



Legislation Details (With Text)

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Int. No. 1125

By Council Members Crowley, Rose, Chin and Rodriguez

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of correction to report on sexual abuse

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by

adding a new section 9-141 to read as follows:

§ 9-141 Sexual abuse reporting.

a. Definitions. For purposes of this section, the following terms have the following meanings:

Command discipline. The term "command discipline" means any penalty imposed by officers of the department to sanction the officers under their command for the purpose of correcting minor deficiencies and maintaining discipline within the officer's command, and does not include any formal charges.

Department. The term "department" means the New York city department of correction.

Facility investigation. The term "facility investigation" means any investigation of an incident conducted by staff within a departmental facility and does not include any investigation conducted by the investigation division.

Formal charges. The term "formal charges" means any recommendation for sanctions against staff brought by the department pursuant to section 75 of the civil service law, including but not limited to departmental charges commonly known as "charges and specifications."

Investigation division. The term "investigation division" means any departmental unit responsible for investigating allegations of the excessive use of force by staff against inmates, including but not limited to the investigation division and intelligence unit, and does not include any departmental unit solely responsible for investigating allegations of the excessive use of force by staff on inmates within one facility.

Sexual abuse. The term "sexual abuse" has the same meaning as set forth in section 115.6 of title 28 of the code of federal regulations, or successor regulation, promulgated pursuant to the federal prison rape elimination act of 2003.

Staff. The term "staff" means anyone other than an inmate who works at a facility operated by the department.

b. No later than 45 days after the end of each quarter ending March 31, June 30, September 30 and December 31, the department shall post on its website a report containing the following information for the prior quarter, in total and by indicating the rate per 100 inmates in the custody of the department during such prior quarter. Such report shall also disaggregate the following information by whether the sexual abuse was by inmates on inmates or by staff on inmates, and shall further disaggregate this information by the gender of the victims:

1. allegations of sexual abuse;
2. substantiated incidents of sexual abuse;
3. allegations of sexual abuse referred to the department of investigation;

4. allegations of sexual abuse referred to a district attorney;

5. allegations of sexual assault in which a facility investigation was conducted;

6. allegations of sexual assault investigated by the investigation division;

7. the average amount of time in which a departmental investigation into an allegation of sexual abuse was completed, disaggregated by whether such investigation was: (a) a facility investigation, (b) conducted by the investigation division, or (c) another form of departmental investigation;

8. For allegations of sexual abuse by staff on inmates in which a facility investigation was conducted and an investigation by the investigation division was not conducted, the following information: (a) the number of allegations in which the department determined that staff violated any departmental rule or directive, (b) the number of allegations in which command discipline was recommended, (c) the number of allegations in which command discipline was imposed, (d) the nature of any command discipline sanctions so imposed, (e) the number of allegations in which the department brought formal charges, (f) the number of allegations in which sanctions were imposed pursuant to formal charges, (g) the nature of any sanctions so recommended by the department and/or an administrative law judge as part of formal charges, (h) the nature of any sanctions so imposed by the commissioner. Where the sanctions imposed differed from those recommended pursuant to formal charges, the commissioner must provide a detailed written explanation regarding the reasons for varying from the recommendation;

9. For allegations of sexual abuse by staff on inmates in which the investigation division conducted an investigation, the following information: (a) the number of allegations in which the department determined that staff violated any departmental rule or directive, (b) the number of allegations in which command discipline was recommended, (c) the number of allegations in which command discipline was imposed, (d) the nature of any command discipline sanctions so imposed, (e) the number of allegations in which the department brought formal charges, (f) the number of allegations in which sanctions were imposed pursuant to formal charges, (g) the nature of any sanctions so recommended by the department and/or an administrative law judge as part of

formal charges, (h) the nature of any sanctions so imposed by the commissioner. Where the sanctions imposed differed from those recommended pursuant to formal charges, the commissioner must provide a detailed written explanation regarding the reasons for varying from the recommendation;

10. The number of allegations of sexual abuse in which the department of investigation submitted a report;

11. For allegations of sexual abuse in which the department of investigation submitted a report, the following information: (a) the number of allegations in which the department determined that staff violated any departmental rule or directive, (b) the number of allegations in which command discipline was recommended, (c) the number of allegations in which command discipline was imposed, (d) the nature of any command discipline sanctions so imposed, (e) the number of allegations in which the department brought formal charges, (f) the number of allegations in which sanctions were imposed pursuant to formal charges, (g) the nature of any sanctions so recommended by the department and/or an administrative law judge as part of formal charges, (h) the nature of any sanctions so imposed by the commissioner. Where the sanctions imposed differed from those recommended pursuant to formal charges, the commissioner must provide a detailed written explanation regarding the reasons for varying from the recommendation;

12. allegations of sexual abuse by staff on inmates in which staff received a modified placement as a result of such allegation;

13. allegations of sexual abuse by staff on inmates in which staff was removed from contact with inmates of the opposite sex as the person allegedly abused as a result of such allegation; and

14. allegations of sexual abuse by staff on inmates in which staff was removed from contact with all inmates as a result of such allegation.

c. The department shall attempt to obtain the following information from any district attorney's office to whom the department has referred an inmate or staff for criminal prosecution for allegations of sexual abuse and shall post such information for the prior year by the 20th day of January each year on the department

website: the total number of cases referred for criminal prosecution, the number that were actually prosecuted, the number in which the defendant was charged with a felony, and the number in which the defendant was charged with a misdemeanor.

d. The information in subdivisions b and c of this section shall be compared to previous reporting periods, and shall be permanently stored on the department's website.

§ 2. This local law takes effect September 30, 2016.

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