63.98%	+168.9%
1500x2300	39	24.38%	49	25.79%	+25.6%
2300x0700	11	6.88%	20	10.53%	+81.8%
Not Tracked	0	0%	0	0%	0%
Unknown Time	65	40.63%	0	0	-100%
Total	160	100%	190	100%	

⁶ The date on which the incident occurred cannot be reported in the aggregate.

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B2. Whether the allegation is of sexual abuse or sexual harassment as defined in subdivision a of this section.

For both reporting periods, the majority of allegations investigated by the Investigation Division were alleged incidents of sexual abuse.

<i>Total Number of Sexual Abuse and Sexual Harassment Allegations</i>					
<i>Type of Allegation</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Sexual Abuse	99	61.88%	124	65.26%	+25.2%
Sexual Harassment	61	38.13%	66	34.74%	+8.1%
Total	160	100%	190	100%	

B3. The date the incident was reported, and an investigation was opened.

This information cannot be reported in the aggregate.

B4. The gender of the alleged victim.

Throughout this reporting period, we saw an increase in female victims from six to twenty-four. However, male victims remain as the majority represented in these cases. Notably, there was a decrease of allegations by transgender women by 34% since last reporting period.

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<i>Total Alleged Incidents by Gender of Alleged Victim</i>					
<i>Alleged Victim's Gender</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	116	72.5%	141	74.21%	+21.5%
Female	6	3.75%	24	12.63%	+300%
Transgender Man	0	0%	0	0%	0%
Transgender Woman	38	23.75%	25	13.16%	-34.2%
Unknown	0	0%	0	0%	0%
Total	160	100%	190	100%	

B5. Whether the alleged victim at the time of the incident was between the ages of 18-25, 26-35, 36-40, 41-60, over 60, or under 18 when such individuals are in department custody.

Throughout both reporting periods, the majority of alleged victims were between 26 and 35 years old.

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<i>Total Alleged Incidents by Age of Alleged Victim</i>					
<i>Alleged Victim's Age Range</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
<18	0	0%	0	0%	0%
18-25	27	16.88%	34	17.89%	+25.9%
26-35	70	43.75%	81	42.93%	+15.7%
36-40	42	26.25%	38	20%	-9.52%
41-60	21	13.13%	37	19.47%	+76.1%
>60	0	0%	0	0%	0%
Unknown	0	0%	0	0%	0%
Total	160	100%	190	100%	

B6. The race and ethnic origin of the alleged victim.

The race/ethnicity of majority of alleged victims for both reporting periods was Black.

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<i>Total Alleged Incidents by Race and Ethnic Origin of Alleged Victim</i>					
<i>Alleged Victim's Race/Ethnicity⁷</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Asian	0	0%	<6	-	-
Black	129	80.63%	125	65.79%	-3.1%
Hispanic	8	5%	22	11.58%	+175%
Other	11	6.88%	13	6.84%	+18.18%
White	12	7.5%	29	15.26%	+141.67%
Unknown	0	0%	0	0%	0%
Not Tracked	0	0%	0	0%	0%
Total	160	100%	190	100%	

B7. Whether the alleged victim had been in custody for more than 24 hours and who, during such confinement, received treatment for a mental illness⁸, not including incarcerated individuals seen by mental health staff on no more than two occasions during their confinement and assessed on the latter of those occasions as having no need for further treatment in any city correctional facility.

<i>Time in Custody</i>	<i>Jul 2020 – Dec 2020</i>	<i>Jan 2021 – Jun 2021</i>
Alleged Victims in Custody less than 24 hours	0	0
Alleged Victims in Custody more than 24 hours	160	190
Total	160	190

⁷ Race and ethnicity are voluntarily reported to the Department by each individual in custody. The Department makes no representation as to the completeness or accuracy of this data.

⁸ Correctional Health Services is precluded from sharing the protected health information outlined in New York City LL21 §9-156(b)7 with the Department of Correction by New York State Public Health Law §§ 18 and 27-F, New York State Mental Hygiene Law § 33.13, and section 543 of the Public Health Service Act, 42 U.S.C. 290dd-2, and its implementing regulations, 42 CHR Part 2.

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B8. The gender of the alleged perpetrator.

Within both reporting periods, the majority of alleged incidents were alleged to have been committed by a male perpetrator.

<i>Total Alleged Incidents by Gender of Alleged Perpetrator</i>					
<i>Alleged Perpetrator's Gender</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Male	123	76.88%	146	76.84%	+18.69%
Female	23	14.38%	36	18.95%	+56.52%
Unknown	8	5%	0	0%	-100%
Transgender Woman	6	3.75%	8	4.21%	-33.33%
Transgender Man	0	0%	0	0%	0%
Total	160	100%	190	100%	

B9. Whether the alleged perpetrator was an incarcerated individual or staff.

The majority of alleged perpetrators in both reporting periods were staff members.

<i>Total Alleged Incidents by Alleged Perpetrator</i>					
<i>Alleged Perpetrator</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Staff	127	79.38%	105	55.26%	-17.32%
Incarcerated Individuals	33	20.63%	85	44.74%	+157.57%
Total	160	100%	190	100%	

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B10. If the alleged perpetrator was staff, the number of previous allegations against such staff that were substantiated and the outcome of each investigation.

Please see chart below number B12.

B11. If the alleged perpetrator was staff, the number of previous allegations against such staff that were unsubstantiated.

Please see chart below number B12.

B12. If the alleged perpetrator was staff, the number of previous allegations against such staff which are still pending.

In this period there was a decrease both in previous claims against a staff member that were substantiated and pending allegations.

<i>Total Previous Allegations Against Alleged Staff Perpetrators</i>					
<i>Status of Previous Staff Allegations</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	<i>Number of Previous Staff Allegations</i>	<i>Percent of Previous Staff Allegations</i>	
Substantiated	1	3.85%	0	0%	-100%
Unsubstantiated	13	50%	22	100%	+69.23%
Still pending	12	46.15%	0	0%	-100%
Total	26	100%	22	100%	

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B13. The facility in which the incident occurred.

AMKC was the facility with the highest number of alleged incidents in this reporting period.

<i>Total Alleged Incidents by Facility⁹</i>					
<i>Facility</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
AMKC	30	18.75%	53	27.89%	+76.6%
BHPW	<6	-	<6	-	-
BKCTS	0	0%	0	0%	0%
EPHW	0	0%	0	0%	0%
EMTC	0	0%	6	3.16%	-
GRVC	16	10%	19	10%	+18.8%
MDC	61	38.13%	21	11.05%	-65.6%
MNCT	0	0%	<6	-	-
NIC	14	8.75%	23	12.11%	+64.3%
OBCC	<6	-	17	8.95%	+325%
QDCT	0	0%	0	-0%	-
RMSC	10	6.25%	30	15.79%	+200%
RNDC	0	0%	6	3.16%	+100%
SOD	0	0%	0	0%	0%
Transportation Div.	0	0%	0	0%	0%
VCBC	22	13.75%	13	6.84%	-40.9%
WF	<6	-	0	0%	-100%
Total	160	100%	190	100%	

⁹ BKDC, GMDC, HOJC, and QDC were not open during this reporting period and are therefore not included in this table.

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SECTION THREE: SUBDIVISION C

The data in this section is related to investigations of allegations of sexual abuse and sexual harassment that concluded during the preceding six-month period.

C1. The date in which the investigation opened and closed.

This information cannot be provided in the aggregate.

C2. Whether the department determined that the incident was substantiated, unsubstantiated, or unfounded.

The majority of cases for both reporting periods were unsubstantiated.

<i>Total Alleged Incidents</i>					
<i>Case Conclusion</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Substantiated	3	1.88%	9	4.74%	+200%
Unsubstantiated	85	53.13%	110	57.89%	+29.4%
Unfounded	72	45%	71	37.37%	-1.39%
Total	160	100%	190	100%	

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C3. Whether the allegation was referred to a district attorney's office and whether that district attorney declined to prosecute, and whether the alleged perpetrator was convicted during the reporting period.

Within both reporting periods, the majority of cases were not referred to a DA's office, which is due to the majority of cases being unsubstantiated or unfounded.

<i>Total Alleged Incidents Referred to DA's Office</i>					
<i>Allegations Referred to DA's Office</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	<i>Number of Alleged Incidents</i>	<i>Percent of Alleged Incidents</i>	
Yes	0	0%	<6	-	-
No	160	100%	189	-	+18.12%
Total	160	100%	-	100%	

C4. Whether the investigation was conducted by the facility or by the investigation division.

Investigations into allegations of sexual abuse or sexual harassment are conducted by the Investigation Division, not the facility.

C5. Where an investigation was referred to the investigation division, the reason for such referral.

Investigations into allegations of sexual abuse or sexual harassment are conducted by the Investigation Division, not the facility.

C6. Whether the investigation was referred back from the investigative division to the department facility and the reason for such referral.

Investigations into allegations of sexual abuse or sexual harassment are conducted by the Investigation Division, not the facility.

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C7. Whether the alleged victim was notified regarding the outcome of the investigation.

In this reporting period 97.37 % of alleged victims were notified of the outcome of their investigation. A victim may not be notified if they leave DOC custody and the Department does not have accurate contact information for that individual.

<i>Total Alleged Incidents Referred to DA's Office</i>					
<i>Allegations Referred to DA's Office</i>	<i>Jul 2020 – Dec 2020</i>		<i>Jan 2021 – Jun 2021</i>		<i>Percent Change</i>
	<i>Number of Alleged Victims Notified of Investigation Outcome</i>	<i>Percent of Alleged Victims Notified of Investigation Outcome</i>	<i>Number of Alleged Victims Notified of Investigation Outcome</i>	<i>Percent of Alleged Victims Notified of Investigation Outcome</i>	
Notified	155	96.88%	185	97.37%	+19.35%
Not Notified	5	3.12%	5	2.63%	0%
N/A	0	0%	0	0%	0%
Total	160	100%	190	100%	

C8. Whether the alleged victim was referred to trauma or rape crisis services following the incident and if the victim accepted or declined such services while in custody:

Please refer to H&H for their records.

C9. Whether the alleged perpetrator and alleged victim were separated from physical contact during pendency of the investigation:

In total there were 190 cases, of which there were 129 cases where an alleged perpetrator was identified. In those 129 cases, a separation order was generated. The remaining 61 did not have an alleged perpetrator identified.

C10. For substantiated allegations, if the perpetrator was a staff person, whether during the pendency of the investigation such staff person resigned, was suspended, placed on modified duty, assigned to a post without contact with incarcerated individuals, assigned to a post with restricted contact with incarcerated individuals, placed on administrative leave, or administered any other form of discipline:

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In the one case where an investigation against staff was substantiated, the staff member was sent for re-training via a facility referral, as the case involved a non-physical verbal incident.

C11. For substantiated allegations, whether the allegation was referred for disciplinary action, including whether the department declined to file disciplinary charges, or if disciplinary charges were filed, the outcome of such disciplinary proceeding and whether the alleged staff perpetrator resigned or retired in lieu of charges or as part of a negotiated plea.

Not applicable any of the investigations in this report.

SECTION FOUR: ASSESSMENT

Preliminary Trend Overview

When compared to historical data from prior to the last reporting period, during this reporting period, the Department experienced explainable increases in overall allegations of staff-on-incarcerated individual sexual abuse (repeat allegations by the same 10 incarcerated individuals, newly defined sexual abuse criteria, and alignment with strict Federal standards on the definition of Sexual Harassment) and staff-on-incarcerated individual sexual harassment (newly defined harassment criteria, as determined by the Board of Correction).

There were 190 PREA reportable sexual abuse and sexual harassment allegations during this period compared to 160 PREA reportable allegations during the period of July 2020 to December 2020, representing an increase of 15.78%. While 190 allegations are significantly lower than allegations in prior reporting periods, the Department is striving to return to the downward trend it saw last period.

In recent reporting periods Department analysis has found that a small number of people in custody have at times made large numbers of allegations which, upon further investigation, were determined to be unsubstantiated and/or unfounded. These claims have impacted the Department's overall trends in this area. Regardless of this phenomenon, the Department is committed to investigating all claims of sexual harassment and abuse in a rigorous and timely manner, and will continue to do so moving forward. The Department will continue to combat this issue by working with the people in custody directly and by being persistent with District Attorneys Offices in the prosecution of unfounded false allegations, as appropriate.

As explained in our previous report, the Board of Correction's recently expanded definition of "repeated" sexual harassment has led to a rise in staff harassment allegation numbers. Under the new definition, if an incarcerated individual has ever complained that a certain staff member

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made an untoward or indecent comment – to any incarcerated individual – 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.

Remarkably, despite higher caseloads and the continued pandemic, investigations of sexual harassment and abuse have continued to be completed efficiently and fairly. As the Federal Nunez Monitor has noted, the ID PREA Division is squarely in compliance by responding to allegations within 72 hours, completing investigations within 90 days, and evaluating cases reasonably.

The Department continues to ensure staff are educated about PREA, starting at the Academy with each new recruit class, as well as all 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 facilities detailing how to report an incident, the Department has strengthened our incarcerated individual grievance system to ensure that people in custody have an effective outlet to communicate and resolve issues of concern through a streamlined process.

In the last couple of years, the Department has implemented significant custody management changes, and now houses each individual consistent with their gender identity. The Department continues to operate the Special Consideration Unit (SCU) for individuals who come into custody and identify, or have been identified, as transgender, intersex and gender non-binary. The Department evaluates each person in custody on a case-by-case basis, as warranted by the PREA Standards and Board of Correction Minimum Standards, and places them by their gender identity in a male or female facility, as long as the placement does not present management or security problems. To further promote transparency, the Department has refined its processes by giving additional details as to why an individual may be denied placement in, or removed from, the SCU, as well as explaining the reasons why an individual may be reconsidered for placement in the SCU. More discrete and confidential means of disclosing one’s identity have also been established to promote an environment where individuals feel safe and supported when disclosing and/or discussing gender identity with staff.

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

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provide victim services, access to assistance, and an additional avenue to report allegations of a sexual nature. Similarly, incarcerated individuals 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.

In this reporting period alone, the PREA Investigation Division closed 190 cases. During this reporting period, the Department reached yet another milestone and was able to close all PREA-reportable cases that were initiated in 2018 and 2019.¹⁰ Additionally, **all cases that were opened in 2021 were closed within 90 days**, aside from 9 cases, which are pending with criminal investigative/prosecutorial agencies

SECTION FIVE: 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. By the end of this reporting period, the ID PREA Unit had (1) Director, one (1) Deputy Director, nine (9) Supervising Investigators, and twenty-five (25) Investigators, to ensure thorough and timely investigations.

¹⁰ 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.

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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

In June 2018, the Department devised a Corrective Action Plan to address a backlog of 1,216 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

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 Use of Force investigations while other investigators managed long-term investigations and closure of older matters. Through a year of work, despite the pandemic, the Intake Squad, like the PREA Unit, has maintained compliance without fail.

Additional Steps Taken Towards Compliance

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 incarcerated individuals under the age of 19. In its Eleventh Report, the Monitor evaluated the Department's compliance with PREA-reportable investigations (both sexual assault and sexual harassment). The Monitor applauded

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the significant, sustained improvements of the Investigation Division. As mentioned on page 206 of the Eleventh Report, “The ID Division has made significant strides in investigating PREA cases timely and fully erased the backlog of cases related to this age group. ID has appointed dedicated and highly qualified leadership to oversee the PREA Team, which has brought an increased focus on tracking cases and conducting more efficient, higher quality investigations. The Team has both sufficient resources and staffing. The Monitoring Team has found that, generally, the investigators’ practices were sound, the findings were reasonable, and cases were closed in a reasonable time period. The Department has maintained Substantial Compliance with this provision.”¹¹ In conclusion, the Monitor gave PREA Investigations a rating of **substantial compliance**, which is the highest level of achievement possible, quite difficult to attain and marks the third report in a row they have achieved this.

¹¹ See, <https://www1.nyc.gov/site/doc/media/nunez-reports.page> pg. 206.