

WESTCHESTER COUNTY DEPARTMENT OF CORRECTION  
10 Woods Road  
Valhalla, New York 10595

WRITTEN TESTIMONY OF DEPUTY COMMISSIONER LEANDRO DIAZ  
SUBMITTED TO JOINT PUBLIC HEARING  
THE IMPACT OF SEXUAL ASSAULT IN THE PRISON SYSTEM  
MARCH 3, 2022

This written testimony is respectfully submitted to the New York State Senate in connection with its scheduled hearing on the impact of sexual assault in the prison system. I applaud Senator Salazar and Senator Biaggi for their attention to this issue, which plays an important role in ensuring the safety and dignity of those committed to our facilities. .

*Introduction*

The Prison Rape Elimination Act of 2003 (PREA) established federal mandates to define and eliminate rape in correctional facilities across the United States. The Department of Justice adopted "National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act" in 2012.

Even prior to the promulgation of the DOJ PREA standards, Jails throughout NY State have been required under Correction Law 500 and Title 9 CRR-NY Chapter 1 Minimum Standards and Regulations for Management of County Jails and Penitentiaries to “safely keep” individuals in their custody. Jail officials have always taken steps to prevent, detect and respond to claims of sexual assault and although most jails have been unable to demonstrate compliance by undergoing an arduous PREA audit they have and continue to embrace the spirit of PREA by having robust policies and processes that result in safer jails.

In 2013 the Westchester County Department of Correction made a commitment to work towards achieving compliance by preparing for and undergoing a PREA audit. We knew that the best and initial step towards achieving this goal was to have an executive member of the department undergo the process to become a DOJ certified PREA auditor. Accomplishing this helped guide us through the process with much more insight.

In 2017 the Department was successful in completing their first audit and we continue to improve by continuously using the resources provided by the Department of Justice, the PREA Resource Center, and the NY State Sheriff Association to stay well informed with changes in guidance and interpretation of PREA standards.

I will now discuss the steps that we and many NY jails have undertaken to address the triangular approach of prevention, detection and response to create a culture of zero tolerance and responsiveness to any sexual abuse. Through the New York State Sheriff’s Association many jails throughout NY have partnered to share and implement many of these same measures.

1. Policy – The Department has multiple, comprehensive policies, Handbooks, Signage and Orientation video that reinforce a zero-tolerance towards sexual assault and sexual harassment and mandatory reporting requirements for all staff.

2. Intake and Classification –

(a) all newly admitted individuals undergo a rigorous initial intake to assess risk with an emphasis on assessing risk of being sexually abused by other residents or sexually abusive toward other residents, especially vulnerable populations (e.g. serious mental illness, mental or physical disability, transgender). This also includes being assessed by medical staff to determine past trauma and history of sexual abuse.

(b) Within 72 hours and prior to being transferred from an orientation housing unit to a general population unit residents undergo another risk assessment. At this point DOC staff has had the opportunity to explore previous incarceration history and criminal history information.

(c) Within a set time period, not to exceed 30 days from the inmate's arrival at the facility DOC will re-interview all residents to assess how they are adjusting to the environment and to address any potential concerns.

(d) All residents are also reclassified based on any new information or incidents.

3. Housing- most of our housing units are Direct-Supervision housing units which allow for direct supervision by staff who is embedded on the unit and available to respond to any emergency. Most of our units are also Single-Cell Occupancy units which provide for a safer environment by providing a secure and private housing area for our residents.
4. Security inspections- our staff conduct unannounced supervisory inspections at staggered intervals that do not allow for residents to determine when they are being conducted. Units with special populations (e.g., mental health, medical, new admission) have increased inspection frequency.
5. Monitoring- The Department has over 1300 fixed and pan, tilt and zoom cameras that are routinely monitored by staff in multiple control centers. All camera footage is recorded and stored for three years.
6. Training – All DOC staff including civilian and contract staff are trained in how to report and respond to PREA allegations.
7. Coordinated Response Plan- the Department has a Special Investigation Unit with specially trained investigators in conducting sexual abuse cases in a correctional setting and who work directly with the District Attorney's office on cases that are recommended for prosecution.
8. Community Partners- all residents alleging sexual abuse have access to third party reporting of any allegation, confidential Victim Assistant Services for advocacy services, and timely SANE examinations at our local hospital.
9. Sexual Assault Incident Review Boards – the department has a Sexual Assault Incident Review Board consisting of medical, mental health, and DOC leadership to review all sexual assault investigations and outcomes and provide recommendations if warranted. The board will also review any security related issues that may have contributed to an incident (e.g. blind spots, gang activity, etc.)

These are only some of the measures that jails have implemented with the goal of eliminating opportunity for sexual abuse to occur within out jails. As jail administrators we will continue to strive to ensure that the residents in our care and custody remain safe during their periods of incarceration.