



Featured in this issue: Addressing Sexual Violence and Harassment

TABLE OF CONTENTS

From the Executive Director...Cover
OPDV Conference to Address Non-fatal Strangulation... Cover
The New York State Prison Rape Elimination Act (PREA) Hotline...Page 2
New York State's New Sexual Harassment Law ...Special Insert
Q&A: The Prison Rape Elimination Act... Page 3
Legislative Update ... Page 4
The Rosado Prize for Undergraduate Research Interns... Page 4
NYS Combats Maternal Mortality and Racial Disparities... Page 4



From the Executive Director

Sexual violence, harassment and abuse affects individuals from all walks of life, regardless of age, gender identity, income or status. But there is a population of sex crime victims who are often forgotten: those incarcerated in local, state or federal correctional facilities.

According to RAINN (Rape, Abuse & Incest National Network), nearly 81,000 individuals who are incarcerated are sexually assaulted each year in the United States and often, they lack supportive services and resources in the aftermath of those crimes. Under the federal Prison Rape Elimination Act (PREA), states must provide certain services to these victims.

This issue focuses on New York State's work in this area, which has resulted in the most comprehensive services for incarcerated victims of sexual abuse and assault in the nation. Our state's prison system is only the seventh in the nation to offer a statewide rape crisis hotline and the only one to partner with community-based rape crisis and sexual assault programs to ensure that individuals receive the support and services they need to help them recover.

Our featured article, written by Caitlin Powalski, details the statewide PREA Hotline, which is managed by her agency, Crisis Services in Buffalo. The Q&A with DOCCS Associate Commissioner Jason Effman discusses PREA, its requirements and DOCCS' compliance with the federal law.

Also included in this bulletin is a special insert outlining a new sexual harassment law designed to help employers prevent and effectively address sexual harassment in the workplace, which includes harassment of non-employees, such as contractors, vendors, and consultants.

Thank you for reading. As always, we welcome your feedback. I hope you are enjoying the warmer, longer days of Spring.

Signature of the Executive Director

OPDV Conference to Address Non-fatal Strangulation

OPDV will host a day-long conference for medical and law enforcement professionals on non-fatal strangulation on Thursday, May 16, 2019, in Colonie, Albany County. The event will feature presentations from medical, law enforcement, and legal experts on identifying, responding to and prosecuting intimate partner strangulation.

Seating is limited and registration is required. Please email or call (518) 457-5740 for information or to register.

1-800-942-6906
NYS Domestic & Sexual Violence Hotline

Confidential • 24 HRS/7 DAYS
English & español, multi-language Accessibility
711: Deaf or Hard of Hearing
In NYC: 311 or 1-800-621-HOPE (4673)
TDD: 1-800-810-7444

April is Sexual Assault Awareness Month

May is Mental Health Awareness Month

Crime Victims' Memorial Brick Dedication Ceremony 2019

This year's ceremony is scheduled for 1 p.m. to 3 p.m. on Friday, June 14, at the New York State Crime Victims' Memorial, which is located on the Empire State Plaza, Albany. The annual event is sponsored by the New York Crime Victims Assistance Task Force. Visit the state Office of Victim Services for more information about the ways in which the agency can assist crime victims and their families.

Did You Know...

In 2017 across New York State, 3,567 hospital inpatient discharges and Emergency Department visits were identified as sexual assault-related events, and women represented 91 percent of all sexual assault-related visits.

Source: 2017 Domestic Violence Dashboard

# The New York State Prison Rape Elimination Act (PREA) Hotline

Caitlin Powalski, Director, Advocate Department, [Crisis Services](#)

In January 2019, Crisis Services began managing the state's PREA Rape Crisis Hotline, a free and confidential service that operates daily from 8 a.m. to 11 p.m. In partnership with OPDV and the state [Department of Corrections and Community Supervision](#) (DOCCS), and funded by grants through the State Office of Victim Services (OVS), Crisis Services expanded its call center infrastructure to receive calls from New York's 54 prisons, and hotline staff were cross-trained to respond to the PREA hotline as well as the local and state hotlines. The Center also recruited, hired, and trained additional hotline counselors to meet the increased service demands, and continues to provide bilingual staff (English/Spanish) and utilize phone interpreters to assist callers in their preferred languages.

Located in Erie County, the Crisis Services Advocate Department is the state-certified Rape Crisis Center and an approved non-residential Domestic Violence service provider. It is a dual program that provides staff who are trained and up to date on best practices for serving survivors of sexual and domestic violence 24 hours a day, 7 days a week. Since 2010, the Advocate Department has operated the New York State Domestic and Sexual Violence Hotline.

When staff answers a call, they understand that they may be the caller's first outreach for help. Therefore, it is imperative that we are empathic, consistent and holistic in our approach to working with callers. When a call is answered, we assess for immediate safety, offer supportive counseling, triage caller needs and attempt to provide referrals, if appropriate, to one of the six local rape crisis programs serving as PREA Centers and/or DOCCS for more individualized assistance and support.

## The PREA Hotline vs. the Local and State Community Hotlines

While callers to any rape crisis hotline often present similar needs for services and resources, PREA hotline staff must consider the unique needs of incarcerated survivors and respond to them appropriately. PREA hotline staff assess every caller for immediate safety concerns. Since incarcerated individuals may feel unsafe much of the time, and are restricted in ways that general hotline callers are not, however, PREA hotline counselors adjust their language to account for this circumstantial difference. For example, a grounding or coping strategy we use with community callers who reach out to the main hotline may involve encouraging them to take a walk or go outside, often while remaining on the phone. For incarcerated survivors who are calling from stationary phones and/or who do not have permission to leave their location, these suggestions are not an option.

Unlike calls to the community hotlines, PREA hotline calls are limited to 30 minutes in duration, so hotline counselors are trained to respond and assist within that time frame. Since the hotline's launch, calls average about six minutes. After the calls end, hotline counselors spend additional time generating referrals and closing out the report before answering the next call. Although callers can remain anonymous, hotline staff document consent and basic demographic information, such as the individual's name and Department Identification Number (DIN), whenever additional services are requested.

## Referrals

The hotline's partnership with DOCCS is critical to ensuring that all callers receive information and support. Most follow up to incarcerated survivors once they are connected with their PREA Center occurs through legal phone calls or legal mail. During the PREA hotline pilot that began in 2014, individual PREA Centers operated multiple hotlines which were consolidated in January. We provide education on the PREA hotline's purpose, and on how to connect with their local PREA provider, as needed.

## A Social Justice Responsibility

All survivors of sexual assault deserve dignity and access to services. Callers to the PREA hotline may be adult survivors of child sexual abuse who were harmed prior to incarceration, and/or may be assaulted while incarcerated. Moreover, an incarcerated person may have a loved one who is experiencing domestic violence or sexual assault, and we are here to answer those questions and provide resources, too. Providing this service to incarcerated individuals is incredibly important and we are honored to service as the statewide provider. We are excited because this is one of the most comprehensive partnerships in the country, coordinating services between survivors, DOCCS and a network of trained PREA Centers.

# New York State's New Sexual Harassment Law

The issue of sexual harassment in the workplace has rightfully gained national attention recently. Despite the fact that everyone should feel safe and comfortable at their place of employment, sexual harassment is pervasive and can have lasting negative effects for the victim. Sexual harassment is a form of employment discrimination that includes unwelcome sexual advances, requests for sexual favors, offensive remarks about one's sex, and conduct that creates a hostile work environment. Victims of sexual harassment in the workplace may develop both mental and physical health problems, may find it hard to focus on their job or show up for work, and can have their career goals thwarted if they speak out about the harassment.

To protect New Yorkers from these harmful workplace conditions, Governor Cuomo's 2018-19 budget included a series of new requirements for employers, some of the strongest safeguards in the nation. These changes are designed to help employers both prevent and effectively address sexual harassment in the workplace, which now includes harassment of non-employees, such as contractors, vendors, and consultants.

## Policies and Training

The new law mandates both public and private employers, regardless of the number of employees they have, to adopt sexual harassment prevention policies and provide training for employees. The new requirements aim to help employees understand what behavior is unacceptable and what options are available if they are the victim of sexual harassment or if they witness it happening.

The workplace policies must inform employees of their rights, provide examples of prohibited conduct, include a complaint form, and must be distributed to employees in writing or electronically. They must also include a procedure for investigating complaints that is confidential and timely, while also protecting the due process rights of all parties. Employers can use a model policy developed by the state, or use their own policies, provided their policy meets or exceeds the minimum standards that the state requires. Employers bidding on certain state contracts will also have to certify that they comply with these policy and training requirements.

All employees, including part-time workers and those who are based in a different state but spend a portion of their time in New York, must be trained on sexual harassment in the workplace once a year using an interactive training program in the language the employee speaks. Employers were required to adopt an acceptable policy by October 2018 and all employees must complete the first year's training by October 9, 2019. Employers should train any new employees as soon as possible as employers are liable for the actions of employees as soon as they are hired.

## Additional Protections

The new law increases transparency and helps to ensure that legal proceedings based on sexual harassment claims are fair to the victim by:

- Prohibiting the use of nondisclosure agreements in sexual harassment settlements, unless the victim prefers to keep everything confidential. These settlements prevent both parties from discussing the details of the dispute and can prohibit the victim from taking other legal action against the employer.
- Barring the inclusion of mandatory arbitration clauses, for claims of sexual harassment, in employee contracts. These clauses, often buried in long agreements, force employees to settle their claims using private arbitrators that are more likely to rule in favor of the employer or to award far less monetary compensation to the employee when employers are found at fault.
- Permitting employees who choose to sue to have their claims of sexual harassment heard in civil court by a judge or jury.

## Resources

[Guidelines](#), including the state's model policy, a model training presentation, and a minimum standards checklist to help ensure compliance, are available to assist employers. There are also resources for employees to learn more about what they can do if they have experienced sexual harassment.

# Q&A: The Prison Rape Elimination Act (PREA)

This Q&A was conducted with Jason Effman, Associate Commissioner and PREA Coordinator, at the state [Department of Corrections and Community Supervision \(DOCCS\)](#)

## **Q How was the PREA created?**

**A** The Prison Rape Elimination Act (PREA) was passed in 2003 with unanimous support in Congress and signed into law by President George W. Bush on Sept. 4, 2003. PREA created the National Prison Rape Elimination Commission and charged it with developing draft standards for the elimination of prison rape. The United States Department of Justice was charged with implementing the standards through Federal Regulations. The final rule, known as the National Standards to Prevent, Detect, and Respond to Prison Rape took effect on Aug. 20, 2012.

## **Q What prompted the need for PREA?**

**A** Congress included a number of findings supporting the passage of PREA. These include that insufficient research had been conducted and insufficient data reported on the extent of prison rape; that prison rape often goes unreported, and inmates who are victimized often receive inadequate treatment for the severe physical and psychological effects of sexual assault; and recognizing a number of costs to society that can be attributed to incidences of prison rape.

## **Q What role does DOCCS play in the PREA?**

**A** DOCCS is one of the agencies subject to the National PREA Standards. In New York State, the National PREA Standards also apply to several facilities operated by the [Office of Children and Family Services](#). All 54 DOCCS facilities have been audited and confirmed to be in compliance with the National PREA Standards.

## **Q Does the PREA protect only those who are incarcerated in facilities, or does it also apply to parolees and others who are supervised in the community or in community-based residences?**

**A** PREA only applies to custodial settings: including adult prisons and jails, lock-ups, community confinement facilities and juvenile facilities. The National PREA Standards do apply to contracted Community Based Residential Programs.

## **Q Are Corrections staff also protected by the PREA?**

**A** Corrections staff are indirectly protected by PREA. Implementation of the National PREA Standards is intended to make confinement facilities safer, thereby protecting inmates and staff.

## **Q How are inmates informed about their rights regarding sexual abuse/sexual assault?**

**A** The PREA Standards require that inmates and staff receive education and training at regular intervals, and that key information is continuously and readily available or visible.

## **Q What is DOCCS' role in the PREA Hotline?**

**A** DOCCS started a pilot program in 2014 with several victim assistance programs providing services to inmates at 27 prisons. On Jan. 8, 2019, the PREA Statewide Rape Crisis Hotline went into effect. In addition, the partnership includes six PREA Centers that provide emotional support and victim advocacy services to inmates in all 54 state prisons. These services are funded by grants awarded by the

State [Office of Victim Services \(OVS\)](#) to the [New York State Coalition Against Sexual Assault \(NYSCASA\)](#) and OPDV, which contracts with Crisis Services to administer the state's Domestic and Sexual Violence Hotline.

The hotline is free and is accessible from 8 a.m. to 11 p.m. every day in all languages. Calls are answered by the same trained counselors who answer hotline calls from the community.

Inmates use a PIN to place a call and to protect confidentiality, since calls to 777 or the PREA Centers cannot be monitored by the facility. Such calls are recorded, however, and available to DOCCS Central Office investigators in the event of misuse.

Ongoing emotional support and victim advocacy services are primarily provided by the PREA Centers through legal calls. Several of the partner programs also provide in person counseling.

## **Q Under PREA, how and to whom is sexual abuse reported, and what happens after a report is made?**

**A** Sexual abuse can be reported to any staff member, to outside reporting avenues such as the State Commission of Corrections, to the PREA Hotline, to facility and agency administrators, and through a host of other mechanisms. Families and friends can also make reports through the [DOCCS website](#) and through the Office of Special Investigations hotline: 1-844-OSI-4NYS.

# Legislative Update

**The following were signed into law during this session:**

## **The Reproductive Health Act**

This new law recognizes a woman's fundamental right to access safe, legal abortion.

While New York's law had allowed abortion throughout a pregnancy when necessary to preserve a woman's life, the statute did not allow the procedure during the third trimester, to preserve a woman's health or in cases of fetal non-viability.

By removing abortion from the criminal code, the law ensures that health care professionals can provide women with appropriate health care without fearing criminal consequences.

## **The Child Victims Act**

This law recognizes that child sexual

abuse is often not recognized or revealed by its victims until they are older. Beginning in August 2019, victims will have a one-year window to sue their abusers, including those employed by public and private institutions. Any child under the age of 18 who has been victimized or anyone of that age victimized in the future can file a civil lawsuit up until the age of 55. The law also allows all felony sex crimes committed against children to be reported and prosecuted up until the victim reaches age 28 (misdemeanors, to age 25). The Office of Court Administration also is required to train judges on the crimes related to sexual abuse of minors.

**The extreme risk protection order or red flag law**, which takes effect Aug. 24, 2019, allows family members,

school administrators/designees, police and prosecutors to petition a court to have firearms confiscated from people believed to be a threat. A judge may issue a temporary extreme risk protection order banning the individual from buying, possessing, or attempting to buy or possess, a firearm, rifle or shotgun, for up to six days if there is probable cause to believe the individual "is likely to engage in conduct that would result in serious harm to himself, herself, or others" as defined in the state Mental Hygiene Law. Law enforcement officials serving an extreme risk protection order will confiscate all firearms, rifles or shotguns. During the six-day period, a hearing must be held to determine if there are grounds to make the order permanent for up to one year.

## The Rosado Prize for Undergraduate Research Interns

The Rockefeller Institute of Government has established the Rosado Prize in honor of New York State Secretary of State Rossana Rosado, who has paid particular attention to diversifying the state's workforce and leaders to make them more representative of, and responsive to, New Yorkers. The Institute will award up to \$500

to support professional development opportunities for a diverse group of undergraduate students from the University at Albany interning at the Institute's [Center for Law & Policy Solutions](#).

Working closely with faculty and Institute staff, interns investigate a topic

of state or national importance and at the end of the semester, publish their findings in a formal report and deliver a public presentation to fellow researchers, policymakers and the media. The internship program helps expand opportunities and often leads to continued participation in applied learning and research experiences.

## NYS Combats Maternal Mortality and Racial Disparities

Governor Andrew M. Cuomo [recently announced](#) that the enacted 2019-20 state budget includes an \$8 million investment to support initiatives recommended by the New York State Taskforce on Maternal Mortality and Disparate Racial Outcomes. Launched in April 2018, the Task Force is part of the state's multi-pronged effort to reduce maternal mortality and racial disparities.

The following initiatives recommended by the Task Force will receive funding:

- Expand Access to Community Health Workers
- Distribute Comprehensive Training and Education Program for Hospitals on Implicit Racial Bias
- Establish a Comprehensive Data

Warehouse on Perinatal Outcomes to Improve Quality

- Convene Statewide Expert Work Group to Optimize Postpartum Care in New York State

In addition, the state Department of Health is launching the Centering Pregnancy pilot, a program which brings together a small group of pregnant women who are due at approximately the same time. At each visit, a clinician briefly examines each woman individually, with the balance of time spent in interactive group sessions that allow the mothers-to-be to discuss concerns, share experiences and ask questions.

The Task Force's report included

several key findings, including:

- In 2016, New York State was ranked 30th in the nation for its maternal mortality rate, with clear racial disparities.
- The number of reported maternal mortalities in New York increased over time from 15.4 deaths per 100,000 live births in 2001-2003 to 19.6 deaths per 100,000 live births in 2014-2016. The United States rate more than doubled during this time.

Visit [this link](#) to learn more about the Task Force's work and [here](#) to read Governor Cuomo's recent proclamation marking Black Maternal Health Week in New York State.

Please send any comments or content ideas to: [opdvbulletin@opdv.ny.gov](mailto:opdvbulletin@opdv.ny.gov)

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